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Professor Marcello Gaboardi reviews decision-making using artificial intelligence

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Insight into the future of law

The Legal Technologist

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Don't go shopping when you're hungry: scoping successful legal tech projects



Wayne Christie is Legal Operations Manager at TLW Solicitors. He combines his experience of legal practice and litigation with his passion to use technology as a driver for change, making lawyers' daily chores easier.

The choice of legal tech products available to law firms today is vast and without the correct procedures in place, it's easy to fall into the trap of thinking you need a new product over adapting or updating existing technology.

As a Legal Operations Manager involved in finding solutions to everyday inefficiencies, I see dozens of new products, each of which would improve workflow and bring efficiencies for lawyers. However, adoption of a solution or product must work as a whole and address the particular issues which require attention.

So how do you choose the right product or solution? First, it's important to understand exactly what you are trying to achieve by adapting a process using existing technology, or why a new product is required. In my experience, using a project management methodology such as PRINCE2 is extremely useful as it encourages users to define the outcome of the project and then provides a structure to deliver that outcome. A well-defined and agreed project scope is a key to delivering on time and in budget.

Starting Out

It's important to start by asking the right questions of the right people. This will help avoid setting off down a path of no return that goes against the principles of Lean and ultimately wastes time, effort, and money. Work with your internal departments: take the idea or concept to the IT department and enquire as to the feasibility of any solution with existing technology first, before even starting to look outside your organisation. Once you know this, you can start to plan out the solution and think about scope. One thing to note at this stage is the idea will be a 'high-level' one — something you believe will add value to the business. Therefore, the idea will start to take shape in business terms as a business case, not project terms.

Define the Scope

Once the idea or concept has been approved as a viable business case, you need to look at turning that high level idea into a deliverable project. Here is where scope becomes important.

I recently ran a project to assess a solution for onboarding clients and communicating with them more efficiently. The goal was to determine whether a proposed internal solution, an external 3rd party product or hybrid of the two was required. The scope of the project was clear, which meant it was possible to truly determine the best solution, not just choose a product.

It would have been easy to start by choosing an off the shelf product that would provide a solution based on a list of features and promised outcomes. However, following PRINCE2 and based on lessons learned from previous projects, we knew this was not the way forward. Therefore, even if a 3rd party product was required, choosing that product was out of scope for this project and would be done separately once we knew exactly how the solution should look and work in practice.

Scope Creep

Once started, watch out that the scope of the project doesn't creep into other areas. It's acceptable for change requests to be made once a project has begun. Some changes are necessary and should be dealt with via a change request so that they can be accounted for in additional time or budget. However, you should ask whether the change request significantly expands the scope, deliverables or features from what was initially defined, as this is when most creep occurs. Scope creep can be avoided if project requirements are prioritised, written out definitively, have stakeholder buy-in and engagement and are well controlled.

Final thoughts

Scope is one of the most difficult things to keep under control in a project and can easily lead to project failure should it get out of hand. It depends on everyone involved being on the same page and understanding the end goal. Reining in scope can sometimes mean reminding key stakeholders of the initial scope and bringing focus back to the project deliverables.

If it's the first time a firm is exploring new technology, project failure due to incorrect scoping can leave a bitter taste and put decision-makers off adopting innovative products. That's a shame, since these products can make lawyers' lives much easier. However, taking the right steps from the start, controlling your project, and producing a well-defined scope can get you more than halfway to your end goal. In other words, this scenario reminds me of the saying 'don't go shopping when you're hungry': fail to define your scope and you'll end up with a whole load of add-ons you didn't need that cost you a fortune and nobody uses.

Wayne Christie

Legal Operations Manager

TLW Solicitors

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Ricardian Contracts:

Where code meets law

Michał Burek

Michał Burek is a practising lawyer and entrepreneur specialising in legal tech solutions and insolvency law in Poland and Germany. He is a member of the Commission for New Technologies at the Regional Chamber of Legal Advisers in Krakow and CEO of Pactt Technology, a SaaS platform for Contract Lifecycle Management. Michał is a PhD Candidate at the University of Heidelberg, where he is writing his doctoral thesis entitled 'Smart Contracts in der Insolvenz'.

Traditional legal contracts are not machine-readable. This is no surprise – after all, they are there to serve people, not machines (for now!). Normal contracts need someone to perform the provisions they contain. That is why contracts are often complex and filled with procedural instructions that tell the parties what to do and when to do it, with the result that they are often slow to enforce.

This is where the Ricardian Contract might come in. A Ricardian Contract provides a single source of truth for humans as well as for the system that can execute the contract automatically, acting as an engine to significantly accelerate performance of the contract. Ricardian Contracts are also digitally hashed and signed. There is no need for copies, which increases legal certainty and reduces the risk of abuse by the stronger contracting party.

What is a Ricardian Contract?

A Ricardian Contract is a form of contract that can be interpreted and understood both by a court as well as by software. It is written both in natural language and in code. Originally developed by Ian Grigg and Gary Howland, it was designed to bridge the gap between payment systems and legally binding contracts. A Ricardian Contract is digitally signed, encrypted, and most likely put on blockchain – which makes it immutable and self-enforcing.



This definition may be reminiscent of smart contracts, which have become a buzzword in the legal tech world with the growth of blockchain technology. The basic characteristics of a smart contract are self-enforceability and immutability. However, smart contracts are written entirely in programming language. This is why it is difficult to present a smart contract as a legally binding contract in a court of law.

Combining natural language and machine language

A Ricardian Contract contains words and provisions which are intelligible by the parties, such as a preamble, liability provisions, notice periods, covenants, etc. At the same time, the parts which specifically relate to the transaction are written in a programming language (much like a smart contract). This code is capable of enforcing the transaction, but is also enriched with a natural language description of the transaction.

The stored contract is signed by the parties using a blockchain private and public key. As soon as it is in the public distributed registry, the contract is live and can be executed automatically when the specific conditions are met.

Applications for Ricardian Contracts?

Ricardian Contracts are already in use in the e-commerce industry where cryptocurrencies are a means of payment. For example, OpenBazaar, an open source project developing a protocol for e-commerce transactions, uses Bitcoin as a currency and is capable of recording transactions with Ricardian Contracts. More generally, Ricardian Contracts can be used in all the contracts that rely on transactions and are conditioned to objective events. Some examples might include weather insurance contracts, compensation for delayed flights, financial bonds, futures and options.

It is conceivable that Ricardian Contracts might one day be established in legislation, for example as a set of ready-made code fragments which can be implemented in a certain type of contract. The new concept of Rules as Code is already being introduced in some countries as a forward-looking approach to law-making, and its definition coincides with that of the Ricardian Contract: "Rules as Code is an approach to create and publish regulations, legislation and policies as machine and human readable." There are already solutions in place that make this type of implementation accessible to everyone, including Accord Project, which is used to write smart legal contracts, and Common Accord, an initiative to automate legal documents.

What are the risks?

The dangers that automated contracts can bring should not be overlooked. Ricardian Contracts include 'unstoppable' code, which can raise problems in various situations where the flexibility and slowness of traditional legal processes has advantages. An example of this is the 'automatic stay' rule in bankruptcy law, which prevents creditors from enforcing payments from the bankrupt. In such situations automated contracts may prove problematic and appropriate regulations or safeguards will need to be put in place to allow relevant contracts to be interrupted.

Conclusion

Today's world is a technological race. However, you don't need to be an engineer to drive a car these days, as the driver concentrates on the steering wheel and the electronics work for him. The same role could be taken by Ricardian Contract. A person wishing to enter into such a contract, in collaboration with a lawyer, should be able to quickly select the a contract that is effective for them, 'turn it on', and then enjoy certainty in their trading. Lawyers should also take note of this upcoming technology that could help their clients. The Ricardian Contract has great potential to speed up and secure transactions while preserving the human element of contracting.

Michał Burek

Senza giudice: are computers fit to decide?

By Marcello Gaboardi



Marcello Gaboardi is Associate Professor of Law at Bocconi University of Milan. He teaches civil procedure law, insolvency law and arbitration. He was also admitted to the Italian Bar in 2009.

Judicial Algorithms

During the French Revolution, the reaction to Absolutism led Baron de Montesquieu to hope for judges who would simply become “the mouthpieces of the law”. The myth of the judge who mechanically applies the law without employing any discretionary power of interpretation still endures. Over two centuries later, the new automaton seems to be the “judicial algorithm”. An algorithm can simply be described as a set of mathematical instructions that, especially if given to a computer, will help us to solve a problem. The promise of a judicial algorithm, therefore, is that in the near future a case will be decided by an automatic process.

The idea of a judge who simply applies the law immediately seduced French Revolutionaries and their followers. Likewise, the idea of an entirely digitized decision-making process seduces modern lawyers and scholars. It promises to reduce the risk of human errors and prevent legal uncertainty. But history teaches that the French Revolutionaries failed in that regard. Their mistake was to believe that improvement of human judgment depended on its automation.

The human factor

On the contrary, automated judgment simply becomes *inhuman*. It can save time, money, and even avoid errors but it lacks ability to adapt to social changes. For example, where would racial equality be today without the U.S. Supreme Court’s unanimous opinion in *Brown v. Board of Education*? The decision that U.S. state laws

establishing racial segregation in public schools were unconstitutional implied not only legal but also social, ethical, and political considerations. Is an algorithm capable of considering these factors? Can it make, for example, innovative decisions by overruling existing precedents on the basis of new factors emerging in the society?

Artificial intelligence raises serious challenges in several areas of social and individual life. Access to justice is one of them. Several countries have long since digitized civil proceedings. Under Italian law, for example, any civil lawsuit can be brought before a first instance court or an appellate court electronically. Summons and pleadings are generally digital. During the pandemic, the use of modern communication technologies, such as videoconferencing, has significantly increased. Notwithstanding these changes, until recently no one dared to seriously think that a case could be decided totally or partially by artificial intelligence. Increasing computing power and complex algorithms make it possible to imagine a decision-making process guided or, at least, supported by artificial intelligence. The human responsibility for decisions remains crucial while judicial activities such as analyzing electronic documents or calculating economic losses and damages can be performed by an algorithm.

Trials in Italy

Some Italian civil courts (such as the first instance tribunals of Turin and Genoa) have recently explored how algorithms can gather complex information and support the decision-making process. Court personnel worked with computer experts to develop algorithms which can predict litigation outcomes and potential remedies. The experts focused their attention on certain types of standardized procedures such as family disputes and damages lawsuits. These cases present several features that remain constant from case to case.

Consider, for example, the reasons why people apply for a divorce. First, the experts developed a comprehensive classification of relevant claims such as divorce petitions, petitions for child custody and support, applications for legal separation or annulment of the marriage, and so forth. Then, they established the more frequent variables for each type of claim such as the number and age of any children or the spouses' financial situation. Finally, they collected relevant precedents on more frequently debated matters. By following the reasoning behind previous decisions, the algorithm is able to provide guidance in future when cases to be decided fit the models created by experts.

Although the algorithm is still being written, this early experience demonstrates the constraints of digitizing the decision-making process. The algorithm seems to be unable to bear the burden of deciding on its own. Rather, it is used to supply the judge with a proposal for a decision that human judges are asked to take on their own. While the decision-making process is supported by the algorithm, a form of human scrutiny remains necessary. The decision proposed by the algorithm should be scrutinized by the same court that benefits from the algorithm, or by the appellate court reviewing the decision made by the inferior court with the support of the algorithm. This human scrutiny ensures that the decision takes into account an array of non-standardizable factors such as the specific circumstances of the case or the need to overrule a precedent.

A digitized decision-making process is likely to become a potentially valuable support for an inevitably human judge. Civil cases will be decided with the support of a judicial algorithm. The algorithm increases the efficiency of the decision-making process by reducing the costs and time involved in human decisions. Nevertheless, justice will need to maintain a human form.

Marcello Gaboardi

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Harnessing Legal Innovation to Promote Access to Justice - an update from the Netherlands



By Max Houben

Max Houben continues to build on his experience as a legal expert in the Netherlands, designing and developing legal tech solutions and supporting legal operations.

A2J: Access to Justice

Access to Justice is an essential part of the rule of law and serves as the cornerstone of every modern society. Access to Justice helps people and businesses to reach their full potential: it allows people to have their voice heard and to exercise their rights. Recent reports underline the importance of investing in well-functioning systems which enable Access to Justice. However, for many countries (including the Netherlands) it remains a challenge to organize such a system for their entire population, as research shows that 5 billion people globally have unmet justice needs. It is therefore not surprising that Access to Justice is anchored in the United Nations Sustainable Development Goals. Legal Innovation is often touted as one of the possible solutions to combat this emerging Access to Justice issue. But where to start? This article explores and evaluates the innovative approach taken by the Dutch Ministry of Justice.

Dutch Legal Aid Reform

Back in 2018, the Dutch Minister of Justice presented a business case for reforming the Netherlands' struggling subsidized legal aid schemes. This was in response to reports showing that the existing legal aid schemes are unsustainable, as despite the rising costs of the programmes, justice seekers are not always satisfied with their legal outcomes. The objective of the reform is to create a sustainable legal aid scheme with a solution-oriented approach. One of the measures taken was to establish an innovation fund of €10 Million in 2020.

The Innovation Fund

The innovation subsidy is intended to stimulate both well established legal actors (law firms, legal clinics, legal insurers, semi-public entities etc.) and new market players to create so-called 'legal aid packages'. This is

part of the solution-oriented approach that the new programme aims to build. Instead of subsidizing flat rates based on legal case categories, the programme wants to create legal packages for an integral price that help people with a legal problem. Examples might be a divorce package or a lay-off package. All citizens will be able to apply for these legal packages, but they will only be (partly) subsidized for citizens who are eligible for legal aid.

The innovation programme is administered by the Dutch Legal Aid Board and is set up as follows:

- During the **Application Phase**, parties interested in participating could apply to the programme. A single applicant can receive a subsidy of up to €1,000,000 EUR. The Application Phase ran from 1 March 2020 to 31 December 2020.
- After that, the **Selection Phase** begins, during which a special committee will decide whether to grant a subsidy to each applicant. The committee will assess the projects based on certain criteria, such as the project being sufficiently innovative and providing an accessible legal solution for a justice seeker.
- If the subsidy is awarded to a project, it enters the **Pilot Phase**. The Pilot Phase will end on 31 December 2022 for all projects involved. The Dutch Legal Aid Board will serve as a stakeholder for each of the projects, and after the Pilot Phase ends the projects will be re-evaluated to see if they should become an integral part of the justice reform plan in the long term.

At the time of writing, 46 projects have applied to the programme of which 7 have been approved, 24 applications have been rejected and 15 applications are still pending. The nature of the admissible projects vary from the provision of online information, advice and aid for divorce, to multidisciplinary collaborations involving courts, municipalities and other entities addressing rental issues.

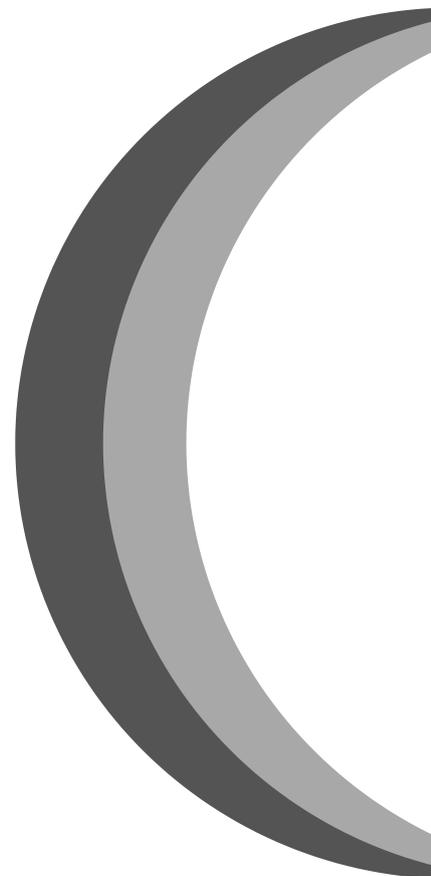
Outlook

Since most of the projects are still in the Selection or Pilot Phase, it might be too early to draw conclusions. However, this illustrative example from the Netherlands fits well into a trend where justice innovation is used to combat the emerging global access to justice issue. In a

previous issue of The Legal Technologist I explored the world's first legal 'regulatory sandbox' that was created under the supervision of the Supreme Court of Utah (USA). Similarly, in the UK the Solicitors Regulation Authority has introduced an 'innovation space' which can grant waivers of particular regulations to promote legal innovation. All of these programmes are set-up in a slightly different way: the Utah regulatory sandbox lowers some of the thresholds for entry into the legal market for new players; the Dutch Innovation Fund targets a solution based approach; and the UK innovation space aims to allow existing firms to experiment with novel ideas.

Since most of these innovation programmes are still in their early phases, it will be interesting to monitor their respective successes and see what lessons can be learned. If some approaches lead to results, it might be an incentive for more countries to invest in legal innovation programmes to improve Access to Justice.

Max Houben



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North America

Legal Tech in North America: The Biglaw Update

By Madaline Zannes

Madaline Zannes, JD (Osgoode), is a lawyer and legal technologist in Toronto, Canada, and founder of ZannesLaw. Greek America's Forty Under 40, Class of 2018. Contributor on Inman, Thrive, and HuffPost. Advocate for diversity, remote work, wellness, and innovation.

The practice of law has faced monumental change during the past year. From the previous norm of legal technology hesitation, we now find ourselves deep in a period of legal modernism. Top firms in North America are in on it, and it's virtually impossible to be ahead of the game and not utilize the plethora of legal technology options available.

This year has brought many discussions on this topic with clients, colleagues, lawyers, and legal startup founders in the US and Canada, and the general sentiment is clear: This new wave is here to stay, and it cannot be ignored. Legal professionals using technology for the first time are often surprised to discover the blessing of automation and energy efficiency at such a high degree, that the thought of being without these tools is frightening.

Firm reputation is strengthened by using the best tools to deal with matters. Top law firms are ensuring their positioning at the top of the legal tech wave by publicly announcing implementations of technology for better chances and outcomes for clients. Leading the charge in this manner has been influential in bringing change to governing legal bodies, as we have seen with the sweeping changes made by [the ABA](#) and 36 state bar associations. It is now a requirement in many

jurisdictions that lawyers adhere to a minimum proficiency for legal technology. As some may say, when Biglaw goes for tech, it's called FOMOOLT: "Fear Of Missing Out On Legal Tech".

There are numerous areas where Biglaw and technology have found a match. For instance, automated contract lifecycle management tools offer better client monitoring with reminders and nudges. Dispute resolution, specifically for repeat claims, has enjoyed great efficiency with automation. Data science is assisting with venue shopping in terms of strategy on venue selection, which can directly affect the outcome of certain matters depending on statistics of prior outcomes, in turn, saving on costs. Saving time and resources has led to changes in legal rates, which are also increasingly moving towards value-based pricing, replacing the billable hour which has been the bane of client existence for as long as contracts have been drafted.

eDiscovery platform Relativity, a popular choice for large law firms, helps reduce costs of what would otherwise be a very expensive manual process of document sorting, searching, and status tracking. Another up-and-comer in the Biglaw eDiscovery sphere is Reveal, which recently received a \$200 million investment to challenge Relativity.

It's no secret that Biglaw has also been investing in legal tech startups. Reynan Court, the "app store for legal tech", provides a single platform for cloud-based legal technology that allows firms to source and deploy

from one secure platform. Reynan Court has successfully secured funding from firms Clifford Chance, Latham & Watkins and Orrick Herrington & Sutcliffe in recent years, with a \$4.5 million investment round announced in late October 2020. Startup founders with large law firm investors are finding more value beyond the money, with invaluable intel and advice, as well as “success by association”.

Biglaw is having its hand at legal technology development in-house, and on a broader industry scale. Latham & Watkins recently created the “Observation Deck,” a program that allows the ability to watch trial lawyers firmwide in virtual court. In 2020, global firm Kennedys’ technology arm, Kennedys IQ, launched Defence Lawyer (powered by KLAiM), the virtual defence lawyer that allows clients to handle litigation without the use of a lawyer. Other large firms have consulted, developed, and sold technology externally as a separate business unit, including DLA Piper’s “Law&”, Mishcon De Reya “MDRxTECH”, and Reed Smith’s “Gravity Stack”.

Beyond investments and process optimization, Biglaw has utilized technology to improve other areas of the industry. Paul Hastings introduced “Legal Tech University”, teaching new associates the value of technology in the profession. At Weil, Gotshal & Manges, technology is being used to drive culture and community, with virtual social events to keep lawyers connected.

Using the most robust tech options out there can help ensure that firms can stay competitive, and in the case of Biglaw, maintain and continue industry dominance. The speed of legal tech innovation is skyrocketing, and with this industry boom it is imperative for large firms to consider hiring legal technologists, innovation experts and other supportive roles within the legal tech landscape to keep firms running lean and modern. This input is essential towards implementing the best solutions for key issues and pain points that may not be clearly detected by individuals focusing on performing tasks during the day-to-day.

Any legal technologist will tell you, when it comes to reviewing and finalizing a decision on the right tech solution, large law firms look most towards speed of set-up and implementation, strategic case development, quicker access to AI-driven research solutions, and transparency around cost and timing to develop better client relationships. To create successful outcomes, all of these elements offer an end result that enhances the client experience, boosts business of existing clients, and brings in those new referrals.

It has only been a few years since legal technology was quite the hard sell for firms functioning by way of deeply embedded, archaic work processes. Governing professional organizations are increasingly giving the thumbs up to move forth with new methods of process. Now that Biglaw has not only integrated modern practice solutions, but has entered the realm of legal tech development, the practice of law will clearly continue to forge ahead into uncharted paths of advancement, and growth.

Madaline Zannes

Selecting Cloud-Based Applications for Interoperability

By Mark Salamon

With the recent explosion in cloud-based legal technologies, law firms need help choosing the right ones. This article provides such guidance, with a focus on interoperability. Interoperability is critical because no single application can do everything. Instead, different technologies need to be integrated to provide law firms with complete solutions.

The Benefits of REST APIs

There is a lot of talk about REST APIs. An API, or “application programming interface,” allows two applications to share information and trigger commands against each other, which are often referred to as “requests” or “calls.”

REST, or “representational state transfer,” is today’s de facto API standard governing the interaction between cloud-based applications. Its primary advantage is that it uses the language of the Internet (aka “http”) and uses the same commands a browser uses when accessing web pages (like GET and POST). Because every cloud-based application accepts http commands, they can natively handle REST API requests too.

Because REST APIs are necessary for cloud-based applications to interact, and because applications’ ability to interoperate magnifies their value, offering a REST API should be a requirement for any firm or lawyer considering cloud-based applications.

REST API Support in Applications

The REST API standard was invented in 2000 but did not gain traction until 2005. Many legacy applications were introduced *prior* to the wide adoption of the REST API standard and, therefore, were not architected to support REST APIs.

As adoption of the REST API standard accelerated, and the value of interoperability grew, the lack of a REST API became a notable shortcoming in legacy applications. This forced established vendors to catchup and add support for REST APIs. But shoehorning a REST API into a legacy platform is nontrivial. It requires significant reengineering, which cannot easily be done all at once or comprehensively. A legacy application may perform 100 actions (like retrieving a file), but its REST API may be limited to 25 actions. To fill this gap, legacy vendors will often add REST API calls with each new release.

This is one area where newer cloud-based applications, typically, have an inherent advantage as they may be architected from the start to use REST APIs when performing most if not all actions; this makes their REST APIs more comprehensive.

Another REST API feature to consider is the format of the content that is sent and received. Today, JSON is the leading format, rather than XML.

As you evaluate any cloud-based application, determine whether the application offers a REST API, whether that REST API fully utilizes JSON, and how comprehensive the REST API is.

From an interoperability perspective, consider the primary uses that the application will serve. Can the application’s REST API actually accomplish all of those tasks? Ask a technical resource to review the application’s REST API documentation (lack of REST API documentation would be a red flag!). If you are piloting the application, include a real-world test of the application’s REST API calls, such as updating a document, deleting a record or triggering an email.

The Need for Speed

Another consideration when evaluating software is the need for other systems to respond to a large volume of activity generated from a source system in real time. Does your firm need changes from one system to propagate immediately to another? REST APIs alone are often not ideal at pushing information to other systems in real time.

Consider the situation where a new matter is added to a firm’s accounting system: how are the time and billing and document management systems notified? If we are limited to using REST APIs, that would require polling for changes against the accounting system for

new matters on a schedule, then making calls on the other systems to insert any new matters. This approach is inefficient – often there will not be any new matters when a query is made – and results in delays. To minimize delays, the recurring query may need to run more often, which is even more inefficient and could cause system slowdowns if the number of queries is large.

The Benefits of Event-Driven Architecture

Enter event-driven architecture, in which a consuming application (the one that uses data from another application) can “subscribe” to a source application (the one that provides the information to the other application) and be notified automatically when activity occurs.

The need for event-driven architecture has grown due to the popularity of “bridge” platforms like Microsoft Power Automate and Zapier. These platforms serve as a bridge connecting multiple cloud-based applications, but *only* if those applications have implemented REST APIs.

These bridge platforms are most useful when a workflow can be triggered automatically by subscribing to external events from an application. For example, a Power Automate workflow can subscribe to a SharePoint list and be triggered when a new record is added. Otherwise, it needs to poll for new records itself on a set schedule.

Event-driven architecture is especially relevant now due to the rise of Microsoft Teams. To support its integrations, Teams relies on a type of event-driven architecture known as a “webhook.” If you require another system used by your firm to insert notifications and information into a Teams channel, then that system must be event driven.

Event-Driven Support in Applications

Webhooks are a relatively recent invention. The term “webhook” was coined in 2007. Legacy cloud-based applications are unlikely to have included event-driven features in their original design and will instead need to bolt those on later. And, just like REST API calls, making an existing application event driven is a large undertaking. Newer applications are more likely to be event-driven from the start.

As Teams moves to the center of a firm’s collaboration and communication strategy, the firm will benefit by integrating its cloud-based applications into Teams. Applications that are not event driven will be left out.

Therefore, when evaluating any cloud-based application, it is not enough for the application to (1) have a REST API that (2) is comprehensive and (3) consumes and produces JSON. Also ensure that the application is built on an event-driven architecture, which can likely be exposed via webhooks. Also be sure to consider your firm’s potential future needs. Some of these integration features may not be a priority for a solo practitioner, but if there is a plan to grow and have multiple lawyers making changes to systems, locking into a legacy-based system may later create inefficiencies and result in wasted billable hours.

Mark Salamon

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Digital-dropsy and digital-planting:

How Signal's CEO hack of Cellebrite is a clarion call for lawyers to become proficient in the tech universe

By Liran Kandin & Saadya Bendelstein

A young boy is moseying around outside minding his own business when confronted by law enforcement. One of the officers bends down to pick up a dime bag of weed. The officer tells the young boy that he saw the dime bag fall out of his hands, and places him under arrest. The officer searches the boy and finds a 6-inch switchblade, charging him with New York Penal Law 265.01 (1), fourth degree possession of a weapon and New York Penal Law 221.05— unlawful possession of marihuana in the second degree.

The young boy is mystified since never in his life did he smoke weed, let alone possess weed.

This all too familiar story is well known among defence counsel and legal experts across the world that they coin it “*dropsy testimony*” or planting evidence. Dropsy testimony refers to false testimony given by police officers claiming to find illegal substances on a suspect dropped in plain sight as probable cause to search and arrest the suspect.

In the usual course of peacocking between security experts and hackers who showcase their skills penetrating computer systems by exploiting vulnerabilities in software, Signal CEO, Moxie Marlinspike, claims to have discovered multiple flaws in Cellebrite, a mobile hacking device used by law enforcement to unlock and decrypt data. What Marlinspike discovered was that the weakness in Cellebrite’s system makes it easy for anyone to plant evidence on a phone while using Cellebrite’s hardware to scan the device. An engineer at Iron Shields, a firm

specializing in cyber and forensics, commented: “*I'd have to imagine that more attorneys will be prompted by Marlinspike's revelations to challenge convictions that were obtained using the Cellebrite tool. From a technical perspective, if I were an attorney, I would want my clients to be advised to focus on cell phone security and what engineers call mobile device management that can restrict or prevent a malicious actor from planting evidence. There's something to be said for prevention.*”

If what the CEO of Signal says is accurate, data analyzed on Cellebrite could easily be manipulated, and the chain of custody for evidence with respect to the data cannot be guaranteed. Unscrupulous or overzealous members of law enforcement or hackers could implicate people in crimes with a few lines of code.



This brings us to the Canadian decision of *R v Nurse* 2019 ONCA 260 (CanLii). Nurse and his accomplice, Plummer, were convicted of murdering Kumar, Nurse's landlord. Police obtained a search warrant to copy and analyze data on their mobile devices. Law enforcement relied on Cellebrite technology to perform their analysis. While the initial search only revealed a connection between the two co-accused, no evidence of a plot to murder was found. Subsequently, Cellebrite upgraded their technology and law enforcement ran a second analysis on their phones nearly a year after the incident. The second search implicated the two suspects in a plot to kill Kumar and formed the cornerstone of the Crown's first-degree murder case.

In the United States, Ramon Rozas, an attorney of over 25 years, is currently looking to challenge the conviction of a client in relation to an armed robbery; in this case prosecutors relied almost exclusively on Cellebrite's technology to obtain their conviction. Rozas' contention is that police can alter data either intentionally or accidentally, and most law enforcement do not know how to operate the Cellebrite device properly. In his client's case, the court ruled that it isn't necessary to be an expert in the Cellebrite device in order to testify about the data extracted from the software, severely limiting the extent of his cross-examination. Rozas stated *"you have to always be suspicious of devices such as Cellebrite. They are essentially a 'black box.' This opens up many security questions and concerns with regard to how law enforcement tools like Cellebrite are used in court."*

Canadian criminal defence lawyer, Kyla Lee is familiar with the legal systems overreliance on technological evidence. She is one of the few lawyers in British Columbia who can decipher breathalyzer records. Lee has completed manufacturer training and certification in the Alco-Sensor FST as well as DWI Standardized Field Sobriety tests training – the same training that police officers receive. We reached out to Lee for comment: *"Evolving technology is always a concern in legal cases. Not only do lawyers have an ethical obligation to stay abreast of technology, but so too do judges and courts. If anything, the pandemic has taught us that our profession is light years behind where we need to be with technology. If lawyers are not familiar with technological issues in their cases, then they can miss important defences that arise and fail to properly litigate issues. Our legal system as a whole is vulnerable to the overreliance on technology as inherently reliable evidence. For example, breathalyzer technology evidence is often called into question in the United*

States, but by statute in Canada, it is presumed to be reliable. Similarly, hearsay exceptions can statutorily apply where evidence is digitally recorded, even though digital data can be manipulated and presented falsely. Having proper rules restricting the admission and ensuring understanding of digital and technological evidence is crucial in preventing wrongful conviction."

Although data manipulation by Cellebrite has yet to be proven in court, these cases illustrate how fraudulent analogue tactics such as dropsy testimony could easily be wired into modern and emerging parallel tactics in digital-dropsy. Lawyers, on the other hand, have little recourse as law enforcement's use of 'black box' technology is off limits when it comes to cross examination. Under the banner of "national security" or the cloak of confidentiality and non-disclosure agreements, no one is able to get under the hood of these technologies to test their vulnerabilities. It takes a machine falling "off a truck" and the work of a hacker to expose the weakness and dangers of these devices. This is in stark contrast to other forms of expert evidence such as DNA testing that can be verified and challenged by third parties familiar with the science and processes behind such testing. Experts can be called to verify whether the testing procedures and handling of samples were done according to industry practice. Whereas in the case of Cellebrite or other security software, it is nearly impossible to challenge evidence presented by the prosecution. Nonetheless, it is critical for defence counsel to stay proficient in the legal-tech universe in order to assist their client's gain more favorable plea deals, acquittals, or declinations.

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Business Acceptance: Exceeding Expectations and Ensuring Profitability

By Jill Nelson, Senior Director, Growth, Operations & Finance, Intapp

A 2019 Legal Value Network survey revealed that one of the biggest challenges for law firms is meeting client demands for value while still meeting the firm's profit targets. The two don't have to be at odds, however. Having efficient business acceptance processes in place can greatly help firms with this problem, however numerous factors prevent these processes from successful operation. Perhaps the biggest factor complicating business acceptance is human error due to manual intake, pricing, and risk identification procedures.

The lack of visibility into matter arrangements early in the client lifecycle makes the business acceptance process murkier than it needs to be. Many firms are therefore investing in AI-powered technology and connected platforms, which allow teams to easily gain insight into potential risks and conflicts, manage client expectations, and determine whether it will be profitable for the firm to take on certain matters.

For example, a leading U.S. law firm had been using a labor-intensive, spreadsheet-based system for gathering and analyzing insights and data from past work to develop budgets. This process consumed too much time from attorneys who needed to focus on client work. To reduce the time lawyers spent putting estimates together, the firm recently changed over to an AI-powered platform that can map and create clean "metadata" (the building blocks that inform AI decision output) and can scale to meet future needs.

Determining Risk and Profitable Delivery

Firms without AI-based connected platforms may find themselves struggling to not only collect data for new engagements but also to fully assess and utilize that data. By and large, the process of intake is designated to collect as much data and information as possible about the work. If the process is pre-informed by existing and connected data about the work, client,

and matter goals — and if the process further collects pertinent data at the point of intake, or shifts the intake process to a facilitator rather than a collector — the chance to better map goals to delivery options, including profitability, can be materially improved.

AI-powered technology can provide full visibility into potential risks and other key insights at the very start of the intake process, allowing firms to quickly and accurately determine whether to take on a matter and whether they need to establish a retainer, billing thresholds, or other safeguards.

This same firm referenced above classified matter narratives into phases, tasks and activities, resulting in comprehensive training models for business litigation, energy regulatory, and M&A practices, which were then incorporated into the firm's pricing application. By breaking down every intake question into metadata, it became easier to assess the scope of an engagement and more accurately price the service.

Meeting Client Expectations

Identifying risks and insights right away helps not only firms but clients as well, as they will be given clearer and more accurate information concerning their matters.

The more data captured — starting at business acceptance and across the lifecycle — the better able firms are to have an informed conversation with their clients. By identifying risks early on, firms can more effectively monitor them throughout the matter lifecycle.

AI-based technology analyzes both past and new engagements at greater speed and with much more efficiency than manual research. This allows firms to swiftly provide clients with data-validated estimates of timelines and pricing. Consequently, clients are more likely to do business with firms that can provide such details early in the client matter lifecycle.

Breaking Down Silos

During the intake process, a client's requisitions and expectations can translate into data points (i.e. metadata) to support informed activity, including budgeting and planning. All of this data, however, can get siloed or lost without the proper tools in place, and can be difficult for professionals to find. This is where AI-based technology can help.

Sophisticated AI platforms allow firms to easily streamline risk assessment and keep tabs on changing conditions such as corporate family trees (subsidiaries and wholly-owned companies), corporate ownership, payment risk due to financial concerns, financial news, and more. Rather than trying to locate siloed data, lawyers can find everything they need in one system, saving them a significant amount of time and effort. These platforms can also analyze all past engagements by shared characteristics, providing data-validated intelligence to improve pricing strategies. The software ensures that any budget changes fall within client requirements, and uses AI to help firms scope new business.

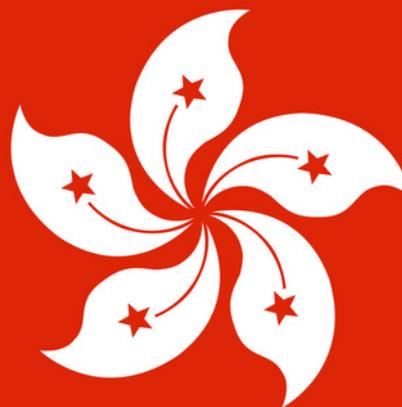
Finally, fine-tuning pricing strategies can provide transparency to matter budget data trends through Engagement DNA, easing the burden of finding client requirements, streamlining efficiency, and reducing risk of damaging the client relationship by overlooking client expectations.

By having all this data and AI-based insights in one system, firms gain enhanced visibility into matter arrangements early in the client matter lifecycle and can approach them more efficiently, accurately, and profitably. The U.S. firm found that they could confidently provide a budget estimate within a couple of hours, sometimes even in 30 minutes. Being able to pull together data for a report and show a client exactly where they stood on budget and matter activity improved client relationships, strengthening trust and confidence in the value of the firm. This benefit—combined with the significant reduction—if not elimination—of opportunities for human error, makes AI-powered technology a smart investment for firms who want to exceed client expectations and ensure profitability.

About Jill Nelson: For more than 20 years, Jill has been focused on helping professional services firms deliver more profitably across the engagement lifecycle. She can be contacted at: jill.nelson@intapp.com

Asia and Pacific

Transforming Hong Kong into Asia's Legal Tech Hub



Chloe Chan is the co-founder and C.E.O. of Litex Limited, a NLP legal tech startup on data extraction and intelligent analysis in Hong Kong. Like Kayson Hui and Iverson Wong, she is currently a postgraduate law student at the University of Hong Kong.

Introduction

Legaltech has been increasingly identified as the next chapter for the legal profession around the world. Hong Kong ("H.K."), with its well-respected legal system and diversity of law firms in the city, should have witnessed the same trend. Regrettably, this is not the reality. Adopting an interjurisdictional and interdisciplinary approach, this article seeks to dissect the success formula behind the growth of legaltech hubs in the United States ("U.S."), China and Singapore before proposing a legaltech hub development model suitable for H.K., which essentially takes the Singaporean model of state-led public-private collaboration but refitted into H.K.'s specific socio-political context.

U.S. Model: Market-driven Approach

The U.S. has had an early and continuing success in adopting legaltech, which largely originates and is catalysed by its society and legal market.

The success of the U.S.'s bottom-up approach is mainly attributable to

- the increasing demand for cheaper legal services;
- the active role technology plays in legal academia; and
- its favourable legal market landscape where opportunities and support are everywhere.

Lack of feasibility in transplanting the U.S.-based market model to H.K.

It is currently impractical for H.K. to popularise legaltech by solely relying on society and the legal profession. First, the H.K. legal profession is not equipped with sufficient technological awareness and competence - lawyers do not view legaltech as a weapon in their armoury. The possible adaptation process in future is also expected to be hindered by their low technological competence. Second, the traditional partnership model commonly adopted by H.K. law firms, which puts decision making powers in

the hands of partners, hinders the pace of adoption as it usually fails to identify the operational difficulties faced by the frontline legal personnel and may antagonise radical workflow changes that reduce billable hours.

Brief introduction to the Chinese Model

The Chinese government has committed significant resources to digital transformation within its Judiciary. Under the state-led LegalTech Agenda, huge public demand and favourable market landscape, Chinese high-tech initiatives grew rapidly, especially smart-court strategies and A.I. technology private legal practice in terms of systemization, standardization and commodification of legal services.

Lack of feasibility in transplanting state model to H.K.

It is infeasible for H.K. to popularise legaltech by directly applying the China Model due to the implementational difficulties in H.K.. In China, the incentive to implement pro-tech policies in courts is very strong, as the Chinese government focuses primarily on the top-down approach to innovation. By contrast, in H.K., Chief Justice Geoffrey Ma indicated in a Judiciary notification in February 2020 that: *"the Judiciary is advised that under the existing law, use of legaltech in court proceedings may not be permissible"*. The technological capacity of H.K. courts is unable to facilitate the introduction of Smart Courts which is strongly advocated under the Chinese government agenda.

Justification for transplanting Singapore's model in H.K.

Singapore, a country with the largest and third largest legaltech ecosystem in South-East Asia and Asia-Pacific respectively, is currently home to more than 49 legaltech companies. Its success indicates its government's strong commitment to develop and consolidate Singapore as Asia's leading legaltech hub, mostly evidenced by the vibrant public-private collaboration ("PPC") facilitated by the government, with main actors such as the Ministry of Law, Singapore Academy of Law ("SAL") and the Singapore Courts. These PPCs include Future Legal Innovation Program (comprised of a legal innovation lab, virtual collaboration program LawNet Community and legaltech accelerator GLIDE), Clicks@State Courts (co-working place to bring together the public, private practitioners and tech start-ups to co-create A2J and legal service delivery solutions), and industrial

collaborations to build a sustainable legaltech ecosystem within the Singapore community (such as Singapore Management University's collaboration with Clifford Chance to develop legaltech thought leadership). As such, Singapore indeed postulates a transition from government-driven innovation to government facilitated and incentivised innovation.

The major justification for transplanting the Singapore model to H.K. is with regards to the substance and form of government intervention. Although both PRC and Singapore share state-led characteristics, the Singapore model is less top-down as seen from its role of laying out the general legaltech development roadmap (such as the Legal Technology Vision in 2017) and providing favorable platforms for public and private to co-create legaltech solutions and exchange legaltech knowledge. The Singapore government acts as a medium without direct intervention into their collaboration. In contrast, the Chinese government focuses on primarily government-driven innovation, as exemplified by the visible gap between the national agenda and practical implementation. With a more inclusive and less intrusive approach, the Singapore government is able to achieve its legaltech vision alongside participation of all interested parties. Hence, with the socio-political resemblance between H.K. and Singapore, arguably the Singapore model is the best blueprint for H.K.'s legaltech development model.

Suggestions on transitioning H.K. into a legaltech hub

With Singapore's Model as the backbone, and in combination with features from the U.S. and China, some implications for the H.K. model can be drawn.

To maximise legaltech adoption, one must first identify the problem landscape. A whitepaper that aggregates most of the pressing issues faced by legal professionals and users of legal services in H.K. can facilitate legaltech innovators to uncover the right pain points and tailor the appropriate solutions, such as the 101 Problem Statements consolidated by SAL in 2018. Nonetheless, the real challenge lies in encouraging legaltech adoption by users of different sectors in H.K.. To boost adoption, Singapore's Tech-Start/Tech-celerate funds up to 70% of legaltech adoption costs. The introduction of the LegalTech Fund in H.K. is no doubt a promising start, yet one should be mindful of directly marketing legaltech products when publishing the approved reimbursement cases.

One-off call to legaltech adoption may only be effective to a certain extent, it is crucial to encourage and sustain adoption in the long run. To do so, legaltech education should be open to all. For future lawyers, lessons can be learned from Singapore's legal education, where technology components are fused with the law subjects in a cross-disciplinary curriculum. One of the authors has lately commented on how legal education can aid legaltech adoption. As for current lawyers, H.K. may learn from the U.S.' codification of lawyers' duty to be technologically competent, thus ensuring that H.K. lawyers are driven to continuously gain exposure to legaltech. To the general public, "legaltech" is frequently associated with helping lawyers to streamline legal service delivery. A change of perception can be achieved if institutions can brand legaltech as inclusive lawtech, such as #lawtech4good and "Roles beyond Lawyers", portraying the possibility of legaltech in helping clients or laymen to access legal services more efficiently. Ultimately, the H.K. legaltech community can be initiated by the civil society through putting together legaltech enthusiasts into a platform or even forming a union of legaltech providers. Platforms, as such, can facilitate exchange of use cases and knowledge sharing sessions, thereby prompting demand for legaltech and building a legaltech community in the long run.

Concluding Remarks

Developing H.K. into Asia's legaltech hub is not a fanciful goal if legaltech stakeholders are willing to go outside their comfort zone and unearth the value of legaltech. With a more technologically and culturally ready society, H.K. can surpass its role framed under One Country, Two Systems, transitioning into Asia's legaltech hub.

Chloe Chan

Co-Founder and CEO
Litex Limited



Contract Lifecycle Management (CLM)

PPP method for successful CLM implementation

Mariana Hagström is an attorney-at-law and legal tech startup founder who has been practising corporate and information technology law for more than 10 years before the transition from the legal practise to legal tech in 2016 when founding Avokaado.



It is not unusual for a sales department to lose an opportunity because contract preparations took too long. It can also become a disaster when departments do not own their contracting flows, when the legal department becomes the blockage and contracts get lost between different negotiating and execution stages.

The solution is an efficiently implemented Contract Lifecycle Management (CLM) tool which becomes the single source of truth for corporate contracts and documents across all business units, much like how CRM systems have been for customer relationships for the past decade. If you have a

contract management system in place but it has too many leaks, then it might be smart to start all over again and choose the contract lifecycle management tool for your company's actual needs.

Here is a cheat-sheet to manage your outsourcing process so that the right one is chosen, implemented and used by legal and business departments. The process outlined in this article is proven to work and is composed by our team over a number of years while implementing CLM-s for different needs, company sizes and locations.

PPP METHOD FOR SUCCESSFUL CLM IMPLEMENTATION



1. **People**: choose the right LEADER for your CLM

The person in charge of the company's CLM has to be a good-fit project leader ensuring different departments like HR, sales/business development and procurement are all involved and their flows are mindfully mapped before the outsourcing process starts.

The CLM adoption leader will:

- communicate the existing flows and pain points with business units;
- evaluate and choose the right platform for business needs;
- manage access rights and user-groups post-implementation;
- create a timeline and priorities for template creation;
- decide which templates are created in-house and which templates development is outsourced;
- introduce the automated workflows to business departments when the flows are finished for the in-house launch;
- create a process for template iterations and updates;
- communicate feedback, product updates and requirements between the vendor and the company.

Pretty often a successful CLM leader comes from the legal department (for law firms the respective leader comes from the knowledge management or innovation team or is an appointed legal technologist). When the company does not have a legal department, then the leader is likely to come from the management, HR or business development team. Choosing the right leader will determine the ultimate success of the CLM implementation.

2. Process: design the right WORKFLOWS for your business needs

It is very important for a CLM leader to discuss pain points with business departments, where the existing flow has deficiencies and the need for improvement. Using that feedback the leader will design the desired flowcharts for different teams/departments and list must-have features for the new CLM.

Typical feedback from those who are struggling with their existing manual workflows follows the same pattern:

- *"We don't have a system and process in place for drafting contracts. We've created templates for some contract types which are stored in SharePoint. Templates are not revised or reviewed for quite some time and people use their own versions so there's no control over the final wording once the draft is finished."*
- *"We insert the data into the contract manually, there are pretty often human errors inside we discover later."*
- *"Once a contract is ready for red-lining it's downloaded and shared over email. Emails and draft versions are quite a big hassle to track."*
- *"When drafting is finished, then the contract is uploaded to the signing platform, and once signed, we have to download it again to SharePoint which relies only on human diligence. It happens time after time that we have lost the contract somewhere between these stages"*
- *"We do not track the contract data, neither do we use meta-data for business intelligence."*

Pain points usually repeat interview after interview:

- poor or non-existent template system,
- different systems, which do not communicate with each other and data get lost,
- too many uploads and downloads between systems,
- no digital signing processes,
- impossible to track the deadlines and contracts data,
- poor search or exhausting manual process for reviewing third-party contracts.

Now it is much easier to lead demo conversations with vendors and eventually choose a platform which covers your company workflows the best. As an example, there is no point getting excited about the NLP review tool when what the team actually needs is automated templates and digital execution flows.

3. Platform: choose the right INFRASTRUCTURE for your workflows

Now the CLM leader needs to discover how the CLM solution will communicate with other tools in use, which integrations are must-have and which are nice-to-have to create an effective data and systems infrastructure. Maybe your sales team uses Salesforce, HR team uses Persona or Bamboo etc. then you need to discover possibilities to integrate the systems for the exchange of data or storing the signed documents. Integrations may not be required in the initial implementation phase but will become essential after some time of usage. So look ahead and try to foresee the next steps when drawing the flow charts (see the previous point).

When conducting interviews, always ask vendors:

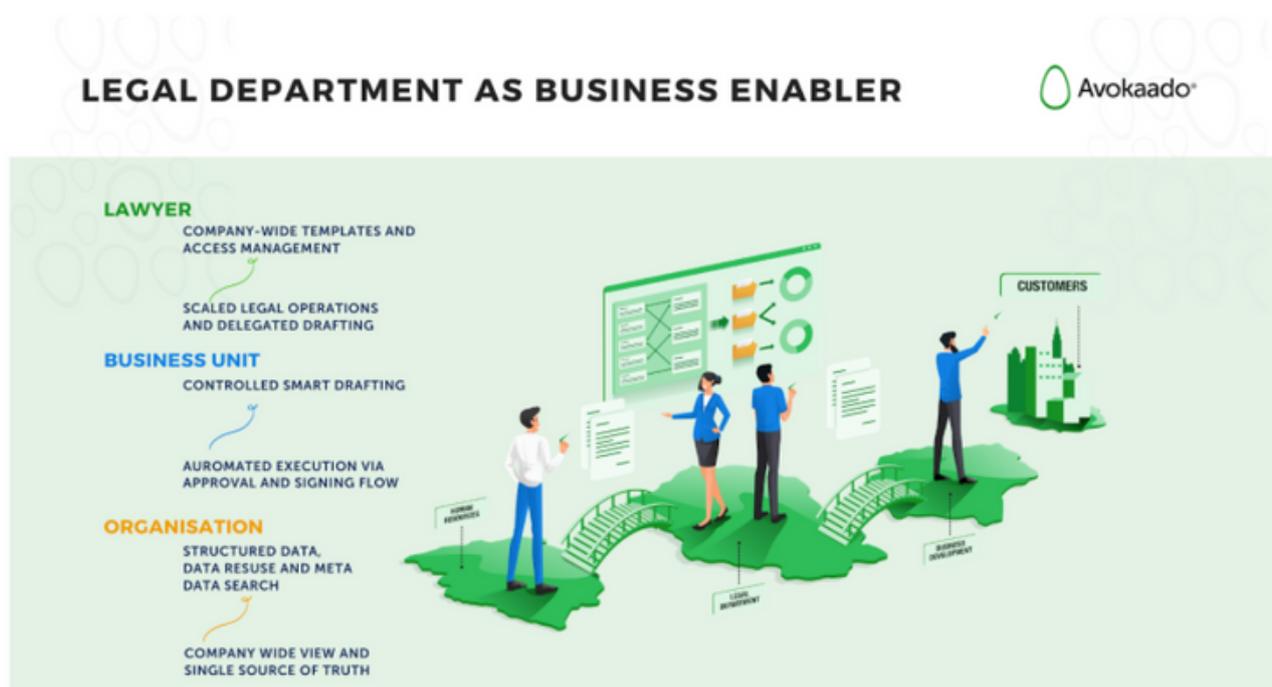
- what is their roadmap for further development,
- where the product is heading and if it aligns with the company's future needs,
- which integrations are already done and which are in the roadmap.

When some features from your check-list are missing, then it is good to discuss how it is covered in the system currently being used, or ask when the development is planned. According to your must-have and nice-to-have lists you can evaluate, if the system is falling out of favour or not. It is very important to discuss your CLM implementation process in detail: how long it takes and who does what, how the legal engineering is organised, is it possible to outsource it from the vendor or from the implementation partners. *A good value-add is ready-made templates provided by a vendor or through its ecosystem for jurisdictions your company is operating.*

In the final stage of evaluation discuss the cost for implementation, subscription and costs for digital signatures.

When you decide to adopt a selected CLM tool and want to do it effectively and sustainably, we do not recommend to rely only on a free trial of platforms as pretty often these do not give necessary in-depth overview, do not include all features for testing and there is no vendor team involvement included. Instead, ask for the paid trial when available with the vendor team and form your own assessment team for the trial period. The effective paid trial period should not last more than two months and should give you a very good overview of how the cooperation is going to look like in the future.

Hopefully our PPP method gave you a good structure for selecting and implementing CLM and you feel much more confident who could be the potential CLM leader in your company, how to map essential workflows and how the vendor selection process should be built up.



Additional sources to read:

The Complete Guide to Contract Lifecycle Management: Bridging the gap between business and legal
<https://avokaado.io/campaign/en/contract-lifecycle-management/>

Guide to the 16 Best Contract Lifecycle Management Software Platforms:
<https://avokaado.io/blog/best-contract-lifecycle-management-software/>

Mariana Hagström

Lawyer, Founder & CEO at Avokaado, European Woman of Legal Tech 2020

LT Legal Operations Index 2021

Over the next couple of months we will be putting together a list of the **most innovative legal operations professionals in Europe**. If you know a colleague or friend that fits the bill then please do nominate them.

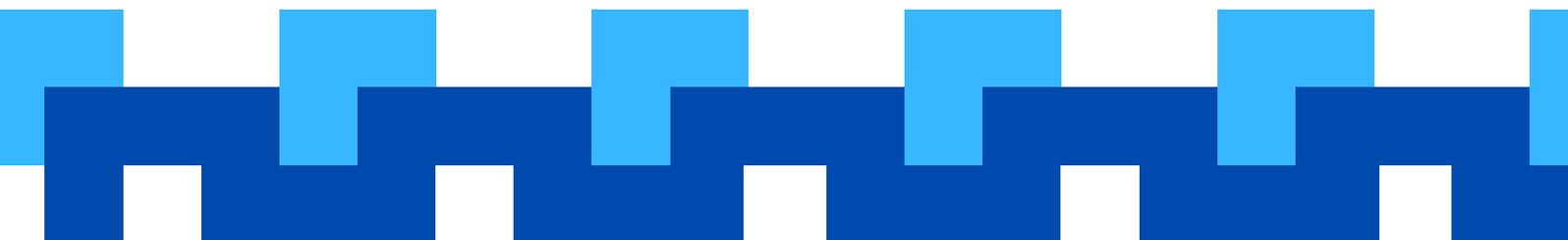
The aim of the index is to reflect and celebrate personal contributions to legal operations - and uncover stars of the future! It should also reflect the different career options available in the legal tech/ops sphere.

We're looking for those legal ops professionals that are one or all of the following:

- are champions of tech/innovation within a law firm or business;
- have driven technological change internally within a law firm or business
- have been a key driver in adopting tech to better collaborate with clients/customers

This is limited to those in Europe - but will do another index for other continents if there is demand.

Please nominate by emailing our editor at marc@legaltechnologist.co.uk with the subject "LOI21 Nomination". It should detail who is being nominated and how they have fulfilled the above criteria, along with the nominee's contact details.



Lawyer of the Future

Enhancing contract value using digital documentation

Russell Sanderson, Director of Technology, Outsourcing & Professional Services at Iron Mountain and Catherine Bamford, Legal Engineer, CEO and Founder of BAMLegal



The legal profession has a long association with archival excellence – many of its processes rely on being able to take deep dives into historic records. Unfortunately, the procedures involved can be labour intensive, adding cost at a time when there's increasing pressure to deliver “more for less”. Any forward-thinking legal firm will therefore be interested in converting its records into agile digital assets that can be sorted and searched, quickly and effectively.

However, transitioning legacy workflows into structured, searchable data can be complicated. To deliver a positive outcome, the transition needs to be carried out consistently and accurately if the full value of enhanced digitisation is to be achieved. For legal practitioners, who are dependent on the reliability of their documentation, only the best result is acceptable. But instigating the steps required to accomplish that result can be problematic.

Furthermore, digitisation isn't simply about improving response times, it's also about adding functionality. This is important as to remain competitive law firms are increasingly recognising the need to offer digital services that can help their clients better run their businesses, such as providing enhanced levels of data about what's in their contracts. These sorts of insights are important. According to management consultancy McKinsey &

Company, ineffective supervision can annually erode a contract's value by 9%. KPMG states that up to 40% of a contract's worth is lost due to 'value leakage' during its lifecycle.

Contract lifecycle management can be significantly improved using digital documents in combination with artificial intelligence (AI), which can extract valuable insight from contracts while also speeding up the management process. However, to ensure this can happen there needs to be a rigorously applied set of standards in place at the start of the digitisation process.

First steps of your digital transformation journey

Turning paper documents into PDFs is just part of the process. Without consistent formatting and the ability to have them searchable, within single documents and across families of files, the procedure will be ineffective. It is there essential to establish a standardised nomenclature at the start of digitisation process to ensure conformity within the digital filing cabinet. This will help ensure the archiving and retrieval of files is consistent and logical, improving the timely disseminate of relevant information. It will additionally help users identify meaningful relationships between files by means of a search function.

After digitisation is complete, a number of additional benefits will become available. First, it will be possible to mine the archive and catalogue the findings, in the process discovering potentially untagged but significant data that can be classified in meaningful and beneficial ways. It will also be possible to set permission levels, protected behind passwords, to ensure an appropriate level of access. In addition, new documentation can be added in logical and relatable ways, maintaining archive cohesion.

Head into the clouds

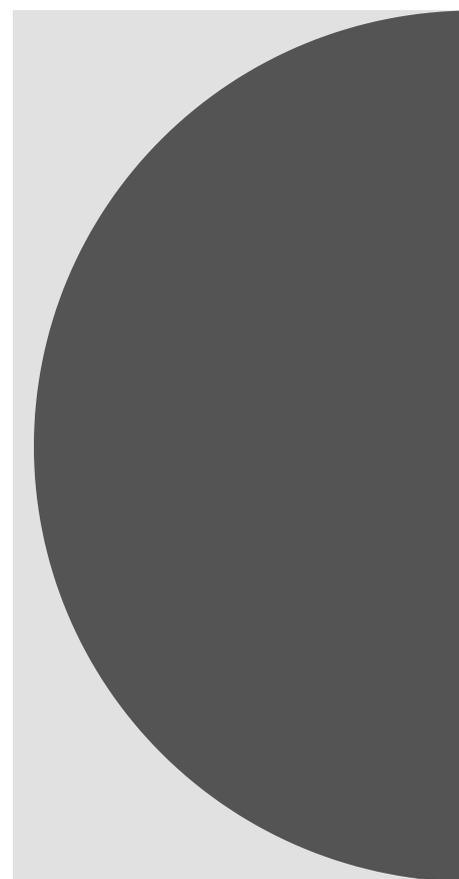
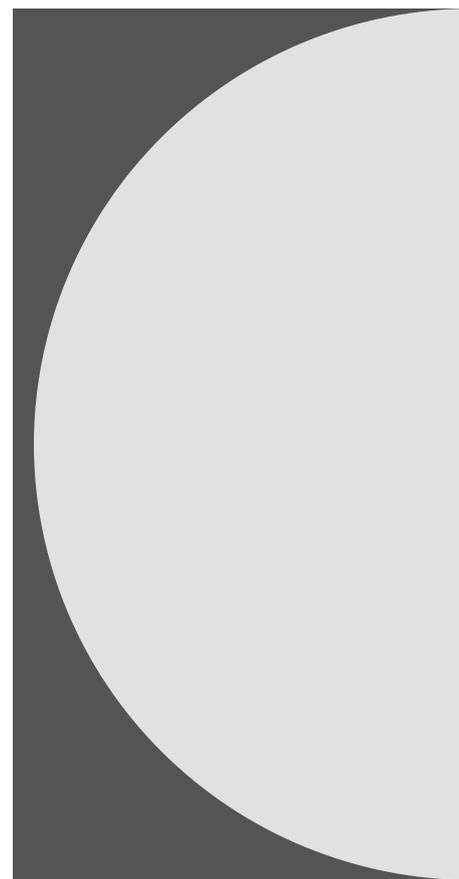
Moving the storage of a digitised archive to a cloud-based solution provides anytime, anywhere access, an important feature when operating a hybrid workforce. Importantly, it adds an additional level of security – having cloud storage removes the need for digital files to be stored on laptops and USB drives that can be lost, stolen or infected. Also, its one document/many users scalability eliminates the need for duplicate files, which removes the possibility of different versions of a single document being accidentally created.

Innovating the legal sector

The legal profession has historically been dependent on large volumes of paper, which creates issues around speed of service, access, sharing and retrieving information, as well as storage. Enhanced digital document management can help lawyers and solicitors overcome these difficulties, which in turn streamlines legal and regulatory workflows. Another major advantage is that it can significantly improve collaboration between partners, with clients and across geographical locations, all while providing audit-ready, legally admissible electronic document storage.

Investing in a scalable, secure and consistent digital document platform can save money in the long term by ensuring a seamless upgrade path. However, creating an easy-to-use and secure service that can deliver all these benefits requires experience and resources. Simply scanning a physical archive will not provide a satisfactory result. That's why the legal profession should always work with a trusted digitisation specialist that can provide a secure and fully searchable archive and has a track record of delivering complex implementations on time, on spec and on budget.

Catherine Bamford and Russell Sanderson



An Experience in Digital Transformation

By David Salgado Areias, Managing Partner at Areias Advogados (Portugal)

In January 2014, Westerman, Bonnet, and McAfee were publishing “The Nine Elements of Digital Transformation”, showing how managers could use technology to redefine their businesses. At that moment, we were expanding our law firm by adding a new partner and opening a second office in a new city (Lisbon). I wish I could tell how impressed I was by that article and how helpful it was to me in understanding the changes we were about to start in our law firm. The truth, unfortunately, is that I read it for the first time in 2021.

At that time, because of that second office in a different city, we had to make some important changes to our operations, starting with moving to the cloud (which, seven years after, is somehow still a big discussion for some law firms) and have our lawyers prepared to work from home or from wherever they needed or decided to. Technology was allowing us to adapt to new circumstances and to improve our operational processes.

A year later, in 2015, a new client led us to discover that a document could be produced collaboratively, with real-time edition and comments. It wasn't, I must be honest, a solution quickly adopted by our team, but it progressively became the standard option that it is today. Fortunately, the younger lawyers in the team never had to name a file “Agreement - final final version 9”, and they are not constantly emailing documents (does anyone really miss those chains of emails about a missing attachment?). More than operational processes, technology was allowing us to change the experience of our customers.

Around that time we had become aware of the power of these and other technology-driven changes, as we were already benefiting from them. Managing and growing a team in different cities was much easier and efficient, as was communicating and collaborating with clients. We were being digitally transformed. If we started that journey unconsciously and out of necessity, we were now aware of it and we were now benefiting from a competitive advantage.

In this transformation, we largely benefited from working with startups and tech companies. On one hand, some of the changes were led by these customers who were digitally more capable than us. On the other hand, these customers were more open to other changes and innovative approaches from our side, as they have innovation and collaboration in their DNA.

In 2020 the pandemic hit and we have so far endured two lockdowns in Portugal. The position we had built for us with all the technology-driven changes allowed us to smoothly move our team, now in three different cities, to remote work. That, in turn, allowed us to focus on what was most important: the wellbeing of our team, our customers, and their businesses.

The pandemic clearly accelerated the digital transformation of businesses and is increasing the pressure to keep up the pace. As demonstrated by the Kano model, the satisfaction from a given value proposition decays with time, as excitement factors become performance factors and then basics of service delivery. It will become increasingly harder for law firms to sell excitement on factors that are already performance factors in other sectors (should we talk about electronic signatures, for instance?). The rhythm of change is unlikely to slow down, and law firms must accelerate, as the sector has been lagging for a long time.

It's now 2021, and we are taking new steps on a journey that we have come to understand as part of the digital transformation of our law firm. We are now the first Portuguese law firm to partner with HighQ, to develop new technology-driven solutions for our clients. If digital transformation changed for the better our operational processes and the customer experience, it is also becoming clear the effects that will have on our business model.

David Salgado Areias

Managing Partner at Areias Advogados (Portugal)

Interview



In this issue, Jeremy Small, CEO of Jameson Legal, interviews Clive Rich, Founder and Chairman of LawBite.

Clive Rich

Founder and Chairman of LawBite



JS: What was the inspiration for setting up LawBite?

CR: Law firms are traditionally pointed at larger clients who are good for significant recurring billing. But 99.9% of UK companies are SMEs. The normal Law firm approach doesn't work for them as the traditional approach requires overhead and billing levels that rule out most small companies. I felt that we could be on to something if we built a Platform that could reach the very diverse SME audience and use tech to give them legal work the way they want it – fast, affordable and easy to use.

JS: What is unique about LawBite and why is it attractive to clients and the lawyers working on the platform?

CR: We operate a marketplace between SMEs and expert lawyers. That itself is not unique, but the proprietary Platform we have built is different. It uses clever software and data science to match the right client with the best lawyer, and also provide a complete workflow for client and lawyer to collaborate together and get legal work done. Other lawyer marketplaces don't have this tech. The Platform also enables us to work with big distribution partners who have a large SME audience for whom we can add some value. We

can plug our tech into the Partner's customer journey in order to provide fixed price, easy-to use legal services which gives the Partner a better customer engagement and reduces churn. These Partners can be Insurance companies or Challenger Banks or Software companies who between them represent hundreds of thousands of potential SME referrals. Our agreement with progressive City Law Firm, Taylor Vinters (now an equity investor in LawBite) enables us to provide international reach through the Platform in the 70 countries in which they have local law firms in their network. This internationalisation of the Platform is good for SMEs (especially post-Brexit), helpful for our distribution partners (most of whom have a multi-national footprint) and is currently unique.

JS: How has the pandemic affected your business?

CR: We have grown by over 80% during the Pandemic. We do not take lightly the many different sectors and people that have suffered from the effects of COVID, but it has validated how we do business – tech driven, using remote lawyers, fast and affordable, it has met the Zeitgeist in a world in which potential SME customers have been looking for online, fast and affordable solutions for all parts of their business. I do not see this trend being reversed when we go back to whatever the new 'normal' is

JS: How will distributed/virtual law firms change the legal market over the next five years?

CR: In a similar manner to the Fintech space with challenger banks. It will drive customer focus through innovation and create services that businesses and individuals enjoy using and deliver value.

The challenge for us as start-ups is to continue to drive efficiencies through innovation that we can pass onto the customer in the first instance, and then help lawyers in our marketplace to execute law quicker.

If COVID has taught us as business one lesson, it's that the distributed model works and has validated our strategy. We see more and more lawyers coming to us because their existing law firm is downsizing or they no longer want to travel/commute to work or want a more flexible lifestyle in which to work, and I don't think is going to go away. Current firms will either have to change or they'll find themselves left behind.

JS: Do you foresee a revolution amongst traditional Big Law firms in terms of how they employ legal tech and how they run their businesses in response to the threat of digital law firms such as LawBite?

CR: It's challenging for large law firms to completely revolutionise their existing business models because they have too much fixed cost, and the current way of working pays the bills. It's a very similar analogy to high street retail and online, they should learn from this story and put in place protections. It will always come down to technology and software being the driver of change, so the sooner they're able to incorporate new technologies into their existing workflows the better.

The other way they can do this is through investment in start-up legal firms so they're playing in both camps and

at least hedge their position. Many may merge as a way of avoiding the issue, but that doesn't really change anything and once the overhead savings from merging have been achieved they are still in the same position strategically.

JS: What legal tech solutions do you use at LawBite? Have any of the solutions been developed in-house?

CR: The core platform has all been built in-house and is a very sophisticated workflow and billing solution, allowing clients to execute work efficiently with their lawyer using our platform tools for signing and editing documents, messaging their lawyer, managing collaborative working with their lawyer, monitor their customer dashboard and project milestones, time management, etc.

Due to the marketplace nature of our business it means we're adding new lawyers, partners and territories all the time, so we've developed ML matching and quoting tools that allow inbound enquiries to be matched with the relevant available lawyers in real time and provide a range of appropriate quote to the lawyer for the type of work (and the percentage chance of conversion at different prices) based on historic billing. This speeds up the initial interaction of the customer & lawyer and provides a very fast way of engaging.

JS: Will LawBite use AI to develop automated legal services for its clients?

CR: We've now started to develop a wider ML framework that will allow us to harvest legal knowledge as a by-product of our normal workflows. By creating a formal knowledge framework, we can map legal actions and inputs to this and start to develop ML models that allow automated contract reviews, recommender functionality, predict goals and tailor approaches, and develop a system that understands context & understanding. All of which means the machine is learning through the capture of knowledge that can be re-used, creating efficiencies we can pass onto the end customer.

The platform will eventually be able to automate document creation, reviews of contracts, perform document lifecycle management, and afford certain self-serve capability.

JS: How do you see legal tech changing the legal profession in the next 10 years?

CR: A lot of legal tech we see is targeted at providing efficiencies to the law firm themselves. So, bringing benefits to the business through cost savings or automation; these don't necessarily translate to the improvements to the end customer. They may do, but they may also translate to (and be aimed at) improved margins for the law firm.

Learning from other sectors the businesses that have won are those that have a myopic focus on the end customer and improving their experience through software innovation. What really works for the end customer may not, and does not, work for an existing law firm. So, it's difficult for those firms to think and act in a purely customer centric way.

The lawtech space will evolve and grow rapidly over the coming 5 – 10 years and then we'll see a consolidation, as larger firms acquire those businesses that are successful or have defensible technologies and positions. This may be through larger law firms or technology businesses acquiring them, but it's certainly going to be an interesting time!

Jeremy Small





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Next edition will be out in July 2021.