



LEGAL BUSINESS WORLD

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Legal Tech and Its Foray into the Indian Legal System

By Ms. Vasundhara Shankar

Other contributors: Hariolf Wenzler, Arnoud Engelfriet, Sebastian Hartmann and Madeleine Bernhardt, Patrick J. McKenna, Pieter van der Hoeven, Zohar Fisher, Richard G. Stock, Ari Kaplan, Shiran Weitzman, Kenneth Tung and Glenn McCarthy, Heidi Turner, Chiara Lamacchia, Eliana Fonseca, Leah Molatseli, Caroline Ragan, Cathryn Urquhart, Virginia Griffith, Mat Jakubowski

Business of Law

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We're proud to announce to have the unique opportunity to offer our subscribers the new 2022 edition of:

Industry Specialization Making Competitors Irrelevant

by thought leaders Patrick J. McKenna - for free!

At this moment the book is in its final editing stage, and we expect to send it out in the first part of January. We like to thank Patrick McKenna for making this possible!

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***'It is very positive to see something written exploring the imperative to move to an "industry first" approach and the related challenges.* - Beth Wilson, Canada Chief Executive Officer' - DENTONS**

*** *The manuscript of the book was shared these industry leaders***

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С Рождеством

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And all the best for 2022

on behalf of the Legal Business World Team

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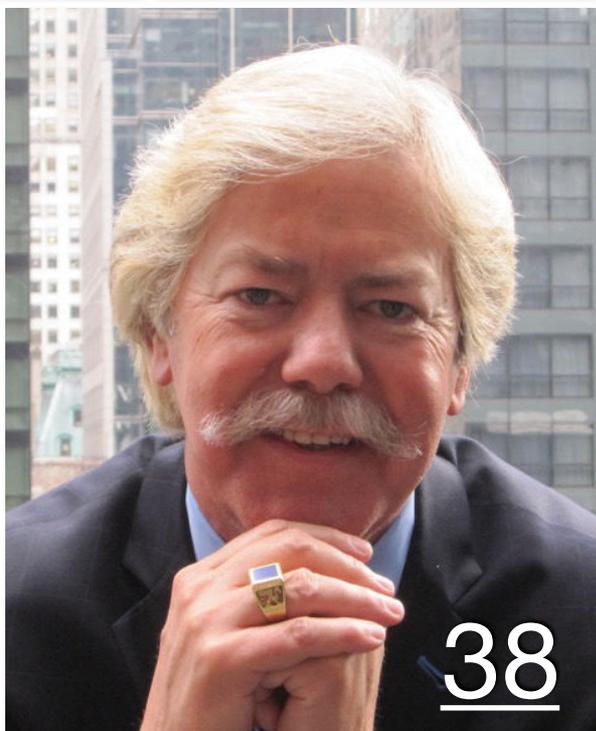
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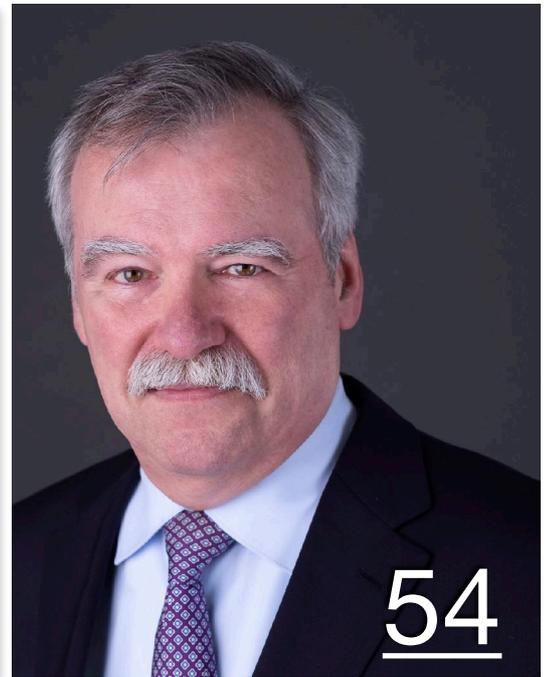


Cover photo Ms. Vasundhara Shankar



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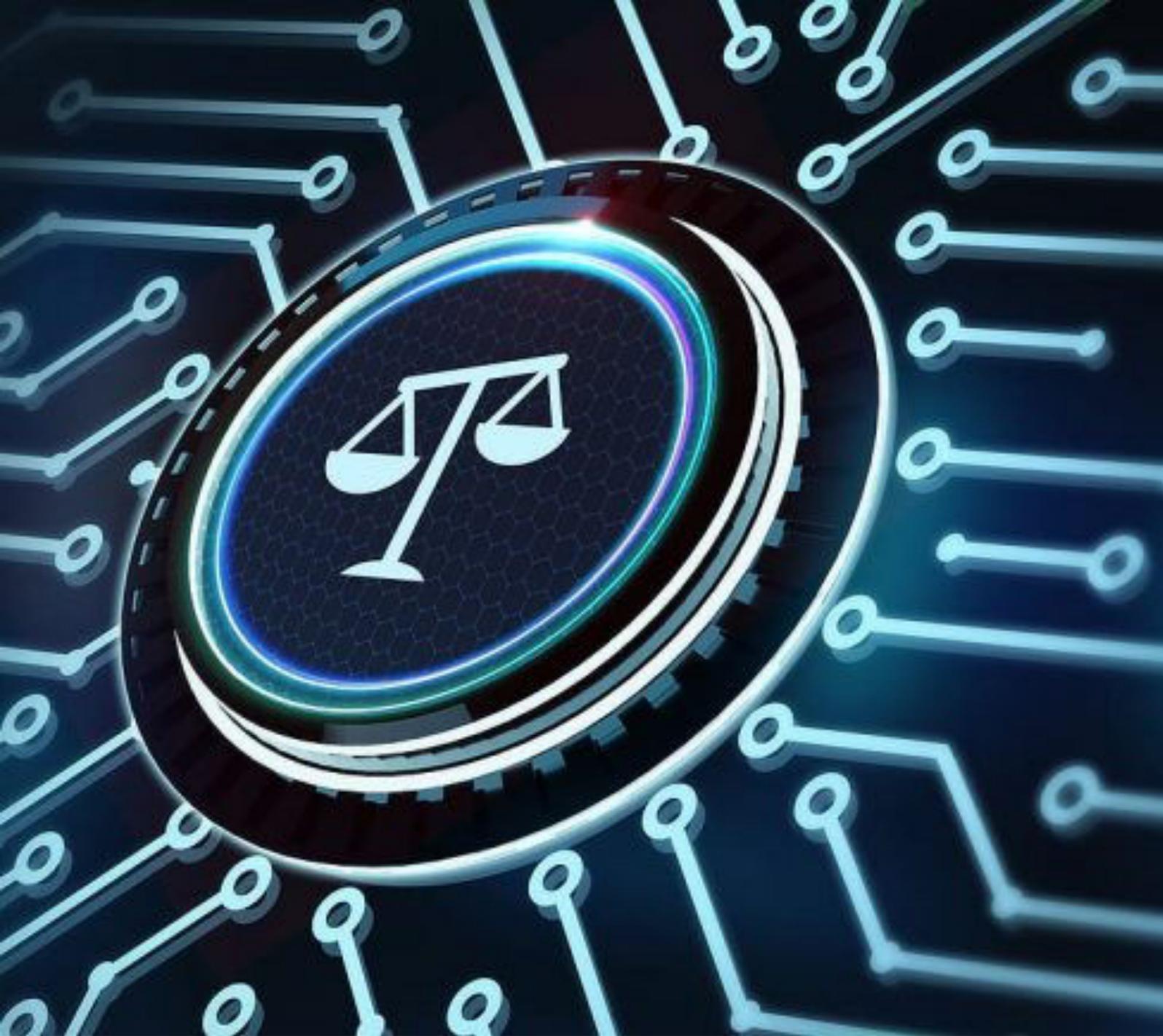
Legal Tech and Its Foray into the Indian Legal System

By Ms. Vasundhara Shankar, Managing Partner of Verum Legal



It will not be an exaggeration to say that technology has transformed the way the world functions, in every possible manner. From how we access basic information, make payments, communicate, shop, to how we are treated, profiled and perhaps even located.

India has been the hub for software development since the late 20th Century. With massive technology based work happening in the country in sundry industries, it is upsetting to see the lack of integration of law and technology. For a



country which has produced startups which facilitate ordering milk to one's doorstep every day to ones facilitating transactions worth millions within seconds, the lack of available and relevant data is also disappointing.

For a democratic country like India, having a robust and effective justice system is imperative. The world's most populous democracy and its legal system are facing huge magnitudes of legal issues such as massive pendency in courts, delayed justice, difficult access to

justice, ineffective laws, etc. While setting up more courts, appointing more judges and judicial officers are perhaps some effective ways of dealing with some of these issues, the solutions seem to be too little, too slow for the current situation we are in.

Right now, seems to be an opportune time for technology's foray into the legal and justice system of the country. While the country has seen several legal-tech products sprouting over the last few years, most of them lack the

propensity to sustain and survive due to either lack of required resources, an effective enough product or owing to the legal industry's hesitation regarding venturing into the "unknown" world of technology.

In a country with a population of 1.3 billion people and industries worth a trillion perhaps, how does one effectively set up a justice system which is not plagued with pendency and delays? Is building management solutions for practice & smart-docketing for documents sufficient? Without vilifying the importance and efficiency of these products, we must acknowledge that the system needs a disruptive change, and now seems like the perfect opportunity.

The first step to help individuals would be to perhaps set up products which make access to legitimate legal information easier. India's legal framework, laws and rules are complex, elaborate and difficult to understand for a layman. Easier access to laws will make it more convenient for an individual to understand and know of their rights. Building a self-help bot using artificial intelligence models and Natural Language Processing as well as Machine Learning to train bots so they become efficient enough to understand context of a question posed by a user, process its meaning and scope, and generate responses that will be helpful to guide an individual towards the right approach to a problem. While this product will perhaps not cure the legal system, it will perhaps help individuals filter litigious and non-litigious matters.

An automated platform for individuals where they can effectively have smaller issues such as

challans/tickets issued to them, small-ticket consumer protection matters, insurance claims, customer service claims, small recovery amounts etc. would be a game-changer. It will not only reduce the number of cases being registered before the courts, but will also provide them quick resolution of their cases which would've otherwise taken years to be resolved.

An effective, technology driven closed-circuit alternate dispute resolution product would also create a massive impact. A holistic technology product which facilitates an ecosystem for all parties to a dispute resolution including the claimant, the defendant and the neutral third party mediator or arbitrator. This product could provide a secure repository for documents, a smart reading of the problem statement, claim, facts at hand, and uses technology to suggest possible solutions considering the facts, laws applicable and relevant judicial precedents.

The effect of technology has been changing the way communication is done, transactions are completed, business is carried out, etc. Over a period of time, technology has impacted all walks of life. While growth of the legal-tech segment has been slow and sporadic in the Indian ecosystem, there have been substantial developments over the past few years. With only 4% of lawyers using any kind of technology in India, the need for better legal-tech synergies is greater than ever.

With growing pendency, there is an urgent need to find methods that can help create optimum solutions. While technology is being used to handle and docket cases through case

management solutions, these developments are merely the tip of the iceberg, with the vast use of artificial intelligence, machine learning, blockchain, etc.

It is perhaps the right time to use more advanced technologies, and make research, service deliverance, smarter and more efficient. Finding alternate methods to resolve disputes using technology is definitely going to have a great impact. It is time for legal experts to venture into the technology space, garner a deeper understanding of how technology functions and find innovative ways to integrate law and technology.

With technological development always comes concerns of privacy and protection of data being collected and stored by such technological products. With India being known as the world's technological capital, it is only right for the nation to develop disruptive technology products in all domains, and law should not be left behind! It is perhaps due to the conventional and traditional functioning of India's legal system that lawyers have chosen to remain distant from tech advancements. With almost a billion cases pending across different courts, authorities and jurisdictions, these developments could not come in sooner. The best of enablers, technology should be utilised as a tool with more vigour than ever before.

Time is right with courts mandating e-filing of petitions and several legal-tech companies coming up with innovative solutions for contract management, legal document docketing, and smart research tools. The legal fraternity has taken to digitisation, owing to the restrictions and access issues created by the pandem-

ic. India's overburdened judicial system has the potential of impacting its citizen's democratic rights. Lack of access to justice has been a grave issue, even in mature systems. Technology integration penetrating the legal industry is indeed a foreseeable development. The agenda at this point should be to build technologies to avoid registration and filing of new cases, to resolve existing cases and to work towards building a more robust system so that this pendency and lack of access to justice issues do not arise in the future.

India's startup ecosystem has evolved at a significant pace, which has brought about innovative transformation in the way businesses function. One legal-tech product that I foresee being of great use would be a contract automation and management tool. As business transactions grow in number, disputes arise too. With better drafted contracts, or agreements using blockchain to determine liabilities, secure transactions and trigger obligations better would be of great help to businesses. Frivolous cases by either investigating authorities or disputing parties can be stifling for a growing business. Businesses are more often than not, clueless about the favorability of a contract and fail to identify clauses or aspects that could cause trouble to them in the future, without legal assistance. Most of them are unable to afford legal help and hence, enter into agreements with worrying clauses that impact them in the future. Additionally, lack of understanding amongst investigating authorities of innovative business models also prove to be of concern, since the investigation is almost always misdirected, which in turn affects and gravely impacts penalisation of the wrong party. Individuals are also impacted

directly owing to the lack of access to justice, which leaves them battling with unnecessary and prolonged litigations. India's complex legal system and expansive legislations also are a major concern for all parties involved, since understanding liabilities and obligations become even more difficult.

Legal Technology as a domain has the potential of solving concerns for all stakeholders involved. From saving millions for businesses, to helping citizens with their legal battles, legal technology has more potential to assist than was perhaps earlier envisioned.

However, one of the biggest challenges that a well-developed legal tech domain will also bring in is data protection and confidentiality concerns. There has been a delay in the enactment of the proposed Data Privacy bill in India which perhaps needs to be accelerated, giving general data privacy concerns that have been evident across all industries. Legal-tech is one of the most sensitive industries considering the type of data or information these potential and proposed technology products would be dealing with.

Having robust data privacy laws that protect the data subjects and ensure accountability with the right stakeholders is extremely important at this juncture.

About the Author

Ms. Vasundhara Shankar, the Managing Partner of [Verum Legal](#), has worked with over 350 startups till date. She focuses on Data privacy, IP, Tech laws, white-collar crime, dispute resolution & legal tech innovations.



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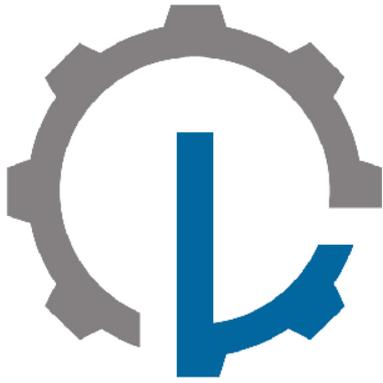
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Hire Learning: Finding Ideal Ops Candidates in an Insanely Competitive Market

Indeed currently lists a whopping 3700+ job postings for full-time legal operations professionals in the United States alone. The hiring market, as with seemingly every other function, is almost unprecedentedly competitive. So how do you find and hire the ideal candidate? And what can you do to stand out from the pack and attract the best talent?

In this roundtable conversation, Sarah Flint, Director of Legal Operations & Technology at Hubspot, Mike Russell, Head of Global Legal Operations at Expedia, and Ashly Suedkamp, Director of Legal Operations at ServiceNow, share their guidance for identifying, sourcing and hiring the right candidates for your growing teams. This session will also touch on how to think about organizational structure in general, and making the case for new hires.

Presenters:

Sarah Flint, Director of Legal Operations & Technology | Hubspot

Mike Russell, Head of Global Legal Operations | Expedia

Ashly Suedkamp, Director of Legal, Government Relations, Ethics and Compliance Operations | ServiceNow

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BACK TO BUSINESS AS USUAL?

WHY LAW FIRM STRATEGY NEEDS AN UPDATE, POST COVID

By Hariolf Wenzler, director of the Bucerius Center on the Legal Profession and CEO of YPOG Group, a leading German tech law firm



In March 2020, law firms and especially their managing partners had every reason to be sceptic about their businesses' economic outlook. With a pandemic ahead and virtually no experience on how to handle it, the risks of an economic downturn with melting demand for and rates of legal advice was at least an option firms started to prepare for. Now, 20 months later, most business law firms thrived through this era: Work from home has played out much better than expected. Clients kept merging with and acquiring businesses with mandating their lawyers. Thus not only revenues have increased, the elimination of travel, events, and other costs have even led to higher profits. And on top of it all: no strategy meetings, retreats, business development initiatives and such stuff – lawyers could simply work in peace.



Looking ahead, however, this tranquility might prove deceptive.

All untackled issues from pre-Covid are back: How do we attract, promote and retain young colleagues? How do we further expand our client base? How do we professionalize and digitize our processes? How do we keep up with the increasingly digital processes and requirements of our clients? How do we create a collaborative workspace in our teams, offline and online? What does true diversity and inclusion look like? And what was our purpose again? Summing it up, the question of law firm strategy is back on the agenda.

Ashish Nanda, professor at Harvard Business

School, former director of the Harvard Center on the Legal Profession, and valued advisor in building its counterpart at Bucerius Law School in Germany some ten years ago, recently published an article with his colleague Das Narayandas on strategy development in professional services firms, and law firms in particular, in the Harvard Business Review (<https://hbr.org/amp/2021/03/what-professional-service-firms-must-do-to-thrive>). They focus on two important pillars in developing a firm strategy:

1. "People": Building a strategy around one's own strengths, i.e. people's skills. Whom to hire or promote, how to grow in timekeeper headcount and specialization, how to hone the

skills of the lawyers and how best to group them around practices and industries.

2. "Clients": How to assess the actual mix of clients and mandates, how to shape topic- or industry-specific products and service lines, how to operate a data driven business development up to the setup of a dedicated key client program.

These are doubtlessly the first two pillars of a coherent strategy. What the authors seem to have overlooked, however, is that there is a third pillar of strategy development, which is linked to the emergence of digital tools and devices on the one hand and customer expectations of the Amazon/ Uber/ Apple/ Google/ etc. economy on the other hand. It's the third pillar:

3. "Delivery": How are the services delivered? How do clients consume and digest legal advice? Paper or PDF memos? Or shared documents or even dashboards, seamlessly integrating legal and compliance products into the software systems of clients?

Whoever decides upon a law firm's strategy, the digital age requires to focus on all three pillars: Firstly, the production and design of the legal product, which is essentially conceived and developed by professionals; secondly, clients and their business needs, for whom the (legal) advice is created; and finally, thirdly, the "form of presentation", or delivery, which must be as "seamless" as possible for clients to integrate into their business processes. Let us look at the three pillars and their meaning in detail:

1. People: The What

Specialization, practice and industry groups, and investment in bright minds.

Continental law firms have – other than their large UK or US competitors - only begun to seriously develop consistent strategies when their service became less and less "free profession" and more and more "managed service". The process began with the liberalization of the financial markets and their regulation in the 1990s, with globalization, the development of new technologies and the associated growth in all industrialized nations in the early 2000s. The need for strategy development and its implementation (i.e., management) has increased steadily since then, but since markets and revenues usually grew faster, it was still possible to generate high revenues with decent returns for a very long time without having a clear strategy in place and a professionalized management in charge.

Hence strategy mainly was the development of new service lines (i.e. new offers for clients, often driven by the regulator) or the expansion of the existing business by adding further professionals. In many cases, more of the same was the right thing to do, according to the hourly-rate-driven growth. In law firms, this repeatedly rewarded the simple hiring of more time-keepers. Strategy meetings, then, were focused on the market for talent, revolving around questions like how (i.e., with whom / what profiles) to expand the corporate practice, for example, or whether to grow a separate IT practice, whether to become full-service or remain boutique, and whether it could become a national or even international business.

In Jack Gabarro's Professional Services Spectrum (Thomas J. De Long, John J. Gabarro, Robert L. Lees: "When Professionals Have to Lead", Harvard Business School Press 2007, pp. 87 ff.), this is the decision on your own profile: Do you deliver commodity, rocket science or something in between? The strategic thinking of the managing partner here is - more or less - a supply-side phenomenon, focused on the expansion of the workforce, putting the product and the quality of its manufacture at the center. This first pillar still is and remains important because of the ongoing specialization within the legal profession, the differentiation of consulting services and the still dominant billing-by-the-hour. All this requires to strategically select and build up one's consulting staff according to the development goals of the firm.

2. Clients: The Who

Who to work for? ABC analyses, cross-selling and long-tails. Once specialization and team setup are done, the analysis and the alignment of the clientele come next. The tool strategists use was described by Benson P. Shapiro et.al. as the Client-Portfolio Matrix (Shapiro, Benson P. "Bridge the Gap Between Strategy and Tactics with the Magic Matrix." Harvard Business School Publishing Case, 2003). Using methods developed by U.S. business schools in the 1980s and 1990s, and applied for many years by BCG and McKinsey upon strategy processes in other industries, law firms' clients are analyzed and segmented into specific portfolio quadrants, and the client portfolio is aligned - culminating in targeted business development activities tailored to that portfolio. Metrics such as costs, revenues per timekeeper

and, above all, profits per partner emerge, ABC analyses with the question of what percentage of revenues are generated with the top 20 clients and – on the long tail – from what annual revenue on small, uneconomical mandates should be declined. In addition, it's a given that one can't offer everything to everyone to the same extent which is why it is no option not to have a client strategy. The increasingly important species "managing partner" hence is faced with the challenge of providing a consistent service to clients with an already specialized but still comparatively heterogeneous group of lawyers.

Strategy meetings then become focused on sales and business development, clients and profits. Questions are, e.g., what the target markets of the corporate practice might look like, how to set up a client relationship program designed to match their needs, how the IP/IT practice can tap into additional client groups, how to manage cross-selling and up-selling, how to develop a pricing strategy geared to the target markets and how to set up a key client program in general.

3. Delivery: The How

How would clients actually like services rendered? From user experience, legal design and co-creation.

In addition to qualified employees (people) and clearly structured market and client portfolios (clients), law firms now have a third dimension that is closely related to the development of digitization as a whole. It is service delivery, creating a seamless client experience which is internally created with operational

excellence. So it is no longer just the legal deliverable (i.e., legal advice in the narrower sense), but also the way in which this core service is delivered (service delivery), as Jack Newton explains (Jack Newton: “The Client-Centered Law Firm”, Blue Check Publishing 2020). The digital era is primarily changing the expectations and experiences of all clients towards an experience-driven economy. For lawyers: Even very good legal advice must be consistently aligned with the needs of the client, when, how, where, and in what format it wants to be consumed. Dashboards instead of memos? Charts instead of text? Computable data instead of written characters? APIs instead of E-Mails? Stratifying this third pillar requires an understanding that all services that are created with the help of a piece of software become or must become "transformational products" in Matthias Schrader's sense (Matthias Schrader: “Transformational Products: The code behind digital products that are shaping our lives and revolutionizing our economies”, Edition NFO, 2017).

But how does a law firm create transformational products? It's a three-step-process that focuses on delivery. Three interrelated steps are necessary: Firstly, permanent, relentless and candid client feedback, gathered by collecting data (e.g., the Net Promoter Score NPS, the modern form of the recommendation rate) and asking clients systematically and unbiased (e.g. by BD professionals or outside consultants, not by the partner handling a respective client), secondly, the establishment of delivery as an independent but integrated component of the service provision process (e.g., with the help of legal operations

experts), and thirdly, the "softwareification" of the consulting products (e.g., with the help of legal tech experts). The greatest challenge, however, is not the technology, but the establishment of structures within the law firm based on the division of labor, in which different trades and faculties (lawyers, business economists, techies) work together to create a client-centric product. Mindset, not Tech is the Main Challenge, as David Carter points out (David Carter: The Evolution of Legal Delivery; <https://www.artificiallawyer.com/2021/09/20/the-evolution-of-legal-delivery/>). In addition: This third pillar differs from the first two in one important detail: The deliberations do no longer stay within a firm's internal walls. It by its nature requires interaction and conversations with clients. Clients help to shape the products and develop the services, they become an integral part of a firm's strategy-building along the entire value chain.

Strategy meetings become co-creation sessions involving clients, outside expertise and using methods such as design thinking or legal design. This form of developing strategies and solutions, nota bene state of the art in many industries, will increasingly be adapted by law firms. And as in the past, those who start early, overcome the uncomfortable and master the mindset shift faster than others will have a competitive advantage.

Focussing the next partner retreat on strategy development along all three pillars can change your firm's trajectory: It helps keeping partners away from remuneration quarrels whilst providing perspectives on how to

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Focussing the next partner retreat on strategy development along all three pillars can change your firm's trajectory: It helps keeping partners away from remuneration quarrels whilst providing perspectives on how to attract the next generation of lawyers, how to master the digital challenges ahead and how to win the

future instead of watching others do it.

About the Author

Hariolf Wenzler is director of the Bucerius Center on the Legal Profession and serves as CEO of YPOG, a fast growing law firm focussing on tech industries. Before, he was with Baker McKenzie as director of business development, marketing and communications in EMEA and on the global innovation committee.

He is grateful for reviews and comments from Markus Hartung, Emma Ziercke, Iris Wahl, Nora Teuwsen and Stephanie Hoerstel.



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Legal tech: Beyond the myths #2

The focus on accuracy

By Arnoud Engelfriet, co-founder of the legal tech company JuriBlox, and creator of its AI contract review tool Lynn Legal.



What's the difference between a lawyer and a lawyerbot? In the twenty years I've worked as a lawyer, no one has ever asked me how accurate I worked. But every time we introduce our lawyerbot to a new audience, the first question we get is always "How accurate is it". Which is fine, as we have a good answer: 95.1%. But what does that even mean in a legal context?



(credit artwork: Yash Wadke)

Rote language: food for robots

As I wrote last time, computers aren't intelligent, and never will be. They are good at computation, and therefore also at routine tasks like comparing texts, looking for statistical patterns and so on. This is great for legal tools: lawyers produce huge numbers of comparable texts with clear patterns – the

rote language and standard expressions that are needed to trigger certain regulations or avoid problematic jurisprudence.

The difference however also means that the way a robot analyzes texts and makes legal predictions or recommendations is fundamentally different. This in turn has grave

consequences for the perceived quality of AI for legal work. It bears repeating: we consider lawyerbots to be simulated human lawyers, and their work the automated performance of human work. This is wrong, but very hard to root out.

Of course we are used to human lawyers making mistakes. A rookie lawyer can miss important case law. A senior partner may focus too much on his own hobby horse, or be out of touch with the latest developments. In a rush, certain clauses may be glossed over and implications missed. We understand and can work with such mistakes, as we can relate to them.

Machine learning: a deep dive

Robots make an entirely different class of mistakes. These have to do with the way that robots screen text. Let's have a little dive into the technology for that.

Most robot lawyers work with so-called machine learning, a process where the computer learns to recognize patterns in data, usually based on statistical similarities derived from a given set of examples (the training dataset). Usually the process is focused on classification: assigning a label to a piece of text, e.g. "this is a liability clause" or "this is a verdict for the plaintiff". Most contract review tools work this way. The labels help classify and value the contract, especially when a value judgment ("this liability clause is 2.5 million Euros") can be used in the classification.

Another popular application is information extraction: "the first contract party is Royal Shell", "this verdict cites the ECHR Sunday Times case" or "the defendant was not served

with a notice of default". This is the domain of so-called natural language processing, where human-programmed or statistics-derived rules of grammar are applied to identify information: "this clause has the supplier as the subject and uses a verb indicating obligations without an ancillary verb indicating trying, therefore this is a supplier warranty".

In both cases however note that the computer has no actual grasp of the legal consequences, it is applying formulas and numbers to derive conclusions. "Must", "shall" and "will" are all verbs indicating obligations, therefore "Supplier must" is a supplier warranty. And in particular with classification, the computer will classify the sentence as belonging to one of its categories. There is no "ignore if you're not certain" or "unclear" category. (In fact, if there were the computer would probably classify all of the clauses as "unclear" since there is no downside to it for doing so.)

Confidence in robot review

The usual way of handling this limitation is to examine the prediction's confidence. Most machine learning systems provide predictions with indications of their confidence or certainty. This outcome looks very much like the training set, therefore the system is highly confident. But this outcome is rather unusual, therefore the confidence is only 28%. During training, an engineer would search for a minimum confidence that gives the lowest numbers of false classifications or mistaken extractions. A prediction with only 28% confidence is likely to be ignored.

It is, however, a mistake to think that a prediction with a high confidence is likely to be

accurate. This has to do with the fact that robots are not trained to look for the right answer. Instead, they are trained to provide an answer that best matches its training data.

Training, training, training

We first developed our NDA-reading robot NDA Lynn, we noticed that confidentiality agreements with a California choice of law were always getting rejected as being very onerous for the recipient. This despite the fact that the clauses dealing with security, notification and so on were as standard as they could be. Further digging revealed however that the training dataset contained only very strict, one-sided NDAs with California law. From this, Lynn had concluded that California law is a good predictor of a very strict NDA. It thus made perfect sense to first look at the choice of law, and if that is California then to give a quick answer.

It is thus imperative to have a training dataset that is as complete and diverse as possible. This is however enormously hard, even when the system is restricted to only one jurisdiction. First of all, there are no public datasets with contracts, so assembling a large corpus of data is very labor intensive. Companies working in this field may be able to get (anonymized) documents from their first customers, but that introduces a bias: a law firm with an IP focus for high-tech enterprises will create different contracts than a law firm focused on SME businesses.

This is essentially the same problem as the allegations of bias that pop up whenever a machine learning system makes predictions or analyses of human behavior, such as with

spotting potential fraudsters or even simple face recognition. In legal it is a bit harder to spot, as it may require deep human review of the clause to see that something fishy is going on. And to add to that, two lawyers may reasonably disagree on interpretation of a legal clause or implications of a court verdict.

That said, of course there are measures to objectively evaluate quality. A simple approach is to set aside 20% of the dataset for an evaluation when the machine learning system has been trained. As this 20% was labeled prior, the system output can easily be compared against the human-chosen labels. In more advanced approaches, this split is done multiple times along different lines, generating multiple models with different test sets. If all comparisons reveal a good quality of the predictions, then the dataset (and the models) are suitable for practical use.

Still, this presumes that the dataset is representative. A very high accuracy only means that the test dataset was well recognized – in other words, that the predicted labels match the human-assigned labels.

Handling computer mistakes

All this goes into the central question of trust. Trust is derived from accuracy in past performance, but how do we measure accuracy if it is so different from how humans work?

The usual answer involves the difference between true positives, false positives, true negatives and false negatives. Very quickly: a true positive and a true negative mean correct identification or rejection, and false positives and negatives are both mistakes. However,

these terms assume a yes/no, true/false or guilty/not guilty dichotomy. In a legal robot, we usually deal with multiple classes: a contract clause can be any of 30 to 50 types, verdicts contain a lot more information than “guilty / not guilty” and let’s not even go into the amount of options in a legal demand letter.

Merely looking at a classification being wrong is not enough. You can have small or big mistakes. Human lawyers easily can make small mistakes: overlooking a dependent clause, forgetting to change a minimum term after a statute has changed, and so on. Big mistakes – say, taking a liability clause as a contract term – rarely if ever happen, and then only to the most junior of rookies. However, for a computer these are all more or less the same: it’s not part of the model, it was labeled differently, this is what the dataset looked like. So getting your liability clause misinterpreted or a carve-out to a payment penalty scheme overlooked can happen just as easily.

This is a key reason why lawyerbots are harder to trust: they make strange mistakes, which just as often may be rookie mistakes. And rookie mistakes have huge consequences. This means that a human lawyer feels like having to double-check the lawyerbot’s work all the time, which in turn destroys any added value (e.g. time saving) the lawyerbot may claim to have had.

Going forward

Understanding the function of AI tools is tremendously important. Anyone who considers them mere automated versions of human lawyers is setting themselves up for a huge disappointment.

The key issue when it comes to accuracy is not to strive for 100% perfection. This is impossible, just like with human lawyers. Even when a dataset is comprised of thousands of documents – as with NDA Lynn: 14.000 NDA’s – there is still a chance a new contract has vastly different language, and thus the system will perform lower. Continuous re-training based on mistakes thus is key. This requires input from the human lawyers: which label did you expect here?

Similarly important is the realization that a lawyerbot does not distinguish between big and small mistakes. The only way to address this issue is to ensure there are multiple steps in the robot’s process. For example: when a liability clause is detected, double-check for certain expected wording and reject the detection if that’s missing (such as a number or reference to contract value). Check if another clause has been detected as the same, but with higher confidence. And so on. This is an iterative process that again requires human lawyers to get to know their robot counterpart.

Finally, it comes down to positioning. How can a lawyerbot be deployed to save time or money, whilst minimizing the impact of inaccurate analysis. But not only that: also position the human lawyer (who reviews the bot’s work) to easily provide feedback on the bot’s output. Nothing frustrates acceptance of a tool as much as being unable to change its workings. Back in the box it will go. Every lawyerbot tool therefore should come with a feedback button, and of course its designers should listen to the feedback. Let’s get that right!

About the Author

Arnoud Engelfriet is co-founder of the legal tech company JuriBlox, and creator of its AI contract review tool Lynn Legal. Arnoud has been working as an IT lawyer since 1993. After

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I enjoyed the book. It reminded me of the “One Minute Manager” for law firm industry groups. Hopefully as successful! - Jim Perkins, COO & Chief of Compliance - PROCOPIO

The tone and directness really appealed to me . “Do this, don’t do that . Think about this, don’t forget that” is exactly what is needed and can only come from years and years and the many firms you have seen succeed or fail. No shortcuts, no magic wands but a logical, sustained and committed approach – is what’s called for. - Gillian Ward, Global Chief Marketing Officer – BRYAN CAVE

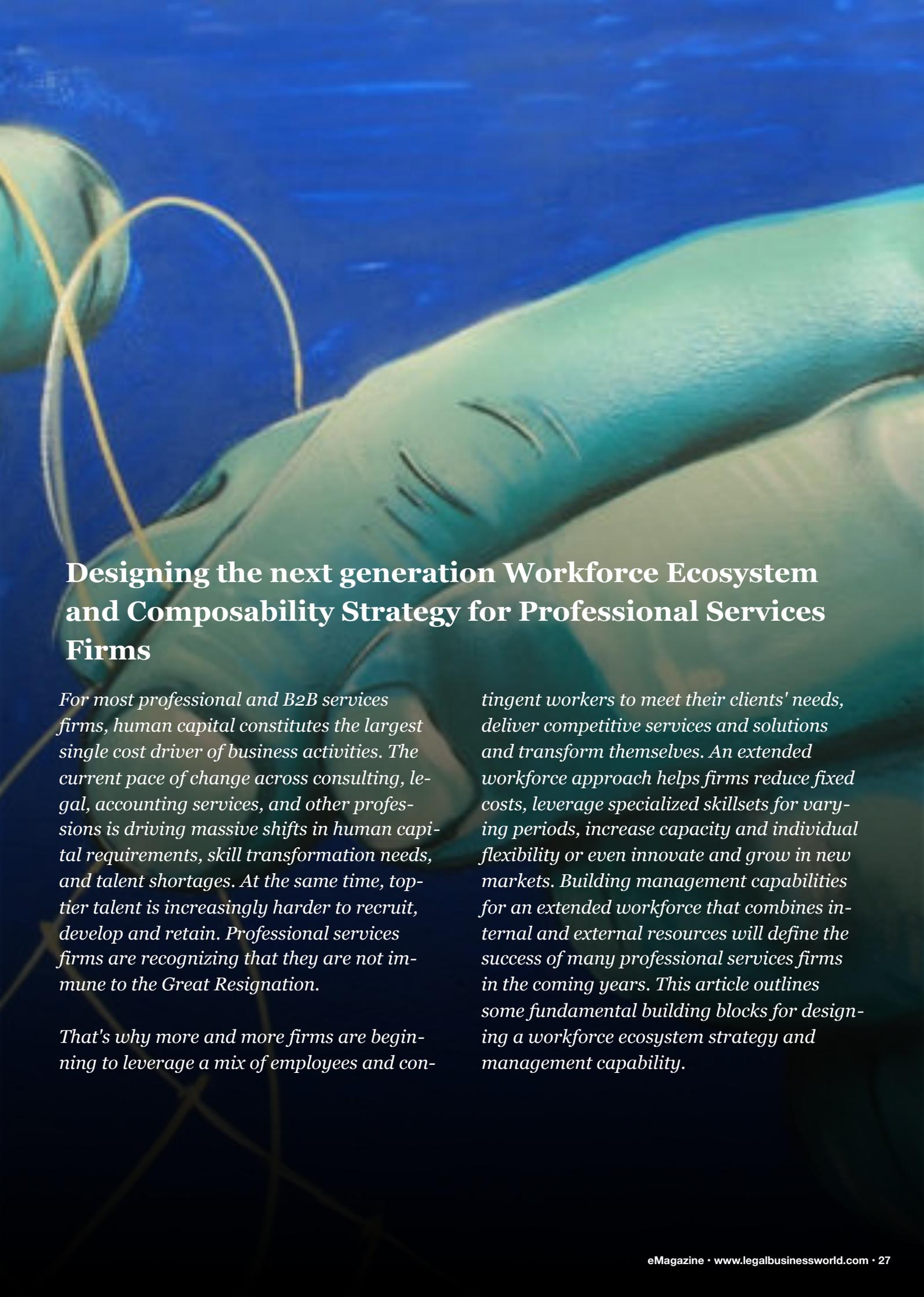
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[**See page 2**](#)



YOUR FUTURE WORKFORCE WON'T FIT INTO YOUR FIRM!

By Sebastian Hartmann and Madeleine Bernhardt



Designing the next generation Workforce Ecosystem and Composability Strategy for Professional Services Firms

For most professional and B2B services firms, human capital constitutes the largest single cost driver of business activities. The current pace of change across consulting, legal, accounting services, and other professions is driving massive shifts in human capital requirements, skill transformation needs, and talent shortages. At the same time, top-tier talent is increasingly harder to recruit, develop and retain. Professional services firms are recognizing that they are not immune to the Great Resignation.

That's why more and more firms are beginning to leverage a mix of employees and con-

tingent workers to meet their clients' needs, deliver competitive services and solutions and transform themselves. An extended workforce approach helps firms reduce fixed costs, leverage specialized skillsets for varying periods, increase capacity and individual flexibility or even innovate and grow in new markets. Building management capabilities for an extended workforce that combines internal and external resources will define the success of many professional services firms in the coming years. This article outlines some fundamental building blocks for designing a workforce ecosystem strategy and management capability.

What is driving the workforce transformation?

Like so many other industries, professional services have experienced an unprecedented acceleration of their own digital transformation throughout the pandemic or what may (hopefully soon) be called its aftermath now. The magnitude of change is best observed at the frontline: It is quickly visible in the nature and modes of operation for client and service delivery work – across firms, their workforces, and individual professionals (e.g., consultants, lawyers, tax advisors, auditors, and other experts) every day now:

Professionals collaborate with clients and colleagues virtually and remarkably well, as both sides acknowledge in recent surveys. And *"many of the technologies and techniques that have been forged in the heat of the coronavirus crisis will usurp old ways of practicing when life returns to normal,"* [says Professor Richard Susskind](#) with an eye on the legal profession. So, the experiences and expectations of both clients and employees have not just changed – they have evolved too. Furthermore, clients' demands are increasingly digital at their core - with significant implications for service providers' business models. Let's take the consulting market as another example: Here, Gartner analysts expect more than 50% of all services delivered by 2023 to involve some form of digital asset. So, the architecture and composition of consulting services will continue not just to evolve but change at the core – the business model. In a nutshell: The [pace of change across professional services](#) will further increase in the coming months.

In order to win in this evolving and increasingly competitive landscape, professional services firms will need to develop a more adaptive, broader skilled, and very agile workforce.

So, how can firms build this next-generation workforce? How will HR management approaches and systems keep up with this change? How should CHRO and COO functions and teams transform themselves as the world defines its post-pandemic new normal?

Which factors redefine the workforce right now?

Across consulting, legal, accounting, tax, and related professional services, we can distill four major factors, which are redefining the workforce and shape the responses, strategies, and tactics over the coming 12-24 months for workforce, talent, and workplace management - and ultimately firm structures overall:

- **Virtual & digital delivery models** are here to stay as both clients and services firms are realizing the potential in more virtual, remote, hybrid, and fully digital engagement models. After all, an overwhelming majority of companies across industries [acknowledge](#) that we will continue to see more remote and hybrid work arrangements – which must be met with similar models by the service providers. These models free firms to some degree from many capacity constraints (e.g., through improved availability of specific

experts, accessibility of geographically dispersed talent, or even key players in client organizations). Virtual delivery also increases the ability to respond to changing demands and the delivery flexibility overall (according to 67% of consultants surveyed by [Apadua in collaboration with EBS University](#)), e.g., in resourcing expertise and leveraging virtual assistants and chatbots. All of this has far-reaching implications along the entire value chain of a professional services firm and its management.

- **Digital workplaces** take center stage for professionals and clients alike. Working efficiently and effectively with an outstanding user experience across systems, geographies, clients, colleagues, and third parties is both an employee hygiene and a competitive factor in the market now, which has dramatic implications for firms' IT landscapes and tech spend. This includes the question of how digital workplaces are deployed, managed, and integrated across all elements of holistic solution delivery for a client and the workforce – both internal and external.
- **Contingent workforce integrations** (including gig workers, subcontractors, vendors) across systems, e.g., for resource allocation, CRM, time capture, billing, policies, certifications, etc., will become a necessity in order to manage a firm in its entirety, fulfill client demands, deliver digital solutions and keep up with the pace of innovation, technological and regulatory changes and skill requirements of next-gen client solutions. "Circumstances have made remote work a basic requirement for almost all or-

ganizations, whether they planned to embrace it or not. In the future of work, CIOs will need to consider how technology can sustain a distributed workforce model that reaches beyond the restrictions of a traditional office environment and may be dispersed across geographies", says [Gartner](#).

- **Next-generation business models** will mature from niche to mainstream. Smarter and more digital managed services are outpacing traditional time and material models already. This includes many "X-as-a-Service" variations, too, such as BPaaS (business processes), [KaaS](#) (knowledge), or, of course, [SaaS](#) (software as a service). As a result, firms will rethink their core capabilities and focus on where they can truly differentiate themselves – and where they instead need to source capabilities intelligently. Following the mindset reflected by the "designed in California, assembled in China" -print on the back of many smartphones, the borders and self-perception of firms will evolve noticeably in the coming months.

So, in other words, "effectively managing a workforce comprising internal and external players in a way that is both aligned with an organization's strategic goals and consistent with its values is now a critical business necessity. "

"However, legacy management practices remain organized around an increasingly outdated employee-focused view of the workforce

— that it consists of a group of hired employees performing work along linear career paths to create value for their organization" (see [this recent article](#) in MIT SMR). This narrow and traditional view is likely to become not just an obstacle to innovation and growth but future-readiness and ultimately survival.

In response, we suggest a much broader definition of the workforce and resources in a professional and B2B services firm:

The workforce is defined through the whole ecosystem of both firm-internal and external resources (people, organizations, technologies), which are involved in the value creation for clients.

What are the implications of a workforce ecosystem approach?

In many ways, the ecosystem-based workforce definition is the necessary and logical counterpart of a "[solution mindset](#)", which many firms are (consciously or subconsciously) beginning to embrace and fold into their value proposition designs, processes, data, and structures. Of course, this expanded definition has many implications for how firms think about their strategy, resources and capabilities, data, technology, and even market environment in general.

While we clearly advocate this expanded view, we must also acknowledge that it **creates a number of challenges**, such as

- the fundamental **transparency about who really is working for a firm**, who knows about it and, of course, manages it effectively,
- the **integration of third parties in firm systems** (e.g., resource management, collaboration tools or entire digital workplaces, etc.),
- ensuring appropriate **skill levels and competencies** (e.g., certifications, completed courses),



- maintaining **compliance** (e.g., privacy, independence requirements, data management rights, certificates of competence, etc.)
- or ensuring **knowledge and content management lifecycles**, which are crucial for the long-term success of knowledge-driven firms.

While many of these may seem daunting, they often [can be addressed with existing technologies](#). Both smaller and specialized software vendors (e.g., [Beeline](#), [Procurement](#)) and larger players (e.g., [SAP Fieldglass](#)) are already beginning to cater to this massive shift in thinking about a firm's resource foundations. But software alone rarely solves the underlying issues. So, ...

What are the building blocks of next-gen workforce ecosystem management?

For the specific context of professional and other mainly knowledge-driven B2B services, we have identified the following critical design elements for managing the workforce, talent, and workplaces of next-generation firms:

1. Strategic business and technology alignment:

- Workforce requirements, driven by awareness of the emerging competitive landscape and dynamics, will need much closer alignment with the strategic direction of the business. Certainly closer than the typical rough recruiting numbers estimate along traditional job profiles. As firms shift towards delivering holistic solutions, which are designed to involve not

just employees but also third parties (technologies and alliance partners, gig workers or sub-contractors and service vendors), business and HR leaders must jointly assess and consciously use a much broader set of management levers (e.g., outsourcing, automation, training, M&A, ...).

- The innovation success of many firms also depends increasingly on their technology leaders' ability to orchestrate a range of technology and related service providers and vendors in particular. Managing this ecosystem of often critical "co-innovation" partners (e.g., cloud and software platforms, outsourcers, etc.) must now be incorporated in the workforce perspective – because it increasingly determines a firm's ability and capacity to deliver to clients.
 - So, the involvement in workforce discussions and planning of many often-separated functions such as HR, IT, Procurement, Alliance Management, leaders and managers in Service Lines, Practice Groups, and even individual Solutions or Services is necessary. These conversations must be taken to a new level of collaboration by diving deep into actual work requirements and types – and strategic scenario planning. The demanding nature of this management effort may further challenge firm structures and career paths too.
- ### 2. Ecosystem-connectivity for resource and financial management:
- Resource planning and management must evolve to include external resourcing

- Options by default (and within relevant systems). Only then will the firm orchestrate the best talent for its clients – and within the standard client engagement management procedures. This requires actionable transparency regarding contractual and financial implications as well as conflicts or compliance requirements, which need to be embedded in the decision-making process.
- Furthermore, we can expect even more pronounced skills and experience profiling challenges for many firms: The database of skills or competencies must now include external parties (next to employees) – and therefore tap into a number of internal tools (e.g., time capture) and even external systems (e.g., LinkedIn or marketplaces). Again, automation is critical here to ensure up-to-date profiles when they are needed.
- These ecosystem-enriched resourcing decisions and processes will echo much louder across functions like legal, risk management, and procurement too. They must now work hand in hand with HR and the business leaders to enable quick access, deployment, or phase-out of vendors, subcontractors, freelancers, etc., in line with all client, strategic, regulatory, and compliance requirements.

3. Digital workplace management

- To integrate third parties effectively in often highly collaborative client engagements, firms must develop more open digital workplaces, which can be deployed and managed effectively for both employees

and third parties (e.g., Microsoft Teams environments). In addition, these workplaces must ensure seamless integration with the required internal service delivery systems and effective collaboration between a firm's internal employees and its external parties.

- Clear governance, security, and compliance controls for accessing and using delivery systems must be integral to such a digital workplace strategy. Collaboration platforms such as Microsoft Teams, which has fortunately been designed for this, may need to be further enhanced and tailored to the needs of professional services firms through appropriate customizations or add-ons, like [Repstor](#).
- Last but not least, the emerging workplace and its key tools must be used and understood on commonly agreed digital collaboration principles – including the most senior leaders of the organization. They often feel less inclined to use a Microsoft Teams chat or channel post to discuss something asynchronously and often more openly with colleagues. The necessity to adapt organizational norms, work styles, principles and individual ways of working to a natively digital workplace should not be underestimated.

4. Embedded content lifecycle automation:

- With more of the work taking place within collaboration platforms and digital tools, the mission for knowledge and content management within a B2B or professional

management within a B2B or professional services firm has fundamentally changed: Formerly separate and often delayed or dispersed content management activities (e.g., document collection, sanitation, etc.) are naturally and automatically becoming integrated into the client-facing business processes. Driven by maturing collaboration and cloud platform adoptions as well as more [intelligent ECM automation](#), this has long been underway. But the integration of third parties into this picture is now acting as an additional catalyst to enable organizational learning or ensuring complete data and content editing audit trails and compliance – all of which are critically important, especially for more regulated services (e.g., accounting/audit, tax, and legal services).

- Last but not least, "[robot advisors and colleagues](#)" are also becoming a part of this workforce and content lifecycle equation. Gartner expects virtual assistants and chatbots to be present in all major business applications by 2025 – which will increasingly mean that these bots trigger services from the client-side (e.g., a difficult question to a tax advisor for a specific transaction) or even replace the professional altogether (e.g., for composing a standard NDA). In most cases, though, these virtual assistants will augment professionals and their services: [Gartner predicts](#) that by 2025, 50% of knowledge workers will use a virtual assistant daily, up from 2% in 2019. So, designing the resulting content-sensitive workflows across multiple interaction points with different chatbots, passing context and history from one bot to the next,

or into human interactions will be a significant focus for ECM teams and enterprise architects in knowledge-driven firms.

5. Learning platforms and integration:

- As the pandemic catapulted the world into the digital workplace transformation, something fundamental also changed for professionals: Learning. Learning by observing senior colleagues interacting with clients and teams or looking over the shoulder of colleagues, who work their magic in tools like PowerBI, etc., became impossible from one day to the next. However, steep learning curves are both a prerequisite to the traditional business model and a beloved characteristic of the professional services industry. But in a more virtual setting that even spans the firm's boundaries to include external experts, learning and development must now become embedded in digital business processes and workplaces too. This will undoubtedly change how the learning content is delivered and how learning journeys take shape, how progress or certifications are being tracked and maintained, and how firm-specific cultures and behaviors are formed.
- Leveraging and integrating third-party learning platforms and content (e.g., by providers such as Coursera, EdX, or traditional universities) and certifications is a crucial ingredient and lever for the success of a more distributed and open workforce concept. External participants are easier to integrate (independent from their current status at the firm) when working with external learning providers, who can also ensure certification requirements and

maintenance. Also, taking a certified course from a university is often valued much more by employees today than participating in an internal firm-specific course. Externally verified learning credentials can also be showcased on employees' LinkedIn profiles and even improve the profile of the firm itself: Professional services sourcing platforms, like [Apadua](#), already base their firm and demand-fit search algorithms on the social media profiles of firm's employees – which in turn drive the credibility of the firm for specific client projects.

- Last but not least, learning and development opportunities drive ecosystem gravity like nothing else: 76% of generation Z employees believe that learning is the key to professional success. In 2020 they had also spent about 50% more time on learning than in 2019, according to LinkedIn's [2021 Workplace Learning Report](#).

6. Designing composable solutions (services, products):

- A growing share of firms has begun to embrace the term "solutions" to describe their offerings or value propositions. While it often has a connotation of some digital technology component to it, this does not have to be the case – and is not even the most important aspect of it: More importantly, the term "solution" represents a [fundamental paradigm shift of the professions](#). It shows that the expertise of a professional in a specific area (e.g., labor law, process optimization, etc.) is not "the product." Instead, professional services

must be about solving clients' problems and often their most pressing challenges. This naturally implies a decomposition of the service into methods, insights, and technologies, underpinned by internal and external capabilities coming together in a managed delivery process – targeted at clearly defined outcomes for clients.

- Next-generation solutions are therefore more composable – and architected by consciously including and leveraging external capabilities too. This much more open and design-thinking-based mindset naturally opens up the firm. It will continue to drive hybrid and virtual delivery modes and technology-based augmentations, expansions, or enrichments (e.g., with citizen development capabilities) as a logical consequence. The management challenge will be to integrate diverse workforce and capability compositions, which are coming into play along the value chain – including seamless experiences for clients, employees, and involved third parties alike. Building strong Enterprise Architecture capabilities as a foundation will likely be mission-critical for many firms too.

7. Performance and incentive mechanisms:

- Embracing an ecosystem-based workforce mindset for the firm will have to include adjustments to most firms' incentive schemes and performance review and development mechanisms. For example, feedback should not just be gathered from clients and superiors. It must include peers

and entire teams as well as the involved third parties (freelancers, sub-contractors) to create the necessary performance and improvement insights. Probably even more important must be the removal of any hurdles, which prioritize a firm's internal resources over external ones. After all, success in the market will be determined by a firm's ability to orchestrate the best ecosystem capabilities for clients' satisfaction, experiences, and impact or value-add – not by the utilization statistics of its internal professionals.

- In many firms, this will have far-reaching implications for the management reporting approach and systems – and therefore, the firm's regular operational and strategic steering input. A [future-proof management reporting brings several dimensions](#) into one cohesive picture: Clients, Engagements, Solutions, Technology, Capabilities, and the Ecosystem.

8. Rethinking resource relationship lifecycles and firm structures:

- Expanding the firm's HR views beyond recruitment, development, and retention towards building, maintaining, and evolving [relationships over longer periods](#) is another more culture-centric consequence of the ecosystem workforce. In practice, this is about creating, nurturing, and systematically leveraging relationships with organizations and even individuals. For example, they may start as graduates, become employees, and then become freelancers (with more flexibility to accommodate different

life choices or circumstances). Later they may become clients, who also turn into alliance partners – only to return as seasoned employees or freelancers once again. Such scenarios must be the norm and a standard chapter in the organization's HR and ecosystem management playbook.

- From a leadership angle, this represents a dramatic paradigm shift. It is about rethinking the firm as an ecosystem platform that facilitates success for all internal and external participants. This much more open-system design mindset for firm structures will likely gain more traction through the spreading [concepts of "microservices" and "APIs"](#). These concepts are typically used in a technology context. APIs are programming interfaces between technical systems. Microservices are an architectural style that structures an application as a collection of more loosely coupled services, which are independently deployable, and thus often owned by different teams or individuals. Microservice architectures enable the rapid, frequent, and reliable delivery and continuous evolution of large, complex applications. As these concepts gain traction in technology, they start to echo in organizational structures: Microservices and APIs can now be seen as emerging organizational design approaches, which can lower complexities, costs and improve the flexibility and adaptability of the firm.

In sum, these are only a few exemplary management responses and levers for leveraging an ecosystem approach to the workforce of

professional services firms. But they highlight the potential and the wider implications for managing professional services firms in the years to come. It is imperative that managers and leaders across consulting, accounting, tax, or legal start to tackle these implications of „The Great Resignation“ and the rising war for talent, which is also fueled by recruiting competition from many other industries and a generational shift in worker demands.

Preview – Leadership challenges for executives who want to further leverage the current workforce transformation for organizational success

If we assume that professional services firms will need to develop a more adaptive and agile workforce, what will be the essential leadership implications?

In our upcoming article on challenges and requirements for strategic leadership in the frame of workforce ecosystems, we seek to answer some of the following pressing questions for executives and top leadership teams in professional service firms:

- How can leaders develop a more holistic leadership approach to fully leverage the power of the new workforce ecosystem?
- What mindsets and skills will leaders need to cultivate in order to lead their organization's transformation?
- How will leaders create and maintain adaptive cultures [1] within the ecosystem which foster learning, knowledge sharing, and teamwork across internal and external boundaries?
- How can leaders ensure alignment of the new culture and the company's strategy?

- How can leaders empower employees to fully embrace collaboration beyond the internal cosmos of their firm?
- How can leaders support the creation of psychological safety and trust within the whole ecosystem as a basis for high performance in (ever-changing) teams?
- How will leaders design a next-level “learning organization” [2] that will be sufficiently permeable and dynamic to adapt to the increasing speed of change?

Our next article will explore these and further questions and their implications for the strategic leadership of professional service firms that strive to design their next-generation Workforce Ecosystem.

Notes:

[1] Stanford Business Insights: Charles O'Reilly (2014). Finding a Corporate Culture that Drives Growth – Adaptive cultures minimize predictability and encourage innovation.

“Adaptive” cultures are those that encourage: Risk-taking, A willingness to experiment, Innovation, Personal initiative, Fast decision-making and execution, Ability to spot unique opportunities“. URL: <https://www.gsb.stanford.edu/insights/charles-oreilly-finding-corporate-culture-drives-growth>

[2] Reese, S. (2020). Taking the learning organization mainstream and beyond the organizational level: An interview with Peter Senge. In: The Learning Organization, Vol. 27 No. 1, pp. 6-16.

About the Authors

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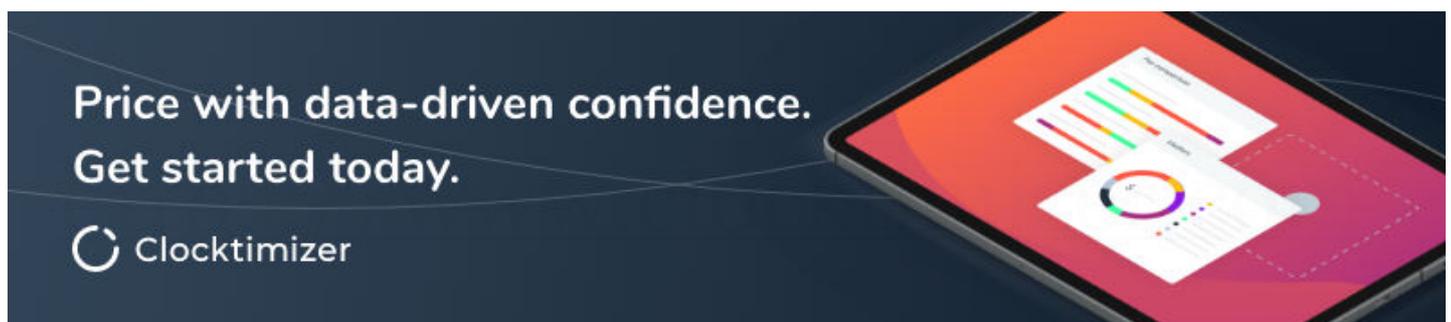
lawyer, psychologist and certified Business Coach. She is the founder of Deep Human Science (www.deephumanscience.de), a consultancy that focuses on taking leadership in professional service firms to the next level. She is Director Strategic Leadership Development and member of the Executive Faculty of the Bucerius Center on the Legal Profession (Hamburg). Madeleine Bernhardt regularly conducts leadership development programs for professional service firms and consults to international law firm partners on the strategic development of leadership.



Sebastian Hartmann



Madeleine Bernhardt

An advertisement for Clocktimer. It features a dark blue background with a tablet displaying various data charts and graphs. The text reads: "Price with data-driven confidence. Get started today." followed by the Clocktimer logo and name.

THE MOST LUCRATIVE GROWTH IS INDUSTRY FOCUSED

But Only If You Get Granular

By Patrick J. McKenna, Thought Leader and International Renowned Author

I was reading an interesting interview with Sandy Thomas upon being reelected for his third term as Global Managing Partner at Reed Smith. What struck me was when he was asked about the direction of his firm and his *growth priorities*, he responded that Reed Smith will concentrate what he calls its “*talent, time and treasure*” as the firm embarks on a new four-year plan. The focus will be on developing capabilities in five *core industries*: financial services; life sciences and health; energy and natural resources; transportation;

and entertainment and media. The interviewer observed, “*That’s a wide net -- but compared to some Big Law leaders who seem loathe to imply any scrap of business is less important, it’s practically a laser-like focus.*” We all know intuitively that we need to have our firm grow but the subject of growth can be a tricky topic such that it becomes important to have an informed perspective on how to think about it. Growth creates healthy practices, strong firms, opens up opportunities, excites and attracts good lateral talent, and

rewards partners. But do we really know how to achieve it?

One approach is to pay attention to which clients you pursue and particularly when you look at clients through an industry lens like Reed Smith is doing. I would argue that in order to truly identify growth opportunities you need to drill well below the traditional industry level. And I would suggest that those few firms that have focused at all on developing Industry Practices invariably miss-the-boat when they position themselves at too high a level to establish themselves in a manner that really attracts the better potential clients.

And why does this happen? Because, and I am not going to blow smoke at you here – law firms and lawyers do NOT understand the intricacies of Industries.

As but one example. even some of the Legal Media that I would expect to know better, have me shaking my head. The Legal 500 is seeking submissions for its US Ranking of law firm practice and industry groups. The purpose of these rankings is “to help in-house lawyers and legal teams find the right advisors.” Amongst the list of Industries in which you can enter your firm to be considered include “*Environmental*” and “*Native American Law*.” Important areas of practice to be sure, but are these really industries and especially when you cannot help but add “*Law*” to the title? Then their categorizations go on to in-

clude “*Media, Technology and Telecoms*” . . . all lumped together as one industry? Digging deeper you can find “*Cyber Law*” (there is that “*Law*” term creeping in again) and “*Fintech*” included under this heading. Little wonder when it comes to understanding industries, that some of our law firms seem confused!

Some decades back a friend introduced me to the President of a large Public Relations and Marketing Communications firm because this firm was in financial difficulties, needed some business experience to help turn things around and thought that I might be able to be of assistance. I was intrigued but quickly realized that this was a firm in the professional services industry and there was very little information available at that time on the inner workings of these kinds of businesses. Now just imagine, this was before the age of Google and so I had to scour academic libraries to help me learn as much as I could, as fast as I could, in order to be of any value to this Executive’s plight. Now, this little adventure ended well and the firm was saved. For my trouble I subsequently embarked on a career-altering journey over the next two years of working with PR firms; engineering companies; accountants; research consultancies and law firms – which I eventually discerned were all significantly different players existing in this same ‘professional services’ industry.

Now I could have tried to establish myself as an expert across this entire industry, as only

my good friend and colleague David Maister was able to accomplish; but not coming to the market holding a Harvard Professor pedigree, it soon dawned on me that perhaps I needed to make some hard choices. And so like many of the lawyers I see who are struggling to hold themselves out as an accomplish expert across an aggregate industry, I discovered that you need to look deeper within your chosen industry in order to identify some pocket of potential growth where you can better focus your time and resources.

Most industries, especially those that are more mature are comprised of a number of granular levels including Sub-industries (TIER 2); Segments (TIER 3); and what I call: Micro-Niches (TIER 4); and also by market (region or country). Understanding these various levels (and some industry analysts may use slightly different terms but please don't miss this point) can be indispensable for you in seeking to make the right decision about how to grow and where to prosper.

Let's look at but one example from an Industry Perspective. The Construction Industry is one that is mature and that many firms across the country purport to serve. If you go to the website of some firm serving this industry and with an acknowledged Industry Group Practice you will see some "overly brief" generic text about who they specifically serve within the industry:

Attorneys serving the Construction industry represent all segments including owners, developers, public entities, general contractors, subcontractors, sureties and financial institu-

tions. We provide guidance to clients on the legal issues that arise at all stages of public and private construction projects. (I cringe whenever I see that term "all")

Then you will also likely see a lengthy list of the Legal Services, followed by some Representative Matters evidencing the kinds of legal services provided clients, and sometimes even a few client Testimonials. All quite impressive except this is rather cursory information.

Why do I call it "cursory?" Well, if you examined or are a player in the Construction Industry you would recognize that it is comprised of 4 different Sub-industries (TIER 2) and those various Sub-industries include 51 different Segments (TIER 3). So for example, the largest of those sub-industries is "Special Trade Contractors" and it encompasses 23 segments including companies in everything from Demolition and Wrecking to Steel Framing; and from Swimming Pool Construction to Elevator Installation Services. Now if you are a company that specializes in Swimming Pool Construction, please tell me what part of this firm's generic text appeals to you when you are out looking for legal counsel to assist you with an enormously complex matter?

Now if you are interested in exploring some of the more lucrative work and where there is likely to exist minimal if any competition, you need to drill down to a deeper level and that is in the Micro-niches (TIER 4).

So, still talking about the Construction Industry here, there are over a dozen (that I've identified) micro-niches where some firm could

establish themselves as the ‘Go-To’ provider. These include areas like: Modular Housing (a \$500 billion/year market); Senior Housing Construction (to accommodate the ‘Silver Tsunami’ in retirement community developments); 3D Printed Prefab Homes; or how about Climate Change Bunkers (just imagine a Survival Condo that is 15 stories deep complete with a heated swimming pool). Can you name a lawyer who has established themselves as the go-to attorney in any of these micro-niches?

It is challenging to truly understand, and then set about serving the needs of clients if you don’t get specific in terms of which industry level you are addressing. Not only are there semantic and terminology differences in business processes between industries, but there are substantive differences amongst different industry levels, depending on how companies are organized, what products/services they sell, how their customers buy, and so forth. Thus, although it may be accurate to describe a home builder and paving contractor as examples of “construction companies” each of these two businesses serve very different needs, handle their customers quite differently (with low-touch or high-touch strategies), sell/deliver different products/services; and these differences can be significant – such as how they might go about managing financial or tax transactions to handling intellectual property issues.

Another popular industry that a number of law firms, including Sandy in his stated aspirations for Reed Smith, claim to offer expertise in, is Health Care. Now one of the little things

that can tend to annoy sophisticated clients and have them question a firm’s credibility is when some law firm combines Health Care and Life Sciences as if they were the same industry. They actually are two very different groupings.

The Health Care Industry is comprised of 4 Sub-Industries (like Hospitals and Health Services) and 89 different Segments; while Life Sciences has 5 Sub-Industries (like Biotechnology and Pharmaceuticals) and 143 different Segments. And like my Construction example there are all kinds of TIER 4 Micro-Niches capable of providing lawyers and their firms with lucrative opportunities. For example, Wilson Sonsini, is one firm that has Industry Groups with active practices in a couple of notable Micro Niches:

In Health Care they have ten attorneys practicing in Digital Health:

Whether you’re tracking daily personal activity, using video chat to speak to your doctor, or looking up medical records, Digital Health has become a regular part of life. This fast-growing sector will continue to effect change in consumer behavior and provider care. Luckily our attorneys bring broad expertise backed by scientific training and superior legal experience to some of the best in Digital Health.

In Life Sciences there is one attorney Andrew Hoffman designated as the principal focused on serving the micro-niche of Global Generics:

Today’s generic pharmaceutical market is

high paced and rapidly growing. With change comes increasing regulation and drive to support research and development, which Wilson Sonsini has deep expertise navigating for its clients. Through specialized support and industry knowledge, our attorneys can assemble a team to bring pharmaceutical offerings to global markets.

And I love this example with Andrew being a solo because it refutes any notion that in order to have a viable go-to practice you need a large group – when if anything it is just the opposite. So many of the higher performing firms I’ve seen have rather small, focused groups with highly dedicated attorneys working in concert to develop a significant market presence.

Now don’t let me leave you with the impression that you have to be the size of a Reed Smith or Wilson Sonsini to make this work. When I was doing some research on the “Anti-aging and Regenerative Medicine” micro-niche, one of the leading law firms I found was the Cohen Healthcare Law Group, a firm of only four attorneys headed by Michael Cohen, a former assistant Professor of Medicine at Harvard Medical.

And I loved to watch what transpired in the Financial Services Industry and the Alternative Financing Segment when a small overlooked Micro-niche known as Special Purpose Acquisition Companies (SPACs) became all the rage. I hope that no one missed the fact that the market leader, the go-to attorneys, were from 120-lawyer Ellenoff Grossman – a name that few might recognize and that Kirk-

land Ellis and Skadden allowed to kick their butts. Ellenoff achieved #1 record-setting deal flow in 2020, largely as a result of having identified this granular opportunity and being a first mover a few years before it gained traction. Now watch them take the lead in another little known Micro-niche, Equity Crowdfunding (how many have heard of that one?)

In summary, in order to identify growth opportunities, you need to delve deep below the traditional industry labels. Applying the idea of granularity to your Industry Practice and your markets and then staying cognizant of new trends and developments, should help you to determine the level at which the most valuable and actionable insights are to be discovered.

About the Author

Patrick is an internationally recognized author, lecturer, strategist and seasoned advisor to the leaders of premier law firms; having had the honor of working with at least one of the largest firms in over a dozen different countries.

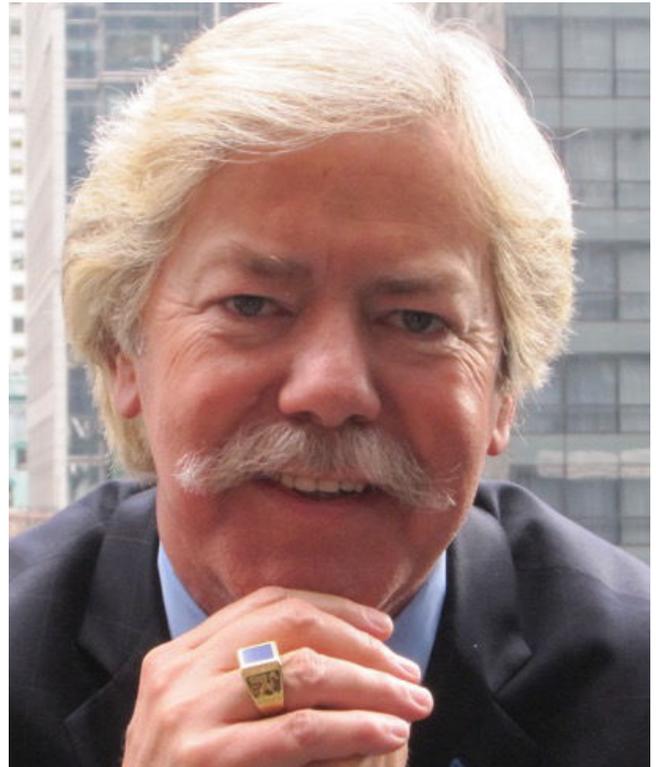
He is the author/co-author of 11 books most notably his international business best seller, *First Among Equals* (co-authored with David Maister), currently in its sixth printing and translated into nine languages. His two newest e-books, *The Art of Leadership Succession* and *Strategy Innovation: Getting to The Future First* (Legal Business World Publishing) were released in 2019.

He proudly serves as a non-executive director (NED) or advisory board member with a variety of professional service firms and incorporated companies. His aim is to instigate innovation, provide independent strategic insight drawn from his years of experience, and support effective governance.

His three decades of experience led to his being the subject of a Harvard Law School Case Study entitled: "Innovations in Legal Consulting" and he is the recipient of an honorary fellowship from Leaders Excellence of Harvard Square.

Leadership Series

Read more [articles](#) from Patrick McKenna, or [read online/download](#) his latest eBooks





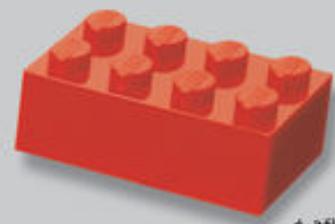
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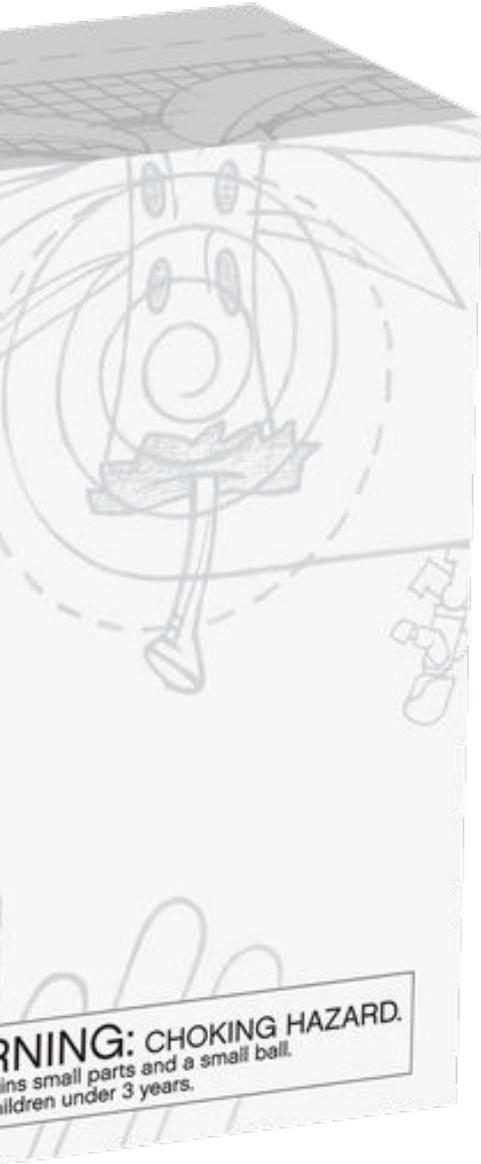


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Building Toy - Konstruktionspielzeug - Jouet de Construction - Juguete para Construir - Brinquedo para Construir - Építőjáték



⚠ **WARNING**
Toy contains small parts
Not for children under 3 years



HOW LPM & PRICING CAN SUPPORT EVERY MEMBER OF THE LAW FIRM TEAM

By Pieter van der Hoeven, Co-founder of Clocktimizer

In early October I was lucky enough to take two days out of a hectic schedule to attend this year's [Legal Geek conference](#). Back after the 2020 hiatus, it was an opportunity to reconnect with many in the legal innovation community and listen to an array of fascinating speakers. As usual the second day was packed with workshops, with one in particular causing buzz among fellow conference goers: [LEGO Serious Play](#).

This particular workshop looked at the power of LEGO as a visual metaphor and a source of creativity in jointly developing complex ideas. In particular, working together with LEGO ensured that all participants were able to make equal contributions to the collective 'idea' so that every voice was heard.

The enthusiasm towards this unique take on LEGO in the workplace seemed a fitting way to round up this series on LPM and Pricing.

[For the past year](#) I have explored how the development of activity ‘[building blocks](#)’ can make matters more predictable, [improve the sophistication of your pricing efforts](#), and can even lead to more accurate trend insights when [working with portfolios](#). But just like LEGO, these building blocks can be more versatile than their original creators ever intended. So, in this final installment, we are going to look at how the entire firm can make use of the building blocks developed by their Pricing and LPM teams. It’s LEGO Serious Play, but firmwide.

The versatility of LEGO

While many of us buy LEGO sets to build the picture on the front of the box (after all, who wouldn’t want to build a fully-functioning rollercoaster) we are all aware that LEGO is versatile. That rollercoaster could as easily be an ice cream truck, a flamingo, or even a [domino placing machine](#). The same can be said for the matter building blocks that support Pricing and LPM teams. Clearly, their primary purpose is to make matters more predictable, easier to manage, and more profitable for the law firm. However, data on activities, timekeepers, and clients, is also going to be useful to a broader audience.

I want to offer some food for thought by breaking down a few key groups that stand to benefit from the LEGO approach to data analysis. These can broadly be broken down into the following categories:

- **Knowledge Management**
- **HR and talent Management**
- **Business Development**
- **Senior Executives**

I’ll be diving into each of these in more detail but want to emphasise that this list is not exhaustive. Rather, it is a starting point for any firm looking for inspiration.

Knowledge Management

Knowledge Management at its core is about identifying and retaining a firm’s expertise. Rather than reinventing the wheel for every matter, firms build on existing knowledge. This improves service delivery, ensures matters can be (and indeed are) delivered as expected and that the lessons learned at each matter close are collected and stored for the next opportunity. In short, they are also using building blocks to develop insights.

One of the most important ways firms can make the most of their LPM and Pricing building blocks is by aligning them with their Knowledge Management systems. After all, these building blocks can identify experts within the firm by allowing searches for lawyers who have performed specific activities. This means it is faster to identify the right lawyer for the job, which can be difficult, but particularly difficult when you operate from multiple locations.

In a broader sense, this data can also be used to identify the most profitable or successful practice groups. This can then inform how and why a firm positions itself in the market and can even support the winning of new clients through evidence of success. Finally, efficiency insights can be developed by testing the effect of new processes on matter delivery. In doing so, Knowledge Managers can develop best practices for the firm’s operation in a data-driven way.

In essence, Knowledge Management is about creating a catalogue of ‘builds’ which can be developed from the blocks you have in-house. By understanding fundamentally what building blocks, or activities, your firm can perform (and how well) it is possible to show how these can be put together. The act of identifying and cataloguing them mean a Knowledge team can always identify whether a firm has the right tools for the job in-house.

HR and Talent Management

Recent employment news from the US has been focusing on the “[Great Resignation](#).” The mental toll of the pandemic has forced a lot of us to rethink our work life balance and it is more important than ever for HR and Talent teams to be proactive in supporting employees. To that end, matter data can be an essential tool in ensuring that lawyers aren’t overworked and that the right work is allocated to the right people.

In my last installment, I looked at the way [portfolios can be built out to monitor trends](#).

For those in HR, these portfolios could equally be an easy way of keeping an eye on everyone’s workload. Employees at risk of stress or burn-out could be supported with portfolio insights, making sure that they aren’t having to juggle too many projects simultaneously and that work isn’t assigned to them without prior agreement.

The same sort of analysis can also be used to ensure that the work performed by lawyers matches their seniority level. One of the easiest ways for an employee to feel undervalued is by assigning them work below their seniority level. HR and Talent teams can monitor the

division of work where matters are broken down into building blocks and use this information to better support and engage their teams.

Business Development

Business development and other client-facing roles arguably stand the most to gain from developing matter LEGO blocks. As clients push for transparency and a deeper understanding of their business, law firms need all the data they can get on their clients. This is equally true for getting new business on board, as it is for retaining existing relationships.

In practice, matter blocks offer certainty. Pitching for new work is about building a relationship of trust between yourself and a client. You need to have confidence in your ability to deliver on the RfP, for which you require data. As I discovered when talking to [Levi Remley of Barnes and Thornburg](#), even work which is new can be won on the basis of a quote created from building blocks:

“We had the opportunity to pitch for some wage and hour class action work, which is complex, expensive work. Our data set for this sort of work was somewhat limited over the past decade and we had very little time to build a quote. The client was looking for fixed fees and capped fees by phases, so we were able to identify tasks and classify them into phase categories and constructed a quote from that. Because of how detailed our quote was, we pitched an AFA and won the work.”

For existing clients, the greatest fear of most law firms is that a Senior Partner will depart, taking all their clients with them. This single

point of failure is a possibility that matter data could also help avoid. At Clocktizer, we use a relationship graph to map who is working with each client. While this doesn't have to be the only solution, it is built on the premise that once you are identifying who is working with a client, it is easier to analyse whether that client needs greater diversity in firm representation or not.

Finally, and most simply, cross selling opportunities are far easier to identify when you have building blocks. Diving into clients and cross referencing which practice groups they are working with is an incredibly simple way of identifying who to introduce them to internally. Increasing your relationship with an existing customer is [far more financially beneficial](#) than forging a new one. This type of cross selling analysis is one of the most cost-effective returns on investment for matter building blocks.

Senior executives

One of the last key groups that can take advantage of matter building blocks are firm executives. Arguably, executives need to have the best insights of anyone about how their business is functioning. But beyond reporting, building blocks can also reduce bad financial exposure in times of crisis, or even keep an eye on important clients.

Again, portfolio analysis is an extremely useful way of identifying trends for this group. Recent years have been tough for the service and travel industry. Working with too many of these clients could lead to negative financial consequences through bankruptcy or delayed payments. Analysing the industries of clients,

through portfolios, can help executives keep track of their spread across industries and prevent negative economic consequences.

But what if your firm has less of a broad spread of clients, and instead works with five or ten key accounts? In this instance, creating a dashboard that covers the important metrics and insights from these clients is a simple way of making the most of your building block data. It allows executives to be aware of which matters a client has running and who they are working with. This in turn leads to more informed conversations with clients, deepening the relationship.

Indeed, the great thing about LEGO blocks is the way that they are even compatible with other building materials. While designed for the Pricing and LPM teams, they can as easily feed into other law firm intelligence tools. Within Litera, matter data can support goal setting in [Objective Manager](#), or support knowledge collection with [Foundation](#).

Building blocks are just the starting point

The examples here represent only a few of the many ways that firms have already taken the building blocks of data housed in their matters and put them to use throughout the firm. What they all share is a recognition of the flexibility of the data 'block.'

The reason that the LEGO Serious Play workshops are so engaging, and indeed the reason that firm building blocks are so successful, is that they take something recognisable and allow us to use it in a way that is unique to our perspective. Whether you work in Finance,

Client Value, or LPM, you want to make informed decisions built on a real understanding of the way your firm is operating. Thus, these blocks offer the opportunity to understand, play, and test out your theories without needing to learn a new language or implement a new system.

By learning from LEGO and breaking big objects down into small, versatile shapes, we open a world of possibilities for firmwide analytics. They make data bitesize and give the opportunity to compare like for like. Just like LEGO, the only limit will be law firm creativity.

About the Author

[Pieter van der Hoeven](#), a former M&A lawyer with 15 years of experience in the legal industry, is the co-founder of [Clocktimizer](#). Clocktimizer is an award-winning legal technology company that helps law firms to understand who is doing what, when, where, and at what cost. Global 100, Am Law 100, and Am Law

200 law firms use Clocktimizer to make data-driven decisions around matter management, budgeting, and pricing.

Before starting Clocktimizer in 2014, Pieter was an M&A lawyer at DLA Piper and earned his MBA from Rotterdam School of Management and IE Business School. Pieter can be contacted at pieter@clocktimizer.com



An advertisement for Robus consulting & legal marketing company. The background is a collage of office-related items like a laptop, a pen, and papers. The text reads "Israel's leading consulting & legal marketing company". Below this, there are logos for "robus consulting & legal marketing", "robus cpa", "robus International", "tech&law israel", "lawflex. where law works fast & right", and "wello get great with the partner".

LAW FIRMS MERGERS IN A POST-PANDEMIC WORLD

By Adv. Zohar Fisher, Co-Founder of LawFlex, Founder of the Robus Consulting Group, Founder of Tech&Law



Law firms around the world are into the same thing - to increase growth every year in order to maximize profits. Thus, all firms must adapt themselves to the dynamic reality of the market, whether by starting to practice new law fields, recruiting more employees or by another common way - **merging** with other firms.

Nowadays, many law firms want to be a part of the merger trend, even firms that may not have considered it before the pandemic.

Some firms are considering it at this stage, whereas some others have already merged with others. Reasons for mergers are varied, but usually include financial pressures and opportunities, client demand, increase of geographical reach and the will to enter new market sectors.

Up until 2019, the world expected to see an increase in mergers between law firms as a part of



the worldwide tendency. Surprisingly enough, 2020 disrupted the merger plans (as well as many other plans we have all had).

The pandemic began and Covid-19 put all law firm merger activity on ice as the firms struggled to cope with the new situation. In the US for example, law firm merger announcements in 2020 were lower by 43%, compared to 2019. In 2020 there were 65 announced mergers tracked, whereas in the previous year 115 mergers were inked.

Luckily, 2020 is over and we are all hoping for a better year. 2021 brings good tidings so far, as the firm mergers rebound after the slow-down last year. Many firm leaders are returning to a longer-term work and a more strategic focus with new tactics that lead to merger decisions. Moreover, 2021 brings mergers out of geographic zones, which were not seen in

2020 or earlier.

Tom Clay, a principal at Altman Weil says that it would not be a surprise to see the number of announced mergers climb back over 100 by the end of the year. Lisa Smith, a principal at FairFax adds a few words about the rising mergers trend and says that we would be seeing many mergers with or without the pandemic due to the segmentation and the scaling of the market.

Yet, she admits the pandemic has had an impact on mergers. To her opinion, it led to even more merges as firms are now more willing to embrace change and more willing to consider mergers that were outside their core geographies in the past. So Covid did have some good impacts...

With or without Covid remaining in our near

future, we will be witnessing a major merger bounce back. It won't be immediate since the firms have to fully recover and stabilize again, but eventually mergers will rise back.

The pandemic has not only changed the market, it changed us as humans - and as managers / partners as well. We became more risk takers and more adaptable to changes, we understand that virtual conferences for example can be a thing from now on and that a new strategic planning is required.

Another factor in law firm mergers – especially in the UK - is succession. This will either be an ambition to grow the firm sufficiently so that it is more attractive for junior lawyers to buy in and facilitate the senior partners retiring, or more often - with smaller firms certainly (those sub £5m), the junior ranks do not wish to take on the historic liabilities and so the only option the current owners have (due to insurance) is to find a merger partner.

This combined, with access to private equity and the possibility of an eventual listing - has led to a new breed of consolidator law firm.

In the first instance, a firm has to decide if it is the predator in the process - or the prey - and act accordingly. Once this key decision has been made, time spent putting together a detailed information pack is time well invested.

When the firm is ready to act it has to be sure that it finds and talks to the right targets rather than just 'the firm down the road' - and once it is in those conversations, the leaders must focus on the process and not get distracted with the day job or momentum can very

easily be lost and the right deal could easily fall away.

This is likely to be the biggest deal in the firm's history and investing in proper professional help can make all the difference.

That being said, along with the rapidly changing industry, firms will have to adapt to changes in order to **survive and grow**. With specific market sectors rising and new opportunities coming up, seems like mergers is the best way to do so.

About the Author

Adv. Zohar Fisher is one of the leading veteran strategy consultants in the field of legal marketing, legal technology, mergers and legal outsourcing, holding vast experience and well know reputation of more than a decade in the legal practice field. He has acquired unprecedented professional experience and knowledge while closely and personally accompanying dozens of law firms around the world, lauded not once as the 'law firm whisperer'. He can be reached at: zohar@robust.co.il



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A photograph of a modern office interior. In the foreground, a man with short brown hair and a beard, wearing a blue and white checkered button-down shirt, is smiling and raising his right fist in a celebratory gesture. Behind him, a woman with dark hair pulled back, wearing a red tank top, is also smiling and raising her right fist. To the right, the arm and shoulder of another person wearing a black t-shirt are visible, also with a tattoo and a celebratory pose. The background features a blue staircase with a metal railing, framed pictures on the wall, and a wooden wall on the left. The overall atmosphere is one of joy and achievement.

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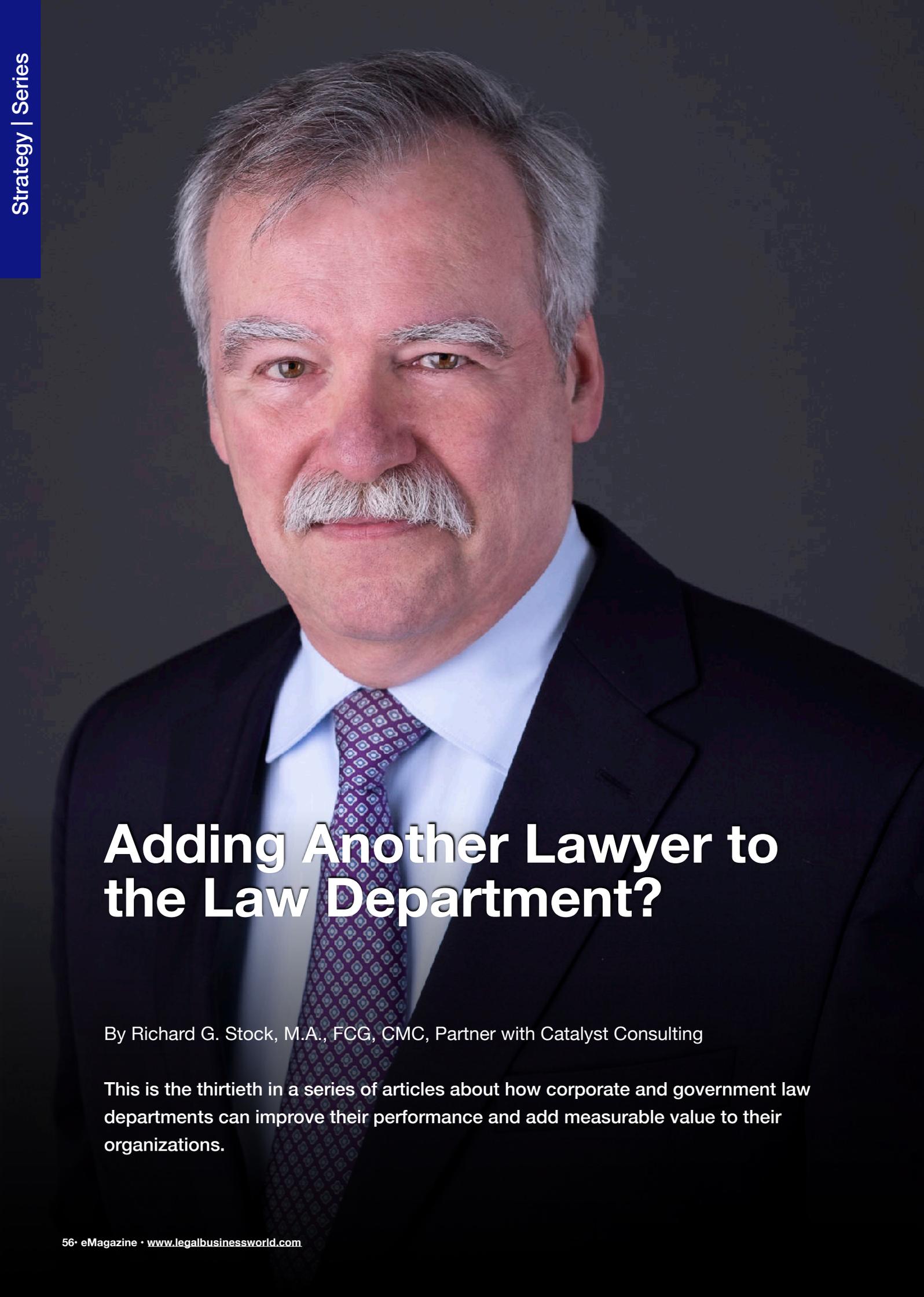
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A professional headshot of a middle-aged man with grey hair and a mustache, wearing a dark suit, light blue shirt, and patterned tie. He is looking directly at the camera with a slight smile.

Adding Another Lawyer to the Law Department?

By Richard G. Stock, M.A., FCG, CMC, Partner with Catalyst Consulting

This is the thirtieth in a series of articles about how corporate and government law departments can improve their performance and add measurable value to their organizations.

Surveys and interviews show that one of the biggest challenges facing General Counsel and their legal teams are workloads and workflows including the pace of work. The frustrations can be quite specific and include demands from clients with incomplete documentation and poorly considered scope of work. These issues take time to sort out, but the deadlines do not change. And of course, clients believe that the legal department is responsible for the hold-up.

Corporate counsel are annoyed with constant interruptions, the volume of e-mails (many of them useless) and the extent of hand-holding required by clients. Careful analysis shows that up to 15% of a work week is lost and unproductive for want of relevant legal practice and relationship management protocols. This can amount to 300 hours of “lost time” per lawyer per year.

Preparing the business case to add a lawyer to the legal department begins by ensuring that the department is highly productive. This is quite different than ensuring that everyone is committed and working hard. Those who approve additional head count will be more sympathetic to a request for resources if a measurable improvement to productivity can first be demonstrated.

The second element of the business case depends on the preparation of a detailed demand forecast, typically expressed as the number of matters, the legal specialties, the number of hours and the level of complexity of the work for each major client group within the company. This matrix of work should incorporate planning assumptions and their probability for

two or three years. Formal discussions with each client group are essential. They should occur at the same time as the annual business planning cycle. The General Counsel then has a graphic representation of the legal work by type and business unit. It should be 90% accurate for the year.

The third element of the business case entails matching the demand with the available internal and external resources. Most legal departments tend to refer litigation, labour and employment, intellectual property, tax and other specialty matters to external counsel. The preference is to handle most corporate and commercial work internally. Smaller legal departments typically refer M+A and securities work because they rarely have the experience mix and availability to take on the work. Consideration should be given at this stage to in-sourcing some of the work often referred to external counsel.

The fully-loaded hourly rate for inside counsel is typically 40-45% of the hourly rate of external counsel for the same level of experience. For example, the work of external counsel billing at €480 per hour (this is on the low end for senior partners in larger metropolitan areas) can be done by qualified inside counsel whose notional hourly rate is €180 to €220 per hour. This type of in-sourcing only works if there is a critical mass of this work available for two or more years.

External counsel working 650 hours per year at €480 per hour will cost €312,000. Most legal departments can afford a full-time senior counsel position for this amount of money.

Assuming a yearly target of 1850 hours, 650 hours are directed to work previously referred out, leaving 1200 hours of standby capacity to be allocated. This type of business case is the easiest to make because it does not require the company to increase its total legal spend—only to approve an increase in head count.

In circumstances where in-sourcing is not a realistic option and the demand forecast indicates a resource shortage in the department, two options are available. Neither, however is popular with inside counsel, mostly because they introduce more structure in the relationship with clients and in how individual practices are managed.

The first option is to identify the number of “occasional users” of the legal department. Studies show that up to 25% of all users require less than 30 minutes of legal support in a week. General Counsel introduce working protocols with business units to reduce the number of individuals that can call the legal department. The same protocols describe the demand for legal work by the business unit and reduce the number of users to a minimum—often only to experienced users of legal services. The pain is worth the productivity gain of 5%-10% or 100 to 200 hours per year in counsel time.

The second option is mitigate the volume of work at the point of intake. Some legal departments publish quite explicit guidelines on when to call—and when not to call—the legal department. Often, the “risk management reflex” in a legal department is to have everyone call and let the lawyers sort it out. A more cost-effective approach however, is to train

clients to make these choices and be accountable for them.

After careful consideration of these alternatives and the determination that there are at least 1000 hours of unallocated work in the plan, then the business case for another position should be presented accompanied by the demand forecast, evidence of appropriate in-sourcing, service level agreements with business units, and productivity improvements within the legal department.

Assuming that a case is made for the addition of another position, what type and level of position should it be? It rarely makes sense to add a junior lawyer with less than 4 years of experience. Inside counsel tend to do 100% of the work in 90% of their files, even in larger departments. Law firm staffing profiles with leveraged junior positions rarely make sense for a law department—with one exception: experienced paralegals. A review of the tasks assigned to corporate counsel shows that 10%-20% are paralegal or clerical in nature. When pressed, lawyers say they do this work because there is no one to give it to or because they believe it is more efficient to do everything themselves. The reality is that often inside counsel have poor delegation skills and very little experience working with paralegals.

The addition of a position to a legal department is a unique opportunity to manage client expectations, save money with in-sourcing, inject discipline in how lawyers work with their clients, and re-distribute tasks across the legal team. General Counsel should consider all of the angles.

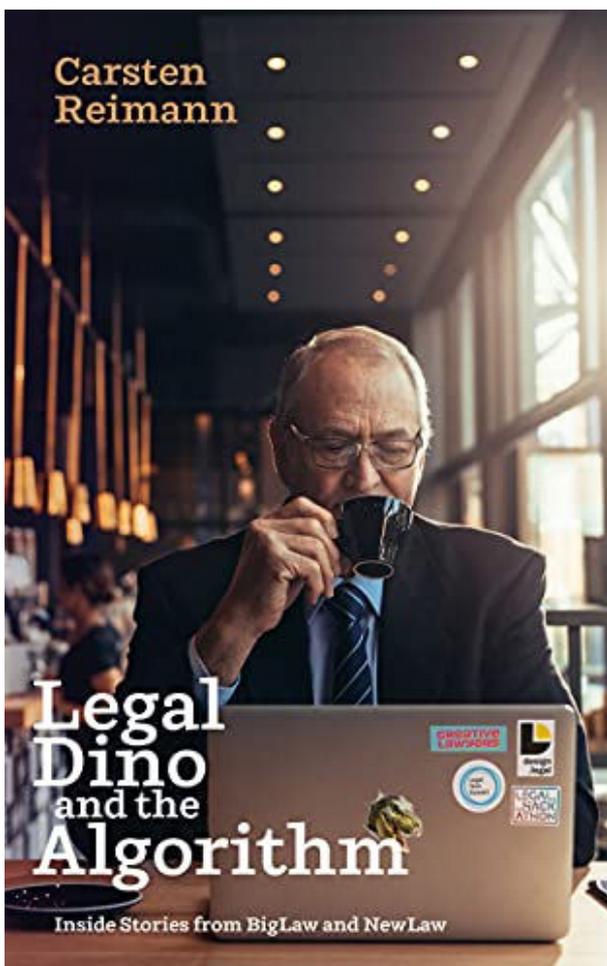
About the Author

Richard G. Stock, M.A., FCG, CMC is the senior partner with **Catalyst Consulting**. The firm has been advising corporate and government law departments across North America, Europe, the Middle East and Australia since 1996. For law department management advice that works, Richard can be contacted at rstock@catalystlegal.com.



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“Pretty inspiring for young lawyers, trainees and law students.” – **Manfred Schick**, General Counsel ING-DiBa AG

“The most entertaining introduction to a topic that is normally daunting because of its technical complexity, but which soon no lawyer will be able to avoid.” – **Prof. Dr. R. Alexander Lorz**, Hessian Minister of Education ”

A portrayal of the large law firm and its various perspectives on Legal Tech at its best. It should make every big law firm lawyer smile and open their eyes to the fact that the asteroid will hit in the end, whether you allow it to try to steer its trajectory in an

orderly manner, or don't look until it hits exactly where you had just made yourself comfortable.” – **Renate Prinz**, Corporate lawyer with a passion for M&A and female leadership. **(Click the cover to order)**



THE MAIN CHALLENGE IN FINANCIAL SERVICES COMMUNICATIONS COMPLIANCE

By Ari Kaplan, Principal, Ari Kaplan Advisors

Ari Kaplan speaks with Shiran Weitzman, the co-founder and CEO of Shield, an Israel-based reg tech software company that focuses on workplace intelligence for compliance professionals.

Ari Kaplan

Tell us about your background and the genesis of Shield.

Shiran Weitzman

I've been working in the financial services technology sector for the last 20 years. I started in R&D, moved into sales, and became an entrepreneur in this area. Prior to Shield, I owned a small consulting firm, which helped financial institutions select and integrate complex software solutions. During this time, I was working with one of my customers that had to resolve an electronic communication compliance demand from the Commodity Futures Trading Commission. It looked relatively simple at first, but turned out to be very complicated, requiring the purchase of a multi-siloed solution stack. It took us two and a half years to resolve the issue and inform the CFTC that the institution was in compliance. Two months after we went to production, one of the communication vendors changed a minor element in the structure of its chat func-

tion, which completely crashed the system. Three months later, in mid-2017, I closed my



consulting firm and partnered with an old friend, the co-founder, to start Shield. Now, we are a team of 60 in Israel, the UK, and the US.

Ari Kaplan

What's the main challenge in financial services communications compliance?

Shiran Weitzman

There are multiple challenges, such as unstructured data, which changes from medium to medium. WhatsApp is different from Microsoft Teams, which is different from Zoom and Bloomberg Chat. Each vendor has its own way of operating and there is no unified standard for capturing communications.

Each platform is also a point solution so financial institutions typically have multiple programs capturing information. Now, there is a growing number of communication channels bringing new complexities and requirements to each firm. Working from home also complicates communication compliance because there are many false positive-driven solutions, which provide irrelevant alerts that are easily dismissed, but that raise operational efficiency challenges because organizations need people to review them.

Ari Kaplan

Do these challenges vary by jurisdiction?

Shiran Weitzman

Not really. There are nuances between different jurisdictions around the world, but regulations are similar in nature. Also, the communication channels are the same and the challenges of working from home are similar.

Everyone wants to trade and communicate so they all basically follow benchmarks related to the same requirements, which simplifies compliance.

Ari Kaplan

How has the pandemic impacted the way organizations communicate and exchange information?

Shiran Weitzman

The level of the electronic communication has grown or scaled dramatically. There is much more internal and external correspondence. Also, compliance has been significantly impacted, especially since compliance professionals cannot walk around the office and convey a presence in front of their peers. They were blind sitting at home and need to perform their compliance oversight using digital tools, changing the way that they work. In order to leverage the volatility in the markets, we saw financial firms allowing or approving different communication channels that might have not been approved in a 'normal authorization process' and that is fueling greater adoption of different tools.

Ari Kaplan

As we return to an office-centric workplace, do you expect changes to the record-keeping challenges associated with working remotely?

Shiran Weitzman

I don't foresee changes in the way that regulated firms are handling, record-keeping or records management. The volume of data is much larger and we will slowly see the requirements apply to retail banking, or retail

divisions within financial services.

Ari Kaplan

Do you anticipate greater regulatory scrutiny of communications in a post-pandemic environment?

Shiran Weitzman

Absolutely, and we have started seeing that already. At the beginning of pandemic, regulators were facing the same challenges associated with remote work and the need to move to the cloud, so they were providing a bit of slack to regulated firms in all jurisdictions. We saw much more intensity at the beginning of 2021, with increased enforcement and oversight.

Ari Kaplan

How do you see these various developments affecting corporate legal departments?

Shiran Weitzman

Legal departments and e-discovery teams are realizing that they need to be more proactive than reactive in their day-to-day work, such as by monitoring specific terms or behavior to anticipate investigations, rather than react when something happens. There is better technology available and compliance leaders want to use it. They are becoming more cre-

ative and the accuracy of AI is improving the ability of legal teams to make forecasts.



About the Author

Ari Kaplan (<http://www.AriKaplanAdvisors.com>) regularly interviews leaders in the legal industry and in the broader professional services community to share perspectives, highlight transformative change, and introduce new technology at <http://www.ReinventingProfessionals.com>.

Listen to his conversation with Shiran Weitzman here:

<https://www.reinventingprofessionals.com/the-main-challenge-in-financial-services-communications-compliance>



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DATA PROTECTION

WHEN LEGAL MEETS DATA ANALYTICS¹

(PART 1 OF 2)

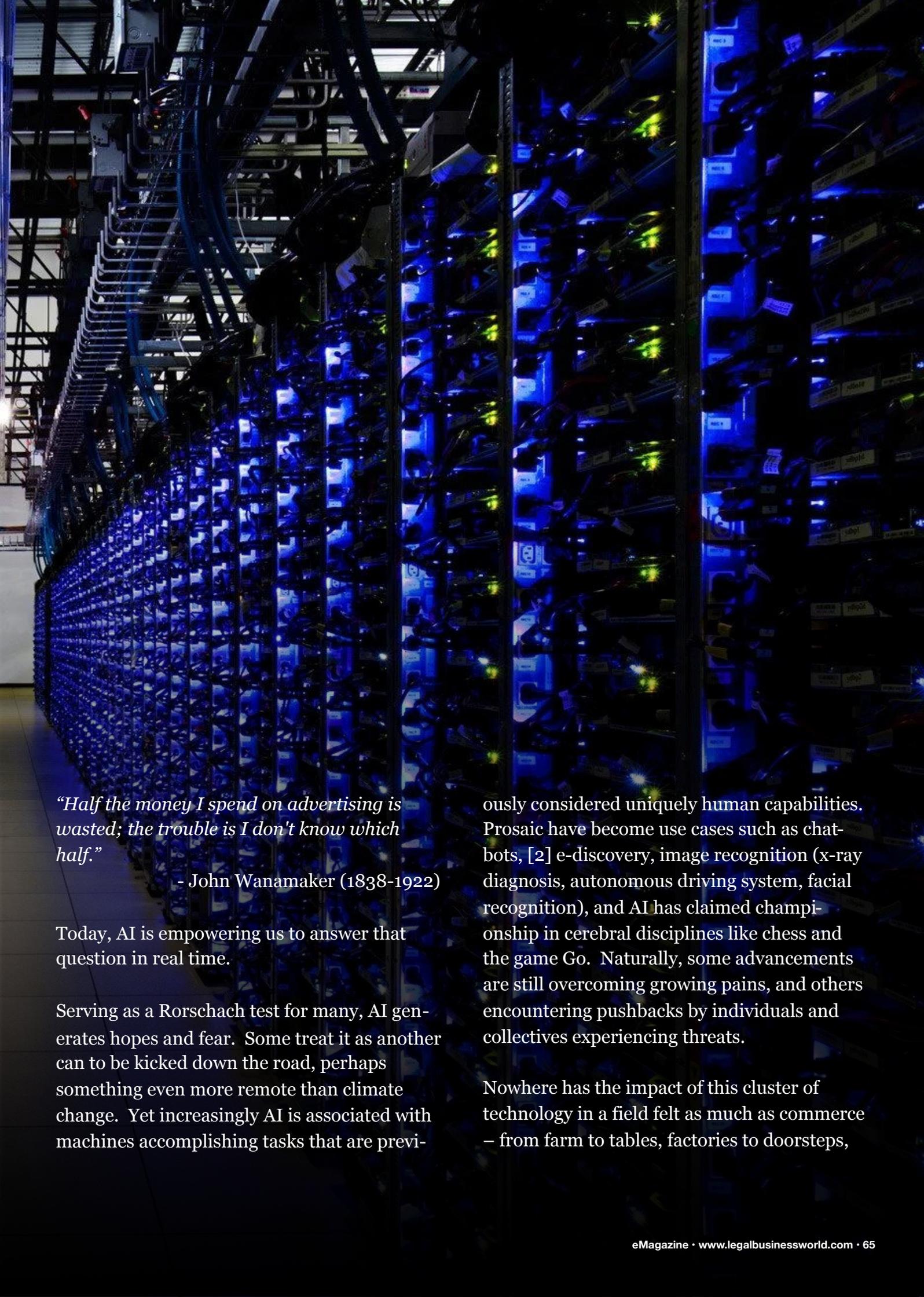
By Kenneth Tung and Glenn McCarthy

Summary

As governments have been promulgating data protection laws in recent years, legal departments are called upon to support or even lead functions tasked, among others, for the secure use of data. While lawyers are supposed to master facts and evidence, not everyone appreciates the rationale and usage of Big Data, especially in the context of business organizations and broader ecosystems. While the raceway is in a turn in a globalized and complex world and changes are accelerating, data protection presents the type of

challenges that call for interdisciplinary approaches staffed with T-shaped professionals. And such resource configuration and strategy should be grounded on organization purposes and strategic intent ultimately to serve someone in a broader ecosystem. Here, the job-to-be-done framework complements analytics in terms of whether and how certain data enters the picture. From this premise, this article inspects data use and the challenge in data protection through the lenses of Legal, business and technology with a view to remind stakeholders to maintain an interdisciplinary and integrated resolution.

Google data center (Photo: Google)



“Half the money I spend on advertising is wasted; the trouble is I don't know which half.”

- John Wanamaker (1838-1922)

Today, AI is empowering us to answer that question in real time.

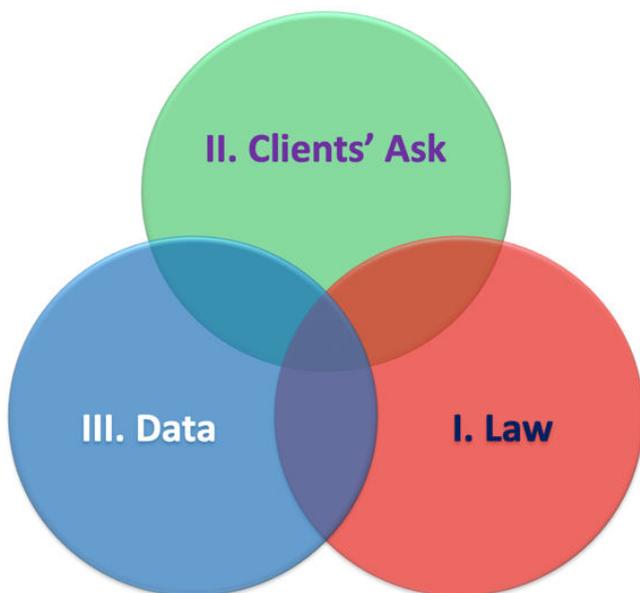
Serving as a Rorschach test for many, AI generates hopes and fear. Some treat it as another can to be kicked down the road, perhaps something even more remote than climate change. Yet increasingly AI is associated with machines accomplishing tasks that are previ-

ously considered uniquely human capabilities. Prosaic have become use cases such as chatbots, [2] e-discovery, image recognition (x-ray diagnosis, autonomous driving system, facial recognition), and AI has claimed championship in cerebral disciplines like chess and the game Go. Naturally, some advancements are still overcoming growing pains, and others encountering pushbacks by individuals and collectives experiencing threats.

Nowhere has the impact of this cluster of technology in a field felt as much as commerce – from farm to tables, factories to doorsteps,

crossing borders and pervading supply chains. Wanamaker’s question is addressed every day and every minute, thanks to live data feeds from KOL promotions and the Internet of Things. Today, when a lady walks into a department store, perhaps having explored her needs and fancies online, the brands may first capture an image of her face, for possible reference to customer records or online photos; then possibly access her device ID as she uses her smart phone. At this point, it may be possible to connect this individual to her email accounts, customer records, home address, social media footprint, and other profile elements. Whether or not the salesperson at the store is informed by this information, if this lady orders a cosmetics item on her phone or other devices later in the day, there will be a way to credit the person at the counter or an KOL live streamer with the sale, generating a use case for data in an omni-channel (or O2O, online to offline) operation.

The marketing and advertising field has come a long way from John Wanamaker’s days. But,



as Newton's third law of dynamics would predict, the emerging capture and uses of data are attracting reactions from regulators and incumbent

I. Legal Perspective

Since the promulgation of GDPR in 2016, the Chinese Cybersecurity Law in 2017, the California Consumer Privacy Act in 2018, 2021 is another mile-marker with the coming into effect of two data protection laws in China.

However, the meaning and intent of data protection remains elusive. While the GDPR may illustrate that individual privacy is prized in a cultural norm, the regulatory tension in the U.S. continues to rest on balancing individual rights, innovation, and enterprise. With the rise and scaling of players that can leverage big data like Google, Facebook and Alibaba, anti-competitive concerns, whether it is abuse of dominant positions or questionable pricing practices, run across jurisdictions. In some countries where control is the prime directive, beyond containing pervasive fraud, stability may depend on curbing ballooning enterprise ambitions or any public or private entities that can potentially access data as the “new oil”.

But regulators seem forever playing catch up with accelerating changes in realities. It does not help when some legislators expose their ignorance about the domains that they attempt to regulate, and many of the rules written so far are more vague than typical legislations. Worse yet, some rules appear to be knee-jerk reactions to what is perceived as disruption to the *status quo* [3] as the world today is witnessing another wave of disruptions

and socioeconomic dislocations. Some are waiting for solutions from technology or clarification from regulators who understand the stakeholders and tensions in specific sectors like consumer finance or healthcare.

Another Pandora's box is reputational risk. Derivative by nature, reputation and its protection require first and foremost actively managing risk in given environments, not just managing crises after negative news cycles have started to clock or damages are done.

Data Protection As Compliance

For enterprise legal functions that support or are also responsible for data protection, responses to this challenge goes beyond the usual expectation of monitoring rules and drafting policies. For data protection, like in other areas, form follows function; function facilitates and implements decisions, which must be integral to a dynamic stance that navigates opportunities and risks at the operational level, and grounded sustainably in an enterprise purpose and strategy. It bears to keep in mind that sometimes the problem to be solved or job to be done does not reside only with laws and policies.

As data protection is a category of compliance, the usual stakeholders in data protection like IT, Legal, business intelligence, marketing and sales are domain experts in this function, but it usually relies on much larger part of the organization. Like compliance, everyone must fulfill the individual part and collaborate. In fact, more advanced compliance playbooks would cultivate and leverage an ethical corporate culture, one that reinforces mutually with

core compliance elements [4] such as the tone from the top, effective communication loop between the compliance function and the rest of the organization (*e.g.*, two-way workshops that enable a free flow of training and feedback, in lieu of one-way training), confidential reporting & investigation (that counters short term tribalism, leverages community observation and embraces even cacophonous viewpoints).

A code and procedures may be just the tip of an iceberg that embodies functioning oversight and autonomy of a compliance function that has adequate and competent empowerment and resources, effective incentives and discipline that guides desired behavior, robust third-party due diligence, and continuous improvements that refresh and update.

It is with these core elements in place can there be effective risk assessment which is the essence of any compliance function. Therefore, whether data protection is under the stewardship of the general counsel, CIO, or another office in the C-suite, what is more important is how stakeholders can align to commit to an outcome and jointly forge a coordinated path toward that outcome.

With this premise, a few reminders from the adjacent space of cybersecurity can be helpful. [5]

Reminders From Cybersecurity

Adapt to a volatile, uncertain, complex and ambiguous (VUCA) environment – This requires the organization to quantify, simplify and prioritize, just as presidential secret

service minimizes access to an environment, and cybersecurity teams restrict entries to corporate IT platforms. For data protection, this may mean initially a series of trade-offs between a) living with the cost and quality of data from third party platforms such as Alibaba and b) investing in the capability both to capture and interact with data in an efficacious and compliant manner. These choices should be informed by an intent toward a longer term equilibrium that suits the organizational strategy and business case. Until the regulatory side has caught up with changes and disruptions, the legal function will continue to play a critical role of assessing the gap between the law's intent and enforcement realities as well as the malleability of regulatory landscapes, navigating the considerations and the degree of sophistication of rule-makers in specific sectors, and leveraging the vectors of the influencers and stakeholders in the relevant ecosystem. Alongside will be data scientists and engineers who help to maximize the efficacy of optimal access to data and the domain experts and statisticians who inform on how best to resolve business needs. This is another illustration of how the legal function can serve as a strategic function rather than a mere cost center, a haphazard insurance policy or window dressing to placate authorities.

Rise above crises with eyes on strategic intent – As discussed earlier, knowing first aid is only part of the job description, and helping to seek and maintain a healthy data diet must be the prime directive. This means learning and appreciating how certain data is mission critical and other may be nice-to-have in terms of business objectives, and the robust costing of data from acquisition to manipulation, storage

and usage, across an arc of sustainable compliance. While keeping an eye on the latest issues and regulatory nuance, and responses and resolutions, each organization would be remiss to operate without reference to its purpose and strategy in an ecosystem and a data engagement and protection program fashioned accordingly. Having a plan will mean constantly challenging it, branching into alternative scenarios, practicing measures and responses, and maintaining a level of agile embrace of experimentation and quick lessons from controlled failures.

Master the ecosystem – The foundation of such a data protection strategy requires internalizing the lay of the land of the entire ecosystem to enable going further upstream to resolve the constraints of data analytics, seeking alternative compliant data sources, asking the right questions that to circumvent the data or cost challenge, ensuring that data queries emanate from sound corporate strategies that address an up-to-date execution of decisions. Here, domain experts like Legal and IT should maintain an immersive experience with business processes and approach risks and commensurate opportunities as portfolios rather than unconnected cases.

Go further with a team – Like cybersecurity, data protection is an organization solution and not just a response to a technical or legal problem. For an organization to interact with the numerous touchpoints of data and its stakeholders, whether individuals who generate the data, transaction platforms or simply security gatekeepers over passwords and systems access, the data protection function must identify and maintain optimal control of

and coordination with disparate stakeholders in these touchpoints. Today this is no longer characterizes only the workings in a larger organization. Data flows across individuals and entities as work flows are distributed over an increasingly broad and dynamic environment. While crisis management may take place behind closed doors with a restricted group of responders, data protection can only be carried out with a much broader, concentric operating system.

Tips For Lawyers

Whether supporting or leading data protection, those trained as lawyers should keep in mind a couple of feedbacks [6] from some non-lawyer colleagues.

1. Forward looking stance – A common refrain commenting on the legal mind frame is that it tends to look backward. This view from a book by two former Google executives is not limited to the precedence-based jurisprudence in common law jurisdictions. Presumably, when the lawyer’s ancestors first collate do’s and don’ts, the system tends to be retrospective. Yet, the purpose of rules is prospective. As wise jurisprudence refrains from broad sweeping rulemaking, the problem surfaces when the subject matter of a law is new or still rapidly developing. A further complication may be some laws coming out of the gate reflecting less than considered reactions to changes, and worse, driven by incumbents who feel threatened by upstarts and disruptions.

This may describe the state of some data protection regulations. Without belaboring the subject matter sophistication of the average

lawmaker, a forward-looking person can delve into the scenarios of how stakeholders in particular industries and ecosystems may play out and develop a data protection strategy and operations to provide broad options for organizations and business strategies. More often than not, general rules cannot satisfy the fast moving markets and society, and it is more useful to seek out the regulatory stance within specific domains like industries or economies, *e.g.*, fintech, healthcare, food and beverage services.

2. Risks in a holistic context – Another complaint from the former Google executives concerns proportionality vs. a binary approach to problem solution - lawyers often obsess with the risk in any given situation even if it represents a minute probability or impact. Some legal issues may turn on a discrete condition, such as the proverbial illustration that one cannot be a little pregnant; others may be referenced to a continuous metric, *e.g.*, the degree of economic dominance. Whether it is the “if” or the “then,” some issues may call for a decision and response commensurate with the issue or the outcome. Many legal risks should be defined by, and managed in the context of, certain opportunities, and *vice versa*.

Granted, certain lines should not be crossed, and just about everyone wants to avoid criminal sanctions or career-ending investigations, interruptions and damages that cannot be rationalized as “costs of doing business.” Also, much like the heuristics that helps us to navigate a complex world, do’s and don’ts, such as “do not click on links in an email from an unfamiliar source,” enable an organization to execute daily operations.

But it will be a lost opportunity to apply “zero tolerance” merely to avoid undesirable outcomes. Without being a part of the game in which business engages, these mantras may soon turn into unpersuasive reflexes rather than helpful guidance for decisions. Squeaky wheels that are not in gear with the rest of the company won’t likely gain much currency with regulators. Ethics will be better embraced and more meaningful if it ventures outside the ivory tower, reaches beyond abstract morality and is integrated into the culture of the business and grounded in organizational purpose and strategy. When stakeholders sing from the same page of a sustainable strategy, sign up to common approaches and outcomes, and align on their parts in an enterprise, the why and how follows to manage certain behaviors and avoid certain outcomes even if these may be shortcuts to achieving some short-term results.

Conscience does not reside only with the legal department and must be owned at the level of the organization, ecosystem and society. [7] As T-shaped professionals, lawyers should engage with the rest of the working parts to arrive at decisions with eyes wide open. An organization that internalizes radical transparency will not compromise any adversarial model of governance.

In reality, working with upsides and downsides, like Goldilocks tasting bowls of porridge, lies beyond the black and white and requires much finetuning. Just as the body manages antigens and antibodies, in data protection, an organization is never in a static mode compliance. The questions may be how to create and maintain a satisfactory operat-

ing environment, how to live with the gaps, how to narrow and bridge them, without ending up with cytokine storms.

Taking little to no risks may sound straightforward but is not a real option. It usually yields commensurately little to no gain or introduces inefficiency which few enterprises can afford in a competitive world. Indeed, luck and opportunities are not on demand, and commensurate risks represent the flip side of the same coin. Diligence and competent judgment, guided by an ecosystem context fitting the stakeholders in a sustainable equilibrium is the way to improve and achieve satisfactory odds.

Authorities have not stipulated that people not to take risks, but require effective assessment of risks.

Starting with the Korean war, the U.S. army has been suffering from not taking enough risks. A contributing factor is the organization stopped relieving generals from commands resulting in a leadership that sailed in and out of positions and an arm force that tends toward stalemates rather than victories. [8] Not taking risks commensurate with opportunities may be the equivalent of model underfitting a data set and excess false positives – at best achieving mediocrity but failure nonetheless, leaving an average state of affairs awaiting disruption.

Legal can and in fact regularly does play a role in longitudinal cost-benefit analysis, often against short-termism such as quarterly results driven behaviors. If lawyers can shore up the metrics of probability, one can picture

application of a probability-impact matrix on decisions, whether individually or connected with other decisions.

Another way to view this function is through how an enterprise addresses the vital interests of parties who have stakes in the enterprise's specific and collective decisions and actions. [9] These stakeholders in an ecosystem can be current as well as inchoate, *e.g.*, potential customers and suppliers, targeted employees and investors. While the dynamics in most ecosystems is accelerating, at any one time, an enterprise must aim for an equilibrium for the most stakeholders with vital interests at stake, over a term long enough to get to the next "round" of feedbacks and adjustments.

All risk management requires lawyers to start engaging with data, not only on things legal but also on data relevant to the broader ecosystem, such as advising on expectations, negotiations, and documentation, whether or not legal intervention is needed. Clients prize the legal profession for its judgment, and indeed lawyers with commercial acumen are best equipped to help to balance risks with opportunities. Today, sound judgment will increasingly leverage data (not just anecdotes), which in turn requires an intent to design systems for data capture and utilization. Only with these systemic approaches to interact live with the ecosystem can Legal respond to criticisms of excessive retrospection and risk aversion.

For years, pioneers in the transformation of the legal profession have distinguished the three kinds of business lawyers, those who: 1) lead a career in mostly crisis mode, like the

game of whack-a-mole, 2) practice "clever" lawyering through wordsmithing and other legal devices with elastic meaning, avoidance of seemingly difficult issues or relying on totally dominating terms that end up buying a lawsuit, and 3) "design systems that balance risks [with opportunities] and improve transparency" [10] that facilitates decisions. Indeed, the legal profession needs to appreciate that it has entered an era where everything is examined under a microscope, and there is no longer any excuse for not knowing the existence of the legal equivalent of microbes.

Whole new chapters in the legal function will commence when lawyers offer clients decision tools like scenarios planning that represent superior problem solving. For the external counsel, the decision remains with the client. However, it would be more satisfactory to follow up on what happens after handing a client a "two-hander" (on the one hand and on the other hand) than just saying it is the client's call. Similarly, data will also enable everyday legal service to address issues of trade-offs. It is said that there are no solutions but only trade-offs which form the crucible of innovation. Lawyers can more readily deploy tools like spider (or target) charts to help fine-tune trade-offs. Another by now well-known key to solving problems is to leave room for experiment, embrace failures as lessons learned and design for fast and controlled failures as ways to hone, improve and update. [11] All this will be new to the flag-waving champion of zero risk and caution, but it is also par for the course, at least in these days of accelerating change.

To support or even lead data protection, a

dynamic field involving a broad range of stakeholders and issues, Legal must rise above its legacy shortcoming and acquire broader strategic orientation. Unlike the challenge in cybersecurity, the challenge and the success factors are not unknown. Legal is a natural member of the data protection function, not only for its expertise in working with rules and regulations, but also for its potential to design and maintain relationships among stakeholders in a complex environment. Many business leaders appreciate the urgency in filling the gap between Legal and the rest of the enterprise as an organization can perform only as efficiently as its least integrated department. A disconnected department is a failure mode, not just a cost center. Radical transparency in an organization is preferable to unnecessary friction and silos. The question is whether the legal function can up its game and work with a range of solutions and maintain a grip on the ecosystem, organization purpose and strategy.

II. Business & Strategy

Before we turn to the business folks' asks from data, a quick review of the history of transformative changes will help to anchor the economic context of data analytics.

Since before history, people have been converting labor, and later on, land, into food and other essentials. Add other materials, skills and knowhow, cottage industries, commodities and trade spread over increasing distances. The Industrial Revolution initiates the age of machines, powered by more efficient energy sources delivering stronger, faster, more enduring means of production. Human resources become more important than ever to drive economic efficiency, complementing

capital and hand in hand with more humanist worldviews.

Fast forward to the invention of semiconductors the rapid rise of which, described by Moore's Law, precipitously reduced the costs of calculation and continues to do so today to challenge the limits of physics. Picture what took a roomful of people and calculators to crunch through in weeks replaced by a couple of people with a spreadsheet in hours or days, assuming manual data input.

This economics has been enabling alternative solutions to problems, *e.g.*, digitizing imaging, sounds, signal transmission, and disrupting industries like film, media, finance, pharmaceutical, manufacturing. The list continues.

Similar economics is in play with developing machine learning (ML), enabled by rocketing computing power, made possible by proliferating mobile devices (in turn resulting from advances in energy storage and management, parts miniaturization, connectivity, broader bandwidths, and cloud computing), generating evermore data, turbocharged by social media and the Internet of Things (benefiting from advances in other branches of artificial intelligence (AI) especially in cognitive and sensory capabilities).

From the convergence of these factors, the algorithmic revival in ML informs the decision process by precipitously reducing the costs of generating options and scenarios, and even certain predictions – the front half of making decisions. This game changer facilitates decisions and enhances actions responding to observations and orientation, *e.g.*, data from

tracked positions helps to generate options in transport routes and may guide interventions like traffic lights, missiles, etc. This in turn feedback to further hone the predictions.

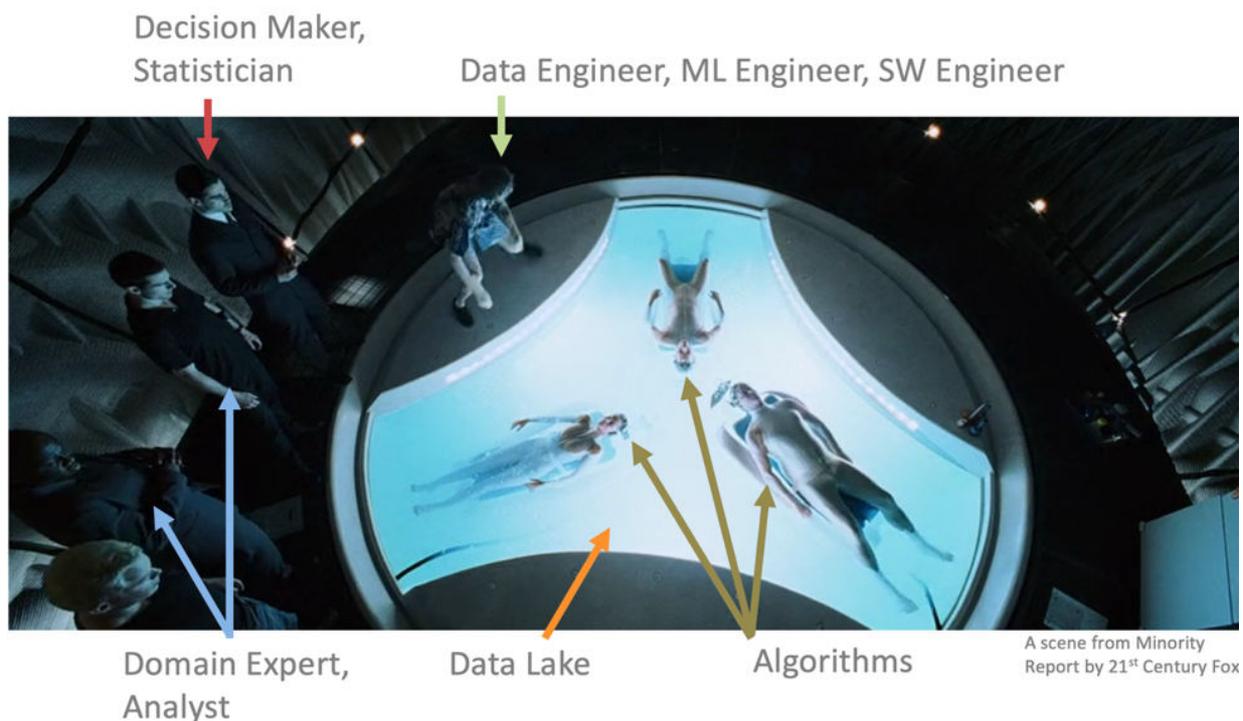
For a number of years, any parties with access to the means and know how can collect, structure, and derive insight from data. But that window appears to narrow with reactions like rules restricting collection of and trades in data, stipulating, *e.g.*, consent, right to be forgotten; state monopoly with threat of potential misuse and vague regulations; proposals to compensate sources generating specific data, beyond conveniences conferred like internet access.

Proliferation of data analytics and regulatory reactions have increasingly shined a light on the stakeholders involved in data: government (and its departments), subjects of data (such as consumers, employees), suppliers of data and channels (*e.g.*, internet platforms and retail locations), users (commercial, non-profit,

public), and other people like hackers and cybersecurity providers. For businesses, the ecosystem is irreversibly extended beyond those pictured in Porter’s Five Forces to include broader communities and governments, and data as a critical input. These and other stakeholders in ecosystems must relate to each other to negotiate their vital interests, and more often than desired, to resolve conflicts and cross purposes.

Data Analytics Is a Team Sport

The former first chief software officer at the U.S. Air Force and Space Force recently warned that “If you are a leader and you don’t know the subject matter, then educate yourself and be prepared to take advice, or step out of the way.... The other common mistake is to create more siloed AI and data teams or even worse, a “cyber force”. We do not need specialist units rushing in to save the day. Software, cyber and AI must be baked-in to every [business] team.” [12]

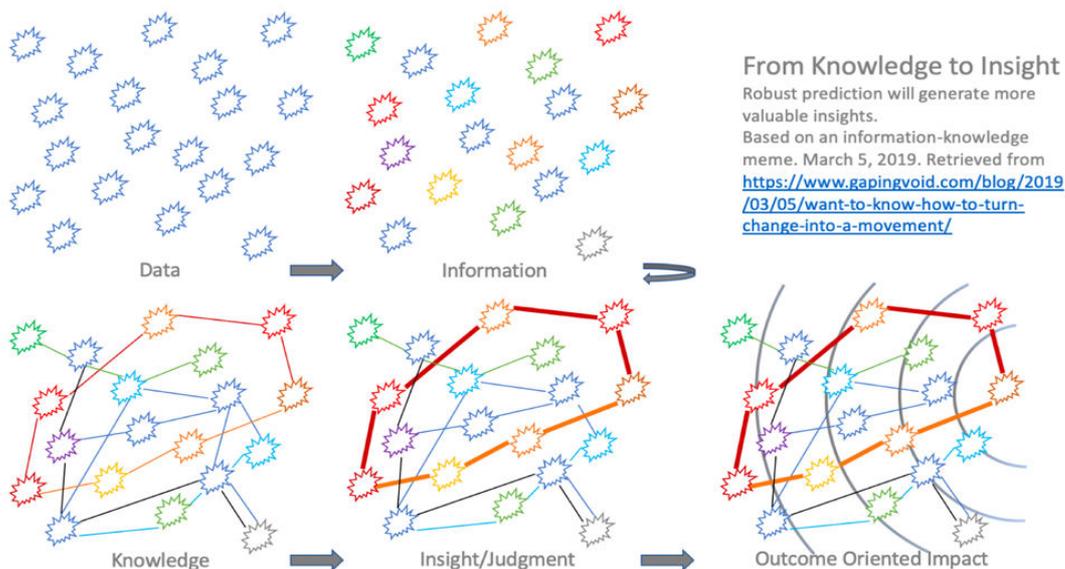


Inside many organizations, what used to be Business Intelligence and functions like marketing are now a cast of characters working in person and virtually: data engineer, ML engineers, software engineers, domain experts and analysts, statisticians, and the key stakeholder being the decision maker. And these are not just a bunch of jobs manufactured by dominating internet giants with cash to burn. Google's Chief Decision Scientist, Cassie Kozyrkov, has illustrated succinctly how this approach is an interdisciplinary one and must be anchored by a purpose and grounded in mastery of relevant subject matter. [13] However, all too common these days, flushed with sources of data, a band of unsupervised, operating level analysts and engineers wield ML like a hammer and looking at everything as a nail to gain a short term win. For a starter, they need to work hand-in-glove with domain experts and statisticians to tangle with the proverbial lies, damn lies and statistics. The recent COVID vaccines efficacy understatement illustrated by the amalgamation (Simpson) paradox is the latest reminder that even domain experts should work with statisticians in handling data. [14]

Now with regulatory pushbacks resulting in mounting costs, the form and function in data analytics will be further interwoven with data protection. For most economic actors, their purpose would remain largely the same, albeit needing to incorporate more elements of the ecosystem. Just as each organization will need to take further account of its footprint in carbon emission, businesses will need to take up more responsibilities for the data streaming through their pipelines, lakes and oceans.

Beyond pitching regulatory compliance against the need to make more successful business decisions, data scientists, domain experts, lawyers and others on the team must collaborate to avoid losing sight of the organization's purpose and execute its strategy (usually including sustainability).

All this is to reiterate that in the age driven by data, we must strike a balance between thinking fast and slow, and build a virtuous feedback loop from data to insight to outcome and back.



Sometimes the Closest Exit Is Behind You

Q: What is the difference between AI and machine learning?

A: If it is written in Powerpoint, it's probably AI; if it is written in Python, it's probably ML. [15]

Before illustrating how data can transform industries and strategies, one important reminder is in order: it pays to keep one's options open on the tools to deploy in problem solution. It may be difficult these days as expectation of ML and Big Data is stratospheric and AI's performance is overturning expectation every second. Advocates of Big Data analytics may liken ML to Indiana Jones rolling his eyes and nonchalantly shooting a sword-wielding native who proverbially brought a knife to a gun fight.

Yet as Elon Musk pointed out in nuanced comments in Tesla AI Day in 2021, using AI is very difficult and requires thoughtful intent and effort. [16]

Beyond data cleansing (including keeping and maintaining vigilant of subconscious biases), there lies the issue of conflating correlations with causations. Most organizations are still on a steep learning curve in deploying ML, and a majority of digital and IT solutions today are represented in logical codes rather than data-trained ML algorithms. Sometimes, it still makes sense and is more efficient to approach a question first from the perspective of the subject whose desires and pain points should guide products offerings and features. Making inquiries into a stakeholder's job to be done (JTBD) reminds us to keep an eye for the "why" while honing data to predict the "what."

The late Professor Clayton Christensen developed the JTBD framework to address the poor track record of business's investment in R&D and product offerings that resembles gambling with poor odds of success. [17] Even as businesses and academics are shifting from a haphazard approach to innovation to a more customer-oriented approach, the results in developing offerings still leave too much to luck. Although increasing data availability informs an enterprise and industry about certain customer attributes such as gender, age, income, geography, education, other purchases, the challenge of deciding on what to invest in still echoes Wanamaker's complaint more than a century ago.

In one illustration of the framework, Christensen's researchers asked customers what is the job that they "hire" a milkshake from McDonald's to do. In short, early morning commuters hire a milkshake to keep them companion - something for the free hand to do, something substantive to sip and "chew" for half an hour, made perfect with a cupholder next to the driver's seat - a job that bananas, donuts, bagels are less well suited to do. In the afternoon, milkshakes often turn out to be the treat that goes hand in hand with quality time for parents and children.

Another example illustrates the emotional aspects, in contrast with the functional and social aspects, of a JTBD. It is set in the scene of a real property developer of condo units targeting retirees and divorcees down-sizing from their houses. Despite having invested in thoughtful designs and useful features, the developer and its sales team find the units slow

moving. Again, it took conversations with buyers to surface what did not figure in the process of creation of, and initial feedback on, the offerings – the emotions behind parting with dining tables. While most tables are well worn, old fashion furniture that are candidates for donation, each one does embody unique family memories. “The decision to buy a six-figure condo, it turned out, often hinged on a family member’s willingness to take custody of a clunky piece of used furniture.” This insight into the job the customers needed done resolved in the developer enlarging dining rooms (albeit initial preference more for a kitchen bar for breakfast than a formal dining room), provision of moving services to address the anxiety of the move, two years’ worth of storage, and a sorting room within the condo development to bridge the time for deciding what to discard. The framework provides insight that leads to a feature change in enlarging some dining rooms, and enhanced user experiences like storage period and sorting room, finally lifting sales.

Analytics in the era of Big Data may or may not unearth demands that even people themselves don’t know they want. [18] More often enterprises lead willy-nilly with intuitive ideas, equipped with some data collected on the customers, but proverbially barking up the wrong tree. Tools like the JTBD framework will complement the firepower of modern data analytics to hone in on attributes that will move the needle. In the case of the condo buyers, some people who are downsizing may not know they cannot part with their dining tables, and others didn’t appreciate they still need to go through a process to part with these belongings.

Equally important, tools like JTBD may help to cull the experience in purchase and use that appears almost a part of the job. This is often exemplified by business offerings that have withstood competition over time where the business is really offering customer experiences rather than just physical products. “Many organizations... spend time and money compiling data-rich models that make them masters of description but failures at prediction. But... [i]nnovation can be far more predictable—and far more profitable—if you start by identifying jobs that customers are struggling to get done.” [19] The example here is the American Girl dolls. The JTBD is the precious experience of girls with and family members to connect with their culture and growing up, made more difficult to copy by the out-of-the-box experience, the process of searching for a doll representing one’s own heritage, even creating one’s own story, etc.

JTBD is not an alternative but a complement to leveraging Big Data. It provides an enterprise additional insight from the perspective of the customer, beyond their attributes, or trends of their consumption. In the example of the condo developer, they are competing against not only other condos, but the status quo of not moving. Similarly, in the legal field, many law firms now appreciate that they are not only competing against the notion other firms, but some legal work going in-house and also the notion of “doing less law”.

Another issue surfaced by JTBD is that there is no data about the future. Hence under the framework, “[t]he circumstances are more important than customer characteristics, product attributes, new technologies, or trends.” [20]

Data analytics today will point out that trending data generates powerful prediction of demands taking advantage of timely, if not real time, flows. However, unless most people subscribe to and act exactly according to trending indicators, focusing on the JTBD can help to insure against over and underfitting data sets and make the decision process more robust.

What Industries May Expect From Data

Many eyes are on the auto sector, a lumbering industry with an extended supply chain and value net that is careening from a more predictable and less malleable sector into a diagonally opposite quadrant (in a BCG industry predictability-malleability matrix). The media is full of reports of how difficult incumbents find themselves in responding to newcomers. Electrification has been a more understood vector of change, but the mantra of transforming mobility still betrays the legacy mentality. For example, start-ups now measure themselves in levels of full self-driving (FSD) rather than just offering advanced driver-assistance systems (ADAS).

Until recently, the dashboard of a “new” vehicle from an incumbent still exposes the legacy organization chart of the industry - powertrain, steering, chassis, electronics, etc. Unfortunately, like aerospace, the marvelous piece of engineering that is the automobile has not changed in any major sense for decades, except for squeezing out supply chain inefficiency to the limit. The same may be said of the space launch industry except there is probably more efficiency to harvest. This is just another illustration of the innovator’s dilemma, where leaders like Kodak and Nokia that climbed the

industry S-curves failed to transform themselves, due to frictions and biases such as inability to operate away from traditional profit sanctuaries, or take up newer technology or business models.

Yet the dashboard may be just the place to survey emerging disruptions. The screens of the digital devices are taking over mobility, from ride sharing to routing, personalization of ride experience (*e.g.*, climate, seat adjustment and vehicle access). While humans still drive vehicles, data captured by devices will inform insurance economics specific to cars and drivers. Over time, the actuary will be guided by signals from FSD and ADAS features and performance. Although data is not new to traditional automakers in terms of geolocation and drive performance, many have yet to take to heart connecting with the data of myriad individual needs and their JTBD from dawn to bedtime and how a car can fulfill these jobs. [21]

Another less obvious but equally intriguing industry to explore data is tobacco.

It may appear to be even more predictable and less malleable than the auto sector, with an industry architecture over a hundred years old and a mature distribution and retail network. The core business strategy, addiction to nicotine, has seen only a couple of growth areas beyond riding the baby-boomers demographics. The industry has expanded the consumer base to women and children, the latter of which attracted severe regulatory and legal backlashes. Data for this business would closely support its KPIs – honing the tastes (desirability, particularly against competing

brands) and 24-7 retail distribution (availability). Addiction would take care of affordability in general even against the headwind of sin taxes.

Recently casual observations on the street and public places will note that vaping is on the rise. And this is taking the industry to a territory more malleable but less predictable. Gone is the sensation of lighting a cigarette, and the social aspect of lighting it for someone else. In some cultures it may be less likely to throw someone a cigarette as an ice-breaker. One can only imagine the ways social media and vaping parties may change social aspects of the JTBD. While retail channels will likely remain the same, subject to local rules and practices, destination delivery is an additional channel. This is especially the case in jurisdictions like the U.S. where payment for products derived from cannabis or hemp continues to go through regulatory quagmire.

Compared to the hundreds, if not thousands, of cigarette brands, it also tests the imagination on what tastes and flavors a vaping product can offer. A recent walk pass by vaping products kiosks recalls flavors like lemon, passion fruit, chewing gum, cola, bacon, frankincense, not to mention creative ones not originated from the physical senses. Without touching the mind altering or psychedelic, countless tastes and sensations are yet to be discovered and invented. And these represent only tastes in the abstract as associations can be made between a flavor and any countless ideas or characters, such as those from fictions, cartoons, history, games, etc. All this awaits the technology to digitize smell and

taste that can enter as a feature of a game, a virtual tour or other aspects in the metaverse.

All this surmising is to illustrate the types of data that legacy tobacco, or some new businesses may need to design, build and maintain an architecture to collect and analyze as part of the business case. In the corner of unpredictability and malleability, it behooves a data strategy to be accretive to the organization's purpose and strategy, hopefully to contribute to some stakeholder's JTBD.

To this end, working with data should be a holistic endeavor – data mining guided by the search for insights to achieve specific outcomes, aligning outcomes to best suit stakeholders in an ecosystem, orienting toward more sustainable ecosystems that are inclusive to stakeholders most compatible with the organization's purpose. Throughout this exercise, to manage the entry and exits of stakeholders and ebb and flow in relationships among them, an organization will benefit from a focus on these relationships to coordinate with its purpose and ecosystem strategy. The legal function, with its broad scope in an organization, should take itself to the next level and earn its place at the table as the chief relationship officer in an enterprise. The challenge in data protection will be a timely use case for this legal function transformation.

III. Technology Perspective [To be continued in Part 2]

[...]

Notes

[1] This article is based on a workshop taking an interdisciplinary perspectives of data protection delivered at a Legal Function Transformation Round Table subgroup on Oct.22, 2021.

[2] If Alan Turing could observe how we talk to countless of bots these days, he might raise the threshold of his Turing machine test.

[3] A favorite example of reactions to disruptive changes is the 1865 act (the "Red Flag Act") at the dawn of automobiles. This U.K. law imposed most draconian restrictions and speed limits which required all road locomotives, which included automobiles, to travel at a maximum of 4 mph in the country and 2 mph in the city, as well as requiring a man carrying a red flag to walk in front of road vehicles hauling multiple wagons. https://en.wikipedia.org/wiki/Locomotive_Acts. The Act was the product of intense lobbying from horse-drawn carriage operators and the public railway industry.

[4] See U.S. Department of Justice Criminal Division Evaluation of Corporate Compliance Programs (Updated June 2020).

[5] K. Tung, *How the Challenges Of Cybersecurity Reflect Those In the Legal Profession*, Asia-Mena Counsel, Vol.15, Issue 1, 2017, p. 30.

[6] *How Google Works* (2014), E. Schmidt & J Rosenberg, the section titled "Horseback Law."

[7] The late professor Louis Henkin of Columbia University School of Law once said "[l]awyers don't make law; people do."

[8] Talk delivered by Thomas E. Ricks at The Fleet Admiral Chester W. Nimitz Memorial Lecture, University of California, Berkeley,

<https://www.youtube.com/watch?v=AxZWxxZ2JGE>. In things military, taking on risks does not merely translate into casualties albeit which represents the foremost consideration.

[9] Consider an important aspect of decision making referred to as "reward function engineering" in A. Agrawal, J. Gans & A. Goldfarb, *How AI Will Change the Way We Make Decisions*, Harvard Bus. Rev., <https://hbr.org/2017/07/how-ai-will-change-the-way-we-make-decisions>, July. 26, 2017.

[10] V.M. Abraham, *Measure Twice, Cut Once: Solving the Legal Profession's Biggest Problems Together*, aboveandbeyondkm.com, Aug. 30, 2016 (noting the keynote speaker, Dan Katz's, reference to Paul Lippe's insight on the three types of lawyers) [bracketed content added by author].

[11] See e.g., K. Tung, *AI, the Internet of Legal Things, and Lawyers*, Journal of Management Analytics, Nov. 14, 2019, <https://www.linkedin.com/pulse/ai-internet-legal-things-lawyers-kenneth-tung/>. In particular, the section "Data (The New Oil)" discusses the need for data on the cost of mistakes, such as false negatives and false positives (in the context of data analytics, as overfitting and underfitting) especially to benchmark against the performance of human judgment.

[12] N. Chaillan, *The Pentagon Needs a New AI Strategy To Catch Up With China*, Financial Times, Nov. 23, 2021, <https://www.ft.com/content/3eb428d4-3551-4215-904e-863f1c1a56ea> (emphasis added and bracketed wording provided by authors).

[13] C. Kozyrkov, *12 Steps to Applied AI*, Dec. 9. 2019, <https://medium.com/swlh/12-steps-to-applied-ai-2fdad7fdcdf3>.

[14] M. Cembalest, *Spaccine Hesitancy*, J.P. Morgan Insights, Aug. 19, 2021, <https://privatebank.jpmorgan.com/gl/en/insights/investing/eotm/spaccine-hesitancy>; J. Ellenberg, *Coronavirus vaccines work. But this statistical illusion makes people think they don't*, *PostEverything – Perspective*, Aug. 31, 2021, <https://www.washingtonpost.com/outlook/2021/08/31/covid-israel-hospitalization-rates-simpsons-paradox/>.

[15] M. Velloso, <https://twitter.com/matveloso/status/1065778379612282885>, Nov. 23, 2018.

[16] Comment specifically regarding manufacturing. Aug. 19, 2021, <https://www.youtube.com/watch?v=joz4FweCy4M>, 2:35:00.

[17] C.M. Christensen, *Where Does Growth Comes From? And What Happens To It?*, Talks at Google, Jun. 23, 2016, https://www.youtube.com/watch?v=rHdS_4GsKmg, 13:00; C.M. Christensen, T. Hall, K. Dillon, and D.S. Duncan, *Know Your Customers' "Jobs to Be Done,"* Harvard Bus. Rev., Sept. 2016 Issue; *Competing Against Luck: The Story of Innovation and Customer Choice*, C.M. Christensen, T. Hall, K. Dillon, and D.S. Duncan, Harper Business (2016).

"Jobs-to-be-done theory [...] transforms our understanding of customer choice in a way that no amount of data ever could, because it gets at the causal driver behind a purchase." Recalling the approach in design thinking, this theory takes the analogy of drills vs. ways of making holes to the next level, which in turn was a progeny of make what sells, not sell what you make.

[18] Just like the condo buyers who did not know they still need a place to keep their dining tables, when the iPhone was first concep-

tualized, the response was not entirely positive. Also, initial focus groups reported out less than enthusiasm for the one-hour minilab that became ubiquitous for developing film into photos.

[19] See above, Christensen, et al., *Know Your Customers' "Jobs to Be Done"*.

[20] Ibid.

[21] KPMG Int'l, *Metalsmith or Grid Master* 2015.

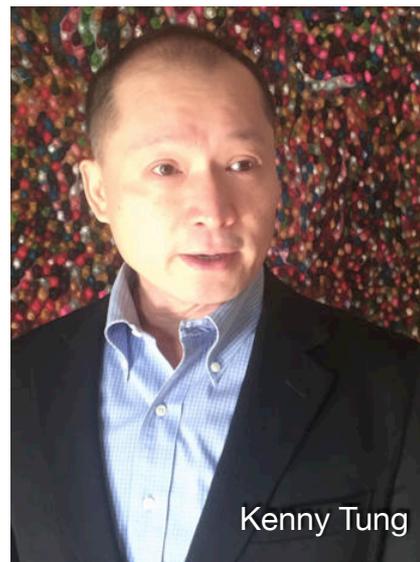
About the Authors

Kenny Tung is General Counsel at Lex Sigma Ltd., where he served as the China advisor to a top U.S. PE fund, and the Asia Pacific advisor to one of the world's top auto components companies and continuing to advise companies in strategic projects and transactions in the region. Kenny also co-founded In-Gear Legalytics Ltd. which helps legal departments of world class companies and law firms to explore and design strategy and process optimization to facilitate transformation of legal services. Projects cover consulting, capability assessment, workshops to address longer term issues, but a common stream concerns the design and implementation of corporate legal strategies. Recently, Kenny undertook an additional role as the Senior Advisor to SSQ in Asia Pacific, facilitating business development and alliance for law firms and management of legal departments, focusing more on people aspects of the people-process-technology spectrum.

Previously Mr Tung served as the Chief Legal

Counsel of Geely Holding (during which time the department received the top award for Best Asian & South Pacific Legal Department 2014 by International Legal Alliance Summit) and before that as general counsel in the region at PepsiCo, Goodyear, Honeywell and Kodak where he fielded a vast variety of issues and projects and drove efficiency projects/practices. In 1994, he came to China as a lawyer with Coudert Brothers and led major projects such as the Shanghai GM JV negotiation.

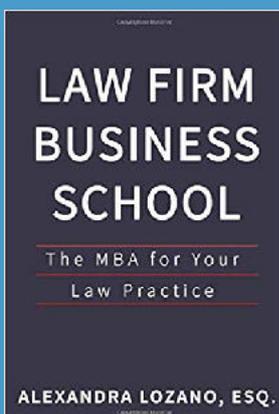
Glenn McCarthy is an entrepreneur and private investor with a primary focus on software and big data analytics companies in China & SE Asia. Glenn is currently the CEO, of Early Data Market Intelligence Co. Ltd., based in Shanghai, and sits on the boards of a number of early and growth stage companies. A native of Boston, Glenn has been living in Shanghai, China for 23 of the past 26 years. During the 1990's Glenn worked for General Electric, responsible for World-Wide Sourcing Programs in Europe, China, Asia, and then globally for the entire corporation.



Kenny Tung



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Asking the right questions to inspire compelling website copy

By Heidi Turner, legal writer and editor



Is there anything as daunting as sitting at your computer with a blank Word document in front of you and a blinking cursor anticipating your every word? This is a common issue that lawyers face as they try writing their website content, especially when they write about themselves. Of all the content, your bio would seem these easiest—it's about you, after all—but it's often the most difficult.

The problem with writing about yourself is that there's simultaneously too much and too little information to share. You have years of existence, but how much of it is relevant to your audience? What do people want to know about you? Should they know where you were born? How much you



love your dog? What journals you wrote for?

Often, what law school teaches us is important—where we got our degree from, what awards or citations we’ve received—is only important to a very small group, usually other lawyers.

Your clients care more about how you help people like them. Yet, because we see so many others list their awards and accomplishments on their website, we think we have to as well.

So how do you determine what to write for

your website? And, how do you guide the process so it isn’t an incredibly painful ordeal?

The trick is in asking questions. For the past five years, I’ve instructed writers and editors at a local university. I’ve taught a variety of courses, but the main course—and my favourite—is on running their own business and, specifically, finding clients.

The first assignment they’re given is to write a business vision in which they answer a series of questions about where they are now and where they want to be.

Often when I read their answers to the questions I comment that when it comes time to write their website content, they should use those answers to form their website content. That's because the answers to their questions are so compelling and engaging that they automatically stand out.

Answering questions gives you a framework for writing about yourself. Rather than thinking "What do I need people to know about me?" or "What will impress people?" these questions help you determine what information is relevant, what makes you different and what will engage people.

Questions give us a starting point for our thoughts. It's overwhelming to think, "I need to write important information about me so readers will want to work with me." But it's easier to answer a few questions designed to draw out meaningful information.

Because you're answering questions—and at least to start you're writing answers only you will see—you're free to go where your answer takes you. Even if it seems silly to write something at first, that thought may lead to another thought that resonates with you and possibly with your audience.

Give yourself time to focus and don't censor yourself yet

Below is a list of questions to answer when you're writing about yourself. Take your time when you answer them. Give yourself 5 - 10 minutes per question to just write, and try to do so when you won't be interrupted. Write down every thought as you think it. You can go back later and delete anything irrelevant, but

the key here is to keep writing and follow where the thought takes you.

Once you're done, go through your answers and look for themes. If a lot of your answers revolved around problem solving, then that's probably an important part of what you do. You'll want to reflect that in your content. Organize your thoughts so you see the various themes and recognize which information seems to be the most vital and relevant. Also pay attention to the sentences that resonated with you the most or feel unique to you. Use those as write your content.

Don't worry about how your initial answers will read on a website or what people will think, and definitely don't focus on impressing people yet.

Just answer the questions honestly and openly without censoring yourself. Within your answers, you'll find the what makes you stand out.

Your answers might even surprise you.

Questions to ask yourself

1. Why do I do what I do?

Everyone has a story, and sometimes the background behind why or how we got to where we are says a lot about us. It also helps us connect with each other.

Explore why you got into law in the first place and then why you got into your particular area of law.

Your story might start with when you were young and wanted to help people. Maybe you

loved law and wanted to help marginalized communities. Or maybe you loved the idea of helping people solve problems, and law was the best way for you to do that.

2. How did I get to where I am?

This question is a bit more mechanical than the one above but it can also highlight important differentiators between you and other lawyers. What did you do after law school that led you to where you are right now and why did you take those steps?

Did you start at a large firm but miss the personal connection that comes with working at a smaller firm? Maybe you went in the opposite direction because you felt that your experience was better suited to a speciality at a larger firm. Did you start working for insurance companies and realize you weren't as fulfilled, so you became a personal injury lawyer?

Write out the decisions you made and why you made them.

3. What's my favourite part of this role?

Which of your moments as a lawyer are your favourite moments, and why? Do you love the moment when a client realizes an expert is going to help them and can breathe a sigh of relief? Is it when your client has a path through bankruptcy and can finally see light at the end of the tunnel? Is it when clients come in with misinformation about their situation and you're able to help them get on the right path?

Think about the moments that make what you do entirely worthwhile and what it is about those moments that makes them so important to you.

4. Who do I help?

Here's where you get into your niche, or your target audience. Write down the characteristics that your ideal clients have in common. Include information like demographics, the problems they need solved, their pain points, how they view lawyers, and any other shared characteristics.

Then, go a bit deeper. How do they feel when they first meet with you? Are they stressed about a pending lawsuit?

Excited because their business is growing? Do they see you as an important part of their success or as another service provider? Are they the type of client to reach out to you to prevent a problem or the type to connect when there's an issue that needs to be cleaned up? What's important to them?

5. How do I want my clients to see me?

What are the words you hope your clients use to describe you (or the process of working with you)?

As you start you might just write a long list of obvious words that most people would say. Try to keep it to those that are most important to you. If you have a hard time narrowing it down, start big and then look through your list for themes. For example, if you've written that you hope they refer to you as communicative, honest and direct, you might group those under "transparent."

6. How do I want my clients to feel after meeting with me?

This is different from how you want your clients to see you because it focuses on their

emotional state, which is how you connect with your audience.

Think of their state of mind when they see you and the transformation that you provide. Do they immediately feel more relaxed after meeting with you? Do they feel more in control of their future? Do they feel more informed about their situation?

Again, you might want to write a very long list of feelings, but try to narrow it down to no more than the three most important.

7. How have I already helped people who are similar to my target audience?

This is key because it establishes your expertise and allows your potential clients to see themselves reflected in the work you do. Find some examples of people you've helped who fit the themes you've identified above and write a few short stories that illustrate each of the values and emotions you've described above.

These stories can be short—they often don't need to be more than a paragraph. And, you can keep identifying information private, so you're not violating any confidentiality agreements. Include emotional details to help your reader connect with the story.

Consider the difference between the following:

Experience: I helped a person who was hit by a truck and suffered permanent injuries obtain a \$1 million settlement.

-Or-

One client I helped was a young woman who had been hit by a truck during her morning

run. Despite her suffering extensive injuries requiring immediate and urgent medical attention, the insurance company claimed my hard-working client faked her injuries to obtain a better settlement. As her lawyer, I collected the overwhelming medical evidence needed to prove her injuries were very real, stressful and traumatic.

I also took over communications with the insurance company so she could focus on the long process of recovering. Ultimately, we obtained a \$1 million settlement, which covered her medical costs and provided compensation for her pain and suffering.

The second version is more relatable and emotional, and it shows people how you help, rather than telling them. It creates a connection with your reader and it allows them to see themselves reflected in your content, so they get more of a sense of how your expertise helps in situations like theirs. Finally, it shows that you see your clients as human facing important struggles, rather than as a case to be won.

As an added bonus, if keywords are important to you there is room to include them without sounding like you're reciting a list of words for the sake of having them. For example, you could mention some of the specific injuries the client received or name the region the client was in when they were injured.

Final thoughts

Next time you have to write about yourself, go through a list of questions you can answer that help your potential clients better understand who you are and how you help them.

This content will be more engaging and relatable, and it will help you stand out from your competition. It will likely also be easier to write.

About the Author

[Heidi Turner](#) is an award-winning legal writer and editor. Since 2006, she has helped her clients in the legal industry—including lawyers

and law firms, legal technology companies, and legal SaaS organizations—connect with their target audience and establish their authority. She helps her clients find authentic ways to engage their audience and build a reputation, with a focus on client-centric communications.

In addition to her writing and editing work, Heidi is an instructor in Simon Fraser University's editing program.



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PANDEMIC, METaverse & OTHER DEMONS

2022 RESOLUTIONS

By Chiara Lamacchia, Founder at lawrketing.com and withoutconsulting.com

It is the end of the year. Time to re-think, evaluate and propose. I would like to end this 2021 by letting some steam off with an exceptionally provocative piece, including more than a pinch of positivity for possible 2022 resolutions. This might result as a tough article as there are many opinions shared over delicate topics – but when looking back at the year that is ending there is no other way than to come clean, to start the new year in the right direction. After sourcing my own experiences, I identified seven 2021 discoveries and I have tried to transform them into seven 2022 resolutions.

1. The suddenness of law > Be more pragmatic.
2. The inconceivable complexity of our realities > Remember the complexity

3. Our captive “freedom” > Embrace limitations
4. The misplaced innovation > Test your opinions
5. Extremisms > Do not overdo
6. The pandemic > Go forward to the way it will be
7. The ... metaverse > Be open-minded

The suddenness of law

Very little has been said about one of the aspects of the pandemic: the sudden emergency laws and policies that impacted so unexpectedly our life and business.

From one day to the other, we all experienced the same: social distancing, lockdowns, shortage in resources (yes, I might be referring also to toilet paper), remote working, shops closed, restaurants closed, mask obligations, no travels...

The pandemic was not foreseeable. We might all agree that a better response to a case as such could have been better modelled anyway – but this is far not the point of this article.

If we would like to draw a moral from the Covid19 event, we could say that whenever emergencies occur, laws, policies and regulations come suddenly and harshly.

We have now ahead of us (more than) a couple of major challenges that are



totally foreseeable, definitely actionable, and vastly discussed at least for the past 50 years. I could name, for instance, global warming, climate change, resource scarcity, climate migration, totalitarianism...

When considering the future and the pressuring conversations we have, I always ask myself – *would something really happen?* I am not being negative here. I am rather trying to manage expectations by looking at the entire world, its people and its dynamics and. We live in a world where we do everything and its contrary. We live in an era where we need all *right now* and at the same time willing to get a clean *Planet A*. We are “*copping*” about climate change, but COPs are organised in a physical event where people are actually flying to. At the same time, we applaud the era of space tourism.

What might happen may be as simple as the following: we drag this situation on and on till the point of no return (that for some is already here). Then, we enter in a state of emergency (that, again, for someone we are already living). Finally, we all experience again emergency legislation that focuses on the roots of the problem, disrupting our life and businesses.

These legislations might be inevitable. There might be a moment when, for instance, it will not be about “*in 2019 the Parliament seals ban on throwaway plastics by 2021*” – but rather “*all business producing plastics are closed down tomorrow*”. Not “*Sustainable Development Goals set in 2015 to ensure a better world in 2030*” – but rather “*laws, policies and regulations that become effective in the next month*”.

> **Resolution:** Let’s be more pragmatic. We know we have in front of us some major hot topics that will all call for emergencies and legislative interventions. These will inevitably affect our personal and professional life. Let’s think about how to change and what we could do. When possible, let’s start to implement the change so that it will pay off. In the likely event that we thought a wrong prediction, we would learn anyway to be more flexible and responsive.

The inconceivable complexity of our realities

We are just experiencing the most improbable event impacting nothing less than our health. This offers a unique occasion to observe the intricacy of the situation: politics, media, science, people, religion, businesses, conflicts of interests.

I hear people saying that we are finally becoming aware of the importance of recycling. That makes me shiver. Not only because that “*we*” does not consider the actual rest of the world, but also because we are still talking about recycling when we should focus a bit more on “*reducing*” (both in production and consuming). Do you also see the stale vicious cycle in dresses made out of recycled plastic?

Many times, when hearing people talking about solutions to a certain problem, I feel there is a lack of perspectives.

Quoting Cicero, “*pares cum paribus facillime congregantur*” [1]. The English equivalent would be “*birds of a feather flock together*”. In other words, people of similar character, background, ideas, beliefs or tastes tend to associate with one another. We are inclined to

surround ourselves with like-minded people, and this makes us perceive a very partial reality, characterised by a strong asymmetry of information. We tend to look at a problem in our enclosed bubble. We think that there is a lot of attention on this or that issue when in fact the numbers are extremely small if compared to the size of the entire world population. Our realities are way more complex than we can conceive. As much as the concept of the infinite, it is that type of complexity that the human mind can only caress. Each and every one of us conceives this complex reality in its little safe sphere made of people that are thinking alike, who then are also capable anyway of behaving inconsistently and incoherently.

Furthermore, or probably because of it, we tend to “*reckon without the host*”. Countless times we simplify the solutions, without considering the complications that will inevitably derive from the intervention of any other interested parties. We do not take into account the complexity of points of view and nuances of the same point of view.

> **Resolution:** Let’s always remember that any opinion has many nuances. Let’s look at the uncomfortable complexity of the world and ask the opinion of the people we are not going to agree with. We should start spreading our views not only to the safe sphere of people who will agree with us. We should talk to the ones who are more likely to be against us. This will tremendously enrich our perspectives and preparedness.

Our captive “freedom”

Let’s say it out loud: if this virus would have been just a little bit more deadly, we would have never made it. Films about zombies do

not taste the same – you can really feel the absurdity (not of zombies, but of the people surviving to it).

In the fight against Covid19, there are many interesting topics to discuss, in particular related to the *no-movements* (no mask, no vax, no pass).

I have to admit I feel a bit lost at the “*health dictatorship*” and “*vaccine-Shoah*” arguments. Of course, as we live in a democracy, I will refrain from commenting on the merit – we all agree that we can all express our opinions and support our thesis. There are two small elements I would like to put on the table for the sake of spicing up the conversation.

Freedom – Part of the global population is now fully accustomed to a level of comfort and lifestyle that is conceived as normal and taken for granted – this made us all slightly insolent, weak, thoughtless and unreasonable. When then I see the “*no mask, no vax, no pass*” protests, I wonder – are they portrait a concept of freedom that is incompatible with our life in a society? Some people see the compulsory vaccination or the introduction of a Covid19 pass as a limitation of their freedom. Nonetheless, isn’t then the murder law limiting their freedom as well? I guess beyond any religious and ethical reasons, a law against murder has a fundamental justification: we need a law to prevent people from killing each other to allow ourselves to live in a society. There is a collective interest overriding any individual interest, would not even exist otherwise. I believe our own freedom is limited in the precise moment we decide to live together: my freedom ends as soon as it overlaps with the one of another individual. ‘*Freedom*’ in its

literal meaning cannot exist as we cannot have the right to act as we want. We are *de facto* limited in our freedom as this, it is conceived in concert with a system of freedoms. This is the only way we could function as a society. The only possible freedom of the individual is a captive one.

Individualism – When I say that there is a collective interest overriding any individual interest, I refer to the fact that the interest of preserving the entire group should prevail – this should not be seen as an antithesis to individual freedom: it should be seen as something that the individual would benefit from. This brings me to the next point: I’ve heard people saying that the “*no mask, no vax, no pass*” protests were the sign of an increasingly individualistic society. I would not necessarily agree with that. Individualism *per se* involves the right of an individual to freedom and self-realisation. However, in these protests there is a bit of a paradox: the individual puts itself at risk, completely losing its freedom and self-realization to fight for freedom and self-realisation. Partially citing the third law of Cipolla, “*there are people that cause losses to others while themselves deriving no gain and even possibly incurring losses*” [2].

> **Resolution:** From personal to business life, let’s embrace limitations. Limits are powerful spaces for creativity and innovation. A limitation is simply the biggest opportunity to disrupt and find new solutions.

The misplaced innovation

When we just think about the best brands at the current moment, we can easily find companies that are still heavily relying on plastic productions, CO₂ emissions, unsustainable practices...

One small focus should be given to *slavery as a service* – I cannot use the word SaaS, but maybe SaaS might do the job.

We praise all these great examples of innovation, yet these seem to be extremely old-fashioned. I am not hereby saying that entrepreneurs should not be required to be ethical. Of course, if a business finds a legal way to make money and bases its revenue model based on *loopholes*, it would not be advisable to do otherwise from a strictly entrepreneurial point of view. Furthermore, if no legislation is punishing you, then you are technically free to do it as it makes a lot of sense to decrease costs and increase profits. The only point I would argue is that there is nothing so special about these companies: if you provide anyone with slaves, he/she would be able to make any business function and thrive. These are not really showing the most outmost geni capable of stepping up their game to a whole new level. Also, from an innovation and legal point of view, this opens up to a persistent and ubiquitous risk of not being capable to respond fast to a sudden change in legislation. When you are just reacting, you are contextually also missing out on opportunities.

> **Resolution:** Let’s challenge our own status-quo: what should we be changing today that can make us less passive and reactive? Let’s look beyond our nose, on wider and longer-term issues and challenges. Topics such as people exploitations, privacy & data misuse, non-sustainable production processes are boiling hot.

Extremisms

After years of working in the marketing and business development sector, I would like to

share with you one of the most frustrating narratives going on: every agency, consultant, professional has the last secret, the perfect way, the unique tool, the disruptive solution, etc. This is **professionally** very tiring because, in the economy of content, we tend to over-share resources that most of the time are a reshuffle of other resources. Then, businesses are now over-promising: from *diversity & inclusion* and *net-zero* to the most traditional company culture, all businesses are creating the perfect pitch to cover up dysfunctional dynamics – because at the end of the day, all organisations are just a bunch of humans and therefore these suffer from the same bias and flosses – that is physiological.

Things are getting worse once you go from a professional to a **personal** level – we are getting so accustomed to sharing our opinions. No one is immune – we are all inevitably becoming over-opinionated (just read this article!). The borderless dimension of social media channels, then, boosts the effect. All these echoes of opinions are bouncing all around. Again, we are witnessing a *dualism* where we want one thing and its contrary. On one side, we live in an era where we need everything *right now* and *more and more*. We are highly dependent on products and services that grant us that. On the other side, we are embracing the green lifestyle, with soja and avocados endangering the environment. We are all about green energy that is heavily lithium-dependent.

And then we slip into the political level and we just see the immensely chaotic state of affairs that is about to arrive.

The far-left and far-right are radicalising each

other. Words like “fascist”, “neonazi”, “far-right” are becoming more common. Racist people are running for the presidency everywhere. We start building walls. We are becoming polarised and extremists, without even noticing it. And the *diatribe* between vax and no-vax made things even worst.

> **Resolution:** Let's get some old wisdom in the future: probably the Latins were right – *in medio stat virtus* – which in an extremely non-literal translation it would mean that in the moderation there is the maximum of potential realisation. Let's not overdo it. Let's try to see how extreme own opinions are, being more transparent and authentic.

The ... metaverse

This is possibly the most hyped word at the moment, and I will not judge you if you decide to quit the reading here. For those of you that were lucky enough not to hear anything about it – I propose a rich & quick definition by Matthew Ball, the former head of content at Amazon, who describe the metaverse as “a massively scaled and interoperable network of real-time rendered 3D virtual worlds which can be experienced synchronously and persistently by an effectively unlimited number of users with an individual sense of presence, and with continuity of data, such as identity, history, entitlements, objects, communications, and payments” [3].

I often joke about the metaverse, stating that it is inevitable as it will probably make up for the incredible nasty world we are going to live in, full of lockdowns, toxic and unbreathable air, fires, tsunami and other impressive falling landscapes.

The recent re-branding of Facebook Inc. into Meta Platforms, Inc. *vulgarised* this new trend. I have to admit that the overall picture that Meta proposed felt very old to me. I imagine a future with seamless integration of virtual & real. When I watch the Meta Platforms' announcement, I was expecting something epic, whether instead, it was a mishmash of already seen and almost already experienced elements. That was meta old-fashioned. Probably the whole announcement was done in a rush for PR reasons, but that is another story and not the point of this article. I was imagining something more in the line of the TV series *Anon* as if you created something *beyond the real universe* but integrated in the reality. I guess for me aiming at building a three-dimensional virtual world is not as alluring as building an integrated world.

However, Meta is just the tip of a much bigger iceberg – dozens of companies are already investing to develop metaverse software and hardware, for example:

- Amazon
- Autodesk
- Dropbox
- Epic games
- Microsoft
- Nvidia
- Niantic
- Nike
- Roblox
- Snap
- Tencent
- Unity

We would better have more and more players in the market – from business to education institutions: we are creating a universe! One side of the story is very critical and I want to

quote again Matthew Ball to introduce it:

“(The metaverse) requires extraordinary technical advancements (we are far from being able to produce shared, persistent simulations that millions of users synchronized in real-time), and **perhaps** regulatory involvement too.” [3]

Perhaps?!

It will inevitably require an extraordinary and juicy regulatory involvement. At a first glance, when asking opinions around the law and the metaverse, the conversation seems way too much driven by privacy, data protection, artificial intelligence (AI) and cybersecurity. Nonetheless, we are talking about something way bigger than that – we are about to create an entirely new universe, after all. And when we also take into account the *permeability* with the physical world, the legal implications behind an entire universe are immense.

> **Resolution:** Let's be ready to work with an open mind on the unexpectedly complex realities and the many engaging and interesting challenges we have ahead of us!

Omicron

The word *pandemic* comes from Greek and it means literally “*concerning the global population*”. We all saw what happened (and is still happening) with the Covid-19. It was the first time in modern times that wealthy states experienced some drastic moments as such. We adapted to the so-called *new normal* and we changed what needed to be changed.

And yet we hear again and again that “*finally, we can go back to normal*”.

Every time I hear that I complain. “*Finally*”? We are not done yet – we are at Omicron: still 9 other letters from the Greek alphabet to go! “*We can*”? Sometimes we are miserably a-critical and if the government releases measures. And then “*normal*”? There was nothing normal before! One day, a friend of mine shed light on another element saying that the most shocking part of that sentence is the “*go back*”. True. The disarming bit is “*go back*”. It shows how we are very much looking at the past, instead of embracing the future. We are all ready to return to our comfort zone and avoid the thrill and challenges of changing. This is incredibly scary.

> **Resolution:** Let's go forward to the way it will be. Remote working, new business lines, experiments, being it more digital, hybrid, re-discovering the very little things that make our everyday special. The only way is forward.

The quiet after the storm

After this long and appalling monologue – how do I wrap it up? This has been by far one of the difficult questions when writing this article.

The 2022 resolutions I listed in this article are also my best wishes for all of you.

The future inevitably reshuffles the deck and changes the rules of the game. Unquestionably, we are unable to control the future. We will not be fully prepared but we can be more responsive and flexible.

May you have a year full of actions and fewer reactions. I wish you all a remarkable year where you will be able to make the difference, exploring the beautiful complexity and rich-

ness of our realities, exploiting limitations, being surprised by the magic of moderation, challenging your status-quo, enriching your opinions with other unexpected elements, smiling at new opportunities and jump on new adventures.

May you look forward to what the future has to bring.

I wish you all a brilliant 2022.

Notes

[1] Cicerone, Cato Maior de Senectute, III.7 - 44 b.C.

[2] Cipolla, Carlo M. "The Basic Laws of Human Stupidity." Whole Earth Review (Spring 1987 pp 2 - 7)

[3] Matthew Ball, Framework for the Metaverse, Jun 29, 2021, available on <https://www.matthewball.vc/all/forwardtothemetaverseprimer>

About the Author

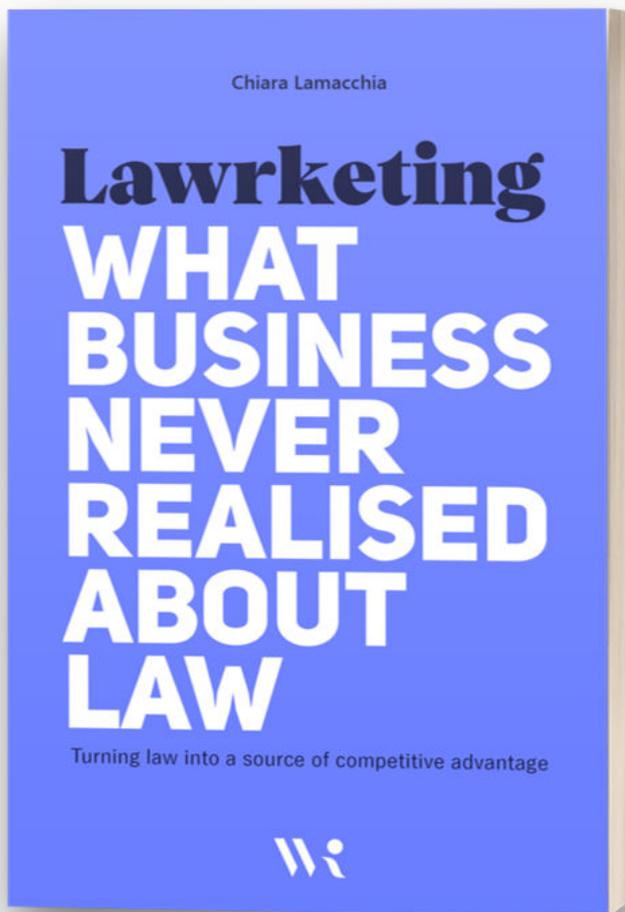
Chiara Lamacchia is a consultant in legal, marketing & legal forecasting, working in corporate strategy for global organisations across different sectors, after an LL.M. from Bocconi University (Milan, Italy) and an MSc in Marketing from Edinburgh Napier University (UK).

Chiara is the Founder of lawrketting.com and withoutconsulting.com, promoting the adoption of ground-breaking ways of using the law for innovation and competitive advantage. Besides, among other things, she authored and

published the [book](#) "*Lawrketing – What Business Never Realised About Law*", introducing a new concept, lawrketing, combining law, business, marketing and innovation.

Connect with Chiara on [linkedin.com/in/chiaralamacchia](https://www.linkedin.com/in/chiaralamacchia).

Enough! The strategies for establishing competitive advantage all look the same, and the law is the least exploited element. How can your business use law beyond the legal-as-usual? Uncertainty is our number one business experience nowadays – pandemics, global warming, plastic pollution will all require more and more legislative intervention to underpin the efforts made by the society and organisations.



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THE PROJECT OF FIRMS

IMPLEMENT

LEGAL PRO



By Eliana Fonseca, Lawyer

Legal Project Management (LPM) is in vogue nowadays. However, the interpretation of what LPM is varies. While there is general agreement that LPM uses project management principles in a legal context, its scope and implementation mechanisms can differ based on factors such as the underlined project management methodology, the type of project to handle, the size of the organization, and even the mindset of the LPM implementers.

TING

JECT MANAGEMENT

A key question surrounding LPM is whether lawyers handle projects. While many seasoned project managers of large-scale and high-value projects may be uncertain as to whether a legal matter can be described as a project or whether projects can occur in a legal context, it can be argued that legal matters, such as a company acquisition, a litigation case, or an IP license agreement, are in fact, projects. Further examples of projects that lawyers may engage in could include

team restructuring, technology improvement, or a data privacy program.

If it ticks all the boxes:

- a once-only effort
- non-routine work
- temporary
- unique
- creating something new

Then, it is a project.

Therefore, the real question would be whether it's worth it to "project manage" a legal matter. A positive answer is widespread by those already using LPM in their organizations.

Essentially, LPM helps with managing legal matters efficiently and successfully. You may ask: aren't we already doing so? Managing matters, yes. Lawyers are already informally (the level of sophistication may vary) Legal Project Managers in the day-to-day execution of their business. But, what about success? If success depends on technical legal skills and outcomes, you may be one of the successful lawyers in the market. But if success is defined by the number of hours you work (are you really working more than 40 hours a week?), your level of stress (stop squeezing that jelly ball!), or your client satisfaction (the angry face is always chosen in your client survey) you may need to take a call on where you stand now.

Paradoxically, implementing Legal Project Management is a "project" in itself, so that a project management approach in introducing LPM will help as a vehicle for a successful implementation.

If you are wondering where to start, the following six steps may guide you on your LPM journey.

1. Identify the change drivers

Change for the sake of change does not sound like a good strategy. There is no such LPM implementation based on how fashionable and good for marketing using LPM is. Undertaking a change without understanding the reasons or drivers can create confusion and chaos and sometimes defeat the purpose of such

change. LPM implementation involves a change in your practice, and so there should be a business case to support the project and secure management buy-in.

As a first approach, LPM could be seen as a tactical change in which practices, processes, and approaches are redefined and improved. However, as the benefits of LPM emerge, change can be triggered at a strategic level and may lead to redefining mission, vision, and overall organization's culture as a long-term proposition over isolated processes. Many law firms have created their own LPM programs and software or have built a project management culture by, for example, scaling Agile frameworks.

Environmental scanning using a SWOT analysis [1] may help you to get started with identifying the drivers and agents of changes.

Whether your business case is construed upon a low client retention rate, lengthy and costly internal processes, low profitability, or significant billing write-offs, the dedicated LPM resource will vary.

2. Pick from the box

LPM tools and resources look at many aspects of the legal profession, including but not limited to budgeting and pricing management (including profitability and value-for-money mechanisms), client communication, stakeholder management, process improvement, risk assessment, people skills, and technology implementation.

LPM can be thought of as "a toolbox" since there are many resources that can be used to address the specific needs of your business.

Therefore, you may first assess the needs, gaps, and blockers within your organization to better understand which elements from the LPM toolbox can be helpful and add value to your business. This is where professional Legal Project Managers play a vital role in that they use their skills and judgment to determine the best tools to be picked and used.

A RACI chart [2], for example, could be a good resource to manage stakeholders and keep them involved and informed at the right time (think, for example, the many stakeholders and the flow of information involved in a cross-border merger of companies). With a different purpose, a Work Breakdown Structure (WBS) [3] could help manage a complex matter scope by dividing it into smaller, more manageable components and by doing so, keeping each team member accountable and time-bound on their individual tasks. Addressing the dilemma of a “must-have” versus a “nice-to-have” tool saves time and prevents effort and money from being wasted on things that are not a priority for your specific practice.

3. Assess your LPM maturity level

After the change drivers have been identified, assessing your current practice levels, existing procedures, technology, and resources at stake is a must. This process will help you visualize the gap between “where you are now” and “where you want to be”. While LPM and its associated principles are relatively new, you may be surprised how many of the approaches and tools you are already using, are part of the LPM toolbox and framework.

Assessing your level of maturity in terms of project management by comparing your cur-

rent practice against market best practices will help you determine the extent of LPM implementation required. A great resource to assess the maturity level of your organization is the Association of Corporate Counsel (ACC) Maturity Model 2.0 for the Operations of a Legal Department [4] and the Organizational Project Management Maturity Model (OPM3™) developed by the Project Management Institute (PMI). [5]

4. Be (or hire) the best Legal project Manager

In a fast-evolving and sophisticated business-minded legal landscape, the right move starts from leaving the comfort zone and embracing business, technology, and innovation.

Lawyers may indeed be far from being replaced by robots or technology, but the lawyers who embrace tech and innovation will replace the lawyers who do not.

If you want to lead the project management function within your organization, you should consider taking on the role of a Legal Project Manager. You may be wondering if that is a “role”. Yes, Legal Project Manager is one of the newest and most wanted positions in the legal industry, with such professionals having a very competitive edge in the market. If you are interested in being a certified Legal Project Manager, you can pursue international certification, get the LPM designation embedded in your title, and boost your CV. Even if you are not interested in moving your career path as a Legal Project Manager, basic knowledge and awareness of LPM will help you decide and supervise the best LPM approach and implementation for your organization.

5. Launch your Minimum Viable Product (MVP)

LPM is not a one-size-fits-all solution. LPM is a journey that begins with awareness, follows a deep study of the subject matter, and ends with a tailored approach that suits your professional needs. Although buying existing LPM software may seem like a quick option, some customization will still be required. Having the ability to move fluidly within a vast LPM framework and toolbox is one of the vital skills of a Legal Project Manager.

Starting with a small pilot to be rolled out within a small team of your organization (or just for a small project or a single client) is a good strategy for smooth change management. In this instance, a Minimum Viable Product is the first workable version of your LPM program that can be tested and improved iteratively based on testing outcomes and retrospective feedback. Get started by building your LPM prototype and choosing your guinea pig. Allowing your colleagues to start getting their “hands dirty” with LPM can help reduce resistance to the entire implementation process.

6. Be brave enough

LPM is not for everyone. LPM implementation needs initiative and openness to start with, passion and confidence to continue, and trust and determination to reach the desired outcome. Management or colleagues’ resistance is one of the main obstacles to organizational change. Change involves building awareness, testing and training, investment, and a shift in mindset to shake the status quo. Having confidence in your plan is a key to overcoming such challenges and keeping people motivated through the process.

Furthermore, if you are used to a culture of billable hours targets, it isn’t always easy to put a case forward for a project that is, per se, non-billable. It is challenging for some organizations to get started with LPM as they consider hiring a Legal Project Manager or buying LPM software as a cost with no clear sight of the benefits. A Legal Project Manager is not a fee earner or direct source of revenue. However, your LPM program will indirectly improve overall profitability by refining/speeding processes, increasing efficiency and productivity, and providing a better service that will act as a lead magnet for better client reach and engagement.

LPM has been around for more than a decade and is being used by many organizations globally with great proven results. However, many legal professionals are still reluctant to use LPM due to lack of information (LPM is outside the realm of the business’ knowledge base); misinformation (several LPM variations make it appear to be more complicated than it is); procrastination (waiting for the perfect time where “perfect is the enemy of the good”); or just a kind of paralysis by analysis very common in an industry traditionally resistant to changes and trained to take the risk-free path.

Understanding the essence of LPM, following the six steps above, studying the subject, and having an innovative mindset is essential to embrace and achieve a meaningful and successful LPM implementation.

Notes

[1] SWOT analysis or matrix is a framework or

technique for identifying and analyzing an organization's **Strengths, Weaknesses, Opportunities and Threats** which is what makes up the SWOT acronym.

[2] A RACI chart is a responsibility assignment matrix used in project management. A RACI chart defines whether the people involved in a project activity will be **Responsible, Accountable, Consulted, or Informed** for the corresponding task, milestone, or decision.

[3] A Work Breakdown Structure (WBS) is a tool used in project management consisting of a hierarchical decomposition of the scope of work into small manageable components.

[4] [Maturity Model 2.0 for the Operations of a Legal Department | Association of Corporate Counsel \(ACC\)](#).

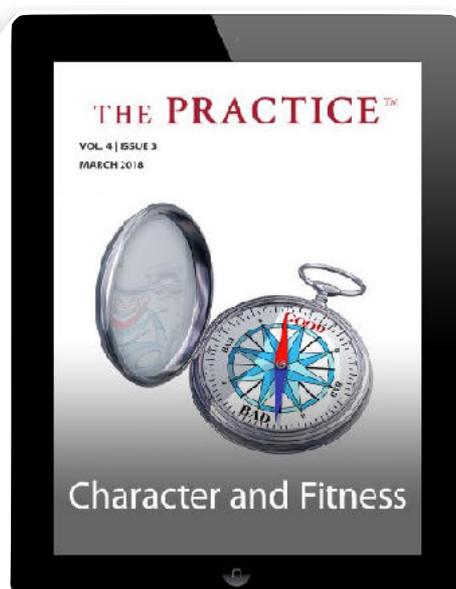
[5] Project Management Institute (2003). Organizational project management maturity model (OPM3™). Newtown Square, PA: Project Management Institute. www.pmi.org

About the Author

Eliana Fonseca is an Argentinian qualified lawyer currently based in Dubai and working as a legal counsel associate for one of the leading retailers of luxury watches and jewelry in the United Arab Emirates.

Eliana is a certified Legal Project Practitioner (LPP) and the exclusive Accredited Training Provider in the United Arab Emirates of LPM courses accredited by the International Institute of Legal Project Management (IILPM).

Eliana delivers LPM training to Dubai registered lawyers through the Continuing Legal Professional Development (CLPD) Programme administered by the Government of Dubai Legal Affairs Department and actively conducts private and public LPM coaching sessions and training programs for legal professionals.



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DATA IS THE NEW GOLD, HOW ARE YOU MANAGING YOUR LEGAL DEPARTMENT'S DATA?

By Leah Molatseli, attorney of the High Court in South Africa and Head of Business Development Legal Solutions at Legal Interact

About two years ago [Forbes Africa](#) loudly proclaimed that Data is the New Gold, labouring on the premise that for hundreds of years since the discovery of gold in Johannesburg, it has been extremely valuable, more so it has been valuable for thousands of years ago. . It further went on to explain why in recent years this perception of value has shifted to Data. But then what is data, why is it valuable and what does it mean to the Legal Industry? In

this article, we unpack what data is, how to manage it, tools and best practices involved and why it is important for legal departments to manage their data.

What is data?

Simply put data is a set of facts and statistics collected for reference or analysis. In the modern world we are constantly collecting and sharing data whether intentionally or not.



Beyond anything, data is the new gold and an organizations' ability to leverage this data effectively can either return them to the dark ages or catapult them into the future improving their business goals.

There are certain considerations to consider when working with data management. A good

data management strategy can:

- Create, access, and update data across a diverse data tier
- Store data securely across multiple clouds and on premises
- Provide high availability and disaster recovery
- Use data in a growing variety of apps, analytics, and algorithms
- Ensure data privacy and security
- Archive and destroy data in accordance with retention schedules and compliance requirements

One of the most effective ways to execute a good data management strategy is by using a data management platform or software.

A great data management platform is basically a foundational system that collects and can analyse large volumes of data across an organization. This data management platform must be able to:

- Identify, alert, diagnose, and resolve faults in the database system or underlying infrastructure
- Optimizing responses to database queries for faster application performance

- Allocate database memory and storage resources
- Making changes in the database design

Data in the Legal Industry

Despite what most lawyers may think, the legal industry is a treasure trove of data, from the information we collect from clients, court documents, any form of legal document, to our client list, statutes and many more.

The problem with data in the legal industry however is how we manage it. There are different kinds of data in the legal industry:

Unstructured data

- Most data in the legal industry have no form of pre-defined organization. It is heavily filled with numbers, facts, dates, etc.

Hardcopy data

- What is the first thing you see when walking into a lawyer's office? A stack of files everywhere. Ever thought about what we see at master's offices, in courts? We continue to be a data driven industry.
- The biggest problem with this, is that the large amount of data sitting in these files is not accessible by anyone other than the person having physical access to the files and the information is not easily available to anyone once the files are closed. If no softcopies exist, should a fire occur, rain damage occur the data will be permanently destroyed

Legacy data

- Legacy data is basically any form of data or information stored in an obsolete format or computer system making it
- difficult to process, analyse, etc
- Think of all those contracts and other legal documents stuck in your "I"-drive. You don't

have even a structured way of protecting client data or having access to the latest version of a document, not to mention an easy method of extracting critical clauses.

The traditional way of creating, storing, and managing data is shockingly very insecure and open to manipulation. With technological advancements there is no need to take unnecessary risks on how you manage data.

What does Legal Data Management look like in the Legal Industry?

One of the biggest concerns in the legal industry specifically relating to legal data is the lack of engagement between important stakeholders in an organization and the efficiency of the processes and systems which are reliant on legal document data.

In legal departments or law firms there is typically a lack of ownership, accountability and responsibility regarding:

- storage of legal contracts, terms, and conditions; and
- key legal terms required by an enterprise's internal and external clients (both in terms of what these terms are and the accuracy of the data captured).

Risks of not having a Legal Data management strategy

Multiple versions

- If you do not have a centralized hub for final versions of your documents, you risk losing track of revisions.

Compliance Issues

- Ensuring that sensitive information and documentation is secure and accessible is an

important part for any organization. Even if you don't suffer a security breach, failure to follow proper regulations and track your information carefully may put you at risk.

Productivity and Collaboration issues

- Obviously searching through a pile of documents takes up valuable time, but it also can delay key processes or hold up projects. Even when you find the documents in question, you may not have included all relevant documentation. If you keep updated versions of all documents in a cloud storage system you can access and share them immediately when required.

Accessibility Issues

- Having a cloud-based system allows you and your key team members to access documents that they require so long as they have permission to do so. If you keep documents in physical files or in select personal email accounts and local folders only the person with direct access to these will be able to access them. Especially currently with many people working remotely without cloud-hosting, you will be forced to have a designated person to access the required documents, scan them and forward them on to those that require them.

Disruption of Operations

- When legal data is lost, the effects of data loss will significantly impact your firm's operations. Typically, numerous people are involved in investigating the cause and extent of the loss and attempting to recover the lost data. This is not only coming at a large financial cost but is also extremely disruptive to the ongoing operations of the business. The severity of the effects of data loss will vary depending on whether it's a mere

breach or a complete loss of vital legal data. This may even result in a total shutdown of the firm's operations with a resultant loss of business until the data is recovered, or an alternative solution is found. The longer the duration of operations shut down, the more revenue you stand to lose.

Damaged reputation and resultant loss of business

- The legal data being handled is typically of a confidential nature. The fact that a data breach had occurred would typically have to be made public to all those who could have been impacted in terms of the various privacy legislations. This would result in reputational damage and even a loss of future business.

Benefits of data management

Improved Productivity and team collaboration

- With a centralized hub of data and the ability for key team members to access them, thus also saving time, there is an increase in productivity which allows lawyers, inhouse counsel the time to reduce costs, time and focus on more high value tasks.
- Through a centralized hub of data, teams can increase their ability to collaborate.

Communication co-ordination and document retrieval

- Because information and data are centralized, communication in an organization becomes much easier and because documents are stored in a one place, they are also easier to retrieve.

Centralization

- Although you have worked tirelessly to create a management system that works well

within your system, you'll find it difficult to maintain peak efficiency when a critical staff member is away from the office or when you hire new personnel. The centralized systems offered by case management software enables everyone to upload and retrieve data from a single source, maximizing efficiency.

Improved efficiency

- Increased productivity enables greater profitability. When you invest in legal case management software, you make an investment today that will stand you in good stead for the future. More and more law firms are using case management programs because they streamline several functions, freeing up valuable time for the giving of legal advice, marketing, and client retention.

And so, it has become even more invaluable for organizations to not only create, but to implement and monitor their data management strategies. The world has changed with the increase in hybrid work arrangements, others still opting to work from home, to stringent privacy laws across the world, how we manage data and especially as legal professionals is not a nice-to-have, but a must and should centre around what we do and how we do it.

About the Author

Leah Molatseli is an admitted attorney of the High Court in South Africa with more than 10 years in the Legal Industry. Previous co-founder of a legal tech start-up and has transitioned within the Legal Technology Industry to one of SA's leading Software Company as Head of Business Development – Legal Solutions at Legal Interact, she is a Council Member (the highest decision making body) of the

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She is a recipient of the 2019 Mandela Washington Fellowship recognizing young African Leaders, Winner of the 2020 Digital Female Leader Award in Germany, Finalist of the 2020 Women in Tech Global Awards in the Start-up Award category, University of the Free State Young Alumnus of the Year Award winner for 2017, and runner up for 2019 WOZA Women in Law Awards for Technology.



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THE WHY AND HOW TO NAVIGATE A SATURATED LEGAL-TECH MARKET

By Caroline Ragan, Founder Lumose Marketplace



Here's a fact: The legal-tech industry is a strikingly growing, saturated, and competitive market. Once an industry dominated by a few notable players, the legal-tech sector generates over 17.32 billion U.S. dollars worldwide and is filled with up-and-coming start-ups with great potential and unique values. Whilst a wide selection of legal tech keeps the market competitive, consumers may find that they just have too many legal tech options. With new investments, technological advancements and a high ease of entry, it is evident that the legal-tech market has no plans to slow down anytime soon.



Why is it important to learn how to navigate a saturated legal-tech market, and how do you even start? Let's discuss.

Trends You Can't Miss

Before we even begin discussing the criteria to compare and review legal-tech software, or talk about the importance of making the right legal-tech choice at all, it's important that you are aware of market *trends* that will expand your options, influence costs, and change your firm's competitiveness.

If you've been active in investment spaces,

you are no stranger to De-Fi and crypto, both of which are making their move into legal-tech. Let's take a look, for example, at growing investments in Intellectual Property: NFT trading platforms have grown investments into the copyright economy *very* favourably which means advancements for more efficient servicing are at an all time-high. Since it's no secret that returns for IP focused legal-tech companies are higher than most other categories of legal-tech, our team believes we'll be seeing more IP legal tech brought to market. On a similar note, technology to facilitate fractional ownership of nearly

everything from music, to real-estate and high-value art rising is creating opportunities for litigation financing such as for class action law-suits we would not have seen a decade prior. It's certainly not going to take as much as a decade, however, to see the revolutionary change of both De-Fi and crypto on legal-tech and legal spaces.

Why You Should Care

Although we have established that legal-tech is a saturated market which continues to grow alongside advancements in complementary industries, this is anything but a bummer for lawyers and clients who can now enjoy a wide-array of legal-tech options. Nonetheless, it is important to recognize the saturation of the market primarily because with this many players, it's difficult to recognize who'll bring home the gold medal.

After all, many legal-tech upgrades and software can cost small firms upwards of \$20,000 annually: how can small law firms make the

most cost-effective decision when selecting the legal-tech that will automate and revolutionize their firm or get their firm off the ground?

How To Begin Navigating the Market

Step #1: Most legal-tech for lawyers (not consumers) can be classified into the one of the following categories: legal research, litigation prediction, document automation (court form automation, document automation for a specific practice area, contract analysis, client portals/client intake, case management, and lawyer marketplaces. The uniqueness of many products come from being a mix of different categories, such as a mix of client portal and document automation for a specific practice area. Many legal-tech vendors classify their software transparently on their websites and social media. Therefore, to navigate the legal-tech market with ease, you should begin by identifying the category of the legal-tech you seek and whether you require it for all practice areas or only one.

LEGAL TECH CONTRACT SOFTWARE Comparison								
	Centralized Workspace	Contract Status	Updateable using Variables	Redlining	Generates Signature Pages	Closingbook Generation	Clause Library	Workflow Automation
	✓	✓	✓	✓	✓	✗	✓	✓
	✓	✓	✓	✓	✓	✓	✗	✓
	✓	✓	✓	✓	✗	✗	✓	✗

UNBIASED REVIEW Free access to our legal software marketplace at Lumosemarketplace.com

Step #2: Legal-tech in the market primarily compete through their value offerings: specifically, features and tools unique to their software. In order to make a more informed purchasing decision, familiarizing yourself with the features of a software is the single most important step of determining if it is the right choice for your firm.

Step #3: Data Storage - The location of data storage is a question lawyers always ask to their tech provider to ensure they comply with regulation. Because the GDPR is more strict than Canadian data privacy regulation, vendors who are in compliance with UK privacy laws normally fall within regulation in Canada as well. Some legal-tech softwares boasts unique security and third-party risk management assessments to assure you about the security of their cloud data storage and protection against cyber attacks.

Step #4: Frequently, basic integrations such as storage and email make a world of difference to the ease of use and efficiency of a software. Prior to making your purchasing decision, ensure that the software you plan to commit to integrates tools you or your clients may use, such as communication, payment and intake tools.

Step #5: A feature that nearly every large e-commerce enterprise (think Amazon) has fit into their platforms is a comparison tool customers can utilize to seek better options for a product they are interested in. For the last step of your shopping, we encourage you to adopt the same comparison mindset when purchasing legal-tech software products: at this step, you may find a competitor that may serve your needs better than your initial selection.

With these five steps, we are confident that your purchasing decision will be informed, well-rounded and cost-effective. However, it's no easy feat to conduct all five steps and especially not easy to repeat the steps continuously for multiple competitors. A legal tech marketplace makes the job of classifying, summarizing, reviewing, and comparing *much easier and faster*.

Let's Walk You Through It

Today, we'll walk you through an example review of a document automation / client intake tool we are about to publish. A no-code, client-intake and document automation software called Afterpattern.

Features

Afterpattern is a unique Toolkit to build your own client intake forms that are embedded within your law firm's website, and automate your own documents. You can publish your document on their marketplace and even have their staff do the job for you.

1. **DIY builder:** With their tool-kit, lawyers can seamlessly automate their own documents to design forms where their clients input their information, and the system will spit out the completed document. The key difference between this and other document automation softwares is that AfterPattern caters to lawyers automating their own document with their own precedents, and making them available to their clients directly through a client portal, compared to other document automation systems where the lawyer with only use the tool internally and the client will never be aware any software is being used.

2. **Sell your documents to other lawyers:** Once you use their tools to automate your own precedents, you can sell these pre-automated precedents within their marketplace to other lawyers to use for themselves instead of them automating their precedent from scratch.
3. **Client Portal with payments:** It allows your clients to create an account and login to a client portal where they can see a list of your services or documents you provide with prices. It even allows you to offer legal services on a monthly subscription basis.

Price

At around \$40/month, Afterpattern offers a competitive price for its offerings. With little competition in the market for its unique value proposition, if client intake and document automation are key aspects of your firm's operations, Afterpattern is an appropriate solution.

Integrations

Afterpattern boasts integrations such as Microsoft Word add-ins, LawPay and Zapier. Essentially, receiving payments and working collaboratively are features which are extended through these integrations. As a relatively new company, Afterpattern is consistently introducing new integrations to help your apps serve your unique needs.

Ending Notes

This is just an example of a software review, there are so many other document automation and other types of tools out there. There are tools for retrieving medical records for personal injury practices, for intaking immigration clients, for in-house corporate teams to review

contracts and have them signed by all parties very quickly, as well as marketplaces where lawyers can sign up to meet more clients ready to retain them. For small law firms or solo lawyers, reading reviews of legal-tech that exists is a part of continuing legal education rather than a one time job to complete right before investing in tech.

About the Author

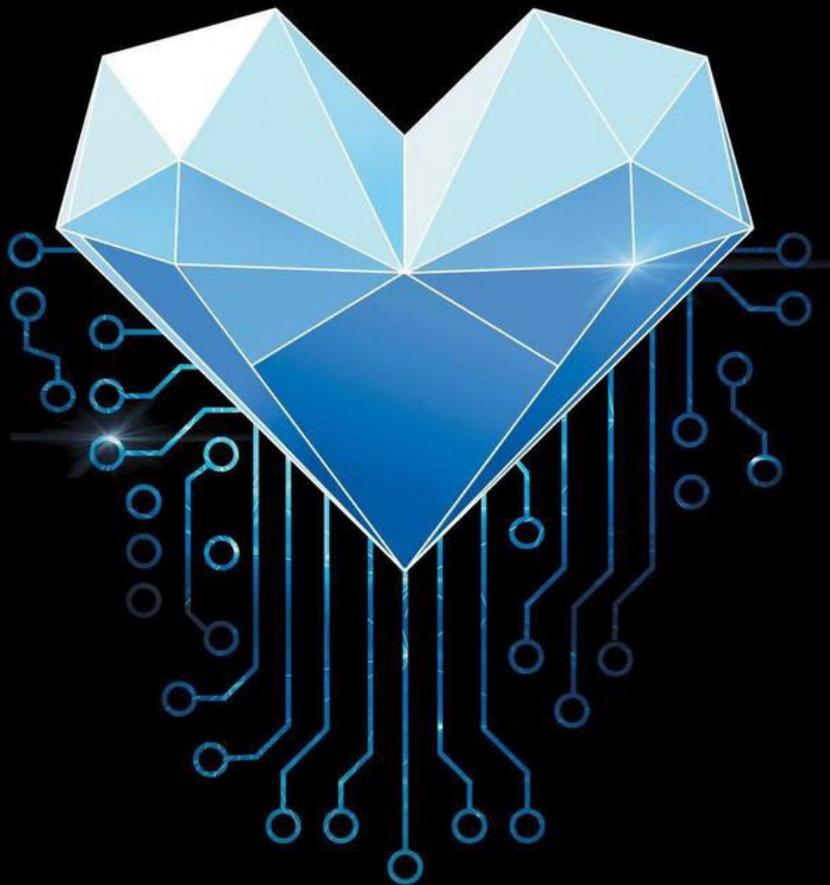
[Caroline](#) is the founder of Lumose Marketplace. With previous experience in bringing a legal tech startup to market, she witnessed the number of new legal tech startups coming to market everyday and realized it wouldn't stop. She is excited to be in the market at this time when legal tech is finally being highly recognized by investors and lawyers, as her initial interest in the industry started when it could hardly be called an "industry". Alberta, Canada born she attended law school in the UK and worked for a document automation companies in the UK before going straight into her legal tech career. Interestingly, she was not one of the law school attendees who grew up wanting to be a lawyer. In fact, her decision to attend law school was made two months before the semester was to start, after realizing that it would allow her to own a law firm and therefore streamline the business processes behind it. Five years later, she is focused on smaller law firms specifically and giving them unbiased advice on their technology needs through a self serve portal they can explore themselves at a very low cost.

In regards to the future, she is most excited about three inches: No-Code tools, Copyright related tools / NFT's, and decentralized courts.

DIGITAL EXECUTOR.®

Unraveling the New Path
for Estate Planning

Sharon Hartung



[For a book review click here](#)

MINDFULNESS: AN ESSENTIAL TOOL FOR THE MODERN LAWYER

By Cathryn Urquhart, Professional Skills Trainer and Practice/Risk Management Consultant



Your mind is like a snow-globe...keep shaking it and there will always be snow or glitter floating around and preventing you from thinking clearly. Put down a snow-globe for a 1-2 minutes and the snowflakes settle, the liquid becomes clear and you can better see the object at the centre. The same can happen with your mind and Mindfulness is the method to settle that snow.

Mark Twain said that “Life does not consist mainly, or even largely of facts and happening. It consists mainly of the thoughts that are forever flowing through one’s head”. Don’t ask me how but researchers have calculated that people have up to 50,000 thoughts a day!! I’m pretty sure lawyers are to the far right of any statistical bell-curve with factors such as working in an adversarial system with tight deadlines, demanding



clients and (many) recording time in 6 minute units. There is no shortage of research to show that lawyers are not only more stressed and at risk of experiencing mental health issues than the general population but also more than other professionals. And of these 50,000 thoughts, how many of them actually relate to what you are doing and how many are ruminating about the past or

worrying about the future.

Mindfulness is not magic. Nor is it about making thoughts and feelings disappear ie trying to achieve a “blank mind”. But it is a proven method to calm the mind and create significant improvements for the individual and teams. Plus, it can be practised in many ways from extended practices to micropractices and

other options in between and so fit around/ within a busy life. Dare I say that 6 minute practices might work well for lawyers.

Mindfulness is about being aware: “(it) means paying attention to what’s happening in the present moment in the mind, body and external environment, with an attitude of curiosity and kindness”. (Mindful Nations, UK Report).

The opposite of Mindfulness is being in autopilot where your attention is in the past or the future, you are distracted, less aware of your surroundings and tend to act based on habit, patterns and assumptions. Our brain loves to switch off and tune in to auto-pilot to save energy but this is not a good way for us to meander through life and certainly doesn’t seem to be the right way to be spending our work day.

I love this quote: “Between stimulus and response, there is a space. In that space is our power to choose our response. In our response, lies our growth and our freedom” (Victor Frankel’s teachings summarised by Steve Covey).

Mindfulness is one way to create a space or more space between stimulus and response. For example, the aggressive email from the other side or stressed client is the stimulus. Without space, you fire off a reply in the moment that is influenced by emotion or it’s your auto-pilot response. Need more examples? The staff member who has not followed instructions, the IT issue that caused a document problem, the unforeseen delay, the overflowing email inbox or X unreturned

phone calls. These triggers can’t be avoided but we can create space to manage our response.

There is a world of science behind all of this. A threat, real or imagined, physical or social, fires off our amygdala putting us into fight or flight response.

All kinds of changes happen within our body and brain including a flood of hormones like cortisol and adrenaline. One major effect is the disconnect that happens between parts of the brain ie our Salience Network (which contains the amygdala) and our Pre-Frontal Cortex or Executive Network. This means our emotional responses take over and we decrease our ability to respond rationally. And whilst this worked for our cavemen ancestors to respond to very real physical danger, they were only in this state, i.e. acute stress for certain periods of time switching back to the Parasympathetic System, i.e. rest and digest state after the danger was over. Cortisol levels would drop and things would calm down. But if our modern world is triggering our fight/flight response for extended periods (or all day), then our mind and bodies are in a constant state of arousal and we are dealing with chronic stress.

Mindfulness allows us to move out of the fight/flight state and to calm the mind and body. I like to think of it as a mini-vacation for the mind during a busy day. Short, regular practices can make a world of difference. And there are many ways to bring Mindfulness into the office and your workday. I can’t “teach” Mindfulness in this article but I’ll set out some ideas that you might be able to try.

DEDICATED OR INTEGRATED MINDFULNESS PRACTICE

Mindfulness can be both a dedicated OR integrated practice. If I'm looking to improve my fitness, I can go to the gym, walk/run/swim or head to a yoga or Pilates class. I can also incorporate practices during the day that help, such as taking the stairs instead of the lift, getting off the bus a few stops before my actual one, parking far away from the shop entrance, or standing on one leg while brushing my teeth or waiting for the kettle to boil (seriously, one of the best habits to form).

Dedicated Mindfulness might be sitting aside 30-60 minutes at some point in the day to practice either on your own or with others or using a spoken word recording. You could sign up for an in-person or on-line 8 week Mindfulness Based Stress Reduction Course: a great place to start and how I first developed my practice many years ago.

Integrated Mindfulness might look like one or more of these options:

- Using an App on your phone to access 1-10 minute practice at a convenient time of the day.
- Taking some time on your commute to focus on breathing or listen to a practice
- Mindful coffee: try to let go of thoughts and just focus on the smell and taste of the coffee, really savouring the moment and being present.
- Mindful walking: focus on your breath and the act of walking as you move between locations either in the office, at home or out and about. Consider your surroundings and appreciate what you can see, hear or feel at

that time. Perth weather means some sun is often available as well.

Mindful queuing: this has changed my life as I no longer get frustrated but use the time to offer "loving kindness" to those in the queue. I know, you have raised your eyebrows but it works. Loving Kindness is a powerful exercise and would take another whole article to explain. Google it, especially Sharon Salzberg.

MICRO PRACTICES (THROUGHOUT YOUR DAY)

I'm a Certified Teacher of the Search Inside Yourself Leadership Course which was developed at Google over 10 years ago. World experts were brought in to develop a 2-day course which blends Mindfulness, Emotional Intelligence and Neuroscience to build skills for peak performance, stress management, strong collaboration, innovation, creativity and effective leadership. It became Google's most popular internal training course and now has outgrown its origins to become a NFP that delivers training to corporations, governments, educational organisations and other NFP's around the world.

Within the SIY Course, we refer to Micropractices which are excellent integrated practices that you might want to try;

- 3 Breaths: First breath, pay full attention to your breath. Second breath, relax the body. Third breath, ask "what's important right now". People tell me they love using this one as they transition between tasks and also to create a break between work-mode and home-life. I picture people doing it in the car in the garage before entering the house after work.

- Minute to Arrive: Start a meeting with one minute of silence to allow everyone to be fully present. Sounds strange? It's normalised now at Google and once you start, you can't stop.
- Noting: When you feel stuck on a thought/feeling then notice it to name it (eg frustration, anger, disappointment), let it be and just breathe.
- Head/Body/Heart check-in: Take 3 breaths scanning one area of the body with each breath. First breath-scan the head, registering any thoughts. Second breath-scan the body registering any emotions or sensations. Third breath-check the heart representing values or intentions.
- SBNRR: Stop, breathe, notice, reflect, respond
- Accepting: Whenever you feel distressed, take a few deep breaths in and out, repeat to yourself "Breathing in, I do my best. Breathing out, I let go of the rest" FYI... this was my favourite during 2020.
- "Impact is not intention": When you notice feeling irritated or frustrated with someone, remember this phrase and consider that you don't know what is driving their behaviour and might not be receiving the message as intended or at all.
- Builds resilience, improving ability to bounce back from emotionally challenging situations, develop emotional and cognitive resilience, equanimity and inner calm.
- Builds empathy ie the ability to tune in to how others are feeling which improves social interaction. And builds compassion ie empathy in action, the desire to be of service.

The World Economic Forum stated in its 2018 Future of Jobs Report that "in order to truly rise to the challenge of formulating winning workforce strategies for the Fourth Industrial Revolution, businesses will need to recognise human capital investment" and that by 2022 human skills such as Emotional Intelligence, creativity, leadership and social influence will significantly increase in importance. Hmmm, little did they know of the 2020 Pandemic but I'm thinking that has only made the quote here more relevant as business grapples with disruption and a distributed workforce.

LinkedIn also published a list of the top skills for companies in 2020 identifying Emotional Intelligence as part of the top 5 soft skills.

In late 2020, SIYLI surveyed 955 leaders, managers and employees from a wide range of organisations around the world and found that 85% agree that Emotional Intelligence is important for the future up from 60% and 76% in previous surveys. This and other data lead SIYLI to state that EQ based on Mindfulness is important given:

1. Current levels for stress and burnout

IMPACT OF MINDFULNESS PRACTICE

You're all busy and don't want to read endless quotes and data from the last 20 years of research on Mindfulness so here's a snapshot of what it has been shown to do:

- Helps increase happiness, reduce stress, develop self-awareness and improve communication. At work, it improves employee engagement and collaboration.

2. The need for connection in a (more) disconnected world
3. The growing demand for human centred leadership
4. The need to adapt and thrive

Investment in Mindfulness by organisations pays off with data supporting measurable ROI. The SIYLI report also referred to Global firm SAP which has delivered the SIY program to 7200 of its 13000 employees worldwide.

“There is a significant increase in employee engagement, leadership trust index, also an increase in retention rate and a significant decrease in unscheduled absences” resulting in their estimation that the ROI on this training investment was around 200%.

Aside from all of these benefits mentioned, I also like to suggest that Mindfulness is good Risk Management and offer the following 4 examples:

1. Stress: Working under short periods of Acute Stress might help with peak performance but when we tip over into Chronic Stress the impact on our brain and body is significant and we are more likely to make mistakes.
2. Distraction & Focus: Multi-tasking, being surrounded by electronic devices demanding attention, phone calls/emails/interruptions mean that we are often not focussed on the task at hand. Regular meditators report being better able to concentrate and notice when they have been distracted and so allowing their full attention to return to the task
3. Responding to triggers: When we respond in the moment to a triggering event, we are

more likely to do so with an automatic response, based on previous conceptions, incorrect judgements and according to patterns. Or if an “amygdala hijack” has taken place because of a perceived threat, our rational brain takes a back seat as we go into “fight or flight” response. Learning techniques that can help us to stop and breathe is the first step. Being mindful here would encourage us to notice the emotions and sensations in the body. By pausing we reflect either in the moment or for some longer period. And then respond in the most appropriate way.

4. Mindful listening: Lawyers are trained to ask questions, take instructions and provide advice or offer a solution. With time at a premium, interactions with clients, staff and others can often be rushed and the opportunity to really understand what is being said (or felt) is missed. Mindful listening is taking the time to listen in a way that is non-judgemental, without the need to rush or provide an instant solution. Give the gift of full attention. People trying this out at one of my courses, even in a 3 minute activity, marvel at what it feels like to be truly listened to. And how hard it can be to listen attentively for that time without interrupting or thinking about what you are going to say next.

WHAT DOES THIS MEAN FOR LAWYERS AND LAW FIRMS

Let’s bring this back to lawyers and law firms. There’s nothing new about Mindfulness programs in law firms. In December 2010, the Law Institute of Victoria reported on a Mindfulness training course developed by the LIV to address mental health issues in the legal

profession (LIV December 2020 84(12)LIJ p16). Designed as a preventative health measure, the 6 week program was put together following the Resilience@Law launch which was aimed at raising awareness and understanding of the nature and impact of stress, anxiety and depression in the legal profession. It was a joint initiative of the law firms of Allens Arthur Robinson, Blake Dawson, Clayton Utz, Freehills, Mallesons Stephen Jaques and the College of Law.

Freehills has run an in-house 6-week mindfulness program and collected participant feedback. This self-reported results indicated a 35% decrease in stress, a 12 % increase in employee focus; a 10 % increase in employee performance; a 10 % increase in employee efficiency; a 17 % increase in employee work/life balance; an 11 % increase in employee communication skills; a 14 % decrease in employee multitasking.

Lots of people tell me they “can’t meditate” or “can’t sit still” or “their mind is too busy”. I totally understand where they are coming from as I too find it hard to sit for 10 minutes and focus on the breath. This is why the integrated practices and micropractices mentioned earlier can be so valuable. And why I highly recommend those new to Mindfulness to try working with spoken word practices. There is so much available to you via your smart phone with a range of free and paid Apps. I suggest trying a range of them until you find the one/s that suit you best eg male or female voice, which accent, background noise/music or not.

Here’s just a few to get you started: Simply Being, The Mindfulness App, Insight Timer,

Calm, Headspace, Smiling Mind. Make sure to switch you phone to DND or Flight Mode when using the App.

I also like accessing longer spoken exercises via YouTube and suggest the following: Jason Stephenson, Michael Sealey, Lauren Ostrowski and The Honest Guys. But the list is endless. What you might find particularly of use with this group is the offerings around Mindful Sleep exercises. A lovely way to calm the active mind and get ready for a good night’s sleep or to fall back to sleep after the dreaded 3am wake-up.

Mindfulness can help change the way you think, react and make decisions. Again this goes back to Neuroscience and the idea that our brains are not fixed or reach a peak size/condition in early adulthood and it’s all downhill from there. On the contrary, a steady stream of research over the last few decades has shown that our brains are malleable and that what we pay attention to changes the structure and function of our brain ie to grow parts of our brain and improve connection between parts. It would take too long to go into this in detail but the evidence is clear and Mindfulness has been proven via this research to have an actual affect on the brain.

Law Mutual WA agrees that Mindfulness training can amount to Risk Management training and has approved my 2 hour session “Risk Management: A More Mindful Approach” so it can be delivered in-house *and* firms can apply for it to count toward their training for premium discount purposes. Plus 2 CPD points, 1 for Competency, 1 Practice Management and 1 in Competency 2 Professional Skills

The WA Legal Practice Board has recently confirmed that lawyers attending my 2-day Search Inside Yourself Leadership Course can apply to the LPB to claim 4 CPD points, 2 in Competency 1 Practice Management and 2 in Competency 2 Professional Skills.

WHAT CAN I DO AS AN INDIVIDUAL?

- Make time in your day for integrated or dedicated Mindfulness practices
- Find a tech solution that works for you
- Find practical exercises if you don't want to sit still: Mindful walking/coffee/eating
- Find a tribe
- Practise

WHAT CAN A LEGAL PRACTICE DO?

- Invest in your staff by bringing in some training to the office or allowing staff to take up external training options
- Pay for staff cost of Apps or subscriptions
- Dedicate a room/space within the office for Mindfulness or other time-out
- Model behaviour from a senior level with Principals taking up the offerings
- Take a "minute to arrive" at the start of an internal meeting (maybe not with clients)
- And here's a thought....allow people to record Mindfulness time!

MINDFULNESS: the superpower you can practise in 6-minute units!

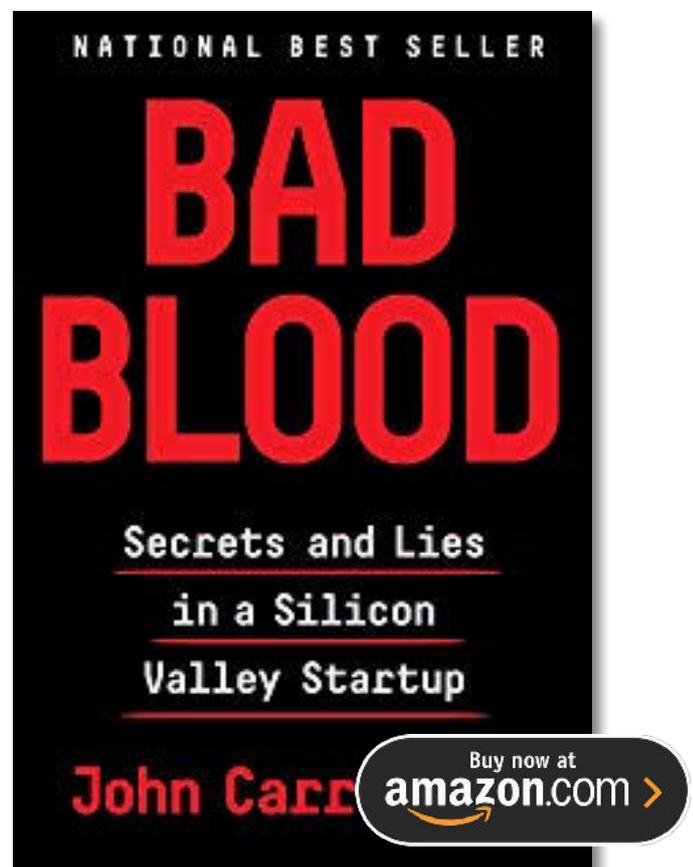
About the Author

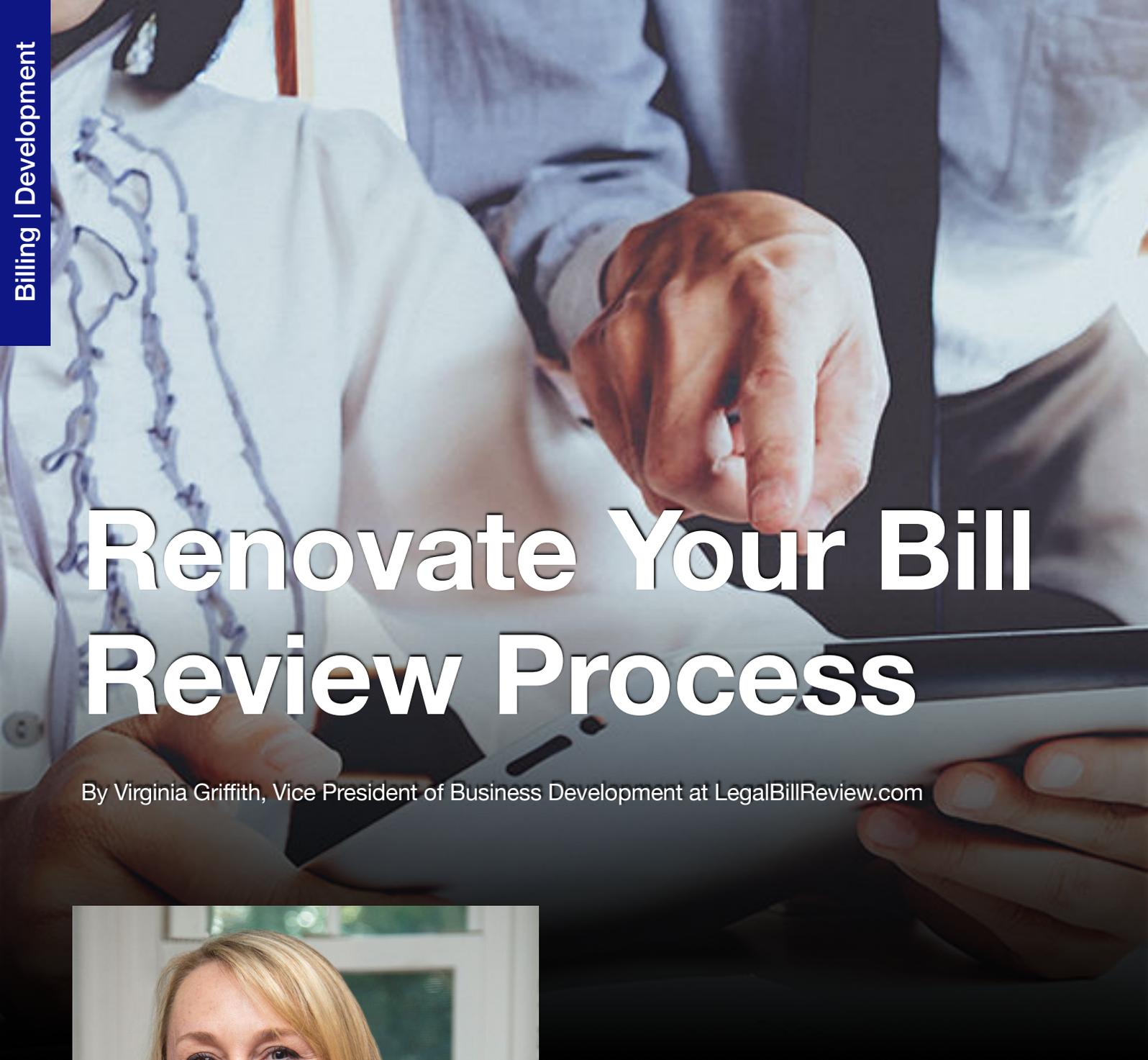
Cathryn Urquhart is a qualified lawyer who has worked in an around the legal profession in WA since the late 80s, practising within law

firms and as a claims solicitor at Law Mutual(the professional indemnity division of the Law Society of WA). She now works as a Professional Skills Trainer and Practice/Risk Management Consultant including at role as the Facilitator of the Legal Practice Management Course at the College of Law.

Cathryn is Certified Teacher at the Search Inside Yourself Leadership Institute and is qualified to deliver the original 2-day SIY Course that was developed at Google over 10 years ago blending Mindfulness/Emotional Intelligence/ Neuroscience as well at Adaptive Resilience, a one day course that was developed in 2020 in response to the Pandemic.

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Renovate Your Bill Review Process

By Virginia Griffith, Vice President of Business Development at LegalBillReview.com



HGTV's "No Demo Reno" is about how major home improvements are possible without massive demolition. Since I'm in the process of building a new home, with some background in design and remodeling, I greatly appreciate the theme of the show. You don't need hard, costly, time-consuming changes to get the desired results: better functionality, more efficiency, and an updated look.

The same is true with managing legal billing and reducing costs on outside counsel.



While there are plenty of solutions on the marketplace, most consist of overhauling your team's day-to-day operations with a costly, all-encompassing suite of new software.

But the truth is not every legal department needs to “demolish” their existing processes and bring on an e-billing software platform to get the desired results: cost savings, billing consistency, and increased efficiency.

According to The 2021 Wolters Kluwer Future Ready Lawyer, many legal departments don't have the internal resources (both in terms of budget and technical expertise) nor the desire to bring on major new technology overhauls. And even if they did, they would have a hard time selling it internally, running up against a culture that is understandably resistant to sudden change. Source: <https://www.artificiallawyer.com/2021/06/15/culture-eats-legal-tech-for-breakfast-again-wolters-kluwer-survey/>

Figure 9: Reasons New Technology Is Resisted in Legal Departments

Organizational Issues continue to be the leading reason new technology is resisted in legal departments.

Lack of Technology Knowledge,
Understanding or Skills

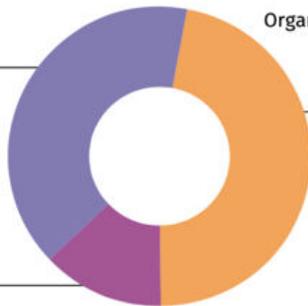
40%

Organizational Issues

47%

Financial Issues

13%



Organizational Issues

- Lack of an overall technology strategy
- A culture that fears change
- Lack of change management processes
- Difficulty to change workflows
- Leadership resistance to change

Lack of Technology Knowledge, Understanding or Skills

- Lack of IT staff/skills
- Lack of understanding of what technology is available
- Lack of training

Financial Issues

- Overall cost
- Lack of ability to show return on investment

When drastic change is difficult, technology resources are sparse, and the budget to implement big technology is lacking, I suggest not tearing down the walls and putting up new infrastructure, but instead bringing in experts who can adapt to your organization and work within your process, rather than the other way around.

Saving Time and Money

Saving time and money is always a top priority, and a qualified, budget-neutral bill review service can do both. The typical savings average between 8 and 15% of legal spend and take effect within the first month. Implementing an e-billing platform, on the other hand, can involve a six-figure expense upfront, with added annual fees and costs for add-on services, meaning it can take years for any resulting savings to yield a net benefit.

Implementing big software platforms can take months and significant resources from your in-house team, including the frustration of training on a new system. Dedicated legal invoice reviewers can integrate within your organization's environment within weeks, with no

up-front costs and immediate savings.

Hard dollar savings can be recognized within the first bill review cycle. Efficiencies are created that may not be realized with software solutions. In-house attorneys and their staff don't have the time to clear flags or review invoices line-by-line and lack the daily exposure to bill review that full-time trained invoices reviewers can provide.

Realized savings are more significant with a legal bill review service versus billing software or in-house review. Professional reviewers achieve reasonable savings that aren't driven by arbitrary flags and AI but instead catch the nuances of the legal matters and narratives.

Simplicity

When legal departments aren't interested in the drastic overhaul that comes with a new e-billing system, having an outside bill review service is just easier. The best bill review consultant can work within your existing framework, help create efficiencies in your workflow, and standardize your process.

Implementing big software platforms requires a change in workflow and process, not to mention dedicated personnel within your legal department to manage the new system. Not only is there a lot of time and effort required for system implementation, but continued management and oversight are needed -- and yet realized savings may be lower than expected.

Many legal teams do not take the extra step of conferring with their outside counsel counterparts to pursue the savings uncovered by billing guidelines and AI. The best bill review services review for guideline violations and billing mistakes and also make subjective determinations based on their analysts' years of experience as practicing attorneys. Those bill review consultants act as an extension of a legal operations team and deal directly with the law firm's billing department to achieve actual, realized savings.

Law Firms and Bill Review Services

Working directly with a dedicated invoice review team, law firms can submit their bills to the reviewers in various formats, which is simple and saves time. Law firms typically get paid faster when their clients have designated reviewers and a streamlined process because there are no backlogs or bottlenecks within the legal department as bills and flags wait to be addressed. Law firms don't have to accept a flat reduction based on an automated flag but can instead speak with the auditor to arrive at an acceptable resolution. Law firms are more prone to dismiss e-billing system findings than they are to dismiss the real-life experience of a professional bill review attorney.

AI Can't Replace Experienced Attorneys

AI has made incredible progress in the legal

industry. Yet attorneys still write memos, perform depositions, and show up for trial. Even the best AI-driven e-billing platforms still require someone to create the billing guidelines, adapt and update guidelines as matters and firms change, and clear the flags. AI cannot communicate with outside counsel to discuss the findings of a bill review and come to a mutually beneficial resolution on a questionable entry. Attorney analysts review with context that runs broader than guidelines, considering circumstances and history that AI won't.

Do you need a massive renovation that requires demolition and disruption for your team that is already hesitant to change and lacks the resources for new technology implementation? You may simply need an expert to oversee the bill review process, creating efficiencies and standardizing procedures while saving you time and money.

About the Author

Virginia is an experienced legal leader with a passion for business development and legal operations. Virginia spent 11 years with Thomson Reuters in a variety of roles primarily focusing on the research and knowledge management needs of in-house counsel. Virginia also spent time in the big four working closely with corporate legal departments in support of their legal operations and regulatory programs. As the Vice President of Business Development, Virginia assists corporate legal departments manage their outside counsel spend.

Ready ... Set ... Change!



By Mat Jakubowski, Legal Technologist



Introducing change is a tough task regardless of what sort of culture is most prominent at a company. It is simply a human nature to treat new ways of performing their everyday tasks with suspicion and caution. Mother Nature has equated us with this instinct a long time ago to adapt to new environments. However, if a company's culture promotes an open-minded approach, it can certainly speed up the process making it more "digestible" to its teams.



There is a saying that goes: “Culture eats strategy for breakfast, innovation for lunch” and there is a lot of truth in that.

Tell me the “why”

Company’s culture that allows mistrust can hinder the process of change. In order to effectively facilitate change, professional teams need to have access to the change objectives

so there is no element of confusion as to what the change is supposed to bring to the company. This may increase the feeling that the innovation is not going to benefit them but some other employees within the company. It needs to be clear from the get-go that the change is to leverage effectiveness of the whole organisation, and not only the selected professionals. The “Patagonia case study” (link below) goes to show that collaborative efforts when it comes to introducing change are vital, while maintain the individual level of creativity.

No one wants to lift the change entirely on their shoulders.

What’s the message?

An effective change management program should consider, among other things, ensuring that the strategic management group can concretely communicate the change to employees and is willing to hear out their feedback and suggestions with regards to the new policy and procedures. The “Goodwin case study” proves that a robust management team that was willing to understand the need for change in order

to implement it goes a long way. It not only made the whole process speedier but also allowed the employees to make their voices count.

Who’s in, who’s out

Change is an integral part of any company. It allows them to expand, create new job opportunities, new products, and appeal to new clients. The problem is when half of the team accepts the change and the other half does not. In that case I believe that there is something to be done on the communication front, and clearly there are benefits of the change since part of the team reacted positively, but on the other hand, these benefits were not communicated to some of the team members effectively, or maybe it was poorly timed. That makes some of team members frustrated as usually change needs to be adopted by a significant number of users for it to make sense. Having a number of change-skeptics can hinder the process and make the change pointless. That is why introducing change needs to have a very well thought-out narrative understandable by all (or at least the majority), not just the few.

Take me to your leader

The leadership is also crucial in all of this. A leader that is open to invest their time and money but more importantly that allows their team to focus on innovation initiatives during working hours - wins. Even the most tech-savvy and creative team members will not be able to achieve much in the innovation space without a buy-in from their high-level leadership; their enthusiasm will fade away eventually. Also, innovation being valued by a leader will inevitably inspire other sectors of the organisation to implement modern ways of working.

If the leader is supporting the change the temptation to refuse it is getting so much smaller.

Fail fast, raise faster

Last but not least, regardless of the type of innovation project failing fast (and learning concrete lessons) is good. Not only a team can avoid a detrimental impact of an ill-managed project (that will probably bring little to no value) but also it has a great go at making it right the second time round. Think about it, when an innovation project does not go as planned, because of some problems described above (equals, it fails), it does not mean that it cannot be resurrected in another form in the future.

This time round perhaps involving the leadership from the start, starting with a clear “why” or communication the change value more transparently across teams. Whatever it is, projects can (and should be) re-introduced if the value that can be gained outweighs the

potential problems that pop up along the way. The re-introduction should focus on avoiding making the same mistakes – that is why having a “lessons learned log” is such a treat!

About the Author

[Mat](#) has decided to leave the traditional legal path to pursue his passion in Legal Tech. In the past Mat used to work as an in-house for an international retail company in London, as well as, for Thomson Reuters and other legal solution companies, and more recently, as an innovation team lead at Dentons.

These experiences have given Mat a unique blend of legal and technical expertise needed to understand the bread and butter of lawyer’s work (and how it can be simplified).

On these foundations, Mat has decided to build his legal tech consultancy offering bringing legal change that adds value.



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5 REASONS WHY YOU NEED AN ATTORNEY FOR ESTATE PLANNING

For many, estate planning is a sensitive topic as it brings home the reality that death is imminent. It is probably why the percentage of people having wills is going down. About 51% of Americans had wills in 2005, and ten years later, the number fell to 44% and further declined to 32% in 2019. COVID-19 hammered the importance of having a will in place, and most millennials showed an inclination towards estate planning.

"Estate planning isn't just for wealthy people. Every person who cares about how decisions are made after they are gone, as well as their legacy, should give estate planning the attention it deserves," [says Leslie Thomas](#), attorney specializing in estate planning.

Texas intestacy laws clearly state the rules for estate passing based on the deceased's marital and paternal/maternal status. These rules can be confusing, and therefore, hiring an estate planning lawyer is recommended. These are the top five reasons to hire one.

Protect Your Assets

You amass wealth and assets with effort and want your loved ones to benefit from it rather than have the State take over everything. In Texas, if you are single and do not have any surviving kin, the estate will be passed to the State. An estate planning attorney will help you write up a will that ensures that the estate goes to those you love. It can be a friend or even a charity of your choice.

Save On Federal and State Taxes

If you hire an attorney to help plan your estate, you can be sure to save on federal and state taxes. Inheritance tax laws are complex, says **Leslie Thomas**, attorney and expert estate planner. An expert in estate planning will help provide a valuation of the estate and incorporate all the possible deductions so that there is a minimum or no tax cut before the estate is passed on to your heirs.

Avoid Mistakes That Lets the Estate Slip Out of Your Heir's Hands

The legal network surrounding intestacy can be perplexing, and without the help of an expert, your heir's may not get their rightful share despite you creating a will. The documents need to follow a proper channel to be considered a legal will, and an expert in estate planning can help you navigate the process.

Safeguard the Interests of Minors

When your heirs are minors, you need to make sure that you appoint a guardian or set up a trust fund for them. It secures the assets so that the children receive them when they are legal adults and meet the will's conditions. You can include clauses that protect the estate so that your heirs are taken care of properly.

Attorneys Will Help Update the Will When Circumstances Change

When creating the estate plan, your situation may change over time, and you will want to update it based on the change. **Your attorney** will ensure that these changes are carried out efficiently due to their expertise in the process.

It is best to have a directive about how you want your estate to be divided and passed so that your loved ones are not left puzzled about their inheritance. Hiring an estate planning service can make the task quick and ensure that the execution of the will is carried out smoothly.



Canoo & VDL Groep Explore Partnership that will Exclude VDL Nedcar

Canoo Inc. and VDL Groep B.V. announced that the two companies are exploring opportunities to partner together. “We appreciate the months of effort VDL Nedcar invested to provide us with a contract manufacturing option, but we have concluded that building [...]

ONTF Investors Have Opportunity to Lead ON24, Inc. Securities Fraud Lawsuit

Glancy Prongay & Murray LLP (“GPM”) announces that investors with substantial losses have opportunity to lead the securities fraud class action lawsuit against ON24, Inc. If you wish to serve as lead plaintiff of the ON24 lawsuit, you can submit your contact [...]

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Actuate Law Drops Anchor in Miami with Wynwood Office at 545wyn

Actuate Law LLC, an innovation-forward law firm serving emerging markets and the next generation of business leaders, today announced its new office in the Wynwood neighborhood of Miami. Actuate Law is building out both its team and its new space, which [...]

Synchrony Announces \$1 Billion Increase in Share Repurchase Authority

Synchrony Financial announced that its Board of Directors has increased the Company’s share repurchase authorization by \$1.0 billion. The Company had \$1.2 billion remaining under its prior authorization as of September 30, 2021, so this increase will bring the amount available to \$2.2 billion through the period [...]

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Home Bancorp, Inc., the holding company of the 113-year-old Home Bank, N.A. (“Home Bank”), and Friendswood Capital Corporation (“Friendswood”), the holding company of Texan Bank, N.A. (“Texan Bank”), jointly announced today the signing of a definitive Agreement and Plan of [...]

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