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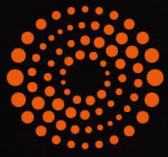
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What firms are focusing on in 2022

By Pamela Cone

Other contributions by: Nicolene Schoeman – Louw, Mark Richman, Eliana Fonseca, Jennifer Bantelman, Ari Kaplan, Christopher Young, Patrick J. McKenna, David Walters, Gabe Teninbaum, Anders Spile

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ESG trends, surveys, and predictions: What firms are focusing on in 2022

By Pamela Cone, Founder and CEO of Amity Advisory



It's that time of year—when futurists and businesses publish trends and predictions reports.

While these reports are interesting and sometimes even entertaining, this year's lists are more consistent and prophetic than those from pre-pandemic years.

An increasing number of global companies are responding to critical societal needs and expectations of their shareholders, employees, vendors, and communities. They're part of a shift to incorporate holistic environmental, social, and governance (ESG) concepts in their business strategy.

Business's societal role is here to stay
Edelman, a global communications firm

reporting its 2022 [Edelman Trust Barometer](#) survey results, said:

“We find a world ensnared in a vicious cycle of distrust, fueled by a growing lack of faith in media and government,” it noted.

“Through disinformation and division, these two institutions are feeding the cycle and exploiting it for commercial and political gain.”

“We now see business as the stabilizing force delivering tangible action and results on society’s most critical issues,”

Survey respondents indicate that businesses need to do more. But they can’t do it alone—they must work with all institutions to foster innovation and drive impact. All stakeholders—customers, employees, and investors—are holding business accountable, noting that:

- 58% Will buy or advocate for brands based on their beliefs and values
- 60% Will choose a place to work based on their beliefs and values
- 64% Will invest based on their beliefs and values

ESG – defining a successful business strategy

As stated in the World Economic Forum’s

report [The Rise and Role of the Chief Integrity Officer: Leadership Imperative in an ESG-Driven World](#):

“Shareholder value and stakeholder capitalism are often presented as oppositional concepts, but one of the more striking developments of recent years has been increasing shareholder activism and engagement on ESG issues.

Whatever your views on this debate, it’s clear that short time horizons and quarterly reporting imperatives can drive short-term, limited thinking that deprioritizes consideration of longer-term commitments – such as, for example, fighting climate change, providing good jobs, or reducing inequality.

For both long-term shareholders (such as pension funds) and many stakeholders, the ability to think long-term about the ethical imperatives of the business and the social licences to operate is an essential success factor.”

ESG as a competitive advantage

In a report, [The Way Forward for ESG: Firms are Adapting Business Strategy and Boosting Technology Investment](#),” software provider

Cority noted the following:

“Business strategies are increasingly defined by ESG. Until recently, firms only optionally engaged with ESG and sustainability. Our survey suggests that the modus operandi for firms has changed: ESG and sustainability are now integrated into core strategic decision making. Corporate strategies are moving away from minimizing risk exposure and seeking to leverage ESG performance as a competitive differentiator.”

The changing role of businesses

[Forbes recently published an article Stakeholder Capitalism: Challenges and Opportunities for Big Law. It included the following points:](#)

“A focus on environmental, social and governance (ESG) considerations is one way for corporations to operationalize the concept of stakeholder capitalism. The rise of ESG is indicative of a profound shift in how corporations view themselves, their purpose, and their role in society.

ESG is a broad concept that includes several threads—diversity, equity, and inclusion (DEI), climate change considerations, reputation management, sustainability issues, supply chain management, governance, reporting and compliance, among others. These elements are often viewed individually, and this obfuscates their purpose and context. The elements of ESG are interconnected, part of a fast-changing human mosaic in which corporations are playing an increasingly important role.

Companies are not only charged with internal adherence to these tenets, but they are also expected to be vigilant to ensure their supply chains do the same. Law firms may be a relatively small cog in the corporate supply chain, but they are high profile.”

JUST Capital measures and ranks companies on the issues Americans care about most so they can then act on that knowledge. It offers these insights:

“Looking back over the [past year of polling](#), we’ve identified seven key imperatives for corporate America in 2022, including:

- Focus on action over words.
- Put workers at the heart of just business practices.
- Accelerate action on diversity, equity, and inclusion.
- Don’t let up on worker health and safety protections.
- Invest in childcare to support an equitable recovery.
- Take a stand on the most important issues of our time.
- Get specific on climate commitments.”

The [2022 EY US CEO Survey](#) found that chief executives are maintaining growth strategy while pivoting toward ESG and sustainability.

- ESG reporting is moving to the center of the CEO’s radar, joining digital strategy, and leapfrogging the war for talent.
- Companies see mergers and acquisitions as the answer to longer-term priorities such as accelerating ESG and innovation.

And in the just-released [ESG Report for Corporate Legal and Compliance Leaders](#) published by Global Counsel Leaders, author E. Leigh Dance offers this:

“ESG, especially in 2022, has gone beyond an exercise in reporting and reputation management. An enterprise-wide, integrated strategy for ESG is required, with measurements that provide quantitative metrics and qualitative data of interest to your stakeholders. It will be interesting to see how General Counsel and Compliance leaders continue to use their reasoning, creativity, vision, and advocacy skills to contribute tangible value on ESG. It’s not too late to start, and the opportunities abound.”

Businesses make ESG a priority

Nearly every list or report I have read includes a reference to ESG and/or stakeholder capitalism and predicts they will be a top priority for 2022 (and beyond).

Could it be true? Is society at an actual tipping point? Is the traditional business model of shareholder primacy finally facing its due scrutiny?

Shareholder primacy

In September of 1970, Dr. Milton Friedman wrote an essay for the New York Times entitled [The Friedman Doctrine: The Social Responsibility of a Business Is to Increase its Profits](#). He concludes the essay with the following:

“There is one and only one social responsibility of business—to use its resources and engage in activities designed to increase its

profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud.”

Stakeholder capitalism: How does it differ from shareholder primacy?

The Enterprise Engagement Alliance focuses on strategies and goals that foster all stakeholders’ engagement. In an article [Stakeholder Capitalism: A Primer](#) posted on Engagement Strategies Media, it noted:

“Stakeholder Capitalism seeks to create shareholder returns by creating value for society – customers, employees, suppliers, communities and the environment.”

The movement away from a narrow focus on shareholder primacy is clear.

Even the [annual letter to CEOs from Larry Fink, CEO of Blackrock](#), mentions the movement toward stakeholder capitalism:

“Stakeholder capitalism is not about politics. It is not a social or ideological agenda. It is not “woke.” It is capitalism, driven by mutually beneficial relationships between you and the employees, customers, suppliers, and communities your company relies on to prosper. This is the power of capitalism.”

Is stakeholder capitalism different than ESG?

For many, the term “stakeholder capitalism” can be confused with environmental, social, and governance discussions. Are they different? I believe they are two different frameworks that discuss the same concept.

When using the term “stakeholder capitalism,” the discussion focuses on various stakeholders who are part of your business—employees, customers, communities, vendors. And it’s important to remember the shareholders. Shareholders ARE part of the stakeholder group.

When using the term ESG, we’re framing the discussion into categories of considerations and obligations—each of which also touch on our stakeholders.

Environment. When it comes to the environment, all stakeholders of all businesses are subject to our earth’s climate. We all have an interest in reversing the damage of the climate crisis to maintain sustainable businesses, a strong economy, and a healthy world.

Social. In the social category, this includes everything concerning people: employees, diversity and inclusion, access to justice, health and well-being, and community investment.

Governance. And finally, governance covers the policies and practices around conduct for businesses and those we do business with.

Duty to shareholders

While some see the stakeholder capitalism movement as CONTRARY to that of shareholder primacy, to me, it is simply a difference of timeline/time horizon.

If, indeed, shareholder primacy is to ensure the business is successful to return profits to the shareholders, then steps must be taken in the short-term to ensure the long-term viability of the business—and the health and well-being

of the other stakeholders and the environment.

After all, as famously said by Paul Polman, former CEO of Unilever and current CEO of Imagine, “Business cannot survive in societies that are failing.”

The pandemic: Its tragedies and its gifts
There is no denying the terrible tragedies brought on by the pandemic. Loss of lives. Loss of businesses and livelihoods. Loss of health and well-being. Loss of structure, stability, and social skills of our children.

And loss of that which we used to consider “normal” perhaps?

Even Larry Fink, in the conclusion to his annual letter, implores CEOs (and their businesses) to recognize what the pandemic has taught us and for businesses to have:

“... a consistent voice, a clear purpose, a coherent strategy, and a long-term view. Your company’s purpose is its North Star in this tumultuous environment. The stakeholders your company relies upon to deliver profits for shareholders need to hear directly from you—to be engaged and inspired by you. They don’t want to hear us, as CEOs, opine on every issue of the day, but they do need to know where we stand on the societal issues intrinsic to our companies’ long-term success.”

An imperative for action

Recently, I heard “inertia” defined as a “sucking vortex.” If the pandemic has done us any favors amongst its tragic consequences, it might be that it has forced businesses and

society OUT of the sucking vortex of inertia.

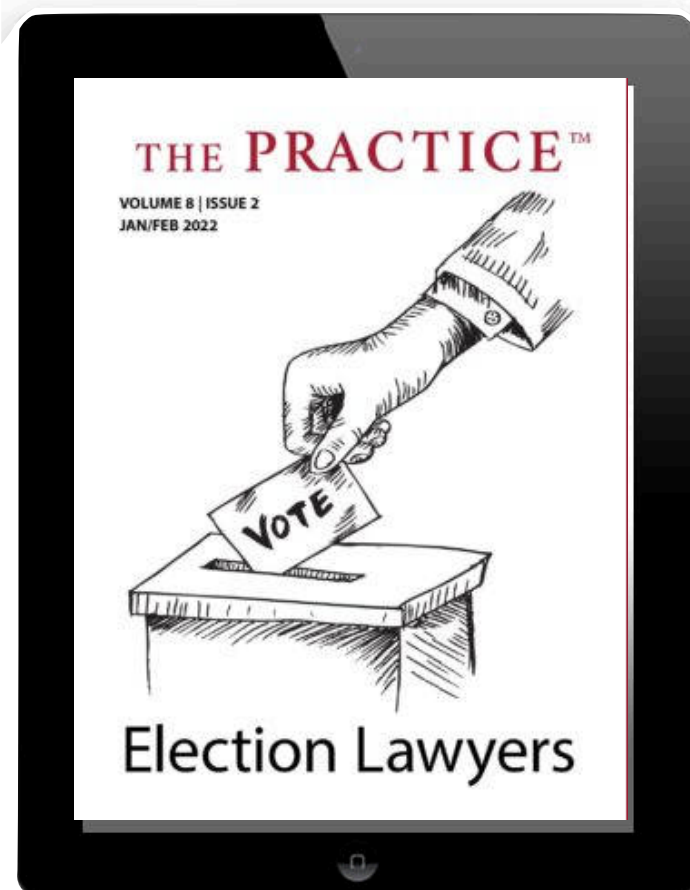
The pandemic forced us to do the hard work of disruption practically overnight, more than two years ago now. Our challenge now is to avoid getting sucked back into that which we used to consider “normal.” Perhaps it never was normal, or never really should have been.

Now, the outstanding question is how can we leverage that disruption to leapfrog forward, fix those aspects of our previous world that weren’t working very well, and emerge as a more just, sustainable, and viable society?

The trends and surveys indicate that innovative and visionary companies are lighting the way.

About the Author

Pamela Cone is the founder and CEO of Amity Advisory. She works with the leadership teams of professional service firms to address the growing expectations of all stakeholders – clients, prospects, employees, recruits, and communities – around their firms' ESG, social impact, and sustainability programs.



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What the status of the legal system tells us about the economy

By Nicolene Schoeman – Louw, Attorney of the High Court of South Africa




Introduction

The question is often posed as to the correlation between access to justice and the economic health of a community, society and country.

There are several interesting studies on the topic, including OECD that published a paper in 2016:[1]

"There is growing evidence that justice systems and the rule of law contribute to sustainable development and inclusive growth."

The point is that legal assistance can support individuals and families in resolving their legal and social needs, obtain access to opportunities, and become total participants in the community and economy.



In addition, studies have shown that in addition to individual issues relating to inequality such as family matters, employment and land rights issues, there is also a direct correlation to how businesses decide to invest and enter contractual relationships.

As such, it is not just a reactive indicator but a predictor of future opportunities in many ways.

The link between legal statistics and the state of the economy

As such, measuring activity within the justice system could give us critical insights into the state of the economy or the participation therein.

In South Africa, Statistics SA had indicated that the net profit before tax in the formal business sector tumbled by 33,4% in the financial year 2020 compared with 2019.

Things have been challenging in South Africa, with record-high unemployment rates (officially around 34% towards the end of 2021 whilst we have always dabbled in the mid-twenty to high twenty percentile ranges). This is in addition to a barely expanding economy. In 2022 the economy is estimated to grow 2.1% and 2.0% in 2023.

On the other side of the numbers, if we look at the official statistics of civil cases (debt collec-

tion) in South Africa, the average caseload fluctuation has recently been below 0% or around 15% in a year. However, by April 2021, we saw the official civil case statistic jumping to a record high of 416% and 115% in judgments taken.

This indicates what we see in the economic statistics of unemployment or shrinking opportunities resulting in default.

As a firm, I will state that over the financial years of 2019/2020 and 2020/2021, we have experienced significant increases in:

1. Employment disputes
2. Retrenchments
3. Debt Collection
4. Liquidations

And a sharp decrease in commercial transactions, painting a dire picture.

For many legal professionals in South Africa, the increase has resulted in a constant experience of economic and social hardship. So in many ways keeping your finger on the pulse of the legal space could indicate trends – not merely from a statistical perspective but also from a human point of view.

Conclusion

As legal practitioners, we need to ensure that our justice system withstands the influx of

cases and increase mechanisms for handling cases as efficiently as possible. In my mind, this means that legal practitioners should remain innovative in how they resolve justice problems.

Some practical suggestions could include using the court-annexed mediation system or alternative dispute resolution mechanisms to decrease the caseload of matters that should not be litigated.

In addition, to draft agreements that minimise the eventualities of disputes instead of selling templates at exorbitant prices—in conclusion, running matters (regardless of subject matter) more effectively from a cost, planning and execution point of view. That would limit last-minute urgent applications and condonation applications. Legal Project Management is an invaluable tool in managing matters more effectively and managing resources and stakeholders more effectively towards achieving quality and timeous legal service delivery.

The lawmaker has its role, but the participants in the ecosystem can no longer be spectators if we realise that we are part of a system that indicates the impact on human interactions in our society.

Notes

[1] <https://www.oecd.org/gov/Understanding-effective-access-justice-workshop-paper-final.pdf> : accessed 22 January 2022

About the Author

Mrs Nicolene Schoeman – Louw founded [SchoemanLaw](#) firm in 2007, aged 24, and is

now the Managing Director of the firm. She is an admitted Attorney of the High Court of South Africa, Conveyancer, Notary Public and Mediator; with a passion for entrepreneurs and helping them reach their most ambitious goals.

She obtained her LLB degree cum laude and successfully completed her LLM degree (dissertation) in commercial law and B-BBEE, both at the University of the Free State. In addition, she obtained her postgraduate diploma in financial planning (*CFP*) at the University of Stellenbosch. She regularly writes for academic publications such as *De Rebus* (the SA attorneys' journal) as well as *Without Prejudice* and [Polity.org](#) (legalbriefs). She also regularly contributes to various online publications such as *Spice4Life* and other mainstream publications such as *The Entrepreneur Magazine*, *Business Briefs* and *Personal Finance Magazine* (to name a few).

For over 7 years she presented *The Law Report* with Karen Key on SAFM, until the show was cancelled. She currently shares her knowledge regularly on radio 786, RSG and other radio stations. Mrs Schoeman – Louw lectured at the University of the Free State during her studies, presently guest lectures at Stellenbosch Business School and currently presents seminars and workshops on a wide range of legal topics for various organizations such as *Bandwidth Barn*, *UnitedSuccess*, *Cape Chamber of Commerce and Industry* and the *Business, Retail and Marketing Indabas* – to name a few.

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Why Effective Legal Operations Requires an Embrace of Innovation

By Mark Richman, Principal Product Manager, Cloud Platform at iManage



From an operational standpoint, legal organizations have got their work cut out for them on multiple fronts. As the guardians of sensitive and privileged content, law firms, corporate legal departments, and other legal organizations are frequently the targets of bad actors who would like nothing more than to get their hands on that information.

At the same time, the compliance landscape is rapidly evolving, with new data privacy and protection regulations seemingly popping up every week. GDPR is hardly the only law that legal organizations need to worry about not running afoul of these days.

It is precisely due to the breadth and depth of these challenges that an innovative approach to

operations is required. Far from being pie-in-the-sky, much buzzed about innovations and technologies ranging from blockchain to cloud are an opportunity to deliver practical benefits around ongoing operations and security.

An Opening for Blockchain?

Any discussion of blockchain's potential in the legal sphere should start with a quick note of clarification: blockchain is not the same thing as cryptocurrency, although they are related.

Cryptocurrency has been the first widely deployed application of blockchain technology, but it is far from the only use case.

Blockchain is essentially a distributed ledger with several distinguishing characteristics. For starters, it is decentralized, meaning that no single authority is "in charge" of a transaction. The second main characteristic is data immutability, meaning that when transactions are put onto the blockchain, the architecture is such that the transactions in the chain cannot be modified as every transaction is validated by other participants in the network via a *consensus mechanism*.

Think now of the legal world. Legal organizations – and many of the customers and industries they serve – fundamentally rely upon some kind of permanent record or chain of custody around a series of events, whether

that's around a legal or financial transaction, or around the history of a document or an email chain.

For any of these events, there is a need to have assurance that the chain of custody around that content is preserved, which is something that blockchain is uniquely well positioned to provide given its ability to maintain a secure, immutable, and transparent record of transactions of any kind.

Where might things go from here? Right off the bat, one can see where blockchain can provide the immutability that firms are looking for when it comes to record declaration and similar activities.

Even more exciting, some blockchain networks provide for the ability to create smart contracts. For those who may not be familiar, a smart contract is simply a computer program that lives on the blockchain that can execute a series of transactions based on a pre-defined set of rules. Think of a deal closing or some other kind of transaction.

The parameters of the transaction are built into the smart contract, and that contract then becomes a self-executing event that whose activity is recorded on the blockchain without the involvement of any intermediary. These blockchain-based 'smart contracts' have

considerable potential over time to fundamentally change the way that many parties interact with digital content.

Additionally, the cryptographic foundation of blockchain will provide enhanced visibility and transparency around attempts by bad actors to tamper with data or otherwise corrupt the blockchain system. Consider it another tool in the toolbelt for organizations looking to secure their data.

For these reasons – alongside future applications of blockchain that haven't even been thought of yet, due to the newness of the technology – technology vendors will increasingly take advantage of the unique capabilities that blockchain can provide and actively utilise this technology within their systems and solutions to bolster the capabilities they can deliver to legal organizations.

Tackling a Global Governance Challenge

Cloud has long been an important element key to successful operations for legal organizations. Increasingly, however, there is a recognition that not all clouds are created equal – and that in particular, dealing with the compliance challenges of today's world requires a modern and innovative cloud.

Alongside GDPR, individual countries across the globe, [from Japan to South Africa](#), are developing their own data protection and privacy laws. Complying with these regulations requires organizations to ensure that their cloud services provider both *stores* and *processes* data in the proper jurisdiction. Achieving that end requires a flexible, distributed cloud architecture.

Since most legal organisations don't have the time or money to invest in infrastructure in multiple corners of the world each time a country comes up with their own privacy regulation, a distributed cloud – one that leverages a cloud vendor with a broad global footprint – is key to responding to new privacy laws as they emerge and keeping data “in region”.

Making sure data stays within a particular jurisdiction isn't just a matter of storing it in particular country, however. A legal organisation also needs to ensure that all processing of that data takes place in region as well. Performing indexing, OCR, preview, or other services outside of the region – even if the data remains stored in region – may represent a breach of compliance.

Simply put, compliance demands that data remain within a specific jurisdiction and not leave it at any point – which is precisely why a distributed cloud architecture is necessary.

Of course, having a distributed (rather than centralized) cloud architecture means a greater potential surface area for bad actors to attack. This means that organizations need a distributed cloud that takes security best practices like Zero Trust architecture and Zero Touch administration into account, to help remove vulnerabilities that could lead to a breach.

Similarly, the performance of a cloud matters and can't simply be disregarded in pursuit of these other goals. Keeping data in region around the world while not impacting end user performance requires a modern cloud architecture that has specifically been

architected to simultaneously address data residency restrictions and performance requirements. Innovation is the key that makes this happen.

A Way Forward

Legal organizations face many operational challenges, but an embrace of innovation helps point a way forward. From blockchain to cloud, there are opportunities for legal organizations to capitalize on new and innovative technologies and to derive lasting benefit from them in

the years to come, to their continued advantage.

About the author

With over 20 years of product management experience, Mark Richman, Principal Product Manager, Cloud Platform at iManage, has an established track record of building and launching SaaS based cloud solutions. In addition to his 10 years with iManage, Mark spent several years growing and scaling three different technology start-ups in the B2B and B2B2C spaces.



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A workout plan to become an Agile lawyer

By Eliana Fonseca, Lawyer



(Disclaimer: this is not about getting a six-pack)

Yes, as you read it. You need to work out to become agile. Don't feel lazy! And to make it easier, you can keep your suit and tie on (or your pajamas if you work from home). This is not a body workout but rather a mind-stretching exercise. To become Agile (with capital A), you need a change of perspective. It is about developing skills that you were not likely taught at law school. Being Agile is not about being cool or easy-going. It is about embracing the idea that you can become lighter and more adaptable, acting quickly and easily, by lessening the weight of bureaucratic and rigid approaches. That sounds just like you might feel after months of physical training, right?

Agile is the new kid in the block. The term is often used in marketing speak, namely that by going Agile, you are doing good. You may have heard phrases like “I am an Agile lawyer” or “We have an Agile law firm”, or “We do Agile” and other self-promotion labeling. But are they Agile as they say? Well, it depends. Agile can mean different things in different contexts. The term was born within the software development industry and has spread across other sectors, including Legal. Since IT is perceived to be a versatile and dynamic industry as opposed to the rigid and conservative legal industry, what Agile means to IT people may not be the same as what legal professionals embrace as such. However, the values and principles evangelized by the Agile Manifesto, even with industry-focused tailoring, shall be present for any Agile initiative or approach to fit into the Agile value proposition.

The Agile Manifesto [1] was established in 2001 by a group of software development engineers outlining four values and twelve principles to transform the way software is developed. The philosophy is formalized in four statements in which the items on the **left** are valued more than the items on the *right*.

1. **Individuals and interactions** over processes and tools
2. **Working software** over comprehensive documentation
3. **Customer collaboration** over contract negotiation

4. **Responding to change** over following a plan

The word “over” is not a minor point. Agile does not mean refusing to acknowledge the items on the right. It recognizes their value but considers them much less important in a fast-changing and adaptive environment. Therefore, an Agile implementation will vary based on the weight assigned to each of the four pairs of items.

In an IT environment, Agile teams develop software over short periods or iterations. There are usually less than ten members who make decisions collaboratively. The team structure is flexible and adaptable, with team members swapping roles to gain new experiences. The project manager is not the decision-maker but rather a facilitator or coordinator. At the end of each iteration, a fragmented deliverable (aka, Minimum Viable Product) is delivered to the client to collect feedback. Subsequent iterations will focus on incremental improvements and adaptive changes until the final product is released to the client’s satisfaction by incorporating feedback into each iteration.

Right, you are not a software developer, but the same approach (with industry adaptations) can be applied in other business environments, including Legal.

So, what can be learned from the Agile Manifesto?

1. Individuals and interactions over processes and tools

Having processes and tools in place brings security, governance, and standardization. Legal is indeed an industry that is led by preset rules, mandates, and processes. However, processes do not evolve as quickly as human interaction and outcomes, and they may not capture all possible application scenarios. Agile is human-centric. It looks at the people behind processes. It recognizes that good tools in the wrong hands are worthless. So, the focus is on the people who not only know how to use a tool but can adapt it creatively to fit the circumstances rather than the tool itself being blindly used, unchangingly, in different situations. By focusing on people interactions (dialogue, brainstorming, coaching, reasoning, etc.) Agile allows for innovation, creativity, and adding value while at the same time ensuring you don't fall back into outdated patterns. It is not anarchy, as some people might believe. Tools and processes help people do a job, but human intelligence is a must to modify them when needed, to be more productive.

Think how much time you save by discussing a contract sticking point face-to-face with your counterparts rather than through a series of back-and-forth emails and track changes. Or how much quicker solutions can be found by team collaboration or brainstorming meetings rather than by working in silos.

Agile looks at empowering people because motivated people perform better. Breaking a long-term project into shorter cycles enables short bursts of intense activity. Completing those small bursts and achieving short-term goals provides a sense of achievement for team

members and motivates them to periodically re-check that they are on the right track. Also, in an Agile way of working, the decision-making process is re-thought. In self-autonomous and cross-functional teams as Agile predicates, everyone in the chain contributes to deciding the best course of action. This represents a major step away from traditional systems where the decision-making authority is only in the cuspid of a rigid hierarchical management structure.

2. Working software over comprehensive documentation

Lawyers like documentation. Comprehensive. Robust. They are trained to create legal masterpieces like a William Shakespeare play but with rights and obligations. However, heavy or highly comprehensive documentation that does not "work for" or "fit" the business purpose may be an unnecessary investment in time drafting, reviewing, and negotiating.

Are you one of these people who doesn't like reading instruction manuals but prefers to watch a five-minute YouTube video on how to install and use a product? This is because many people learn better by seeing the product functioning rather than figuring out what the manufacturers wanted to say as written in their manufacturing language! So, you may now understand the look on the faces of businesspeople when you enter a negotiation room with a forty-page contract under your arm.

Before making it to the negotiation table, better ask yourself, are these forty pages really needed? And if the answer is yes (because that may be the case), are you sure you know how to convey those forty pages to these people in clear, user-friendly, plain, and business language?

Simplicity, clarity, using visual and example-based tools, referring to use cases and practical application of a clause, using Legal Design, can be your best allies to fit into your business team and add value to the negotiation.

3. Customer collaboration over contract negotiation

It is easy to predict that when the counter parts' lawyers enter the negotiation room looking at each other like boxers in the ring, the contract negotiation will be tougher and lengthier than needed. Lawyers are trained to think that excellence comes from making the most changes and comments in a contract or securing more points in their favor than their counterparts. Heavily one-sided contracts, inflexible document templates, and abuse of bargaining power sometimes put a business relationship at risk. Lawyers are used to thinking of contracts as legal documents written for potential disputes in court rather than a tool for business cooperation.

An Agile mindset is trained for a win-win rather than a zero-sum negotiation and outcome. A well-balanced contract comes after the parties understand each other's needs, success criteria, and deal-breakers. This is possible by collaborating with your client or counterparts and establishing and maintaining a trust-based, business relationship.

4. Responding to change over following a plan

Agile is a reaction in response to the traditional method of handling projects called Waterfall and summarized by the quote, "Plan your work and work your plan". This is how risk-averse and change-resistant industries work,

in a linear path and with minimal room for change. Change is often thought of as something wrong (You become frustrated when your client or line manager asks you to re-do your work or change your approach, don't you?). Rigid policies and procedures, scripted and inflexible speeches and documents, and a fixed mindset fed by the motto "*If ain't broke, don't fix it*" are aimed to fend change off as long as possible.

Agile is prepared for change because it recognizes that change is inevitable and necessary to cope with a fast-paced and dynamic world. It not only responds to change but also welcomes it. Change is seen as an opportunity to add value rather than an obstacle or threat.

Dynamic contract clauses go hand-in-hand with flexibility and adaptability. For example, by incorporating predetermined review points into a long-term contract, the parties have the chance to evaluate performance up to that point and decide whether they wish to modify the arrangement, continue as planned, or terminate altogether. Agility comes from contract terms with built-in dynamism that can be driven by data. This means that terms and conditions can adjust over time by responding to the state of the physical world they aim to govern. For example, consider contracts that are prepared to respond and automatically adjust or deploy a plan B in case of currency fluctuation, force majeure events, or changes in the scope of work.

Most Favored Customer terms are also an example of flexible and adaptive clauses. If just after a purchase a customer can demonstrate

that the price of a product has dropped or that another supplier is selling it at a lower price, he may be honored that lower price and obtain a refund on the excess paid. This means that the original price is changed triggered by a real-world event, without the need to amend the original contract.

Switching to an Agile mindset does not happen overnight. A big change is simply the sum of smaller changes, and you can start with simple change initiatives and build on their success. Therefore, you can create your own workout plan by putting the following activities into practice:

- Hold a daily STAND-UP meeting with your team (less than 15 minutes, no chairs, no minute taking).
- Leverage a COLLABORATION tool within your team.
- Encourage acts of LEADERSHIP and DECISION-MAKING at all levels.
- Play the role of FACILITATOR rather than a manager.
- Implement a kudos program to MOTIVATE your team.
- Deploy a FEEDBACK CHANNEL within your team and with your clients.
- KISS more often (KISS = Keep It Super Simple).
- Create your next document template by using LEGAL DESIGN [2] techniques.
- Implement a KANBAN [3] board.
- Incorporate DYNAMIC clauses into your contracts.
- Shift from legalese to PLAIN LANGUAGE.
- Hold a retrospective meeting (LESSONS LEARNED) to build knowledge through experience.

There is a saying that “change starts with you”, and therefore, training your own Agile mindset is a good starting point. However, for an Agile initiative to succeed at an organization or project level, it requires an organizational rather than an individual-only change, so all team members pull in the same direction and all processes have the same cadence. Scaling Agile is vital for project or organization success.

Remember that you will be as fast as your slowest process. Therefore, it doesn't matter how fast you can run if you do not calibrate your treadmill well to follow your pace.

Ready for today's workout?

Notes

[1] <https://agilemanifesto.org/>

[2] Legal Design is the application of human-centered design thinking to the world of law to make legal systems and services more user-friendly by taking a step back from complex legal jargon and processes that are difficult to understand for the stakeholders.

[3] Kanban is a Japanese word meaning “visual board” or “sign”. A Kanban board is a project management tool designed to help visualize work, limit work-in-progress, and maximize efficiency or flow.

About the Author

Eliana Fonseca is a qualified Argentinian 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 regis-

tered 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.



E-Discovery Unfiltered: Automation and Innovation for Corporate Legal Teams in 2022

By Ari Kaplan, Principal, Ari Kaplan Advisors

Ari Kaplan speaks with Jennifer Bantelman, the vice president of customer experience and thought leadership at Zapproved.



Ari Kaplan

Tell us about your background and your role at [Zapproved](#).

Jennifer Bantelman

I have been with the company for nine years and my current role encompasses everything from pre-sale technical conversations to the customer lifecycle. I also lead all of our content and faculty for the PREX conference, among other industry events.

Ari Kaplan

How do you see corporate legal teams adapting to this period of uncertainty?

Jennifer Bantelman

It has presented a lot of challenges and some



really cool opportunities as well. The challenge is the continuing need to do more with less, which the Great Resignation has exacerbated. Every company with which I engage is doing the same or more in their workloads, but with less staff due to turnover and budget. The opportunity is that leaders are more flexible and open to professionals working remotely, which has been a significant shift over the past two years. In addition, we have seen more standardization on using the cloud since cloud-based systems are so much easier to manage and deploy for remote workers.

Ari Kaplan

In addition to standardization, one topic that came up more often in the 2021 E-Dis-

covery Unfiltered research was automation. How can that help teams who are trying to maximize their hybrid work environment?

Jennifer Bantelman

Automation is really the only way to solve many of the challenges associated with working remotely and doing more with less since an organization still needs to manage its costs and risks the same way. Automating redundant or rote tasks that do not require human review can free people to focus more on their highest value projects.

Ari Kaplan

Security was also one of the most common topics in the E-Discovery Unfiltered interviews. What can law department leaders do

to effectively manage security and privacy while working remotely?

Jennifer Bantelman

High-performing legal teams and leaders are becoming more proactive because the earlier they can verify that their processes meet security and privacy requirements, the better. Two years ago, fewer than half of our customers performed a security review as part of the purchase process. Today, 100% of our prospects engage in security and privacy assessments. Organizations have less control over what their employees are doing and need to ensure that any systems they implement meet strict security and privacy requirements. Legal leaders are also routinely engaging security, privacy, and compliance teams, and including them as stakeholders in any given project.

Ari Kaplan

63% of the legal professionals who participated in the 2021 E-Discovery Unfiltered report expected to transition to a cloud-based review platform. How have cloud-based solutions helped teams adapt to a new remote work reality?

Jennifer Bantelman

Cloud-based review tools are more accessible and user-friendly. You generally do not need the same level of certification, training, and outside counsel support that might be required to use a powerhouse on-premises or legacy review platform.

Ari Kaplan

Three-quarters of the 2021 E-Discovery

Unfiltered participants reported that they now perform tasks internally for which they previously retained outside support. What are the core tasks that you think will always be done within the legal department?

Jennifer Bantelman

99% of enterprises are going to manage their legal hold process internally, which includes issuing notifications and preserving in place because they know their data and systems better than their outside law firms. In-house teams are also now conducting their own internal investigations or managing smaller, standard litigation matters, including early case assessment because the more they can do internally, the more they can reduce cost and risk. Outside counsel or external service providers will continue to support companies with class actions and large, complex litigation matters given their expertise and staffing capabilities.

Ari Kaplan

What are the key considerations for corporate legal teams evaluating software in 2022?

Jennifer Bantelman

Since many organizations are navigating higher turnover and managing more new users, they should work with software teams that provide excellent communication and engage in a dialogue with their customers. Developing a partnership is critical and, of course, security and alignment with a company's standards are essential. Begin with the end in mind to fully understand the problems you are trying to solve and clearly define success.

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 Jennifer Bantelman here:

<https://www.reinventingprofessionals.com/automation-and-innovation-for-corporate-legal-teams-in-2022/>



2021

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 <b style="color: #0070C0;">In-House Counsel	 Integrity, credibility, reliability, and pricing matter most.	 It is customer service, relationship management, and project management that matters because I need to trust you.
	 The ability to execute at scale and offer built-in project management.	 Transparency, constant communication, and excellent project management because I feel like I can deal with anything if I know about it.

 <b style="color: #0070C0;">In-House Legal Personnel	 We want to work with vendors who are forward-looking.	 They need to have varying levels of familiarity so that they can explain situations in easy ways, rather than solely in a technical fashion.
	 We want to understand what people are going to do, see them do it, and watch them do it all the time.	 I like to see how long the company has been around, what the media says about the vendor, how it is complying with data security, and its approach to cybersecurity.

 <b style="color: #0070C0;">Law Firm Partners	 Trust, trust, trust. There is not even a second quality.	 What has impressed me about our current vendor is that instead of giving me basic answers, it offers innovative solutions.
	 Meeting deadlines, taking ownership of screw-ups, being a partner, and not passing the buck.	 I don't need you to be the cheapest, but I would like to understand how you arrive at the cost.

To learn more or to participate in 2022, contact ari@arikaplanadvisors.com or (646) 641-0600.





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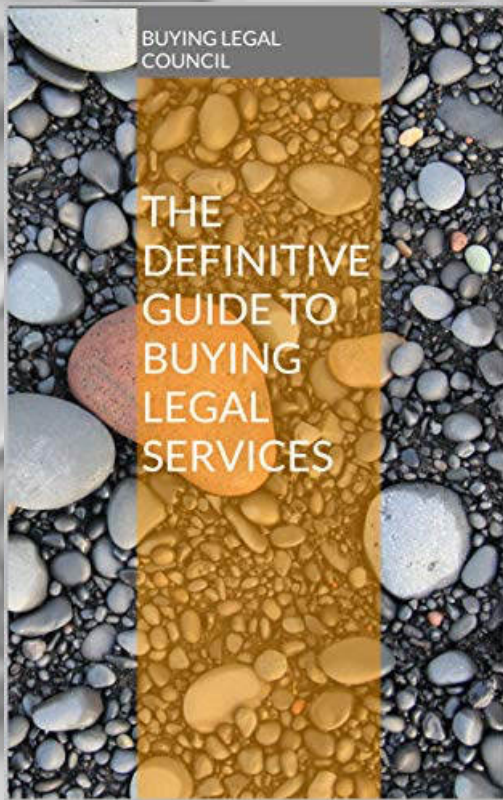
Beyond the Buzz: Getting to Know the Real Impact of AI on Legal Ops

By 2024, legal departments will have automated half of their legal work related to major corporate transactions, according to Gartner. Artificial intelligence (AI) and prescriptive analytics, in particular, have long been trumpeted as being “transformative” for legal operations. But why exactly should legal operators digitize entire processes with this advanced technology? Join Colin McCarthy from Legal Operators, and ContractPodAi, as they discuss:

- What artificial intelligence really means – especially when applied in the legal department
- The practical applications of AI technology in legal today
- The true impact of such automation on legal ops and the enterprise

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Law firms need to pitch smarter not harder in 2022

By Christopher Young, Head of Risk and BD Practices & CMO Pinnacle



Last year 55% of law firms reported an increase in the volume of RFPs and this number is expected to keep rising as client activity soars and procurement processes become increasingly demanding. This presents a clear challenge to BD teams: if you're too busy to simply process all the bids in front of you, can you add value, discern which opportunities should be turned down, have the capacity and time to tailor each proposal to give it the best chance of success?

Our recent survey showed us that every CMO knows that tailored proposals win and yet only 60% of departments have the capacity to tailor them currently.

One thing is clear: in 2022, law firms who aren't actively working to make their pitch process smarter risk getting left behind.

Clearly, something has to change.

Pitching smarter, not harder

Pitching is a complex mix of art and science. What format should we use? How long should our proposal document be? Who should be involved in the creation of the proposal? What are our key messages? How should our proposal be customized? And, of course, should we submit a proposal or not?

Given the variety of clients, industries, market forces and your firm's own workload varying from team to team, there's no silver bullet which will answer all the above questions consistently. However, five key steps will help you to address them better for your firm.

People: Involve the right resources at the right times and on the right things

Which pitches should be handled centrally, and which are better managed by lawyers and others in local teams? Where does the balance of work fall when it comes to creating a proposal? The first step every firm has to tackle is the skills element of pitch creation: do we have the right central resources in place? Do they have the right skills? Have we trained our lawyers and their support teams how to generate some of the content themselves?

Our recent UK law firm survey showed that there was a 50/50 split when it comes to those who have trained or involved lawyers in a pitch process and those who don't. No approach is "right" but it is worth having absolute clarity as to how the process should work and how you're going to allocate pitch responsibility.

A deciding factor in pitch responsibility could be made by really looking at what the pitch needs, or by calculating the business value a win would add. This way the right people are responsible for the right pitch and by using a shared strategy, or the advantage of a modern pitch generation system, lawyers, and others outside of marketing can be empowered to create on brand pitches that reuse existing materials and convey consistent statistics about the firm.

One advantage of having a central system is that, with a lot of headcount turnover at law firms, you can quickly bring new joiners up to speed, give them immediate access to the firm's experience base and help them to fast forward their personal return on investment.

Process: The importance of branding for pitching

Whilst in many law firms it's now common practice to have brand guidelines in place, working under time constraints and passing pitches to several team members can often mean that documents can become skewed in one way or another, through different use of fonts or colors.

In fact, law firms have often admitted that one of their downfalls with pitching has been that a client may have received significantly different looking proposals or proposals with different statistics from practices within a short space of time.

An experience of inconsistent branding undermines the experience of consistent client service. In 2022, that's unacceptable.

Process: Personalization key for law firm pitch wins

People buy specifics. What can your firm do for me and my organization? Generic pitches lose more often because they don't connect with the audience. Thankfully, this is recognized within firms as 86% of them recently told us that 'being targeted to client needs' including Environmental, Social, governance and diversity and inclusion (ESG and D&I) is their primary objective when pitching.

For a pitch to be impressive it has to demonstrate that that firm understands the clients' needs and how the firm can help the client meet those needs.

It's not just a question of asserting a position either. More and more clients are requesting

research, statistics, demonstrable proof, and more simply 'tick box' exercises when it comes to information about ESG and D&I in their request for proposals.

The likes of big brands like Coca-Cola and BT are setting a precedent in stating they won't reappoint law firms without recourse to tender if their diversity profile does not hit or exceed certain requirements.

Therefore, law firms who can save time elsewhere in the pitching process can invest smartly in research and developing their pitches to ensure it aligns with the potential clients' needs.

Process: Make your go/no-go decisions strategic

Gone are the days where firms can produce high-quality, winning pitch documents without being selective as to which opportunities to pursue.

For every firm, it's a juggling act as they balance current workloads with future opportunities. Greater certainty as to which opportunities you might win, or should win, is helpful. Chasing after passing birds, less so.

Without using tools to streamline the pitching process, legal firms experience a trade-off, if they spend time on a pitch they lose time on another project, or they risk only investing half of their efforts into the pitch because of commitments elsewhere.

That's why the first fundamental decisions firm need to make is whether they are going to pitch and who's going to be involved in the

process and how big their investment is going to be.

Making the go/no go decision strategic does not mean that it needs to take a long time but that it does need to be considered. In being strategic the firm should think about:

- How long does a document need to be, by looking at what formalities need to be met?
- Does our team genuinely add value to the client on this or are we a stalking horse for price?
- Which member of the team is going to be responsible for the creativity and the output?
- Can the time pitching be justified by revenue?
- Does this fit with our broader CRM or BD plans?
- Can the team handle this work at the time it's due to land?
- Do we have capacity to handle the work involved in assembling this pitch today?
- Are we likely to make the shortlist/get appointed?

If firms can answer the above questions honestly, they can form a basis of how their pitching process should go and who should be working on it.

Technology: Invest in Proposal Automation Software

One clear solution for a smarter pitching process is the adoption of dedicated pitch technology. As Anna Maysey-Wells, Senior Bids Manager at Fieldfisher said: "Firms that don't utilize pitch technology within the next two years will be left behind. With that

will come an increase in pitching."

Some firms have settled for the make-do alternatives bundled into CRM and Experience management systems. In our experience, these firms eventually reach the same conclusion: these capabilities added on top of other systems, were not built with the dedicated attention to elevating pitches to the next level. They are simple functionalities that make it slightly easier to create a pitch than manually snipping a new one together from the contents of an old version, but they will make you compromise on both turnaround time and overall quality.

The firms that use dedicated software can show up a clear correlation between technology use and revenue to the partners of the firm. 100% of UK top 100 law firms with revenue over £300m have a dedicated application in place.

Anecdotally, the bid teams at those larger firms won't leave for firms without those systems in place.

Process: Track and improve

Two other benefits that using a pitch system brings: the data and the time to compare winning pitches from losing ones. Comparing approaches, the people involved, the pricing, the key messages, the timelines involved and more helps us better understand why we won and lost.

You can track the data manually or by using Excel. Better still, you can use a modern technology which automatically and effortlessly tracks the data for you, including things that you might not think to cover.

“Look – we always lose this pitch because we email them on deadline, but when we submit two days early, we win 80% of pitches at the same price”. Insights like this are incredibly valuable to your business.

Law firms tracking this data can use this to their advantage to make data-led decisions in their process. They could discover trends to craft winning pitches, for example they could find that every pitch including more than five people in the ‘your team’ sheet of a pitch loses, meaning that every winning pitch includes five or less featured team members.

Therefore, law firms using this data can go forwards using their internal intelligence to build their pitches and win more clients.

So, what does the future look like for pitching? In summary, now is the time for law firms to look at their current pitching methods and see where they can polish their process to save time and win more clients. Attracting new pitching talent is hard and increasingly expensive, growing it organically and using all the people at your disposal is a lot easier. This year should be the year that law firms look at what’s available to them and make strategic decisions in relation to pitches, making data driven decisions to confidently bid for work

and save more time to invest in other parts of their business development.

About the author

[Christopher Young](#) is the Head of Risk and BD Practices & CMO within Pinnacle’s UK Business Development practice. Christopher’s first role in the legal sector 20 years ago was as head of Business Development for Simmons & Simmons. He was responsible for the implementation of InterAction, the firm’s first CRM toolset. Since leaving Simmons & Simmons, Christopher has worked with clients primarily on the interface between marketing and business development and the acceptance of new business. Christopher has developed various programmes for firms – key account programmes with Bird & Bird and Dentons. He has also worked on MBD/CRM projects with Ashurst, Mishcon de Reya, Stevens & Bolton, Clarke Willmott, and Withers to name a few. Christopher is a Fellow of the Chartered Institute of Marketing and has an MBA from Cranfield University. His background and experience allow him to help firms to enhance selling and skills through developing coaching programmes for partners and fee earners exploiting the technologies law firms have put in place.

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I spoke with Jim McGinnis, the CEO of MyCase, a practice management software company. We discussed how law firms have adapted to operating remotely, what the MyCase 2021 Legal Industry Report reveals about the future of...



Automation and Innovation for Corporate Legal Teams in 2022

1/5/2022 | 12 min

I spoke with Jennifer Bantelman, the Vice President of Customer Experience and Thought Leadership at Zapproved, for a special E-Discovery Unfiltered edition of the Reinventing Professionals podcast. We discussed how corporate...



Creating a Blueprint for Building an Inclusive and Equitable...

12/29/2021 | 17 min

I spoke with Brian McComak, the founder and CEO of Hummingbird Humanity, a diversity and inclusion consultancy. He is also the author of the upcoming book - Humanity in the Workplace: A Blueprint for Building an Inclusive and...



Learning From Leaders in the 2021 CEO Roundtable

12/22/2021 | 19 min

I moderated a discussion with the following select group of leading chief executive officers for the final Ari Kaplan Advisors CEO Roundtable of 2021 about trends, challenges, and opportunities in the past year and the year ahead...



GOING THE NEXT STEP: "MULTIDISCIPLINARY INDUSTRY TEAMS"

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



Many, if not most, of the complex situations for which clients employ professional firms are inherently multidisciplinary. For example, if I am going to build a new commercial real estate park, I am likely to need expert advice on law, finance, tax, economics, engineering, environmental considerations and a whole host of additional disciplines.

Meanwhile, according to a report by LexisNexis Legal & Professional, the Big Four accounting firms are



cornering the market of solutions, rather than advice. *“Our strategy is very much rooted in the needs of the client to be offered solutions and not just advice,”* says Emily Foges, Lead Partner for Legal Managed Services at Deloitte. *“The vision for Deloitte Legal has always been that you bring together high-quality legal advice with legal management consulting, legal managed services and legal technology. This way you can provide a*

complete end-to-end service to the client and achieve the outcomes they are looking for, not just give them advice on those outcomes.”

Over the course of working with the leader and members of a number of Industry Groups wherein we are discussing and exploring the team’s future growth strategies, amongst a deliberate sequence of questions that I’ve posed, includes this one:

“Please identify those non-legal service providers that our current clients have often needed the hands-on assistance of, in order for them to obtain a total turnkey solution.

In other words, while working with our clients, who are the usual complimentary professional service providers that we most often have to collaborate with?”

Now together we will usually develop a catalogue of at least a dozen different professional service providers from economists and forensic investigators to data analysts and accountants; from reputational management and crisis counsellors to private investigators and lobbyists – the list goes on and on. These are often professionals who have a track record in understanding our industry client’s needs, priorities and possess a complimentary relationship with the particular client that we too are currently serving. It is rare that your larger industry client’s needs can be fully addressed by simply providing them with legal services; so, the question then becomes – would we rather be just one of their valued providers, or could we be their “General Contractor.”

Now if you have ever experienced having some major home renovations done, you may remember a point at which you needed to either find the best interior designers, carpenters, painters, plumbers and electricians or find someone sufficiently experienced to take responsibility for managing the entire renovation, providing you with a single point of direction and accountability. Now if you are the client, which would you rather do?

Being experts in a particular industry should allow you to take control over the ultimate outcome for your client – because most of these clients are far less interested in simply getting a legal problem addressed (finding a competent plumber) than they are in obtaining a total business solution (finding a trusted General Contractor).

And today, more law firms are beginning to look at developing multidisciplinary practices or at least pretending to do so. I say “*pretending*” because far too often this is what I witness being hyped on some firm’s website:

Our practice areas include business services, litigation, trusts and estates, healthcare, construction, real estate, employment and labor, intellectual property, and employee benefits law, allowing us to serve a full range of legal needs with multidisciplinary industry teams.

Sorry, the client is not fooled! Practice groups are NOT industry groups, and a collection of lawyers all practicing in different disciplines does NOT constitute a true multidisciplinary entity. Thankfully, a small group of pioneering firms have realized the market benefit and differentiation appeal in initiating real ***multidisciplinary industry teams*** (what I will call **MITs**) comprised of lawyers and other aligned professionals, most often housed in a law firm subsidiary operation.

I am told that there is an historical precedent wherein this form of practice became common where lawyers, financial professionals, and therapist/coaches used the “Collaborative

Divorce" model to create multi-professional teams. What I'm talking about here is where lawyer and nonlawyer professionals work on client matters together and are collaborating principals within the same firm.

SOME PIONEERING EXAMPLES

In Australia

BlueRock is a multidisciplinary entrepreneurial advisory firm that helps people to operate and grow successful businesses and achieve their personal goals.

"For Your Business: Industry expertise and real-world experience to grow your business."

The BlueRock community is a highly qualified team of entrepreneurial experts who push the boundaries of accounting, digital, law, private wealth, finance, general insurance, grants and incentives and SMSF. Our experienced and energetic people channel this passion to help entrepreneurs and business owners grow ideas into 'WOW' businesses by providing them with everything they need to succeed — from accounting and legal advice to data insights and digital marketing.

Whether it's financing a new venture, insuring a property, creating a lease agreement, building an e-commerce website or all of the above, our whole team of specialists works together with you to get exceptional business outcomes. Formed over 10 years ago, BlueRock has grown to become an exciting and successful entrepreneurial community.

In America

Manatt Phelps & Phillips has *spent more than 10 years building* their **Manatt Health** multidisciplinary practice, which Chambers and Partners calls "*unique*," with an eye toward upending the competition among health care legal services providers. Their team is comprised of about 70 consultants and 90 lawyers which often contract with C-suites and boardrooms to provide business advisory, financial, information technology, data analytics and clinical support.

Manatt Phelps' investment in this multidisciplinary team is a bet that health care providers, in a period of profound change, need more than strictly legal advice. They also need strategy help as they reconfigure their business from a fee-for-services model to a value-based payment system. About 70 percent of the unit's work is handled on a project-billed basis, rather than the billable hour.

As one might imagine, having lawyers and consultants work on a level playing field can be challenging. The leader of Manatt Phelps' health care group reports that the two types of professionals work well together because the firm applies the same compensation system for both; management decisions for the group are also made by both lawyers and consultants; and when people actually work together on projects, see the skills that each have and the synergy that can be created, they get excited about working with each other.

One of the recent additions to Manatt Health was former CEO of University of Pennsylvania Health System for 16 years, who told

interviewers that while he received offers from several different organizations and while he is not a lawyer, it made sense for the type of work he does to be linked to a law firm, given the extensive regulatory considerations involved in health care governance, management and strategy.

At Manatt, it all started in the health care area, but the firm is now expanding their multidisciplinary strategy into their privacy and security and governmental practice, as well as exploring opportunities to do so in financial services.

[Manatt is very much my favored example of what can be accomplished with an industry focus]

In Europe

Comprised of seasoned consultants, technologists, lawyers and project managers, **A&O Consulting** focuses on advising business leaders on governance, corporate purpose and culture, conduct, compliance and operational risk, regulatory advisory and business transformation.

The professionals at A&O Consulting have worked on a range of mandates in relation to Brexit implementation, focused primarily on designing proportionate and effective governance frameworks for new corporate entities, supporting senior management in understanding additional local responsibilities, as well as designing AML and culture and conduct capabilities including in respect of training tools and risk assessment frameworks.

The group has also developed proprietary

products like their Culture Benchmarking Tool – designed to help clients understand their current cultural landscape and how their values might drive employee behavior. It also helps employees navigate challenging everyday scenarios in an ever-changing workplace.

FROM THE CLIENT'S PERSPECTIVE

It is time for our legal profession to view things from the client's perspective. Legal delivery is entering an era wherein the ability to identify and manage problems before they metastasize is becoming paramount. This is emblematic of a market shift that favors firms that provide a total business solution, something which becomes far easier when you have an industry focus.

Differentiated legal services are of growing significance and highly valued – but the clients not lawyers, determine what is meaningful differentiation.

An old friend, Michael Roster, a former Office Managing Partner at Morrison & Foerster and then General Counsel at Stanford University, talks about a discussion he had with the CEO of a major food processor in Europe when he asked what the company was doing about its legal costs. He reported:

“He told me about an MDP that provides a comprehensive service at a fixed price. This entity largely doesn't advise his managers but instead performs the functions directly. For example, they write his company's employment and health and safety manuals; they up their many other clients and their interactions with regulators; they train his senior

people as well as the workforce; and they regularly audit for compliance. Oh yeah, and if we get sued, which almost never happens anymore, they have lawyers who handle it.”

My friend in the UK loved the fact that what once was a major uncertainty in his annual budget – the costs of compliance and disputes – was now a fixed line item. It also was a huge benefit that the few disputes that now arose internally or with his regulators were quickly resolved and that he and his management team could instead focus on running the company. If you think about it, the MDP is able to directly solve problems, something we lawyers aren’t authorized to do. Put more starkly, **the MDP has the authority and expertise to be proactive, not simply reactive.**”

What Your Client Wants Assurances Of:

A true Multidisciplinary Industry Team is a group of diverse professionals who specialize in different, but highly complimentary disciplines. This must not be about cross-selling different services for different phases of the client’s assignment. In a typical law firm organized around distinct practice areas, the ability to coordinate people in different silos becomes challenging. But when you have professionals all coalesced and dedicated to serving the same industry the effort becomes more unified. Each professional on the MIT is responsible for the provision of services in the specific area in which they specialize. Nevertheless, your client will still need comfort that:

You understand me and my business problems at a deeper level

As the relationship partner coordinating a

group of diverse professionals, you need to understand my needs better than anyone else and position my problem at the center of your team’s efforts. Focus on “what it is that I am trying to achieve” rather than seeing this as a narrow piece of advice that is being required. To that end, I expect you to be sensitive to the way I want things to be done, how I want to be communicated with, what my idiosyncratic preferences might be, and what kind of project reporting I would like to have.

I see you as my representative with the rest of your MIT and I expect you to represent ONLY my interests in any of your dealings. Since your job is to represent the totality of the project, I require you to demonstrate both a big picture perspective (understanding my business goals and my priorities) and also have an obsessive attention to detail.

You provide evidence of service coordination

To be persuasive you need to provide concrete evidence that your team has a common language across the different disciplines, consistent work ethic, high standards and that you can get the best out of everyone on the team. Because the professional services required are coordinated together, there needs to be evidence of a framework of uniformity provided to each client that improves service delivery.

In other words, I will be particularly impressed if you can show me the technology you utilize for communications, project management and cost control.

You give me comfort that you truly are able to manage complex assignments

I need to have confidence that you have done this before, that you already have systems in place and that you are coordinating, integrating, supervising and managing the various disciplines involved – and working with colleagues who have worked together before and that are not strangers to one another.

I expect you to know the capabilities of each professional on the team, matching their strengths to the work they do for me and encouraging collaboration. Even if some members of this MIT are halfway around the globe from us, the communication that happens in this structure must make service coordination easier.

You have operational control

An MIT should allow me as the client to receive collaborative support from a wide range of experts. Each professional contributes from their own perspective, which can then enhance the results which are offered by others.

Nevertheless, as the client I want to know that you actually have operational and quality control over the work and contributions of the other experts. I want to know that you are actually able to assess the work of some professional who is a specialist in some area where you have limited experience. Your primary task is to manage the matter and all of the various professionals involved. And as the client, I am not so much concerned that you be ‘task oriented’ as I am that you be ‘outcome oriented’ in fixating over the accomplishment of my goals.

You provide reassurance

I expect you to keep me informed at all times with up-to-date information regarding what is on track, and what is not. You should involve me in the decision making no matter what area of expertise and consult me before embarking on any significant action. I expect that everything will be properly documented so that I am kept up-to-date on everything that is going on.

And if there is a problem, unforeseen complication or setback you will advise of what has transpired, what my options might be and what you and your team recommend that we do. I need wise counsel, not only at the beginning of our matter, but all the way through.

MOVING FORWARD

Clients want their lawyers to be more like active business partners – to understand how their industry is being disrupted, how their market is changing and the resulting pressures on their continued prosperity. All of the research that I have examined clearly provides evidence that:

- the primary challenges in today’s global economy are rarely purely “legal” or business” problems, but rather a sticky amalgamation of both;
- clients want the ability to access specialized answers and solutions under one roof, and it makes sense to consider more than one professional viewpoint when trying to resolve a complex problem;

- the delivery of multiple professional services through a single entity can achieve costs savings, comprehensive and higher quality advice, with greater speed;
- multidisciplinary arrangements and perspectives may proactively address problems that clients previously did not even know existed; and
- diverse professionals working and collaborating together in unity, are far more capable of creating new and innovative solutions.

If your firm continues to view your client's various problems from only a lawyer centric lens and fails to view these problems from a more diverse and multi-disciplined lens, you run the risk of continuing to work in silos, bemoaning how difficult it is to cross-sell. Now is the time for you to rethink how law is practiced and to consider whether your clients could be served far better if their particular issues or problems were viewed under the lens of needing a business solution and not just legal advice.

This is an excerpted Chapter from book: Industry Specialization: Making Competitors Irrelevant now available to [read online](#) or as [download](#) in our library.

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

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David Walters
CEO of Steam Powered
Marketing

Free online open lecture

MARKETING TIPS FOR LAWYERS

How to get more clients by building a better client experience?

Free Open Lecture Marketing tips for lawyers.

How to get more clients by building a better client experience? That is the real question lawyers should ask themselves.

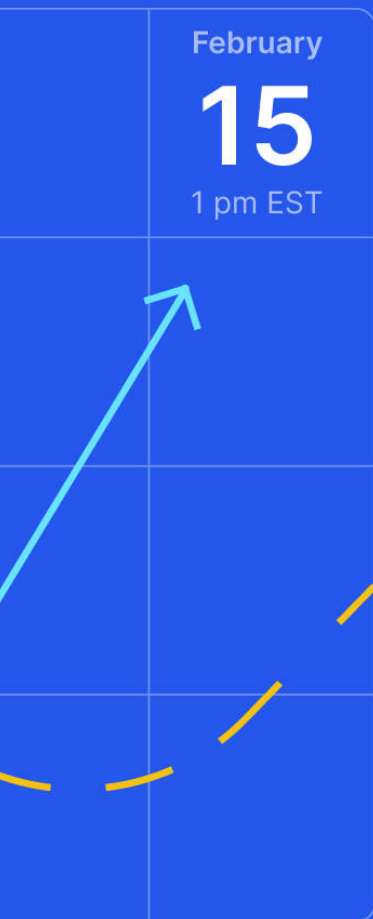
There still is a huge disconnect between what clients want and what lawyers are delivering. Lawyers invest time and money in their marketing but often do not see the results they want.

During [Lawrina's open lecture](#) on February 15th, at 1 pm EST, you learn how to apply the

psychology of human intimacy to your law firm's marketing and make 2 simple changes to your website to beat out 98% of your competition.

Join if you are:

- **Solo practitioner** who want to get more clients
- **Attorney / Paralegal** who want to start their own practice
- **Law student** who want to get started and find first clients



steps not found in a traditional marketing funnel.

About the lecturer

[David Walters](#) — Certified Digital Marketing Strategist with a focus on helping small and solo law firms optimize their marketing to compete against larger firms.

David has reviewed over 100 Law Firm websites to review their marketing effectiveness against the best practices established by DigitalMarketer, only 2 were optimized for lead generation.

He has consulted with solo lawyers and small and medium-size law firms on a variety of marketing topics such as website effectiveness, marketing strategy, LinkedIn marketing, and niche selection. The 90 Day Growth Accelerator for Law Firms is designed to implement a marketing system that can be used to double the firms' revenue in 12 months.

What will you get?

Registered participants will receive:

- Workbook to use for a self-audit before the lecture and to work on during the lecture
- Certificate of completion on LinkedIn after watching the lecture
- Discount for consultation from our lecturer for authors of 2 the best questions

What to do next?

[Book your seat](#) and prepare your questions!

During a 60-minute open lecture you will learn:

- the psychology of Customer Value Journey (CVJ)
- how to create ideal customer avatars,
- how to use the avatar as the basis for drafting your CVJ
- how to work with this framework afterward

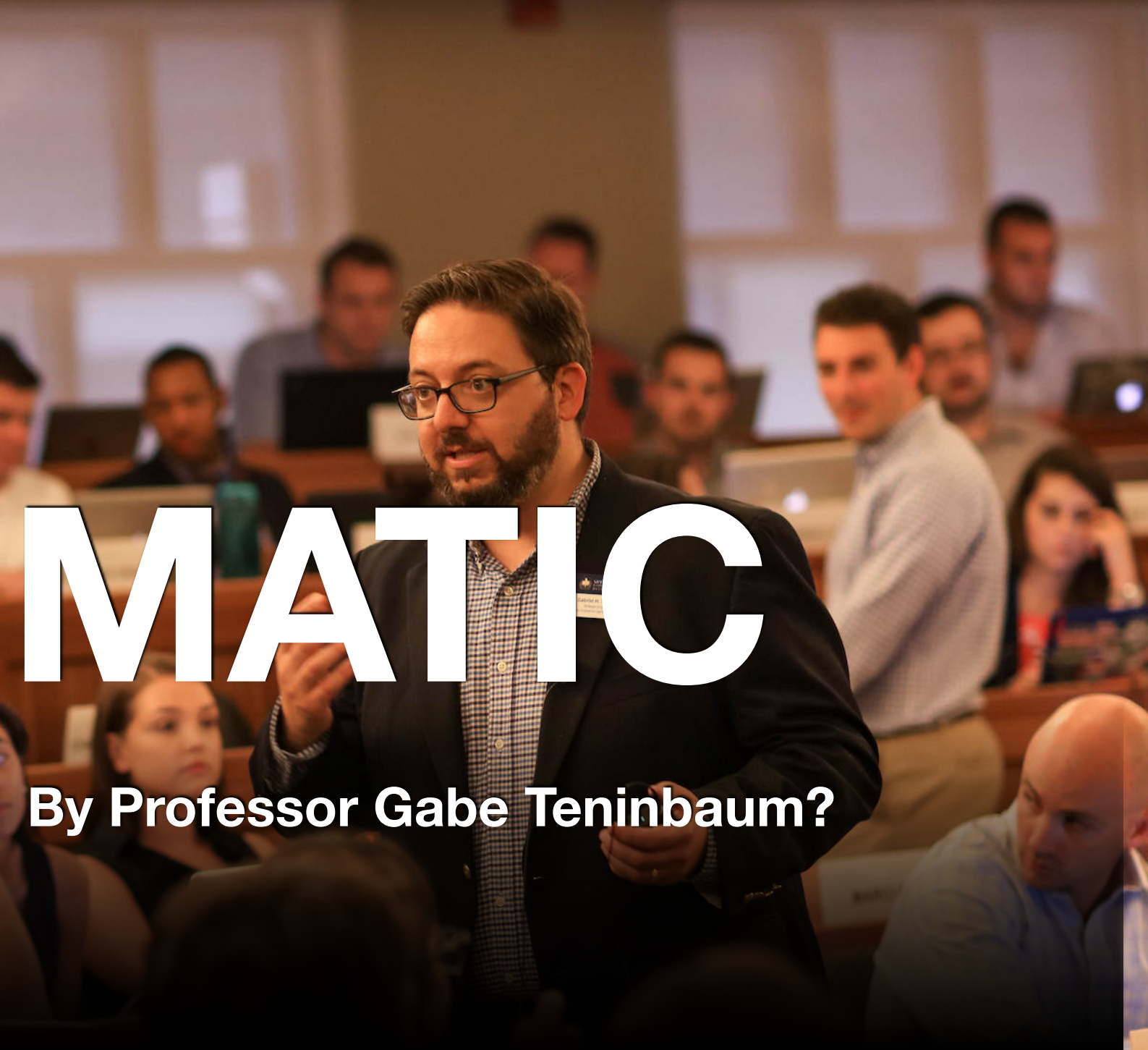
The Customer Value Journey (CVJ) is a blueprint for creating a predictable flow of customers. It defines the step-by-step process of converting total strangers to high-value customers and brand promoters. Modeled after human relationships, it includes additional

Did you ever read the newsletter

LAWT O



Gabe Teninbaum is a professor, as well as the Assistant Dean for Innovation, Strategic Initiatives, & Distance Education, at Suffolk Law in Boston. He's also a Visiting Fellow at Yale Law School's Information Society Project. His work focuses on legal innovation, technology, and the changing business of law. Every day he digests tons of content on these topics. The goal of his newsletter is to curate the most interesting, valuable, and thought-provoking ideas and share them with you.



LAWTOMATIC

By Professor Gabe Teninbaum?

This article covers his latest newsletter. Check it out and when you like it just subscribe (details et the end of this article) or read the newsletter at Legal Business World. Legal Business World always publishes Lawtomatic as a website article.

Lawtomatic always starts with ‘The Appetizer’ followed by ‘The Main Course’, and ends with a ‘Lagniappe’.

A Lagniappe is a small gift given to a customer by a merchant at the time of a purchase/something given or obtained gratuitously or by way of good measure. For instance: A waiter added a cup of lobster bisque as a lagniappe to the meal.

Since we’re not a restaurant, Gabe shares a lagniappe that’s based on insights, something remarkable or something fun/nice to know.

THE APPETIZER *(Sponsors)*

[SpacedRepetition.com](#) is a tool to help law students & bar preppers learn more using cutting-edge science. Called the single most effective technique to learn by the American Psychological Association. More than 20,000 users spread across every law school in the U.S.

THE MAIN COURSE

5 Things That Made Me Think This Week Making Your Law Firm a Purple Cow:

1

“I’ve followed [Seth Godin’s blog](#) for years, which is a regular source of inspiration. He has a unique ability to make communication and marketing seem simple. He’s also really interested in law, and has done a fair amount of work specifically in the context of personal injury law firms. His lessons go way past a single practice area, and [this interview with Chris Dreyer \(Personal Injury Marketing Mastermind\)](#) is worth listening to. It focuses on what makes a law firm remarkable and how to draw positive attention that generates business.”

2

New Book on Positioning Legal Orgs: “I’m really on a marketing kick this week, I guess, but this is worth sharing. Patrick McKenna has a terrific new book, [Industry Specialization: Making Competitors Irrelevant](#) that is available for free at Legal Business World. There are two things I especially liked about it: first, he’s been helping law firms become more effective and efficient for a long while, and he shares several anecdotes in the book

that support his theories. Second, it’s actionable: there are concrete steps that anyone can take once they’ve read it. Plus, the price is right! Relatedly, the entire issue of Legal Business World is terrific (and free) and worth a download [here](#) (pdf).”

3

The Birth of the Contracts Automation Professional: Richard Tromans, of Artificial Lawyer fame, asks some interesting questions [here](#). In short, he plants the seed that having people devoted to contract automation is a speciality separate from existing legal ops roles, and successful orgs might consider naming the right person to oversee this specific function. Per Richard, this idea has been championed by the CEO of contract lifecycle management company Agiloft, and the article makes a compelling argument for it.

4

ABA’s 2022 Legal Rebels: in a time when fresh and bold ideas are needed more than ever, the ABA couldn’t have selected more talented people than this year’s crop of Legal Rebels. They include a lawyer who spearheaded the creation of an online community that changed the way appellate lawyers practice; a duo who created software to help overburdened criminal defense attorneys transcribe videos; and a family lawyer who created a platform to streamline the divorce process.

5

Academic Legal Tech Efforts: [this week’s episode of the Kennedy-Mighell Report podcast](#) has a solid

update of the state of affairs for legal tech labs within law schools. Dennis Kennedy (the Kennedy in Kennedy-Mighell) runs Michigan State's excellent legal tech program, and does a nice job of mapping the growth and trajectory of these efforts. It was a good discussion and hopefully will encourage schools without a legal tech program to consider creating one.

LAGNIAPPE

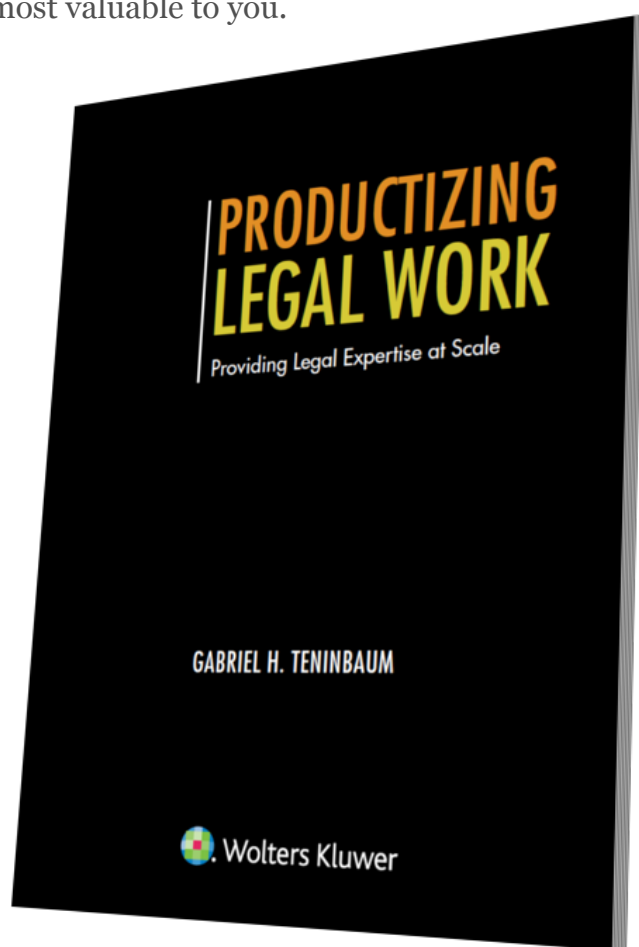
How Candies Got Their Names: did you know Snickers was named after a horse, and Starburst was originally called Opal Fruit? I do. I know because I spent far too long [looking at this chart](#) (source: [this](#) Reddit post), which is really fun. It'll be useful if you're hosting a bar trivia contest, or aspire to become your crowd's Cliff Clavin (speaking of Cliff Clavin, the long-form version fo the Cheers theme song is a lot darker than the 20 second clip on the show. Listen [here](#) for references to extreme poverty, animal abuse, medical malpractice, failing relationships, and more!).

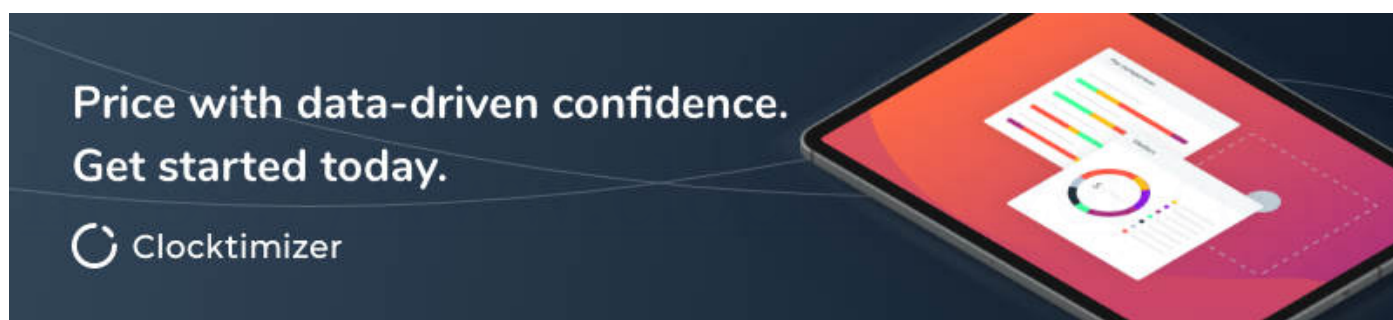
It's free, but it's not cheap

If you'd like to support this newsletter, one way is by purchasing my new book,

[Productizing Legal Work](#). You can [read a review of it](#) by Richard Granat or [this one](#) by Carolyn Elefant.

If you like reading the newsletter Lawtomatic, please [subscribe here](#). You're also invited to forward this to others who you think would benefit. Likewise, please [email me](#) with feedback, ideas, and tips so I can deliver what's most valuable to you.





LEGAL TECH HAS COME TO A DEAD END

HERE IS THE WAY OUT

By Anders Spile. Client Executive Advisor, Contractbook

One of the most overlooked stories of the covid-pandemic is the meteoric rise of the Sengalese-Italian TikTok sensation Khaby Lame. After losing his job, he began making short videos mocking overly complicated life hacks by silently showing how simple tasks can be solved in very simple ways.

In one of them, a woman wraps a fork tape so she can use it to eat cereals after which Lame shows how you can just use a spoon. In another, someone makes a jug by putting plastic strips around a glass. Lame mocks it by showing how you can drink normally from the glass.

After a few years in the legal innovation business, I would like to see his take on certain legal tech initiatives. Legal innovation should be about solving real problems for real people. But the reality is that many legal tech solutions are waiting for a problem to solve.

I know, because I've been there. I've also tried to sell over-complicated solutions to law firms and then justify it with a vague idea of legal innovation as this deterministic force sweeping over every sector. But most of the law firms didn't buy it because they didn't really need it.



Over a year ago, I published a piece claiming that legal tech is over-hyped. The point was that legal tech providers are over-selling their products and making them more complicated than they have to be. And that legal professionals are too fixated on fancy AI solutions because it sounds cool and innovative.

However, I have this feeling that has been maturing in me for a long time, the feeling that legal tech is not only over-rated. But that it has, in many ways, reached a dead end. The feeling was confirmed in a newsletter I read recently. It had headlines such as “The Time is Now” and “How Legal Tech Is Modernizing Traditional Practice” - and I was immediately taken back years to when I started my career in legal innovation. We had the exact same headlines, we made the exact same claims. Despite an investment boom and tons of momentum, not much seems to have changed.

It's not because digital technologies can't or haven't improved legal services. They have, tremendously, and they are - but the sector must regain focus to move forward. So here is my take on what is wrong with the legal tech movement and how we are to solve it.

We are too fixated on emerging technologies. Legal tech is too much about fancy AI flashware that doesn't work properly and doesn't really solve anything. AI is most likely the future, but most companies or firms aren't even working in a machine-readable data format so what is it going to help? Let's take a look at proven technologies. Let's automate legal work with simple, deterministic automation, let's digitize basic tasks. Legal tech should be making legal work easier and more efficient here and now in how everyday work-life. Let's get back to basics.

There is too much innovation-washing. Now law firms have entered the metaverse and the only thing you can do there is find a phone number and a link to their website. What is the point? Who is going to walk around the metaverse to locate a virtual law office when it takes 2 seconds to just Google it? There are too many press releases and too little actual value-adding innovation. Get real!

Legal tech is targeting the wrong audience. Legal tech should be targeting the mass market, not legal professionals. Too many vendors are still making niche applications for a small niche practise area instead of trying to solve the real issue which is making legal work more accessible and easier to solve for normal people working on normal companies.

Our research shows that legal professionals are not the ones driving legal innovation. It's sales teams and operations units. They are the ones pushing the automation agenda, actually innovation legal work.

I've taken the consequence of this dead-end myself. After years of trying to sell legal tech to law firms, I've now come to realize that firms are not my buyers. They are my allied partners. Instead of trying to convince a profitable law firm to change their product offering, I team up with them in trying to solve cases for their clients - the companies that are struggling with their legal work and want to find efficient solutions for their day-to-day problems.

It's time to solve the problems we have, not come up with solutions we don't need.

About the Author

Anders Spile is client executive advisor at Contractbook. He has hands-on experience as to what it takes to develop an innovation strategy and implement legal tech solutions in larger law firms.



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ADOPTION BY LAWYERS**

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**2022 AND BEYOND. WHAT TO EXPECT?
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RECOMMENDATIONS**

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25-YEAR DECORATED TRANSGENDER EMPLOYEE SUCCESSFULLY SETTLES FEDERAL LAWSUIT AGAINST VANDERBILT UNIVERSITY

Olivia Ruth Hill, a highly-successful and awarded 25-year employee of Vanderbilt University who was forced to file a Federal lawsuit against the University for discrimination and retaliation on the basis of sex, gender identity, and disability, has settled her lawsuit. Ms. [...]

BAL Announces Founding Partner David Berry's Transition to Partner Emeritus

In a momentous announcement, Berry Appleman & Leiden LLP (BAL) congratulates Founding Partner David Berry on his retirement and transition to Partner Emeritus of the firm. For 41 years, David has been a preeminent attorney and visionary in immigration at BAL, helping [...]

Veteran Dallas Trial Lawyers Form Sorrels Ola Law Firm

Prominent defense attorney Barry Sorrels and long-time law firm partner Stephanie Luce Ola have launched Sorrels Ola, a new criminal defense firm in Dallas with a team-oriented approach to defending individuals facing federal white-collar charges, including health care and corporate fraud, and state and federal felony [...]

2 days ago

Dechert Recognized as a Top Private Equity Legal Advisor by Mergermarket

Dechert LLP has been recognized among the top law firms for Private Equity deals by Mergermarket in 2021. In a year where

Dechert advised on some of the private equity industry's most important and complex transactions, the firm had a strong showing [...]

UH Law Center's Juvenile and Children's Advocacy Project and CenterPoint Energy's Legal Department Join Forces on a Juvenile Record-sealing Initiative

The Juvenile and Children's Advocacy Project (JCAP) at the University of Houston Law Center announced its first corporate partnership with CenterPoint Energy. CenterPoint Energy's legal department, as well as outside counsel, are working with JCAP on a on pro bono juvenile record-sealing [...]

Reali Appoints Delma Locke as Chief Legal Officer

Reali, the real estate and fintech platform transforming home buying and selling, today announced that it has appointed Delma Locke as Chief Legal Officer. She is a veteran attorney and trusted advisor with more than two decades of legal leadership at Silicon Valley [...]

Intersect Power welcomes John Cook as Chief Legal Officer

Intersect Power, a clean energy company, today welcomed John Cook as Chief Legal Officer. Mr. Cook will join the Company's executive team leading the integrated legal activities to support Intersect Power's rapid growth. Mr. Cook brings to the company more than 25 years of [...]

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