



LEGAL **BUSINESS** WORLD

• Legal Business World Publications • No.8 • 2023 • www.legalbusinessworld.com

The Upcoming Launch of a Community and Publication Devoted to the Alternative Dispute Resolutions Industry

By Jeff Kruse

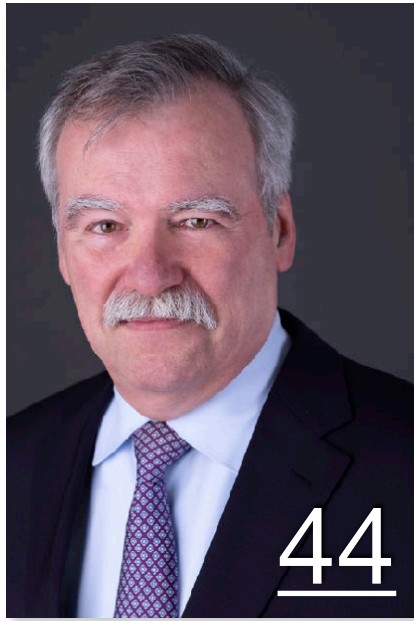
Other contributions by: Natalie Pierce, Stephanie Goutos, Arnoud Engelfriet, Victoria Swedjemark, Katri Nousiainen, Catalina Perdomo-Ortega, Heather Suttie, Richard G. Stock, Rasmeet Charya, Charanjot Pastagia, Chiara Lamacchia, Ari Kaplan, Nitesh Savaniya, Steve Fretzin

Business of Law



| | |
|--|----|
| Announcing the Upcoming Launch of a New Community and Publication Devoted to the Alternative Dispute Resolutions Industry, Jeff Kruse | 06 |
| AI at Work: Building a Future-Ready Workforce, Natalie Pierce and Stephanie Goutos | 10 |
| The AI Act is coming – what’s in store? Arnoud Engelfriet | 18 |
| What Is A Digital Strategy? Why you need a strategic approach to your digital transformation journey as an inhouse legal team, Victoria Swedjemark | 26 |
| Dark patterns: a market distortion, Katri Nousiainen and Catalina Perdomo-Ortega | 32 |
| The Folly of Strategic Planning, Heather Suttie | 38 |

Click on the page number in the photo to jump to the article



| | |
|--|----|
| Why Strategy Seldom Works in Law Departments, Richard G. Stock | 44 |
| Changing Legal Tech Platforms: Easy or Challenging? Rasmeet Charya and Charanjot Pastagia | 48 |
| Objection, your Honour! #Leading, Chiara Lamacchia | 56 |
| How the Results of the 9th Annual E-Discovery Unfiltered Report Can Help Your Legal Team Plan for 2024, Ari Kaplan | 62 |
| The Future of Legal Research: AI-Powered Search and Analysis, Nitesh Savaniya | 68 |
| Three Important Lessons to Protect Your Most Valuable Asset (Your Time!), Steve Fretzin | 74 |

Click on the page number in the photo to jump to the article



**EUROPE'S LARGEST
LEGALTECH CONFERENCE**



LEGALTECHTALK



THE FUTURE OF LAW IS HERE

LEGALTECHTALK

June 12-14, 2024, London

CONNECT WITH +250K CLIENTS

Publish your story in the Billboard sections on our homepage and connect with +250K potential Clients. Interested? For more information send an email to: allard@legalbusinessworld.com

Billboard

SPONSORED CONTENT

Author Contribution
6 hours ago • 4 min

How To Avoid Financial
Hardships In Your...

Author Contribution
4 days ago • 3 min

4 Risk Factors When
Taking Your Business...

Author Contribution
7 days ago • 3 min

Important
Considerations When...

Management/Publisher

LegalBusinessWorld Publications
Joek Peters | CEO | President
Allard Winterink COO | SVP

publishing@legalbusinessworld.com
© LegalBusinessWorld™

Editorial

LegalBusinessWorld Publications
Editorial Dept.
MBL Media

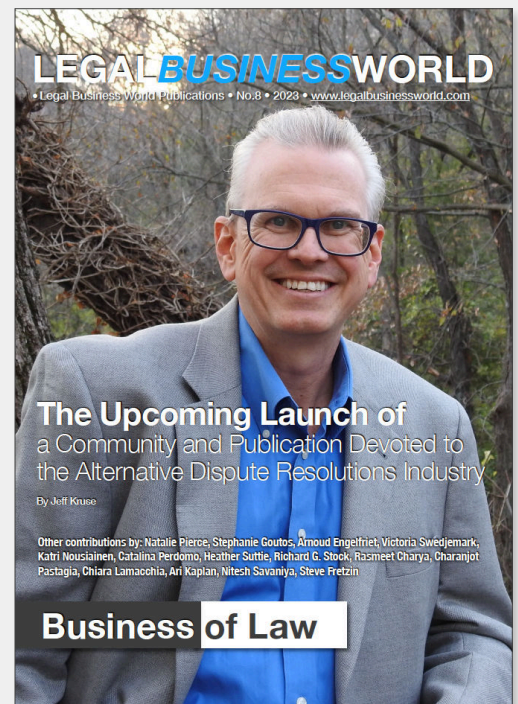
Sales Representatives International

contact our media department at
info@legalbusinessworld.com

Design & Layout

LateNight studio's
info@legalbusinessworld.com

Contributing Photographers:
Pexels & Unsplash



Cover photo Jeff Kruse

**ON BEHALF OF THE LBW TEAM WE
WISH YOU A MERRY X-MAS AND
ALL THE BEST FOR 2024**

Announcing the Upcoming Launch of a New Community and Publication Devoted to the Alternative Dispute Resolutions Industry


By Jeff Kruse, Founder of Kruse Consulting and Dispute Resolution LLC and Key Legal Operations Consulting LLC



I've always felt that a person's intelligence is directly reflected by the number of conflicting points of view he can entertain simultaneously on the same topic." – Abigail Adams, wife of President John Adams and second First Lady of the United States.

By Abigail Adams' standard, Alternative Dispute Resolutions (ADR) professionals are among the most intelligent people on the planet. Entertaining and understanding conflicting perspectives is a key component of the work ADR practitioners do every day to help people resolve conflicts.

To help people involved in ADR processes, the creative minds behind Legal Business World are launching a new community focused on all forms of ADR.



As part of the new “Alternative Dispute Resolutions” community, Legal Business World will launch a new quarterly e-magazine called “*Conflict Solutions*” in March of 2024.

As the title reflects, the new e-magazine will focus on solutions. *Conflict Solutions* will provide a forum for authors and experts to share their insights, wisdom, and experiences with ADR. The publication will cover a wide range of topics, including the latest approaches to dispute resolution, existing and emerging techniques, marketing conflict resolution practices, and the use of technology in all forms of ADR. The audience for *Conflict Solutions* will be broad and include ADR practitioners, lawyers, judges, academics, and anyone who participates in ADR or is interested in learning more about ADR.

A New Community for ADR Professionals and Participants

The new Alternative Dispute Resolutions community will include more than the new e-magazine, “Conflict Solutions.” The community will consist of opportunities to share expertise through e-books, podcasts, and webinars and will be a place to promote ADR-related conferences, seminars, and meetings.

Legal Business World is the perfect host for the New “Alternative Dispute Resolutions” community. Legal Business World is an established online platform that provides news, insights, and resources related to the legal industry, and already a leading information hub for the global legal community looking

to stay current on developments shaping law practice management and the future of the legal field. Expanding the scope of Legal Business World to include all forms of dispute resolutions is a natural extension of the existing platform.

The platform currently includes in-depth and cutting-edge articles, e-books, interviews, case studies, and thought leadership content aimed at law firm leaders, in-house counsel, and other legal professionals. Legal Business World highlights innovative approaches, emerging trends, and best practices in the legal industry. Legal Business World also features listings for upcoming events, including conferences, meetings, and summits.

The platform covers topics including legal operations, the business of law, law firm strategy, legal technology, client relations, talent management, and business development. Recently, Legal Business World began including an insightful series of articles about the benefits and limits of mediation by world-renowned mediation experts, Mediator Vikram (Vikram Singh) and Kenneth Cloke.

Plans for the New Global ADR Community

The new Alternative Dispute Resolutions community will build on the excellent ADR foundations established by Mediator Vikram and Kenneth Cloke. Expanding the exploration of conflict resolution beyond mediation, the new community will cover all types of ADR, including arbitration, facilitation, conciliation, collaboration, restorative practices, such as family group conferencing, peacemaking circles, restorative conferences, and all other forms of

conflict resolution practices. Adding the new community to include all forms of alternative conflict resolution approaches will expand that audience to include ADR practitioners and people who use those services.

The new community will include articles and e-books from authors and contributors throughout the world. Including perspectives from conflict resolution experts from around the world will foster a better understanding of how dispute resolution approaches vary by geography. Some articles might focus on the similarities and differences in how ADR experts handle mediation or facilitation in Asia, Europe, and North America. Articles could explore the variations of how experts resolve disputes within specific geographies.

Opportunities for People and Companies in the ADR Industry

The new ADR-focused community, along with the new publication, *Conflict Solutions*, will offer opportunities for ADR practitioners, lawyers, and companies that provide products and services to those practitioners to expand their reach globally. Legal Business World already has a large monthly audience of over 570,000 visitors from Europe, Asia, and North America.

Conflict Solutions and the broader Alternative Dispute Resolution community will include a wide variety of articles about the various forms of ADR. In addition to advice, best practices, and how-to articles, the community will include interviews, profiles, features, essays, case studies, questions and answers, and other types of articles.

Topics for the articles and e-books may include the use of technology to resolve disputes, the best ways to market ADR services, trauma-informed conflict resolution practices, cultural differences in solving conflicts, recognition of bias in dispute resolution, and any other perspectives that will improve the resolution of disputes. The community will include perspectives from ADR professionals, judges, service and software vendors in the industry, and anyone who uses ADR services, including lawyers and clients.

Theodore Steinway stated, “In one of our concert grand pianos, 243 taut strings exert a pull of 40,000 pounds on an iron frame. It is proof that out of great tension may come great harmony.” Professionals who practice the various forms of ADR throughout the world prove that point every day. They bring harmony out of conflict and tension.

The new Dispute Resolution community and the new publication, Conflict Solutions, will provide opportunities for those involved in ADR to share their knowledge, expand their networks, and improve the ADR industry.

I am thrilled that the leaders of Legal Business World, Allard Winterlink and Joek Peters, along with Cash Butler asked me to help launch this new community. As a practicing attorney, I represented clients in dozens of mediations across the United States. Then, as Chief Litigation Officer of a medical device manufacturer, I served as the company representative and client in over 150 mediations in the United States, Canada, and the United Kingdom.

When I returned to private practice, I became a trained mediator and eventually started my own mediation practice. To paraphrase Abraham Lincoln, I strongly believe in discouraging litigation and persuading others to compromise whenever possible. President Lincoln is credited with commenting that “[a]s a peace-maker the lawyer has a superior opportunity of being a good man.” Today, ADR professionals need not be lawyers to be peace-makers, and I hope to help the ADR community grow and strengthen through Conflict Solutions and the Legal Business World ADR community.

About the Author

Jeff Kruse is the Founder of Key Legal Operations Consulting LLC and Kruse Consulting and Dispute Resolution LLC. He is a member of the Board of Directors for the Association of Missouri Mediators, for which he has served as the Chair of the Webinar Committee for the last few years. <https://keylegalops.com/>

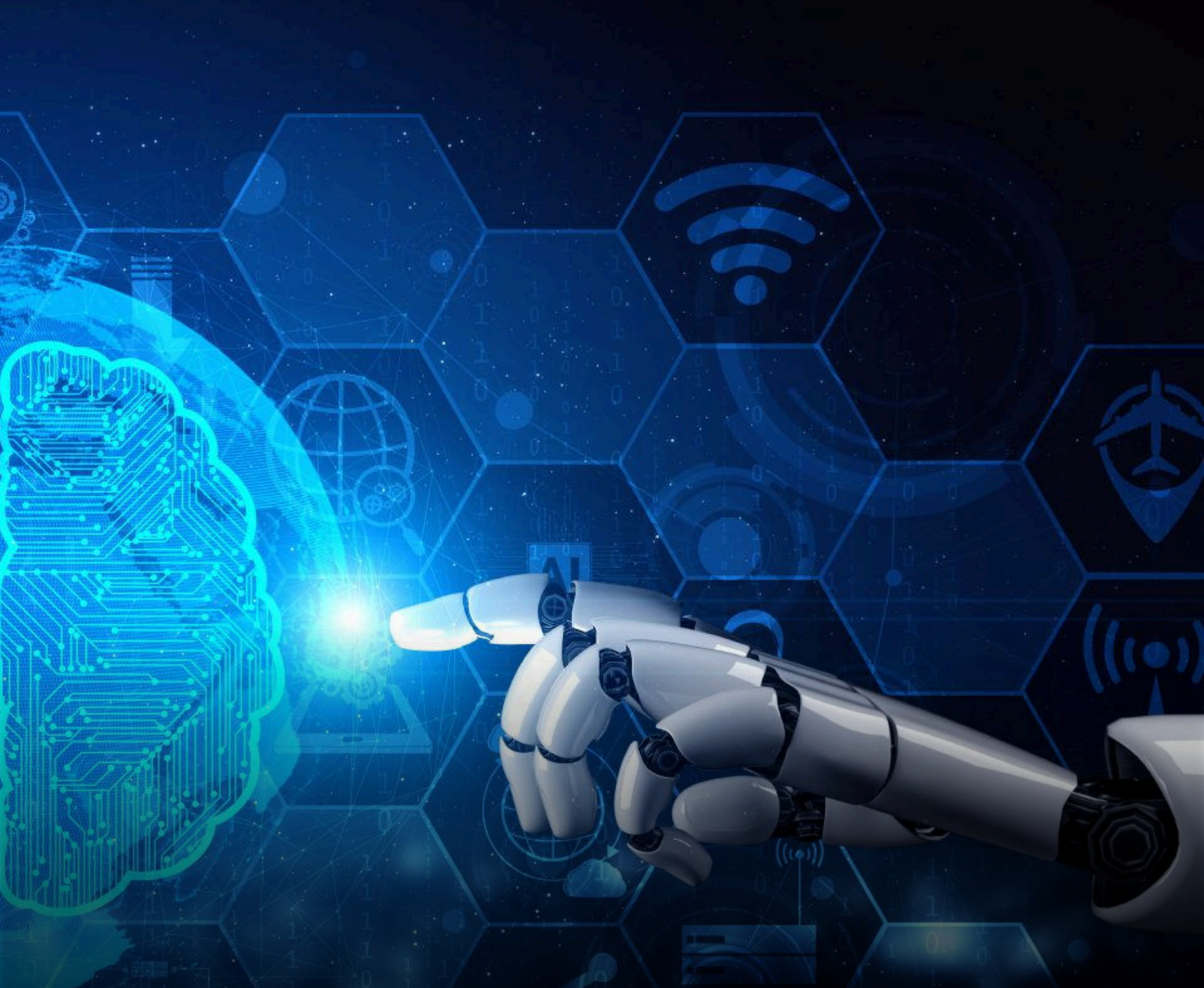
Invitation to Participate in the New Community

If you are interested in expanding your reach internationally and furthering your thought leadership, or if you want to promote your products or services in the global ADR industry, please reach out to me at: jeff@keylegalops.com or Allard Winterlink at allard@legalbusinessworld.com.

AI AT WORK: BUILDING A FUTURE-READY WORKFORCE

By Natalie Pierce (l), Partner and Chair of the Employment & Labor Group, and Stephanie Goutos (r), Practice Innovation Attorney at Gunderson Dettmer





Introduction

Artificial intelligence (AI) is everywhere. It's transforming the way we do business, infiltrating our strategic roadmaps, and redefining the benchmarks of success. Nowhere do we feel this more than in our workplaces. AI tools are being used to recruit, onboard, train, manage, retain, and even predict employees' future decisions. At the employee level, AI tools are being used to draft content, automate tasks, brainstorm ideas, analyze data, and much more. The line is becoming increasingly blurred between independent human judg-

ment and AI-augmented decision making. Successfully leveraging this technology demands an environment of continuous learning, upskilling, and adaptability. Maintaining legal compliance within the fluid framework of developing legislation will also be essential. Recent guidance from federal agencies like the Equal Employment Opportunity Commission (EEOC) and Department of Justice (DOJ) offers a starting point concerning [algorithm decision-making tools](#) and preventing [discrimination](#), and there is more regulation on the horizon.

The comprehensive [Executive Order](#) issued by President Biden on October 30, 2023 sets forth rigorous standards and mandates that agencies evaluate AI risks and develop guidelines to mitigate harms while maximizing benefits for workers.

This evolving landscape poses both challenges and opportunities for business leaders. Whether beginning the AI adoption journey or reassessing current strategies in light of the rapid changes, the key is to adopt a mindset of “progress, not perfection.” The critical question is not whether you have all of the answers now, but instead how to continuously future-proof your workforce in light of evolving legal standards. Today’s leaders should be asking:

- How can we leverage AI to enhance our employees’ skills and productivity?
- What steps can we take to ensure our AI practices comply with the latest legal guidance and standards?
- How can we foster a culture of continuous learning and innovation to keep ahead of competitors?

This article is to help guide employers on navigating AI adoption, ensuring legal compliance, and successfully preparing their workforces for the future.

Common Use Cases of AI in the Employment Lifecycle

1. Recruiting and Hiring – AI is commonly used to streamline recruiting, by offer-

ing tools that can review large amounts of data, such as resumes, to help identify potential candidates. Additionally, generative AI is particularly helpful to assist with efficient creation of content such as job descriptions, postings, and other communications. However, AI tools can sometimes fall short of expectations due to issues such as algorithmic bias.

Sample Use Case: A company uses an AI system for resume screening, but inadvertently filters out a high percentage of female applicants due to training the model on historical hiring data, leading to unintended correlations.

Recommendation: Employers should conduct regular audits of their AI tools to ensure that these systems are not perpetuating biases. Training models on diverse datasets and incorporation of anti-bias algorithms help to mitigate this risk. Additionally, human oversight should never be fully replaced by AI in recruitment to ensure fair hiring decisions.

2. Employee Engagement and Productivity – AI-driven analytics can help employers gauge employee engagement and productivity, providing insights into workplace trends and performance. While these tools are beneficial, employers must navigate the ethical implications of such monitoring to maintain trust and respect for employee privacy, as well as ensure legal compliance.

Sample Use Case: A tech company uses an AI program for performance evaluations, which assesses employees’ productivity.

However, the algorithm fails to account for individuals with disabilities who may work at a different pace or require reasonable accommodations.

Recommendation: Employers must ensure that AI tools comply with applicable laws, such as the Americans with Disabilities Act, by allowing for human discretion in performance evaluations. Providing regular AI training can help employees involved in the development and management of these tools make more ethically informed and legally compliant decisions.

3. Training and Development – AI provides the opportunity for personalized employee training and development, such as tailored learning paths that adapt to individual learning styles and career goals.

Sample Use Case: A financial services firm introduces an AI platform that customizes learning modules for each employee, resulting in more effective upskilling.

Recommendation: Leverage AI to create personalized learning experiences, but also allow for human mentorship and support to address unique employee needs and career goals.

4. Predictive Analytics – Predictive AI offers foresight into important variables such as employee turnover, leadership gaps, and future skill requirements, allowing businesses to proactively plan for and address these challenges. Additionally, it can be leveraged to assist with operational needs, such as developing employee work schedules. It does so by evalu-

ating the anticipated organizational needs and aligning them with employee availability.

Sample Use Case: A retail chain uses predictive analytics to optimize their employee schedules, but the system does not take into account local labor laws regarding minimum rest periods that are required in between shifts.

Recommendation: Before implementing such AI tools, conduct a thorough legal review to ensure that they comply with all applicable labor laws. Employers should also establish a protocol for the manual override of AI decisions to be used when they conflict with legal requirements, employee rights, or are otherwise warranted.

Risks of AI in the Workplace

While AI poses a number of challenges across multiple sectors, the crux of our discussion here is dedicated to helping employers comprehend, navigate, and mitigate the risks associated with the most common challenges within the workplace. By narrowing our focus to this area, we aim to equip companies with the strategic acumen and essential tools required to proactively prepare to address the wave of legislative and regulatory changes on the near horizon.

What are some of the top challenges AI presents in today's workplace?

1. Bias and Discrimination: AI algorithms may inadvertently perpetuate or amplify existing biases in employment related decisions based on protected characteristics, such as race, gender, or age.

This can lead to discriminatory outcomes, including disparate impacts on certain protected groups. Scientific American [reported](#) recently that police recognition technology cannot accurately identify people of color, raising concerns about similar biases in workplace technology. Earlier this year, the EEOC [settled](#) its first-ever AI discrimination-in-hiring lawsuit for six figures, after a company's recruitment software allegedly automatically rejected applicants over a certain age.

2. Increased Worker Surveillance & Privacy Concerns: The integration of AI in the workplace often leads to more opportunities for increased employee monitoring. This may include items such as tracking employee productivity or reviewing communications between employees. President Biden's [Executive Order](#) explicitly states that AI should not be deployed in ways that, among other things, encourages undue worker surveillance or causes harmful labor-force disruptions. On a practical level, workers that are constantly monitored raise not only privacy concerns, but may also negatively impact morale. Furthermore, any data that may be collected through this surveillance could be misused or inadequately protected, leading to additional legal ramifications.

3. Cybersecurity Risks: AI systems, brimming with sensitive data, are prime targets for cyber threats. A breach not only compromises employee confidentiality, but can also corrupt the decision-making processes, leading to far-reaching operational consequences. Robust cybersecurity protocols

are non-negotiable to safeguard these digital assets.

4. Job Displacement: There's always the fear that AI will take over human jobs, and it's not unfounded. Automation presents the possibility of displacing workers, particularly those characterized by routine and predictability. The recent Executive Order addresses this, directing the Labor Department to analyze and report on worker support strategies for integrating AI into the workplace. The workplace landscape will evolve to integrate the strengths of both humans and machines.

5. Disruption to the Workplace: AI's integration can be disruptive, necessitating new workflows and skill sets. Without strategic management, this can lead to organizational upheaval. Transparent communication and comprehensive training are essential to smooth the transition and align AI integration with the company's human capital. The Biden Administration has made clear in the [Executive Order](#) that AI should not be deployed in ways that undermine rights, worsen job quality, encourage undue worker surveillance, lessen market competition, introduce new health and safety risks, or cause harmful labor-force disruptions.

6. Inaccurate or Misleading Outputs: AI's outputs are only as reliable as the data and algorithms they rely on. Faults in these inputs can result in erroneous outputs, potentially leading to flawed strategic decisions. Rigorous testing and validation processes are crucial to ensure the integrity of AI-generated

data and recommendations. Meeting this goal requires “robust, reliable, repeatable, and standardized evaluations of AI systems, as well as policies, institutions, and, as appropriate, other mechanisms to test, understand, and mitigate risks from these systems before they are put to use.”

7. Reputational Risks: The potential impact of AI on corporate reputation and stakeholder trust. Now more than ever, consumers are demanding companies protect their personal information or they will take their business elsewhere. A data leak in connection with the use of AI tools can have serious consequences, even if done unintentionally.

8. Compliance and Regulatory Challenges: The legal landscape around AI is rapidly evolving. The current administration is committed to equitable AI use and will not tolerate the use of AI to disadvantage those who are already too often denied equal opportunity and justice.[2] Companies need to stay informed and up to date on current and future regulations to ensure legal compliance.

In order to address these challenges, a proactive stance is key. This may include strategies such as regular AI system audits, stringent data security protocols, fostering a culture of transparency regarding AI’s role in the organization, and adhering to AI best practices and guidelines. For an in-depth guide on crafting your organization’s AI strategy, we invite you to listen to [our podcast](#) on this topic.

Best Practices: Strategic Implementation of AI

To future-proof the workforce, companies must adopt a dual-focused approach that emphasizes both innovation and compliance, while also taking into account the organization’s unique culture and respective strategic goals. Here are some practical recommendations and best practices for employers:

1. Prioritize Cybersecurity and Safety. Take proactive measures to minimize any negative impact from the use of AI technologies to ensure its being leveraged in a responsible and compliant manner. This may include items such as implementing systemic audits, bias detection tools, and regular monitoring and evaluation of the company’s technology use. At a minimum, employees should be prohibited from entering private or sensitive information into public AI platforms and properly trained on the use of the tools.

2. Proactively Prevent Misuse or Harm. Develop and disseminate clear guidelines for using AI technologies appropriately and clearly communicate that to employees. The policy should specify when extra scrutiny may be needed, as well as identify and prevent certain high risk use-cases that are not appropriate (e.g., classifying people based on protected characteristics). Practically, this may mean companies need to build or supplement existing systems and infrastructure to help enforce their guidelines. Common strategies for this may include things like content filtering, limiting certain text or subjects, certain approval requirements, and other risk mitigation efforts.

3. Establish Cross Functional Teams for Continuous Collaboration.

Assemble a team of cross-functional stakeholders to carefully evaluate the risks and benefits of integrating new technologies into your organization and to continuously monitor it. Ensure team members are from varied backgrounds and across multiple levels of experience to ensure wide-ranging and diverse perspectives are represented. This is particularly important for effective risk mitigation.

4. Employee Training and Education.

One of the most critical aspects of successfully future-proofing your workforce is employee education and training. Decision-makers need to ensure they understand the capabilities and limitations of the technology, in order to train their employees effectively.

Companies should work to develop robust training and resources to equip their teams with the knowledge and skills that are now needed in the workplace. This training may include interactive workshops, digital training modules, or customized learning experiences. At a minimum, training should cover the practical applications of AI, relevant ethical implications, and the regulatory landscape. The employee training is also a great opportunity to communicate the company policy on AI to set clear expectations for appropriate use.

5. Cultivate a Responsible AI

Culture. Leaders should strive to foster a culture of responsible AI use throughout the organization. It's important to strike a balance that encourages employees to explore and utilize AI technologies, while still maintaining legal compliance. This initiative must

originate from the top, with senior leaders committed to open dialogue, critical inquiries, and constructive feedback. The recent Executive Order on AI made clear that promoting innovation and competition is a top priority, and employers should too. Thus, any approach should not only permit but encourage employees to voice questions and concerns without fear of stifling innovation or subjecting them to any negative scrutiny.

6. Prioritize Employee Support, Upskilling & Well-Being.

Companies should aim to support any workers displaced by AI adoption and work to minimize disruption in the workplace. To this end, the Executive Order directs the Department of Labor to develop best practices and recommendations to strengthen or develop additional support for workers within 180 days of the date issued (before April 2024). The principles and best practices must include, at a minimum, specific steps for employers to take, so companies should stay abreast of further guidance in this area and be ready to respond accordingly. In the meantime, companies can proactively create reskilling and upskilling programs to support their workers.

7. Consider Reframing Employee Assessment Criteria.

In a recent [report](#) on the future of work, McKinsey recommended that employers may need to evaluate candidates not on their prior experience, as has traditionally been done, but instead on their capacity to learn, their intrinsic capabilities, and their transferable skills.

This shift in the way companies may approach hiring and training reflects a broader

recognition of the increased value of adaptability and continuous learning that will likely be present in the future workplace.

8. AI Leader – Appoint a responsible individual within the organization as the primary AI point of contact, so that one person has primary responsibility for AI policies and practices. This will provide employees a clear route to safely escalate risks or concerns, discuss challenges, and promote continuous improvement within the workplace.

About the Authors

Natalie Pierce is a Gunderson Dettmer Partner and Chair of the Employment & Labor Group. Her practice focuses on the needs of emerging companies, venture capital and growth equity firms. She also focuses on the future of work, including counseling companies on incorporation of generative artificial intelligence and other enhancement technologies. Natalie hosts Gunderson's *Future-Work Playbook* podcast, and was selected as a Fast Case 50 Award Winner, one of Daily Journal's "Top Artificial Intelligence Lawyers" and "Top Labor and Employment Lawyers," Chambers USA's "Minority Lawyer of the Year," American Lawyer "Best Mentor," San Francisco Business Times "Bay Area's Most Influential Women," and was a member

of the Governing Council of the ABA's Center for Innovation. Natalie earned her B.A. at UC Berkeley with Honors, and her law degree from Columbia University School of Law, where she was a Harlan Fiske Stone Scholar and recipient of the Emil Schlesinger Labor Law Prize at graduation.

Stephanie Goutos is a Practice Innovation Attorney at Gunderson Dettmer, where she leads the strategic innovation and knowledge management initiatives for the firm's Employment & Labor practice. Stephanie's accolades include successfully defending multi-state class actions and implementing legal tech solutions that have revolutionized firm-wide processes. Her strategic foresight identifies risks and opportunities well ahead of the curve, making her an invaluable asset in dynamic, complex environments. With her background in class action defense, litigation, and employment counseling, Stephanie bridges her traditional legal expertise with an unyielding passion for forward-thinking innovation strategies. In doing so, she offers a uniquely holistic approach to problem-solving, providing exceptional value to stakeholders. She is passionate about spearheading transformative change, achieving tangible outcomes, fostering innovation across organizations, and mentoring women to become more involved in the legal technology industry.

THE AI ACT IS COMING – WHAT'S IN STORE?

By Arnoud Engelfriet, Thought Leader and serial entrepreneur



The widespread and fast adoption of AI has prompted serious concerns. From algorithmic bias to erosion of personal autonomy, AI technologies have had unintended consequences that impact the lives of people across the globe. Such risks have stirred public and policy debates, leading to an increasingly urgent call for effective regulation. The European drive to regulate AI was sparked by these ethical concerns, although it is also part of a broader approach, called the Digital Decade 2030.



Act

The call for ethics in AI

There is a growing realization that the impact of AI goes beyond technological efficiency and enters the realm of human rights, societal values, and fundamental ethical considerations. The last five years in particular have prompted an increasing public and academic dialogue on the need for ethical frameworks that ensure these technologies are designed and deployed responsibly. This wave of attention, while partly driven by academic interest and foresight, has been propelled into mainstream discussion by several high-profile incidents

that have exposed the darker side of AI, notably the 2018 Facebook/Cambridge Analytica scandal.

The ‘techlash’ that was the result of these and more incidents set in a period of increased attention to ‘honest’ or ‘ethical’ AI. Initially, the main effect was to produce codes of ethics, that made large promises of fairness and transparency (“virtue signaling”) but did little to change the actual products or services. As already known from the field of business ethics, changing a company’s behavior requires more than ethical

statements: “[w]hen ethical ideals are at odds with a company’s bottom line, they are met with resistance”. Hence the logical next step – calls for legislation.

The EU first signaled its intentions to regulate AI in a Commission strategy document in April 2018. The three aims of the strategy were to boost the EU's technological and industrial capacity and AI uptake, encouraging the modernization of education and training and ensuring an appropriate ethical and legal framework, based on the Union's values and in line with the Charter of Fundamental Rights of the EU. The work resulted in an ethical framework regarding “Trustworthy AI”, the key term underlying all AI regulatory efforts in the EU. These Ethics Guidelines for Trustworthy AI systematically analyze ethical concerns in AI and propose a concrete framework for addressing them. The framework consists of three components:

1. AI should be lawful, complying with all applicable laws and regulations;
2. AI should be ethical, ensuring adherence to ethical principles and values; and
3. AI should be robust, both from a technical and social perspective, since, even with good intentions, AI systems can cause unintentional harm.

The AI Act seeks to regulate AI from the perspective of enforcing each of these components, and does so from a risk-based per-

spective. Its provisions do not merely ban or restrict certain actions, but tie compliance requirements to risk management or ban activities that present specific risks to human beings.

For implementors of AI, the Guidelines translate these principles into seven concrete requirements:

1. Human agency and oversight, including fundamental rights, human agency and human oversight.
2. Technical robustness and safety, including resilience to attack and security, fall back plan and general safety, accuracy, reliability and reproducibility.
3. Privacy and data governance, including respect for privacy, quality and integrity of data, and access to data.
4. Transparency, including traceability, explainability and communication.
5. Diversity, non-discrimination and fairness, including the avoidance of unfair bias, accessibility and universal design, and stakeholder participation.
6. Societal and environmental wellbeing, including sustainability and environmental friendliness, social impact, society and democracy.
7. Accountability, including auditability, minimisation and reporting of negative impact, trade-offs and redress.

Autonomy as a definitional key

While these ethical guidelines give a clear indication of which aspects of AI are to be

regulated and to what end, a key issue is missing – what exactly is Artificial Intelligence? The leading handbook *AI: A Modern Approach* alone presents eight different definitions of AI organized into four categories: thinking humanly, acting humanly, thinking rationally, and acting rationally.

In their 2018 Communication that kicked off the process that would ultimately produce the AI Act, the European Commission gave a loose definition of AI: “Artificial intelligence (AI) refers to systems that display intelligent behaviour by analysing their environment and taking actions – with some degree of autonomy – to achieve specific goals.” While this definition still uses the problematic term ‘intelligence’, it did provide a hint for a new approach to define AI: autonomy. The AI Act is poised to adopt the 2019 OECD definition of “a machine-based system that is designed to operate with varying levels of autonomy and that can, for explicit or implicit objectives, generate outputs such as predictions, recommendations, or decisions that influence physical or virtual environments”.

The given justification is to align with international developments and to provide a definition that is flexible enough to accommodate the rapid technological developments in this field. Its choice for autonomy as key criterion underlines the risk-based approach of the AI Act: generally speaking, it is precisely because AI systems

can operate autonomously that many of the associated risks occur. It is true that this definition captures many algorithm-driven systems that would not directly be called “AI” in their marketing literature. However, given the risk-management nature of the AI Act this outcome is unavoidable.

Three levels of risk

The AI Act seeks to regulate AI from a risk-based perspective. The term ‘risk’ here refers to risks to humanity: health, safety, fundamental rights, democracy and rule of law and the environment. AI systems thus cannot be considered in isolation but must be evaluated after identifying potential risks to any of these aspects.

In broad terms, the AI Act divides AI systems into three categories:

1. **Unacceptable risk AI.** This type of AI threatens basic human values or dignity to such an extent that it simply may not be put on the European market. Next to subliminal manipulation and social credit systems, real-time biometric monitoring is a prominent example.
2. **High risk AI.** This category of AI poses significant risks, but its benefits may outweigh those of sufficient precautions are taken. The bulk of the compliance work under the AI Act relates to this type of AI system.
3. **Low risk AI.** An AI system that does not meet the high-risk category is deemed “low risk” and only faces minimal

requirements such as transparency regarding its status as an AI and not being allowed to make decisions on human behavior or actions.

There is also a “regulatory sandbox”, the purpose of which is to foster AI innovation by establishing a controlled experimentation and testing environment in the development and pre-marketing phase with a view to ensuring compliance of the innovative AI systems with the AI Act and other legislation. Participation by human subjects should only be possible with specific informed consent.

Some of the biggest debates surrounding the AI Act focused on which AI system should be classified where. The approach chosen is to recite all unacceptable risk AI practices in the AI Act itself, to provide maximum clarity and a clear barrier to changes: this would require a new version of the Act. High risk AI is defined in a two-step approach: an annex lists certain “critical areas and use cases”, and the Act deems an AI practice “high risk” if a use or area “poses a significant risk of harm to the health, safety or fundamental rights of natural persons”.

Examples of high-risk areas include employment, access to essential services, law enforcement and the administration of justice. An AI system in any of these areas thus must be checked for specific risks it may cause: a job applicant screening algorithm may be biased against certain ethnic groups,

access to services may be harder for the poor or may unfairly threaten the environment, and so on. If such a risk is identified, the AI system is high risk and faces a mountain of compliance items. However if the risk can be minimized (or is not present to begin with), the AI system would not be high risk even if it operates in a high risk area. There is some debate still on the burden of proof: may an AI provider simply self-certify that no risks are present, would an impact assessment or other formal analysis be required or would prior involvement of a supervisory authority be necessary?

Geographical application

The AI Act is a European law, but there is a peculiarity with such legislation: the Brussels effect. As one of the largest and most integrated economies in the world, the EU's stringent regulations often set the standard for global norms. An early example is the 2007 REACH Regulation (Registration, Evaluation, Authorization, and Restriction of Chemicals): chemical companies must identify and manage the risks linked to the substances they manufacture and market in the EU. Its influence has extended beyond EU borders, leading chemical companies worldwide to adopt similar practices to ensure market access in the EU. The 2016 General Data Protection Regulation (GDPR) is also widely cited as exhibiting a similar effect in other countries.

The AI Act clearly follows the lead of the

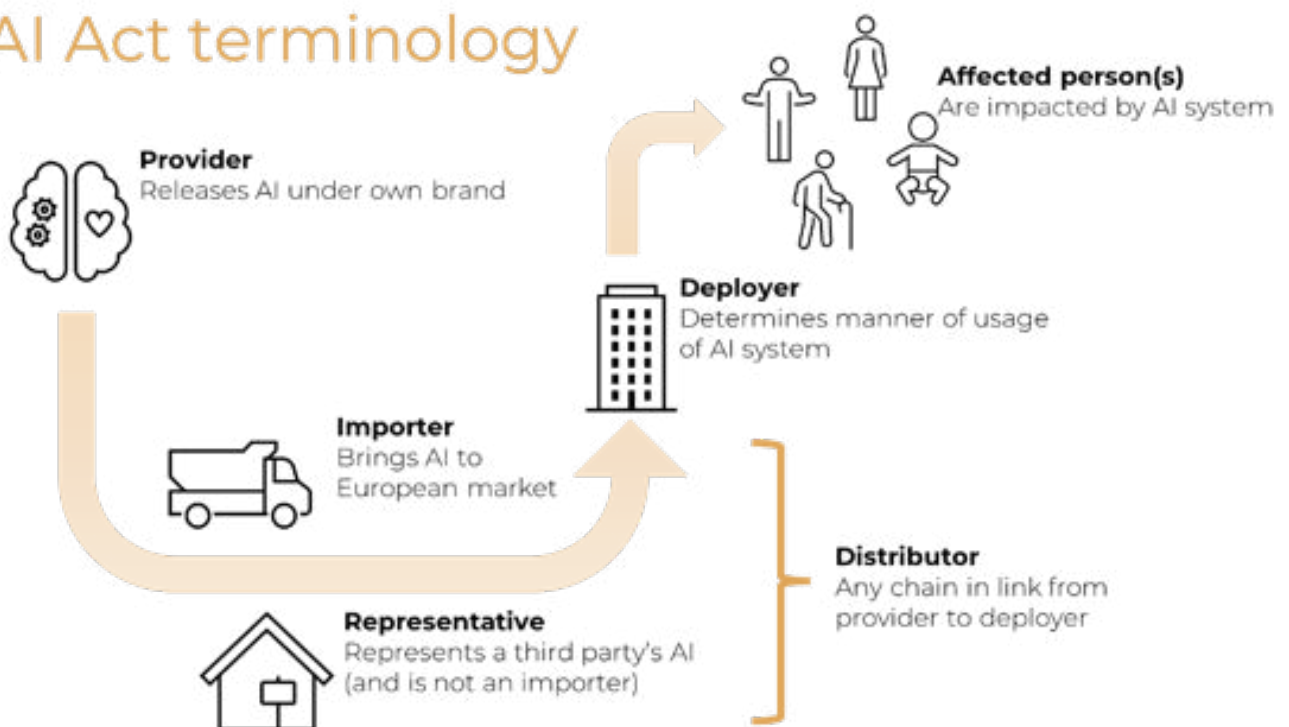
GDPR in setting a worldwide scope. The schematic below illustrates the key terminology of the AI Act. A provider of AI systems creates and/or releases an AI under its own brand, and a deployer brings this system to the market. (These can be one and the same entity, of course). A deployer may need an importer or other distributors to get the AI system to its market. Finally, the use of an AI system may impact certain affected persons who may or may not be aware of the AI system's very existence.

Under the AI Act, any provider established in the European Union is subject to its regulations. The same applies to a deployer, as well as to importers and distributors who first introduce the AI system into the European market (e.g. Google's Play Store or

the Apple App Store). These are the clear-cut cases. More controversial is the case where the deployer is outside the EU and the AI system's output is "is intended to be used in the Union". This may apply to a European firm outsourcing certain work to a third party outside the EU, with the third party employing an AI to do the work.

A remote surveillance or analytics operation would also fall under this provision. The third party doing so would be required to appoint a representative in the EU, who would be legally liable for any failures to comply with the law by the non-EU provider and/or deployer. (This mechanism was borrowed directly from the GDPR.) If no representative is appointed, any use of the AI system is banned in the EU.

AI Act terminology



Compliance work

If and when an AI system is deemed to be high risk, its introduction on the European market is subject to stringent requirements. These are aimed at reducing the risk, e.g. through formal assessments of any bias and documented steps taken to explicitly balance output. Data management and risk management processes must be put in place and personnel must be trained to diligently work with AI systems, rather than blindly accepting their output. Full transparency of the system's design (in terms of data provenance and algorithm operation) is required, as is the use of the highest standards in cybersecurity and robustness. A quality management system serves as a backstop and stimulates constant improvement and error correction. Full documentation and information should be available to both supervisory authorities and affected persons.

Readers may be familiar with with the old CE logo; “Conformité Européenne” is a 1992 EU standard for certification that a system meets European regulatory standards. The AI Act will elevate that standard: an AI system may only be brought on the market if it has the CE logo, and to be allowed to do that, full documentation must prove a proper assessment of all risks has been made, with steps to reduce impact and processes to maintain quality.

The CE logo also triggers a different aspect of EU law: a product that carries defects

despite its bearing of the logo is considered noncompliant and its producer subject to civil claims for damages from purchasers. The burden of proof is reversed: if the purchaser can establish a reasonable link between damage and the apparent defect, the producer must show convincingly that no such link is in fact present. Otherwise, the producer will have to pay for the damages in full – and no small print or terms of service can prevent that. Combine this with the rising trend of mass tort claims in European countries and you understand why AI providers are getting worried.

Worries exist all the more because of the planned system of supervisory authorities, with powers to impose fines up to 10 million Euros for compliance violations and up to 40 million Euros for releasing unauthorized high-risk or prohibited AI systems onto the European market. Additional powers have not been settled yet but are likely to include a ban on further use of the AI system or even the destruction of the underlying dataset.

Moving forward in the age of the AI Act

The AI Act is a wake-up call for businesses, developers, and stakeholders to prioritize ethical considerations, human rights, and societal values in their AI endeavors. The Act's risk-based approach, with its clear categorization of AI systems, underscores the EU's commitment to ensuring that AI serves humanity responsibly and safely.

The message is clear: passive observation is no longer an option. The challenges posed by the AI Act are manifold, from ensuring compliance with its stringent requirements to navigating the potential legal and financial repercussions of non-compliance. Yet, these challenges also present an opportunity. By actively working towards compliance, organizations can not only mitigate risks but also position themselves as leaders in the responsible development and deployment of AI. The time to act is now. Embrace the AI Act's principles, invest in ethical AI practices, and lead your organization into a

future where AI is not just technologically advanced but also ethically sound.

About the Author

Arnoud Engelfriet is director and Chief Knowledge Officer of ICTRecht Legal Services in Amsterdam, the Netherlands. He is the author of the upcoming book “AI and Algorithms: Mastering Legal & Ethical Compliance”, from which the above text is an edited pre-publication. The book will appear in January 2024 and can be pre-ordered through: MasteringAIcompliance.com



The book is also key study material for our CAICO-certified [course to become AI Compliance Officer](#)

COMING SOON

WRITTEN FOR LEGAL PROFESSIONALS, COMPLIANCE OFFICERS AND AI PRODUCT MANAGERS, THIS BOOK PROVIDES THE KEYS TO UNDERSTANDING THE EVOLVING LANDSCAPE OF AI LAW, PRESENTING CLEAR, ACTIONABLE INSIGHTS ON HOW TO APPLY LEGAL RULES AND ETHICAL GUIDELINES IN AI DESIGN, DEPLOYMENT, AND OVERSIGHT

What Is A Digital Strategy?

Why you need a strategic approach to your digital transformation journey as an inhouse legal team

By Victoria Swedjemark, Founder of Glowmind



What is the difference between a digital strategy and a tech roadmap?

What is a digital strategy? Some legal teams might think that a digital strategy equals a tech roadmap. But a tech roadmap is merely the plan you use to implement the strategy (such as the action steps and the time, resources and people involved), it is not the strategy as such. The strategy is rather the logic or design principles that backup your tech roadmap. It's the rationale for your efforts, and brings clarity to what you are trying to accomplish with the technology, and why.

Your strategy is also what forms the narrative around your tech journey, that you can use to tell the story about it to your team and to others, such as to your internal stakeholders.



It is helpful in the change management to be able convince others of the value of your plans, and also to get funding, as a compelling story helps back up the business case around your investments.

A tech roadmap without a strategy often ends up tactical at best, or perhaps just a set of ad hoc initiatives.

Approaches that can indicate lack of strategy

Some legal team tech roadmaps are simply the result of what tech companies have approached them with the most impressive demos of shiny tech tools, rather than a well thought through strategy addressing most pressing needs. This often means you are letting the tail wag the dog, letting tech

companies push you into initiatives with unclear benefits or that lack internal buy-in, instead of making yourselves the driver of your own development.

Many legal teams also resort to copying what peers are doing. It can be wise to exchange notes with, and learn from, others legal departments, and it can make sense to do a benchmark to see what technology other legal teams are implementing. For example, that type of comparison can be a helpful illustration to create internal sense of urgency – and get funding – for tech investments and legal operations efforts (“look other legal teams are implementing technology at scale, we cannot become a legal department laggard or an unattractive workplace”),

but be cautious about just copying others' initiatives. Unless you can validate you have the same needs and operate under similar circumstances. Better is to do a proper needs assessment based on your unique situation.

Applying a holistic approach

Why you should start with your overall function strategy and set longer-term targets

The term “digital strategy” is flawed in the sense of giving the impression that your digitalisation efforts are somehow stand-alone or separable from your general strategy as a legal function. A better approach is to view technology as an enabler in the execution of your overall strategy.

The starting point for your tech initiatives should be the overall vision, mission, targets and objectives of the legal function. Where are you heading and why? What is your aspirational state, your target operating model, and how can the tech help you get there? Are you building for scale, speed, impact, cost efficiency or what? What is your aspirational role as a team, and how can technology enable you to take such a role?

If you don't apply a longer-term view there is an apparent risk that you will focus too much on just incrementally improving the status quo rather than embrace the more transformational change that will be needed to prepare for the future.

One common mistake legal teams make is digitalising a status quo that is sub-optimal - such

as automating a poor process - or unsustainable, such as going after tech solutions that cement a role for the legal function that is not desirable in the longer-term, such as that of administrators or highly invested in other type of low end work. It can involve selecting an NDA automation solution designed for the legal team, rather than entirely moving all handling of NDAs to 1st line business and rather go for a solution that fits non-lawyer users. Or implementing an entity management solution that boggles down the legal team as the corporate administrators rather than seeking a solution that enables task sharing or delegation of parts of the process to others - or even going after a full-fledged outsourcing of all entity management instead.

This is why a good starting point for your digital strategy is to clarify the strategic positioning of your legal function. Do you seek to be a service center for the business, able to broadly service requests and turn things around quickly? Well, then you should probably go after tech solution that improve intake, speed up the legal team or that help you measure your service level to business. But if you rather seek to delegate the bulk of high-volume contracts to other parts of the organisation for example, or perhaps outsource it altogether, than this is not at the core of your strategy.

And if you seek a role as a business enabling legal function you probably want to go after tech enhanced self-serve solutions for business. It can be document or contract automation solutions that the business can use to produce “legal products” in day-to-day business themselves, or a conversational form or chatbot that the business

can use to find answers to common inquiries in the legal or compliance domain, or on-demand nugget videos able to provide quick legal guidance to common problems or challenges. But, again, if you have already scoped out most of this work, these tech initiatives will most likely be run by sales and procurement instead and will not be at the core of your strategy.

And if you seek the role as a strategic business partner perhaps you should go for technology that is able to help you measure how much time you spend on high value work, such as CLM or matter management solution with such capabilities, or a solution that feeds data into a dashboard able to show your value contribution to business or the ROI of your external spend - or that help you free up time to move to more tech solutions.

If you skip the step of addressing the role and positioning of the legal function, and forget to make the analysis of what lawyers should spend their time on, the technology you implement can end up counter-productive once you later want to move out of some of that work that you have now effectively integrated into an (expensive) tech solution. Instead, why not let the technology you choose to implement support your aspiration to repurpose the team to more high-value work?

Overall business needs matter too

Key business objectives should also be factored into your tech initiatives. If you are a highly regulated company, or handle a lot of personal data and need to ensure GDPR compliant business, perhaps what you then need is technology

that can help you manage compliance more effectively. Or if cost efficiency is very important, then spend management or outside counsel management is probably a relevant focus area for your tech initiatives. What contract management solution is best for you also depends on what matters most to your business – is it speed in the contracting process, or better obligation management or more high-quality contract data for example. And perhaps CLM technology should be addressed in tight collaboration with Sales or Procurement?

All these “why”s for your technology form the basis of your strategy. This means that the *aspirations* – of the legal function and the business more broadly – should be the core design principles for your digitalisation efforts.

The other pillar of your strategy should be your *pain points*. What is the legal team, and your business stakeholders, struggling most with? These are the problems that the technology can help solve. Do you know what they are? A good way to find out is to simply gather insights on it, from the team and from the wider business. Doing this will also supercharge your change management, as people will more easily buy into solutions that help solve their biggest challenges and address pain points they experience daily. It will make it much easier to sell the initiatives, and the efforts involved, to these people.

Too many tech initiatives fail because people do not feel they are solving key problems they have or do not do so in a helpful way.

A people strategy and a digital culture matters too

What is also often overlooked in succeeding with digitalisation in the legal function is the people aspects. A common reason tech initiatives fail is lack of strategic maturity and digital maturity in the legal team.

That is why a successful digital strategy should also encompass a people & culture strategy. Part of this is having people understand the overall strategy and purpose of technology, as outlined above, but it is also about having the team understand what digital transformation is all about. That it also involves engaging with people (such as business colleagues) in new ways, in line with evolving customer- and end user expectations on accessibility and convenience (facilitated by technology) and new approaches to collaboration, such as cloud based, real-time and cross-functional approaches.

What can help here is to reinforce business acumen of the lawyers, through business alignment and more “run legal like a business”-thinking, because if the team understands how business is changing now, as a result they will probably better understand how these shifts impact the legal function, and legal and compliance work, too.

The people strategy is also about hands-on upskilling people on technology, data, change management and project management, which are all key elements of a succeeding with tech selection, solution design and tech implementations – especially if you expect lawyers to shape and carry through initiatives

This is a subset of an upgraded holistic competence strategy for the function. Perhaps you also need to add people to the team that are not lawyers but rather have legal operations type of skillsets, or you need to bring in relevant competencies from external partners, such as management consultants or legal operations consultants, to complement your team.

Reinforcing a digital culture in your team is also about fostering a culture of experimentation and challenging some of the traditional values, beliefs, assumptions and practices of the team, that may have served you well in the past but may stand in the way as you embark on your digital transformation journey. Such as perfectionism, legal focus rather than business or end user focus, or too much risk conservatism.

So how about you, do you have a strategy to back up your tech initiatives, or just a tech roadmap?

About the Author

Victoria Swedjemark works as a management consultant and is the founder of Glowmind, a boutique consulting firm. She helps legal and compliance teams transform into the future, by 1) clarifying overall function strategy – in terms of role, focus and contribution – 2) identifying opportunities to work smarter – using technology effectively and revisiting how work is resourced and carried out and 3) evolving the team – building the skillsets and mindsets needed for tomorrow and succeeding

with change management. She does so by helping in-house legal leaders and their teams analyse relevant change needs, set change plans and succeed with implementation. Victoria is herself an ex in-house legal leader, having headed up the legal function in three

different companies for 14 years. She is passionate about bringing more business thinking into Legal and helping legal teams understand how the world is changing and how the legal function needs to adapt, and can reposition to more value and impact. www.glowmind.com.



Renewing the Approach to AI, Innovation, and Law Department Performance

Level Legal and Ari Kaplan Advisors were honored to co-host a dinner for law department leaders at the International Legal Technology Association's 2023 Annual Conference. We discussed the practical application of artificial intelligence, the connection between the economy and innovation in legal, and the role of e-discovery in law department transformation.



Economy-Driven Innovation or Vice Versa?

- ▶ Law departments are identifying tasks to stop doing in today's constrained budget environment with limited staffing.
- ▶ The economy is accelerating innovation, which is no longer a nice-to-have because it saves jobs over the long term.
- ▶ Legal is not simply running like a business, but as one of the most successful and effective departments in the company.

“Using AI responsibly can result in a higher quality of work.”



E-Discovery Is a Key Element of Law Department Transformation

- ▶ The current disruption in e-discovery affects priorities in litigation support.
- ▶ Expect a more robust disclosure requirement in the U.S. for the use of generative AI in e-discovery.
- ▶ Don't worry: AI will accelerate the eDiscovery process, enabling law departments to do more with less.

Artificial Intelligence: Now an Outside Job

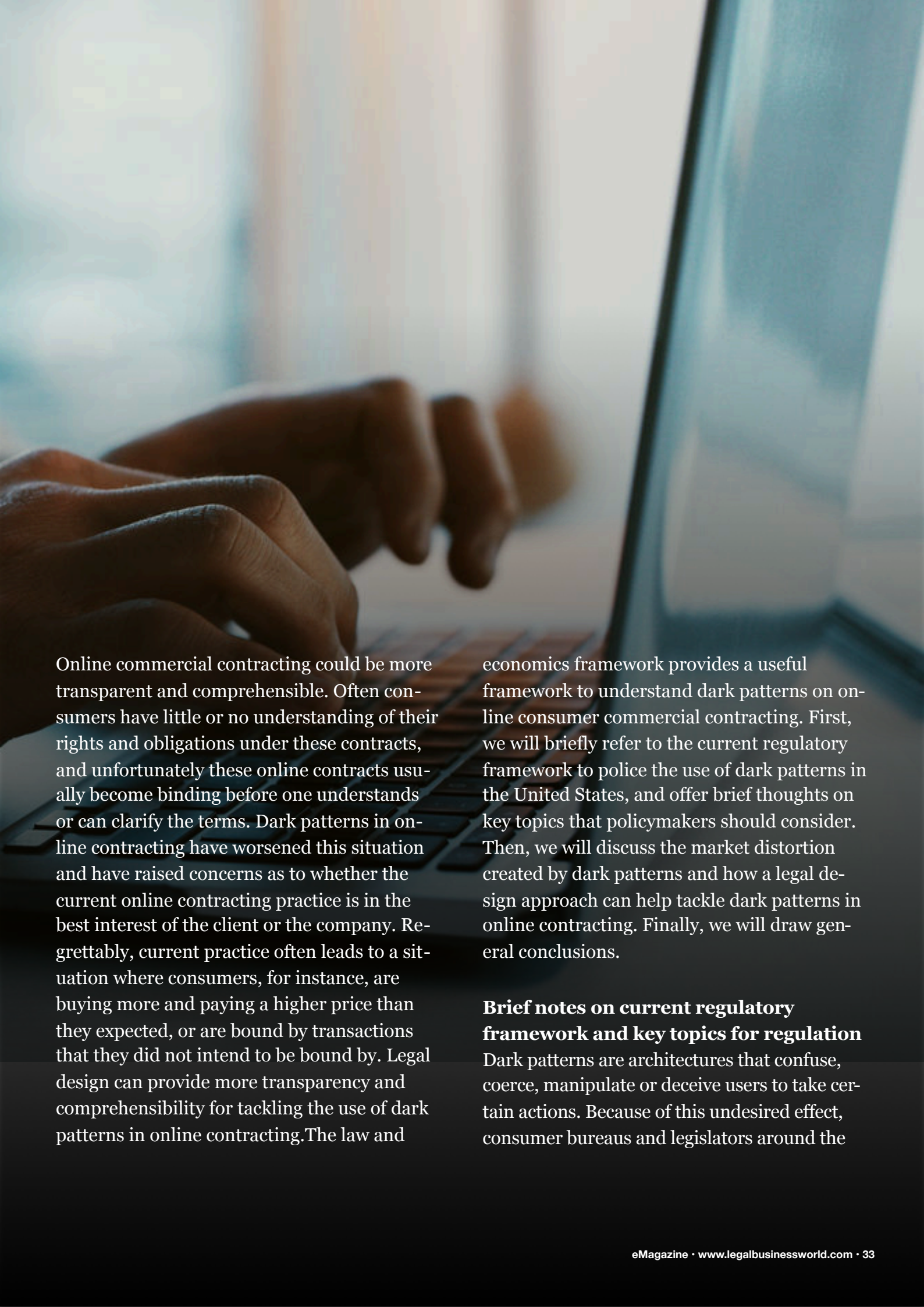


- ▶ Law departments are developing standards governing how outside lawyers and providers can deploy AI on matters.
- ▶ Creating a unified definition of AI is a challenge for some legal teams.
- ▶ Many in-house teams do not have a choice about whether to develop AI use cases; they are now a business imperative.

DARK PATTERNS: A MARKET DISTORTION

By Katri Nousiainen, Lawyer and Professional in Legal Education and Catalina Perdomo Ortega, Senior Legal Counsel at TLB (London)





Online commercial contracting could be more transparent and comprehensible. Often consumers have little or no understanding of their rights and obligations under these contracts, and unfortunately these online contracts usually become binding before one understands or can clarify the terms. Dark patterns in online contracting have worsened this situation and have raised concerns as to whether the current online contracting practice is in the best interest of the client or the company. Regrettably, current practice often leads to a situation where consumers, for instance, are buying more and paying a higher price than they expected, or are bound by transactions that they did not intend to be bound by. Legal design can provide more transparency and comprehensibility for tackling the use of dark patterns in online contracting. The law and

economics framework provides a useful framework to understand dark patterns on online consumer commercial contracting. First, we will briefly refer to the current regulatory framework to police the use of dark patterns in the United States, and offer brief thoughts on key topics that policymakers should consider. Then, we will discuss the market distortion created by dark patterns and how a legal design approach can help tackle dark patterns in online contracting. Finally, we will draw general conclusions.

Brief notes on current regulatory framework and key topics for regulation

Dark patterns are architectures that confuse, coerce, manipulate or deceive users to take certain actions. Because of this undesired effect, consumer bureaus and legislators around the

world are increasingly interested in identifying and regulating dark patterns. However, judicial courts in the United States have generally used existing doctrines or regulations to police manipulative architectures. In the EU, authorities mostly resort to the Unfair Commercial Practices Directive and the General Data Protection Regulation (GDPR). In the United States, courts have used classic contract law, privacy regulations and the Federal Trade Commission has relied on the Federal Trade Commission Act in cases that, in substance, are about dark patterns. An interesting court case was *McDonald et. al v. Kiloo A/S*. According to the records available, the developers of the game Subway Surfers transmitted users' (children) personal data to third parties that would target them with ads. The game's code took personal identifiable information and kids' activity across multiple apps (which is more personal information than they would expect to share on a game). Parents sued, claiming a violation of the Children's Online Privacy Protection Act (COPPA), a common law tort claim, and a consumer protection claim. Even though an architecture to trick users into revealing more personal data than expected is a dark pattern, the record available does not mention the term.

Nonetheless, policymakers are pushing for new legislation, focused on prohibiting privacy-related dark patterns. California issued the California Privacy Rights Act (CPRA), which amended the California Consumer Privacy Act (CCPA). Colorado enacted the Colorado Privacy Act (CPA) and Connecticut issued its Data Privacy Act (CDPA). Additionally, the Federal Trade Commission has also filed actions against several companies for using dark patterns.

Since dark patterns can take a variety of forms and affect many areas of law, their regulation is a complex issue. However, policymakers can consider the following key topics as a starting point when drafting dark patterns regulation: the inclusion of a specific definition of dark patterns, the use of a rule-based approach and the sanctions regime (fines, disgorgement of benefits or other measures). Beyond legislative reform, the use of deceptive or manipulative contractual techniques by digital players is also a market distortion issue.

Dark patterns as a market distortion

Law and economics provides valid tools to understand dark patterns as a legal phenomenon in online contracting in data driven economic markets. Regarding market functioning, there is vast literature on law and economics, and behavioral economics studying human heuristics and cognitive biases. These are some of the human shortcomings that, for instance, web designers exploit to influence market actors' behavior. Exploiting these biases affects the functioning of the market, making it suboptimal:

- Consumers buy things that they do not really want. They give up their scarce resources (i.e., money) for things that do not necessarily increase their utility.
- Consumers buy more products. The utility function works sub-optimally. Consumers spend their scarce resources buying more than would be established by their rational preferences - this can naturally cause financial difficulties. The consumer utility function and bundle are affected – as now, they are worse

off, as they have less scarce resources left to use elsewhere.

- Consumers pay a higher price. Their buying decision is now based on perceived price, making the demand higher, for instance through the scarcity patterns. Here, the company captures the consumer welfare - since consumers now buy products without any effective change in product prices.
- Market entry and competition is distracted. Manipulative practices allow companies to compete employing perceived prices, and consequently, consumers pay higher prices. They also bear higher financial risks - compared to a competitive market where companies compete in decreasing prices, not raising them.

According to economic theories, and given certain assumptions, market mechanisms will establish an optimal price level through supply and demand, and lead to an optimal distribution of resources. However, we have seen how dark patterns are not achieving this effect. Manipulative designs are causing the market actors to behave against their preferences, creating sub-optimal effects.

Behavioral economics, neuroscience and other fields can provide for a more realistic understanding of human behavior, stress the value of comprehensibility in contracting practice, and support the economic market to function in a more optimal way. One of those fields is legal design: a methodology founded in the design thinking process, aimed at empowering people with user-centered language

and accessible terms, consequently increasing people's comprehension of their legal rights and obligations.

A legal design approach in online contracting can foster and support optimal market functioning as it increases comprehension and transparency. [The General Theory of Legal Design in the Law and Economics Framework](#) can be used to understand how legal design provides incentives to tackle the use of dark patterns in online contracting and explains why profit-maximizing companies benefit from a more transparent and comprehensible contracting practice. Legal design favors increased legal quality, reduced transaction costs, business sustainability, and competitive business advantage.

Final thoughts

In online contracting, companies are often using dark patterns in web design. This can lead to short-term economic benefits but ultimately harms the market and consumers. Consumers pay higher prices, inadvertently accept new terms, and experience a decrease in healthy market competition, which can lead to market failure. Therefore, regulatory intervention might be useful to correct these issues and restore market functionality.

Additionally, research suggests legal design can enhance the clarity and comprehensibility of online contracts, leading to economic and social benefits. Therefore, a dual approach could be desirable: regulatory intervention and a legal design framework based on economic theory. Whether through regulation or economic contract theory, the use of dark patterns in online

contracting is still an issue. If you are interested in this matter, the Loyola Consumer Law Review will soon publish our paper *Dark Pattern in Law and Economics Framework*. In that paper, we delve deeper into the points made here.

About the Author

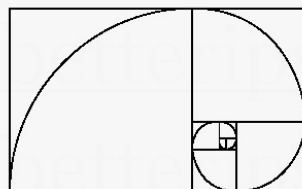
Katri Nousiainen is a Lawyer and Professional in Legal Education. She is a Teaching Faculty in the Management Program at Harvard University, and she holds a Resident Research Fellow position at Harvard Law School in the Program on Negotiation (PON). In addition to her work at the Program on Negotiation, she is also affiliated with the University of Cambridge Law (the United Kingdom) and with the Hanken School of Economics (Finland). Before joining Harvard, she was affiliated with the University of Berkeley Law, Center for Law and Technology (BCLT) and with the Aix-Marseille School of Economics.

She is known for her articles and book chapters on negotiation, commercial contracts, and legal design as well as on law & emerging technolo-

gies, especially related to quantum technologies. In her work, she supports and assists companies and other operators in improving the quality and efficiency of their legal processes, products, and services within the tools and methods of law & tech, innovation, and legal design. Presently she is pioneering research projects on the impact and value of legal design in negotiation and commercial contracting practice as well as on law & emerging technologies.

Catalina Perdomo Ortega is a Senior Legal Counsel at TLB in London. With her expertise in legal design, she provides data-driven solutions to clients by redesigning legal documents and processes to make them user-centric and accessible. She also optimizes end-to-end legal workflows through technology and automation. Her background includes 5 years as a Corporate Law and M&A attorney in Colombia, where she managed complex legal affairs with both national and international stakeholders.

Catalina is a Master of Laws (LL.M '23) from Harvard Law School, where conducted research on M&A inefficiencies using a legal design approach.



BETTER
I P S U M

LEGAL OPERATORS

• Magazine for Legal Ops Experts & Professionals • No.4 • 2023

KATRI NOUSIAINEN ON MARKET DEVELOPMENTS, ETHICS, LEGAL DESIGN & TECH

WATCH A UNIQUE
CONVERSATION WITH
AN AI AVATAR

WHO WILL TRAIN
DIGITAL TALENT AT
SCALE

THE AI ACT IS COMING
WHAT'S IN STORE

PRIORI'S BASHA
RUBIN HELPING IN-
HOUSE COUNSEL

Read the latest edition of your partner magazine Legal Operators



Strategy

Exec



THE FOLLY OF STRATEGIC PLANNING

By Heather Suttie, Legal market strategy and management consultant



Strategic planning is an oxymoron and as real as the tooth fairy.

Look at the roots of those two words: Strategy is a set of choices that position you to win your key objectives. Plan is a measurable action and/or behaviour set to happen within a specific timeframe.

Strategy is one thing while planning is another, yet these words have been paired together as if they're a logical fit. They're not.

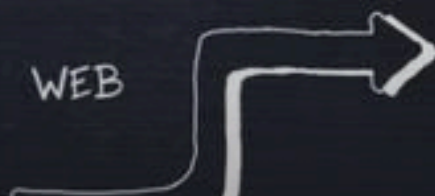
Even though the phrase "strategic planning" is bandied about within almost all industries, mostly because it sounds sexy and signals that you might be doing something important, it means nothing and is pretty much guaranteed

Evolution

Success



WEB



200'000
1'000'000
30'000
5'500

1'235'500.-

DATA



to have no tangible and lasting result.

Still, lawyers love to engage in “strategic planning” because it offers an opportunity to exercise a typical lawyer-like trait of admiring a problem followed by hatching a solution. Due to competing priorities and short attention spans, this exercise usually culminates in a half-hearted execution of whatever was thought to be a good idea at the time, then withers and dies. The result is that nothing much gets done, advances, or changes.

There is, however, strategy development.

Strategy Development

Strategy development supports your primary objective, which is to win. Strategy develop-

ment has four components: Objectives, Strategy, Development, and Planning.

1. **Objectives** are defined and measurable goals that enable winning a chosen market, field, client, or role.
2. **Strategy** is a set of near-term, yet visionary choices that position you to win your objectives.
3. **Development** enables your strategy to accommodate improvements during the process.
4. **Planning** is a set of actions and behaviors that must happen within a specific time period to support your strategy and realize your objectives.

So, in a nutshell: Objectives are where you want to be. Strategy is how you will get there. Planning is what you will do to make it happen. Development bridges strategy and planning, and enables flexibility to meet your objectives within a set timeframe.

The reason why “strategic planning” is an oxymoron that is predisposed to failure is because it focuses on only two of the four factors that enable you to win.

The process of strategy development, however, is geared for growth and applicable to firms, practice groups, industry teams, and individuals.

Transformational growth and market distinctiveness is crystallized when objectives are supported by strategy along with executed tactics that are clear, measurable, and time-bound.

When a Plan is Just a Plan

Oftentimes, rather than tackling the hard work of strategy development, the default is to focus on planning, which is simply a set of actions and behaviors that need to happen within a specific time period. This type of planning is used primarily for business development, budgeting, and the like because it is safe. Safety is manifested by containment within bounds of a traditional law firm’s framework and comfort zone.

Because this type of planning is safe, it is not usually distinctive or strategic, and almost never converts to achieving a defined and measurable objective that results in rapid and exponential growth.

In his 2013 book, *Playing to Win: How Strategy Really Works*, [Roger L. Martin](#), writer, strategy advisor, and Professor Emeritus at the Rotman School of Management at University of Toronto, hypothesized that [a plan is not a strategy](#).

He is right. His thinking on strategy is refreshing, not because it mirrors my own, but because he addresses what strategy is and isn’t head-on with clarity and forthrightness.

Objectives and Development

Strategy is nothing without clear and ambitious objectives designed to achieve exponential business growth. (In my experience, the most audacious objectives result in the greatest likelihood of achievement because they require collaboration, focus, and urgency that when combined, results in maximum propulsion.) This is why setting ambitious or audacious objectives requires equal amounts of vision, ruthlessness, and diplomacy. And while this carries a hint of living dangerously, it’s entirely doable.

Development provides flexibility to accommodate improvements and enables course correction. Without flexibility, strategy becomes rigid in structure and non-collaborative in nature with both characteristics guaranteed to lead to failure. That said, development must be tempered with get-it-done timelines and determination, otherwise the risk to achieving objectives is wickedly high.

Within law firms in particular, over-development—often due to over-thinking and the curse of “too many cooks in the kitchen”—can result in analysis paralysis and death by a thousand committees.

A prevalent symptom is when law firms, practice groups, industry teams, and/or individual lawyers have trouble selecting objectives that will rapidly advance and grow business. I could have retired years ago if I had a dollar for every time a managing partner told me, “Our priorities are A, B, and C. Also, D, E, and F. And while I think of it: G, H, and I. And if we don’t include J, K, and L, all hell will break loose.”

Objectives are priorities. You cannot have a dozen priorities. In my experience with restructurings and turnarounds along with helping firms emerge from the pandemic with new agility, the golden number for the successful execution of key objectives is three.

The Power of Three

You can have three objectives or priorities each year, tops. These three objectives must be clearly articulated and supported by no more than three strategies with qualifying and quantifying measurements. Each of these three strategies is supported by three measurable tactics executed within specific timeframes.

Business growth objectives set in this manner with strategies and tactics executed accordingly are the equivalent of being on trial for your life. Objectives are achieved when smart strategies supported by tactics executed within tight timelines convert to achieving goals. Dramatic as this sounds, setting objectives, determining strategies, and deciding on tactics boil down to nailing three factors: 1) making tough decisions and sticking to them; 2) socializing the plan; and, 3) executing with precision on schedule.

This does not mean that success on all three objectives will happen within a one-year period, although that can happen.

In my experience, the achievement of major corporate objectives, such as those required for restructuring, turnarounds, and propulsion-igniting business advances may take up to three years. Advancement will be noticeable within the first year, obvious after the second year, and achieved in the third year. Once objectives are attained, they must be sustained with continuous reinforcement that cements them and ongoing maintenance to avoid backsliding.

Regardless of the timeframe, be it one year or three, the key to achieving major business growth objectives is to remain resolute.

Eclipsing Limitations

Pervasive sameness in the global legal market is due to a number of factors such as, traditional partnership structure, predisposition to valuing the practice of law over legal service business, and risk aversion. These factors result in remaining stuck within bounds of what should be rather than what can be. The difference is contextual: probability versus possibility.

This is when outside expert perspectives can enable mind-wide-open thinking and growth results that extend beyond capabilities, timeframes, politics and expectations.

Often, due to a desire of remaining employed, inside law firm talent ranging from partners to business professionals tends to stay within bounds of what will be acceptable by the firm’s

stakeholders and executive management. This is why lackluster objectives, strategies, and tactics are prevalent and sameness is pervasive.

There can also be rigidity around financing standards and budgetary buckets rather than considering that money can be creatively allocated every year. I once sprinkled a truckload of new money for new hires, equipment, and resources across a proposed corporate budget. At the same time, a colleague slapped a note on a proposed departmental budget that stated, “There’s a chainsaw in here. Find it.” There was, they didn’t, both of our budgets were approved, and the business flourishes to this day.

This is the type of independent consultative expertise and experience that enables expanding beyond the limitations of how most law firms think, set and execute on strategy development that spurs exponential growth. It also enables laser-like focus on the process from start to finish, which is especially effective within a law firm environment that is often populated by people tasked with multiple projects and competing priorities. Not beholden to any one law firm and with no desire to ever be an employee, an entrusted independent expert is geared to support a law firm and its teams in a “high tide lifts all boats” endeavor.

This level of independence combined with deep legal market expertise enables heightening objectives and expanding strategies, both of which enable a law firm, practice, team or individual to remove boundaries and limited thinking. The result is exponential and often explosive growth. Having done this successfully many times, I can tell you from experience that ambitious and audacious “shoot for the moon” strategy development ensures clearing the treetops every single time.

About the Author

Heather Suttie is an internationally recognized legal market strategy and management consultant to leaders of premier law firms and legal service providers worldwide.

For 25 years, she has accelerated performance within law firms and legal service businesses — Global to Solo | BigLaw to NewLaw — by providing consultative direction on legal business strategy, market strategy, management strategy, and client strategy. The result is a distinctive one-of-one legal market position and sustained competitive advantage culminating in greater market share, revenue and profits.

[Reach her at heathersuttie.ca.](http://heathersuttie.ca)



**Bringing Transparency to
Legaltech Procurement**

Handbook of Legal Tech

"I am pleased to announce the publication of The Legal Tech Handbook. I've had the distinct privilege of pulling together insights from some of the best and brightest minds in legal tech, covering all aspects of how technology is reshaping the practice of law today. Filled with practical tips, expert insights, and a touch of humor, the "Handbook of Legal Technology" is precisely the resource the industry needs at this moment. Please find it available for purchase here:

<https://www.globelawandbusiness.com/books/handbook-of-legal-tech.>"

Colin S. Levy

Lawyer and Legal Technologist



EDITED BY COLIN S. LEVY



WHY STRATEGY SELDOM WORKS IN LAW DEPARTMENTS

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

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



Turning a new leaf, New Year's resolutions, and even lightning bolts are not always enough to prompt the members of many corporate law departments to do what is most important, as opposed to what is most urgent. This problem is not limited to legal services. Companies and management consultants have spent a good deal of time trying to prevent, disguise and remedy the gap between strategy and execution.

What were once specialized functional groups - law, human resources, finance, and IT - can today be found "on the front-lines". Lawyers enable their companies to develop and sustain a competitive edge in the market or to resolve important disputes. In other words, if they are any good, they are inevitably "strategic". It has been



possible for some time and across a whole range of industries for the legal team to have a formal strategic business plan, or at least to be a prominent part of the organization's strategic business plan.

This said, why do companies and their law departments fail to do what they say they are going to do? 15 years ago, David Norton and Randall Russell, then of the Balanced Scorecard Collaborative, identified five factors which inhibit the execution of strategy. These can be applied to corporate law departments as well as to the company. While explaining a problem does not excuse it, an awareness by legal leadership of the pitfalls surrounding positioning and implementation does improve the odds of success. Our consulting experience over the last 25 years of working with law departments and

the business units they serve allows us to interpret the applicability of Norton and Russell's implementation factors to the corporate law department.

Executive Leadership Not Mobilized

On occasion, the legal leadership team is not sufficiently engaged to drive execution. A General Counsel takes on the position, commissions a review of the department, and develops a "strategy". Buy-in from other members of the department is generally not automatic.

But even when it is secured, some members of the department are unable or unwilling to persuade their own team members and the company's business units of the need for change. The General Counsel cannot launch a department's new positioning strategy alone. A new "strategic" way of managing is

not understood or is not accepted across the board. Legal leadership must share its vision and be able to inspire the entire legal team to follow in a timely fashion. Teamwork matters because implementation doesn't take place without it.

Strategy Not Translated into Operational Terms

Many companies and their law departments do set financial objectives. Metrics such as total legal spend or cases / matters resolved are straightforward. But targets to achieve non-economic goals are much rarer. If effectiveness is now one of the most strategic goals a law department can achieve, then developmental objectives to integrate lawyers with their business units, risk management focusing the organization on the trade-offs between legal and business imperatives, and development of the law department's intellectual capital move to the head of the line. To this, one must add the need to measure service with quantifiable indicators. Again, it is the specifics and operational terms that help answer the all-important question "What difference do the lawyers make?"

Poor Alignment

Medium to larger law departments struggle with how best to align and deploy legal services. Either the lawyers work alone and not in teams with other members of the department, or they are so closely aligned with a business unit or a geographical region that little flexibility exists to re-deploy experienced resources elsewhere in the organization. In other settings, the department is populated with talented generalists who try to be all things to all people. As they ap-

proach 15 years of experience as lawyers, it becomes increasingly difficult for generalists to specialize or to keep up with changing corporate direction.

Few View Strategy As Their Job

Compensation for many lawyers in the company is too seldom designed to reward strategic success. It is normal for compensation to depend both on how the company is doing and on individual performance. It is the exception to find a significant part of the variable compensation tied to the achievement of the department's Key Performance Indicators and their related targets. Programs to help lawyers acquire competencies of strategic value to the company are often unstructured. Yet leadership and project management skills are a scarce in many companies. Legal competencies alone are simply not enough to succeed as experienced lawyers.

Insufficient Communication and Direction

When department meetings are held, a review of progress on strategic objectives is rarely at the top of the list. Budget cycles and variances are discussed. But discussion about planning and strategy is at best sporadic.

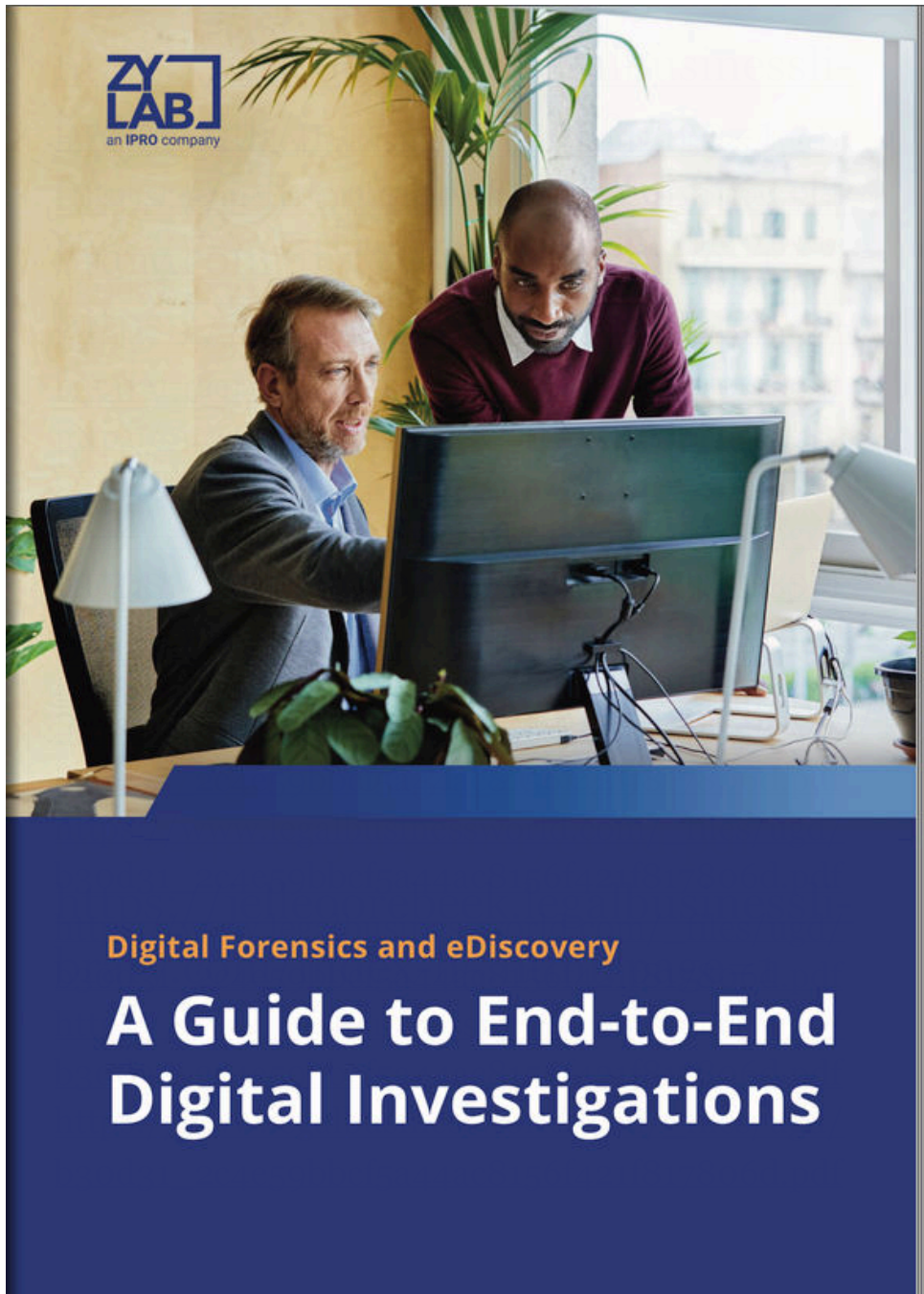
Matters that are urgent deserve the attention of corporate counsel. But they must also be important in relation to the strategic objectives the company and the department have set. Otherwise, the department is again failing to do what it said it was going to do.

Legal leadership should be mindful of the factors that inhibit the implementation of business and law department strategy.

About the Author

Richard G. Stock, M.A., FCG, CMC is the Managing Partner of [Catalyst Consulting](https://www.catalystconsulting.com). The firm has been advising corporate and government law departments across North America and

around the world since 1996. For law department management advice that works, Richard can be contacted at +1 (416) 367-4447 or at rstock@catalystlegal.com.



This guide by Jelle Oorbeek is published at Legal Operators. We thank Legal Operators for sharing it with Legal Business World Subscribers. (Click on the cover to read it)

CHANGING LEGAL TECH PLATFORMS: EASY OR CHALLENGING?

By Rasmeet Charya (l), Lawyer and Strategic Advisor and Charanjot Pastagia (r),
Co-Founder Join the Dots





Have you ever felt stuck with the current application or platform you are using? While researching legal technology applications and platforms, we came across an insightful observation by Douglas Adams - *"We are stuck with technology when what we want is just stuff that works."* In our opinion, this holds true in the present times.

Today, legal tech encompasses a wide array of technologies and tools designed to assist legal professionals, including lawyers, in-house legal counsel, and corporate teams, in various aspects such as document management, case management, research, e-discovery, contract analysis, and more. With the legal tech land-

scape continually evolving, innovating, and surprising its audience with new platforms and applications, there is an ongoing need to update, upgrade, integrate, and embrace new technology to facilitate the ever-changing legal and regulatory work more efficiently and productively.

Even changing to a new smartphone can be a daunting task amidst numerous other responsibilities. So, imagine changing an entire legal tech application. Such a change not only involves costs for acquiring new software but also demands substantial effort for data migration, training, and the potential for disruptions in productivity during the transition.

Subscription Models

Before we delve into the challenges, it is essential to understand the various pricing structures and business models offered by legal tech companies, such as Software as a Service (SaaS), per-user licensing, tiered pricing, and more. While these models aim to provide flexibility and often grant access to specialized legal software, tools, or services on a recurring payment basis, knowing the total cost of ownership is crucial when making an informed decision about subscribing and potentially switching legal tech platforms.

Typically, business or legal users subscribe to the model that aligns with the structure and requirements of their legal practice, legal department, or business needs, budget, and usage. However, these requirements are likely to change in the future, prompting a desire to subscribe to new technology. So, what happens when you want to change to new technology?

Challenges

Often, sales and marketing teams tend to focus on highlighting the broad features of their tools and software. However, they may not always address the process of ending or changing a subscription. While processes are in place to collect client feedback, little attention is given to a client's experience during a software transition. Based on our various project experiences and customer responses, changing legal tech software can be a complex and challenging process due to various factors. These include the unique nature of the legal industry and the sensitive information it deals with. Here are some of the real

challenges associated with changing legal tech software that need effective solutions:

1. **Data Migration:** The most daunting task is data migration, as law firms and departments often have vast amounts of data, including case files, documents, client and business information. Migrating this data to a new software system can be a significant challenge, as it must be done accurately and securely to avoid data loss or breaches. During data migration, there is a risk of data loss or corruption. Maintaining data integrity and ensuring that all historical information is preserved is a significant challenge. The cost and feasibility of migrating existing data to the new platform can also be a determining factor. Some providers offer data migration assistance as part of their service, while others may charge additional fees for this.
2. **Integration with Existing Systems:** Legal tech software is often part of a larger ecosystem of tools and software used by businesses or law firms. Ensuring that the new software integrates seamlessly with existing systems, such as ERPs, practice management software, billing systems, and document management, can be challenging. Ensuring that the new software remains compatible with other software and receives regular updates and support is essential to avoid future issues.
3. **Resistance to Adoption:** Legal professionals may resist change to adopting new technology as it can disrupt their established workflows.

Legal tech companies can handhold and provide adequate training and support to ensure that lawyers, paralegals, and staff can effectively use the new software.

Overcoming user resistance and gaining buy-in is a significant challenge.

4. **Security and Compliance:** The legal industry deals with highly sensitive and confidential information. Any software change must ensure compliance with necessary security and privacy regulations. This involves data encryption, access control, and various other security measures.
 5. **Customization and Workflow:** Legal processes can be highly customized and may vary significantly between firms and practice areas. Adapting the new software to meet the specific workflow and process needs of the firm or business can be a challenge. Switching platforms may mean losing these customizations and having to recreate them in the new system. For example, a legal department may have extensively customized its case management software to match its unique workflow and jurisdictional requirements. Switching platforms means starting from scratch.
 6. **Lack of Standardization:** On the contrary, legal tech solutions also lack standardized data structures and formats, making it challenging to move data seamlessly between platforms. This lack of standardization can create friction when transitioning. For example, a client may try to switch e-discovery platforms but
- face difficulties aligning the metadata structures and tagging conventions used in their old system with the new one.
 7. **Downtime:** There may be periods of downtime during the transition, which can affect a law firm's ability to serve clients and generate revenue. Minimizing downtime is a critical consideration.
 8. **Vendor Lock-In:** Some legal tech vendors have difficult lock-ins for clients to switch to competing products, which can include proprietary file formats, data encryption, or exclusive data storage arrangements. For example, a client may be locked into a legal document management system that uses a proprietary file format making it a difficult and expensive exercise to switch to a different platform.
 9. **Negative Covenants/Contractual Obligations:** Clients may have signed long-term contracts with legal tech providers, which can impose penalties or fees for early termination. These contractual obligations can be a significant hurdle to switching. For instance, a law firm may want to switch to a new practice management software, but their existing contract with the current provider includes a hefty termination fee.
 10. **Data Cleanup and Quality Control:** When transitioning to a new legal tech platform, clients may need to clean up and validate data to ensure accuracy and consistency, which can be a time-consuming process.

For example, a client may discover that their old legal billing software contains duplicate entries and inconsistencies in billing data when they migrate to a new billing platform.

These challenges can make it costly and time-consuming for clients to switch to a more suitable solution, even when their current legal tech tool does not effectively meet their requirements.

Solutions

As the legal tech industry is still emerging, learning from user experiences is the most significant driving force. Gaining user confidence comes from respecting the user's decision to end their subscription and helping the transition occur seamlessly. Here are some suggestions to address the transition challenges:

1. **Dedicated Transition Team:** Legal tech companies can establish dedicated transition teams to plan the transition smoothly, involving key stakeholders who work with experienced IT professionals specializing in legal tech. These teams can implement and execute a comprehensive transition plan and provide adequate support for a successful transition.
2. **Training and Adoption:** Typically, legal professionals resist change to venture outside their comfort zones, especially when adopting new technology. Legal tech companies can handhold and provide adequate training and support to ensure that lawyers, paralegals, and staff are able to effectively use the new software. This is crucial for a smooth transition.
3. **Change Management:** Law firms/businesses must implement change management strategies for a smooth transition. This includes facilitating communication between outgoing and incoming service providers, providing training, and addressing concerns and feedback from users.
4. **Standardization and Data Portability:** It is high time that the legal industry creates and adopts industry-standard data formats and structures to make data more portable between different legal tech platforms. Organizations like [SALI](#) are standardizing legal data and collaborating with various legal tech companies such as NetDocuments, Microsoft, etc. to help increase data interoperability and fuel emerging technologies like AI. This will also increase opportunities for integration.
5. **Tools to Export Data:** Legal tech providers should offer tools and features that help clients export their data in a standard format. These tools/features should be user-friendly and comprehensive, allowing bulk download and export of every data, tracker, or document that can be reused and imported into the new platform.
6. **Client Offboarding as a Process:** While contractual terms often address data return, deletion, and purging following contract completion or rescission,

there is a lack of concrete evidence demonstrating these activities within the practices of legal tech companies. With the integration of AI, the magnitude of client data utilization throughout the legal tech landscape is beyond imagination. Therefore, it is imperative to establish a comprehensive offboarding process encompassing client or project closure, clearly delineating the necessary steps for data return, deletion, and purging.

This process should outline where client data resides across all repositories, specify the format in which it will be returned, detail the handling of migration or transition requests to other platforms, and provide robust support mechanisms. Such a process not only instills confidence in clients but also aligns with data privacy regulations, fostering consistency in data migration standards.

7. **Integration:**

- **Open APIs:** Legal tech providers should offer open application programming interfaces (APIs) that allow for easier integration with other tools and systems. This can promote interoperability.
- **Integration Partnerships:** Several legal tech providers are fostering partnerships to create pre-built integrations between commonly used platforms. These partnerships can provide clients with seamless connections between different tools in the legal ecosystem.

8. **User-Friendly Contractual Terms:**

It is essential to return client/user data seamlessly without additional costs or effort. Switching to alternative solutions should be without excessive penalties. Legal tech providers can offer more flexible contracts that allow clients/users to adjust their subscriptions when the system is not in use, archive data at a lower cost, etc., to ensure cost-effectiveness and stickiness to the legal tech solution.

9. **Legal Tech Consulting:** Consulting legal tech and innovation experts/consultants for objective evaluations of data security, data portability, and user-friendliness of legal tech software, particularly regarding transition, can provide valuable insights before committing to a new platform.

List of Subscription Models

1. **SaaS (Software as a Service) Subscriptions:** Legal tech companies offer their software and tools on a subscription basis. Users pay a regular fee (monthly or annually) to access and use the software. SaaS models are popular for legal research platforms, document management systems, and case management software.
2. **Per-User Licensing:** Some legal tech solutions charge on a per-user basis. Law firms or legal departments pay for each user who needs access to the software. This model is common for practice management software and legal research tools.
3. **Tiered Pricing:** Legal tech companies may offer tiered subscription plans with different levels of service or access. Higher-tier plans typically include more features, user licenses,

or additional support. This model is often seen in e-discovery, contract management, and legal research tools.

4. **Pricing Based on Usage:** In this model, clients are charged based on their usage of the software or service. For example, legal research platforms may charge based on the number of searches or documents accessed.
5. **Pay-As-You-Go:** Some legal tech services offer pay-as-you-go pricing, allowing users to pay only for the resources they use. This model is common in cloud-based solutions and e-discovery platforms.
6. **Freemium Models:** Legal tech companies may offer basic features or limited access for free and charge for premium or advanced features. Users can choose to upgrade to a paid subscription to unlock additional functionality.
7. **Fixed-Fee Subscription:** Law firms or legal departments pay a fixed, predictable monthly or annual fee for a comprehensive suite of legal tech tools and services. This model can include various software and support services.
8. **Customised/Tailored Pricing:** Some legal tech companies provide tailored pricing based on the specific needs and scale of a law firm or legal department.
9. **Hybrid Models:** Some companies combine multiple pricing models to cater to a broader customer base. For example, they may offer SaaS subscriptions for their core

software and charge separately for add-on modules or premium support.

10. **Free Trial of Software:** Many legal tech solutions offer free trials of their software for a specific period during which users can explore the software's features and functionality. Post the trial period, users can choose to subscribe to a paid plan.

About the Authors:

Rasmeet Charya is a strategic advisor on legal innovation and technology, an Indian and UK lawyer by qualification, with 23+ years of experience across the legal industry - litigation, law firm, ALSP, corporations, compliance, and risk advisory.

She is a legal innovator with hands-on experience in developing and implementing transformation, innovation, and technology across organizations in her various roles as Chief Innovation Officer, Strategic Advisor, Head of Product Innovation, and many more.

She is part of global legal tech and innovation forums, a speaker, and a thought leader. With a deep desire to contribute to the legal ecosystem, she actively lectures, designs, and conducts legal tech and innovation courses for law schools to equip law schools and future lawyers with legal tech and innovation expertise.

Charanjot Pastagia is a passionate legal tech enthusiast who bridges the gap between traditional legal practices and cutting-edge technology. She comes with extensive experience,

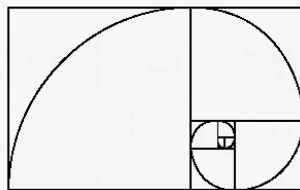
a strong commitment to compliance, and an innovative approach to problem-solving in a process-driven environment. With a diverse background that spans law firms, offshore legal service providers, and in-house legal support departments, she has established herself as a versatile professional in the realm of legal compliance and due diligence operating across India and the United States.

Throughout her career, Charanjot has closely collaborated with technology teams, leveraging her legal expertise to create innovative

web-based solutions that cater to the unique needs of her clients. This convergence of law and technology reflects her commitment to staying at the forefront of the ever-evolving legal-tech landscape.

She is the founder of Join the Dots (JTDS), a US-based legal tech and design consulting and continues her passion for exploring the intersection of legal technology solutions, artificial intelligence, machine learning, and knowledge management through JTDS.

READ THE INTERVIEW WITH MARCO IMPERIALE, FOUNDER OF BETTER IPSUM [HERE](#)



BETTER
I P S U M

OBJECTION, YOUR HONOUR! #LEADING


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



In [my last article](#), I talked about how objections used in the court of law can be an inspiring tool to use in our daily life. I focused on the “hearsay” objection as an effective approach to spot and fight misinformation.

In this article, I am going to shed light on another one: “Objection, your Honour. Leading!”.

“Leading” is a term used in the law to describe a type of question that suggests the answer or that *puts words* in the mouth of the witness. In fact, in the realm of courtroom proceedings, leading questions hold a significant role in shaping witness testimony. These questions, designed to suggest a particular answer or



imply a certain fact, can exert a manipulative influence on witnesses.

By analysing the dynamics of leading questions, we can gain insight into how they can be used to manipulate witnesses in court and impact the outcome of a trial (and therefore to see how this can be relevant in everyday life!).

The manipulative aspect of a leading question

Leading questions are carefully crafted to guide witnesses towards a desired response, often to bolster an argument or narrative. By incorporating *assumptions* or introducing *details*, these questions can subtly in-

fluence the witness's recollection or perception of events.

The main issue with leading is manipulation: a form of social influence that aims to change someone's behaviour or attitude for the benefit of the manipulator. It involves using tactics such as deception, coercion, flattery, and guilt to control or influence another person's behaviour or decisions. In this sense, leading questions can be employed by attorneys to manipulate witness testimony in several ways:

1. **Suggesting details:** By introducing specific details into the question, such as the presence of a weapon or a particular

action, attorneys can lead witnesses to incorporate those details into their testimony, even if their initial recollection did not include them.

2. **Confirming assumptions:** Leading questions can exploit a witness's desire to please or align with the questioner's perspective. By framing the question in a way that assumes certain facts, witnesses may feel compelled to provide the expected response, consciously or unconsciously altering their testimony.
3. **Influencing memory recall:** Leading questions can influence how witnesses remember events by planting false or biased information. By repeatedly asking leading questions, attorneys can shape a witness's memory or recollection, potentially leading to inaccurate or manipulated testimony.
4. **Guiding narrative:** Attorneys may use leading questions strategically to construct a narrative that aligns with their case theory. By selectively choosing questions that support their argument, they can shape the overall perception of the events for the judge and jury.

To practically illustrate the manipulation potential of leading questions in court, let's consider a couple of scenarios.

- In a robbery trial, the prosecution asks the witness, "You saw the defendant with a gun in their hand, didn't you?". By framing the question in this manner, the witness is prompted to recall and affirm the presence of a gun, even if their initial memory did not

include it. This leading question may influence the witness's subsequent testimony, potentially swaying the jury's perception of the defendant's culpability.

- In a personal injury trial, the plaintiff is questioning their client asking, "Isn't it true that the defendant was driving recklessly when they hit you?" This would be a leading question, because it suggests the answer and puts words in the plaintiff's mouth. If the defense objects on leading grounds, the judge may sustain the objection and instruct the attorney to rephrase the question in a more neutral manner.

Leading questions can often be spotted by the way they are phrased. A leading question is typically a question that suggests or assumes the answer, and often includes a statement within the question itself. Here are a few examples of leading questions:

- *Isn't it true that...*
- *You didn't see the defendant at the scene of the crime, did you?*
- *You would agree that the plaintiff was being unreasonable, wouldn't you?*
- *You didn't really believe the defendant, did you?*
- *You saw the plaintiff with a weapon, isn't that correct?*
- *You thought the defendant was acting suspicious, didn't you?*
- *You were intimidated by the police officer, right?*
- *You knew the defendant was guilty before the trial even began, didn't you?*
- *You would agree that the plaintiff was lying, wouldn't you?*

These types of questions are suggesting or assuming a particular answer and therefore leading to a particular answer.

To use a leading objection, you must first recognise that the opposing party has asked a leading question. Once you recognise a leading question, the right moment to use a leading objection is immediately after the question is asked, but before the witness has a chance to answer.

It's important to note that leading objections are most commonly used during direct examination, when a party calls their own witness to testify. Leading questions are generally not allowed during direct examination, but may be allowed during cross-examination (when the opposing party questions the witness) or when the witness is deemed to be "hostile" to the party calling them as a witness.

The leading objection

To safeguard the integrity of witness testimony and counter the manipulative effects, the first immediate tool lawyers have at their disposal is the leading objection. Attorneys can object to leading questions when they believe they are unfairly influencing witness testimony. This allows the judge to assess the objection and decide whether the question is admissible or whether it should be rephrased.

Leading questions are generally not allowed during direct examination (when a party calls their own witness to testify) because they can be seen as manipulating or coaching the witness. However, they may be allowed during cross-examination (when the opposing party questions a witness), or when a witness is

deemed to be "hostile" to the party calling them as a witness. In these situations, leading questions may be used to challenge the witness's credibility or elicit important information.

It's important to note that leading objections can be nuanced and fact-specific, and the admissibility of evidence often depends on the specific circumstances of the case. If you're involved in a legal matter and have questions about leading questions or objections, it's a good idea to consult with a qualified attorney.

Beyond the Courtroom

While leading questions are predominantly associated with courtroom proceedings, awareness of their manipulative potential can be valuable in everyday life as well.

In fact, manipulation can occur in many areas of life, including personal relationships, work settings, and social situations. It can be subtle or obvious, and the manipulator may be aware or unaware of their behaviour.

By recognising the use of leading questions in various contexts, such as interviews, conversations, or debates, individuals can be more discerning and critically evaluate the information presented to them. This awareness can help mitigate the influence of leading questions and promote independent thinking.

Therefore, how can you envision a leading objection in everyday life?

We encounter many situations where leading questions or statements are used, consciously or unconsciously, to influence someone's

response or perception. Let's check some examples.

- Suppose a parent asks their child, "Don't you think it's too late to start your homework now?". This question is leading because it suggests that it is too late to start the homework, and may influence the child's response.
- In a job interview, an interviewer might ask a leading question like, "You wouldn't have any problem working late hours occasionally, would you?". This question suggests that working late hours is a possibility and may influence the candidate's response.
- In a performance review, an interviewer might ask a leading question like, "You wouldn't possibly be a Director if you are always working from home, would you?". This question suggests that working from home might be a roadblock to a career advancement and may influence the employee's response.

Here are a few other examples of leading questions that may arise in everyday life:

- *You didn't really like that movie, did you?*
- *You're not going to wear that outfit to the party, are you?*
- *You're not bother to spend our anniversary with my lovely parents, were you?*
- *You wouldn't want to miss out on this great opportunity, would you?*
- *You don't want to upset your boss by turning down the project, do you?*
- *You don't want to be seen as lazy, do you?*

These types of questions are leading because, once again, they suggest or assume a particu-

lar answer and can be used to influence or manipulate someone's opinion or decision-making. In everyday life, leading questions can be used by advertisers, salespeople, friends, or family members to try serve their own interests. It's important to be aware of these types of questions and to consider them carefully before answering. If you spot a leading question, it's often a good idea to pause and consider the question carefully, and if necessary, rephrase the question to clarify or neutralise its bias.

In fact, being aware of leading questions and practicing leading objections in your mind can have several benefits in everyday life.

1. **Avoiding manipulation:** by practicing leading objections, you can learn to recognise leading questions and respond in a way that is truthful and accurate.
2. **Improving communication:** by asking open-ended questions and allowing others to share their thoughts and feelings, you can build trust and deepen your relationships.
3. **Enhancing critical thinking:** by asking clarifying questions and challenging assumptions, you can gain a deeper understanding of complex issues and make more informed decisions.
4. **Better decision-making:** by being aware of leading questions and objections, you can be more objective and make better decisions because you won't be influenced by someone else's assumptions or suggestions.

5. **Increased confidence:** by recognising and challenging leading questions and objections, you can feel more confident in your own opinions and decision-making abilities.

Overall, being aware of leading questions and practicing leading objections can help you navigate challenging conversations and situations, build stronger relationships, and make more informed decisions.

Being aware of manipulation and its tactics is an important life skill, as it can help you recognise when someone is trying to manipulate you and take steps to protect yourself. This includes setting boundaries, being assertive, and learning how to say no when necessary. It's also important to develop strong critical thinking skills and to be able to evaluate information and situations objectively, rather than being swayed by someone else's opinions or agenda.

Wrapping up

In conclusion, the use of leading questions and the potential for manipulation in court and everyday life are significant topics to consider. Understanding the dynamics of leading questions and their manipulative power allows us to navigate through situations with greater discernment and critical thinking. In the courtroom, objections to leading questions play a crucial role in safeguarding the integrity of witness testimony and ensuring a fair trial. By recognising and challenging leading questions, we can protect ourselves from manipulation, enhance communication, and make better-informed decisions. Furthermore, extending our awareness of leading questions

beyond the legal context empowers us to navigate everyday interactions more effectively, promoting independent thinking and resisting undue influence. By cultivating these skills, we can build a society that values truth, transparency, and the pursuit of unbiased information. So, let us be vigilant and stand against the manipulative power of leading questions, both within the courtroom and in our everyday lives. And whenever you spot one, don't forget to... "Objection, your Honour. Leading!"

About the Author

Chiara Lamacchia is a consultant in legal, marketing & legal forecasting, working in corporate strategy for global organisations across different sectors, after an LL.M. from Bocconi University (Milan, Italy) and an MSc in Marketing from Edinburgh Napier University (UK). Chiara is the Founder of lawrketting.com and withoutconsulting.com, promoting the adoption of ground-breaking ways of using the law for innovation and competitive advantage.

Besides, among other things, she authored and published the [book](#) "Lawrketting – What Business Never Realised About Law", introducing the concept of "lawrketting" through a unique combination of law, business, marketing and innovation.

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

Find more articles on [The Legal Edge Series](#) on Legal Business World

How the Results of the 9th Annual E-Discovery Unfiltered Report Can Help Your Legal Team Plan for 2024

Ari Kaplan, Principal of Ari Kaplan Advisors



Along with offering key impressions of leading providers in the sector, the 9th annual *E-Discovery Unfiltered: A Survey of Current Trends and Candid Perspectives* report identifies the market shifts, pricing patterns, artificial intelligence developments, and data management practices that are driving the transformation of e-discovery.

Between February 23, 2023, and April 10, 2023, I personally interviewed 30 individuals responsible for e-discovery decision-making. The insights from the 16 contributing leaders in corporate legal departments and 14 in law firms offer a roadmap for organizations planning to enhance their technology-driven efficiency, create more innovative talent deployment strategies, improve their data hygiene, and upgrade their approach to AI in 2024.*



It is also a trusted resource to help buyers make informed purchasing decisions, assess their litigation support protocols, and empower their teams.

The report's key findings include a focus on self-service, remote review, increased deployment of AI, greater use of analytics, and expansion of the cloud.

Empower Self-Service

It is important for providers of technology and services to continue to enable self-service options because 97% of the participants reported that corporate legal teams are bringing more of their e-discovery in-house. "We are conducting e-discovery internally on our smaller cases; if we can do some cases in-house, we can more effectively control our costs," said

one in-house lawyer. "Our one-year goal is full internal e-discovery capabilities," added an in-house legal professional.

That said, it is also important to offer a holistic solution that combines empowerment with support because of the increasing complexity in this field. "While lots of companies have taken steps in that direction, the problem is that e-discovery is not a one-time spend and needs to evolve, so I still see corporations looking to outside providers to help them because the math does not always make sense," explained a law firm litigation support leader.

Anticipate More Litigation and Higher Volumes of Data

Given that 63% of the participating leaders expected the number of their litigation matters

to increase this year and 47% advised that the total cost of a typical e-discovery matter has increased over the past 12 months, legal teams should anticipate a continuation of that upward trajectory on both volume and cost. After all, 83% highlighted that the amount of data in a typical e-discovery matter has increased over the past year.

“New work habits during the pandemic exponentially increased the volume of data for e-discovery,” explained a law firm litigation support leader. “The proliferation of devices capturing data, storing it, and increasing the overall volume of information is creating significant problems for large enterprises,” added an in-house lawyer.

Engage in Meaningful Conversations About AI

Although 87% of the participants advised that they are using some form of artificial intelligence, such as predictive coding, in their document review processes, they had generally not yet deployed any type of generative AI as part of their e-discovery protocols. That is likely to change rapidly in 2024 as organizations begin to establish standards, agree on valuable use cases, resolve their security concerns, and include new initiatives in their budgets.

For now, many organizations are waiting for clarity, which presents a powerful opportunity for legal teams to shape the conversation. “ChatGPT has frozen everyone and they don’t know exactly where it is headed or how it will influence e-discovery, so a consultant advised our team not to make any major investments

in the next year until we see how this will impact all of the e-discovery tools,” said an in-house lawyer. “Everyone is talking about AI and how it will impact e-discovery, but no one is planning anything yet,” added an in-house legal professional.

Acknowledge the Value of Applying Analytics

Legal teams can gain a competitive advantage by expanding the use of analytics in e-discovery as 80% of the participants emphasized that they use analytics across a majority of their e-discovery matters. Yet, it is as important as ever to offer details on how they will be applied to avoid confusion. “There is a continued focus on analytics, which is like saying beverage in that it means something different to different people, but it is about making metrics more accessible and digestible for attorneys,” said a law firm litigation support leader.

When asked to identify the top quality necessary for an e-discovery solution, another litigation support leader noted that it should have “An ability to handle various data sources and to provide strong analytics that do not require a graduate degree.”

Remote Review Will Continue

While it was available before the pandemic, remote document review has become a common option in e-discovery. In fact, 90% of the participants expect it to remain permanent.

“Document reviewers always wanted to work remotely and have convinced the community that remote work is safe and here to stay,”

advised an in-house lawyer. “Remote review has been part of a massive change and the pandemic proved the remote e-discovery was entirely possible,” added a law firm partner.

If you would like to learn more, I am happy to share a series of mini-reports that summarize some of these results.

***Survey Background**

Ari Kaplan, Principal of Ari Kaplan Advisors, personally interviewed eight in-house lawyers, eight in-house legal professionals, eight law firm partners, and six law firm litigation support leaders. 97 percent of the participants develop and implement e-discovery processes, 97% select e-discovery tools and vendors, 93% implement e-discovery technology, 87% manage e-discovery software and service providers, and 80% manage the e-discovery budget.

Of the 16 respondents from corporations, two are in energy and utilities, two are in health-care, two are in telecommunications, two are in technology, one is in construction, one is in consumer products, one is in entertainment, one is in financial services, one is in insurance, one is in manufacturing, one is in pharmaceuticals, and one is in transportation.

69% work for corporations with revenues that exceed \$10 billion and 81% work for companies that generate more than \$5 billion in an-

nual revenue. 81% work in organizations that have more than 10,000 employees.

All of the law firm participants work for large law firms. (Survey trends see [next page](#))

Ari Kaplan is the Principal of Ari Kaplan Advisors (<https://www.AriKaplanAdvisors.com>) and an independent analyst who covers the legal industry. Although the full E-Discovery Unfiltered report is only available to subscribing vendors and participants, email Ari@AriKaplanAdvisors.com for mini-reports on the trends that are driving progress in e-discovery and where legal teams are investing in this area.

This article was originally published in the November 2023 issue of Cybersecurity Law & Strategy and is available here: <https://bit.ly/47gaIsB>

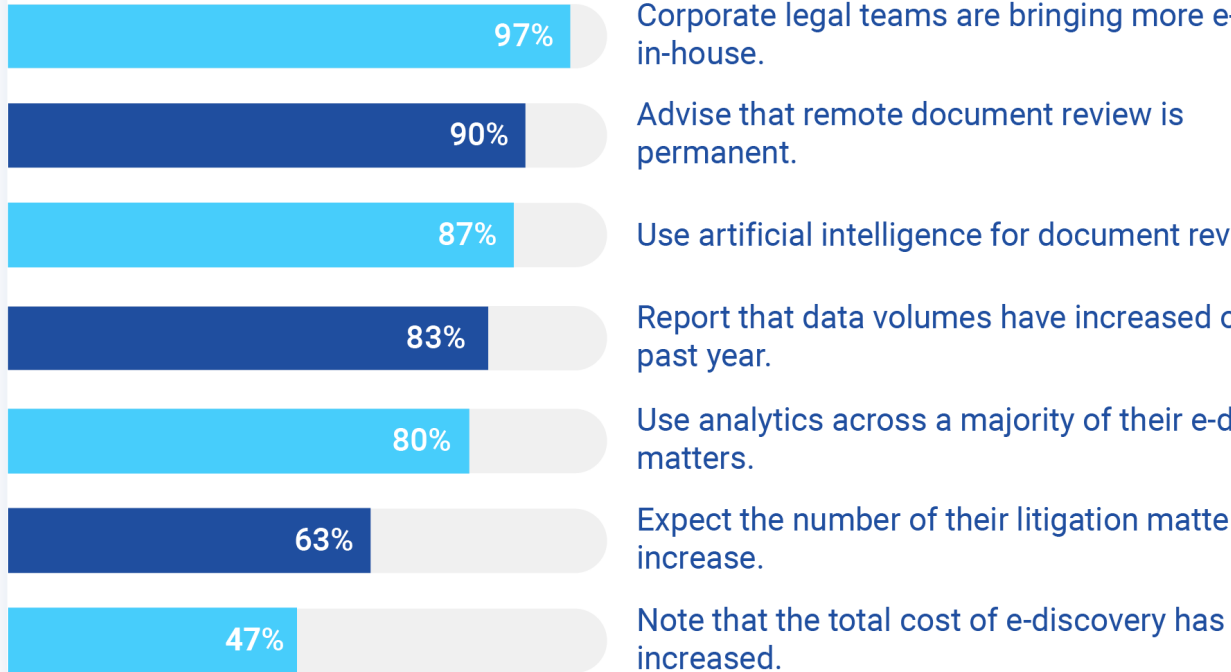


2023

E-DISCOVERY UNFILTERED

A SURVEY AND C

Results



Perspectives



"Our one-year goal is full internal e-discovery capabilities."

In-House Legal Professional



"New work habits during the pandemic exponentially increased the volume of data for e-discovery."

In-House Legal Professional



"ChatGPT has frozen everyone and they don't know exactly where it is headed or how it will influence e-discovery."

In-House Lawyer







"Remote review has been a massive change and the pandemic proved that remote e-discovery was entirely possible."

Law Firm Partner

If you have questions, please contact Ari Kaplan at Ari@AriKaplanAdvisors.com.

VEY OF CURRENT TRENDS CANDID PERSPECTIVES

Themes

-  Post-pandemic litigation support.
-  Investing in e-discovery.
-  Managing more information.
-  Switching providers.
-  Avoiding a recession in legal.
-  Collecting new types of data.
-  Deploying artificial intelligence.

30 PARTICIPANTS
16 CORPORATE AND 14 LAW FIRM

- 97%** Develop and implement e-discovery processes.
- 97%** Select e-discovery tools and vendors.
- 93%** Implement e-discovery technology.
- 87%** Manage e-discovery software and service providers.
- 80%** Manage the e-discovery budget.

THE FUTURE OF LEGAL RESEARCH: AI-POWERED SEARCH AND ANALYSIS

Nitesh Savaniya, Search Engine Optimization Consultant at BrainerHub Solutions



Since the advent of AI, the world has transformed. Although most of us are still adamant about denying this transformation, we are already living in the future. Every sector and every aspect of our lives is heavily influenced by groundbreaking technologies such as AI, and legal research is no exception. We are in the midst of a metamorphosis, a grand transformation of our analysis, prediction, and leading capabilities, where AI-powered search and analysis tools are ushering in an era of enhanced efficiency, accuracy, and accessibility in the legal industry. Each new trend, such as augmented working, generative AI, and AI Legislation, brings a wave of positive and promising developments with the potential to redefine the landscape of legal research as we know it.



In this article, we will delve into the transformative impact of AI on legal research, explore the future of legal analysis with AI, and discuss how it streamlines processes, enhances the quality of legal work, and broadens access to justice. Lastly, we will talk about new ethical considerations AI brings into the legal profession.

How are AI-powered search and Analysis tools transforming legal research?

AI-powered search and analysis tools have brought about a seismic transformation in every industry, especially the ones that are data, information, and research-oriented. The legal sector is highly research and information-oriented; AI and AI-powered tools have played a crucial role in bringing about a par-

adigm shift within the legal industry. It has given lawyers, advocates, and paralegals exceptional capabilities that have skyrocketed efficiency, precision, and accessibility. Some of the key ways in which the AI-powered search and analysis tools are fundamentally transforming the landscape of legal research are:

Enhanced Efficiency: Less Labour, More Productivity

Imagine a world where you can get the work of a month done in a week or (even better) in a day! Yes, AI is making that a possibility. The exceptional ability of AI to work with enormous amounts of data and its tremendous information processing faculties make it highly efficient.

There are AI algorithms that can quickly and accurately process vast amounts of legal information and provide novel insights, significantly speeding up the research process. Legal professionals can find relevant cases, statutes, and documents more efficiently, allowing them to allocate more time to critical tasks like analysis and strategy development.

Furthermore, AI algorithms can help legal professionals summarize huge cases into digestible chunks making it even easier to understand the information, identify sources, cite articles and sections, and precisely find what is required.

Hit Bullseye Every Time with Elevated Search Capabilities That Redefine Precision

Yes, humans are capable and better than AI when it comes to intuition, creativity, and instinct. However, the analytic capabilities of AI are far superior to that of humans. For humans, finding a specific clause or section from one particular part of the constitution or a case can be extremely tedious, but for new-generation AI-powered tools, it is a breeze. AI algorithms have ventured beyond convention; the precision of AI in helping you find sources, specific data, citations, and other relevant information is truly unmatched.

AI has constantly demonstrated the remarkable ability to comprehend and respond to natural language queries and provide highly accurate results. By leveraging advanced machine learning and natural language processing, these algorithms raise the bar for search precision, enabling legal professionals to ac-

cess the critical information they require with unprecedented speed and accuracy.

AI natural language processing and ML capabilities can help you find a needle in a haystack. In the coming days, it will make finding specific and relevant information effortless for legal professionals.

Exploring Endless Possibilities and Preparing for Different Scenarios with Predictive Analytics for Your Legal Strategies

We are not far from the legal industry, where lawyers and paralegals can run all the scenarios of a specific case and make data-driven predictions about the rulings and outcomes. It is a game-changer for the legal fraternity. AI tools can make these predictions based on historical data and legal precedents. These predictive analytics can empower lawyers with insights to make informed decisions and craft compelling and customized legal strategies for all possible scenarios, thus minimizing uncertainties that traditionally clouded the path to justice.

Let AI Take Care Of Tedious Tasks Such As Document Review And Analysis For Maximum Speed And Precision

One of the most draining, tiring, and tedious tasks of paralegals and lawyers is to review and analyze vast volumes of legal documents, contracts, and cases. It is a monumental process that takes tremendous amounts of time and effort. But AI is making it simple, fast, affordable, and less labor-intensive.

From analyzing complex contracts to summa-

riking the essentials of a colossal case, AI tools do it all with peerless precision and speed.

The development of these meta-intellectual and intelligent tools is particularly invaluable in due diligence, contract review, and e-discovery, where manual document review could be painstaking and error-prone.

In the future, the documentation of any legal proceeding will be as simple as giving a command to your AI assistant.

Creating A Paradigm Shift In Legal Research Assistance With Augmenting Expertise

Virtual legal research assistants driven by AI have become indispensable aids for lawyers and legal researchers, and they will continue to gain traction and importance in the future. Lawyers are no longer required to navigate through the labyrinth of legal resources, documents, and huge volumes on their own.

They can opt for AI assistants to help them do it adeptly and uncover relevant cases, statutes, regulations, and more.

As already discussed previously. These AI assistants offer succinct summaries and insightful analyses that might not be possible for humans to cite, resulting in substantial time savings and elevating the quality of legal research.

With the advancement of these AI tools, locating relevant cases, statutes, regulations, and other legal resources will become as easy as finding the answer to trivial questions on Google.

Creating Legal Symphonies with Least Effort, Lesser Creativity, And High Precision with The Help of Automated Legal Writing

Writing, in general, has been heavily influenced by AI because of its efficiency, speed, and accuracy. The realm of legal writing is no exception to the transformation AI has brought to writing. The integration of AI can assist in generating various legal documents, such as contracts, briefs, and legal opinions, in a matter of seconds. Some of these tools are so excellent that one does not need to proofread the content they provide.

Yes, human writers can be more creative, flexible, and adaptable than their AI counterparts. However, the AI capabilities we have right now are in no way inferior to what humans can do. The automated writing process of these AI ensures not only accuracy but also consistency in legal writing, all the while expediting the drafting process.

Navigating the Legal Maze with an intelligent AI compass to ensure Regulatory Compliance

Staying compliant with all the regulations can be a painstaking process sometimes because it takes too much effort and meticulous planning. Moreover, regulatory complaints keep changing and evolving. In this era of ever-evolving regulations, AI emerges as a stalwart ally for law firms, lawyers, paralegals, and other organizations seeking to stay compliant.

Innovative AI compliance systems monitor and interpret legal updates, ensuring businesses adhere to the latest legal requirements.

The result is a proactive approach to compliance, reducing the risk of legal pitfalls.

AI Will Become More Intelligent but Also Affordable

AI has redefined affordability. AI-driven legal research and analysis tools promise to reduce the overall cost of legal services significantly. In the coming days, law firms and lawyers will no longer need to hire additional help while working on significant cases because they will have an all-inclusive, intelligent assistant by their side.

AI-driven legal research tools automate repetitive tasks and expedite research processes, paving the way for more affordable legal services that ultimately benefit clients and legal professionals alike.

Making justice accessible to everyone

AI is enhancing the legal industry and democratizing access to justice. Affordable legal research tools and self-help resources, fueled by AI, empower individuals who may not have the means to access traditional legal services. The AI revolution in the legal industry heralds a new era where individuals can navigate legal complexities more effectively on their own. Access to world-class legal resources and intelligent legal assistants can help everyone gain much-needed access to justice.

What are the Ethical and Privacy Concerns of using AI-driven tools in the legal industry?

One of the most frequently asked questions about the ethical and privacy concerns of using AI in our legal endeavors. The ascension of AI

in legal research brings forth a lot of ethical and privacy concerns, which have made the responsible use of AI in the legal sphere, safeguarding client confidentiality, and addressing biases in AI algorithms pivotal considerations in maintaining the ethical integrity of the legal profession. The above question is the same as whether smartphones are good or evil!

Can AI Tools Uphold the Integrity in The Legal Industry?

There is no straightforward answer to this question. Upholding integrity eventually falls on the people using these intelligent tools. A tool is as good as the person using it. As for now, there are no reasons to believe that AI will not uphold the expected integrity because AI is unbiased and impartial, unlike humans.

Conclusion: Unfolding the unceasing evolution

We are still in the initial stages of widespread use of AI-powered tools in the legal industry; the entire revolution is yet to unfold. The role of AI tools in the legal sector is a long and ever-evolving journey marked by continuous advancements and novel applications.

Researchers, legal professionals, and AI developers are in perpetual collaboration, forging innovative solutions that promise to transform the practice of law fundamentally.

But if we have to summarize it all, we can say that AI-powered search and analysis tools are revolutionizing legal research and will continue to do so. These tools enhance efficiency, precision, and accessibility while offering new capabilities that can benefit legal professionals

and the broader community seeking legal assistance. These tools are poised to continue shaping the legal industry's future, making it more effective and client-focused. AI is the future.

Therefore, it is paramount for the legal profession to adapt to these changes, establish clear guidelines for the responsible use of AI, and ensure that AI augments, rather than replaces, the invaluable expertise and judgment of legal professionals.

Only with collaboration between AI and humans can the infinite potential of AI in legal research be fully realized, ushering in an era of

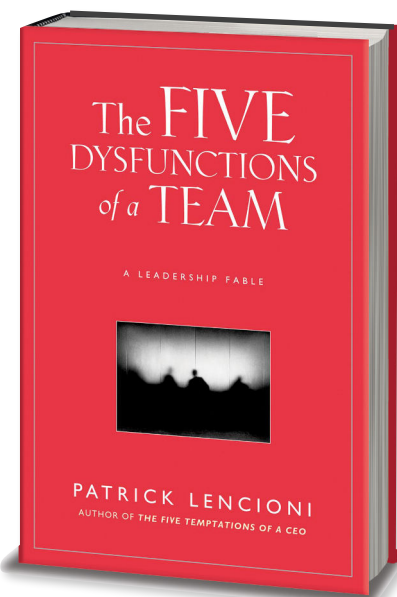
legal practice that is efficient, accurate, and profoundly accessible.

About The Author

Nitesh Savaniya, a Master of SEO shaping digital landscapes at BrainerHub Solutions - [Software Development Company](#), one keyword at a time. With a thirst for technology and a knack for deciphering search trends, he's pioneering new paths with unwavering curiosity. Nitesh excels at translating clicks into connections, making him the go-to guide at the intersection of search engine wisdom and tech-driven creativity.

Book Tip: The Five Dysfunctions of a Team

Kathryn Petersen, Decision Tech's CEO, faces the ultimate leadership crisis: Uniting a team in such disarray that it threatens to bring down the entire company. Will she succeed? Will she be fired? Will the company fail? Lencioni's utterly gripping tale serves as a timeless reminder that leadership requires as much courage as it does insight.



Throughout the story, Lencioni reveals the five dysfunctions which go to the very heart of why teams even the best ones-often struggle. He outlines a powerful model and actionable steps that can be used to overcome these common hurdles and build a cohesive, effective team. Just as with his other books, Lencioni has written a compelling fable with a powerful yet deceptively simple message for all those who strive to be exceptional team leaders.




THREE IMPORTANT LESSONS TO PROTECT YOUR MOST VALUABLE ASSET (YOUR TIME!)

By Steve Fretzin, President Fretzin, Inc



Growing up in the '70s my father instilled something in me that I've carried my entire life—the adage of never giving up. Many of us know the power of not giving up and how important it is to persevere in business and in life. This article isn't about not giving your all or sticking to commitments you've made, but rather about the power of trying something and knowing when to give it up before you have too much time, money, and energy invested into it

When we talk about building one's law practice there are hundreds of decisions that need to be made every year, from what practice management software to use, to leveraging LinkedIn better or whether you should specialize in one area more than another. This list of choices goes on and on until your head is spinning.



My goal for this article is to help you quit the things that aren't producing results and allow you to be okay with it. What lawyers never talk about is the cost of sticking with something that isn't working. Here are three tips to help you overcome the fear or anxiety of quitting.

Tip #1. If you can't measure it, you can't manage it. You may have heard this phrase eek out of my mouth before and it's never been more pertinent than today. One of the biggest mistakes lawyers make in business development is to not track and keep score of their activities. All my clients are required to use and keep a business development success journal to track and share their daily, weekly and monthly results with me. This way, we can both see what's working and what's not. The goal is to make improvements to get better re-

sults. However, the dirty little secret is that sometimes we have to agree to quit doing an activity that isn't bearing fruits. This shouldn't take a year or two to decide, but rather about 60-90 days.

Observing your billable time going out the window—either by a spreadsheet you keep or a CRM (Client Relationship Management) program you are using— is a game-changer that encourages you to make improvements or eliminate unfruitful endeavors from your calendar.

Tip #2. Time is your greatest commodity, become a pro at saying no. One of the first discussions I have with new clients is related to what they are currently doing to grow business or build their personal brand.

Many have activities with boards, charities, associations, trade shows, and the beat goes on and on. The follow-up question I ask generally leads to an “ah-ha” moment for my new client. I simply ask, “How’s that going for you?” In some instances, these activities are a home run, in others there’s a long pause followed by a little grumbling. The latter are the activities we need explore right away.

The perfect example of this was with John, my client from a few years ago. He was doing regular presentations to the local Bar Association and getting absolutely nothing out of it. We discussed some possible changes and improvements to see if the problem (lack of any results) could be resolved. Ultimately, we agreed that he was presenting to his competition, so the decision to scrap the “sharing of his best IP practices” was an easy one to make. Just so you know, he had been doing these presentations for over five years. When we did the math on his research, prep time, travel, lack of business referrals and lost billable hours, the numbers over those five years were staggering.

Accepting new business development and marketing opportunities can be huge in building your book of business, however it’s critical to have your guard up. Take some time to weigh out the pros and cons, as well as the current obligations you have now. Saying “no” to something, nicely, may be the difference between adding \$200,000 in originations this year or regretting that you didn’t say no to more time-draining obligations.

Tip #3. Quit early and quit often. So, you might be thinking “Wow, Steve, that sounds really backwards.” Trust me, I know. It goes against everything that’s been instilled in me since childhood. But, when I look back at all the things I let drag on too long, the list is longer than my arm. I was a sub-par wrestler back in junior high school and never fully committed to the training regimen necessary for success in the sport. The result was years on my back getting pinned by superior athletes who were committed.

More recently, I tried playing the drums. I committed to four lessons to see if my lifelong dream of ROCKING IT might be realized. I even practiced outside of my lessons to ensure that I gave it a solid effort. After my fourth session I told my teacher that I was done. He was surprised, as there had been progress and growth. I explained that while this was fun, there are other more pressing and enjoyable activities that took precedence over my future rock-star career as a drummer. I knew the power of quitting early and simply letting go. I was okay with trying something and leaving before getting too far along.

I know there are many other variables to this “quitting” stuff, like loyalty to a friend, group or peer. It’s important when quitting to use language that doesn’t upset other people in the equation. For example, I might say, “Based on my time and current obligations, I simply can’t continue with _____ any longer. I loved being a part of it and hope that we can remain in touch.”

Whatever the case or scenario, look at your time and current list of priorities and obligations. Think about what is important to you in your career, family, health and happiness. Do a 1-10 to quickly gauge activities or do a pros and cons list to identify what to keep and what to remove. I know these decisions are hard,

however you'll be better for it in the end.

About the Author

If you'd like to speak with me directly about your career in law and how to get the most from your time, please email me directly at steve@fretzin.com or DM me on LinkedIn.



“Their magazines, books and articles are part of my professional life and help me getting better in my daily job ”

Kelly Rochester (Lawyer & In-House Counsel)

EZINEUSAGE

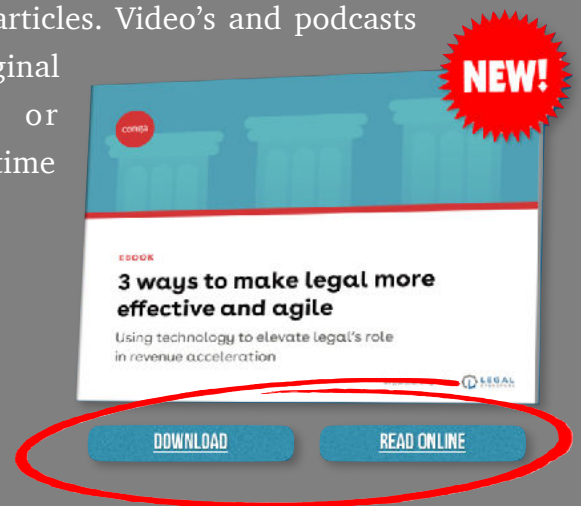
For all devices

LBW's eZine Business of Law is a responsive designed magazine. Responsive design means that design and development respond to the user's behavior and environment based on screen size, device/platform and orientation. Besides a responsive flip book version the magazine is also published as a downloadable PDF.



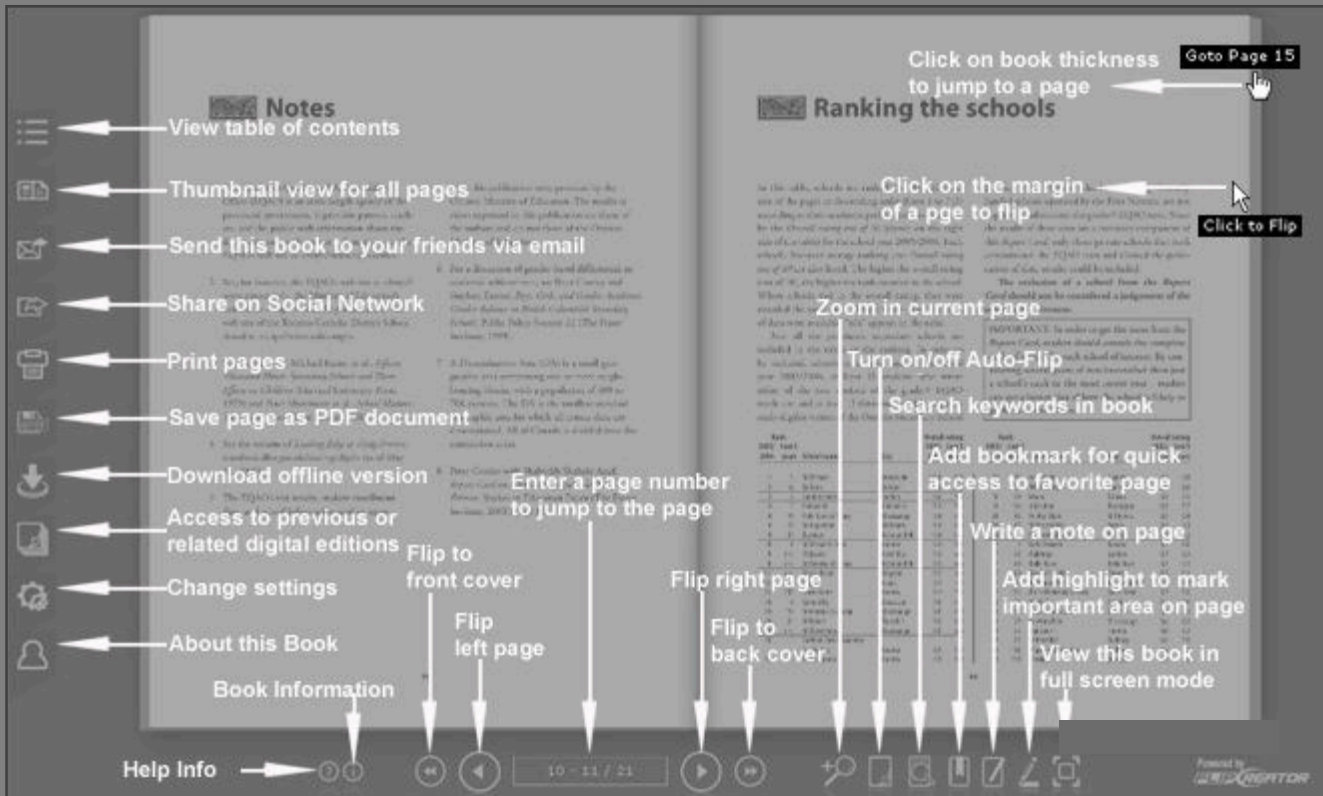
Enrichment & Linking

To increase content value the magazine is enriched with meta data and linking to a variety of outside resources. Meaning that you are able to access in-depth and/or supporting information next to the articles. Video's and podcasts are linked to their original sources, and eBooks or eZines are most of the time just one click away, and directly accessible.

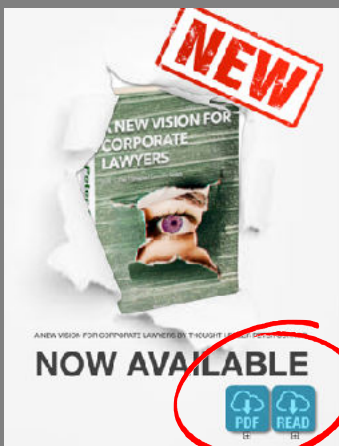


The Flipbook functions (online reader version)

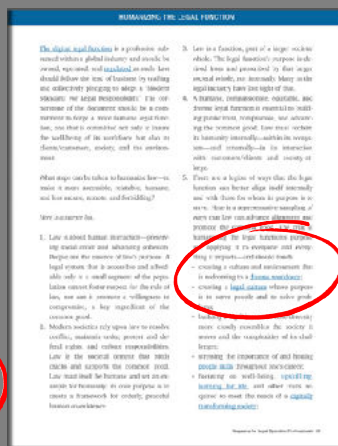
The following image shows all the features of this magazine. You may not see some of the features, (or are disable) due to the digital rights, device, or used browser.



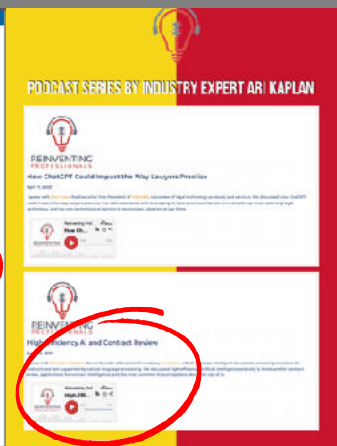
Some linking examples



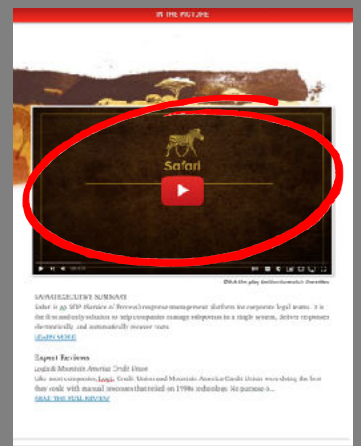
Download the book



Links in Articles



Play Podcast



Play Video

Balancing Technological Progress, Generational Shifts, and Complex Business Dynamics in an Era of Unusually Rapid Change

Participants

18 | Chief Operating Officers 1 | CAO

10 | Executive Directors 1 | CEO

Median Firm Size

73 | Lawyers 140 | Professionals



Leadership Perspectives



“Not only were we keeping the spinning plates in the air before the pandemic, now someone has lit them on fire.”

Executive Director



“We are looking at how we can leverage artificial intelligence for automated document creation.”

Chief Operating Officer



“It is a really fun time to be a law firm leader as there is a great opportunity throughout the community to reshape firms in a post-pandemic era.”

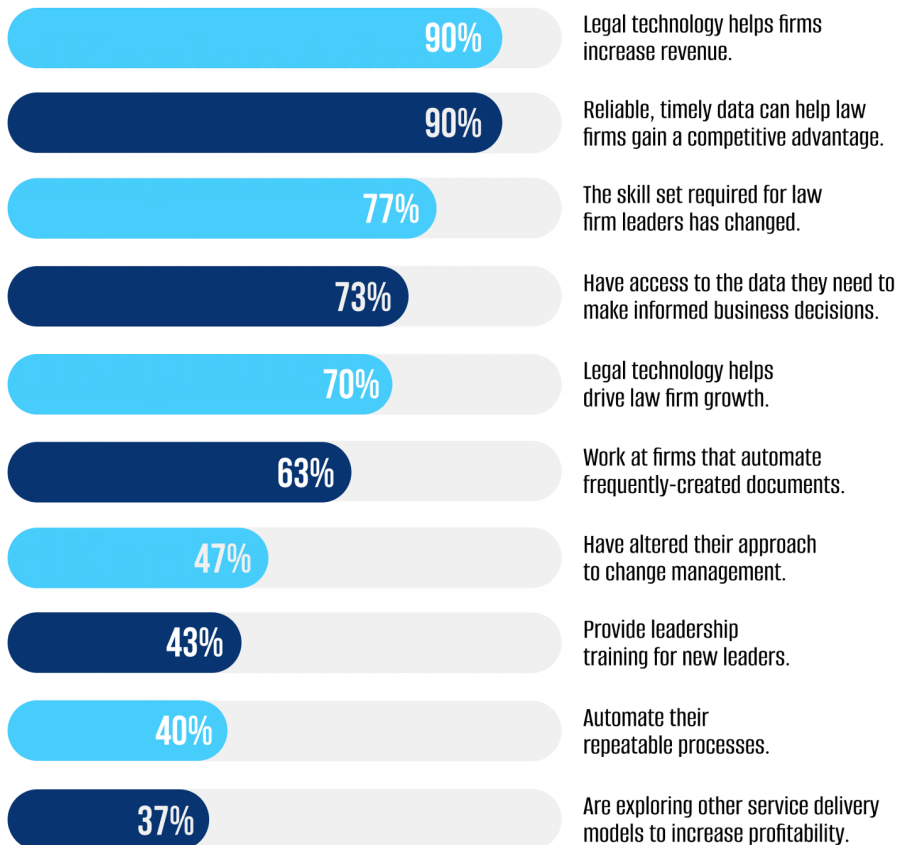
Chief Operating Officer



“What you don't measure, you don't manage.”

Chief Operating Officer

Results



If you have questions, please contact Ari Kaplan at Ari@AriKaplanAdvisors.com.



Merry
Christmas
AND
HAPPY NEW YEAR