

# THE LEGAL TECHNOLOGIST

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## FEATURES

ARTICLE

### Apperio Part 2

In this second part of the series, Nicholas d'Adhemar provides an introduction to spend management.

ARTICLE

### Electronic Trials in Spain

Santos Gutiérrez Figueroa takes a look at how the pandemic has influenced Spanish courts.

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## **Cover picture**

For those in Europe this marks a year since the first lockdown occurred. It pays tribute to all those that have been working from home up to now (and continue to do so because of the pandemic).

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Insight into the future of law

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## The Apperio Series Part 2

# An introduction to spend management with Nicholas d'Adhemar



*Nicholas d'Adhemar is the founder and CEO of Apperio, a legal tech scaleup which helps to bring spend transparency to the legal industry. He founded Apperio in 2015 after working for six years as a lawyer at an international law firm, completing an MBA at INSEAD, and spending three years in private equity.*

*The Legal Technologist recently had the opportunity to talk with Nicholas about his experiences building a legal tech startup and how technology will change the relationship between law firms and clients. In this second of three segments, Nicholas discusses Apperio's solution and breaking the US market with our European Editor, William White.*

**WW: Many of our readers won't know what a spend management solution is. Could you briefly outline what Apperio does, and what the benefits are for buyers and sellers of legal services?**

NdA: We solve a problem for in-house lawyers and General Counsels (and their finance functions as well). These teams usually don't have access to their own legal spend information, and certainly not in a clear,

current, and accessible way. They normally have to cobble it together on a spreadsheet or using a billing solution — the information isn't at their fingertips and can't be used to make commercial decisions about what is typically one of an organisation's largest expenses.

Apperio is a SaaS tool which provides a complete picture of a team's external legal spend. It plugs into all of their law firms and collects a feed of what time has been spent, doing what, on which matter, and how much it costs. All these feeds flow into one central place, so teams can track each piece of outsourced legal work in real time. We can also pull historical data to identify trends in spending and use analytics to suggest where they can optimise it. It allows clients to track all kinds of metrics from deal team ratios and deal value to partner time incurred.

**WW: I can imagine that a lot of law firms might find that idea quite threatening. A reactionary view would be that the easier it is for clients to see their spend racking up, the harder it is for law firms to maximise revenue.**

NdA: Are they suspicious at first? Yes! But then we come in, the next morning the sun still comes up, and they realise that not only are they getting paid faster, but they can point to Apperio to demonstrate their innovation and tech-savviness. We're now plugged into hundreds of law firms, and one thing that sets us apart from the rest of the ecosystem is that we have law firms recommending us. The idea that a law firm would ever recommend a spend management tool is kind of crazy!

We've realised over time that Apperio provides value to the law firms as well as their clients. When you have a tool which gives continuous visibility of legal spend, you avoid surprising bills, awkward phone calls and push-back over invoices. The visibility we provide means that there are fewer disputes over fees because both parties watch a single version of the truth as it develops. Clients pay more of what's invoiced and pay it more promptly.

**WW: The quicker you bill, the more you recover, right?**

NdA: Exactly that — there's a direct correlation. If you bill somebody 100 days after you do the work, the chances are you're not going to collect 100% of what you invoice (and that's if you even invoice them). Collection inside law firms is a huge deal. A large number of invoices only get sent out towards the end of the financial year, meaning that a lot of firms struggle with protracted payment cycles. When invoices are sent out so long after the event, clients end up querying what the matter was. The ability to reduce that payment cycle time by 25-30% is a material benefit for law firms.

**WW: The fact that billing data is shared in real time is interesting. Traditionally you would have a partner reviewing and amending or writing off time entries before a bill makes it to a client. What happens when you remove that step?**

NdA: There's a phenomenon called the Hawthorne effect, whereby people's behaviour changes when they know that they are being observed. This behavioural change in law firms is one of our selling points to clients, and we can prove it by comparing before and after Apperio data. For example, it's pretty common for lawyers to estimate time to a round number like a whole hour rather than record it exactly. We can show that lawyers are four times more likely to record to a precise increment after Apperio is in place. It does tend to make firms sharpen their pencils a bit!

**WW: It's interesting to hear that firms — or at least lawyers — are happy to have you around. Do you find any resistance from firms on the technical and infosec side?**

NdA: The actual integration isn't too difficult, but sometimes law firms are under-resourced for this kind of work. It can take some time to get somebody technical on the other side to liaise with to do a relatively simple task. This person is usually being pulled in multiple directions and it's a question of getting up on the priority list.

The security side is interesting and can be one of the barriers to legal tech adoption. If you're a seed-stage legal tech startup trying to work with a Magic Circle law firm, how do you prove that you're not a risk? Given the sensitive nature of the data we hold, clients and law firms need to be comfortable that we will look after it. You can show them nice technical diagrams, but ultimately you need to have a security certification to back it up. This meant we had to invest in people, processes, and the certification very early in the journey. We had to get ISO 27001 certification, which is painful and boring and not a shiny feature. More recently we're working towards gaining SOC 2 compliance, which is more US-based.

**WW: From the firms listed on your website, it looks like you've achieved pretty impressive penetration of the UK legal market. So what's the next step for the business?**

NdA: I think we already work with 35 of the world's global 50 law firms, with a total of over 250 plugged in. We're now building law firm partnerships as a new route to market, and we've signed a Magic Circle firm as our first law firm partner. From their perspective, the idea is that rather than waiting for the next dozen clients to ask to connect into Apperio, they can propose the idea first. Not only do they look good for solving a problem for their clients, but they also get the core benefits like getting paid faster.

2020 was also meant to be the year we opened up our US office. I was in Boston and New York at the beginning of the year, but now obviously meetings have gone from face-to-face to virtual. For us, the US is the obvious direction of travel: we have a significant financial services customer base, particularly private funds, and 70% of the world's assets under management sit in the US. It's also the country with the highest legal spend.

**WW: That makes sense. I think it's fair to say that UK law firms have a poor track record in building up profitable footprints in the US. Do you think UK legal tech vendors like Apperio can succeed in the US in a way that UK law firms haven't?**

NdA: I have English parents but was born and grew up in the US, so I have a pretty good understanding of the culture and how the market works. That doesn't solve everything, but it certainly helps!

You're right that UK law firms do struggle to get permanent foothold in the US market. I think a lot of the US companies which cross the Atlantic in this direction tend to raise more money. US venture capital investors tend to put more money into their companies than their European counterparts do, which means the companies can keep at it for longer. Another reason is US companies often focus on one entry point, usually London.

Legal is interesting because the problems are pretty similar everywhere. American lawyers behave a little bit differently, but the General Counsels and CFOs of this world have the same concerns and suffer from the same lack of visibility. One big difference with US companies is that because they do business in up to 50 states, they might work with 20 or 30 law firms compared with maybe a dozen for European companies.

**WW: How do you adapt to that?**

NdA: America is so big that trying to sell to everyone is like boiling the ocean: it won't work and you will just haemorrhage money. The narrower you are, the more successful you are. Your ideal customer profile needs to be very specific. For example, don't just target financial services firms everywhere — target firms located in the north-east which spend \$2-10 million annually on legal fees and do a large amount of M&A and litigation. When we launch, we want to target certain cities rather than the whole country.

*In the third and final part of this series in our May edition, Nicholas and William discuss how spend management tools will change legal purchasing habits and what the future holds for the firm-client relationship.*

# Legal Data: what, where and why?

Roman Kaczynski

*Roman Kaczynski assists law firms and in-house legal departments in their digital transformation. He combines knowledge of the law with practical expertise in legal tech and innovation management to deliver organisational solutions which are adapted to the new realities of the business world.*

Legal data and analytics are often touted as the future of our profession. In practice, however, identifying, collecting, and exploiting legal data can be challenging and almost impossible without dedicated tools. This article gives a short introduction to **what** legal data is, suggests **where** to collect it, and explains **why** it is valuable for law firms.

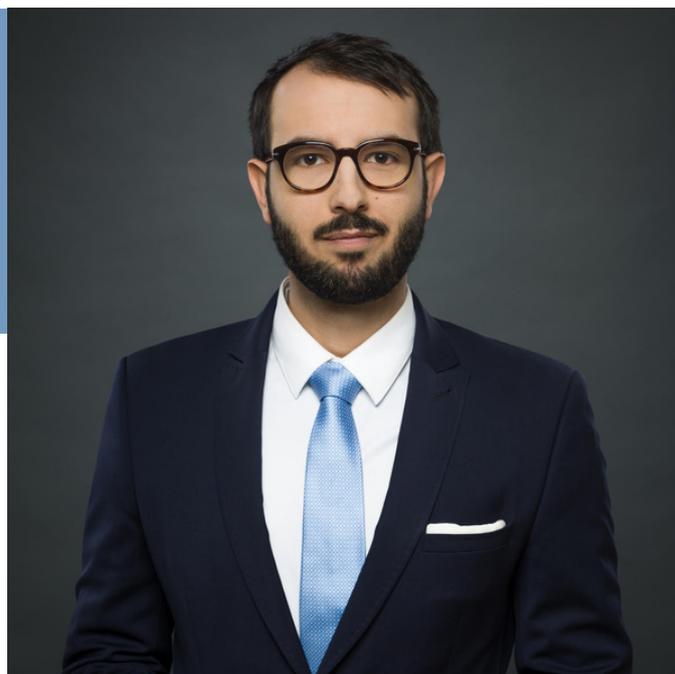
## What is legal data and why collect it?

### Contract Data

**What:** any information from a contract including parties, clauses, values and dates.

**Where:** Using a document automation solution allows you to automatically collect metadata from the documents you create. For documents created before the implementation of document automation, a Document Analysis solution will help you to review documents on file and collect data that you need. With a good OCR (Optical Character Recognition) tool, you will even be able to analyze PDF (mostly scans) if you do not have the text format version anymore.

**Why:** Contract data can be used to assess the value of a company's various contractual obligations and identify the risks involved in those contracts. This can assist in the valuation of an entity involved in a transaction. Contract data can also be used for knowledge management, for example by highlighting clauses which were used in more profitable deals so that they can be used again. Another use case is tracking versions of a draft document to determine which clauses are most important for the other party in order to inform a negotiating strategy.



### Matter Data

**What:** internal data on current and previous matters a firm has worked on, including clients, lawyers, other professionals assigned, time to resolution, and outcomes.

**Where:** Look at matter and billing data from your existing systems. Most case management and billing solutions allow you to generate reports on this data. However, if you don't have such a tool in place(!), you should regularly ask each lawyer in your team for a summary of their ongoing tasks.

**Why:** Regular analysis of matter data will help identify process bottlenecks, and determine which professionals are able to perform which tasks better or quicker. This in turn allows a firm to identify subject matter experts who can help upskill the rest of the team. Case outcome data can, for example, be used to evaluate whether certain types of litigation can be pursued more efficiently or even whether a given case is likely to succeed.

### Billing Data

**What:** the financial data behind matter data, including matter type, lawyers assigned, amount billed, and any discounts or write-offs.

**Where:** This should be the easiest kind of data to collect, as most law firms already use billing software that can generate reports.

**Why:** Matter management and billing data can be used to compare the costs of a given case against previous similar matters. This can help provide an accurate and competitive fixed-fee proposal with lower risk for the firm. The same data can be used to identify types of matter which take up lots of time but where not much is billed and recovered from the client, with a view to targeting more profitable business.

### Court Judgments

**What:** any data relating to a judgment, including dates, parties, legal issues argued, judge, citations, treatment of cited cases, and editorial metadata (headnotes and key number classifications)

**Where:** Collection and use of judgment data is almost always difficult as it is rarely available in a machine-readable form. In many countries, only some court decisions are even publicly available. This lack of access recently led to a dispute between two big legal tech providers.

**Why:** By looking at the success rate of similar motions or suits before the same court or even before the same judge (judicial analytics), firms can predict whether a motion is likely to prevail. In some jurisdictions this matter has become particularly controversial. In France, for example, it is now illegal to use judicial analytics to analyse or predict the likely outcome of a given case before a particular judge.

## Mix and Match

These types of data are all valuable in their own right, but can become even more useful when put together. Combining the different types of data can yield additional insights. Consider the following formulas:

### **Matter Data + Billing Data = Efficiency Insight**

By comparing the time spent by lawyers on a matter and the final price charged to the client for this work, it is possible to determine whether lawyers are being utilised properly and whether engagements are cost-efficient.

### **Matter Data + Court Judgments + Billing Data = Litigation Decision Support**

By looking at the outcomes of previous cases, the value of the relevant judgments (judgment data) and historic legal costs (Matter Data + Billing Data), we can more reliably determine whether it is worth settling a matter or taking it to trial.

### **Contract Data + Court Judgments = Contract Risk/Stability**

This is a more long-term strategy as it requires looking further along the contract lifecycle, but it could definitely add value during contract negotiation. In the future it may be possible to connect data from court judgments with data on specific clauses or types of clause, highlighting where disputes have arisen over certain clauses and how courts have resolved them. This would make it possible (during the early stages of drafting) to determine the risk of a contractual provision being litigated or found unenforceable by a court.

## How to collect legal data

Many firms want to get started collecting legal data but don't have a dedicated legal tech solution in place. Data can always be collected manually through surveys, interviews, observations, documents, and records. But this approach presents the challenge of how to clean, organize, and store the data in an easily accessible way (including the ability to filter and classify it). One solution could be a simple spreadsheet. However, the cost of the time needed to update and curate the spreadsheet could easily outweigh the value added by the data!

Firms can invest in a Data Management Platform (DMP), a software platform used to collect and manage data. However, these solutions are not constructed specifically to collect legal data, and their use in this context will usually require some configuration and adaptation. A better approach is to deploy dedicated legal tech solutions for document automation, matter management, and document analysis. These will export data that you can exploit according to your needs. The better the data you can collect, the greater the value you can extract from it for your practice and clients.

### **Roman Kaczynski**

# How tech can improve the lives of junior lawyers

By William Dougherty



**William Dougherty** is a Technology, Media, and Telecommunications Associate at Dentons in London and Co-Founder of Capacity.

In January 2020, an [article on Chambers Student](#) wrote: "...firms were offering 1,357 training contracts per year – and receiving a total of more than 70,000 applications. That translates to a 2% success rate [in respect of the 82 firms listed in Chambers Student Guide's 2020 edition]." It has always been difficult becoming a junior lawyer and these stats were before the onset of a global pandemic.

But, for the 2% that were successful, the difficulties don't end there - a different set of challenges are just beginning. Junior lawyers are in a high pressure environment where they are trying to learn, but the more mistakes they make the less opportunity they will have to gain exposure to more complex tasks. They often spend most of their time doing administrative work and can feel frustrated by the lack of opportunities to get a wider range of experience. Many are also [overworked](#) and tend to have [very little control](#) over the work they do day-to-day.

Some junior lawyers who have experienced these issues have decided to solve these problems with technology, in an attempt to make a positive impact on the industry. In this article we will look at three such software solutions: [Define](#), [Avvoka](#), and [Capacity](#).

## Define

One of the skills that is most revered in junior lawyers is attention to detail. Only upon getting the "simple" stuff right will you gain the trust of your team and get the opportunity to move on to more complex work. However, when you are dealing with contracts which can run into several hundred pages and subject matter entirely alien to you, without mental stamina even the "simple" things can present their own challenges.

Define is a tool which optimises contract drafting and reviewing for lawyers. It allows users to instantly access all defined terms and references in documents without ever having to leave the clause or provision they are working on. Aside from the obvious efficiency savings, Define helps to take some of the burden off your working-memory, making proofreading and document review less mentally taxing and more accurate. Traditionally, lawyers would have hard-copies of contracts and multiple screens to solve for this issue. However, with the rise of remote working and the desire to minimise paper-wastage, this product has arrived at the perfect time! The tool is also a big improvement on these work-arounds because you can navigate to the right definition/clause with the click of a button, rather than wasting valuable time finding every single reference.

## Avvoka

Often junior lawyers do not get stuck into the main legal documents on a transaction or case. Their role is, at times, limited to more administrative functions, such as due diligence and managing data rooms — an aspect of working as a junior lawyer which can cause firms to lose talent.

Avvoka is an online document automation platform. The tool encompasses end-to-end document automation: everything from automated first drafts, to online document collaboration, negotiation, e-signature, and data analytics. Avvoka brings efficiency and transparency to the contracting process, which frees up time for lawyers to do more high-level advisory and technical work. Most other tools on the market involve 'coding' to create automated documents. However, Avvoka's "no-code" platform allows anyone to learn automation in hours, not weeks, with no need for external consultants. As such, junior lawyers can automate a variety of legal documents.

This not only hands them responsibility, but also cuts down the time they spend on the more administrative elements of contract drafting, allowing them to focus their time on strengthening their understanding of the documentation at hand. This adds more value for clients and is important for long-term career development.

### **Capacity**

Generally law firms do not have efficient processes in place to manage workflows. This lack of oversight/process can result in unfair and uneven work allocation – like Define, the issues Capacity seeks to address are further compounded by the rise of remote working.

93% of junior lawyers surveyed by the Junior Lawyers Division reported feeling stressed in their role, with almost a quarter feeling severely/extremely stressed. Over 77% said that their firm could do more to support stress at work and cited high workloads as the leading cause of their stress.

Capacity is a work-allocation tool that seeks to solve a raft of issues experienced by junior lawyers, including reducing work-related stress. Capacity allows its users to communicate their availability with their team in real time, which can help ensure that work is more evenly distributed and junior lawyers are not overworked. It also has a unique tendering process allowing junior lawyers to self-select their own work. Scientific research has found that autonomy over tasks is more than twice as likely to improve job satisfaction than salary, working hours, and working environment. Moreover, control over work flow reduces levels of work-related stress as well as increasing job satisfaction. Job satisfaction strongly correlates with improved quality of work, which in turn translates into increased profits for the business and so is a win-win all round.

Traditionally law firms have been slow to adopt new technology. However, the Covid-19 pandemic has accelerated digital transformation within the industry. For many junior lawyers, who are finding themselves working longer hours in their home-offices, legal-tech may prove to be a lifeline.

### **William Dougherty**

# Electronic Trials in Spanish Courts

By Santos Gutiérrez Figueroa

*Santos Gutiérrez Figueroa is a lawyer specialising in blockchain and business innovation. He is a technology mentor for the Biscay Bar Association, the Association of Basque Economists and the Mutualidad de la Abogacía Foundation.*

**Only three in fifty lawsuits in the Spanish courts take place remotely. COVID-19 has accelerated the digitisation of Justice, but there are still great challenges to be overcome, including a technology gap and regulation of digital procedures.**

More than 2.5 million cases were brought before the Spanish tribunals in 2020, but only 158,000 were conducted by video-link, according to data published by the Spanish Ministry of Justice. This means that only three out of every fifty cases were heard remotely. The Ministry of Justice prides itself on having conducted "more than 200,000 hours of videoconferencing", as well as having enabled observation of some trials by streaming on YouTube. Behind these numbers there is a more complex picture.

## Progress to date and the pandemic

"The opportunity for one or more people to attend a trial or judicial proceedings held in person by videoconference is deeply rooted in the Spanish system, especially in criminal proceedings, which have been taking place for years without any significant problems. The telematic broadcast of the entire proceedings of a lawsuit was hardly seen in the past, but the pandemic has compelled its use, especially in judicial processes where in-person evidence is not heard. It is especially appropriate in proceedings that come down to the allegations of the parties," explains Joaquín Delgado-Martín, a Judge in the *Audiencia de Madrid*.



"As a result of the COVID-19 pandemic, the Spanish authorities have been forced to adopt additional emergency measures for the digital transformation of justice, including holding trials and other court hearings online", points out Pablo Ramírez, an Associate in the Intellectual Property Department of Cuatrecasas.

Indeed, Law 3/2020 of 18 September, which introduces measures to adapt the justice system to deal with COVID-19, stipulates that until 20 June 2021 all procedural acts should be carried out remotely where possible, provided that the courts and public prosecutors' offices have the necessary technical resources at their disposal. Just as in France or Italy, the pandemic has prompted the use of videoconferencing in the Spanish justice system. However, the chimera of remote and paperless justice in Spain still has obstacles to overcome before reaching the standards of e-justice seen in, for example, Estonia or Croatia.

## Technical Barriers

Adoption of technical measures has varied among legal practitioners in Spain. "The execution of this measure in practice by Spanish courts is uneven, in particular because of difficulties flowing from a lack of proper

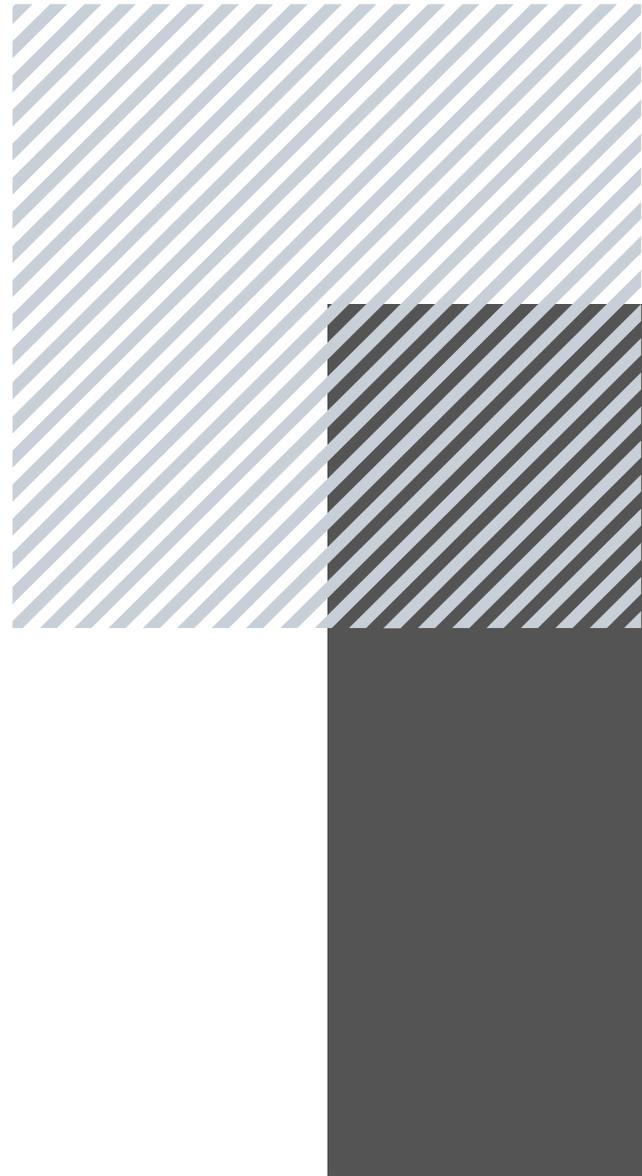
technical resources. It is normal for hearings and trials held online to encounter technical problems or difficulties, such as dropped connections, sound or image problems or other interruptions", Ramírez notes. By way of example, "in some court proceedings it is difficult to file digital evidence online if it exceeds a certain file size, since the system developed by the Spanish administration has a very low limit".

This opinion is shared by Delgado-Martín, who adds that these difficulties may "affect not only the possibility of carrying out the trial itself, but also the probability of a case succeeding before the courts. This can either be due to improper compliance with a procedure, or because online proceedings may negatively affect a party's ability to persuade the judge by communicating truthfulness, emotions and feelings".

In addition to these difficulties, there is a challenge in linking computer systems which have different and incompatible features. In Spain there are seventeen *Comunidades Autonomas* or regions. Twelve of these regions have devolved competency in matters of justice and make use of ten different management tools. This "babel of procedural management systems" can only be solved with the "magic formula for avoiding technical incompatibility: interoperability," according to Ricardo Oliva, partner at boutique firm *Algoritmo Legal*. For the moment at least, that interoperability has not been achieved.

In conclusion, it is clear that after COVID-19 nothing will ever be the same again. Judges, lawyers and civil servants are more committed to training in technology, and it seems likely that many trials will continue online. Undoubtedly, procedural legislation must adapt more quickly to the demands of technology, while university programmes are already betting on multiplying their e-justice programmes. We may not end up wearing masks, but we will increasingly be dressed in our robes behind a screen.

**Santos Gutiérrez Figueroa**



# Scaling Justice: Will regulatory sandboxes help close the justice gap?

By Max Houben



*Max Houben builds on his experience as a legal expert in the Netherlands and designs and develops LegalTech solutions. Special gratitude to Dr. Jin Ho Verdonschot for his support and advice for this article.*

When it comes to access to justice, the emerging consensus around the globe is that the legal system's traditional processes are not working. One commonly acknowledged barrier to the innovation needed is the strict set of rules regulating our legal services. Increasingly, there are debates about whether to create "regulatory sandboxes", i.e. creating innovation space by temporarily invalidating rules. This enables alternative legal services providers to prove their impact on access to justice. The Supreme Court of Utah was the first in the world to create such a regulatory sandbox for legal innovation. This article provides a brief analysis of the approach taken by the Supreme Court of Utah and suggests some lessons that can be learned by countries in Europe (like Germany) that are considering establishing their own regulatory sandboxes.

## Lessons and perspectives from Utah

In an attempt to significantly narrow the access to justice gap, the Supreme Court of Utah established a Work Group on Regulatory Reform (2018) and a Task Force (2019). These ultimately led to the [proposal](#) of the world's first legal regulatory sandbox.

Regulatory sandboxes are in essence a policy structure that establishes a controlled environment. In this controlled environment, access to justice innovators can, together with regulators, develop, test and monitor new legal products and services.

The regulatory sandbox in Utah consists of 5 phases:

1. In the **initial phase** the regulator defines the essential rules and objectives of the sandbox. Also, the regulator will stress which rules will be relaxed and who can apply for the regulatory sandbox.
2. After that, the **application phase** begins, where innovators can pitch their ideas and show how they might benefit the public.
3. When a selection has been made, the regulator invites the participants to **enter the sandbox** where agreements will be made on data-sharing, auditing and evaluation. If the innovators agree with the criteria they will receive an enforcement waiver from the regulator.
4. Next is the **testing phase**, where innovators can present their offerings to the public. This happens under the scrutiny of the regulator and the innovators must disclose to users/justice seekers that the offering is part of a test.
5. Lastly, during the **continuation phase** innovators are able to continue to offer their services to the public once the sandbox period of c. 2 years is over. The regulator might also use the data from the completed experiments to relax relevant regulations for the entire market.

It might be too early to draw conclusions and learnings from the developments in Utah as the first innovators, including legal tech pioneer RocketLawyer, are (at the time of writing) still in the early stages of the process. However, one can see an upward trend in the integration of access to justice innovation in the legal landscape.

### Do we need regulatory sandboxes in Europe?

In the early stages of access to justice innovation we saw innovators — both in North America and in Europe — trying to disrupt the legal market on their own. Examples such as LegalDutch (The Netherlands), WenigerMiete (Germany), Demander Justice (France), LegalZoom (USA) and Jeremy Maddock (Canada) illustrate that those access-to-justice-innovators faced an uphill battle regarding their *ius standi* and were often sued for unauthorized practice of the law.

It is true that most of their innovative business models existed somewhere in the grey areas of the applicable legal service regulations. These hurdles can be removed by lowering the threshold to enter the legal market by means of a regulatory sandbox.

Also in Europe, one can see that sandbox-inspired ideas and methodologies are starting to get a foot on the ground, for example:

- the UK launched a Lawtech Sandbox in 2020 after having introduced an 'Innovation Space' under the SRA in 2018
- The Ministry of The Netherlands has earmarked a subsidy of €10 million to support innovative initiatives in the area of legal aid as the current system is under pressure
- Legal scholars in Germany have welcomed the idea of introducing "real laboratories" for justice innovation.

### What next?

All this represents a positive trend in access-to-justice-innovation. Whereas authorities used to be resistant to innovators entering the legal market on their own, now a first step is made to engage in a dialogue via regulatory sandboxes. Even though it is too early at this stage to conclude whether regulatory sandboxes have their intended effect of safely delivering innovation to users, it is certainly an approach worth monitoring.

One aspect that deserves further exploration is that the vast majority of all legal cases are currently brought, defended or funded by legal expense insurance policies, debt collectors and legal clinics. In future, these parties will also be engaged as stakeholders in innovation projects. Furthermore, as start-ups in general need both investment and customers to test their ideas, perhaps innovators could use the branding and the clientele of traditional legal players to launch innovation pilot projects. In this case, could we see the rise of a new species of Corporate Sandboxes?

### Max Houben

# Legal tech solutions must capture logic



By Insa Janßen, LL.M. (UCLA) and Martin Bregulla

## Why traditional legal tech solutions aren't enough

The barriers to adoption of legal tech are manifold. Most of us will have heard about risk-averse legal professionals, data privacy and IT security concerns, or the alleged inefficiency of law firms' billable hour business model. But one of the most significant challenges for legal tech providers is building software that works for lawyers, either by completely automating particularly arduous processes or by augmenting lawyers' expertise to enable a new paradigm of efficiency and service quality.

The aim of any innovation project in legal teams is — amongst other things — to increase efficiency while maintaining quality standards. Innovation means rethinking things from the ground up, not simply reproducing the exact same output as before in a different way. Attempts at automating legal work thus far do not correspond with how lawyers think. Most solutions aim either to digitise existing legal processes or to more efficiently arrive at the same results as manual legal work (i.e. text documents). However, in order to meet the actual requirements of the way lawyers work, legal tech products must incorporate legal thought logic.

## Legal logic as the basis for digitising legal work

Law is rule-based and these rules can be represented by code. In order to fully leverage the opportunities presented by digitisation, lawyers need technology that

enables them to translate legal thinking into logic and code. Such technology should form the foundation of any approach to digitising legal work. A tool that cannot cope with the logical complexity of legal contexts will inevitably be inaccurate and ineffective when applied to complicated tasks.

Lawyers are already familiar with one widely adopted tool to map and convey legal logical structures: language. Language comes with its own set of limitations. An example is the word "or". This single conjunction can denote three different logical links. As a tool, language offers lawyers the functionality to specify the exact logical links meant in a particular instance. Consider the three possible meanings of the following sentence:

### ***"You can read this book or that book."***

1. "Or" in the sense of mutual exclusivity (contravalance or exclusive disjunction) - i.e. "You can either read this book or that book."
2. "Or" in the sense of non-exclusivity (inclusive disjunction) - i.e. "You can read this book or that book or both"
3. "Or" in the sense of exclusion - i.e. "You can read this book or that book or neither, but not both."

The formulation of legal documents like contracts uses language to represent precise logical links. Therefore, software that automates the creation of legal documents must be able to represent all of those logical connections at least as precisely as language

can. Therefore it is clear that a decision tree, which uses the linkage "or" without the possibility to differentiate between the 3 logical meanings, is insufficient.

The example above refers to propositional logic structures: the logical relationship between statements. In addition, the following logical operators are relevant for legal thinking and all have implications for legal tech requirements:

- Class Logic - which describes the logical relationship between classes, i.e. groups, or "Bubbles" of elements.
- Combinatorial Logic - Combinatorial structures represent possible variants of the interaction of different parameters. (Actually, this is why we need technology in law!)
- Quantor (Quantifier) Logic - The logic that deals with quantified statements is called predicate logic or quantifier logic. Example: Some lawyers are smart.
- (Alethic) Modal Logic - It's the logic of possibilities! In the sense that it allows us to differentiate between: necessary - possible - impossible - unnecessary - contingent - determined - and the logical connection between these terms.
- Deontological Logic - It's the logic of obligation! (And kind of obvious, why it's needed in legal thinking and technology)
- Relational Logic - This logic deals with how two or more parameters relate to each other. Example (for an asymmetric relationship): The price paid for a Software (B) is reduced when uptime (A) is reduced. Uptime is not reduced / dependent upon prices paid.
- Action Logic (This is interesting for anyone that gets excited by the idea of Smart Contracts!)
- Syllogistic Logic - A syllogism is a three-part logical argument, based on deductive reasoning, in which two premises are combined to arrive at a conclusion.
- Fuzzylogical Structures - just a teaser - but this blows open how we can address indeterminate legal terms.

This is not an essay on legal logic. We are publishing a White Paper that will go into all details of technical and legal work related consequences of the abovementioned logical structures, so if this sparked your interest, you will be able to dive deeper. This essay is intended as a jumping off point for your creativity and a journey into the complexity needed for the true digital transformation of law.

At the same time it is also a challenge to lawyers. The way we work on a daily basis often diverges substantially from solid logical thinking. For example, legal logic is often not (at least explicitly) part of the legal curriculum.

### Conclusion

The long-term truth that the legal profession is ill-prepared for digitisation, has become more obvious in recent years and even months. A real-world example of a defunct workaround is the Microsoft Word template, which includes the outcome of logical thinking but not the underlying logic itself. This is akin to showing the result of a calculation but not the working. There is no "why" embedded in the end result. In the best case, the lawyer working with the template might have the "why" in his or her head. If not, the usefulness of the template is inherently limited. It cannot easily be maintained, updated, or extended in domain coverage. Documentation of the crucial legal logic behind the template is either missing or crammed into comments in MS Word templates where it becomes frozen knowledge, destined to die.

Logical structures can be a framework for approaching legal work, both generally and with respect to technology. The beauty of this approach is that once you unpack the logic, you realise that you may have implicitly worked with it all the time. And where you have not, you find room for improvement and growth.

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# Africa and Middle East

## Interview with Feras El Hajjar, CEO of App4Legal

### Part 3

by Stephenie Ong



*Feras El Hajjar – founder, CEO, chairman, speaker and innovator – is nothing short of impressive. An entrepreneur in his own right, Feras has more than 18 years of international experience under his belt in understanding information systems, successfully developing and managing CRMs and ERPs before starting his own companies. He is now the proud founder of two highly successful disruptors: Infosysta and App4Legal. I had the delight of speaking with him about his start in the industry, and importantly, how App4Legal began.*

*In our previous issue, we discussed the many lessons Feras has learnt and his plans for App4Legal. In the final part of our interview, Marc makes a cameo to discuss the trends we are seeing in the wider legal industry as a result of technology and the pandemic.*

**It does sound as if focus and resilience are two very key values you place in ensuring that there is success in your ventures and your startups. For students, or individuals, who are hoping to either get into legal tech, or, such as yourself become founders of startups, and go into their own ventures, how do you think these values would translate into them practising these values?**

With Infosysta, we contributed to the education of the younger generation from graduates to students. Sometimes we did 75% discounts for educational institutions or even waived our services. And the reason for that is now, if I talk more about the students themselves, I think we have, I think, there's a huge opportunity of collaboration with students. Such collaboration could be, in fact, a weapon in designing next generation solutions. So this is what I would encourage – taking up these opportunities.

Because at the end of the day, when you talk about technology, you talk about the new generation of people like law firms where the junior lawyer is more practice management-oriented in tackling technology than the senior lawyer. So, the potential synergy is big.

Currently, we are also evaluating how App4Legal can add value to universities in training undergraduate law students to help refine their CVs and we're working with a couple of education institutions in training and certifying young lawyers in legaltech. This way they will have the technological experience in systems relating to contract management, case management, time billing, etc. so they will come to a law firm or the legal

team already familiar with the technology, and they get also certification, it will boost a little bit, their, their knowledge and profile. Look at the young the lawyers, they do always Microsoft certification to be certified on Excel or certified on Microsoft and they put it on the, on the resume, right. So, we also need to start seeing law students putting on their CVs experience or certification, where possible, in legaltech software.

Technology is everywhere; it does not just have to be system-based. I mean, contracts are becoming e-contracts, signatures are becoming digital signatures, the authentication is becoming digital. One could even envision cyber security in there; the ultimate future lawyers will not be the legacy lawyers that we have known over the last few decades.

**Marc: I think we're seeing more alternative business structures and potentially even a move away from more traditional partnerships. Do you think that these structures are changing globally? Is there a momentum happening across the board?**

**Jeremy:** We're definitely seeing it. In fact, I just had a call with a law firm who are based in the UK and have been around for about 10 years now. Until maybe a year or two ago, they only had around six or seven people. Now they've got 50 and are looking to grow internationally to 40 new countries. I think that's ambitious, but that's their plan, to have consultants working from all over the world.

So what we're seeing as a result of Covid-19 is that people are being dispersed. Some are worried about their jobs, some may have been looking at potentially doing this before but having seen others succeed at it (such as Keystone Law) are now saying now is the time to move into an alternative business structure. Or, they might be stuck somewhere where they don't want to be and are looking to move into this model.

But I think there's a huge drive to it. And it makes sense on many levels. From a law firm perspective, it makes sense because you're lowering your cost base significantly. As long as you can get good people in, the upside is great. And if you can convince people to work for nothing but give them a big percentage of the firm's profits, everyone's a winner. So this model is here for the future, I'm sure, because it's very profitable. And a huge practice is not required for this model to work. If you're getting 70 or 80% of what you bill, even if you're £100,000 practice, you are given the autonomy of where you'd like to work from, the clients and people you'd like to work with and avoid office politics.

I also think big law firms are realising that what was a tiny, little challenger is quickly becoming a mainstream challenger. And they now have to look at their pricing models. That said, I believe there will be a lot of major firms that can continue doing what they're doing because of their size and their client bases. But if you're a mid-range firm, you would have to look at your model. I think there are going to be hybrid models as well for the big firms. So you would have your traditional salaried model, and then a hybrid or New-Law-type model, and lawyers will get to choose which they want. If you're on a salaried basis, you're basically saying you're risk averse and you don't want to have the pressure – which is fine. But you'll get paid a percent, say 25-30% of what you bill. But if you're willing to take a risk, your firm will pay you 50 to 70% of what you bill, definitely less than in a firm like Keystone because they can't offer you what a traditional law firm could offer you, but you would still do much better than 20-30%. And I think there'll be a pushing for these firms to in order to stay together yet be competitive by adopting this model.

That leads into the technology side, because if they're working from home, if they're working as consultants, or if they're working internationally, and plugged in, they need the right technology. And that's the selling point for firms as well: if you can provide your lawyers with the right technology platforms, that's a competitive advantage and so there would be a massive drive to get the right technology as well.

**Marc: Feras, you're very entrepreneurial and experienced in this space. You have also worked with lawyers. Would you say that lawyers should be more entrepreneurial, or less risk averse, and more open to opportunities?**

**Feras:** I don't know if Jeremy can add to this, but, every single lawyer I have met after any meeting has always asked about what I was hoping to do with App4Legal such as whether I was looking for investment, growth and new market expansion, etc. So I would say I would say lawyers are entrepreneurial by default. Lawyers in law firms, especially partners, are presented with a lot of opportunities on a regular basis. And they do participate in a lot of things.

**Jeremy:** I think lawyers do get a bad name for not being entrepreneurial. But I think it's not that they don't want to be, I think a lot of lawyers do. I think they just don't know how to apply their skillset to being entrepreneurial.

That was a problem for me; I was a lawyer, then I realised I hated being a lawyer. I wanted to do something else but didn't know what else I could do. And quite honestly, it was very difficult to apply a legal skillset as I feel it doesn't equip you with very many technical skills. I went off to Singapore selling gold technology for about six months, something I didn't know anything about, just to try something new before falling into recruitment! So I think a lot of lawyers stay in the profession, not because they don't want to be entrepreneurs, but because they don't really know what to do. They don't really have the technical skills to do it and are naturally rather risk averse.

But going forwards, with lawyers becoming more technically savvy and advanced, there will be lots of other avenues for them to go into. I'm seeing lawyers with dual skillsets so those that are technologically savvy and build up these skills, I think, will be highly valued. In contrast, you will have more pure lawyers who will be valued for that, though I reckon they will find it more difficult to go into other areas.

**Feras:** Unless they mix this legal technical knowledge with some project management skills. Entrepreneurship requires project management. You could meet with an excellent lawyer but you would find he is often working alone. Entrepreneurship means teamwork, it really does. The opportunity for growth would not be there if you don't have the right team and the right key hires. I think lawyers are solo players by design. I have seen, in a legal team of fifteen, maybe twenty lawyers, each lawyer handling their own caseload from A to Z without collaboration on the same contract. It seems almost a nightmare prospect if another lawyer is assigned to the same contract. Entrepreneurship calls for you to distribute and delegate tasks to drive both vertical and horizontal growth. Perhaps legal education has a part to play in this and changing it would pave the way for more entrepreneurial lawyers as well.

**App4Legal** is a startup in hypergrowth, positioned to be the legal disrupter of the decade in the Middle East and Africa with clients in over 67 countries, including enterprise banks. They have recently closed first round investments from two known institutions and were recently one of nine companies to secure pre-series A investment by Betatron Venture Group from over 2500 applicants.

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# A Blessing in Disguise: The Rise of Legal Tech in Ghana

By Michel Asomadu Nkansah

*"...in looking 25 years ahead of now, I argue that it would be absurd to expect lawyers and courts to carry on operating as they do now"*

- Richard Susskind in *Tomorrow's Lawyers*

Across the globe the legal profession is widely labelled as conservative. However, this narrative is gradually changing. In the last decade, many jurisdictions have adopted innovative ways to enhance the practice of law and Ghana is no exception. Although the evolution has been slow, the Covid-19 pandemic has accelerated the use of legal technology in both the public and private sector. A key example is how the Judicial Service of Ghana boosted technological capacity to meet the demands of the 21st Century law practice, as well as combat challenges introduced into the legal space by the pandemic.

This article centres on the significant role some existing legal tech products and services in Ghana are playing during this pandemic.

In Ghana, there are several products and services within the legal tech industry assisting legal practitioners, judges, and law students. However, some of these products have gone beyond their primary market to assist the ordinary Ghanaian get access to justice. In this article, the writer will restrict the discussion to the key products and services on the market that have contributed massively to the legal space during this pandemic.

The E-Justice system which is a paperless court system introduced by the Judicial Service of Ghana stands in the lead as a key service which has enhanced the practice of law in Ghana in the last few months. The aim of the platform is to automate all the manual filling

processes with the Court's registry. This seamless process allows court users to file all their court processes from the comfort of their homes or offices. To many lawyers, this system has resolved the challenges they faced with the courts with regards to duplication of suit numbers and case backlogs. The system also allows judges to easily access e-dockets for references.

During the first lockdown in March 2020, DennisLaw, a legal search engine in Ghana, became the most sought-after product within the legal fraternity. The search engine has a user-friendly interface and is a repository for all cases of the Superior Courts of Ghana and adjudicatory bodies from 1959 to date. The legal material portal has also been designed to provide users access to all laws of Ghana i.e. Gold Coast laws, Constitutions, Statutes, Legislative Instruments and Executive Instruments. At a time where lawyers had no choice than to work from home, a good majority became reliant on the portal due to the quantum of legal materials readily available, as well as flexibility in accessing the portal. All one needed was a computer or mobile device.

Access to justice is an essential ingredient of the rule of law. It is a fundamental human right protected under Chapter Five of the Constitution of the Republic of Ghana, 1992. In 2020, Justice Locator, a mobile application developed to assist Ghanaians access justice saw the light of the day. For many Ghanaians it was great relief to find directions to all the courts within the 16 regions of Ghana on one mobile application. For legal practitioners, the extra feature on the app which enabled them access to weekly cause lists of the courts and management of their court diaries came as an indispensable bonus.

Another outstanding legal product is the Ghana Law Hub. The hub is worth mentioning because of its timely updates on legal matters. This has earned it a reputation as the number one stop to access all legal articles and opinions in Ghana. Over the years, the portal has provided a platform for lawyers to publish legal opinions on trending issues in the country. These publications have served as a good reference point for many on legal issues.

The use of technology within the legal fraternity is gradually taking shape. In recent times, the apex court of Ghana, the Supreme Court, permitted a witness in an on-going election petition case (John Mahama vs.

Electoral Commission of Ghana and Nana Akuffo Addo) to be cross-examined virtually. It clearly showed a sign of what the future courtroom could look like in Ghana.

Across the globe, many law firms are acquiring software which assists them in managing their business and providing better service to their clients. Even though it is important to acquire this software, firms must consider their mode of operations before purchasing one, especially in Ghana. Law firms in Ghana mostly use customized office management software that is developed to suit their way of work.

In conclusion, the Covid-19 pandemic has become a blessing in disguise to the legal tech industry in Ghana. It has helped legal practitioners save more time in conducting their research and has also birthed a modern way to access justice in Ghana.

**Michel Asomadu Nkansah** is a legal technologist. Michel collaborates with software engineers and legal practitioners to provide legal technology solutions in Ghana. Michel is currently a Master of Laws Candidate at the University of Lincoln in the United Kingdom.



# North America

## Agile AI and Legal Tech

By Dr. Lance Eliot

Agile AI is one of the latest trends in the field of Artificial Intelligence (AI).

Your first thought might be that Agile AI most certainly refers to an AI system that is nimble, able to think on its feet, and can react quickly—like a sprightly ninja! Though you could decide to call any AI that is flexible and responsive to be presumably “agile” in its capacities, please be aware that’s not what the standard definition of Agile AI means.

Perhaps, with some mild surprise, you’ll be intrigued to know that Agile AI refers to the process of crafting AI systems and doing so via the use of what are known as agile software development methods. The agile approach attempts to speed-up the process of developing software and simultaneously proffers the desired hope that the speed also comes with greater alignment to the needs of those that will utilize the resulting software system.

### Pre-Agile: The Waterfall Model

Some of you might have heard of the much-maligned waterfall model for developing software, the precursor to the agile movement.

The waterfall model is classically portrayed as methodologically doing each of the major steps of a system development project on a one-at-a-time basis. This usually consists of first collecting all the requirements for what the system is supposed to ultimately accomplish. Next, a detailed specification is

created. Then, with the spec firmly in-hand, the software coding can get underway. The software is then tested and eventually, if all seems satisfactory, the system can be released into production and made available to the system users.

A criticism of this step-by-step approach is that it tremendously stretches-out the timeline and thus delays getting the software into the eager arms of the users. For large-scale systems, the requirements alone could take months and months to nail down. By the time the spec is written and approved, and the software is coded and tested, the final system could be so dated in its original needs that the resulting system is no longer relevant or misses the boat of what is currently required.

You snooze, you lose.

Well, not quite, since there was not truly any snoozing going on and instead there was a lot of behind-the-scenes machinations taking place.

Of course, those awaiting the benefits of having the software do not especially care about how the kitchen is preparing the meal. End users want results and are usually clamoring for tangible software at their fingertips. Telling them that the stew is carefully being put together provides little solace amid their growling and hungry stomachs awaiting the software to be readied for use.

### The Agile Revelation: Faster, Fluid Software Development

It was this desire to prepare software at a faster pace that led to the agile revelation.

In 2001, a group of well-known software specialists promulgated what has become known as the Agile Manifesto. In it, they argued the need for a better, faster, and more fluid way of getting software systems up and running. Agile best-practice meant doing a series of short time-boxed iterations to put the software into the hands of users relatively soon, albeit not yet having all the features that would eventually be included.

These quickened mini-projects are often referred to as sprints.

In the agile rubric, a “scrum master” is responsible for pushing the software or system development effort forward. You might be familiar with the word “scrum” as used in rugby, whereby the players are jampacked together and push mightily to try and move forward with the ball. The agile approach conceives of the all-told development effort as a scrum where the developers are aligned to cohesively push ahead on getting the system going.

### **Taking A Closer Look At The Pro And Con**

In sum, the waterfall model is said to be like a slowly cascading flow that goes from a seemingly laborious start to an eventual and somewhat delayed finish, while the agile framework advocates for doing things in shortened and segmented series of pieces that gradually make the entire whole. However, this somewhat skimpily depicts things, so please be forewarned it is a rather sweeping over-generalized way to compare the two approaches. I mention this because such a depiction, which is commonly presented, insidiously makes the waterfall model appear as foolhardy and inept, unfairly so.

The reality is that the waterfall approach can have advantages over the agile. For example, identifying a complete set of requirements at the frontend of the development process outlines what the final system is likely to contain and provides for negotiated prioritization about the development process. Oftentimes, in the agile methodology, requirements are uncovered during the actual development process, which can erratically cause a midstream realization that the effort to-date might need to be radically revised or otherwise altered and ought to have been shaped differently at the get-go.

In essence, there are good and bad ways to conduct either approach.

If the waterfall approach is poorly performed, it looks intrinsically bad. Indeed, the waterfall model has been stigmatized and given a bad rap for being frequently mismanaged and often the mainstay of development projects. However, the agile method can also falter along the same veins—though this is rarely spoken of.

## Agile AI in Legal Tech

Agile AI has worked for creating AI systems in other domains, such as the medical field, engineering, agriculture, and so on, and has great potential for creating AI-related LegalTech systems [4]. In fact, it turns out that many of the AI efforts related to LegalTech have used Agile AI, whether they realized it or not (e.g. by happenstance versus by formal and rigorous intent). This is because there have been very few large-scale monolithic LegalTech systems built to date; instead, most have been incrementally constructed over time, consisting of relatively small and quick-to-construct AI add-ons or supplemental features.

To some degree, you could say this bite-at-a-time prevalence comports with the agile framework, even if it does not ideally align.

AI-infused LegalTech systems have primarily been constructed by researchers and in various exploratory AI labs and startups, doing so as initial prototypes, pilot systems, or sometimes as an MVP (Minimally Viable Product). Those preliminary efforts are then later expanded, incrementally, versus trying to do the entire lifecycle from start to finish all as one larger effort.

## Agile AI Legal Tech Going Forward

For researchers and developers who don't already know about Agile AI, learning more formally about it and adopting at least the golden nuggets of the approach would be beneficial. Certainly, for any of the newest and large-scale ambitious efforts to craft sizable and fully embellished AI-based Legal Tech, serious focus is needed when considering whether to use the classic waterfall style or shift toward the modernized agile mode.

Naturally, the AI won't care either way, but the lawyers, jurists, and other legal professionals breathlessly awaiting Legal Tech systems will care; so make sure that the cookery and the kitchen are appropriately armed with the best-in-class approaches and tools—aiming at getting robust AI LegalTech into the grueling practice of law sooner—subject to working properly and appropriately, and able to serve the breathlessly waiting needs of justice.

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# Lawyers should follow Elon Musk's advice and switch to Signal

By Liran Kandin

By now, most of you have heard about WhatsApp's new terms and conditions that were to take effect in February of 2021. Following a backlash from users worldwide, including the world's richest person, Elon Musk, WhatsApp delayed the enforcement of their new policy by three months. The policy requires users to agree to sharing certain information with WhatsApp's parent company, Facebook. If users do not accept the new terms, WhatsApp would simply stop functioning.

## What is so wrong with the new terms? Aren't your conversations still encrypted?

Your conversations still have end-to-end encryption and neither Facebook nor WhatsApp would be able to access the contents of your conversations. However, by agreeing to the new policy, you agree to share information like phone numbers from your contact list with Facebook, though European and UK users are not affected by these changes as they are protected by EU privacy laws.

In Canada and the US, lawyers have ethical and professional obligations to keep client information confidential. Rule 3.3-1 of the Federation of Law Societies of Canada's Model Code of Professional Conduct states:

*A lawyer at all times must hold in strict confidence all information concerning the business and affairs of a client acquired in the course of the professional relationship and must not divulge any such information unless:*

- (a) expressly or impliedly authorized by the client;
- (b) required by law or a court to do so;
- (c) required to deliver the information to the Law Society; or
- (d) otherwise permitted by this rule.

Further, Rule 3.1-2 provides "A lawyer must perform all legal services undertaken on a client's behalf to the standard of a competent lawyer". Commentary 4(A) goes on to explain "To maintain the required level of competence, a lawyer should develop an understanding of, and ability to use, technology relevant to the nature and area of the lawyer's practice and responsibilities. A lawyer should understand the benefits and risks associated with relevant technology, recognizing the lawyer's duty to protect confidential information set out in section 3.3."

Similarly, Rule 1.6 of the American Bar Association's Model Rules of Professional Conduct states "(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent..." Section (c) of that rule goes on to state "A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client."

To be competent, Lawyers relying on communication technology such as WhatsApp, must understand how these technologies work and what risks are associated with using them lest they inadvertently disclose or give access to information relating to the representation of a client.

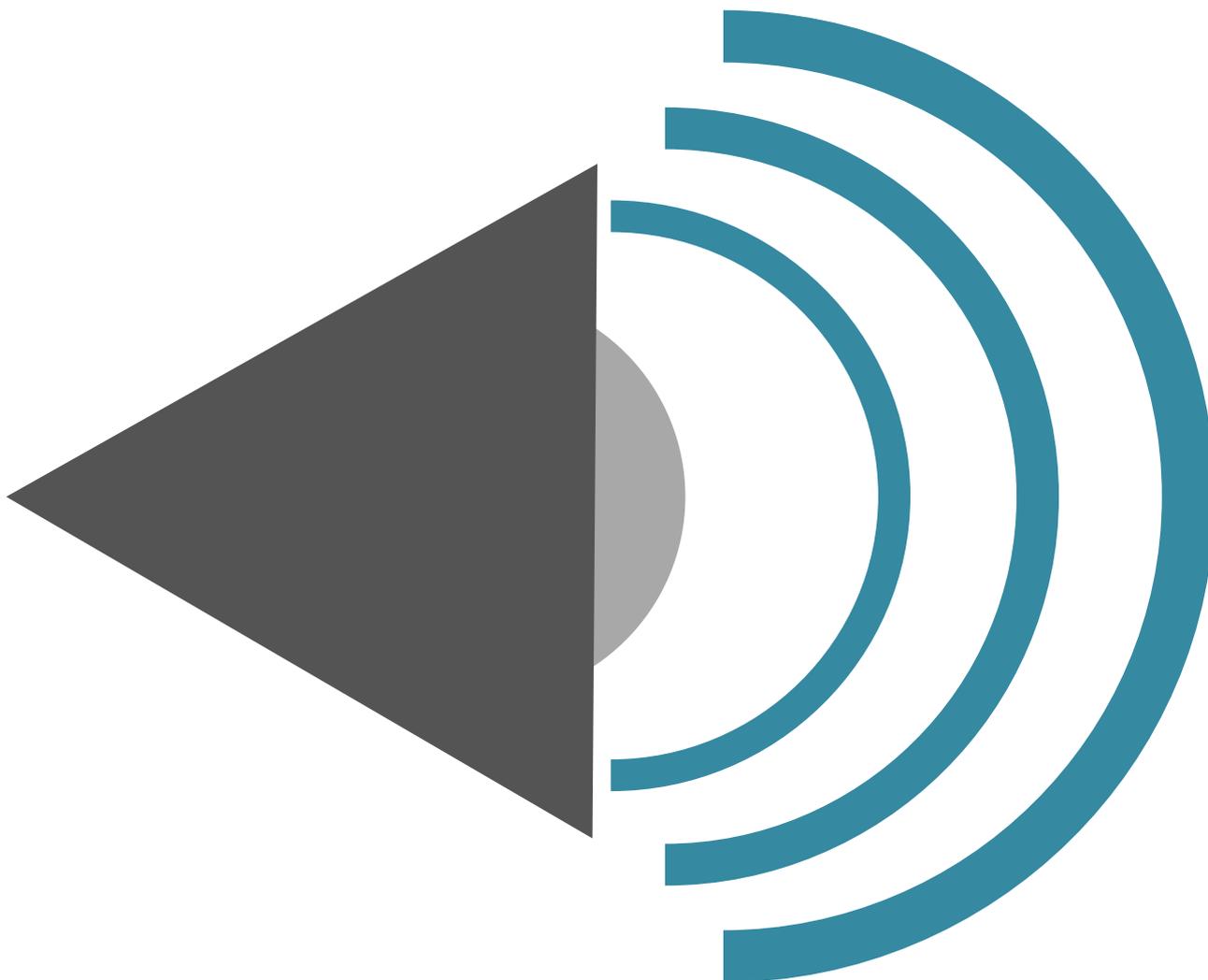
## Is it appropriate for a lawyer to share a list of phone numbers from their contacts that may include client phone numbers?

I would argue that a client's phone number does fall within the ambit of "all information concerning the business and affairs of a client". In 2018, The American Bar Association released [Formal Opinion 480](#) which provides that even a client's identity is protected by Rule 1.6(a). If we consider the [Panama Papers](#) fiasco, the revelation of Mossack Fonseca's client list damaged the reputation of many of their clients. Within just a few years of the massive data leak, the firm closed its practice and many of its clients, who were wealthy businesspersons and politicians, [resigned](#) from their posts or offices held.

If indeed lawyers have a duty to protect the identity and contact information of their clients, they should consider whether their continued use of WhatsApp would breach their duty to protect client data. Lawyers need to exercise "reasonable efforts to prevent the inadvertent or unauthorized disclosure" requirements.

Since the start of the pandemic, law firms are relying heavily on software-as-a-service, including cloud storage and communication apps to communicate regularly with colleagues and clients. On the one hand, the pandemic has forced many to rethink their business models and modernize their processes to provide more efficient and cost-effective services to clients. On the other hand, it has opened law firms up to more risks and potential for breaching the exacting professional and ethical standards demanded of the profession. Lawyer must be vigilant and understand the risks associated with introducing new technologies. It is ultimately a lawyer's responsibility to maintain the confidences of their clients.

**Liran Kandin** is a dual licensed attorney in New York and Ontario. He is the founder and CEO of Lex PD, a legal education company that provides continuing education to lawyers and law students internationally. Liran is a former IBM and Salesforce employee and is a tech enthusiast.



# Asia and Pacific

## At the forefront of legal innovation in Japan:

### An interview with Nozomu Tsunoda

By Stefanie Santana



*Former attorney of the prominent Mori, Hamada & Matsumoto firm, earner of the highest score of the Japanese bar exam and a graduate from the prestigious Kyoto University, Nozomu founded and is the CEO of LegalForce, Japan's fastest-growing legaltech startup.*

*LegalForce combines the power of AI with the knowledge of legal professionals to develop the award-winning LegalForce, a contract review software; and Marshall, a contract management system. LegalForce also contributes to the academic field through joint research with Kyoto University.*

*In this candid interview, Nozomu shares important lessons about his journey as a pioneer of legal innovation.*

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**Stefanie Santana: You had a successful career as a lawyer in one of the most important firms in Japan. What motivated you to leave your position and start LegalForce?**

Nozomu Tsunoda: My goal was to find ways to use technology to support legal services.

In my time at Mori Hamada & Matsumoto, I realized that reviewing and drafting contracts was an extremely important task, with no leeway for errors. Yet, this task is performed manually, resulting in delays and high anxiety among legal professionals that fear to overlook risks. Our goal at LegalForce is to relieve the heavy burden and anxiety of contract review by using technology to help improve the

efficiency and quality of legal work.

**SS: When you started LegalForce, legaltech was virtually nonexistent in Japan. What obstacles did you face to successfully establish and run LegalForce?**

NT: It was a challenge. We knew we wanted to use technology to alleviate contract work, however, no other Japanese company offered contract review technology, so we had to proceed without the possibility to benchmark.

We first came up with the idea of a web editor for contracts. After 10 months of hard work, we released our editor with 3 different features that

emulated some features of Slack and Microsoft Word, believing it would add value to lawyers. Unfortunately, we were wrong. In trying to increase our product capability, we ended up with a tool that seemed like a poor version of features already on the market. What a disappointment that was! Especially for our team of engineers that worked tirelessly for the release. It was one of the darkest times of LegalForce, however, this experience taught us an invaluable lesson: focus on solving a single problem at a time.

With this new knowledge, we abandoned the entire codebase and focused on building an automated contract review system from scratch. The idea came from my own experience reviewing lengthy contracts manually. In the early days of LegalForce, we were naturally not making any money - in fact, we lost 30 million JPY (about 300 000 USD) during the first year. To support my family, I worked part-time as a contract specialist in a corporation. Members used to pile up documents on my desk to the point that the volume of the documents resembled that of an Encyclopedia Britannica. Needless to say, reviewing such a high volume of documents was a repetitive and time-consuming task. At that point, I had an epiphany. Given the repetitive nature of manual contract review, LegalForce could build technology to streamline this task, saving time and stress for legal professionals.

To our great fortune, an experienced developer specialized in natural language processing joined our team. He was able to quickly build the first workable prototype of a document review system. Within 3 months, we created the  $\beta$  version of our current product. We received useful feedback from our customers and we were able to improve and develop our product at high speed.

We also had a great marketing boost from an article published by a popular newspaper about our joint research with Kyoto University called: "LegalForce, automatic detection of contract errors with AI". This gave considerable visibility to LegalForce as a pioneer of legaltech in Japan and created great interest in our product.

Being the first tech company offering contract review in Japan came with its great deal of challenges, however, it also played to our advantage, as we were able to position ourselves as the leading contract tech company in Japan.

### **SS: Your company's growth is exponential. You went from a couple of dozen employees in 2019 to over 130 employees in 2020. How is LegalForce managing this impressive growth?**

NT: Most startups face serious setbacks in their quest for expansion. I think this comes from mindlessness and lack of focus.

The short answer to this question is that we have never lost our focus, which is fully on our customers: "What do they want? "What exactly do they need to do?", "How can we satisfy their needs?". This is different from just caring about "What do they say?". Customers sometimes don't know what they really need. In this sense, I think product development in a legaltech start-up is quite similar to an attorney's work. We need to keep an independent perspective to offer innovative solutions while being 100% on our customer side.

Our customer-focused approach has also allowed us to build a solid sales team. Although the focus within the walls of LegalForce is caring much more about excellence in performance rather than formalities like wearing formal attire, it is a different story when it comes to our sales reps. We've realized that the conservative nature of lawyers makes them reluctant to use a product if it is being offered by a techie in jeans and a t-shirt. This may sound superficial, but having well-presented, well-spoken sales reps has a significant impact on how legal professionals perceive our product. These are things we've learned by paying attention to our customers.

As for the growth of our employees, I think we were able to attract talented people and grow the product development and sales organization in a well-balanced way thanks to our customer-centred focus.

### **SS: As a legaltech pioneer, you were in the front row of legaltech development in Japan. How has the market changed since you started LegalForce?**

As of January 2021, more than 700 customers use our products. The terms "Legaltech" and "LegalForce" are now familiar among lawyers and other legal professionals in Japan. Over the years, the customer's understanding of the capabilities of AI and legaltech has improved.

LegalForce started its operations in the midst of a legaltech hype in 2017. Every high ranked lawyer in Tokyo talked about deep learning and the threat of lawyers

being replaced by machines. Then this boom soon crashed as major law firms invested in several AI startups only to be disappointed by the development of useless products.

Our focus and hard work allowed us to impress our customers, one by one, with a product that made sense and reached their needs. Sounds simple, but it took us almost 3 years of non-stop work to get such results.

### **SS: What does the future hold for LegalForce?**

NT: Our mission is to "Manage all contract risks anytime, anywhere." Our current products only partially fulfil this mission. It is in our plans to keep developing new products. Our investment in AI solutions gives LegalForce products a unique value proposition compared to other players. We plan to continue in this direction, by investing in cutting edge language processing technology. Eventually, we plan to expand our operations overseas.

#### **Stefanie Santana**

Practice Development Lead  
LegalForce



# Sebastian Ko

## Seeking better policies for Asian legaltech systems

*In this month's Asia and Pacific column, Sebastian speaks with Roslyn Lai, our Asia Pacific Editor, about his personal journey into legaltech, what he enjoys about his role and key pieces of advice to advance into a career in legaltech.*

*Sebastian is a dual-qualified lawyer (Hong Kong and the U.S.) who currently leads FiscalNote's Asia-Pacific business. FiscalNote is a World Economic Forum Technology Pioneer for "Government Relations 2.0," applying analytics to track and manage fast-developing regulations and public policies. He has been co-teaching a legal innovation & ethics course at the Faculty of Law, University of Hong Kong. Sebastian was the founding chairman of the InnoTech Law Hub at the Law Society of Hong Kong. He was Asia regional director and senior legal counsel at Epiq, a leading legal solutions provider. Previously, he focused on data protection, fintech and technology commercialization in private practice. He is also a co-author of *The RegTech Book* and *The LegalTech Book* (Wiley).*

### **What do you enjoy about your role?**

The law is society's operating system, and legaltech could provide significant upgrades to access to justice and good governance. The legal profession and indeed the legal system have been slow to undergo a digital transformation –justifiable in some policy areas, while less so in others. Over the past decade, I have engaged in a range of professional, academic, and public sector initiatives to help realize this change –one small step at a time.

I've always been interested to find innovative ways of applying technology to law and regulation. I have legal experiences in international law firms and in-house legal teams and tech business experiences in start-ups and established vendors. I have taught courses and led community initiatives relating to law, innovation, and technology.

In these roles, I have spoken with many lawyers and law students and found that generally speaking, they did not understand the technology and feared its risks. They saw technology as something that IT departments would handle –no different from ensuring that the photocopiers, phones, and emails work properly. I was convinced that this mindset had to change in the emerging era where AI technologies needed an integrative understanding of law and technology.

I find these experiences rewarding. Nowadays, I do see huge growth globally in legaltech talents, and smart contracts, computational law, and other once-esoteric topics are becoming part of mainstream narratives.

### **How did you get to where you are now?**

I have a double degree in science and law, and I learnt to code as a hobby growing up. However, a legaltech career did not really exist when I graduated. So, I chose the traditional route of qualifying as a solicitor. Early in private practice, I was asked to manage several eDiscovery cases when it was pretty new in Asia. I found that I could provide unique insights to my team because of my training in data science and law.

Subsequently, I switched to work for an alternative legal service provider, where I led an eDiscovery review business and was the regional in-house lawyer. In that role, I faced challenges hiring people who possessed technical skills and were familiar with legal processes. I had to train talents from the ground up to communicate fluently with clients about matters

matters intermingling legal and technological concepts. For instance, my team had to find ways to deliver software-based solutions and transfer legal documents online while navigating multiple data protection frameworks.

Much more needs to be done to foster the legaltech ecosystem in Asia, and I sought inspiration worldwide. I paid my own way to attend the CodeX FutureLaw Conference at Stanford University. There, I met several friends who have started legaltech communities in the US and Europe. Upon their encouragement and advice, I started to explore ways to develop the legaltech ecosystem in Asia, cultivate community interest, and find fellow collaborators. In organizing two hackathons, joining eight professional groups –to work on funding, legal and policy reform, and general promotions of legal innovation– and conducting over 30 seminars, my passion for legaltech has grown more and more.

In 2020, I was fortunate to work with Dr Richard Wu at the University of Hong Kong to launch a course to introduce innovation, creativity, and ethics to law students. The elective examined the lawyer's role in innovation inclusively –not only in advancing technology, coding skills, and the business of law but also professional conduct and access to justice.

### **What advice would you give to anyone pursuing that career path?**

If you would like to develop a legaltech career, you may find typical roles relating to business development, product management and software development, and customer support and project management. These roles reflect those in technology companies, and they may require hard and soft skillsets very different from those developed in traditional legal training. Selling to lawyers requires high levels of thick skin, patience, and diligence. Hopefully, legaltech would someday grow as quickly as fintech and open up many professional opportunities for legal and technical talents. Regardless, legaltech career paths are becoming clearer and more established today.

If you would feel compelled to forge your own path – and early adopters are often inclined to take “high risks, high returns” routes– be prepared for rough terrain ahead. When I began my legaltech career, some of my closest friends thought I was a bit crazy. They did not understand what was legaltech. I also received unsolicited, cynical, and discouraging remarks from some senior lawyers at conferences and professional

events. Some of them even found my career choice puzzling, naïve, and unserious. They warned me against throwing away my promising career as a practitioner. But I trust my intuitions. I have strong convictions about legaltech needs and market growth.

You may, like me, have an interest in an emerging field, where careers do not seem to exist yet. I encourage you to learn to code and enrol in courses outside your field of training –in accredited or hobby classes, delivered online or offline. I also encourage you to join a few hackathons and workshops to get hands-on with the topical issues of the field and explore and exchange ideas in friendly communities. These endeavours should not only empower you to decide if developing a career in the field is a good idea but also enable you to find supportive contacts.

Young people entering the workforce at the dawn of the Fourth Industrial Revolution should prepare themselves for skills and not jobs –many jobs today will become obsolete tomorrow. If you are contemplating to switch out of a traditional legal career, you should think carefully about the above points. You may look at where your skills and interests intersect with areas of opportunity –to borrow from management author, Suzy Welch. Indeed, don't run away from your resentments, run towards your aspirations –and develop a realistic roadmap!

Seeing as technology is becoming increasingly pervasive, whether you pursue legal tech or walk a more traditional path, having an early exposure is key.

**Sebastian Ko was speaking with our Asia Pacific editor Roslyn Lai**



# Interviews

In this issue, Jeremy Small, CEO of Jameson Legal, interviews two legal personalities who have an interest in legal technology. The first interview is with Andrew Leatherland who is Founder of the digital law practice Arch.Law, and the second is with James Temple, COO of the law firm Seddons.

## Andrew Leatherland Founder of Arch.Law



**JS: In your career to date you have consistently pushed the boundaries of what a law firm can achieve and the areas of business it operates in. How will Arch Law take this approach to the next level?**

AL: I think the bigger you get, the more difficult it becomes to be agile. Toward the end of my tenure in “big law”, particularly in a listed law firm environment, I was acutely conscious of the restrictions rightly imposed from a risk profile on an organisation with external shareholders. Having a business that I own entirely still has its restrictions, again rightly so, but I have significantly more freedom now to build a law firm that can really deliver legal solutions differently. That means that it isn’t just about the lawyer and it also isn’t just about the technology – it’s using the two elements in unison to provide the right solution for the client.

**JS: You use the phrase “Doing law differently”. What does that mean?**

AL: I think that there are a lot of really good lawyers out there. I also think that there are a lot of good legal technologists. What we are looking to do at Arch.Law is blend the two elements together to ensure that the client gets a digital first law firm, providing the right legal solution by combining exceptional legal expertise with

with the right technology led solution.

**JS: Arch.Law is a “Digital law practice” and works closely with The Legal Director (TLD). How will Arch Law differ from other distributed law firms such as Keystone and LawBite that offer a tech focused platform for lawyers to work off?**

AL: Arch.Law is a distributed law firm which means that it is digital first, running on cloud based solutions with co-working hubs rather than dedicated office space. It is a law firm first and foremost though – a law firm that just happens to offer greater flexibility in its remuneration model to the lawyers and other professionals that work within it. We also don’t hold ourselves out as a tech provider – we partner with other organisations who are better at that than we are – where the difference arises is the application of that technology solution.

**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?**

AL: No - I think that large law firms will adapt but they are, by their very nature, like the proverbial oil tanker and it will take a long time for them to change. Legal tech has been with us for over a decade with varying degrees of adoption. If you look at what has happened over the last twelve months or so there has been adoption of teams and zoom with a bit more of an acceptance of the ease of digital client take on procedures. Has the legal profession really taken a quantum leap beyond that though? There is so much more that can be done and I think it is more likely to be the firms that can be more agile that will create the pathway on this.

**JS: I know you have spent a considerable amount of time reviewing/trialling current legal tech solutions. What solutions have you liked and what have you been less impressed by?**

AL: The things that I am always looking for are that the tech is built from the client's perspective – too many times legal tech is built as a solution for a problem that doesn't really exist or the solution isn't quite on the money. I am a big fan of clients working with tech in an advisory capacity to get it right. Frictionless is a bit of a buzz word but the whole ease of adoption is key – if it isn't straightforward and plug and play the adoption is going to be really low.

**JS: At Arch Law will you develop your own legal tech solutions?**

AL: Doubtful. We will adapt existing solutions, combining them with the right lawyer and in certain circumstances we might look to invest in exciting legal tech propositions but we are unlikely to build the legal tech ourselves – we are a law firm first and foremost.

**JS: Do lawyers have a problem with legal tech?**

AL: Not if it makes their life easier – the biggest battle is convincing them that it will benefit them using the legal tech ... and that their clients want it... after that everything else tends to fall into place.

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

AL: The Mystic Meg question – we already see a large movement to digital for the more mundane tasks which is great but where I would really like to see the move is in relation to capturing and using know-how. Law is a knowledge-based business but we seem to let partners store up decades of vital information and experience, relying upon them to pass it down at best through some form of structured training programme or mentoring – at worst, through osmosis! If law firms do become less centralised and more distributed I think this movement to capturing know-how has to accelerate hugely.

**Jeremy Small**

## James Temple, COO at Seddons



**Jeremy Small: You have worked across a number of different industries in your career so far. How do you feel the legal profession compares as against professional service sectors in terms of the take up of technology?**

James Temple: I think that historically the legal profession has been some way behind other professional service sectors in their take up of technology. However times are changing. I think it's fair to say that the legal sector has now taken note and is quickly catching up with, and in some cases overtaking, other sectors in their utilisation of technology. That is coupled with a widespread understanding that technology is at the heart of any law firm's service delivery. Even the older generation, some of whom have been slow to adopt, recognise that not only is IT an essential tool but that it also has the ability to create competitive advantage. There are solutions available today that have proven they are faster, less error prone and more efficient than the human alternative so it's hard to argue against their introduction. With a new generation of millennials now moving up the ranks of most law firms it's now become an expectation that firms offer a range of technology solutions to facilitate a fast, efficient and location independent service. Importantly, law firms have now also recognised that technology offers opportunities to drive down cost and investment in the right solutions, while expensive in the short term, can reap significant increases in profit for the future. That makes a difficult case to argue against.

**JS: I know you have spent a considerable amount of time reviewing and trialling current legal tech solutions. What solutions have you liked and what haven't you liked?**

JT: I like solutions that tackle real business needs and address problems or inefficiencies. There have been numerous examples of firms implementing solutions because a competitor down the road has done so. Most of these projects are doomed for failure. The best advice I can give is to make sure you understand your business. Where are the bottlenecks, frustrations and opportunities for change? Spend the time talking to people and understanding their roles. Once you build up a level of trust it's amazing what people will tell you and quickly you will uncover areas or processes that are crying out for change. Once you have spent the time to truly understand your firm's requirements, you can start to research the market and find the best solution. I can almost guarantee that what you discover will have been an issue for another firm and there will already be a solution in the marketplace that addresses your specific need. The legal sector is generally open in terms of exchanging ideas and sharing experiences and there are numerous groups and forums that you can join where somebody will have already solved a problem that you have only just discovered. Tap into that resource and you will find the best fit solutions for your firm.

### **JS: At your law firm (Seddon's) do you develop your own legal tech solutions or do you in-source all tech?**

JT: If you break down what a law firm does into its core components you will find that there are huge similarities across the sector. Yes there are variations from one firm to another but principally, most firms have a similar set of requirements in terms of technology against a key set of business processes. There are numerous software solution providers that have been in the market for many years honing and developing their solutions to meet these requirements. It's on that basis that I would be against developing our own solutions when there are companies out in the market whose products are tried, tested and proven to meet the needs of most firms. To develop a solution from scratch would take a huge amount of time, effort and money and there would be no guarantee that what you developed matched or bettered what's currently available in the market. Historically where we have tended to develop in house is in terms of integration and ensuring off the shelf solutions talk to one another effectively. Again this issue has evolved over the years and many legal software suppliers are getting better and better at ensuring their solutions provide integration points with other best of breed products available in the market. Additionally many of the legal software providers now offer a hosted solution which means you don't need to worry about building, maintaining and supporting the appropriate infrastructure to run your applications. That is a huge advantage.

### **JS: Do you employ legal engineers, legal project managers and the like?**

JT: If you work on the basis there is an existing technology solution out in the market to meet a business need, re-engineer a process or fix an issue you have identified, your focus changes to how best to implement that solution within your business. Whether you provide the resource in house or source directly from the software vendors, project managers and change consultants are key roles in ensuring a successful technology implementation. As we have already discussed, many vendors now offer cloud based, hosted solutions, so implementing applications has never been easier. Gone are the days of having to spend months building infrastructure ready for a new software implementation, followed by months of installing complicated applications that require huge amounts of configuration. The focus is very much on ensuring adoption across a firm's user base and

working with the business prior to implementation to ensure internal buy-in to any new technology solution.

### **JS: Are there legal tech solutions you would like to see developed to help the lawyers in your firm?**

JT: The global pandemic has created a once in a generation opportunity to change where, when and how we work. Overnight the entire industry moved to remote working. In many cases this was not a huge issue due to the work many law firms had completed around agile working prior to COVID. Law firms, in the main, were well prepared for the situation we all found ourselves in. Fee earners continued to be productive by utilising the same toolset from home as they would have from the office. However, a huge change has seen the widespread adoption of collaboration tools such as Microsoft Teams and Zoom across the sector. These applications have historically seen a slow take up but the pandemic instantly changed that.

While home working has proven effective, and has huge cost saving advantages for businesses, there are clearly some issues that have arisen from staff not being able to communicate, collaborate and interact face to face. We are all aware of the mental impact of our staff working from home, in isolation, for long periods of time and I think that presents an opportunity. Supervision, staff management, wellbeing, culture and a sense of belonging are all areas we recognise need to be addressed if we are to continue to adopt a truly agile working environment. That provides an opportunity for software vendors to exploit. I don't think the collaboration tools in the market today go far enough in addressing some of these issues and that is something I would like to see change.

### **JS: Do you think lawyers are afraid of technology and fear it may make their jobs obsolete?**

JT: There was a lot of hype around machine learning and artificial intelligence taking over the world and making lawyers redundant. Although we have seen great advances in technology over the last three to five years, and that there are opportunities for software to provide solutions to what have historically been labour intensive tasks, it's fair to say we won't see mass redundancies across the sector. There may be some trimming down in transactional areas that require a high level of human resource (document review, automation and e-discovery for example) but I can't see the sector moving to a world where lawyers are replaced by robots anytime soon.

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

JT: We've already started to see it happen but I think the majority of software vendors will move to a cloud based model negating the need for firms to stand up their own infrastructure. This means that the traditional makeup of a firm's IT department will change and focus much more on understanding business requirements and driving efficiencies rather than keeping the lights on running complex data centres and infrastructure in house. Technology will be faster to implement so IT departments will move to teams of business analysts, project and change managers. Also expect to see a fair amount of consolidation over the coming years in terms of the number of suppliers and solutions available. There is also talk of some of the big technology companies entering the legal market with a view to dominating the sector. We have heard many times about Microsoft developing tools specifically for legal but have yet to see this come to fruition, so watch this space.

Clearly COVID has changed our world and I can't see many firms going back to a model where 95% of their workforce are office based five days a week. Agile working is here to stay as it provides the opportunity for firms to drive down their cost base and provide a better work life balance to their staff. Having the right technology in place to support this new model specifically around collaboration, communication, culture, management and supervision will be key.

Finally I am interested to see if technologies such as augmented reality can find a home within the legal sector. With everybody working in a decentralised environment having the ability to collaborate remotely sharing, for example, a virtual document via a pair of smart glasses could be very exciting.

### **Jeremy Small**



# Ask the Expert

Last year we added an 'Ask the Expert' section on our website so readers were able to ask questions about particular aspects of legal tech. If we were unable to provide a response then we'd find someone who could! We've had some interesting questions so far and here are a few of those received:

**Hello**

*In response to your 'ask the expert' post, I would like to ask you a little bit about smart contracts made on public ledgers via Ethereum, for example.*

*To what extent do you think that code such as Python and Solidity can really express the will of the parties compared to a written contract, and what kind of a limit does this have on the ways in which smart contracts can be used?*

*If there is a mistake in the smart contract, can remedies really be available if there is no legal definition of a 'token' as a piece of property like currency? In Germany they are thinking of just shoving a couple of paragraphs into the BGB to fix this problem. Otherwise how do we make sure that the law of a particular state governs the smart contract? Through a normal choice of court clause?*

*I have heard that one provider actually just reversed the public ledger and fixed a problem in a smart contract. This reduced the credibility of the ledger. Do you think this solution is ridiculous?*

**Thanks**

**Liz**

## **Our response:**

*Arguably, as I say in my journal article on the efficacy of Smart Contracts, "interpreting code is generally less challenging than interpreting natural language. Since it is written to be performative, in that it is meant to be executed by a computer that is following directions without independent thought or outside context, the code itself is unambiguous and determinative to a much greater degree than natural language." Of course, this is only true if the code does what the humans implementing it (or "signing" the smart contract) think it will do. In cases where complex code is misunderstood by one or more parties to the contract, or where the code does not accomplish what was intended, the normal theory of contractual mistake will likely apply.*

*Indeed, it is my position, that the normal laws of contract should apply to smart contracts. They are, in my view, not very different from "old-fashioned" paper contracts at their core. In my article I discuss common law contractual remedies for mistranscription, mistake, and fraudulent misrepresentation and how they apply to Smart Contracts in much the same way they would to any standard contract.*

*That said, of course, Smart Contracts come with a potentially higher rate of complications since parties may not be not known to each other or do not come from the same jurisdiction/legal system and no choice of law clause is incorporated into the smart contract. Anything countries and legal systems can do to bring their laws up to speed (e.g. updating definitions) to respond to potentially growing uses of Smart Contract in the future will be helpful.*

*That said, those who are serious about using Smart Contracts can certainly overcome these problems whether they local laws have been updated or not by careful drafting/coding. For instance, parties can remedy many enforcement, breach, and flexibility issues by writing plain-language terms to accompany smart contracts that designate forum of law, formally identify both parties, and agree service of process methods. The code itself can also be written with built in “outs” that parties can decide to execute together should they need to breach or change the contract in some manner; Bill Marino has proposed a valuable set of coding standards for those hoping to have useful and valuable smart contracts to adopt.*

*When it comes to platforms themselves “solving” contractual disputes by reversing the public ledger, it’s important to note that this has not generally been done on individual levels (e.g. on contract going askew). In 2018, Ethereum Foundation took such an action to fix wide-spread fraudulent transactions that had occurred due to poor coding on some contracts which essentially created a loophole in the blockchain approval system. Ethereum decided to take sole responsibility for correcting the “mistake” with a god-like action to override blockchain governance. The hard-fork they implemented created a new version of Ethereum and, while contentious and hotly debated, it was supported by 97% of Ethereum holders; still, today, we have two versions of Ethereum as a result: Ethereum Classic, and Ethereum 2.0 which continues to be developed and used by some who were staunchly against the intervention.*

*These solutions are not ridiculous per se but they are certainly not practical for smaller, one-to-one contract disputes. It is much better for parties to carefully construct Smart Contracts to ensure that they accomplish what is desired -- just like any contract really!*

**Tiffany M. Sillanpää** is the North American editor for the Legal Technologist. She recently published an article on Smart Contracts entitled “Freedom to (Smart) Contract: The Myth of Code and Blockchain Governance Law” in the University of London’s Institute of Advanced Legal Studies Student Law Review (<https://doi.org/10.14296/islr.v7i2.5203>).

**“Hi there! I’d really love to find out more about current and emerging trends in legal technology. I also want to know what the future of legal tech is and how this may impact law firms and lawyers? Thanks, Crystal”**

### **Our response:**

*I would say the future of legaltech is bright and is making its way through law firms as we speak. As a jumping off point, I quite like this infographic published by WhiteCap Consulting ([here](#)).*

*This should give a good idea of the what the current ecosystem of legaltech looks like. Put simply, it is about how technology helps lawyers do their jobs better. The shape that takes feeds into current and emerging trends in legal technology. And these vary to significant degrees dependent on the needs of each firm and their risk appetite for procuring these technologies. These vary from simple Excel training, to bespoke information hubs (designed in-house by firms) to help keep employees informed, to cutting edge AI-driven contract analysis software such as Kira and Summize.*

*What impact, however, that has on law firms and lawyers is one that will take both time and pages of content to truly encapsulate. It varies in target markets, for instance, Mishcon de Reya has launched MDR Labs, a dedicated programme designed to assist legaltech startups with their products. It could come in the form of bottom-up recruitment: Clifford Chance’s Ignite training contract is one that is tech-focused. It could even come in the form of in-house development. Firms such as Bird & Bird and Osborne Clarke have developed a portfolio of tech-based in-house solutions which incorporate firm insight and know-how to assist clients with the help of machine learning, AI, and cloud storage, amongst others. Slightly left field is also the emergence of new roles such as legal technologists or legal engineers who assist law firms (and in-house teams) in the design and/or implementation of these technologies.*

*I hope this answers your question but do feel free to reach out if you’d like to discuss further.*

Stephenie Ong  
Junior Editor, The Legal Technologist

# Lawyer of the Future

## The Importance of Soft Skills to an Innovative Lawyer's Toolkit

By Doron Davidson-Vidavski

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As pitch teams of lawyers found themselves stranded in the virtual Himalayas, vying for a place on EasyJet's refreshed legal panel at the end of last year, it was their soft skills that EasyJet sought to shine the spotlight on, rather than their technical knowledge or ubiquitous pitch scenario buzz-differentiator, 'innovative streak'.

Creating common ground with their would-be advisors was the guiding principle for EasyJet when approaching this recent panel review process, where legal teams underwent an assessment a lawyer pitching for new instructions doesn't usually prepare for.

The teams faced simulated situations involving extreme conditions (including a potential avalanche!), as EasyJet evaluated how their social and communication skills supported them in navigating down the mountain and back to virtual safety, evidenced by their responses to various multiple-choice challenges.

### Different differentiators

EasyJet's process is further corroboration for what – thankfully – many lawyers are already realising, which is that, as far as clients are concerned, the typical uniqueness signifiers that firms seek to rely on, in order to set themselves apart from others (e.g. global reach, number of offices, "putting clients first" and claims of innovation and commerciality), are no longer enough on their own.

Showing emotional intelligence, instilling trust and demonstrating a real understanding of clients' needs has to be given as much weight as technical strength or the ability to disrupt the status-quo with innovation (the

latter becoming a prominent element in the pitch parlance zeitgeist).

The law has increasingly been likened to a collection of algorithms. This has, in turn, led to a regular discussion as to whether artificial intelligence could someday put legal practitioners out of business.

The obvious argument against the suggestion that A.I. is going to do away with lawyers is that an algorithm, however clever, cannot substitute a trusted advisor. There is nevertheless a risk that, in our time-poor work environments, lawyers focus on the task at hand while the soft skills that act as the scaffold for the client-advisor relationship and prop up its longevity are neglected.

### A shift in expectations

In general, clients already expect that the external support from their private practice advisors should incorporate innovative tools and cutting-edge technologies, to help in future-proofing their businesses and enhance efficiencies. Increasingly, however, lawyers and, in particular, legal technologists are asked by in-house counsel, on whom pressure exists to demonstrate innovation, for support with brainstorming, think tanks and design jams, so that they can explore how they could be doing things differently.

Here the lawyer's instinct may be to go straight to advice-giving and solution-finding rather than staying a little longer in the exploratory phase. Yes, this could get you a high score on the proactivity scale and, on the flipside, the "tell" approach that task-driven lawyers sometimes

adopt may lead to assumptions taking precedence over taking the time to find out.

Asking open, expansive questions can really help in drilling down and establishing what clients actually need or what the wider circumstances informing a situation may be. In some instances, clients simply want assistance with finding the right tools to empower their teams to be doing things themselves. The “tell” approach is not necessarily conducive to that.

### **The O Shaped lawyer**

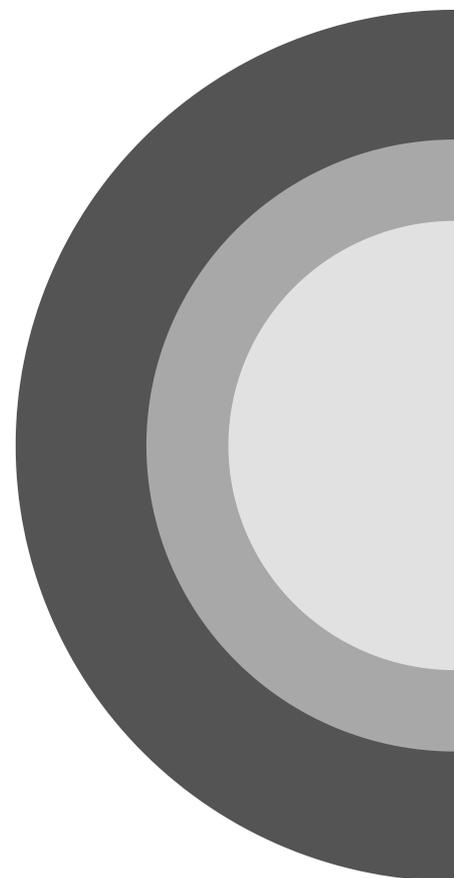
As a former legal practitioner myself, I’m taking the liberty of making the sweeping statement that lawyers often adopt a glass half-empty mindset, in the sense that we have to imagine the worst-case scenario for our clients and identify pressure-points and problems. In doing that, some of the important soft skills, such as asking the right questions, listening fully (to both what is said as well as what is *not* said) and showing empathy, can be neglected.

With EasyJet’s innovative panel review exercise, it was crucial for the company that legal advisors would work well as a team and show O Shaped lawyer characteristics, including open mindedness and an embracing of opportunity rather than mere focus on identifying risks. In an ever-changing legal tech market, for a lawyer seeking to build long-term relationships with clients, soft skills are key.

Innovation is not just about staying ahead of the technological curve. It’s about how we can keep delivering quality client service, growing and leading teams and developing future business. Putting relationships at the heart of innovation ensures those relationship remain vital and fruitful.

With expertise nowadays being assumed, if not altogether taken for granted, it’s what we can offer over and above it that matters.

*Doron is a former commercial lawyer, who has held roles both in private practice and in-house. Having subsequently re-trained as an actor, he now combines the skills from his two professional backgrounds as an executive trainer and facilitator providing personal communication training and consultancy to professionals with Strevas Limited.*



# How law firms can sidestep a classic digitisation mistake

By Matt Shearer, Director of Product Innovation, Data Language

Recently, the legal sector has begun taking its first meaningful steps beyond basic digitisation towards true digital transformation. The sector is making a concerted effort to move away from a manual, document-centric approach to business processes toward being data-led and utilising machines for administrative heavy-lifting.

For example, 2019 saw the launch of General-purpose Legal Mark-up Language, which enables accurate extraction of data from legal documentation for sharing with relevant intermediaries in an automated and seamless way. It's great to see initiatives like this from the private sector, as well as government-funded programmes like the Tech Nation LawTech Sandbox, which opened in December 2020.

Developments like these are promising as they mirror what has played out in early digital transformation adopting sectors, such as media, healthcare and sport. Importantly, though, the legal industry has the opportunity to sidestep the hurdles faced by those first-movers, to ensure that they can avoid running into the same headaches.

Based on my experience supporting digital transformation initiatives across a number of sectors, not committing to best practice information management is the most common mistake made by businesses embarking on their digital transformation journey.

For many law firms, their primary asset is information. This takes the form of knowledge and expertise locked in their subject matter experts' heads, as well as all the data stored across the different computer programs and systems that they utilise. Part of information management is about making this knowledge explicit and actionable. I see an organisation's information management strategy as the most important factor in making the business ready to adopt new technologies and maximise the potential value they derive from them - i.e. to give them agility.

In my experience, when faced with challenges relating to data management, many businesses, law firms very much included, decide to deal with these challenges at a later date. This creates a snowball of further complications and limits the business' ability to adapt to evolving market conditions or develop new services. The result of data disorganisation in business in all sectors can be devastatingly expensive but is not always visible.

Law firms can avoid this stumbling block by prioritising best practice information management right out of the gate. This includes ensuring that all data is not only clean and well-structured but that it has portability - the ability to be transferred from one data controller to another while retaining context and meaning. This is particularly important if AI implementations are the end goal - if you put bad data in, you will get bad insights out!

Clean, structured, and portable data that covers all areas of a law firm will enable the company to see all their clients, case classifications, financial statuses, and how these all connect, at a glance. In practice, this will mean that legal teams do not need to spend time communicating to their finance, administrative and leadership teams on administrative matters - thereby leaving their time to be spent on their core, billable business.

As a starting point for this, I recommend domain modelling, which creates a strong foundation for all projects and supports creating portable structured data. Best practice is to secure your team's input into this. This creates a shared understanding of the organisation's information and data landscape - what the business has and does not have, and what is adding value and what is not. Having a strong understanding of your data (often your biggest asset) is the first step on the road to leveraging it for competitive advantage.

Fundamentally, good information management is a key competency that will enable rapid innovation going forward and is something law firms should be focusing

on during these uncertain times.

The legal sector has two key advantages when it comes to digital transformation. First, it has the opportunity to learn from other industries' experiences and mistakes. Second, law firms, particularly large ones, typically already have information professionals working in-house. If the industry can bring them to the fore and ensure they are a cornerstone of their initiatives to digitise and innovate, they are likely to avoid many of the hurdles faced by the first-mover industries that prioritised digital transformation a decade ago.

**Matt Shearer** is the Director of Product Innovation at Data Language

# Is my law firm preparing me for success in the next decade?

By Thomas Aertgeerts

Exactly one year ago, I left my previous law firm because the answer to this question was “no.” I worked at a top tier law firm in the traditional sense of the word. It had a strong focus on know-how, combined with the presence of renowned experts in the field. However, as an individual professional, I wasn’t being prepared for the next 40 years of my career (or more, who knows how our pensions will evolve).

Every lawyer, from the solo practitioner to lawyers in large international firms, should ask themselves this question. For young lawyers and law students, this is even more important. Their careers will be fundamentally different from those of the current partners in their law firms. The “gates to these partnerships” are closing and traditional business models based on the billable hour will be disrupted.

To stress the importance of legal innovation for individual lawyers, I’ve highlighted six major trends that demonstrate why you will need different skills to become successful in the next decade.

*Six reasons why you need different skills in the next decade*

## **1) The world has changed, and lawyers should change with it**

The world has fundamentally changed, and lawyers should change with it and adapt. We are currently in the middle of the fourth industrial revolution that will lead to exponential changes to the way we live, work and relate to one another. *“The pace of change has never been this fast and yet it will never be this slow again,”* according to Canadian Prime Minister Justin Trudeau. Innovation, technology and digital transformation will impact and (further) disrupt every sector. The disruption has not fully reached the legal sector. However, disruption is coming, and the only question is when? Lawyers need to be aware of these evolutions and be proactive to remain future-proof.

## **2) New world, new skills**

In a new world, lawyers need new skills. The World Economic Forum issued a list of the 10 skills you need to thrive in the fourth industrial revolution. In five years, between 2015 and 2020, 35% of the skills that were considered important, have changed. Skills like creativity, emotional intelligence, initiative and ideation are and will become increasingly important. Yet, traditional legal work does not prepare us to excel in these skills.

## **3) Innovation is what differentiates lawyers from their peers**

Innovative lawyers gain a competitive advantage over their peers. Legal knowledge and the ability to interpret the law is not a unique selling point anymore. It is a prerequisite to start as a lawyer. A large number of lawyers are able to interpret and apply the law. The number of lawyers that can actually come up with creative solutions that go beyond the law and are embedded in a changing world is much, much smaller.

## **4) Alternative legal service providers are the real competitors**

Lawyers’ real competitors are not other law firms, but Alternative Legal Service Provider (ALSPs). ALSPs can loosely be categorised as any non-lawyer providing legal services. Clients require effective solutions for a broad portfolio of legal work. To them, it is irrelevant whether lawyers or non-lawyers are performing this work.

ALSPs are a multibillion-dollar industry and they are growing at an incredible pace. Moreover, these innovators are already delivering law better, faster and cheaper than a traditional law firm. Lawyers that want to be successful should be willing to learn from these ALSPs.

### 5) The Big Four are leading by example

The Big Four are successfully continuing their expansion into the legal services industry. They enjoy a competitive advantage since innovation, collaboration and multidisciplinary teamwork are part of their DNA. Lawyers and legal consultants that are part of the Big Four network are encouraged, trained and equipped to become 21st century-proof professionals. This leads to exponential professional growth, both on the level of the individuals as on the level of the Big Four themselves.

Even today, the "tax and legal work" revenue of any individual Big Four dwarves that of Kirkland & Ellis, the top-grossing law firm worldwide. This demonstrates that the Big Four have the relationships, the scale and the technology to become the world's largest and best legal service providers.

### 6) Clients' expectations have changed

Clients **expect more**. The proliferation of new laws leads to increasingly complex legal advice. Moreover, clients are no longer satisfied with a mere interpretation of the law. They want actionable content that is understandable and business oriented.

Clients **expect more for less**. Decreasing budgets for legal departments put pressure on legal counsels and lawyers alike. Lawyers have to deliver their increasingly complex services cheaper, better and faster.

Clients **expect different services**. They are looking for preventive lawyering, as opposed to traditional reactive lawyering where the problem has to arise first.

Clients **expect new services**. Our clients operate in the same changed world as we do. They require their lawyers to guide them and expect new innovative types of advice. They are looking at us to help manage the change, to leverage technology differently and to partner together collaboratively.

Technology enabled innovation will be key to meet the clients' new expectations. Law firms that successfully embed these in their practice will be able to grow exponentially.

### Ok, I see why I need different skills, but where should I start?

Even though these evolutions are apparent, most lawyers are not being prepared to become future-proof. The majority of law schools, bar associations and law firms worldwide are slow in adapting to these changing

circumstances. In general, law is still being taught and practiced in the same ways it was 40 years ago. At the same time, multiple initiatives are being set up by true innovators and early adopters, you just have to find them.

If you want to start your legal innovation journey: I suggest the following three steps:

1. Read and listen: Be curious and look for articles, books and podcasts that will help you better understand current evolutions (I included some tips below).
2. Connect and share: Look for the early adopters, connect with them and share experiences. These are the people that will make an impact in the next decade.
3. Experiment: Try something new, such as making your own legal tech solution or step away from the billable hour and try a managed legal service. Don't stop at the awareness part, but be part of the change!

Suggested books and podcasts:

- Michele Destefano - Legal Upheaval
- Richard Susskind - Tomorrow's Lawyers
- Law and technology now - legal talk network

Sources and further reading:

- Singapore Academy of Law - Legal Technology Vision
- Klaus Schwab - The Fourth Industrial Revolution
- Peter F. Drucker - The Information Executives truly need (Harvard Business Review, January/February 1995)
- World Economic Forum - The Future of Jobs Report 2018
- Dan Packel - Big Law's Trojan Horse: Are the Big Four Preparing an Invasion?
- David Curle - Alternative Legal Services Providers: Changing Buyer Perceptions
- LawGeex - 3 Charts that show the unstoppable Growth of Legal Tech
- LawGeex - Legal Tech hits \$1 Billion Investment as Lawyers embrace Automation

### Thomas Aertgeerts

# Contract Review: Guilty as Charged

By Yehor Melnykov, CEO of Phase One Karma and Loio

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If you unconsciously write a number and accompanying parenthetical in any text, chances are you are a law practitioner. When texting your partner, you are likely to write: "Honey, could you buy two (2) bottles of wine please?" You can't seem to switch it off even after the office hours. This charming obsession with everything you write and read having to be no less than perfect and unambiguous is 100% justified as your words directly influence the life of your clients.

As words play a crucial role, you spend hours reviewing, drafting and re-writing legal documents. Yet, knowing that it's extremely important doesn't make it any more fun. Except for the fact that it gives food for the "lawyer making redlines" jokes.

Reviewing documents is tiresome, time-consuming and completely unfulfilling. It's a combination of the Danaïdes' ever-draining barrel of incoming contracts with Damocles' sword of tight deadlines and risks of making a mistake. It's guilty of making you tired, less productive and thus less useful to your clients and company. It makes you feel like a machine rather than a well-educated person trained to make justice accessible to everyone.

You deserve more. Luckily, advanced law firms have recognised the need to hire machines to make humans happier and more efficient and finally give them time to focus on higher-value work. In fact, in 2020, as many as 57% of law firms used legal tools for document review worldwide, says Statista.

## Why do you need legal document review software?

It's a legitimate question since legal professionals seem to have been doing fine without such software and the market is continuing to grow. It is projected to reach \$767.1 billion in 2021 after the 2020 recession.

But, at the same time, with so many repetitive tasks like

document review remaining unautomated, it's obvious that there's room for both productivity improvement and financial growth in the industry. Those who will leverage the opportunities of advanced technology for smart automation will improve mental health, outrun their competitors, and boost their revenue.

Automating contract review seems like a wise first step to take in this direction as it doesn't require significant financial and time investment. Yet, its benefits become immediately evident as it helps to do routine tasks much faster.

Advanced contract review tools like AI-powered Microsoft Word add-ins can do useful things. They immediately highlight and group names, numbers, locations, parties, and terms in the document to give you an instant look at all the essential elements and make corrections in a matter of seconds if necessary. They can also help with styling and numbering.

Let's imagine you receive documents where everything is disorganized in terms of formatting and fonts. For many legal professionals, it's maddening as it'll take you hours to make everything work. But when using advanced document review tools, it can take minutes. The beauty of this is that the machine just makes suggestions and you still make the final call. So, you have full control over the process.

## Why is AI-powered contract review software better than traditional tools?

With traditional tools, humans create rules for a machine to analyse data. This is very limiting as the more data a tool has to process, the more rules humans need to create manually. As a result, such software gets more complicated to maintain and becomes more prone to making mistakes.

In contrast, AI-powered tools teach themselves by analyzing examples and craft rules for processing various types of data. The more data they analyse, the more accurate they get.

Generally, AI-based software is at its best when used to automate repetitive and often boring tasks — like contract review. This way, it frees up legal pros for more creative and value-adding work.

### **How do you choose document review tools?**

However useful AI-driven contract review software may seem, you shouldn't rush when it comes to introducing tech innovations into your well-oiled processes. It can be a blessing, it can be a curse.

Start with researching the market. Comb through the platforms like G2 Crowd, LegalTechHub, Capterra, Crozdesk, and Bob Ambrogi's list. Try to get to know what your competitors use. Look your favourites up on Crunchbase, LinkedIn, Facebook, and Twitter. Check if you like the content they produce and thought leaders that endorse them.

Choose products with a free trial. Check if they change your work life for the better. Test their customer success teams. They need to be responsive and curious about your potential suggestions. Pick your winner and go from there.

To your success!

**Yehor Melnykov** is CEO at Phase One Karma and Loio



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Next edition will be out in March 2021.