

THE LEGAL TECHNOLOGIST

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FEATURES

CAREER

Telling her story

Laura Collins Scott, Founder of Sparkbox, tells us her career story and gives advice to those plotting the same path

COLUMN

A Short History

Shaz Aziz explains why legal tech is the new 'commercial awareness' and takes us through a brief history of legal tech



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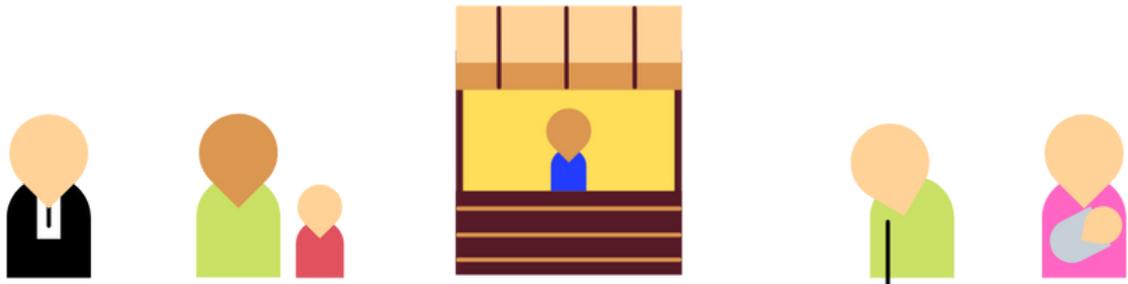
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Insight into the future of law

The Legal Technologist



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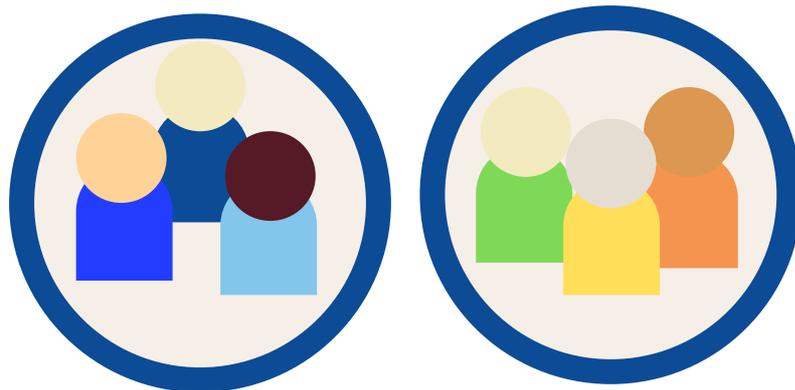
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The Legal Technologist

Insight into the future of law

Europe

Technology in Motion: when reality meets vertigo!



By Dr Lydia Jane Hazlehurst

Whilst flicking through your latest edition of *The Legal Technologist*, I am sure you were not expecting to stumble on a Legal Tech's tale of nausea and a youth spent green faced, clutching a bucket in the back seat of her parent's car. But alas, here you are. As you have come this far and not baulked (excuse the pun), then perhaps you might like to continue reading... and maybe, just maybe, my tales of woe around travel, or pretty much *anything* in motion, sickness might help us to ask and hopefully address some overdue questions about our industry.

I was fortunate enough to attend an in-person Innovation and Technology event recently. The inevitable dash to secure a train seat that faced forwards aside (if you know, you know), I had not been expecting to come face-to-face with my arch-nemesis: motion sickness.

Alongside a number of interesting panel discussions and keynotes, a range of companies from start-up to well established tech giants demonstrated their products and gave insights into the technology landscape of the future.

A theme began to emerge: the metaverse is coming, in fact it is here...and it is not going anywhere anytime

soon. Of course, the company's selling this vision were not likely to say otherwise. But, in spite of this vested interest, I found myself agreeing. Virtual, or at least augmented, reality is here, and it is here to stay.

Many of these demonstrations were inspiring and impressive. Virtual reality at our fingertips, an opportunity to explore an augmented reality, a chance to venture into virtual twins of event spaces alongside my personalised avatar who was able to interact with the virtual "world" around me. The opportunity that the metaverse presents is unquestionably limitless. Whilst conversation around switching-off or going tech-lite are sure to occur in our post-covid world, there is an inevitability to the exploration of the infinite space that virtual reality presents.

It was as one of the many demonstrations took place, that I began to feel the dreaded sensation of nausea creeping in. Not your run-of-the-mill, too-many-the-night-before sickness, instead, the sort that goes from 0-100 in seconds and sets your head and stomach spinning.

As my opening nostalgia around my childhood battles with car sickness indicates, this is not something new for me. Video games are largely inaccessible forms of

media, 3D cinema is off the table, and do not get me started on VR headsets.

However, it had not occurred to me, as it perhaps should have, that this inaccessibility is capable of affecting not just the way that I spend my free time or socialise, but also transgressing into my world of work.

Whilst my own motion sickness is my no means classed, nor should it be, as an impingement on my ability to work or diligently conduct my job, the more I participated in these demonstrations (and the sicker I started to feel) the more I wondered whether this would be said of my workplace in the future.

Here in the legal technology community, we are proud to be forging ahead technological development to enhance all aspects of a lawyer's life. We assess their pain points, streamline their ways of work, and limit their exposure to repetitive and mundane tasks. We are no stranger to the idea of developing technology for good: to solve our client's problems and for the good of our business. But, as we forge ahead with our plans to revolutionise the way that legal services are provided to our clients, I wonder if it is worth pausing for a second and questioning – "is this good for everyone?" and perhaps more importantly, "if it is not...what are we going to do about it?"

"Is this good for everyone?"

Digital poverty, the absence of access to technology, training and skillsets needed to thrive in our digital age, is an indisputable reality. The pandemic both accelerated and shed a light on the digital divide and the increasing concerns around access to affordable technology for households across the country.

This divide is not something we often consider in the world of legal technology. If we are honest, most of us work for multi-million-pound corporations and are fortunate enough to have the latest and greatest technology available to us around the clock. However, tech-poverty exists, and emerging technology is capable of widening the digital skills gap present in the UK even further.

With this in mind, I want to present you with a hypothetical: *Meta is already creating virtual spaces in which avatars of the users own choosing can participate in a range of activities from team meetings to virtual coffee breaks. The technology is not so far removed that we cannot reasonably foresee a future that calls for meetings with our clients to be hosted in a similar way. For those of*

us who deal with other multi-million-pound companies, there will no doubt be stumbling blocks along the way as we standardise systems and grapple with the inevitable data protection risks that will emerge.

But what does this mean for clients who do not belong to that privileged category. What does it mean for the individual seeking legal advice or resources, who may not have access to a VR headset or Meta's latest product? What does the possibility of virtual reality in the workplace say about our grasp on access to justice and the challenges that technology will present for both lawyers and their clients in the future?

You could easily argue that those meetings can be conducted face-to-face. You could argue that. But you would be wrong. We only have to look two years into the past to realise that in-person interaction is not as assured as we once believed it to be.

What does this have to do with motion sickness, I hear you ask? The conversations around the inaccessibility of hardware that have emerged post-pandemic are essential. It is vital that we as the tech community begin to address these concerns and look for ways in which we will bridge the ever-growing disparity between necessity for development and limited resource. But as we do this, we need to be looking inward as well. Look around you - how many of your colleagues are dyslexic or epileptic, how many suffer from migraines, how many of them like me, endure motion sickness?

Unlike technology-poverty, this problem is staring us straight in the (very real) face. It might be the intern, your chief executive, or the teammate you sit next to every day – how much are we considering them and what the future of their workplaces might look like?

"If it's not..., what are we going to do about it?"

With all signs pointing towards Web 3.0 and the future in the metaverse, is anybody asking the question: what risks does this new, impressive, and emerging technology pose for the existing digital skills gap? And might this gap be worsened by the inclusion of virtual and augmented reality into our workplaces?

The answer to these questions is surely, yes. So, I pose to you, what are we as the legal technology community going to do about it?

Dr Lydia Jane Hazlehurst

Legal Technologist
Weightmans LLP

Legal Tech Tip #6

If you're buying something that requires a more tailored configuration (e.g. automation of templates, automating workflows, etc) then you may want to agree a set number of hours for changes from the outset.

When you buy the product in the first place you're likely to have a relatively good idea of what it can do - but the chances are it would only skim the surface. As you go through discovery and design you'll understand more and that understanding at that point will feature in the design.

It will only be at the point that you see the first demo (with your use case automated) will you be able to visualise it fully. At that point you'll be looking to refine it and make slight changes. These are usually over and above your original costs as they fall outside the agreed design.

So to avoid those additional costs when you want to polish your solution fully, it is probably best to agree X number of hours for minor changes from the outset.

Follow [here](#) for more tips

The Shift to Digitalisation: the changing expectations of the legal industry

By Leanne Aldrich



Like most sectors, the law practice sector has undergone a lot of change throughout the past three years. We have had to reimagine every aspect of not only the workplace, but how we do business, and how we interact with our clients and end users alike.

Legal professionals have had to adapt to new ways of operating. According to a recent Wolters Kluwer survey, 80% of lawyers said that their need for technology solutions had increased since 2021. However, the same survey showed that only 33% felt their firm was prepared to weather the storm. The research also highlighted how those legal firms that already leveraged technology outperformed others that hadn't.

The changing expectations of legal clients

The past three years have accelerated clients' demand for digitised content. Clients in all locations and sectors are adopting digitised ways of working that facilitate their agile working patterns. Firms that cannot offer products and services that fit into this model are adding friction to the relationship with their client.

Andy Newland, Head of IT at Mewburn Ellis, says that: "Digitised products and services are inherently more flexible so, by delivering these to our clients, we're reducing friction with them. This allows our clients to reap the same benefits of efficiency and agility at their end of the transaction. By delivering digitised products and services that clients adopt readily, the relationship between the firm and its client base is entrenched."

Embracing technology went from being a "nice to have" to a "must-have". This is mainly driven by legal clients,

who have lived and worked online in recent years, expecting everything to be digital.

The benefits of digitalisation:

1. A more flexible and smoother process

Although going digital may have its challenges, it doesn't have to be hard work. The benefits drastically outweigh the drawbacks.

By choosing a strategic software partner, you're introducing a partner that is an extension of your in-house team who can mitigate risk and help maintain (or increase!) velocity. A high-quality partner will also have a higher-than-average staff retention rate, which will provide a long-term solution and security.

Technology has the potential to streamline internal processes and make them both more efficient and more agile with respect to when and where the work is done. Digitised products and services are inherently more flexible and can help save both time and money through more efficient processes.

Back in 2018, McKinsey reported that 23% of a lawyer's job could be automated. With further innovations in technology, including hyper-automation, we can expect this percentage to have increased even more. Of course, this doesn't mean replacing lawyers with robots, but rather automating repetitive, manual tasks. By templating documents or digitally tracking files, legal professionals can use their time more efficiently and focus more on clients and revenue-generating activities.

2. Better collaboration

By delivering digitised products and services to clients, one can lower the friction between the two parties. This allows clients to reap the same benefits of efficiency and agility at their end of the transaction.

In recent years, technology has been a powerful enabler for a more secure collaboration as many of us have found ourselves working remotely. In the law practice sector digitised paper trails, online approval processes or templated contracts, for example, have been key in facilitating collaboration between parties - whether internal or external.

There are some potential security concerns related to this, but firms can implement several approaches to solve this issue including multi-factor authentication for internal accounts, document-level encryption and setting IP address restrictions. Overall, by embracing a more digitised work system, legal firms will receive the benefits of a more collaborative and interactive process.

3. Better user experience for both clients and employees

Delivering digitised products and services that clients can adapt readily not only benefits the relationship

between the firm and its client base, but the firm's employees as well. Technology is available to give employees a better user experience and help drive employee satisfaction.

Attracting and retaining the right legal talent is vital at a time when the job market is in favour of candidates. Adding to this is the fact the industry is seeing a new generation of tech-savvy lawyers entering the profession. Therefore, legal firms need to be equipped with the right technology to match the high-technology expectations of both technology-savvy professionals and their clients.

The bottom line

There are many benefits for the law practice sector to embracing digitalisation. Technology can not only help drive efficiency and support collaboration but also help create stronger relationships with clients and maintain employee retention in both the present and the future

Leanne Aldrich

Software Solutions Consultant
Amdaris

Legal Tech Tip #7

If you're implementing CLM (or another other legal tech that takes over a month to deliver and deploy) then your organisation should have a project manager 100% focused on it to make sure it gets delivered on time. They need to understand how IT projects work - they can't be legal people pigeonholed into the role.

More often than not the implementation is either done by the vendor or consultants on behalf of the vendor. The internal PM therefore is the person holding them to account on timelines - but ultimately they are also the person that keeps stakeholders in their own business on track.

There will be so many queries from the implementation team which need to be answered by the business, especially around the design. Delays in decisions have a knock on effect and may lead to project creep/delayed go live/additional costs. So this PM's ability to keep things on track and get decisions is really important to the success of the project.

Follow [here](#) for more tips

In-House Lawyers of the Future

By Oliver Bridal

So, it's 2022. The world is in a strange place; we've had more "once-in-a-lifetime events" than you can poke a stick at. Happily, the in-house legal function endures. I'm no Nostradamus, but I think I can have a pretty good go at predicting what in-house legal will – and should – look like in the future.

From Blocker to Enabler

It's trite, but in-house lawyers have a reputation for being blockers, rather than enablers of business. This is a less commonly held view now than it was ten or twenty years ago, but it does persist. This will change. Being a good technical lawyer is no longer enough to add real value. An appreciation of the commercial imperative will become increasingly important. Just as we lawyers aim to empower our colleagues with legal frameworks and precedents, in-house lawyers will be afforded more responsibility for establishing, negotiating and codifying appropriate commercial positions. In the telecoms world, lawyers often negotiate acceptable levels of interference and access to key infrastructure – these aren't purely legal issues, but they are some of the core things half decent lawyers look for when reviewing certain contracts. Similarly, when negotiating SaaS agreements, good lawyers will think about the reason their company is looking to buy or sell a particular product; they will use their discretion to apply a discount or mark-up in particular areas. For example, service levels might be the domain of engineers, but good counsel will be able to form their own reasoned view as to whether or not they are sufficient.



In-house counsel will still be responsible for anticipating and mitigating risk, but a role more finely balanced between the legal and commercial is likely. More than this, once lawyers of the right inclination have served their time as specialists, it will become increasingly common for them to move away from the traditional legal role almost entirely. The move from lawyer to business development representative, consultant or some sort of hybrid will become more and more common.

Strategy Focused

In-house lawyers will move beyond day-to-day legal and commercial work to focus on business strategy and leadership. Even today, General Counsels often form part of the C-Suite. This will become a default position in the future. General Counsel and Chief Financial Officer positions are likely to be viewed in much the same way (if they aren't already). Businesses will need to reflect the importance of the General Counsel by their distribution of internal equity, decision making power and visibility.

While it's a well-established practice in the U.S. for in-house lawyers to take on roles like Chief Operations Officer, Chief Strategy Officer and Chief Executive Officer, this will become increasingly common in the U.K and rest of the world. Examples of lawyers who have made this move include Sean McGovern (AXA XL's CEO), Cindy Rose (President of Microsoft, Western Europe) and Will Marwick (CEO of IFX Payments).

Technology and Process Improvement

Consulting on process improvement and the use of legal technology will be a key function of in-house lawyers. Lines between legal, strategy and procurement are likely to become more blurred than they already are. If a business needs a new way of procuring, contracting and organizing their processes, it's likely lawyers will own the workstream. The best in-house lawyers will understand legal tech, the range of available tools and how they can best be applied to the peculiarities of their business. One of the most exciting things about legal tech is that it allows lawyers to be more than technical specialists. In-house lawyers of the future won't only look at things like liability, force majeure and reasonableness, but also come to play a core role in how business is won. If used properly, legal tech has the potential to free up lawyers' time for a wide range of value-add activities. The very best in-house lawyers will be technology and strategy consultants as much as they are legal eagles.

Competition for Talent

As the value proposition of in-house lawyers becomes clearer - and their internal equity shoots up - the rewards they receive and paths open to them will increase. Companies that match or beat the compensation offered by private practice (think Google, Amazon, Facebook and some of the wealthier U.S. PLCs) are able to attract star lawyers that deliver

exceptional value. This will become the standard position for the best performing and ambitious businesses.

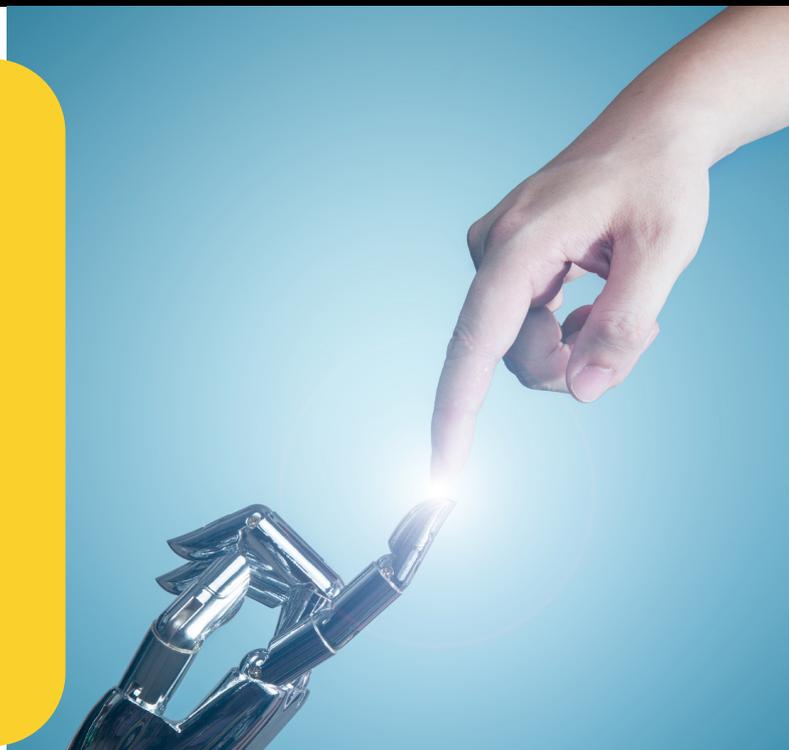
The market for good lawyers is already hot, but this will only increase where in-house high performers are concerned. More and better legal tech will empower in-house lawyers to work flexibly and take on various assignments. For those uninterested in a traditional in-house career (which, let's be clear, can be excellent), a new breed of lawyers that jumps from one in-house assignment to the other is likely to proliferate. For those adventurous enough to dive in, the future of the in-house lawyer looks promising.

Oliver Bridal

Oliver Bridal trained at CMS and is legal counsel for BAI Communications in London. He can be reached by email at ollie@olliebridal.com or via LinkedIn.

A Guide for Lawyers on the use of AI

By Dr Norbert Schmidt



On 31 March 2022 in Brussels, the Council of Bars and Law Societies of Europe (CCBE) and the European Lawyers Foundation (ELF) jointly presented the so-called AI4Lawyers project's third and final delivery. The publication is titled "Guide on the use of Artificial Intelligence-based tools by lawyers and law firms in the EU" and is available in English at www.ai4lawyers.eu (approx. 56 pages).

The purpose of the publication is to provide a detailed, yet easy-to-read guidance for individual attorneys and small law firms on how they can take advantage of AI-based tools in their daily work.

In the first phase of the project they examined the IT structure of small law firms based on surveys, in-depth interviews and research papers, comparing the EU practice with law firms in the UK, US and Canada. The surveys have confirmed that law firms face significant regulatory burdens compared to other market segments, most of which regulatory burdens are IT related. Although a variety of IT facilitators can often provide a solution to these, the situation of EU law firms is more complicated by the fact that the EU IT market is much more fragmented and diverse than its global competitors.

The second phase of the project examined the main obstacles and opportunities in the EU markets for the legal applicability of natural language processing tools.

The third part, building on the results of the first two, presents in an understandable way the main types of AI-based tools and their possible application fields with

a specific focus on those tools which can be typically useful for small law firms. First, the publication reveals the basic differences between AI and machine learning, the IT related meaning of corpus and teaching along with the different teaching and learning methods. This is followed by a brief overview of the major era changes brought by larger amounts of data and linguistic tools in the field of legal research and also what novelties may the future offer, e.g. in connection with argument-based research.

Since there are so many tools that vary from country to country and language to language, the publication cannot explain the specific use of certain tools, rather, the goal was to highlight some examples and categories from real-life practice in a didactic manner.

One such separate category is called drafting support tools, which includes, e.g. (i) writing assistance tools that are similar to spell-checkers but can handle more complex tasks; (ii) document assembly tools; (iii) tools for converting speech into written text (called descriptive or voice-based assistants).

The publication presents document analysis and case law analysis tools separately, although in practice they often appear in a single product. Then it outlines the main operational bases of document analysis tools, such as classification and information extraction. In the section on internal support for law firms, the publication draws the reader's attention to the fact that modern, AI-based time recording softwares can often only be effective by collecting data on individual colleagues, i.e. the legal and moral risks of employee

monitoring must also be considered.

Perhaps the most interesting, illustrative part of the publication is when it outlines five future, imaginary situations about the daily work of an attorney.

The tools in the imaginary section are, of course, not entirely the products of imagination: only such tools appear in the publication that have been proven to work at least in pilot projects. Unfortunately, this does not mean that these tools will be available to everyone in practice: the biggest problem is not the technical possibility, but the viability of the market and the availability of the necessary amount of data. The imaginary section ignores these practical problems when it outlines how a small law firm will, for example, use a platform to negotiate a contract and admit a new client completely automatically. We can also read about the futuristic process of preparing court submissions and even about the stage and conditions under which a small law firm can participate in the preparation of a legal opinion on a new decentralized system (dApp).

The final section of the publication concentrates on regulatory and behavioral constraints in the light of the many new types of tools. These principles of the legal profession, of course, vary considerably from country to country, however, certain basic principles have been set out in the form of a strong proposal by the CCBE at EU level.

It needs to be mentioned that these new tools can often cause headaches as well for attorneys. One of the most serious risk is arising from cloud services and online platforms, as using them the attorney significantly loses control of his/her records and legal secrets, yet in many cases it is not an option to refuse the use of such risky tools. The publication also highlights the problem of vendor lock-in and the range of threats to attorney independence when using these tools.

Although it is not a realistic expectation that the publication will make every EU attorney understand all the detailed innovative tools in depth, we hope that at least it will give the topic the right focus.

Dr Norbert Schmidt

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Legal Tech Tip #8

So you've automated your contracts - what next?

Efficiencies have been made in creating agreements every time they're created but is there anything else that can be done to build on that? The answer is yes. The next layer of efficiency comes once you've collected the data on how those contracts have been drafted/agreed.

To enhance and ultimately maintain your automated documents you'll want to track things like which areas of the contract get deviated the most. Perhaps you'll want to start simple with a report on how many contracts deviate from your default negotiating position (especially where those deviations fall outside what has been configured in the questionnaire).

Deviations outside what has been automated will take up lawyer time through having to bespoke word the contract, thus diminishing the efficiency gain you've received from automating it. So it's best to reduce bespoke wording as much as possible with playbook clauses to account for common deviations.

Ultimately you'll want to set up a regular process at which you'll review the contractual data your storing, assess whether there is any trends you can determine from it and then adjust your templates and questionnaires accordingly if there are. Your efficiency gain will therefore be maintained with the minimum amount of bespoke wording.

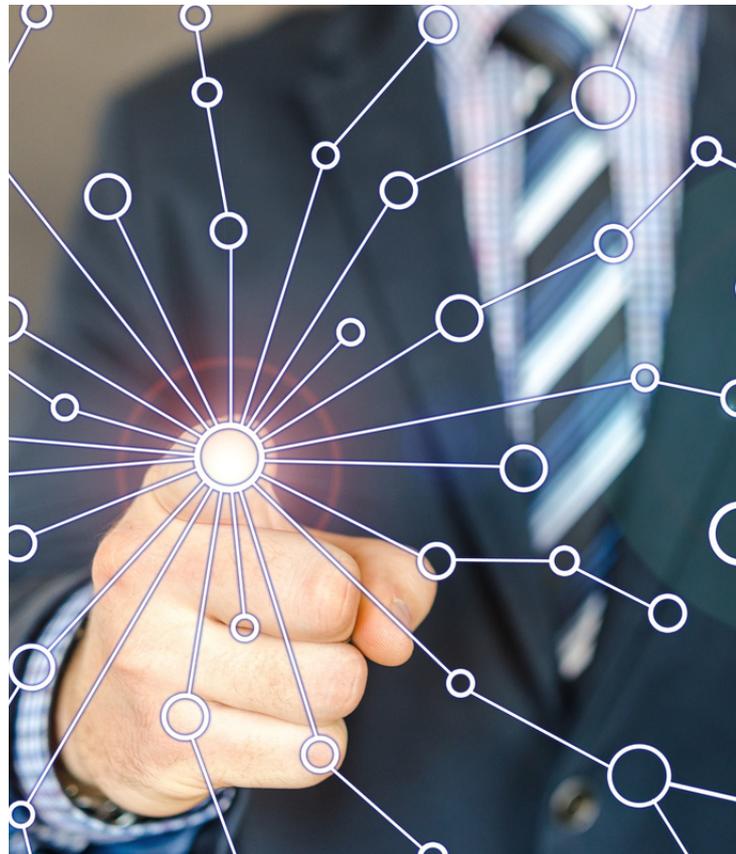
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North America

What makes a technology competent lawyer?

By Skylar Young

In her regular column, Skylar Young, Attorney at Dvorak Law Group and legal tech enthusiast, takes a look at law firm culture in the US with a focus on data privacy, cybersecurity and IP.



Earlier this week I experienced quite a doozy when I attempted to upload a *correctly* sized specimen for a federal trademark application with the United States Patent and Trademark Office (“USPTO”) on my Windows 10 Dell desktop. In the past, I have had to manipulate various PDF images to meet the USPTO’s KB size requirement when uploading a specimen. However, on this day, after triple checking that the KB size on the PDF met the USPTO requirements, I was unable to upload the specimen. I became flustered and then it hit me. Am I even a technologically competent lawyer?

In the United States, the American Bar Association’s Model Rules of Professional Conduct represent the rules that are to guide lawyers in our profession. Ten years ago, in 2012, the American Bar Association formally approved a change to the Model Rules by including an additional element to Rule 1.1 Competency. Comment 8 to Rule 1.1 states:

*“To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the **benefits and risks associated with relevant technology**, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.”* (Emphasis added.)

First, let’s be clear. As indicative by their name the Model Rules are not binding. Rather, they offer suggestions to each state on what they should include in their rules of professional conduct. Yet, since 2012, forty out of the fifty states have adopted this revision to Rule 1.1. So it is clear that, at least in the United States, this is a uniform rule we hold lawyers to. But what is the scope of this broadly written phrase which requires lawyers to “*keep abreast of... the benefits and risks associated with relevant technology*”? This language does not require that lawyers are technologically

competent, a vague standard in it of itself, but instead State's lawyers should be aware of the benefits and risks associated with relevant technology.

In my case, I understand the *benefits associated with the relevant technology* - Adobe Acrobat. This software allows me to, among other things, resize images in PDF format that enables me to complete a trademark filing with the USPTO. Thus, I've met this standard associated with Comment 8 Rule 1.1, right? Maybe the issue was on the USPTO's end? After all, I did reach out to our internal IT Manager, who confirmed that the specimen I uploaded met the requisite size requirements. Still, I felt incompetent, but not with the software I was using. I felt incompetent because I was unable to successfully complete a trademark application on the USPTO's website.

What is clear is that, like almost every other profession, the use of technology in the practice of law is here to stay. And, without technology, I cannot complete my job as an Attorney. And sometimes, the technology platforms, software, and websites we use to complete our jobs have hiccups. Thus, the *"risks associated with relevant technology"* include the risk that when the technology isn't working, we are inhibited from doing our job, at least in the short-term.

And as cliché as it sounds, it's how we go about trying to solve the technology problem that defines whether a lawyer is technologically competent. For example, after spending some time trying to manipulate the specimen to ensure it met the requisite size requirements, I decided to confer with my law firm's IT manager. To be a

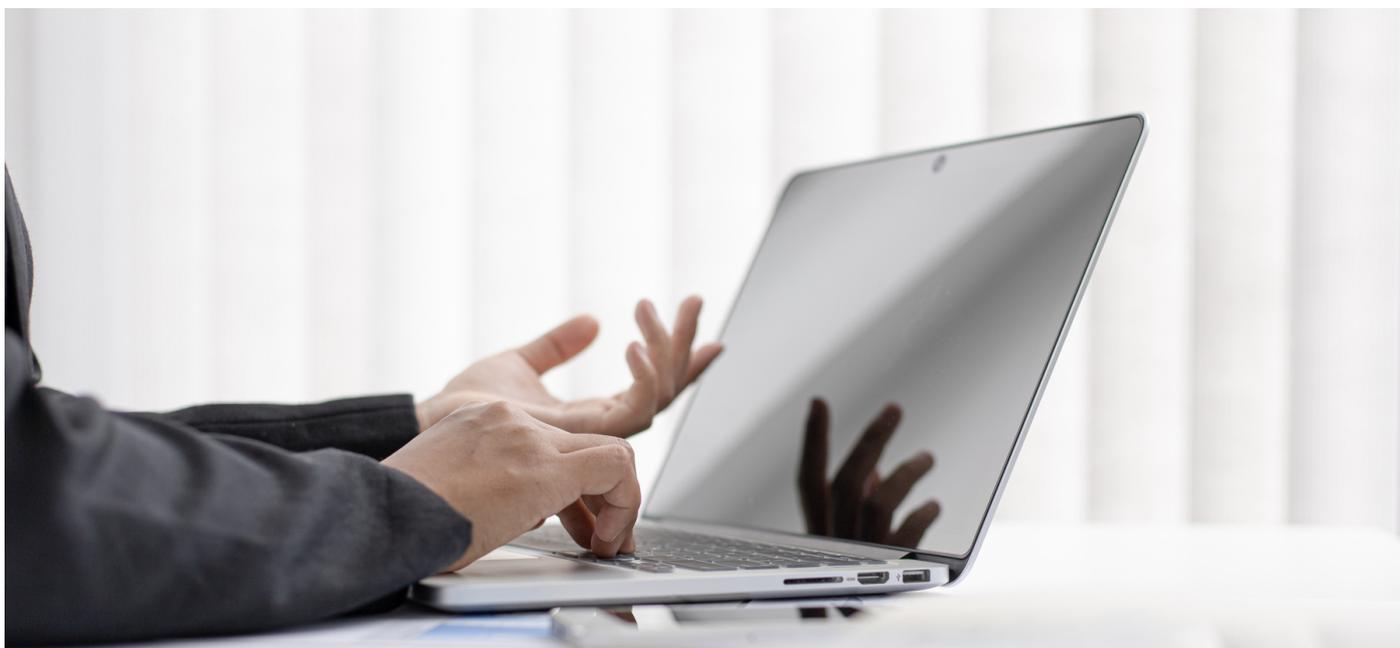
technologically competent lawyer means that we utilize technology professionals who can help us develop our technology competency. It doesn't necessarily mean we need to become IT professionals - although I certainly know those unicorn lawyers exist! It doesn't mean that we have to be *"informational omnivore[s] with a sustained interest in technology as a fundamental building block of the contemporary world"* as this Thomson Reuters article suggests. But it does mean that we, as lawyers, should be able to walk into a conference room and competently connect to a computer to host a zoom meeting, or leverage the software that exists to securely store, copy, transfer, and access our clients' confidential information.

What I learned from my frenzied experience with the USPTO website earlier this week is something that I already knew: just as technology is evolving every day, so is the profession of law. So the answer to what makes a lawyer technologically competent is really a fact dependent question which is: are we putting in the effort to increase our knowledge and skills in the technology we use every day? It's a question all lawyers should be asking themselves.

Skylar Young

Attorney

Dvorak Law Group



Legal Tech Tip #9

I want to let my business users create self-serve documents - how do I control approvals?

This situation is particularly apt when you are an in-house team looking to streamline processes by allowing business users to self-serve their own agreements rather than Legal drafting it on their behalf. Usually the division between what should be approved and what shouldn't is determined by what is 'standard' and what isn't. Where no changes are made to standard terms and conditions the user should be able to draft and sign the agreement themselves. However, the complications occur when considering what is 'non-standard' ie in which scenarios should it always go to Legal for approval. This tends to be where the originating document is not on the terms of the business but on third party terms that would require review. Equally where 'standard' terms have been amended to become 'non-standard' terms.

A common issue here is how to approach these exceptions. Adding provision for every possible non-standard scenario that could possibly occur and sending it to Legal for approval sounds prudent. However, it risks overcomplicating the user journey with more data inputs or unclear processes. The best way is to focus on making sure the most number of self-serve documents are created. Perhaps by automating a playbook so that business users can negotiate with the confines set by Legal even if they do become 'non-standard' terms. The value for self-serve is that contracts are created by users that need them without the potential 'bottleneck' of Legal.

Adding hurdles or making the process too complicated/confusing means that 'contract velocity' is reduced, diminishing the overall efficiencies envisaged by implementing such a tool.

Follow [here](#) for more tips

Predicting the Unpredictable: Verdict Data in State Trial Courts

By Nicole Clark

Nicole Clark is CEO and Co-Founder of Trellis, a State trial court research and analytics platform.



October 28, 2021, marked the conclusion of a landmark case—the first jury trial addressing insurance coverage responsibilities for COVID-19 business interruption losses in the United States. A federal jury in the Western District of Missouri issued a verdict in favor of the Cincinnati Insurance Company, an action that began when K.C. Hopps, the owner and operator of several bars and restaurants in Kansas City, filed a complaint alleging that its insurer failed to provide coverage under its commercial property policy during the COVID-19 pandemic.

At the time, there was nothing new about this issue. A number of courts across the country had already addressed pandemic-related business interruption claims on summary judgment, asserting that business losses resulting from stay-at-home orders did not involve “physical loss” or “physical damage” to property. But this case was different. The Hon. Stephen R. Bough of the United States District Court held that genuine questions of material fact existed, creating an opening wherein physical contamination from SARS-CoV-2 could constitute physical damage under an insurance policy. According to Bough, a jury should determine whether the virus was present on the premises and whether it

actually caused a physical loss or physical damage to it.

The Unpredictable Jury: Fact or Myth?

How could anyone know what that jury in Missouri would decide? Most of the civil cases filed in the United States never reach a jury. This is partly because the jury is considered to be the least predictable of the decision-makers in the legal system. This uncertainty (or, the belief in this uncertainty) is often used strategically. Attorneys deploy the threat of a jury trial to pressure their opposing counsel to drop or settle a case, often presenting high-low agreements as a tempting alternative to an unknown jury pool. Court mediators and trial judges are no exception. Both routinely caution parties against the unpredictability of juries. But is this really true? Are jurors more unpredictable than judges?

Maybe. Over the past ten years, artificial intelligence and machine learning technologies have combed through millions of state trial court records, analyzing judicial rulings in ways that have rendered judicial decisions more transparent and more predictable. Litigators are now equipped with massive amounts of quantitative and qualitative information about individual judges,

everything from their docket assignments to the prior experience to their ruling histories. Perhaps, then, judges are more predictable because judicial decision-making has been made more predictable. Can the same happen for juries? After all, recent research on legal decision-making suggests that group decision-making is more stable and more accurate than individual decision-making.

The Entry of Verdict Analytics

Outcome prediction is a key part of practicing law. Clients expect their attorneys to provide them with accurate assessments of the potential consequences of any major legal decision. These assessments, which typically take place at the beginning of the litigation process, allow clients to assess the viability of a pending legal action. By looking through similar cases from the past, clients and their attorneys can strategize how they would like to navigate through a specific legal matter, as the details of other cases can provide invaluable insight into how their case is likely to unfold.

The problem is that this information has been impossible to access, especially for attorneys at the state trial court level. Thankfully, a market of legal analytics platforms have emerged to solve this problem, harnessing the rudimentary tools of litigators and expanding their capabilities with artificial intelligence and machine learning. Trellis, for example, has completely remapped the ways in which attorneys conduct legal research.

Trellis began by following the logics of conventional research. It provided its users with the tools needed to conduct element-focused analyses. That is, users were positioned to better understand how likely their action would survive a motion to dismiss or a motion for summary judgment. Users were also presented with the tools necessary to ensure that their filings contained whatever might be required to survive these types of dispositive motions.

While useful, this kind of information tells us little about how a jury would respond to a specific type of action. Recognizing this limitation, Trellis has started integrating verdict data into its systems, amending its archives of case law, legal petitions, and judicial rulings to also include information related to case outcomes and settlement awards—particularly for cases where judicial officers never issued formal opinions. But what, exactly, can we learn by tracking case outcomes?

A Case in Point

As one of the top causes of unintentional injuries, slips and falls can result in astronomical expenses, ranging from medical bills to lost wages. Every slip and fall case is unique. Some will settle at the onset of litigation. Some will make it all the way to trial. And others will settle days—maybe even hours—before trial begins. With verdict data, attorneys can begin to map the trajectories of different settlement strategies, identifying the range of possible outcomes for each decision in the litigation process. All of this information is readily available through a simple verdict search with legal analytics.

To start, we can identify the monetary amounts at stake in the settlement process. By browsing through a random selection of ten slip and fall cases filed against the City of Los Angeles, we can quickly get a feel for the settlement amounts the municipality has been willing to offer in order to swiftly resolve these types of cases. These offers, which range from \$2,500 to \$100,000, represent the majority of case outcomes in our sample (7 out of 10). This information suggests some hesitancy on the part of the City of Los Angeles to bring matters to trial. It appears that the City of Los Angeles prefers to settle legal actions out-of-court than to spend whatever it might take to defend itself through a trial.

These settlement figures can then be compared with the amounts actually awarded by local juries in slip and fall cases. This comparison allows plaintiffs to back any possible counter-offers with hard data about a case's potential value. In our sample, we can see that one jury awarded an individual \$3,094,972 for an ankle fracture caused by the city's failure to repair a dangerous hole. However, we can also see how this information might push the City of Los Angeles to call a plaintiff's bluff, rolling their dice on a jury that has, on more than one occasion, readily decided in its favor. In our sample, million dollar jury verdicts against the City of Los Angeles in slip and fall cases are exceedingly rare, with two out of three cases concluding with a defense verdict on liability.

A Prism into the Future

While jury verdicts are few and far between, they are also incredibly important. Each year, juries at the state and federal level decide the outcomes of billions of dollars. They also set the standards that influence future legal behavior, as jury verdicts determine the value of

legal disputes in ways that can affect the choices of plaintiffs, defendants, and their attorneys.

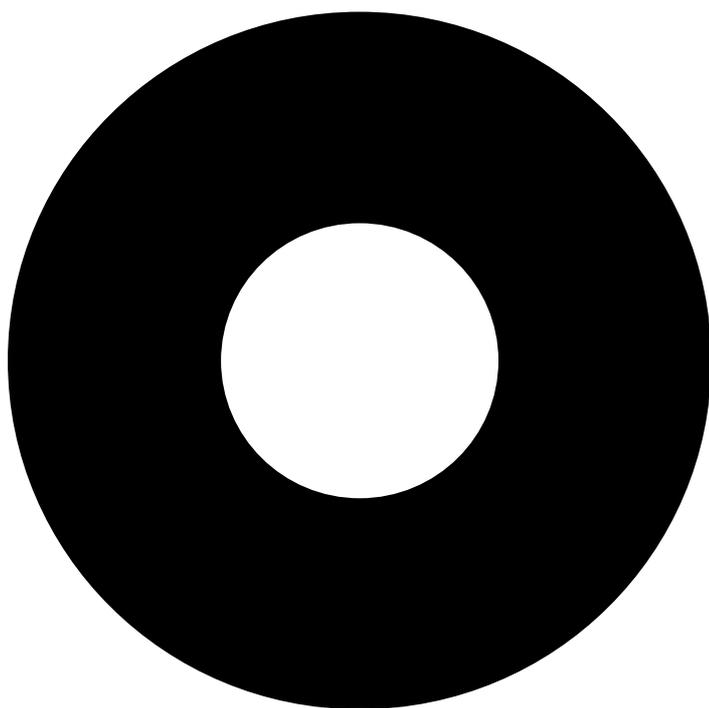
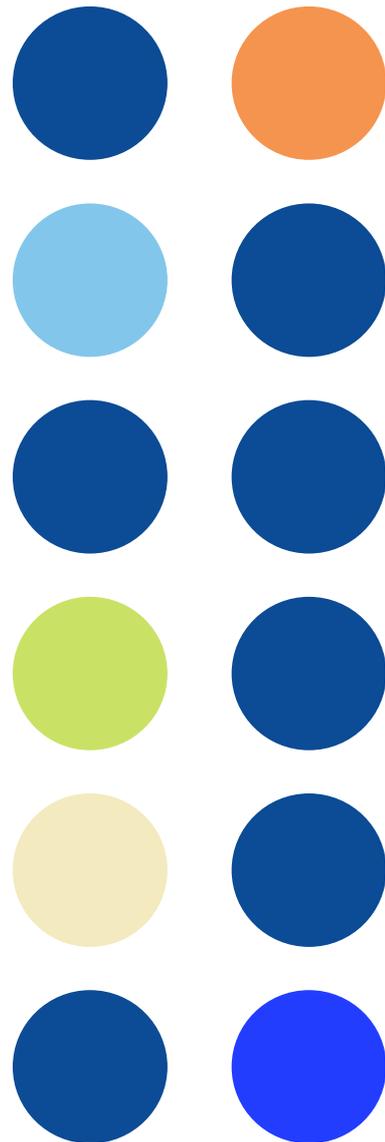
Legal analytics backed by artificial intelligence is bringing new levels of transparency to the jury trial process. Attorneys and their clients are now in a position to identify the tendencies of their judges, their opposing counsel, and their juries, sorting through massive quantities of information at the most granular levels in a matter of minutes.

We may never know with any degree of absolute certainty how a case will unfold in front of a jury box. Still, the seamless integration of verdict data with the archives of state trial court records is already uncovering the trends that hide behind the unknown. Whether it's a routine slip and fall case in Los Angeles County or a COVID-19 business interruption lawsuit in Missouri, a case will never look the same after it has been viewed through the prism of verdict analytics.

Nicole Clark

CEO and co-founder of Trellis
Business Litigation, Labor and Employment attorney

Reader Perk: Trellis is providing Legal Technologist readers with complimentary 14-day access to its platform — including verdict data. [Click here to start your free trial today.](#)



Career



The New 'Commercial Awareness'

An Intro to Legal Technology

In his regular column, Shaz Aziz, Senior Director Client Solutions and Consulting at Neota Logic, takes us on a journey through the new legal world. This issue's column takes us through a short history of legal tech and how legal tech has become the new 'commercial awareness' for legal roles. Future columns will explain about career options, a dive into learning to code and also current developments like web3.

I still remember walking into my vacation scheme interviews - checking my tie was done properly, running over my competency answers in my head ("tell me about a time you demonstrated leadership") and vainly trying to keep my heart rate down. But in the back of my mind, there was one mysterious topic I was most worried to be asked about: commercial awareness.

What is it? What does it mean? How do you demonstrate it? These were all eminently reasonable questions to me at the time. My approach, as it was for many other young hopefuls, was simply to spend a few days or weeks reading the Financial Times and the Economist, in the hopes that I would absorb some of the commercial-ness from the pages.

As I speak to graduates now, it's becoming clear that there is a new "commercial awareness" in town: legal technology.

Google "legaltech" and you will be met with an onslaught of ads from companies (trying to sell you something), universities (also trying to sell you something) and irreverent listicles with titles like "top 10 most ground-breaking legal tech!". For someone new to all of this, it's not easy to navigate.

The origins of legaltech

Part of that is due to how young the legal technology market is. Legal has resisted deep technological change for quite a while: compare it to the financial industry, which has been leveraging technology to do things like quantitative trading since the '70s - a strategy that is now ubiquitous and consistently outperforms humans in the markets.

There are a few reasons why law has resisted this kind of top-to-bottom digitisation. One of the main reasons is that law is complicated. It's knotty and ambiguous. It takes real expertise and an understanding of individual circumstances to know what the best answers are. It's also a space where the price for falling foul of the rules is very high. So legal has always been a service which had to be delivered in an 'analog' way: person-to-person.



But out of this complexity grew a demand for tools that would help legal professionals be more efficient: time-tracking, billing, document management, e-discovery, legal research - the kinds of tasks that happen behind the scenes at a law firm. By the noughties, players like Practical Law (research), Carpe Diem (time-tracking), iManage and HighQ (document management) were growing rapidly and still loom large today.

However, things have changed in the last decade. There has been a huge swell in the number of start-ups that are not just trying to make lawyers more efficient but aim their sights at changing the way legal services are provided to people. This innovation takes a lot of different forms, and below are a few of the big legaltech categories so you can start to understand how it all works.

The contract lifecycle innovators

There are tools that focus on the lifecycle of documents: how you draft, negotiate, sign, store and manage them. Some tools try to capture this whole journey - like Juro, Ironclad and Avoka. Others focus on improving discrete parts of the process: DocuSign made digital signing the norm, while tools like Contract Express or Clarilis focus on automated drafting.

These tools all cluster around changing the way that contracts are dealt with - making them more accessible, easier to find and to update, simpler to negotiate and agree.

The AI analysis advocates

Although this category could be included above, I've kept it separate because contract analysis tools have a distinctive feature. They tend to make use of a particular AI technology called 'NLP' (natural language processing). This is a form of artificial intelligence which uses an algorithm to automatically 'read' contracts and quickly present information and insights to the lawyer.

Contract analysis tools (like Luminance, Lawgeex or Eigen) are trying to help lawyers make sense of their contracts quicker.

The visual development visionaries

For me, this is the most exciting branch of legal tech: technologies that allow non-programmers to develop their own software, using visual, "no-code" tools (think boxes and arrows).

These tools vary greatly in terms of how much power and capability you get. On one end are the sleek and simple decision-tree builders (like Bryter, Checkbox and Josef) which can let you build basic, well-designed legal advice tools and chatbots. On the other end are tools like Neota which let you build a huge range of more complex tools visually: whether that be contract solutions, document automation, legal advice, or other business workflows.

The grand vision of these tools is that anyone can be a developer. Suddenly, a private practice or in-house lawyer doesn't have to sit and wait for IT to solve their technology problems: they can build a solution with their own hands.

The marketplace disruptors

Companies like Axiom, LOD and Lexoo want to change the way you find and enlist the services of a lawyer. These are online marketplaces where you can get flexible legal resources in a more cost-effective way.

They generally focus their efforts on in-house lawyers, who are overstretched and want to outsource some of their less critical work. In the past, there was only one option: ask your law firm. Many of these tools are often referred to as ALSPs (alternative legal service providers) and can generally do things more cheaply than the average City law firm.

The robo-lawyer revolutionaries

These are like the marketplace disruptors above, but instead of targeting legal practitioners, they are focussed on servicing the end-consumers of legal services - the wider public. Tools like DoNotPay, RocketLawyer, and LegalZoom allow the average person to generate legal documents and get quick legal advice at low cost. These platforms are attempting to directly increase access to legal services for anyone who might need them.

Closing thoughts

The categories above are not exhaustive: there are all sorts of areas I haven't covered. It's important to remember that you don't need to know everything.

I would suggest that you can comfortably proceed with the following working definition: legaltech is any technology that improves (i) the delivery of legal services, so that legal professionals can provide more valuable products and services; or (ii) the access to legal services, by putting legal knowledge in the hands of consumers, and either cutting out or reducing the need for lawyers.

At the end of the day, legal tech is just tech. It's the application of the tool to a legal context that makes it "legal". By this definition, Microsoft Word is legaltech - probably the most widely used piece of legaltech in the world. The same goes for Zoom and Teams. And new innovations in legaltech crop up all the time.

While law firms can justifiably be accused of resisting technological change for a while, most big firms now fully appreciate the value of legal technology, and actively seek out trainees that are familiar with or willing to learn. While it's a lot to take in, there have never been more interesting opportunities available to junior lawyers - and by arming yourselves with a little bit of knowledge you can take advantage of the changing legal industry.

Shaz Aziz

Senior Director - Client Solutions & Consulting
Neota Logic

Career Story



Career Story

Laura Collins Scott

I run a boutique consulting firm called Sparkbox. I help lawyers modernise their work and use more technology.

My story

I've always had an entrepreneurial spirit.

My first business was selling customised name bracelets at school. I bought myself one at a market stall, took it apart and figured out how to make them. Funnily enough, they're back in fashion now.

I was never clear on what I wanted to be when I grew up. I kept changing my mind.

At that time there wasn't much emphasis on creativity. I chose to study business and law because I wanted options.

Getting into tech

Leaving university I still had no idea what I wanted to do, but finance seemed exciting.

I joined an Irish consulting firm, First Derivatives, that specialises in technology and finance.

Working at First Derivatives was my first real encounter with tech. It was an exciting time. I spent the first few months of the grad program learning to code and swotting up on financial concepts.

My first role was on a huge divestment program at Royal Bank of Scotland's investment bank in London. I was responsible for the Programme Management Office. It was my job to make sure things finished on time and on budget.

Becoming a lawyer, on paper

During that time, First Derivatives sponsored me to do the New York Bar.

I don't know how I said yes. I had barely studied enough law to be eligible and I already had a gruelling day job. Looking back, I guess it was a mix of curiosity and ambition.

I spent five months doing nothing but working and studying for 14 hours a day. It was not fun.

But in hindsight, it was a valuable experience. It showed me what I am capable of when the going gets tough. Plus, being a qualified lawyer has opened doors for me since.

Learning to innovate at Deutsche Bank's lab

A few years later I joined Deutsche Bank's innovation lab.

It was everything you're picturing - agile methods, post-its, live demos, nerf guns, pizzas. And a lot of smart people.

It won't surprise you to hear that innovation at a giant bank is not straightforward. We built a lot of cool stuff, but it was difficult to create an impact beyond the four walls of the lab.

Burning out

Later, I joined a regulatory team at Deutsche Bank. I led client outreach and contract repapering for complex derivatives regulations.

In the office, I was succeeding through sheer will and commitment. But it came at a huge personal cost.

I was miserable.

My husband told me if I cried three more times that I had to quit.

I cried three times in less than a week.

A voyage of discovery

The good thing about banking was it paid well. I had saved a pot of money which gave me the freedom to spend a few months experimenting.

I went on a voyage of discovery and said yes to everything.

I realised that I love solving problems. Yes, that's something people put on their CV. But it's who I am. I can't stop myself from trying to improve things in all aspects of my life. This can be annoying for friends and family.

I remained curious about the law and technology. But I wanted to work on my own terms.

Building my business

I took a leap of faith and started a boutique consulting business.

My USP? Speaking the language of three usually distinct worlds - law, technology and business.

I won my first legal tech client, Neota Logic, through a lucky encounter at Google.

Soon after that, I landed my first law firm client, Clifford Chance.

Since then I've worked with lots of great companies.

In 2018, I moved my business from London to Singapore.

What advice do I have for people who want to pursue this path?

1. Follow your curiosity.

Life is more enjoyable when you're working on things that interest you. If you want to try something new, following your interests can help you find a new path.

2. Don't stay in a job you hate.

Despite how things might appear at first, there are many paths. If you love the law but don't love being a lawyer, try approaching the industry from a new angle.

3. The best time to make a change is when you don't have to.

If other parts of your life are stable, it's a great time to take some risks with your career.

4. Experiment as much as possible.

If you're not sure what you want to do, focus on crossing things off the list. Don't get hung up on trying to find the ideal job or the perfect new career path.

Experiment, try new things, and figure out what you liked and what you don't want to repeat. Then try again!

Laura Collins Scott

Founder
SparkBox

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