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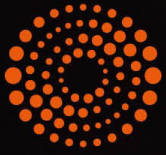
• Legal Business World Publications • No.2 • 2022 • www.legalbusinessworld.com

THE PERFECT STORM FOR LEGAL OUTSOURCING M&A activity in the ALSP sector

By Zohar Fisher

Other contributions by: Arnoud Engelfriet, Eimear McCann, Emma Ziercke, Prof. Dr. Madeleine Bernhardt, Richard G. Stock, Lance Eliot, Jolanda Rose, Bernhard Walzl, Mark A. Cohen, Ari Kaplan, Jennifer Whittier, Tom Obermaier, Carlos García-Egocheaga, Kenny Tung, Glenn McCarthy

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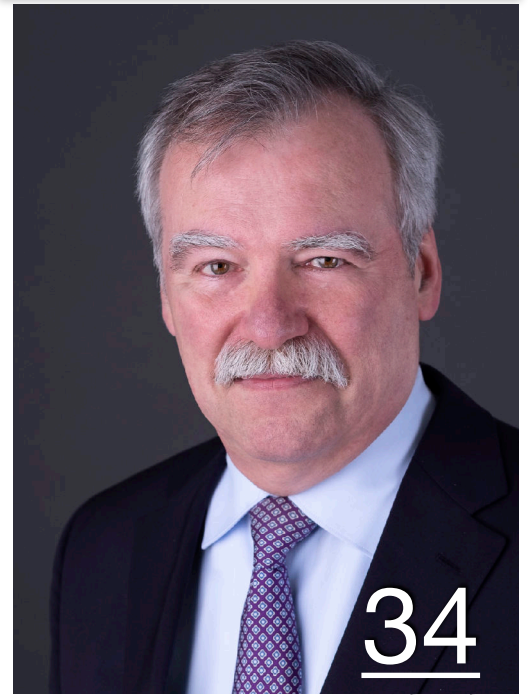
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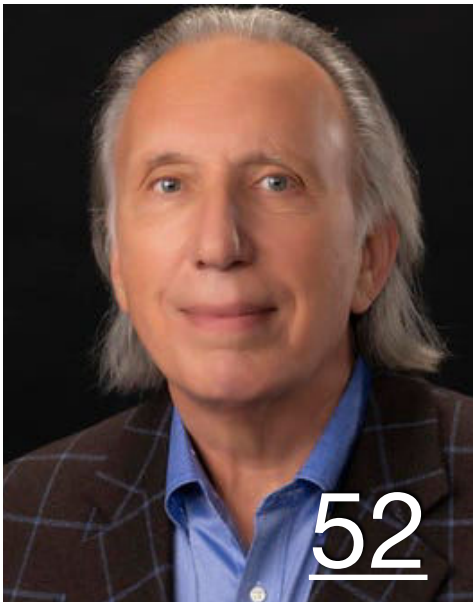
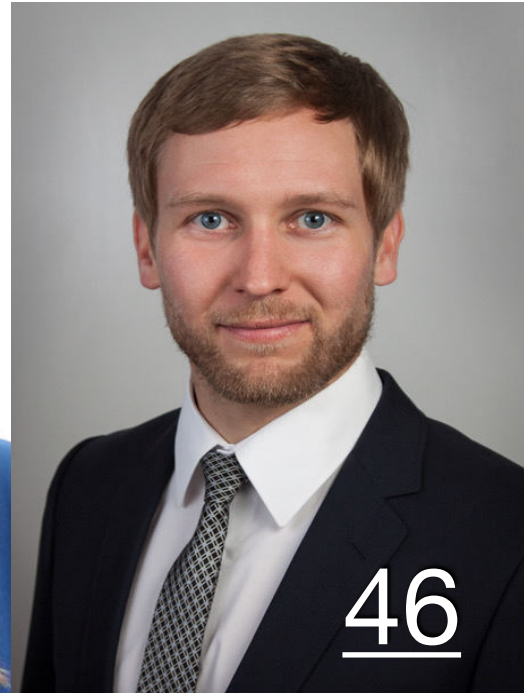
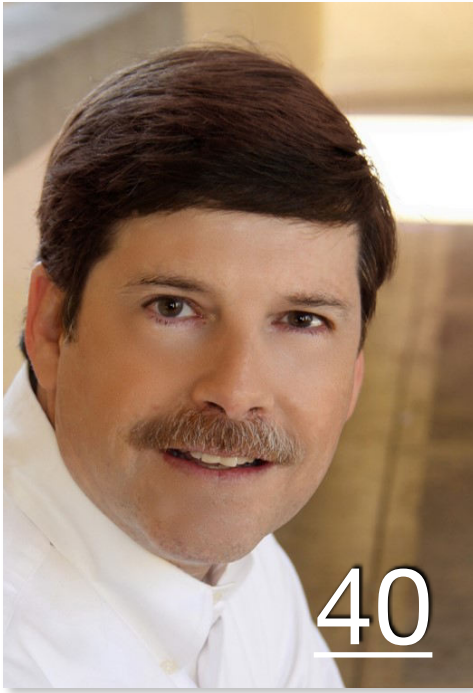
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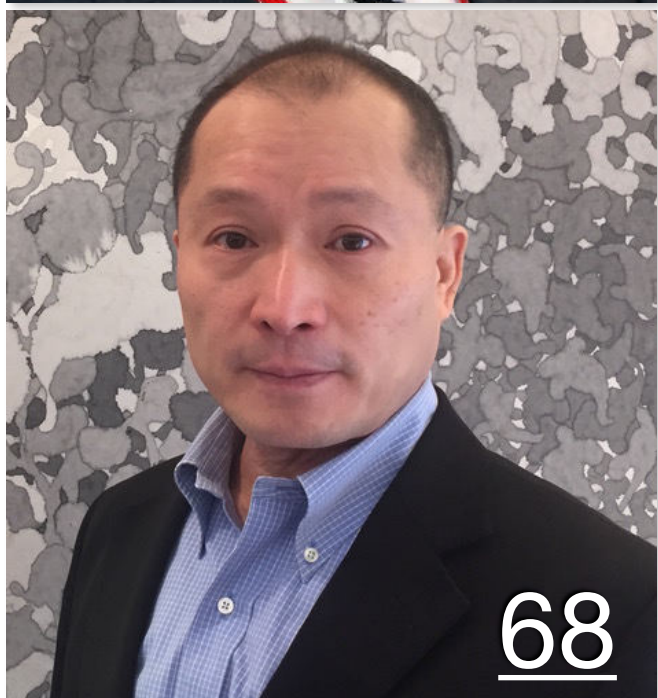
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The perfect storm for legal outsourcing

M&A activity in the ALSP sector

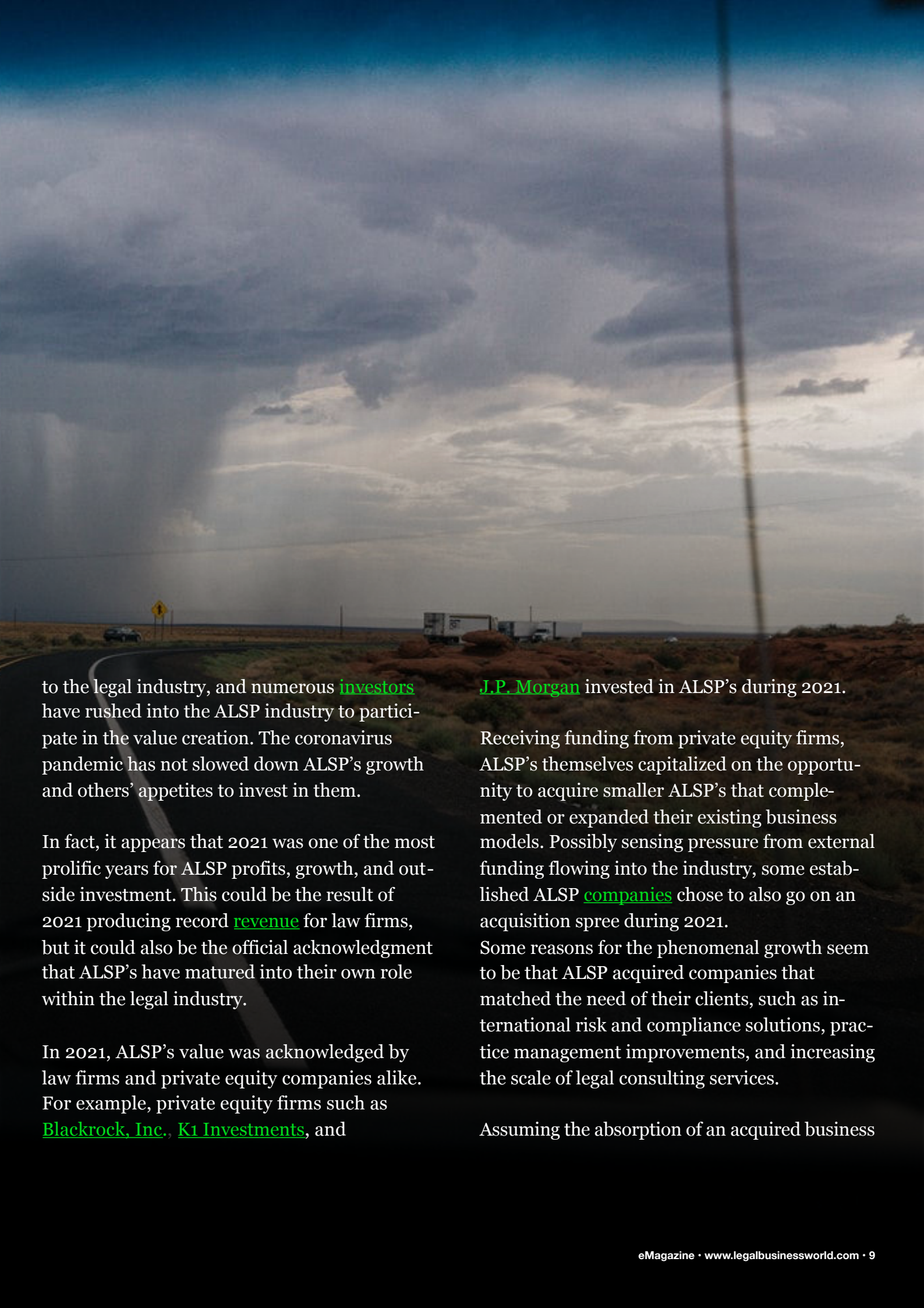
By Zohar Fisher (Adv.), Co-Founder of LawFlex



2021 year-end **reports** estimate that the Alternative Legal Services Provider Market has exploded into a \$14 billion industry. With an eye towards what the ALSP Market has in store for 2022, let's review the notable trends that emerged in 2021.

First, the significant increase in ALSP adoption by mainstream law practices will likely lead to ALSP's being considered mainstream themselves, and not alternative. Before the COVID-19 pandemic began changing how the legal industry operates, ALSP's were already carving out their share of the market through providing outsourced e-discovery services and alternative staffing services.

ALSP companies have demonstrated their value



to the legal industry, and numerous [investors](#) have rushed into the ALSP industry to participate in the value creation. The coronavirus pandemic has not slowed down ALSP's growth and others' appetites to invest in them.

In fact, it appears that 2021 was one of the most prolific years for ALSP profits, growth, and outside investment. This could be the result of 2021 producing record [revenue](#) for law firms, but it could also be the official acknowledgment that ALSP's have matured into their own role within the legal industry.

In 2021, ALSP's value was acknowledged by law firms and private equity companies alike. For example, private equity firms such as [Blackrock, Inc.](#), [K1 Investments](#), and

[J.P. Morgan](#) invested in ALSP's during 2021.

Receiving funding from private equity firms, ALSP's themselves capitalized on the opportunity to acquire smaller ALSP's that complemented or expanded their existing business models. Possibly sensing pressure from external funding flowing into the industry, some established ALSP [companies](#) chose to also go on an acquisition spree during 2021.

Some reasons for the phenomenal growth seem to be that ALSP acquired companies that matched the need of their clients, such as international risk and compliance solutions, practice management improvements, and increasing the scale of legal consulting services.

Assuming the absorption of an acquired business

Assuming the absorption of an acquired business goes well, growth through acquisitions is a proven business model that fends off competition while growing the business.

Law firms may have also contributed to ALSP industry's hyper growth of 2021. In fact, the fastest growth among the ALSP industry has been ALSP's that were established by law firms themselves, as captive subsidiaries. These captive subsidiaries have seen their growth explode by [30% a year](#).

When a law firm creates their own ALSP, it provides their clients the cost reduction benefits while allowing the law firm to retain full control over the ALSP; a win-win solution for law firms worried about quality control or external ALSP expenses.

Although law firm ALSP's make up the smallest portion of the ALSP industry, if their growth rate continues then non-captive ALSP's cannot ignore them much longer. This realization may have also contributed to the prolific merger and acquisition activity the ALSP industry experienced in 2021. Another trend that cannot be ignored is the rate of technological innovation within the legal industry.

Technological innovation has disrupted many industries, and law firm practice management has been disrupted, too. Lawyers no longer must submit handwritten briefs to clients, nor do they have to calculate expense accounts or personally review every document during the discovery phase of litigation.

The ALSP industry by showcases the purchase

and acquisition of numerous [companies](#) that are primarily software companies. As the legal industry fully embraces technological solutions to problems faced during the COVID-19 pandemic work environment, the line between technology companies, consulting companies, and ALSP becomes increasingly blurry.

To recap, ALSP were sitting on cash stockpiles in 2021, private equity investments got involved, law firms began operating their own ALSP companies, and technological innovation is forcing the legal industry to evolve. The result was a merger and acquisition frenzy in 2021. Where does the ALSP industry go from here?

Despite growing concerns regarding undiscovered economic uncertainty from the COVID-19 pandemic and geopolitical tensions, the ALSP industry appears primed to continue its rapid growth. In January 2022, Mitrastech continued its acquisition [spree](#) by acquiring Quovant in order to expand its legal billing services.

Also in January 2022, CJK Group [acquired](#) Retreat Programs to expand its international reach into English speaking markets. This international expansion is another example of ALSP's expanding their reach to meet clients' demands. The value that ALSP's provide to the legal industry is undeniable and should only continue to grow.

A 2020 [report](#) estimated that law firms spending \$15,000 to \$25,000 yearly on tech services, per firm user, could save 20% to 30% annually by using an ALSP consulting service. Furthermore, for every technology, accounting, billing, or staffing problem,

among others, that law firms face it amounts to time not spent solving clients' legal problems.

These problems can distract law firms from their business generating tasks, and these problems have been increasingly outsourced to ALSP's. This trend should continue uninterrupted through either independent ALSP's, intra-law firm captive ALSP's, or the increasingly fluid concept of consulting agencies. While the ALSP industry's growth may slow down after an unexpected 2021 frenzy, the growth of ALSP's is an international trend and the industry is just beginning to mature.

In addition to ALSP's providing solutions to outsourcing, ALSP's are increasingly providing staffing for legal roles. Such roles include litigation support, merger and acquisition due diligence, regulatory compliance, and contract lifecycle management.

Through ALSP's, law firms can use contract attorneys for routine and repetitive tasks that consistently arise such as standardized bankruptcy forms, immigration forms, reviewing corporate documents, and litigation e-discovery reception, review, and organization.

The value of employing ALSP's for these roles becomes apparent when a law firm's permanent employees see their workload reduced and are available for more complex assignments.

The opportunity for law firms to significantly upscale their operations without taking on the traditional overhead of offices, employee costs, etc., is an opportunity that will remain attractive in 2022, and beyond.

In 2022, the value of ALSP's will continue to be recognized and the industry should continue to see consolidation and independent growth. Chambers and Partners 2021 Alternative Legal Services Providers Report suggests that Spain and the Asia-Pacific Region are emerging markets.

The Report notes that corporate in-house counsels in Spain have an acute understanding of their outsourcing needs, and how ALSP's can become a partner in achieving business efficiencies. The Report also anticipates the Asia-Pacific Region will see ALSP's either trying to penetrate the market through operations in India, Honk Kong, Singapore, and the Philippines, among other locations. This makes sense as we noted above that some of the 2021 consolidation appeared to be prompted by ALSP's evolving to meet client demand for international risk and compliance operations. Establishing an outpost within the Asia-Pacific Region will provide ASLP's with the opportunity to expand their footprint, while continuing to keep their existing clients happy.

In conclusion, the ALSP industry saw rapid consolidation and investment throughout 2021. Although the industry's activity in 2021 may have been an outlier, the trend is consistent throughout international legal markets and ALSP's will continue to grow.

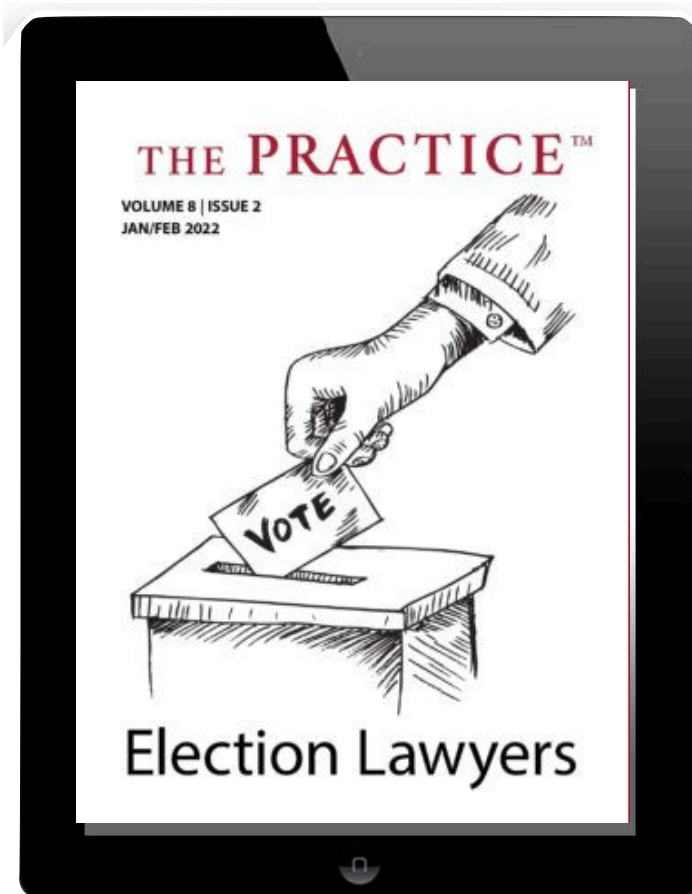
Law firms and private equity companies alike have acknowledged the value of ALSP's, and further growth and investment seems imminent. ALSP's will also face increased competition from law firms who recognize

the benefits of ALSP's but want to retain total control over their functions. If you are ready to experience the benefits that an ALSP can provide, contact LawFlex to discuss how our world-class services can assist you.

About the Author

Adv. Zohar Fisher is the Co-Founder of [LawFlex](#). LawFlex is an international legal outsourcing company.

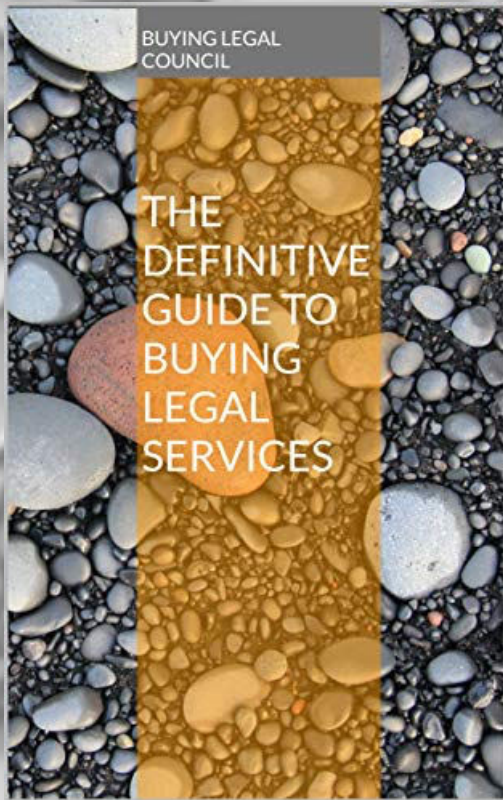
Adv. Zohar Fisher is one of the leading veteran strategy consultants in the field of legal marketing, legal technology, mergers and legal outsourcing, holding vast experience and well know reputation of more than a decade in the legal practice field. He has acquired unprecedented professional experience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



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$$i\hbar \frac{\partial}{\partial t} |\psi(t)\rangle = \hat{H} |\psi(t)\rangle$$

$$a_0 = \frac{4\pi\epsilon_0 \hbar^2}{m_q q^2}$$

$$\Psi(x, t) = \int f(k) \cdot e^{i(kx - \omega t)} dk$$

Legal tech: Beyond the myths #3 How can robots read?

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



“The question of whether machines can think is about as relevant as the question of whether submarines can swim”. This quote by computer scientist and visionary Edsger Dijkstra is still as relevant today as it was in 1984 when it was written. Computers do not think, they calculate and process information. This may result in outputs that look like the outcome of a thought process, but that is a mere coincidence. What does that mean for a language-oriented field like law? And how do robots then extract information from language?



Natural language processing

Already in the 1950s during the advent of AI the concept of robots reading and interpreting textual information came to the forefront. The so-called Turing Test, a test of a machine's ability to exhibit intelligent behaviour indistinguishable from that of a human, was created with the ability to interpret text in mind. In short, the test proposes that if a human asks questions and gets responses from various counterparts, the human must from the responses determine if he is communicating

with a robot or not. If the human cannot, then the robot is considered “intelligent”.

The earliest work on natural language processing focused on rules. Given a collection of rules the computer emulates natural language understanding (or other NLP tasks) by applying those rules to the data it confronts. The classic example is the “Chinese room” designed by philosopher John Searle in 1980. Suppose we put in a room many, many books that instruct the reader which Chinese symbols to

write down given certain Chinese symbols received on paper. (Yes, we write out each and every possible question-answer pair that is possible in Chinese.) Then, we get a Chinese-speaking person to write questions and put them under the door. In the Chinese room, a person (or a robot) applies the books to produce an answer, which is shoved back under the door to the person asking the questions. Can this person now tell if a Chinese speaker is in the room? If not, the robot must be considered intelligent.

Of course, this approach requires the creation of a gargantuan amount of rules, many of which even native speakers wouldn't be able to formulate. Still, progress was significant and early experiments showed surprising results. For example, Joseph Weizenbaum's ELIZA program simulated a psychologist able to engage in open discussion with "patients", employing strategies such as "how do you feel about that" or "do you think this reveals something about your relationship you're your parents" whenever the patient presented a topic that the system had no specific rule for.

The rise of machine learning

In the late 1980s the introduction of machine learning algorithms for language processing presented something of a revolution. In machine learning, algorithms build a model based on human-provided training data applying statistical techniques to identify correlations and patterns. Using this model, predictions or decisions can be arrived at without any explicit rules having to be configured. This made it possible to use statistics-based approaches to analyze and respond to textual input. The first breakthrough was in automatic translation,

and some successes were achieved in specific domains.

The hardware and memory limitations of then-current computers did put an upper limit on what could be achieved. This changed in the early 2000's with the advent of big data and cloud computing on the one hand and the exponential increase in publicly-available text data: the World-Wide Web. Now it was possible to take huge corpora of text and apply tremendously complex statistical calculations and pattern-recognition algorithms to distill rules and schemes to transform text into other text. Whether question and answer or writing from prompts or interpretation, machines could now do it.

A key setback remained that humans were needed to annotate the input from which the machine learning algorithms trained their models. This changed in the 2010s, where the rise of feature learning and deep neural networks allowed for so-called unsupervised learning of text features for recognition and interpretation. One of the keys to this breakthrough is the use of word embeddings. "A word is characterized by the company it keeps", as English linguist John Rupert Firth put it. Meaning can thus be derived from context: if these and these words occur together, this other word must be involved and could for instance be used in the output.

Still, limitations remain. One common example is how to handle homonyms, as in the example "The club I tried yesterday was great!". In this sentence, it is not clear if the term 'club' means a dance club, a social club, a golf club, a club sandwich or any other type of club.

Humans can understand this from context, even when not given in the document itself: a senior lawyer in her sixties is more likely to mean the golf or social club than the twenty-year-old student known for his partying tendencies.

Machine learning on legal documents

As noted above, initial focus on natural language processing was on translation. This had one important reason: especially in government documents, multiple-language versions of the same document were often available. For instance, the European Union publishes official documents in all its 29 languages, allowing good comparison between the language structure and vocabulary of each. Further, there was a clear need for quick and “good enough” translation.

A second field where NLP made great strides was in transcribing dictation, especially in the medical sector. Doctors produce a large amount of dictated reports (e.g. autopsies or surgery reports) that needs to be transcribed, typically quickly. At the same time, absolute perfection is not necessary. And what’s more, the wording and phrases used will be limited and somewhat predictable: when trying to distinguish between, say, ‘patient’ and ‘patent’, it is safe to assume the doctor meant the former. For similar reasons, machine translation of legal dictation has seen success, albeit in more limited form as the time and money factor present in government and medical fields is less pressing in the practice of law. The main focus of NLP in the legal field has been in automating legal processes, e.g. a case assessment to predict the outcome if it were to go to court. Here, NLP is a first step in the legal

process: extracting the facts of a case, or identifying key factors that judges use when applying the law. But next steps require more advanced machine logic, e.g. figuring out which legal requirements apply. So far, success here has been limited.

Machine learning in contract review

A domain in the legal field where machine learning is quickly gaining attention is the review of contracts, mostly business-to-business agreements. Long this type of work has remained the realm of human experts, as such agreements represent significant business value (and risk), each agreement is different and the time factor for review was not considered crucial. Today, this has changed. More and more agreements (or at least, provisions therein) are considered standard, the cost for human review is becoming more and more prohibitive and speed is of the essence.

This change could first be seen in standard documents such as the confidentiality agreement (NDA), thousands of which are signed across the globe every day. While lawyers (correctly) stress the importance of reviewing each NDA provisions carefully, most businesspeople (also correctly) consider an NDA very much a standard text and just want to know “can I sign or not”. This has led to a value gap: businesspeople do not want to wait for, let alone pay for, a review of an NDA. Several legal tech providers have jumped in this niche to offer automated NDA review tools.

All of these use some variation on the same basic process: use statistical methods to recognize typical clauses found in such agreements, extract problematic aspects of such

clauses (e.g. a too-long term or a liability cap) and report to the human user what was found. This works very well, mainly because the amount of variation in such clauses is very limited. There are only so many ways to declare the courts of Santa Clara, CA competent for any disputes. What's more, NDA's tend to contain a high level of 'borrowed' language. Our own tool NDA Lynn for instance has reviewed over 14,000 NDA's and has found that for most clauses, there are only a handful of truly different structures. This type of limited variation makes analysis surprisingly effective.

Other document types may have similar attributes. For example, under the European Union's General Data Protection Regulation (GDPR) a so-called data controller must have a specific type of agreement in place with its suppliers and other processing partners ("data processors"). This data processing agreement (DPA) must meet specific statutory obligations. While each organization has developed its own DPA, the language is very much shared as most lawyers tend to closely copy the letter of the law. Tools such as DPA Lynn thus can provide effective review of this document. However, automated review for contracts in general still seems far away due to the variability of the type of clause that may be present.

The Contract Understanding Atticus Dataset

A promising development in the field of contract review is the creation of the Contract Understanding Atticus Dataset (CUAD) by the Atticus Project, a US-based nonprofit organization of legal experts. This dataset was created with a year-long effort pushed forward by dozens of law student annotators, lawyers, and

machine learning researchers. The dataset includes more than 500 contracts and more than 13,000 expert annotations that span 41 label categories (from applicable law to covenants not to sue, limitations of liability, payment obligations and warranties). Interestingly, the dataset contains human-made annotations of what a reviewer would like to know, such as the monetary cap on liability or the end date of a certain obligation. This allows a machine learning system to be accurately trained (or verified) on the CUAD dataset.

Employing the CUAD would provide a well-deserved boost to machine learning contract review. The dataset can be enhanced with company (or law firm)-specific contracts for additional focus. For instance, an IT focused firm would add IT insourcing agreements and categories relevant for technology services, while an international supplier of goods would focus on adding shipping costs, risk allocation and insurance clauses.

Going forward

Machine learning for contract review has come a long way. While it is true that no contract reviewing robot can claim to have an "understanding" of what it has read, a lawyerbot can certainly produce highly accurate reviews of typical legal agreements. This is especially true for standard agreements such as NDAs, but with the advent of large datasets such as CUAD more general contract review is right around the corner. The challenge for any business therefore is: how do we create value with automated contract review, while reducing any new risks that may appear? *This is something for the next article.*

About the Author

Arnoud Engelfriet is co-founder of the legal tech company [JuriBlox](#), and creator of its AI contract review tool [Lynn Legal](#).

Arnoud has been working as an IT lawyer since 1993. After a career at Royal Philips as IP counsel, he became partner at [ICTRecht Legal Services](#), which has grown from a two-man firm in 2008 to a 80+ person legal consultancy firm.

Read Part 1&2

Legal tech: Beyond the myths #1

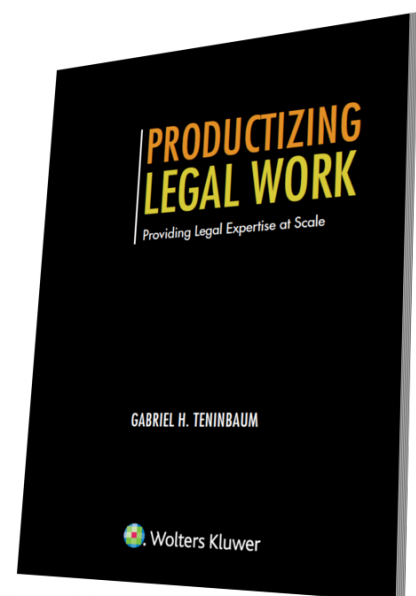
Legal tech is coming. With Artificial Intelligence on board. Ah, yes. We have seen and heard so many promises: it will transform our work. It will replace lawyers, reduce tedious work. And so on. Still, here we are, still typing

away in Word while the shiny AI-powered workflow optimization tool gathers dust in the corner. Often the reason is the same: the tool was overpromised and underdelivers. This series will take a look at the various myths and misconceptions around AI in the legal sector. What can we expect, and what is still a fairy-tale?... [\[read on\]](#)

Legal tech: Beyond the myths #2 - The focus on accuracy

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

For millions, creating an estate plan no longer involves a high-priced attorney. Instead, they can log into LegalZoom and get the job done for a fraction of the cost. The same goes for filing a tax return: no need for a CPA, TurboTax can do it for you! At the heart of these tools (productized services) is a technique for converting work that has traditionally been done by a professional for a limited number of clients to work that can be shared, licensed or sold to a much wider audience (usually through the use of online or specialized software technologies). People create productized services in order to help more people and create new revenue streams. Consumers, in turn, get access to valuable services at lower cost. While creating productized services was once challenging and expensive, a new generation of facilitating tools enable any enterprising person - including law students and lawyers - to productize services with greater ease than ever before. This book unpacks the concept and impact of productizing services and provides a step-by-step introduction to the process of productizing legal work.



Legal Tech: redesigning our future


By Eimear McCann, Commercial Director at TrialView



A famous quote from HG Wells always strikes me as an adept articulation of both solace and pragmatism, “Every time I see an adult on a bicycle, I no longer despair for the future of the human race.”

Within the simplicity of this sentence lies a complexity of social and cultural change that belongs as much to our present as our past and is even more impactful as a result. On the surface, the “simple” bicycle was a mode of transport that suddenly opened up the world to an unprecedented liberation.

Making its debut early in the 19th century, mass production followed in the late 1800s, diminishing prices and increasing accessibility. Suddenly, the freedom to travel further was no longer



the domain of the wealthy, but one also to be enjoyed by the working classes. An emancipator for women, the humble bicycle represented a means of autonomy and liberty.

The inevitable ripple effect was a widening of gene pools; by facilitating travel beyond local communities, the number of potential marriage partners dramatically increased. The subsequent impact on the field of genetics was huge. Steve Jones, a leading UK geneticist, described the invention of the bicycle as the most important event in recent human evolution.

For most of us, this is not something we really think about when we hop on a bike. We tend to live very much in our time, with varying levels of myopia that are, in a sense, necessary for our day-to-day survival. We generally tend to select products based on their functionality, ease of use and cost. There are exceptions of course, but on a very fundamental level, the holistic view of decision-making is an exercise in retrospection rather than vision, or with much thought as to wider impact.

One such exception may well be tech. There is a palpable awareness that we are currently living through a complete digital revolution. Whilst biological human evolution has, in essence, come to a halt, the tech revolution is only really getting started.

Technology, in all its ubiquity, has forever

changed how we think, how we behave and has imprinted our daily routines with a sense of urgency, pushing us always closer to full immersion. The wider social and cultural implications are constantly debated, although action, particularly for social media platforms, fails to mirror the resolve of our subliminal, and collective, manifestos.

Beyond that, our relationship with technology is a complex one; both in practice and on a philosophical level. Taking a very blatant example; the correlation between technology and loneliness is well documented, and yet conversely, it was tech that enabled connection during a world that had involuntarily turned inward. Tech is blamed for our short attention spans and our distractibility, but it is the same technology that facilitates learning and innovation. A dichotomy perhaps, but this is all still novel, and we must learn how and where it slots into our overall evolution.

As we witness our world changing, far more rapidly than our cognitive constraints may genetically permit, we are therefore both user and historian in tandem. This symbiosis offers us an opportunity to reframe innovation in motion, to reflect and transform simultaneously.

Looking at this in a legal framework, we are a “species” undergoing a radical transformation. Ultimately, whether technophobe or

technophile, we are united in a movement that is both a tangible recalibration and a reminder that metamorphosis is a simple inevitability.

The tribulations of our user/historian navigation are well documented, from the obvious (“you’re on mute”) to the more nuanced (impact on cognitive processing), and yet the transformation is still running in real time, as we run with it, and the positives of progress fall underfoot.

What if we take advantage of this unique duality, and reframe the challenge of change as an opportunity to upskill? What if we look at the pain points so far through a lens of lessons learned? Haven’t we seen lawyers not only adapt, but in fact embrace remote and flexible ways of working, with an agility and openness which is unprecedented?

The assumption that future (and current) lawyers need to learn to code is finally dissipating but there is still an anxiety about being more than just technically competent, which I believe is misplaced. Of course, understanding how tech can automate and expedite workflows is crucial, but arguably, the more we digitise legal processes, the greater the need for softer skills – far too many to explore in this piece.

If we take the skill of effective communication as just one example, the how and when are now as important as the substance and motivation. Omnichannel is the norm for most of us, with an overwhelm of platforms all huddled together on one device. Choosing which method of communication as the most

appropriate stretches way beyond functionality or aesthetics, forming part of a wider picture encompassing risk and compliance.

The concept of “lost in translation” has never been more apt; with less time together physically, we lose out on learning by osmosis and the creativity that flows more naturally during in-person interaction; but surely, as a collective, we are already finding new ways of facilitating learning or fostering creativity?

As disjointed and discombobulated as we were in the embryonic lockdown days, we have since evolved. Whilst much is debated about the cognitive overload of back-to-back Zoom calls, there is less discussion about opportunities to rethink our communication skills. As our modern version of “normality” resumes, should we be seizing this as a wider opportunity to rethink communication overall?

If we pause, as historians in situ, and reflect on how effectively we communicate right now, I wonder how we would rate ourselves. How much do we convey in our written and verbal interactions, and do we convey what we want to? How much of a role should, or could, visuals have in the world of legal? How can we upskill to ensure that we don’t become overshadowed during a virtual meeting, or how can a lawyer advocate more effectively in a remote setting? We have lots to learn, and we have the tools to bolster the learning.

Cross-pollination is the norm in many sectors. In legal, the definition is perhaps more diluted. Legal engineers, technologists, data scientists and innovation managers

represent industrial transformation, and there can be no doubt that this diversity will continue to disrupt standard ways of working in law, but I think we need to go beyond that. If our future is hybrid, surely, we all need to find more imaginative ways of getting our messages across, rather than propagating a human vs machines narrative. To achieve this, should we be looking towards artists, writers and creatives who think in abundant optimism, or at least, looking completely outside of legal and tech for inspiration?

As we witness our own evolutionary journey, the seemingly immutable hierarchy of the legal profession is already starting to look a little more jaded; external and internal perceptions of lawyers continue to change, and it seems that technology has already exerted its power to democratise knowledge and access within the sector.

Rather than lament the loss of long meetings

and longer commutes, perhaps we should focus more on designing the tools that will ultimately shape the sector and our wider society. An ontological decision perhaps, our relationship with technology is fundamental to the future that we wish to have with it. In today's world, every time you see an adult on an iPhone, I doubt you feel as uplifted as HG Wells, but we are a progressive society, and we can - and should - adapt, and seek out the same freedom and exploration as our predecessors some 200 years ago.

About the Author

A former lawyer, Eimear is Commercial Director at TrialView. TrialView is a cloud-based digital disputes platform, designed for litigation, arbitration and hearings..

She is also a writer and a Visiting Lecturer at the University of Law, Manchester.



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To innovate for the future, develop your ambidextrous capabilities

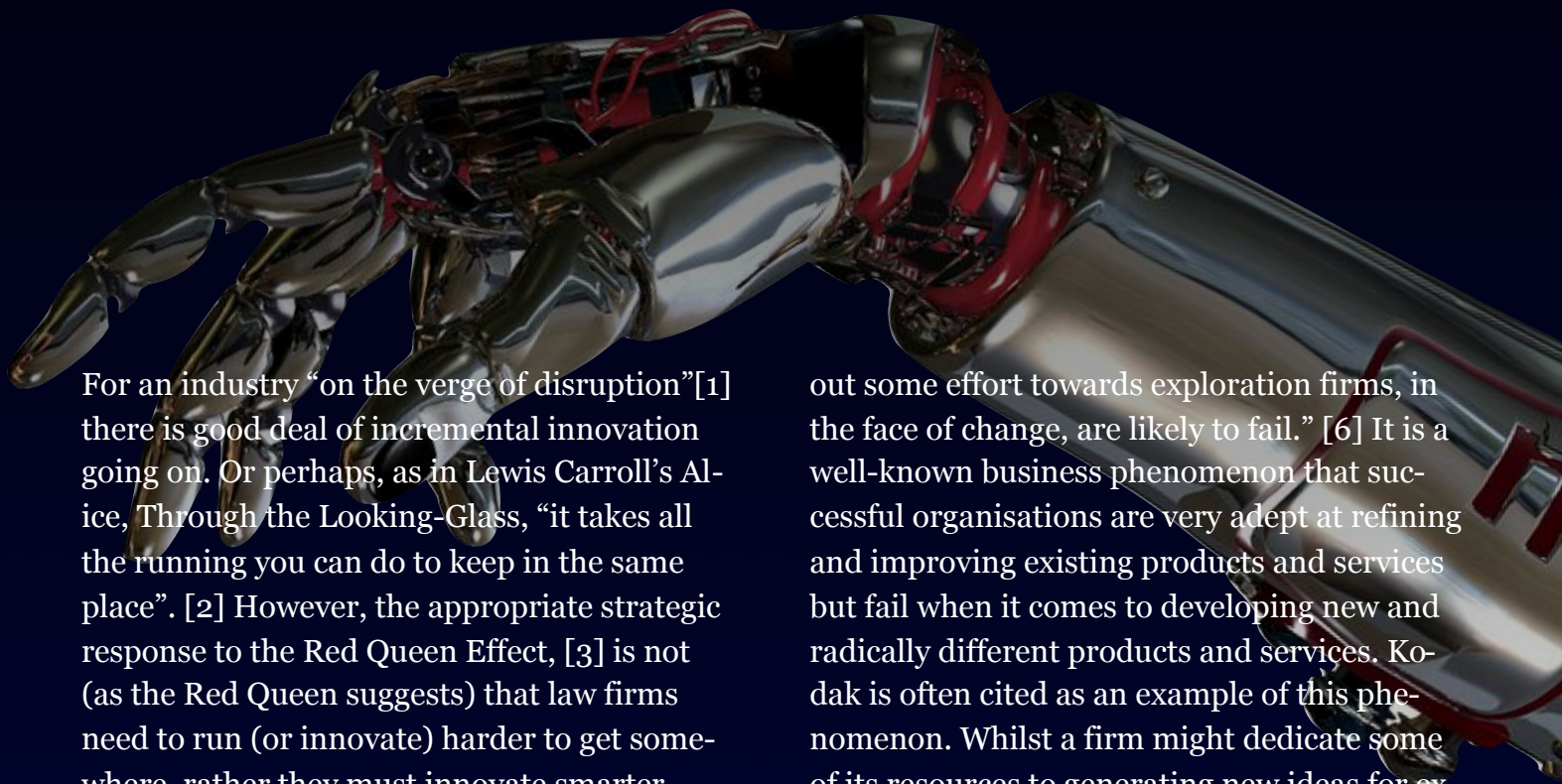
By Emma Ziercke & Prof. Dr. Madeleine Bernhardt
(Bucerius Center on the Legal Profession)



Emma Ziercke



Madeleine Bernhardt



For an industry “on the verge of disruption”[1] there is good deal of incremental innovation going on. Or perhaps, as in Lewis Carroll’s *Alice, Through the Looking-Glass*, “it takes all the running you can do to keep in the same place”. [2] However, the appropriate strategic response to the Red Queen Effect, [3] is not (as the Red Queen suggests) that law firms need to run (or innovate) harder to get somewhere, rather they must innovate smarter. They must constantly adapt and evolve: The fundamental adaptive challenge facing firms is the need to both exploit existing assets and capabilities to ensure current viability, and at the same time, devote enough energy to exploration to ensure future viability and avoid being rendered irrelevant by changes in markets and technologies. [4] Conceptually, the need for law firms to both explore and exploit is appealing, but what does this mean in practice? At the 11th Autumn Conference of the Bucerius Center on the Legal Profession, we invited innovation and organizational behaviour expert, Professor Charles A. O’Reilly III (Stanford Graduate School of Business) to share his insights from his extensive research into how organisations can simultaneously explore and exploit. This is what we learnt.

The Challenge

According to James March, [5] as cited by O’Reilly, “There is a bias in favour of exploitation, with its greater certainty of short-term success. Exploration, by its nature, is inefficient and is associated with an unavoidable increase in the number of bad ideas. Yet with-

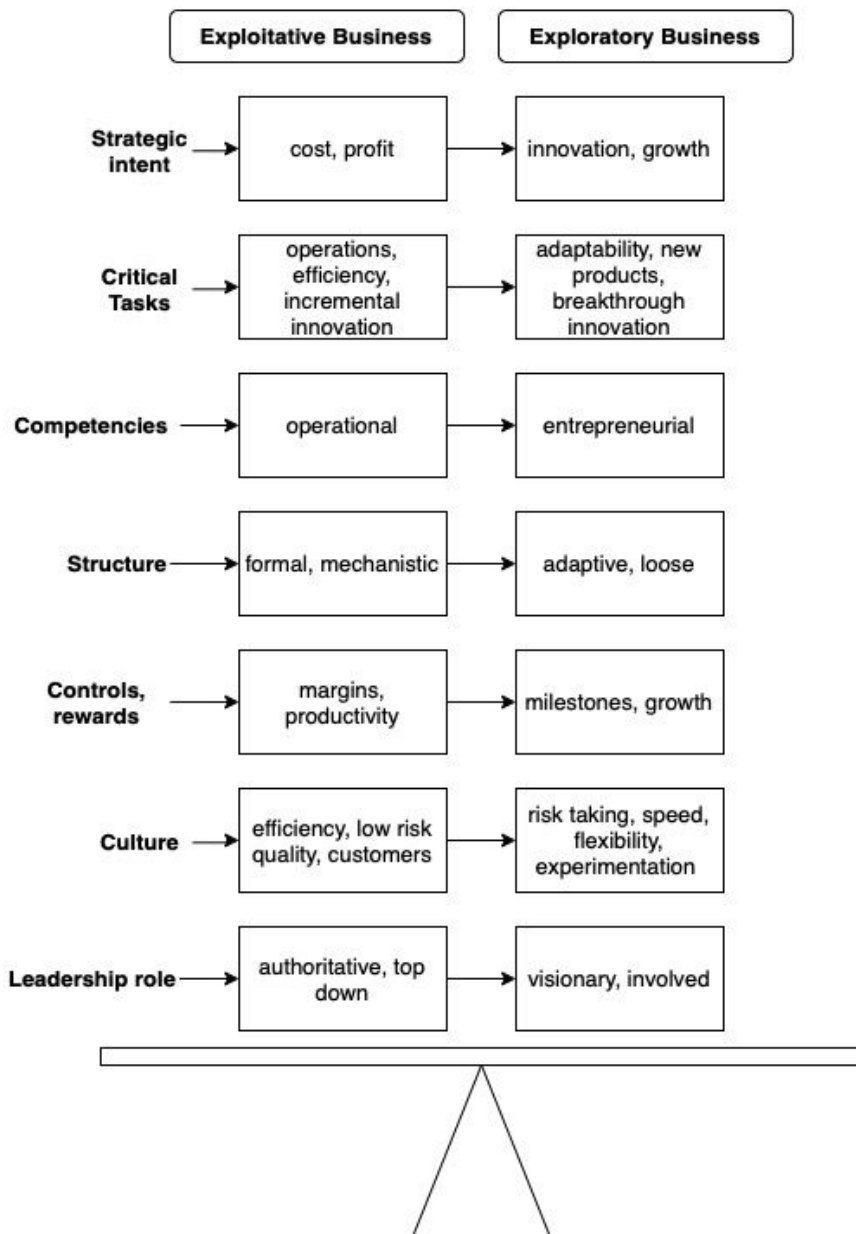
out some effort towards exploration firms, in the face of change, are likely to fail.” [6] It is a well-known business phenomenon that successful organisations are very adept at refining and improving existing products and services but fail when it comes to developing new and radically different products and services. Kodak is often cited as an example of this phenomenon. Whilst a firm might dedicate some of its resources to generating new ideas for exploration (for example, through research and development), they often decline to convert these ideas into meaningful products and services, often on perfectly rational grounds: the new ideas compete for scarce resources from the existing profitable business, or might result in a change to the current successful business model; the margins for the new business are slimmer; the client is content with what they already have, there is a risk that they might not buy the new service/product etc. As O’Reilly explains: “unless there is a clear strategy justifying the entrance into the new business, and unless senior management is prepared to protect these embryonic efforts, the tendency is for the mature business to either starve the new business or to impose on it the performance standards of the mature business, an easy way to kill a new venture”. [7] So how can law firms avoid this pitfall?

The Idea

O’Reilly calls an organisation that can simultaneously explore and exploit, the ambidextrous organisation. The secret to managing the tension between past and present, between

tension between past and present, between explore and exploit, lies in a strategic leadership approach, aligning the organizational elements of two essentially different business models.

The Ambidextrous Organisation



Adapted from *The Ambidextrous Organisation* Charles A. O’Reilly and Michael L. Tushman (2004) Harvard Business Review April

Furthermore, the ambidextrous organisation requires mastery of three distinct innovation disciplines: *idea generation*, the discovery and development of ideas for potential new businesses, *incubation*, where the new ideas are

validated in the market, and *scaling*, where existing assets and capabilities are reallocated to help the new venture grow. [8] The last of these three disciplines being historically the most difficult to master. [9]

As the result of his research into how managers explore and exploit, O’Reilly was able to characterize specific elements of successful ambidexterity. At the conference, he outlined five ideas to help law firms prepare for the future: [10]

The Ambidextrous Law Firm

1. A senior team that explicitly owns, and relentlessly communicates, the ambidextrous strategy, with shared goals and incentives.
2. Overarching vision and values to legitimise the strategy, promoting a common identity across the exploitative and explorative units, but with separate cultures.
3. Separate but aligned organisational architectures (business models, structure, incentives, metrics, and cultures) for the exploratory and exploitive units.
4. Integration points, so the explore business can leverage assets of the core (people, access to customers, resources).

5. Ambidextrous leadership committed and able to resolve conflicts and allocate resources.

The Reality

Through the insights offered by O'Reilly, conversations with innovation advocates across law firms in Germany and the UK, and through the panel discussion at our Autumn Conference, with Valesca Molinari (Co-Head Innovation & Legal Tech Team, Baker McKenzie), Nina Stoeckel (Senior Director Group Legal & Compliance Operations, Merck), Sebastian Hartmann (Chief Technology Strategist & Global Lead Portfolio & Investment Steering, KPMG) and Carsten Linz (Author of *Radical Business Model Transformation*), as well as short presentations by innovation champions in Germany, including Oliver Schwarz (Partner, ADVANT Beiten) we identified a number of potential stumbling blocks for law firms intent exploring, as well as exploiting. This is how to overcome them:

1. Move from a short-term to a long-term perspective

Law firms focus on short-term revenue (annual profit-per-equity partner) to the detriment of establishing long-term value through investment [11]. The recent headline in *The Lawyer*, "Innovation is a slow-burn return for Clifford Chance", [12] highlights how this works against the ambidextrous model: metrics for the existing business, where profits are paid out yearly and serve as an indicator of financial performance (PEP), contrast with metrics for the explorative business, where a more long-term perspective is needed. [13] For example, Clifford Chance's Applied Solutions Ltd, launched in 2018, ran a £1.6m operating loss in 2021,

compared to profit per equity partner PEP of £1.8 in the same year. To avoid killing the new venture, a strong leadership team is needed to clearly articulate the ambidextrous strategy, as well as ensuring that the new business is not assessed with the same metrics as the existing business, as this leads to the assumption that the new business is "under-performing" - and can kill the new venture. For example, according to *The Lawyer*, [14] having failed to deliver returns on investment as a separate entity, BCLP's managed services subsidiary, Cubed, was quick to transfer roles back into the firm to better serve the existing business.

Could an alternative legal structure for law firms be the solution? As discussed on our panel, some law firms in the UK have established themselves as public limited companies and floated on the stock exchange to raise finance for investment. Considered by *The Lawyer* as a "social experiment by the legal industry", [15] the six listed firms (Gateley, Keystone, Ince Group, RBG, Knights and DWF) have not yet stimulated market disruption in the way lawmakers envisaged when the Legal Services Act allowed non-lawyers to own and manage law firms – but we are watching this space closely.

2. The importance of structure when generating and testing innovative ideas

As discussed on our panel, law firms are good at generating ideas. Often this is somewhat haphazard, starting with the individual lawyer, investing time "on top of" their day job, later perhaps as part of a team or task force, and eventually as part of an "innovation lab". Tools such as design thinking (used by ADVANT Beiten), open innovation techniques and firm-wide innovation challenges (used by

Baker McKenzie) are becoming more common, however, innovation is part creativity and part discipline, [16] and often a more rigorous approach to idea generation is required. For example, Linklaters employed an innovation network tool to bring structure and discipline to the ideation phase of their innovation projects. [17] In the same way, validating the new ideas, whether through lean start-ups techniques [18] (used by Norton Rose), or the well-known business canvas, [19] requires clear criteria for moving forward, modifying, or killing the experiment. As Valesca Molinari explained, generating the ideas is not the problem - we might produce 400 ideas – but deciding which to test and how to test them requires business acumen and entrepreneurial mindset, something which may not be prominent in the lawyer skill set. As our guest, Nina Stoeckel, reminded us, lawyers tend to want to “read the handbook first” before embarking on new ventures.

3. Increase collaboration – think outside of the box!

Sebastian Hartmann explained how KPMG’s appropriately named exploratory venture, “Not-Kodak”, became “Engine B” (<https://www.engineb.com>). During the ideation stage, it was important to gain insights from both audit and non-audit experts to investigate what changes in the business environment would entirely disrupt the audit business model. To test and scale up the idea of a fully digitalised audit process, KPMG asked potential future customers and collaborated with other audit firms and players in the industry, including the regulator in England and Wales. KPMG’s mindset was that, if KPMG could gen-

erate the idea of a fully digitalised audit process, then its competitors were likely to be able to do the same – it is best to disrupt your own business model yourself than to have someone else destroy it!

Amazon Go!, mentioned by Carsten Linz, serves as an example of the importance of asking the customer. The idea of an automated shop evolved after customers said the most frustrating part of shopping was waiting in line. Many law firms show their clients prototype tools, and even work with them to develop the tool, but as both Carsten Linz and Nina Stoeckel highlighted, law firms need to take collaboration a step further. Nina Stoeckel noted that, as a buyer of law firms’ innovative offerings, given that each law firm creates and sells its own “tool”, there are too many tools available for the buyer. Legal departments don’t want 40 different products, but one universal product for the job. Furthermore, according to Linz, it is not enough to involve the immediate customer in the chain. Discontinuous innovation can occur when we consider the value chain as a whole: what if the tool could not only identify the legal issue but also solve it, involving not just the Business-to-Customer element, but the entire Business-to-Customer-to-Business chain. Furthermore, as highlighted by Oliver Schwarz, when incubating innovative ideas, lawyers must be proficient at working in multi-disciplinary teams and play to their own strengths: few lawyers have the skills necessary to quickly bring a product to market using a lean-start-up model, this should be left to the experts.

4. Focus on structural ambidexterity when scaling up

Linklaters recently announced their intention

to scale up their CreateiQ product as both a product and a brand. [20] To scale successfully, according to O'Reilly, the new venture needs to add customers, capacity, and capability fast enough to maximise the market opportunity. [21] Firms good at scaling use a combination of techniques to do this: acquire (M&A), build (investment commitment), partner, and leverage assets and capabilities from the mature business. [22] Law firms, and other organisations, tend to be great at ideating and good at incubating. The real issue lies in scaling, especially as this is when a truly ambidextrous organisation is essential. In the legal market, one might be forgiven for assuming that most international law firms already have an ambidextrous organisation, as separate innovation units are advertised on their websites (Fuse from Allen & Overy, Reinvent Law from Baker McKenzie, Wavelength from Simmons & Simmons, Nakhoda from Linklaters, Cubed from BCLP, or the Freshfields Lab). Although some of these units have their own brand name and website, most are still fully integrated in the existing business, often led by practice group partners ("on top" of their day-job) and often relying on resources (marketing, technology, lawyers) from the firm. This may be acceptable during the ideation and incubation phase, but not in the scaling phase. As discussed by Sebastian Hartmann, a key success factor in the "not Kodak" project was separating it from the main business during the testing and scaling stages. Furthermore, according to O'Reilly, incubation and scaling cannot be carried out "on-top" of a lawyer's day job – even more so for discontinuous innovation – a view confirmed by Hartmann, who explained that it was essential to do the type of thinking re-

quired for testing and scaling outside of one's day-to-day work. Giving brand primacy to the products created by the exploratory unit may be an important first step, [23] whereas ultimately, the mission of the new venture should be to "kill the core business".

5. Alignment of Goals, Rewards and Career Steps

According to O'Reilly, one of the key success factors for an ambidextrous organisation is a clear, well communicated strategy and common reward system. [24] During the panel discussion, Oliver Schwarz highlighted the importance of incentivizing lawyers working in the exploratory unit, for example, by offering lawyers working a fixed number of "innovation hours" an "innovation bonus". Other firms, such as Mishcon de Reya, have introduced similar schemes. [25] However, many lawyers have dual roles, being responsible for both innovation and their practice area. This can result in conflict between explore and exploit functions, with the result that the exploit function is prioritised in favour of utilization and profit targets. To combat this, not only does exploration need to be rewarded, but clear strategic communication is needed to highlight that exploratory work is equal to client work – in terms of pay, appraisals, and career progression.

Conclusion

O'Reilly reminds us [26] although the ambidextrous organisation that focuses on structural design and leadership to allow companies to lead *disruptive* innovation in their markets, the three stages (ideate, incubate and scale) are highly relevant to *incremental* innovation. Whilst the ability of leadership to

adapt, integrate and reconfigure organizational capabilities are more valuable in a disruptive environment, adaptability remains crucial for law firms, especially given the number of structural, cultural, and leadership mechanisms which hinder innovation (for example, no established research and development activities, short-term outlook, focus on individual partner performance, no alignment of reward system for non-lawyers). The purpose of this article is to give forward-thinking law firm leaders ideas and concepts with which to prepare themselves for the future, so that they too can arrive “somewhere” by running smarter.

Notes

[1] <https://thepractice.law.harvard.edu/article/disruptive-innovation/>

[2] Lewis Carroll (1960) p. 345

[3] In Lewis Carroll's “*Alice, Through the Looking-glass*”, Alice realises that although she is running as fast as she can, she is not getting anywhere, relative to her surroundings. The Red Queen responds, “*Now here, you see, it takes all the running you can do to keep in the same place. If you want to get somewhere else, you must run at least twice as fast as that!*” This analogy is often used to describe continuous and escalating activity of firms trying to maintain relative performance in a competitive market. The only way rival firms can escape the “Red Queen Effect” is not by running harder but running smarter than their competitors. See for example, Sven Voelpel, Marius Leibold, Eden Tekie, and Georgvon Krogh, *Escaping the Red Queen Effect in Competitive Strategy: Sense-Testing Business Models* in the European Management Journal Volume 23, Issue 1, Feb-

ruary 2005 <https://doi.org/10.1016/j.emj.2004.12.008>

[4] James G. March (1991). Exploration and exploitation in organizational learning. *Organization Science*, 2: 71-87.

[5] Ibid.

[6] Charles A. O'Reilly and Michael L. Tushman, *Organizational Ambidexterity: Past, Present, Future* at the 2013 Academy of Management Perspectives (in press) at page 4

[7] A. O'Reilly and Andrew J.M. Binns, *The Three Stages of Disruptive Innovation: Idea Generation, Incubation and Scaling California*, *Management Review* (2019), Vol. 61(3) 49-71 at page 50

[8] Ibid at page 51

[9] Ibid.

[10] From Charles A. O'Reilly's Keynote speech “Lead and Disrupt – The Ambidextrous Organisation” and Charles A. O'Reilly and Michael L. Tushman *Organisational Ambidexterity in Action: How Managers Explore and Exploit* 2011 California Management Review Vo. 53(4) 5-22 at page 9

[11] See for example, Jonathan T. Molot *What's wrong with Law Firms? A Corporate Finance Solution to Law Firm Short-Termism*, 2014 Southern California Law Review Vol. 88(1) 1-43

[12] *Innovation is a slow-burn return for Clifford Chance*, HORIZON by The Lawyer 19th January 2022

[13] See for example, Ocado Group in the UK. The start-up, founded in 2000, disrupted the online-grocery market in the UK with automated warehouses, but it was over 10 years before it became profitable.

[14] *Innovation is a slow-burn return for Clifford Chance*, HORIZON by The Lawyer 19th January 2022

[15] *Law Firm IPOs are a social experiment*, HORIZON by The Lawyer 24th January 2022

[16] Gary P. Pisano, *The Hard Truth About Innovative Cultures* 2019, Harvard Business Review January-February pages 62-71

[17] <https://www.hypeinnovation.com/hubfs/Linklaters-Case-Study-EN.pdf>

[18] For useful validation methodologies see pages 55-57 of Charles A. O'Reilly and Andrew J.M. Binns, *The Three Stages of Disruptive Innovation: Idea Generation, Incubation and Scaling* California Management Review (2019), Vol. 61(3) 49-71

[19] See David J. Bland and Alex Osterwalder, *Testing Business Ideas*, Wiley, 2020

[20] <https://www.globallegalpost.com/news/linklaters-assigns-brand-primacy-to-tech-platform-createiq-ahead-of-internal-startup-nakhoda-31752835>

[21] Charles A. O'Reilly and Andrew J.M. Binns, *The Three Stages of Disruptive Innovation: Idea Generation, Incubation and Scaling, California*, Management Review (2019), Vol. 61(3) 49-71 at page 58

[22] Ibid; pages 58-62

[23] See for example Clifford Chance's Applied Solutions Ltd (<https://legaltechnology.com/2021/05/17/clifford-chance-launches-centralised-rd-hub-as-applied-solutions-becomes-sales-arm/>) Linklaters' CreateiQ (<https://www.globallegalpost.com/news/linklaters-assigns-brand-primacy-to-tech-platform-createiq-ahead-of-internal-startup-nakhoda-31752835>) and ADVANT Beiten's BB-Go (<https://www.bb-go.de>)

[24] Charles A. O'Reilly and Michael L. Tushman *Organisational Ambidexterity in Action: How Managers Explore and Exploit* 2011 California Management Review Vol. 53(4) 5-22 at page 10

[25] <https://www.mishcon.com/news/mishcon-to-tech-enthusiasts-spend-20-of-your-billable-hours-on-innovation>

[26] Charles A. O'Reilly and Andrew J.M. Binns, *The Three Stages of Disruptive Innovation: Idea Generation, Incubation and Scaling* California Management Review (2019), Vol. 61(3) 49-71 at page 69

[27] David J. Teece, Gary P. Pisano, Amy Schuen, *Dynamic Capabilities and Strategic Management* 1997 in the Strategic Management Journal 18 pages 509-533 at page 516

[28] Charles A. O'Reilly and Andrew J.M. Binns, *The Three Stages of Disruptive Innovation: Idea Generation, Incubation and Scaling* California Management Review (2019), Vol. 61(3) 49-71 at page 50

[29] Ibid.

About the Authors

Emma Ziercke is a non-practising solicitor (England & Wales) and Head of Research at the Bucerius Center on the Legal Profession (CLP) at the Bucerius Law School, Hamburg. Following her studies in Law and French Law and Language at the Universities of East Anglia (Norwich, England) and Jean Moulin Lyon III (France), Emma Ziercke worked as a Corporate Solicitor for Linklaters in London from 2002 until 2009. As a Managing Associate she was primarily involved in private international mergers and acquisitions, reorganisations, public takeovers by scheme of arrangement and general company law.

After moving to Hamburg, Emma studied part-time for an Executive MBA at Nottingham

University Business School, focussing on law firm management and organisational behaviour. In 2014 she completed her studies with distinction and won an award for best overall performance together with an award for her dissertation on Gender Diversity in Law Firms. The dissertation was carried out as a case study, the purpose of which was to understand the underlying reasons for the high attrition rate of talented female lawyers in the UK and Germany.

Emma currently works at the Bucerius Center on the Legal Profession as a senior research associate in the fields of Law Firm Management, Gender Diversity and Organisational Behaviour. Her main interest is in gender and generational diversity in the profession, and she has spoken on this topic at a number of events. A list of her publications can be found

here: <https://www.linkedin.com/in/em-maziercke/>. Furthermore, Emma teaches *Law Firms of Tomorrow*, a course on law firm management, for the International Exchange Students at the Bucerius Law School.

Prof. Dr. jur. Madeleine Bernhardt, LL.M. is a lawyer, psychologist and certified Business Coach (European Coaching Association). She is Director Strategic Leadership Development and member of the Executive Faculty at the Bucerius Center on the Legal Profession. Madeleine has extensive experience in leadership and personal development in law firms, regularly conducts leadership development programs for professional service firms and consults to international law firm partners on the development of their leadership effectiveness

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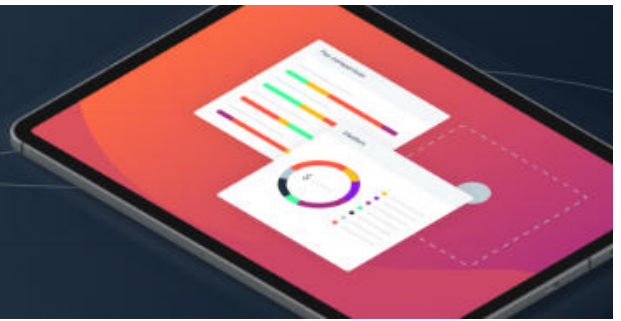
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UK Expert Perspectives

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

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



From time to time, I find it useful and interesting to stand back and have a look at what others are doing to improve the effectiveness, efficiency, and pricing of legal services. I invited five UK-based professionals to send along a few thoughts about their “state of the art”.

Mark Ford mark.ford@uk.ey.com is an Associate Partner and Global Law Knowledge Leader for E&Y based in London. He recently joined the firm from Echo Legal, a document automation specialist, to lead the legal knowledge management function and support the organization in its goal to create the world’s leading enterprise legal services business. With more than 3,500 legal professionals in 94 countries, there is much for Mark and the team to do. At a strategic level, his focus is on three primary areas:



- content – to create, collect and curate market-leading content for legal professionals to use in serving clients
- systems – to build powerful yet user-friendly repositories to put this knowhow at users’ fingertips as and when they need it, and
- culture – to create a strong knowledge culture to ensure that every member of the organization is participating in the program.

Although knowledge management has existed in the legal space for decades, the explosion in technology in recent years has transformed the discipline – from its origins as a paper-based library function into one that can leverage the expertise of hundreds of professionals and is helping transform the delivery of legal services. An effective knowledge management

program allows lawyers to reduce costs, improve efficiency, minimize risk, and deliver better services to clients.

The knowledge management landscape is shifting at a rapid pace, but Mark believes that one of the most exciting developments over the next five years is going to be in the area of search and retrieval. Advances in artificial intelligence and related technologies are making it much easier to identify unstructured information across an entire enterprise. This will reduce the need to build highly structured repositories with detailed metadata schemas, which is extremely resource intensive. These same developments, he believes, will also allow large organizations that process vast amounts of information to gain new insights

from the “big data” that they hold. One day, even law firms may finally “know what they know”.

Nick Williams www.proximagroup.com as until recently a Principal Consultant with Proxima in London and will soon move to Santander UK as its Director of Procurement for Professional Services. Nick has observed that the way in which procurement departments support in-house legal teams has really improved over the past 10 years and that this is very encouraging. Different factors will continue to influence the degree of success when buying of legal services. Competitiveness means that law firms bidding for legal work are more confident about their offerings and bring forth new ideas with more collaboration on projects.

Openness is becoming fashionable – and the willingness of both lawyer and buyer to operate together to build better solutions. This work is vital for all parties to the discussion. Overcoming long-established obstacles between the two professions allows each to contribute to joint objectives so that results can be achieved.

Technology has gotten better, and automation is now helping lawyers to become more efficient and buyers to reduce cost. A solid understanding of the different types of work done by internal and external legal teams is now supporting more robust design/build/operate/maintain models, in many ways heightened by the pandemic-enforced lockdowns that have shown the art of the possible in remote working.

Greater complexity in law and commerce is

driving a need for simplification and there is greater desire to understand how things work and how they can deliver better joint value, with more measures given to areas apart from pricing and rates.

Procurement tools, techniques, tenders, databases, and assessment criteria are becoming more refined and more sophisticated, helping drive legal teams’ and law firms’ thinking and contracting approaches. More go-ahead General Counsel are taking better internal business advice and are at last contributing real numbers to tougher savings and cost reduction targets.

By acting as facilitators, procurement specialists can bring change when lawyers find it too challenging to separate the risk from the realities.

Ian Gray Ian.Gray@eversheds-sutherland.com is an Executive Partner at Eversheds Sutherland, responsible for client relationships across 34 countries, a member of the Global Executive and also Chairman of Eversheds Sutherland Europe.

Over the last 10 years, Ian has seen a great deal of innovation in the establishment of new external counsel arrangements. Going back even further, the firm worked alongside Tyco as it reduced from 260 firms around the world to one. A number of high-profile organisations followed a similar direction, with Avis Budget winning awards for transformation which included reducing law firms around the world from 700 to seven; and Turkish Airlines entering into an innovative arrangement with a

fixed fee for all work globally spread out over a number of years.

Ian thinks that such arrangements were designed to change the way in which corporate counsel and their law firms worked in the past. Many other large companies have followed suit, significantly decreasing the number of law firms with which they engage, striving for efficiencies, administrative ease and value for money. Things continue to evolve, with increasing emphasis now on trust in the law firm and its values, behaviours and culture says Ian.

Stuart Dodds www.positivepricing.com co-founded Positive Pricing 5 years ago. Positive Pricing has advised many leading law firms across the globe. Encouragingly, one of the key themes it has witnessed and supported over the last few years has been a greater focus on how law firms can more clearly create, demonstrate, and communicate their value to their clients.

A clear benefit of providing law firm clients with more choice to determine the right solution for them *at that point in time* – for example whether the focus should be on immediate solution, cost efficiency, or an opportunity to mitigate future cost down the line. Although the focus of these efforts has been primarily on partners within the firms they work for, many are also now beginning to extend this type of *thinking and training* to senior associates and other key professional staff as part of more structured training programs or other pricing-related initiatives. Each will help law firms serve their clients better.

Any pricing-related initiative within a law firm, or indeed arguably *any* firm, must ensure that the initiative clearly aligns to the culture of the organisation. Firm culture is often not fully considered when implementing such programmes, yet cultural considerations are critical. Firm culture affects the approach taken to developing pricing policy, pricing governance and the associated approvals, metrics and financial indicators adopted and communicated, the level of entrepreneurialism or flexibility permitted within the firm itself, and even the method, audience and frequency of training delivered. Cultural considerations have become even more apparent during the last 12 to 18 months during the pandemic where firms have had to consider how to serve their clients more consistently and appropriately, and what latitude or otherwise to allow their partners when determining commercial agreements.

Stuart's experience with Positive Pricing, and as a pricing specialist for Linklaters and Baker McKenzie, is at the heart of his firm's approach to its work. He believes that what ultimately drives successful pricing initiatives, regardless of firm, is aligning the initiative to firm culture, recognising that there are many different paths to pricing success, and doing so in a clearly structured yet incremental fashion allowing the 'new behaviours' to be consolidated, refined, and more easily adopted.

One clear example of this in the last 12 to 18 months has been the rise of retainer or subscription-based arrangements, these often being instigated by law firms but also importantly and encouragingly by their clients as a means

of improving predictability of legal spend, improving service delivery outcomes, and providing an opportunity to develop and create more value to both organisations. For a number of law firms and their clients, these types of arrangements are already well in place and on the second or even third iteration, as is a trend that Stuart is sure many will follow.

Deborah Watson www.cooteogrady.com is a Partner and Head of Marketing with UK-based Coote O'Grady. This firm provides legal spend management solutions that include invoice review, legal panel management, and consulting on the full range of legal spend management issues. Coote O'Grady provides a unique human-led service that is supervised by qualified lawyers capturing real cost savings that could be missed by automated systems. The firm enables its clients to continuously save money while allowing in-house lawyers to focus on high-value, strategic tasks rather than administration. And most importantly, the Coote O'Grady team is always mindful to support the relationship between in-house legal teams and their law firms.

There has been much debate on the true solutions to reducing external counsel spend and whether reducing law firm numbers is the solution. Coote O'Grady suggests that the best approach is the more complex one of finding

the right law firms, in the right locations, with the right expertise even if this means increasing the number of law firms. With the right expertise, increased visibility of legal spend, and access to legal spend analytics, the value of the law firms can be truly assessed, and real choices can be made about the results to be delivered.

Coote O'Grady's co-founder, Stacey Coote, suggests that he often encounters a range of problems with organisations concentrating spend with too few firms. These have included hefty price increases, less flexibility on cost reduction, reluctance to follow billing guidelines, speed of response, and deviations in quality.

As a legal services management consultant for close to 30 years, I encourage and applaud the fresh thinking and work that Mark, Nick, Ian, Stuart, and Deborah have shared with me. I look forward to chronicling developments again and sharing progressive business practices in future articles.

About the Author

Richard G. Stock, M.A., FCG, CMC is the Managing Partner of **Catalyst Consulting**. See www.catalystlegal.com Richard can be contacted at (416) 367-4447 or at rstock@catalystlegal.com.



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Beyond the hype: How AI can - and can't - help your legal operations

Join Legal Operators and Conga for a practical webinar on AI in Legal and learn how AI can be used to help your legal departments.

As more organizations are looking to prioritize Artificial (AI) and Machine Learning (ML) solutions into their legal practices, it is falling to legal operations professionals to have a clear understanding of the benefits and limitations of this evolving technology.

Speakers:

John Gengarella, VP of Strategic Planning, at Conga

Brian Bartell, VP of AI and Machine Learning at Conga

In this one-hour webinar:

- When and how AI and ML benefits legal teams
- How AI saves legal teams time without sacrificing accuracy
- Achieving the highest ROI for technology investments



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Your Easy-Going Veritable Map Showcasing the Judicious and Expanding Path of AI in the Law

By Lance Eliot, Stanford Fellow at Stanford University and Chief AI Scientist at Techbrium Inc



Let's discuss Artificial Intelligence (AI). Most lawyers have undoubtedly heard about or even directly experienced the use of AI-infused apps in their everyday lives. The use of facial recognition to unlock your smartphone and the anticipated IRS-required facial recognition to access your personal tax records is technologically made feasible due to AI capabilities, like it or not.

When you speak to Alexa or say hello to your Google conversational device, you are making use of AI-based Natural Language Processing (NLP) that translates your spoken words and attempts to affably interact with you.

In brief, AI is here to stay and will steadily continue to advance. It will become embedded into



all manner of systems and devices. There will be no viable means of escaping the ubiquity that AI capabilities will power amongst the myriad of daily services and goods that we all consume.

Shifting focus, consider how AI is entering into the legal domain.

Perhaps somewhat surprisingly, those deeply immersed in the legal field are oftentimes only vaguely aware of how AI is inexorably getting intertwined within the practice of law and the future of law itself. This is easy to understand as AI has only been scratching at the edges of the legal realm and just inching its way in.

Furthermore, an oft-stated axiom about the

legal arena is that it seems to be one of the last sectors or industries to generally embrace technology all told. Tried and true methods of using paper-based approaches or staying the course with faxes are seemingly hard to give up. Suspicions about using new technology are at times perhaps justified per overly steep learning curves or due to earnest qualms about cybersecurity vulnerabilities, yet meanwhile advancing tech typically referred to as LegalTech continues to inexorably gain traction and is being intricately woven into the underlying fabric of modern-day legal offices.

Where there is LegalTech, there will eventually also be AI.

That seemingly brazen precept is altogether

straightforward. Whatever type of legal aiding piece of automation you might envision or seek to obtain will ultimately have AI included. Doing so will boost ease of use, proferring cognitive-like sensibilities, and make legal work more productive and efficient (assuming the AI is judiciously included and equally wisely utilized by the legal teams). At times, the AI will be somewhat awkwardly bolted onto a legal tool that otherwise has already been in existence and needs to after-the-fact bolster its functionality. In other instances, the AI will be built into a legal tool from the ground up, serving as the cornerstone for the resultant legal app.

But before we get ahead of ourselves regarding this look at AI in the law, we need to ensure that the big picture is on display. To do this, put your mind toward the idea of a two-sided coin.

The Two-Sided Coin Of AI In The Law

Please be aware that there are two major ways to intertwine AI and the law: (1) AI as applied to the law and the practice of law, (2) Law as applied to the advent of AI. You might say that they are two sides of the same coin.

In the first instance, lawyers and legal scholars emphasize the use of AI as applied to the law, which I'll signify as the so-called robo-lawyer, robo-judge, robo-juror, and the like kinds of aspirations. Note that I am not a fan of that robo verbiage, but it is admittedly a quick way to invoke the imagery of what applied AI is ultimately aiming to do.

The second instance consists of applying the

law to AI, such as ascertaining how our laws and regulations should be adjusted or crafted anew to cope with the burgeoning use of AI throughout society. This is construed as using legal acumen to figure out the appropriate means of governing AI.

Much of the flashy aspects about AI-in-the-law stems from the application of AI into the law (that's the first case indicated above). Especially popular ways of applying AI in the law consist of infusing Natural Language Processing (NLP) capabilities into the arduous chore of doing e-Discovery (i.e., AI-based NLP is especially useful when dealing with large-scale narrative-oriented datasets that require extensive and otherwise laborious by-hand legal discovery efforts). And you are perhaps familiar with the use of AI for aiding in examining and composing legal contracts. There are lots of these infusions taking place of plopping AI techniques and technologies into the carrying out of conventional legal tasks.

The use of AI as added onto or embedded into LegalTech is the most commonly noticed facet of AI in the law.

Get ready though for the next boon, namely the need to apply the law to AI.

This is gradually gaining notable ground and outstretched headlines.

Why so?

This is partially due to the rampant and uncontrolled promulgating of AI that has

showcased seedy and untoward capacities. The recent era of AI began with a rousing cheer that AI would be abundantly good for society, but quickly discovered that there is the grimy underbelly of AI too. AI systems are now suspect right away, often embedding contemptible biases in factors such as race, gender, etc.

As a result, the application of the law to AI is garnering a lot of steam.

Lawyers are needed that understand the in's and out's of AI. What weaknesses of AI are exploitable by evildoers and garner legal exposures accordingly? How can laws be crafted to stymie the AI For Bad emergence? Will such laws be crafted to keep AI innovation steaming ahead or will new regulations undercut the advantages of AI?

You see, some rightfully worry that the wrong kind of laws, though perhaps created with the most earnest of intentions, will ostensibly kill the golden goose.

Generally, AI-infused systems have the upside of potentially being better at what they do and are more societally beneficial than ordinary tech, but they also spur the chances of violating the four key principles of embodying what is handily abbreviated as FACT, namely that AI ensures fairness, accountability, transparency, and ethical conduct in its computational actions.

There are many efforts underway to draft and enact laws specifically targeting the AI realm, occurring at the federal level and the states

level (plus internationally too)

Lawyers are needed to aid in the creation and passage of such laws, plus will later be needed once such laws are put onto the books to help interpret and adjust those laws.

Consider another important avenue that will require attorneys with legal-oriented AI-savviness.

Who is to be held responsible for AI that goes astray and performs untoward actions?

The typically knee-jerk answer is that AI is the responsible party. The AI is somehow assumed to embody a semblance of human agency. We don't have that kind of AI these days. We do not have sentient AI. We don't know if AI sentience is even possible. Claims that the AI has acted of its own will are relatively disingenuous at this time (though, it is hard to predict what the future might hold, which of course the aspirational goal of AI researchers is to someday attain sentient AI).

The gist is that there are humans that set up the AI and put it into use.

Legally, we presumably would seek redress from those that established the AI or are maintaining or otherwise fostering the AI. Companies that have crafted AI systems will need lawyers that know how to internally guide the AI building efforts to minimize AI-arising legal problems down the road. Firms that have already put forth AI apps are likely to find themselves facing legal wranglings when the AI they've released fails to abide by

the fairness and allied precepts.

Lawyers will inarguably be needed by those companies as they fend off legal challenges.

Meanwhile, individuals that believe they have been wronged by the AI are apt to seek legal representation and legal advice about how to proceed with a legal case against those AI-producing or AI-using firms. The overarching notion is that lawyers versed in the legal machinations associated with AI systems will increasingly be sought for legal cases entailing AI that goes off the rails.

Conclusion

A final remark, for now, might spur added mindfulness for you about the heightening significance of AI in the law.

Some would vigorously argue that lawyers are professionally obligated to know about AI in the law by the very canons of legal conduct as required by the *ABA Model of Rules*, particularly pertaining to the venerated Duty of Competence. A somewhat admittedly under-the-radar resolution of the ABA declared this rule: “RESOLVED, That the American Bar Association urges courts and lawyers to address the emerging ethical and legal issues related to the usage of artificial intelligence (“AI”) in the practice of law including: (1) bias, explainability, and transparency of automated decisions made by AI; (2) ethical and beneficial usage of AI; and (3) controls and oversight of AI and the vendors that provide AI” (per American Bar Association, House of Delegates)

This provides extra fodder for the assertion

that attorneys ought to be immersing themselves to some reasonable degree into the AI-in-the-law realm.

Notice that I said that legal professionals can aim to be *reasonably* versed.

One false objection by some is that getting into the AI topic requires a nerd-like grandiose high-tech background or perhaps entails doing arcane computer programming akin to a super techies skillset. Not so. Though digging deeply into the tech might be desired by some lawyers, there is no such necessity for those that want to be less entrenched but yet also still be able to sufficiently partake in the AI-in-the-law facets (not everyone has to be a lawyers-that-code adoptee).

You can go the route of aiding the inclusion of AI into legal tools and LegalTech systems, bolstering those efforts by the keenness of your legal prowess. That’s the side of the coin entailing AI as applied to the law. A smattering of AI familiarity would typically suffice. Your profound knowledge of the law and the practice of law provide the sorely needed domain knowledge for such efforts.

Or you can participate in the crafting of new laws that will provide added safety and equity for the pell-mell rush of AI throughout our society. Once again, familiarity with AI will be sufficient, while your ample legal acumen is the overriding criterion.

Besides the regulatory perspective, you could perhaps be ready to serve your existing clients as they find themselves confronting AI-related

systems exposures or calamities. You might even consider establishing a new line of your legal practice that will aid businesses and individuals that find themselves wronged by AI systems. These are all lawyering activities that fit into the side of the coin of applying the law to AI.

I trust that this provides a kind of helpful map to you, illuminating the path ahead that AI in the law will be indomitably forging.

There is no need to arbitrarily flip a coin to try and guess whether AI in the law is going to be substantial. Of the various bets that you might wish to make as a lawyer, betting that AI is coming and will inevitably permeate the legal field is a guaranteed winner. It is, shall we dare say, a sure bet.

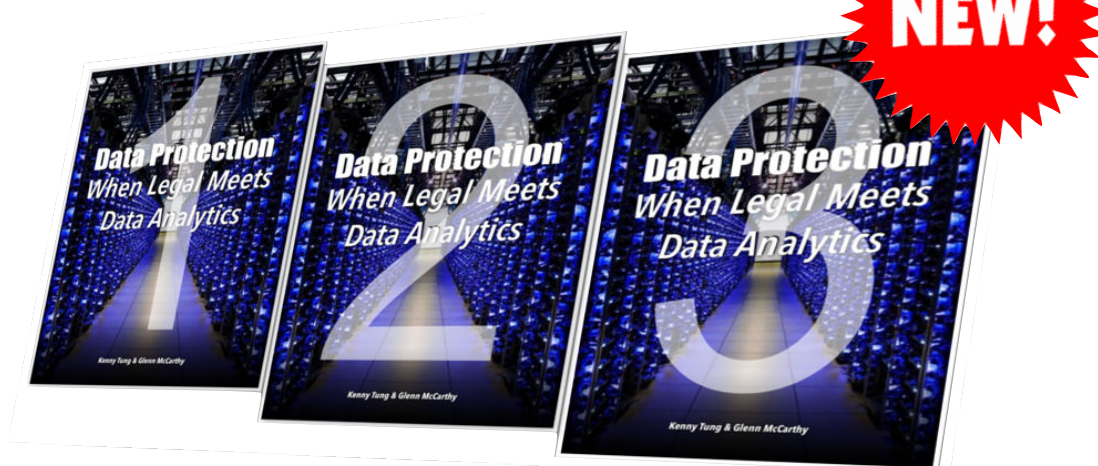
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His columns have amassed over 4.5+ million views including for Forbes, AI Trends, The Daily Journal, and other notable publications. His several books on AI & Law are globally recognized and highly praised.

More info on this exclusive series see [page 68](#)



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Responsible Innovation, CDR, and the Legal Sector

By Jolanda Rose, Associate Legal Process and Technology at KPMG Law and Bernhard Waltl, Co-CEO and Co-Founder of the Liquid Legal Institute



Jolanda Rose



Bernhard Waltl



Why should the legal sector care? Responsible use of innovation.

Since the beginning of the Corona pandemic, at the latest, there has been no doubt that legal tech and legal operations are no longer a matter of theory, but must be implemented in all areas of the legal industry. Management of legal departments, managing partners of law firms, executives in government agencies and the judiciary are under pressure to do more and more work in less time. Many have had to switch to digital working overnight and have mastered this change more or less successfully.

This change is also reflected in the sharp increase in the volume of investment in legal technology. According to Gartner (<https://www.gartner.com/smarterwithgartner/5-legal-technology-trends-changing-in-house-legal-departments>), for example, the majority of GCs expect the technology budget of legal departments to increase by more than 200 percent. At the same time, appropriately skilled professionals are becoming scarce and the pressure on the industry to work more efficiently is growing.

Legal innovation is no longer a trendy topic for design thinking challenges, it has become a hard business reality for many legal organizations. Those who do not invest now and drive digital transformation will be left behind. So it happened that the use of technology has become not only a topic which requires operational excellence but also strategic planning. Technological innovation has arrived at the very heart of legal business be it in automatizing internal processes, improving existing business models, or enabling new business models.

In addition to the advancements and technological improvements of the last years in legal tech and legal operations there is an increasing discussion about ethical considerations of technology and their usage. In connection with this, many new questions must be addressed such as:

- How do we want to use technology?
- What ecological implications do we need to consider when developing new business models?
- Does our service delivery model really serve human and societal needs?

Responsible digital innovation will play a central role in modern strategies of legal tech and legal operations within the above mentioned organizations. The trend towards responsible digital innovation is fostered by recent approaches and drafts of new regulations for the digital society. In Europe this is not only due to data privacy and GDPR, but also to the recent draft of the Artificial Intelligence Act, the Data Governance Act, the German Supply Chain Act and the Digital Services Act. The list of new regulations is long and the sanctions proposed in those acts are remarkable. In order to adequately respond to the foreseeable regulations of a digitized society, the implementation of code of conducts is playing a central role. (<https://cdei.blog.gov.uk/2021/05/11/the-european-commissions-artificial-intelligence-act-highlights-the-need-for-an-effective-ai-assurance-ecosystem/>).

The above-mentioned regulations, even if some of those are not enacted yet, shed a light on the lack of responsibility of companies in the digital world. At the same time, the pressure on the industry to work digitally and efficiently continues to increase. The fact that the two topics are inextricably linked seems to have received little attention to date. Legal experts in particular are likely to be aware that the use of technology carries many legal, social and environmental risks. Whereas in times of the pandemic, the discussion focused on the data protection implications of using video conferencing tools, the corporate responsibility for the use of technology goes even further. Some people are already familiar with the topic under the terms CSR (Corporate Social Responsibility) and CDR (Corporate Digital Responsibility).

However, compared to other industries, the legal industry lags behind when it comes to creating awareness and recognition of the importance of responsible digital innovation. For the legal sector, two areas of application of responsible innovation can be differentiated.

- **Internal: Ethical and responsible optimization of processes for internal purposes**

If you want to optimize the internal structures in legal departments, law firms and the judiciary and bring them into the age of digitization, it is helpful to think about responsible innovation in all dimensions right from the start of the process optimization. After all, a technology strategy without a corresponding data or responsibility strategy will not do adequate justice to the tasks of this industry and its position in society.

- **External: Ethical and responsible portfolios and (legal) advice**

In addition, the regulations already in place in the area will be further expanded. Those who act ahead of developments now will have a market advantage and save themselves double investments. At the same time, the topic as a whole offers an exciting field for legal and technological consulting for law firms and management consultancies. Also the judiciary and the corresponding governmental bodies have to deal with its implications in order to develop adequate regulatory guidelines.

Thus, responsible innovation as a concept is relevant for internal processes as well as a crucial future topic for regulation and consulting.

We cannot simply copy frameworks that apply to every business. Rather, we need to design a responsible innovation framework adjusted to legal workflows. The responsibility of (legal) companies is not limited to the digital, ecological, or social dimension. To responsibly drive innovation and progress in your organization, a holistic view on the upcoming challenges is required. This can be referred to as the ‘missing element’ in the current strategy discussions on technology deployment, responsibility and new business models: Responsible digital innovation.

Corporate Digital Responsibility (CDR) is an important topic for all business leaders worldwide and has gained tremendous momentum in recent years. CDR, as a business requirement, has not yet been adequately addressed by the legal sector. Other domains, or domain-agnostic areas are much more advanced regarding these topics. In 2015, the United Nations published 17 Sustainable Development Goals (SDGs), which was a milestone of a process that was ongoing for decades (<https://sdgs.un.org/goals>). These SDGs cover highly relevant areas of our daily life, such as

- ‘Good Health and Well-being’,
- ‘Gender Equality’ and
- ‘Peace Justice and Strong Institutions’.

More specifically to the area of digitalization the High-Level Expert Group on Artificial Intelligence (HLEG AI) of the European Commission published seven key requirements (<https://digital-strategy.ec.europa.eu/en/library/ethics-guidelines-trustworthy-ai>), such as:

- ‘Technical Robustness and Safety’,
- ‘Transparency’ and
- ‘Privacy and Data Governance’.

However, the legal sector can only be inspired by those principles and try to align their strategies with initiatives like UN SDG or the HLEG AI.

What do we need to work on? CDR Framework for Legal.

In order to successfully achieve the transfer, the creation and the integration of digital responsibility principles in the legal sector we identified three main areas:

- We, as legal professionals, need a common understanding of Corporate Digital Responsibility for the legal sector.
- We, as legal professionals, need a holistic CDR Framework for the legal sector reflecting our needs by taking the private sector, public authorities, and legal scholars into account.
- We, as legal professionals, need a framework that is created, managed, and improved by the legal community to avoid being led by others on this important topic.

In order to get to the relevant assets we need to act on different levels and work on different areas, namely CDR for Legal:

Framework - A set of principles and dimensions of responsible innovation for the legal sector.

Together, we aim at developing a framework to promote the integration of CDR principles in the legal sector. The CDR Framework consists of principles, guidelines, recommendations,

and benchmarks for the different dimensions, which need to be discussed and identified, and it shall be made publicly available for the legal sector.

The framework combines a digital ethics code with a practical ethical legal innovation roadmap. It provides clarity on the different levels of CDR for the legal sector and allows for thorough discussion and deep-dives on certain topics as an overarching framework. The ethical legal innovation roadmap enhances the framework with integrated benchmarks and methods for practical implementation makes research accessible and change easy.

To support legal professionals and institutions in achieving their responsible digital innovation goals, the Liquid Legal Institute and its members will put their collective wisdom to work and create this CDR Framework for the Legal sector reflecting both, chances, and risks.

Insights - A set of specific and actionable guidelines, benchmarks and best practices for successful CDR implementation.

We plan to apply this framework to different legal contexts and focus topics and tailor it to various areas of use. To enable collaborative learning from these practice cases, we will make the experiences, relevant data and obstacles to implementing CDR for Legal available on a digital platform. We are creating a unique, constantly growing collection of insights that map practical insights for further, broader research on the development of CDR in the legal sector. It will include important

measures, checklists and guidelines on how to make the topic operationalizable.

Resources - A comprehensive overview of related, complementary projects and information.

We are developing a digital collection of informative articles, websites and partner projects providing easy access to the topic.

Furthermore we will share scientific publications and data to allow a deeper understanding of responsible innovation and CDR.

To achieve these goals, we need to define the role and responsibility of the legal community on the various dimensions of CDR. As a starting point, we have identified several relevant dimensions, such as

- **Health and Well-being:** How can technology be used to fight the declining mental well-being of legal professionals and how can we actively control the health risks inherent to digitalization?
- **Diversity and Inclusion:** How can digitalization promote – and where does it hinder – the advancement of minorities in the legal industry? How can we improve accessibility to Legal for handicapped people?
- **Digital Systems and AI:** Does legal need a code of conduct for the usage of AI systems in their profession? How can legal operations support routine, time-consuming, and low-value activities?

What do we need to get there? A Community.

Ultimately, it comes down to one thing: we

need a community of professionals advocating for CDR for the legal sector. The community must not necessarily consist of legal professionals only. On the contrary, an interdisciplinary, diverse, technology-affine and open-minded community would be best. The community needs to act decisively and must be willing to go into tough debates, because the topic at hand is complex and needs to be discussed controversially.

The Liquid Legal Institute (LLI) has decided to start this discussion for the legal sector and to offer its collaboration platform to discuss and define the role and responsibility on the various dimensions of CDR. We at the LLI are an open platform connecting leading experts from different areas such as legal innovation, software industry, digital ethics, compliance, and corporate digital responsibility. We are excited to develop a common CDR framework for the legal sector, which can be integrated into the strategies of law firms, legal departments and public authorities. It should be useful for everyday decision making in complex environments and support the exchange of insights. In addition, the CDR framework is constantly evolving to be up to date as circumstances change and the CDR guidelines need to be adjusted. During the last months, and several successful

projects, the LLI has proven to be an ideal platform to establish this community, to work on this topic, and to drive the CDR transformation for the legal sector.

“Let’s create a cohesive approach to lead the CDR transformation for legal – together!”

About the Authors

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Great Expectations: What Is Legal Talent Looking For?

By Mark A. Cohen, Thought Leader and CEO Legal Mosaic



Digital transformation and its pandemic-produced acceleration have elevated [talent](#) to a [top-level business priority](#). For employers, it has caused them to rethink what talent means in a dramatically shifting marketplace. What are its characteristics? How does it align with corporate purpose and culture? Where does it come from? How can individual talents be melded into an integrated, data-backed team? Why is a diverse workforce intrinsically and extrinsically important and how can it be optimally managed? What is the organizational commitment to up-skilling, career-enhancement, and well-being? These are among a growing list of talent-related considerations.



Expectations

Career?

Clients?

Work-Life?

Direct?

Digitally mature businesses have developed a serviceable profile of talent applicable to several functions—legal included. Talent is drawn from an increasingly diverse pool of candidates. It comes from a rich mix of industries, generations, backgrounds, experiences, perspectives, passions, and personalities. Successful organizations extract the most from talent by setting common goals, clear purpose, inclusive, team-oriented organizational culture, and humanistic leadership that balances individual expression with collective orientation.

The core skills that bind the talent tapestry include: critical thinking skills, intellectual agility (“connecting the dots”), **emotional intelligence** (people skills), **teamwork**, cultural

awareness, passion, inquisitiveness, **a learning-for-life mindset**, technological and data fluency, and leadership potential. These are the building blocks upon which talent can continue to learn, grow, leverage, share, experiment, innovate, lead, and **produce value**. A critical caveat: *the organization must be committed to investing in and fostering employee health, well-being, engagement, **upskilling** and professional advancement.* Translation: **humanize** the workplace.

The good news for business is it knows what it needs from talent. The bad news is: (1) there is not enough of it; and (2) if the Great Resignation (see below) has taught us anything, it is that business has yet to adapt to the changing

The good news for business is it knows what *it* needs from talent. The bad news is: (1) there is not enough of it; and (2) if the Great Resignation (see below) has taught us anything, it is that business has yet to adapt to the changing needs, expectations, and demands of the talent it seeks. This is especially so for Millennials and Gen Zers. A McKinsey article offered a blunt assessment based upon its research of the issue: “Leaders are out of touch with employees and need a wake-up call.”

Customers Came First, Then Shareholders—Now It’s The Workforce

The journey of business transformation involves three parallel and convergent paradigm shifts. The first involves the corporate relationship with customers and a “flip” of the buy-sell dynamic. The business mindset has morphed from “what can we sell customers?” to a “how can our products and services positively impact customers, provide them an outstanding end-to-end experience, and earn their trust and loyalty?” The customer relationship has become less transactional and more relational. Customers are regarded as corporate assets, not simply revenue sources. Their net promoter score, data, social media endorsement, and brand loyalty are critical to business sustainability. “[Customer-centricity](#)” was a corporate priority before the pandemic, and it continues to be and to evolve now.

Customer-centricity has been accompanied by a growing corporate shift from shareholder-centricity to a broader stakeholder group that includes employees, supply chain, cus-

tomers, communities, society-at-large, and the environment. This phenomenon is often referred to as “[Stakeholder Capitalism.](#)” Business now balances short-term profitability with longer-term sustainability derived from satisfying the needs of its wider stakeholder constituency. Corporate metrics now extend well beyond profits and share price. They are expected to be good corporate citizens, environmental stewards, have sound governance (ESG) and to be diverse, equitable, and inclusive (DEI).

Yogi Berra might have said that corporations are experiencing “*déjà vu* all over again”—this time with employees. The devastating physical and emotional toll of the pandemic, the sudden shift to remote and/or hybrid work, and widespread isolation-induced existential reflection have changed the workforce and its attitude about work. Not only does talent hold the upper hand in this sellers’ market, but it also has elevated expectations of employers that extend well beyond a fatter paycheck. Talent expects business to align with *its* sensibilities, lifestyles, and value systems—not the other way around.

The Post-Pandemic Legal Workforce: More Money, Higher Attrition, And A Paradigm Shift

The rapid convergence of the pandemic and other socio-economic forces have produced “The Great Resignation,” a mass job exodus of historic proportions. The Bureau of Labor Statistics reported that last year, an average of more than 3.95 million workers quit their

jobs each month. The November total was 4.5 million. The data shows that the defections are far from over. According to [research conducted by Microsoft](#), 41% of global workers are thinking of quitting their job or transitioning to other professions. The legal industry is not immune.

The Bureau of Labor Statistics [reported](#) that from August 2021 to December 2021, more than 700,000 people in the professional and business services category — which includes lawyers and other legal professionals — had quit their jobs each month. In September, [Bloomberg Law's Attorney Workload & Hours Survey](#) reported that nearly half of all lawyers surveyed said they were either actively looking for new jobs or open to offers. This is on top of corporate law firms' already sky-high pre-pandemic turnover rate, especially at the junior level.

Thomson Reuters Institute/Georgetown Law [2022 "Report on the State of the Legal Market"](#) revealed: "The associate turnover rate for law firms reached 23.2% through November 2021 on a rolling 12-month basis. That is significantly above the 18.7% rate experienced in 2019, the year before the pandemic. For Am Law 100 firms, the turnover rate was 23.7% through November 2021." The eye-popping attrition rate has significantly increased even as [associate pay packages have skyrocketed](#).

What's going with the workforce generally and legal professionals, specifically? Spoiler alert: the exodus might be dubbed the "Great Resignation" by the legal establishment, but

the "Great Reboot" is what younger generations might term it. The "reboot" refers to new ways of working and balancing that with other aspects of life.

Like the protagonist in the Dickensian novel "Great Expectations," today's talent—especially Millennials and Gen-Zers—have great expectations beyond wealth. They seek purpose—to understand the why behind their work, its relation to the organizational mission, and its impact on workforce colleagues, customers, society, and the environment.

The younger workforce generations expect to be heard, informed, and free to be themselves. They want to work in a culture that is humane, diverse, inclusive, equitable, and transparent. They prefer flat (non-hierarchical) organizational structures, freedom to experiment and to draw from their backgrounds, experiences, and passions, to take on challenging work, and to be valued beyond a paycheck. They want to retain their individuality but also to be part of a community. They seek a workplace that more closely reflects their values, priorities, and lifestyles. Their view of a "career" is more fluid than past generations.

If the foregoing sounds like a Panglossian Woodstock flashback (an event the author attended but scarcely remembers), it's not purple haze. Millennials and Gen-Zers have revived the faded idealism of their baby boomer parents and grandparents. "The Great Resignation" can be seen as their Woodstock—a mass proclamation to "the establishment" (older generations in power) that they want to live life differently and create a better world. Admittedly, quitting one's

job is not the same as smoking weed and listening to Jimi Hendrix play “The Star Spangled Banner.” The connective tissue is a yearning for something different— a gentler, more humanistic approach to work and life. For example, the [Microsoft Work Trend Index](#) found that 33% of those surveyed would forego a pay raise for paid time off to do volunteer work.

The Great Resignation Grabs Headlines; Its Causes Are What Matters

McKinsey conducted extensive [research](#) on the causes of The Great Resignation. It spanned five major markets—Australia, Canada, Singapore, the United Kingdom, and the United States. The findings were broadly consistent across industries and jurisdictions, suggesting that the mass job exodus is a global phenomenon. The study revealed that the exodus is far from over. Forty percent of the employees surveyed said they are at least somewhat likely to quit in the next three to six months. Eighteen percent of the respondents said their intentions range from likely to almost certain.

Unsurprisingly, there is a disconnect between employer and employee explanations of the resignations. Employers cited compensation, work-life balance, and poor physical and emotional health as the principal reasons why people quit. These issues mattered to employees, but not as much as employers thought they did. The top three factors cited by employees were: undervalued by their organizations (54%); undervalued by their managers (52%); and lacked a sense of belonging at work (51%). The importance of

these unrequited human longings —recognition, empathy, and connection, among them—underscore the post-pandemic workforce thirst for a humane workplace.

A Fast Company [article](#) examined why a handful of companies (a disproportionate percentage among them in tech) have been able to attract and retain talent even during the Great Resignation. These companies tend to share four key characteristics (1) they prioritize and recruit underrepresented candidates; (2) they extend offers quickly and compress the recruitment process; (3) they are transparent about compensation; and (4) diversity, equity, and inclusion are central to their corporate ethos. This cultural profile and the sense of belonging is rare in law, especially among large corporate firms.

Technology has enabled legal providers to carry on and, in many cases, to thrive during the pandemic. It also introduced the bulk of the legal workforce to a new way to work, enabling them to more seamlessly integrate work with daily life, recoup commute time, and gain flexibility—often with longer hours. [McKinsey research](#) revealed that 73% of surveyed workers want flexible work options. At the same time, 67% want more in-person contact with their teams. The takeaway is clear: some human contact is important, but so too is flexibility. That’s why McKinsey concludes, “The data is clear: extreme flexibility and hybrid work will define the post-pandemic workplace.”

Conclusion

It is time for the legal industry to flip its

strategy for identifying, recruiting, hiring, onboarding, retaining, and up-skilling talent. It's not what *they* want but what *talent* wants that matters in today's marketplace. Legal providers would be wise to mine and analyze data, then fashion a talent strategy based upon this litany of questions:

- “What do customers and society expect from the legal function and what differ-entiated role can we play?”
- “What kind of talent do we need to meet and exceed those expectations?”
- “What kind of culture and workplace must we create to attract the talent we need?”
- “What does talent we want expect from us and what steps can we take not only to hire them but also to retain and up-skill them?”

Data and analytics provide insight, but human adaptation achieves goals. The data underscores that throwing money at legal talent, without more, is not a successful strategy—especially among early-stage professionals. The legal industry must become more humane, empathetic, purpose-driven, accountable, diverse, inclusive, culturally-aware, innovative, collaborative, and service-oriented. It must take better care of its own as well as its customers, society, and the environment. Like the businesses it represents, the legal function must have a purpose beyond short-term profit. It must more closely align with all those that it touches. Its workforce is a good place to start.

Legal employers should treat employees like customers; both are corporate assets. Just as

law is becoming more customer-centric, so too must it become more employee-centric. Richard Branson put it well: “Train people well enough so they can leave. Treat them well enough so they don't want to.”

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[The Inevitability Of Legal Industry Change. Really?](#)

Change has become a ubiquitous, ever-accelerating part of life. It is affecting how we live, work, interact, process information, and the buy/sell dynamic. The legal industry, however, continues to operate as it has for decades. That too will change. Here's why.

[What Is Digital Legal Talent?](#)

The legal function is undergoing a period of unprecedented, ever-accelerating change resulting from business digital transformation. What kind of talent does legal need to drive value to digitally mature business? Spoiler alert: much more than practice expertise.

[The Data-Backed Legal Function: Enhancing Insight, Creating Business Impact, And Improving Customer Experience](#)

Business runs on data but legal is, unsurprisingly, lagging. Here's how the legal function can harness the power of data to streamline how it delivers its products and services, practices, and collaborates with business to create value and enhance customer experience.

Aligning CRM With Profitability and Financial Performance

By Ari Kaplan, Principal, Ari Kaplan Advisors

Ari Kaplan speaks with Jennifer Whittier and Tom Obermaier, the vice president of CRM and CEO, respectively, for SurePoint Technologies, a provider of financial and practice management software to law firms nationwide.



Tom Obermaier



Jennifer Whittier



Ari Kaplan

Tell us about your background and the genesis of Cole Valley Software, where you served as president prior to the company's sale to SurePoint.

Jennifer Whittier

Jeff Reade founded Cole Valley Software about 30 years ago. It has always been focused on legal marketing and customer relationship management (CRM). I met Jeff about 15 years ago, while serving as the marketing director rolling out ContactEase at a law firm in the Northeast. I learned a lot in the process, but failed with the implementation the first time around. The product itself was great, but the people and the processes were the challenge. As a marketing director, I really wanted to focus on CRM, and when I was about to leave the firm I reached out to Jeff. Cole Valley was rolling out its software to much larger firms and needed someone to oversee that effort. Who better to lead it than someone who failed the first time around? I began collaborating with Jeff, worked my way

into different roles, and about five years ago became president.

Ari Kaplan

How does the acquisition of ContactEase and its inclusion in your portfolio further empower SurePoint's customers?

Tom Obermaier

Based on my conversations with law firm managing partners, CRM capabilities are very much in demand. Leaders are all looking to grow revenue so CRM is an important add-on to what we have. In addition, the marriage between financial data and CRM is critical because CRM largely will tell you who to go after. Combining that with financial intelligence will give you the opportunity to understand what to go after. Merging who and what is the way forward for CRM and I think that is going to be a great benefit for SurePoint customers for an extended period of time. Finally, as we get into the age of AI-generated results, it is important for us to think about building a killer app that marries financial

and CRM data on a predictive basis to help firms schedule and direct their own prioritization of efforts.

Ari Kaplan

Why was this the right time for a combination of this type?

Jennifer Whittier

A law firm needs the ability to access information quickly and easily. We had high adoption of our product, but we had a very aggressive roadmap that included moving to the cloud, to help law firms with limited resources, particularly in the marketing department, and needed a partner that understood where we were at the time. SurePoint has done everything so well and we've often looked at them as a role model for where we want to be so this came about quite naturally.

Ari Kaplan

How does customer relationship management align with profitability and financial performance?

Tom Obermaier

Firms focused on financial performance can apply CRM to help prioritize their most profitable matters, which will lead to a variety of predictive capabilities across prospects, or even existing customers, for what to sell, when, and who at the firm should reach. Combining profitability and financial performance with CRM is critical to giving ultimate success to our clients.

Ari Kaplan

How does your law firm experience influence your approach to customer service?

Jennifer Whittier

It influences every aspect of our customer service and goes all the way back to our sales process as well. When I am participating in a sale or talking with a firm about any reservations associated with introducing a CRM platform, such as concerns that lawyers may not adopt it, our contacts often don't know how to have the key conversation with their firm leaders. As soon as I tell them that I have been in their role and understand their challenge, the walls just come down and we have great conversations that ultimately identify the true business needs of the firm, which lead to how they can use these tools to solve those needs. I often advocate for leaders in the marketing department because having been on a similar team, I can relate to the isolation they feel from the rest of the firm's management. One of the things that is exciting about SurePoint's acquisition of ContactEase is that Tom [Obermaier] and I will have opportunities to influence the market and bring resources to help facilitate internal conversations about the concepts that management is asking their marketing teams for. We can also advocate for the marketing teams with the lawyers they support so that everyone is focused on efficiency and moving forward to get that whole picture of the client, which has been lacking.

Ari Kaplan

Have the expectations about the capabilities of legal technology changed among legal professionals as a result of the pandemic?

Tom Obermaier

I am seeing greater interest in technology to incorporate automated predictions to help

solve the pain points of law firms, which are constantly challenged, especially during the pandemic, to deliver Big Law results on a Mid Law budget. That appeal has only been strengthened during the pandemic and I expect it to continue for decades to come.

Ari Kaplan

How has the shift toward remote and hybrid work impacted how professionals manage their contacts?

Jennifer Whittier

During the early days of the pandemic, certain law firms didn't have access to firm lists, yet they needed to communicate quickly and easily with their clients. It was surprising to the management of those that were unable to simply send an email to all of the firm's clients to let them know they had gone remote and how they could reach their firm contacts. When we step back and think about what lawyers are doing day-to-day, they are managing relationships so contact data is more critical than ever. I have seen a bit of a back-to-basics approach in building a very strong foundation to manage relationships and communicate with clients, particularly by using contact information to not only help facilitate conversations internally, given that we're dispersed and not getting together as regularly as we did, but also to share information at the same time using one true source of record for that information within the firm.

Ari Kaplan

Where do you see legal tech headed as we emerge from the pandemic?

Tom Obermaier

Legal tech's has a bright future ahead. You will see more consolidation among the ERP providers. There will also be a greater degree of prediction and the ERP providers, especially those who are cloud-based like SurePoint, will lead that trend because they already have information they can utilize. I see great growth for law firms as they look to consolidate and automate many of their traditionally manual activities.

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 here](#) to his conversation with Tom Obermaier and Jennifer Whittier.



SIMPLI
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A Smart Approach to Incremental Knowledge Management Innovation

By Carlos García-Egocheaga, CEO of Lexsoft



We are seeing renewed vigour for knowledge management (KM) in law firms globally, especially given the last couple of years we've all had. At long last, lawyers have come to recognise the value of KM in the most impactful way, as they looked for better ways to access information and collaborate, often across offices and jurisdictions in a global pandemic. The upshot is that law firms are now viewing KM as a business discipline, making investments to acquire technology and talent. According to the Thomson



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Reuters Peer Monitor Economic Index, KM spending increased by 5.1% in Q2 2021, compared to the corresponding period last year.

With the scope of KM requirement now wider – for example, the need for multi-lingual and multi-jurisdictional capability is ever more important – the biggest KM-related challenge law firms face is to simplify

the complexity of this discipline so that knowledge is easily findable and consumable. Effective and efficient document classification capability sits at the core of this challenge.

To illustrate, there are

AI-based web services that can automatically classify documents, but as yet this capability doesn't extend across jurisdictions. In Europe, there are technology vendor champions who provide country-specific capability, but the solutions aren't applicable in other geographies. A solution may be able to classify documents in French in France, but that doesn't mean that it will be suitable for the Belgium jurisdiction, despite French being a major language in the country.

So, against this backdrop, what can law firms do to create a holistic KM discipline that works equally well at a jurisdictional level and a firm-wide level?

KM can't be 'all or nothing'

The secret to development and meaningful large-scale adoption of KM in firms lies in incremental innovation. Far too often, firms want to create a complete all singing all dancing KM system right from the start, which is not only a mammoth task, but also difficult to get right. In fact, I would go as far as to say that such an attempt is almost certainly set to fail.

Instead, adopting an opportunistic approach to building KM capability, based on business priorities, is much more wholesome. Fundamentally, this means building the KM system, practice area by practice area. If your firm's key specialism is in M&A, then it makes sense to focus on building a deep taxonomy in this area first and foremost, then continually maintaining that priority whilst simultaneously building out other taxonomies (e.g., Labour Law, International Relations) based

on their order of importance for business. The quality of taxonomies deserves mention because this is where the firm's knowledge resides. Using the M&A example above, whilst adopting an 'off the shelf' type, generalised taxonomy for this practice area may be a quicker and easier option, it's worth investing the time and effort in devising a taxonomy that is unique to the firm. This will ensure that the taxonomy truly captures the firm's knowledge pertaining to that space.

With technology, go global; with approach go local

In the same vein, creating a single multi-jurisdiction, multi-language KM system is folly. The issue isn't technology. Today technology is advanced enough to create a single system, but one centralised KM solution will simply not deliver value, which in turn will impact adoption. Despite being a global law firm, in every country typically, the regional offices have different specialisms and expertise. Global firm 'X' in the UK may be recognised for banking litigation, but in Finland may be a reputed specialist in litigation for the oil and gas sector. Hence, the approach of the two offices will need to be different as they build their KM systems.

Once the country specific KM systems are established, subsequently the firm can look to create a connected, umbrella KM system, with language and jurisdiction-specific solutions underlying it. To illustrate the need and value of such an approach, here's an example – a global KM system may be sufficient for say high level M&A related international business, but if lawyers need to use the

solution for knowledge pertaining to an intellectual property case in Germany, a generalised repository will fall short as IP laws vary jurisdiction by jurisdiction.

Additionally, aside from internal knowledge sources, there will be jurisdiction-specific external knowledge sources too that need to be integrated into the firm's KM system. This will ensure that the firm is able to take advantage of multiple, local technology and web services providers who are developing innovative technology within their specific markets. Such KM systems, that provide deep knowledge derived from internal and external sources, will deliver significant value to lawyers, thereby encouraging adoption of KM organically. And of course, the more value the system provides, the more users contribute to it and the richer it becomes as time goes on.

Invisible contribution

Equally, firms should also consider making lawyers' contribution to the KM repository effortless and even invisible to them. How? Establish rules that provide "triggers" to help the KM department to automatically identify potential knowledge documents. For example, a particular type of document that is saved as "final" in the document management system could be a "knowledge" piece for inclusion in the KM system. To enforce this, a rule could be set that the document management system would allow lawyers to share certain types of documents only if they were marked as "final". This is easy to do as in actuality, knowledge potentially resides in just one to five percent of the overall documents generated.

Simplify complexity

The reality is that KM is complex, but least due to technology. The complexity comes from the nature of the legal work and its innumerable nuances arising from jurisdiction-based regulations, laws, language, and so on – which is perhaps why as yet, firms haven't even scratched the surface of the business value that KM can deliver to them. Firms need to find simple ways of addressing those complexities and the best way to do so is by adopting a smart and incremental approach to the development of the KM discipline.

Frequently, firms start from a high level, and soon find that as they start adding in other sources and services, across jurisdictions and languages, their KM repositories and taxonomies have lost the most important thing – i.e., reliability of information. The intricacy of information and connections becomes too dense to make sense of.

Hence, going the other way – i.e., starting small from the ground and building upwards – will ensure controlled development of the discipline, whilst all the time delivering value as the capability scales. It will create a strong foundation for KM alongside clarity on what the building blocks should be to achieve the end goal, both at the jurisdictional and global level. lawyers, thereby encouraging adoption of KM organically. And of course, the more value the system provides, the more users contribute to it and the richer it becomes as time goes on.

About the author

Carlos García-Egocheaga, CEO of [Lexsoft](#) has 25 years of experience in the technology

sector. Carlos García-Egocheaga is responsible for driving the strategic direction and expansion of the overall business globally.

Furthermore he oversees all aspects of Lexsoft including the P&L, HR, legal and business development.



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Mixtape: Legalweek 2022 Preview

3/14/2022 | 10 min [Latest Episode](#)

After two years, it was great to feature an array of perspectives on legal technology during Legalweek 2022. Thanks to Alex Babin, Darin Bartik, Haresh Bhungalia, Dean Brown, Lydia Flocchini, Tim Follett, Ned Gannon, Laura Keily...



REINVENTING
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The Difference Between Legal Advice and Legal Coaching

3/10/2022 | 10 min

I spoke with Scott Reib, an attorney for business owners, entrepreneurs, coaches, and providers of professional services. We discussed the firm's Access legal services subscription, the difference between legal advice and legal...



REINVENTING
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Freedom to Operate and Leveraging Technology to Address IP...

3/7/2022 | 13 min

I spoke with patent attorney Gabe Sukman, the CEO and founder of ClearstoneIP, an intellectual property technology provider with offices in the U.S. and Europe. We discussed why the freedom-to-operate sector is...



REINVENTING
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The Value of Leveraging Productivity Automation Technology

3/4/2022 | 10 min

I spoke with Alex Babin, the CEO of ZERO, a company that provides productivity automation software for law firms. We discussed why law firms are leveraging productivity automation technology, the tasks for which legal...



REINVENTING
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Enhancing the Value of Practice Management Technology

3/2/2022 | 14 min

I spoke with Chris Cartrett and Raphael Shure, the CEO and COO, respectively, for Aderant, a developer of practice management software for legal professionals. We discussed why legal teams are increasingly focused on...



These (e)books, written by Kenny Tung & Glenn McCarthy, are a follow-up from the workshop on data protection delivered at a Legal Function Transformation Round Table subgroup on Oct.22, 2021.

As governments have been promulgating data protection laws in recent years, legal departments are called upon to support or even lead functions tasked, among others, for the secure use of data. While lawyers are supposed to master facts and evidence, not everyone appreciates the rationale and usage of Big Data, especially in the context of business organizations and broader ecosystems. While the raceway is in a turn in a globalized and complex world and changes are accelerating, data protection presents the type of challenges that call for interdisciplinary approaches staffed with T-shaped professionals. And such resource configuration and strategy should be grounded on organization purposes and strategic intent ultimately to serve someone in a broader ecosystem. Here, the job-to-be-done framework complements analytics in terms of whether and how certain data enters the picture. From this premise, **Part 1** of this ebook inspects data use and the challenge in data protection through the lenses of Legal and business with a view to remind stakeholders to maintain an interdisciplinary and integrated resolution.

Part 2 of this ebook undertakes a technology perspective and starts with a survey of the scale that data has grown into and the use cases for data analytics, followed by a deeper



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look into programmatic advertising and the representative data issues.

After enumerating a variety of new technology coming into the data and analytics business, the piece explores the trade-offs for businesses in approaching data and analytics, including drivers such as business models and data industry dynamics, laying the groundwork for the recommendations in Part 3. Part 2 also includes a sidebar on data taxonomy.

Part 3 of the ebook brings it together after the discussion of the data protection challenge from the perspectives of Legal and business strategy in Part 1 and an investigation of the post data-proliferation trade-offs experienced by businesses in Part 2. After arriving at the notion that each company must find its own game that fits its reason of existence in an ecosystem, this Part explores a data analytics pipeline that is integrated with business strategy and operations with an illustration of the roles of stakeholders in the organization and ecosystem. Despite how underdeveloped data governance technology is relative to numerous other technologies deployed, the last section provides recommendations for the data protection function to start with, not the least having an HR roadmap. Also included is a sidebar on lessons learned from a cautionary tale. Finally, to help review the key points in both parts of the ebook, readers can find a list of questions at the end to stimulate their thoughts on next steps.

[Book 1 & 2 now available in our library - Book 3 end of March/begin April](#)



[THOMAS G. SAMPSON SR. ADMITTED TO AMERICAN COLLEGE OF TRIAL LAWYERS](#)

Thomas (“Tom”) G. Sampson Sr. has become a Fellow of the American College of Trial Lawyers, one of the premier legal associations in North America, at its annual meeting held in February in Coronado, California. Founded in 1950, the College is composed of [...]

[My Future Consulting, Inc. Signs Recruitment Services Contract With Cooley LLP](#)

My Future Consulting, Inc. (MFC), an award-winning search and recruitment agency recently signed a services agreement partnership with Cooley LLP. Based in the greater Chicago area, MFC is noted for its leadership in fulfilling diversity talent request for the leading companies in [...]

[iDS WELCOMES BILL TAYLOR AS NEW DIRECTOR, INVESTIGATIONS](#)

WASHINGTON, DC – William “Bill” Taylor has joined the team at iDiscovery Solutions (iDS), a professional services consulting firm based in Washington, D.C. Bill will serve as the new Director, Investigations, bringing with him more than 30 years of experience [...]

[Terran Orbital Awarded Contract in Support of the Space Development Agency’s Tranche 1 Transport Layer](#)

Terran Orbital Corporation (“Terran Orbital”), a leading vertically integrated provider of end-to-end satellite solutions, announced that its wholly owned subsidiary, Tyvak Nano Satellite Systems, Inc., was awarded a contract by

Lockheed Martin to build 42 satellites for the Space Development [...]

[Burns & Levinson Represents KODA Enterprises Group and Water-Land, LLC in Acquisition of Load Rite Trailers, LLC](#)

Burns & Levinson represented client KODA Enterprises Group, a middle market private investment firm, in its acquisition of Load Rite Trailers, LLC, through its existing wholly owned holding company Water-Land, LLC, owner of Continental Trailers (Water-Land Manufacturing & Supply). The deal closed [...]

[SPWR Investors Have Opportunity To Lead SunPower Corporation Securities Fraud Lawsuit](#)

Law Offices of Howard G. Smith announces that investors with substantial losses have opportunity to lead the securities fraud class action lawsuit against SunPower Corporation. Class Period: August 3, 2021 – January 20, 2022 Lead Plaintiff Deadline: April 18, 2022 Investors suffering losses on their SunPower investments [...]

[TRUMP ENTERPRISE CHARGED WITH RICO FOR WIDE-SCALE RENT FRAUD](#)

Donald Trump has been charged with racketeering in a proposed class action filed on behalf of over 14,000 present and former tenants of the Trump family’s one-time outer-borough empire. The plaintiffs, who have resided in rent-regulated apartments previously owned by a [...]

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
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