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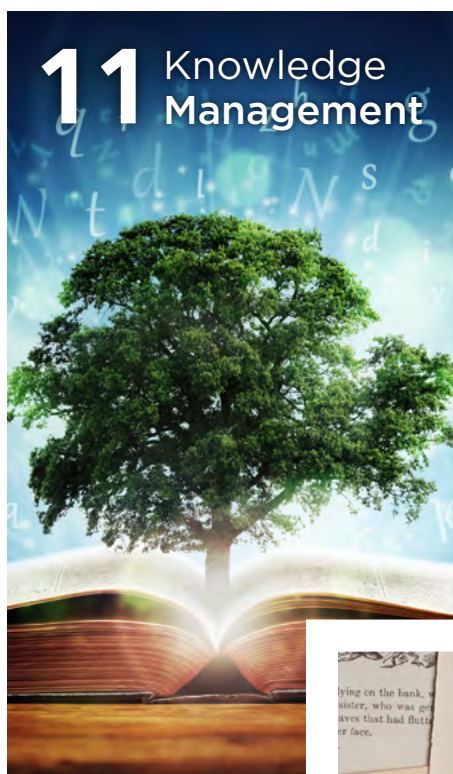
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LEGAL IT TODAY

From the **editor**

Welcome to Issue 11 of Legal IT Today! Our third issue of the year follows up on some of the announcements made at ILTACON 2015, the latest instalment of the annual event described as "something special" by one of our contributors a couple of issues ago.

HighQ was one of the many firms present, and I spoke to its chief strategy officer Stuart Barr for our vendor profile. That was not in Las Vegas, where ILTACON took place, but back in the company's London office the following week. On the way there, my train stopped moving for about half an hour. This was due to something called "bridge strike", which I hadn't heard of before. Apparently it's when a vehicle, presumably a large one, hits a railway bridge (a little different from "bird strike", which is when a flock of birds is sucked into an aircraft's jet engine).

While I was sitting there, I started thinking about the disparity between the superbly convenient, easy-to-use contactless ticketing system for getting around London, Oyster, and the decrepit state of the railway carriages and track that actually do the job of transporting the UK capital's professionals to and from their places of work.

Remind you of anything? I wonder if a parallel could be drawn between the increasingly impressive technology available to law firms and the clunky, awkward procedures many of them still rely on to carry out their day-to-day business. It's great to have a state-of-the-art practice management system, but that on its own won't solve all of UK legal's problems. It's just one part of sorting out the fundamentals of the service.

Hopefully it is not as difficult to get law firms to change their ways as it is to get London trains to run on time. Stuart provided some insight into how HighQ is encouraging firms to use technology to work more effectively and give themselves an edge in the legal marketplace.

ILTACON was a big event for iManage, whose senior management completed the acquisition of the business from HP over the summer. The company made a number of significant announcements in Vegas. Rob Ameerun met with Neil Araujo and Dan Carmel, chief executive and chief marketing officer respectively, to hear about their plans as the company enters this new phase of its development.

Security was inevitably a big topic at ILTACON, and Digital Defense, Inc. teamed up with ILTA's LegalSEC Steering Committee once again to compile a study of the legal industry's information security assessment practices. Tom DeSot, EVP & chief information officer at Digital Defense, highlights some of the key findings in this issue, including the alarming news that 63% of firms surveyed do not have a process in place to evaluate the security of critical vendors.

Moving away from Vegas, this issue includes an assessment of learning management systems, which are starting to make some headway in law firms. However, there is still a long way to go.

Consultant Mike Lowe is struggling to understand why lawyers can find so much information on sites like YouTube whenever they want, but cannot find training specific to their practice other than through classroom training that is only offered once a year.

Also in this issue, Nick Milton shares with us the findings of a global survey of knowledge management carried out by his company last year. He noticed six important ways in which the legal sector's use of KM sets it apart from other industries and believes law firms, despite their significant investment in KM, could be doing better in this domain.

The Internet of Things (IoT) is one of those phenomena that some observers like to predict is going to "change everything". Christy Burke is worried that lawyers are not prominent enough in discussions about how this new age of technology is evolving. The overwhelming quantity of data and complexity associated with the IoT are prompting a lot of them to stay away from the debate. She argues that it is time for lawyers to act assertively to claim their collective seat at the table.

NewLAWu.s. is one of the new breed of law firms that has adopted a radically different structure as part of a radically different way of doing business. It aims to eliminate the "structural inefficiencies" of traditional law firms and to capitalise on IT to provide value to clients through substantially reduced rates and creative billing arrangements. In her article, the firm's chief operating officer Donna Kent explains how the firm is achieving this.

Finally, our resident futurologist Chrissie Lightfoot presents the first of two articles on the implications for the law of the rapid development of artificial intelligence and robotics, while in "The Verdict," a hand-picked group of professionals give their answers to one of the key questions facing the legal sector. This time around, we asked them whether they think non-lawyers are set to play increasingly important roles in the delivery of legal services to clients.

As ever, I hope you find Legal IT Today useful and entertaining. I look forward to your feedback and suggestions for topics, features, and images for the next issue. By the time it is published, 2015 will be over. I am looking forward to pushing on and achieving all the targets I set for myself for this year and I hope you are too!

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What's **happening** at HighQ?

You can't just give someone Word and Outlook and tell them to go and be a lawyer

BY JONATHAN WATSON

HighQ must be doing something right. Its legal clients include 19 of the top 20 UK firms, 32 of the AMLAW 100 and almost half of the global top 100 firms. Earlier this year, it was included on a list of the fastest growing private companies in Europe. Jonathan Watson asked chief strategy officer Stuart Barr about the secret of its success.

How was ILTACON 2015?

It was a great event, as usual. We ran a client forum to tell people about the latest releases of HighQ Collaborate and HighQ Publisher. We also outlined our roadmap, which is very much focused on Collaborate 4. That will tie in very nicely with the next point release of Publisher. Our long-term goal is to integrate all our products more tightly so they can be deployed as a much more holistic solution stack.

What were your key take-aways from the event?

For me it was a sense that firms really are shifting everything to the cloud. Companies that perhaps a couple of years ago would have been very cautious about the cloud are pretty comfortable with it now. This is mainly because the technologies associated with it have matured significantly.

Our introduction of encryption key management (EKM) in Collaborate 3.4 is a perfect example of this. EKM allows our clients to control the encryption keys for files that belong to them but which we hold in the cloud. There's an encryption key for each site, which they manage in our proprietary key manager, installed inside their network. That's a huge step forward for their confidence in their ability to control their data. That data is hosted in our private cloud – based on hardware that we own and managed in data centres where we co-locate.

I also sensed an increasing demand for interoperability between vendors in the cloud. There are a lot of vendors who want to integrate with us, and that's partly because we are becoming a *de facto* standard in many ways for extranets and file sharing in the legal sector. There are several cloud platforms that are gaining good traction in legal now, and people need them to work together.

What else can you do to help firms become more comfortable with the cloud?

One thing we do is to deploy a single tenancy instance of our products for each of our clients. Whether it's Collaborate or Publisher, they get their own copy of the application. This gives them a huge amount of control over when it's upgraded, customisations, branding… they get the best of both worlds.

We also offer them a choice of where their data is hosted. We allow them to host in the UK, the US, Australia, Dubai or offshore in the Channel Islands. European firms clearly don't want to host their data in the US, while often US firms who host their data in the US will have a second instance in the UK to service their European clients who don't want their data leaving Europe. We provide single tenancy, data sovereignty, private cloud services and now the client holds the encryption keys as well – there's nothing more you can do!

"Law firms can't just rely on the billable hour and their long-standing knowledge of the law to win business"

One other thing to note is that we've added more flexibility in Collaborate 3.4 by including hybrid file storage. Firms can set up a particular site for a particular client and specify that the data has to be stored in Germany, Switzerland or wherever. For each workspace, they can store their files wherever they want. That could be in any of our data centres, or it might be wherever they install HighQ Appliance, our integration tool.

What do you see as the biggest challenges for law firms?

There are several different forces acting on law firms at the moment. There is huge pressure on prices, for example, and new business structures that enable more organisations to become law firms. This means traditional firms have to become much more efficient, innovative and technical. They need clever solutions to traditional legal problems. They can't just rely on the billable hour and their long-standing knowledge of the law to win business any more. They have to be competitive.

We keep hearing about large firms being dragged in front of panel reviews and asked specific questions about what they are doing to be innovative and how they are going to deliver added value ▶

Looking for an alternative?

to the client. Big global international firms have to respond to this and we are trying to provide the technology toolkit that will help them respond.

Firms are starting to understand that their employees and their clients now have a much higher expectation of what technology should deliver for them. They expect corporate Dropbox-type solutions and great integration with Office, for example. I'm also seeing a much better understanding that people need better tools to help them to be productive, to collaborate with their colleagues, and to collaborate securely but in a frictionless way with their clients. There's a blurring of the lines between internal and external collaboration, between intranets and extranets. It's not really good enough any more just to give someone Word and Outlook and tell them to go and be a lawyer.

Many vendors talk about bringing a consumer-grade experience to the enterprise. Is this one of HighQ's ambitions?
Everyone loves the tools they use in their personal lives, like Dropbox and Facebook. We want to take what's best about them and use that in enterprise-grade technology. We want to offer a fantastic consumer-grade user experience that doesn't feel like a clunky 1990s-era application. We're putting a lot of effort into doing that for both of our key products. Many people have complimented us on how easy to use our tools are and how little training is needed to roll them out.

Firms are starting to understand that their employees and their clients now have a much higher expectation of what technology should deliver

Very few vendors actually have that nice-to-use consumer factor. Both of our key products have had huge redesigns in recent years, and we've taken a lot of inspiration from simple, easy-to-use platforms like Flipboard and Medium.

Right now, we're redesigning Collaborate for the second time in three years. We believe a user interface that's 2-3 years old is beginning to get a bit long in the tooth. Some vendors will change that once every decade. We're doing it much more often as it's really important to us to keep up with what we think is the best technology out there.

What should we expect from HighQ in the next 12 months?
Collaborate 4 will be the big thing for us. We're working on it now, and we gave people a sneak preview at a client forum in June. That's coming in the first quarter of next year. Publisher had a major release late last year – 4.0. It's on

4.2 now and we're working on 4.3. The Publisher roadmap is focused on evolving its feature set but also on setting it up so it is ready for the launch of Collaborate 4.

The great thing about both of our products individually is that they are very broad. We try to take best of breed features from other platforms that are more point solutions, and combine them together into a single product and cover off multiple use cases. We try to simplify the IT landscape for our clients.

Our aim is to consolidate all of a firm's file sharing and collaboration needs into Collaborate, and all client engagement, thought leadership, blogging and online products and services and portals into Publisher. Together, we want those two platforms to be a holistic stack of solutions, from dotcom all the way through to intranet and everything in between. ◢

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Six degrees of **separation**

BY NICK MILTON

Several aspects of the legal sector's approach to knowledge management make it stand out from the crowd – but not always in a good way, says Nick Milton.

Knowledge Management (KM) is nearly two decades old, and yet it remains in many ways an immature discipline. There is no common definition of what KM involves, or how it should be addressed. Arguments still break out over its definition; what it should be called; and even whether it exists at all.

One way to make sense of this complex field is to take an overview of current practice around the world and across industries. This was the thought last year that led us to conduct the Knoco Global Survey of Knowledge Management 2014.

We surveyed nearly 400 knowledge managers from around the world, asking them detailed questions about their KM programs. When we started to analyse the results, it became clear that different industries have their own slants on the topic. The legal industry in particular stands out as different from the rest. Here are six of the main ways in which it differs, based on the survey results:

1. Legal has been doing KM longer than any other sector, but is less mature than many

In terms of the length of time companies have been doing KM, the legal respondents to our survey topped the list. The average legal firm has been doing KM for 9.5 years – longer than oil and gas (8.7 years), consulting firms (8.5 years) and the military (7.4 years).

However, in terms of KM maturity, legal falls down the list to 6th position. Only 20% of legal respondents said KM was "fully embedded," for example, compared to 40% of those from consulting firms. ▶

Why is legal so different? It may have something to do with the way KM is implemented. Where consultancies use a change management approach to introduce KM, or a pilot-led approach, legal firms tend to treat it more as a technology rollout or a top-down directive.

Alternatively, the main reason for the difference may be the way legal KM has developed as an additional function. This means it can be seen as separate in some way from the "real work" of the firm.

2. Legal has an unusually strong focus on product knowledge

In the legal sector, KM is focused almost entirely on knowledge of the law, and of the legal products and services the industry offers. Those who work in law firms may not be surprised by this, and may think it right and proper. However, other kinds of knowledge are important too. The consulting firms, for example, put almost equal weight on knowledge of their products and services, knowledge of their internal processes and knowledge of their clients.

3. Legal spends more money on KM than other sectors

In terms of KM spend per thousand staff, legal outspends every other sector by a factor of 10. This is primarily a result of the larger KM team sizes (see chart). Tasks that knowledge workers in the operational teams would take care of in other sectors tend to be the responsibility of the KM team in the legal sector.

There is a sound reason for this. Removing the more transactional KM activities from the fee-earning lawyers frees up their time to generate more revenue for the firm. However, it does create the perception that KM is exclusively the KM team's work rather than everyone's work.

4. Legal KM teams consist mainly of lawyers and librarians

KM teams in every sector contain people with business skills and people with an information management background. But while legal KM teams tend to stop there, in other sectors

A look around at what other industries are doing makes me wonder whether legal KM could do more
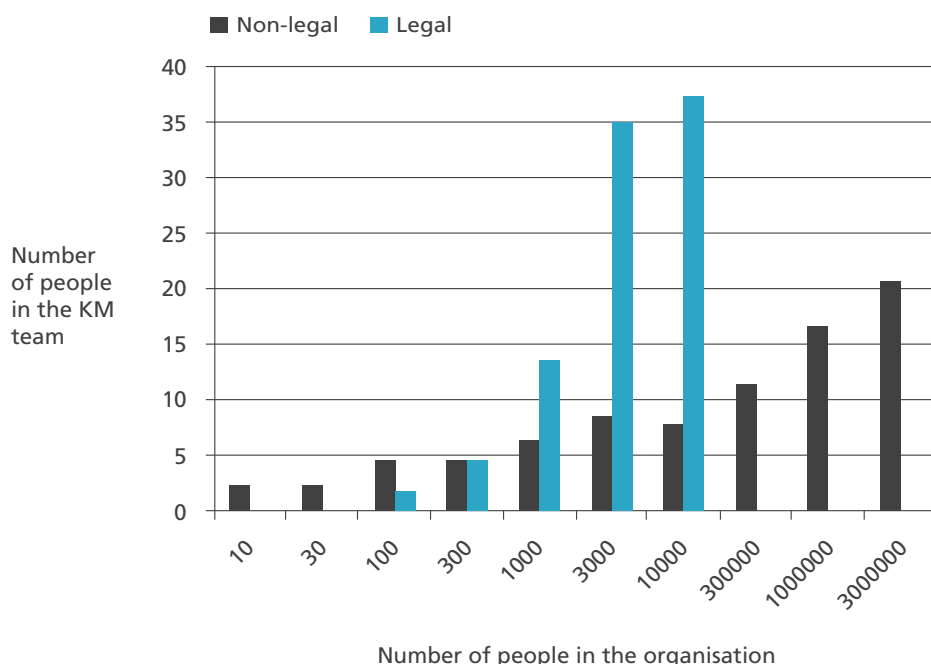
the teams contain additional skills - IT skills, change management skills and facilitation skills. Legal KM is more of a monoculture, reflecting its unusually strong focus on product knowledge. Legal KM teams do their job well, but their job is a limited one compared to KM in other sectors.

5. Legal KM is focused primarily on a single business driver

According to the survey, that driver is Quality of Service. Again, this reflects the focus on legal knowledge as the primary driver of service quality. Other sectors are more mixed. In the consulting sector, for example, internal efficiency is as important a business driver for KM as service quality.

Number of people in the KM team

Number of people in the organisation

Organisation type	Best Practice usage	Lessons Learned usage	CoP usage
Oil and Gas	68%	82%	85%
Public sector - military and emergency	67%	75%	80%
Contruction and Engineering	78%	61%	68%
Aid and Development	56%	59%	80%
Information Media and Telecommunications	57%	63%	63%
Piblic sector - other	50%	50%	79%
Manufacturing	61%	50%	67%
Other Services	56%	56%	50%
Public sector - goverment admin	41%	47%	67%
Professional, Scientific and Technical Services	47%	48%	57%
Financial and Insurance Services	50%	38%	50%
Education and Training	29%	43%	50%
LegalServices	47%	29%	27%

6. Many of the standard KM tools and approaches have made few inroads into the legal sector

The "big three" components of KM seen in many other industry sectors are best practices, lessons learned and communities of practice (CoPs). Together these three form the core of KM for the oil and gas sector, the military sector and the construction sectors.

However, judging from the survey responses, these components are far less commonly applied in the legal world. Of legal respondents, 27% said their firm used CoPs as part of the KM program, for example, compared with 85% of oil and gas companies.

Once again, this may reflect the different emphasis in the legal world – the emphasis on the best products rather than the best practices – or it could be related to the hourly billing culture, which treats time spent on activities such as lesson-learning as a cost rather than an investment.

It is likely that initiatives such as lean six sigma and the use of business process improvement techniques by firms like Clifford Chance and Seyfarth Shaw will open the door to the use of these established KM techniques.

Does it matter that legal KM is different? It has a long and largely successful history, and has developed its own flavour. We have seen that the focus is strongly on knowledge of the law and on high quality service to the client, making use of large teams of KM lawyers and library staff to achieve this. Legal KM works.

However, a look around at what other industries are doing makes me wonder whether legal KM could do more. Knowledge of the law is not the only kind of knowledge important to law firms. There is knowledge of the firm's internal processes and how they can be made more efficient; knowledge of business development; and knowledge of the clients themselves and the relationships the firm has with them.

Delivering a high quality legal service is the baseline, and KM can add much more beyond that. I would suggest that a look at how other organisations deliver KM could help to develop new models of how KM can create value for firms in the legal sector.

Nick Milton is a director and co-founder of knowledge management consultancy Knoco. Before launching Knoco, he worked at BP, where he developed the company's approach to KM and coordinated its knowledge management community of practice. He is the author of 'The Lessons Learned Handbook' and 'Knowledge Management for Teams and Projects'.

Lawyers wanted… to **discuss the Internet** of Things

BY CHRISTY BURKE

Lawyers need to make sure their voices are heard in debates about the Internet of Things, says Christy Burke.

The Internet of Things (IoT) is poised to affect everyone, everything, everywhere, no doubt including the legal industry and the clients it serves. But will it have a drastic impact on IT operations at law firms? How can lawyers participate in the IoT phenomenon in a meaningful way?

The IoT is unlikely to affect law firms' IT operations directly, says Ron Friedmann, a consultant at Fireman & Company and author of the "Strategic Legal Technology" blog. "IoT will be more important to manufacturers, embedding sensors so they can communicate, and that will produce new opportunities in factories, pipelines and so on," he says. "But IoT will probably not have a compelling impact on office work at a law firm."

Mary Abraham, author of the "Optimizing Law Firm Support Functions" report and the "Above and Beyond KM" blog, makes a similar point. "The Internet of Things is all about connectivity among everyday objects, but this has limited relevance within law firms," she says. "If the firm's printer is out of toner and it contacts an office supply provider to order more, that's an example of IoT leading to greater efficiency. But does that materially improve the practice of law?"

However, Abraham adds that in the outward-facing activities of law firms, such as participating in policymaking and servicing clients, the IoT presents a plethora of interesting legal issues. "IoT is marvelous because it creates an opening for conversation and education about new opportunity and risk," she says. "Clients will need policy to address concerns about confidentiality, privacy, surveillance and financial issues. Lawyers can play an important role in this process."

A role for lawyers

Tata Consultancy Services (TCS) recently published a report called "Internet of Things: The Complete Reimaginative Force" which takes a thorough look at how IoT will impact 13 industries across the globe. Satya Ramaswamy, vice president and global head of TCS Digital Enterprise, led the team that conducted the study.

"IoT is a great opportunity for legal folks to have a place at the table," he says. "However, lawyers will need to be up-to-date on the technology if they are to participate in developing policies to govern IoT. The information they need is available and, if they are willing to get involved, lawyers can look at it more comprehensively and deliberately than engineers can."

Anyone questioning the idea that lawyers are needed in IoT discussions should consider the following scenario

question, they don't engage. This is a big loss, because their input is crucial.

"Technology is generally a step ahead of the law – and IoT technology is many steps ahead," says Grady. "If you look at the groups being formed to discuss IT, there are often no lawyers involved. Technologists, entrepreneurs, and policy wonks are present, but no lawyers. Many are ceding their ground, saying they are not current enough on the technology to participate. Lawyers need to ask themselves whether they want to remain visible and relevant or whether they want to remove themselves from their role. Technology and entrepreneurs are moving ahead. Many lawyers are not."

The implications of the IoT

Grady says some lawyers are interested in topics related to the IoT, particularly cybersecurity and privacy issues. However, the proportion of interested lawyers is relatively small, given the pervasive impact these matters will have on companies and society.

Lawyers must educate themselves on the technology. They also need to change how they are perceived, or they risk being increasingly excluded. "At times, lawyers are perhaps seen as slowing things down so they are intentionally not invited to have a seat at the table," says David Houlihan, principal analyst covering topics in enterprise risk management, compliance and policy management, and legal technology at Blue Hill Research.

"GCs need to sit down with engineering, but it's not straightforward how that conversation will achieve its goal," he says. "Bigger issues will arise over time as data resulting from IoT increases exponentially. Therefore, the discussions on controversial IoT topics need to happen now, at the beginning of the IoT groundswell."

Ramaswamy adds that a host of ethical and privacy issues will emanate from IoT data. "IoT will bring implications on legal," he says. "One reason is the data transparency that IoT provides and the ethics issues it creates. If an insurance company can track the driving habits of its drivers to determine insurance premiums and pricing on an individual basis, that absolutely has privacy implications for the customer." ▶

proposed by Ken Grady, lean law evangelist at Seyfarth Shaw. Think about the programmers creating the code to direct a self-driving car. They need to establish what should happen if a child darts out into the street and the car realizes it can't stop in time. The car needs to "decide" whether to harm the child by not braking or potentially

Lawyers need to act assertively to claim their collective seat at the table, while seeking education and involvement in these inventions as they hit the public

harm its own passengers by braking hard and stopping short. The coders will determine the decisions the car makes in such circumstances, with lives hanging in the balance.

It's clear that lawyers need to be part of this discussion, not only from an ethical standpoint but also from a risk management standpoint to protect the car manufacturer. If someone gets injured or killed, is the manufacturer unquestionably at fault? This is not a simple call to make. It's a complex issue on many levels.

Lawyers must walk a fine line when setting the ground rules for the IoT. Technologists and entrepreneurs are pushing to get the technology approved and quickly bring it to market. Lawyers and the courts are trying to determine the rules and struggling to understand the technology and the ethical questions it raises.

Historically, lawyers have been front and center in such ethical discussions, but the overwhelming quantity of data and complexity associated with the IoT are prompting a lot of them to stay away. Realizing they are not adequately informed about the technology in

He also notes that with the proliferation of data IoT produces, companies have enough information to tailor pricing and marketing based on a "segmentation of one". More precisely, this means that pricing and promotion can be customized for a particular person depending on willingness or ability to pay. Examples like this bring up rights issues such as discrimination and privacy. Ramaswamy predicts that because IoT presents such issues, "there will likely be a boost on the human side of law advocating rights and dignity of the individual".

Regarding the IoT, lawyers need to act assertively to claim their collective seat at the table, while seeking education and involvement in these inventions as they hit the public. Optimally, this stepping up will happen before inventions are widely introduced. Similarly, entrepreneurs, corporate executives and inventors need to seek both inside and outside counsel to brief them.

James Manyika and Michael Chui of McKinsey Global Institute recently looked at more than 150 specific IoT applications that exist today or could be in widespread use within 10 years. Their conclusion was that these applications could have an economic impact of $3.9 trillion to $11.1 trillion per year by 2025. With staggering numbers like these, it's abundantly clear that legal needs to sit up and take notice – for financial as well as ethical reasons. Hopefully the sheer enormity of the IoT wave will inspire lawyers to insist on playing an active, central role in the discussion.

Christy Burke is President of Burke & Company, a New York-based consulting firm serving the legal technology industry. Christy has published articles and commentary about legal tech industry trends with Legal IT Professionals, Marketing the Law Firm, Law.com, Legaltech News (formerly Law Technology News) and Legal Tech. She has also delivered lectures and moderated panels for the New York County Lawyers Association (NYCLA), the New York City Bar Association and Women in eDiscovery's NYC Chapter. For more information, visit www.burke-company.com ◤

New study highlights security trends in legal organizations

BY TOM DESOT

The third annual study of the legal industry's information security assessment practices compiled by Digital Defense, Inc. and ILTA's LegalSEC Steering Committee contains some surprising and paradoxical revelations, says Tom DeSot

I recently attended the International Legal Technology Association's annual conference, ILTACON, and was pleased at the buzz around security. I was especially pleased to hear how legal organizations are elevating their security programs to mitigate breaches.

As part of the preparations for the event, Digital Defense, Inc. partnered with ILTA's LegalSEC Steering Committee to compile the 2015 Study of the Legal Industry's Information Security Assessment Practices. This annual report, the third of its kind, includes findings that some may have been expecting. However, there are also some surprising and paradoxical revelations.

The struggle for resources
Adequate resourcing was one issue frequently highlighted at ILTACON. It's a problem in many industries. IT departments have the weighty responsibility of making sure their firm does not end up in the headlines, yet the allocation of resources in terms of both staff and budget rarely aligns with this responsibility.

Of the organizations we surveyed, 66% said they had no staff devoted to information security. In essence, security ends up being just another one of the many tasks that the IT department has to tackle in its already packed working day. The chief security officer (CISO) role continues to be a rare function in law firms; it is the chief information officer (CIO) and IT director who tend to lead security within legal organizations.

The study found that multiple stakeholders were involved in security strategy, including managing partners, general counsel and often a technology committee. Discussions with ILTACON attendees suggest that this is common practice with security practitioners. However, there is a real need for a partner or senior-level executive to be a "security champion" in order to gain buy-in from attorneys and other staff. Competent IT and security staff alone may not be enough to drive home the importance of security for most legal organizations.

While there was a slight increase compared to the 2014 study, security budgets continue to be a challenge. Of all respondents, 58% said they had an IT budget of $500,000 or more, but approximately one-third of those surveyed have an information security budget that is less than 10% of that ($10,000-50,000).

What is driving the focus of security within legal firms?

Our data suggest the demands of clients often provide the impetus to shore up a firm's security program, with more than 80% of respondents to our survey identifying client requirements as the highest influencer in security purchasing decisions. Additionally, regulations specific to various industries play a big role in the focus of security programs and practices.

That said, I often advise people that compliance is not the same thing as security. It's important to adhere to regulations, but a solid security program will go beyond compliance to ensure the firm's most valuable assets are protected.

This leads me to one of the most surprising findings regarding the role of vendor management. A concerning statistic shows 63% of firms surveyed do not have a process in place to evaluate the security of critical vendors! How can this be when so many recent major breaches have been attributed to contractor and employee negligence? The 2015 Ponemon Institute Cost of a Data Breach[1] study attributes 25% of the root cause of a data breach to a negligent employee or contractor.

In addition, a lawsuit brought by the US Federal Trade Commission (FTC) against Wyndham Hotels & Resorts illustrates the exposure vendors can introduce. The FTC claims Wyndham failed to adequately restrict third party vendors' access to the networks and servers of the chain's hotels, which contributed to breaches that occurred in 2008-2009[2]. This is an area that can be readily improved without major investment. More due diligence in qualifying vendors and setting up proper access can shore up security.

Firms are more aware of awareness

One positive finding from the survey is that employee security awareness is top-of-mind within legal organizations. Employee negligence and phishing or vishing attacks ranked as the highest concern, which indicates there is recognition of the role employees can play in the protection of organizational assets.

Aligning with these concerns is an emphasis on information security training for employees, with close to 80% telling us that a security training product or service is utilized. Less reassuring is the news that the training is conducted infrequently, with 46% of those surveyed revealing that it takes place once a year and 39% revealing that it occurs during a new hire's orientation.

Repetition is paramount to the retention of the key principles that are critical to building a culture of security. While approaches and styles may differ, I'd suggest that in addition to the senior allies within the firm, IT and security teams should recruit "security champions" throughout the organization to garner the buy-in critical to facilitating security-minded behavior.

Although the survey showed legal organizations face staff and budget restraints, it appears that an array of security products and services are being deployed. In addition to training, encryption services and intrusion detection products are utilized by over 70% of respondents. This is followed by IT audits and anti-phishing/vishing services at over 60%. Close to 70% also utilize vulnerability scanning and penetration testing, whereas the least-performed assessments were application code analysis and war dialing.

It is noteworthy that only a little over 30% perform physical security reviews and less than 20% conduct on-site social engineering engagements. It concerns me that the physical side of security is often overlooked. CISOs and CIOs are kept awake at night by nightmares of cyber intrusions – as they should be. However, hackers often go to the tried and tested physical compromises because they know they are the low-hanging fruit. Be diligent and make sure all bases are covered.

Another positive trend identified was that only 10% of firms were not utilizing any security assessments. That is a nice improvement from the 20% seen in the 2014 study.

The report contains additional information regarding information security standards, policies and technologies, conferences and events attended, and requested content needs to address security challenges. Readers may take a closer look at the report to obtain more data related to the geographic and demographic breakdown of the study sample.

It is gratifying to see the evolution of security programs and practices within the legal industry. The vibe at ILTACON reflected enthusiasm for and commitment to security. Attendees were sharing practices and successes with peers and demonstrated an eagerness for proactive programs that will keep their firms, and the brands of their clients, in excellent standing.

Click here to download a copy of the 2015 Study of the Legal Industry's Information Security Assessment Practices.

Tom DeSot is EVP & Chief Information Officer at Digital Defense, Inc. He also serves as the company's internal auditor on security-related matters. Prior to joining Digital Defense, Tom was Vice President of Information Systems for a mid-tier financial institution in San Antonio, Texas. ◢

[1] "2015 Cost of Data Breach Study: Global Analysis" – research sponsored by IBM and conducted independently by the Ponemon Institute
[2] "Hard Lessons From the Wyndham Decision: What Businesses Must Know About the FTC's Authority to Regulate Data Security," Dykema, 1 September 2015
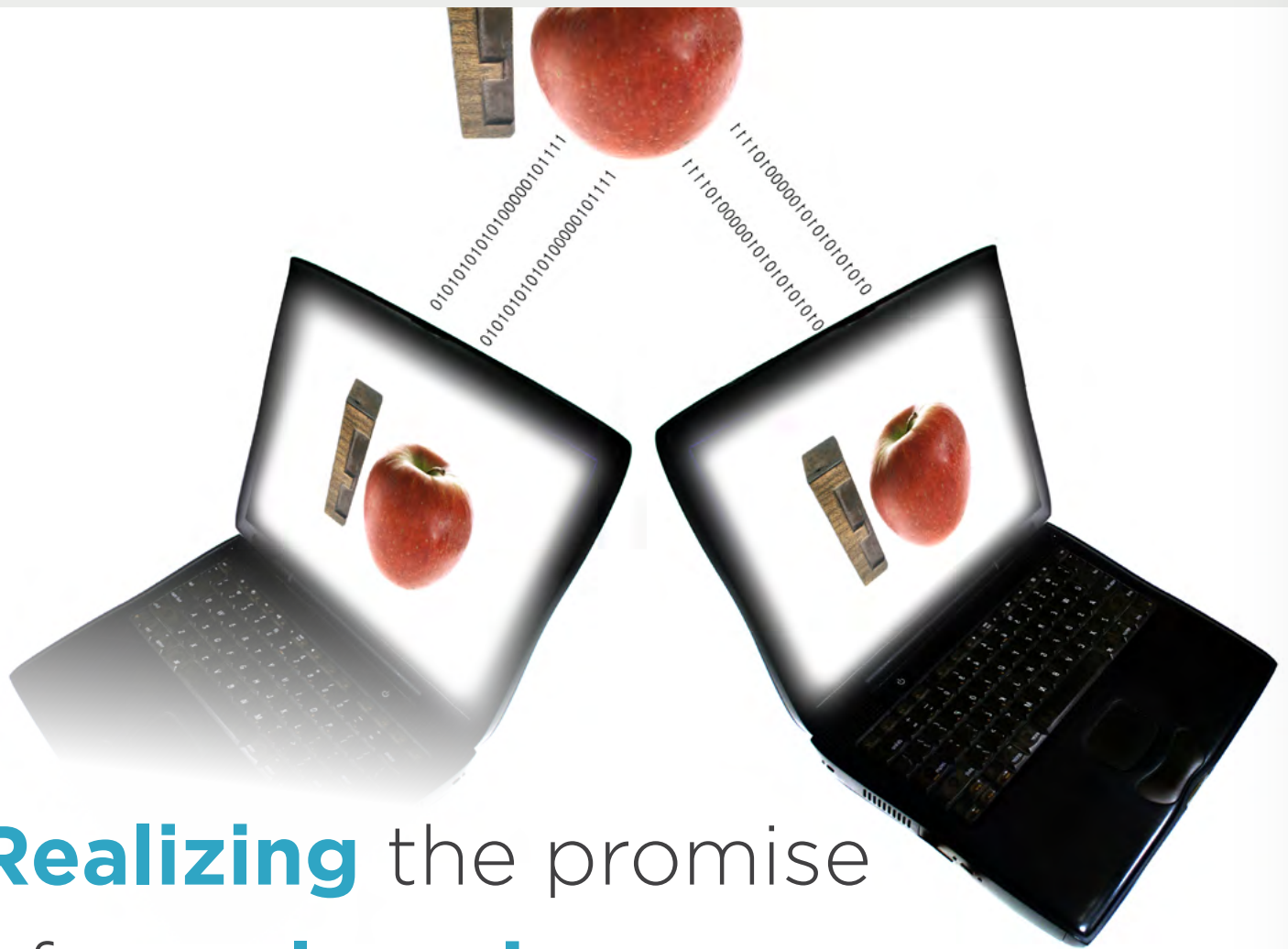
Realizing the promise of your **learning management** system

BY MIKE LOWE

Law firms are starting to adopt learning management systems, but they need to be more ambitious if they are to make the most of them, says Mike Lowe.

It's 9pm and an associate at your firm could use some guidance on how to draft a motion for summary judgment. Her colleagues have gone home for the evening. Where does she turn for help? Why is it that she can go to YouTube and instantly find instructions on an almost unlimited range of topics, but she can't get training specific to her practice other than through classroom training that is only offered once a year?

What if a simple search in the firm's learning management system (LMS)

or portal could pull up a recorded course that was offered in a different office a month ago? Better still, what if her search could locate a short video vignette providing specific guidance from the partner considered the firm's authority on that topic?

LMS is one of many opportunities for law firms to use IT to make significant and much-needed improvements to their ability to support attorneys and meet the demands of the market. Long in use at companies and other professional

service firms, LMSs are seeing increasing adoption at law firms.

This is a good thing. However, many firms are only scratching the surface of what an LMS can provide. Taking full advantage of an LMS requires a more forceful vision of the role of professional development in preparing attorneys to practice, and an acknowledgement that the real benefits of this technology (as with most technologies) will likely require changes to strategy, policy, process and organization.

Given their many technology imperatives, why should law firms implement an LMS?

- As has been well documented, clients are finding new associates to be unprepared to practice law and are unwilling to pay their rates. Firms face the challenge of providing their own training to bridge the gap between law school instruction and the requirements of real-world law practice. Client demand for more skilled attorneys applies not just to the practice of law, but also to the use of technology (e.g. Microsoft Excel) to support their practice.

- Efficiency is increasingly valued at law firms, both due to client demands and the requirements of alternative fee arrangements, namely fixed fees and capped fees. An LMS supports an efficient workforce through attorney self-service and access to just-in-time training, anytime, anywhere, by any device.

- Law firm training frequently develops in different organizational silos (professional development, staff training and technology training). An LMS provides a shared platform and single point of access to attorneys and staff for all their training.

- The spreadsheet-based method of managing learning and continuing legal education (CLE) tracking is becoming increasingly burdensome as firms grow, and increasingly dated given the available technologies.

- The technology is catching up to the need. Legal technology vendors have developed learning management systems tailored to the specific needs of law firms, such as the ability to incorporate CLE tracking into the larger LMS.

Developing learning management capability
The amount of value provided by an LMS depends in part on a firm's willingness to develop an ambitious vision for its use, and then on its ability to implement the technology together with changed policies, processes, and organization that are aligned with the vision. Those firms that desire an LMS solely as a tool for CLE tracking and online class registration

benefit from its use, but constrain its value to the size of their vision.

Based on my work improving learning management at top-tier law firms, I have developed a capability curve to describe the various levels of maturity that firms obtain, supported by their use of an LMS. Since we're on the subject of learning, I've named the levels after levels of education.

Learning Management Capability Curve

(1) Primary
- Basic CLE tracking
- Online course registration and class tracking

(2) Secondary
- Integrated LMS and CLE tracking
- Access to eLearning
- Automated notifications, certificates, evaluations

(3) Undergraduate
- Searchable access to all types of internal and external content - classroom, video, eLearning
- Competency-oriented learning paths

(4) Graduate
- Firm-specific need-specific content
- Data-driven analysis of courses, instructors, and students
- Integration with firm's competency model

Primary
At their most basic, and as used by many firms, LMSs are merely tools for the automated scheduling, management, and tracking of classroom training. Firms frequently investigate an LMS when they need to track the firm-wide rollout of a particular technology, like a new desktop image, for example. I've seen firms that actually have more than one LMS in use – such as one for technology training and one for CLE tracking. At this level, at least the LMS offers improved capabilities over spreadsheets, even if its capabilities are still underused.

Secondary
The next level of capability utilizes more of the out-of-the-box features of an LMS, such as the ability to provide access to eLearning, CLE status and certificates. At this level, firms gain the benefits of automation by eliminating steps that were previously manual, such as sending emails, creating sign-in sheets, and collecting feedback forms. Firms that replace their manual processes with an LMS without a commitment to a grander vision typically stop here on the curve.

Undergraduate
I think of this as the content level – in which firms start to take greater advantage of the LMS by integrating a broader range of content, whether that consists of classroom learning, videos of previous courses, eLearning or content from external providers such as Practicing Law Institute or West Legal Ed. I worked with one Silicon Valley firm that developed short videos on how to perform specific tasks – relevant either to the practice of law or to the business of law, such as developing client relationships.

To the users, the LMS becomes the one stop shop for learning. Furthermore, at this level, firms tie content together in logical learning paths that develop firm-valued skills or competencies. The effort that the firm used to allocate to manual administrative tasks should now be redirected toward maintaining the content in a way that keeps it current, searchable, and tied to competency development.

Graduate
This final level is where firms leverage the analytical tools provided by LMSs to continuously improve all aspects of their learning capabilities – learning content, instructors, learning paths, and importantly, the contribution of learning to client delivery and to the professional development of attorneys and staff. With online course and instructor evaluations, automated reporting and linkages to an overall competency model, the professional development group can more systematically assess and adjust its offerings.

The analytical capabilities afforded by the LMS do not extend only to professional development. An LMS can support performance management ▶

conversations between partners and associates in which they review the associates' performance and identify learning that is available to support their development.

This is a level that firms often have the desire to achieve, but they fail to make the necessary changes to their processes and organizations. It's not enough to develop reports; firms must allocate people with the time and skills to analyze those reports, and implement processes for acting on the results of their analyses.

Selection and implementation considerations

You have choice when considering the

> *Many firms are only scratching the surface of what an LMS can provide*

LMS that is best for your firm. I've seen custom-built applications, CLE tracking tools, legal-specific applications and non-

legal-specific ones. My primary guidance is first to identify the level of capability that is appropriate to your firm's vision, and then choose a system accordingly.

While I am generally drawn to non-legal-specific technologies, the particular requirements of CLE suggest that a legal-focused solution is likely to be the best option for law firms. As for the implementation, my primary advice is to start with the vision. That compelling vision that generates enthusiasm among firm leadership will be necessary to guide you through the changes required to systems, data, policy, process, and organization. Without the vision, it's too easy to end the project at the secondary level and fail to realize the true promise of an LMS.

Secondly, be sure to include governance in your planning. This is likely to be the first time that your siloed training groups have had a shared platform. Use the implementation project to improve ties between the groups and establish an ongoing method for maintaining the system collaboratively.

In a profession where attorney competency is a critical competitive advantage, a marketplace where clients are looking for more practice-ready associates, and an era in which technology enables instant search and retrieval of all types of information, the pressure on professional development to use technology to improve attorney training will continue to grow. Few firms, if any, have reached graduate-level capability when it comes to LMS-supported training. Will your firm be one of the first?

Mike Lowe founded HardingLowe in 2010 after spending twelve years in Accenture's strategy practice. Since then, Mike has worked with many of the world's top-tier law firms to improve operations in areas such as new business intake, learning management and knowledge management. He specializes in strategy, business planning, business architecture and process re-engineering. ◢

iManage begins its adventures
in Wonderland

BY JONATHAN WATSON

In July, the senior management team at iManage announced it had completed a buyout from Hewlett-Packard (HP) for the purchase of the complete iManage business, including its brand, products and services. Rob Ameerun caught up with chief executive Neil Araujo and chief marketing officer Dan Carmel at ILTACON 2015 and asked them how they were enjoying being back in charge.

Neil Araujo can clearly remember when the idea of acquiring iManage from HP came up. "The key thing for us, and the reason we bought iManage, was to get alignment between all of the stakeholders in the business," he says. "Those stakeholders are our customers, our employees, our partners and our ownership. When they get out of alignment, businesses don't do well."

This way of thinking emerged from a conversation with HP about how to achieve focus, both for HP and iManage. "The alignment comes from that focus, and once you have that alignment, you can make magic happen," he says. It was not the case that the management decided it wanted to make a move and then went to HP with a proposal. "It was a joint discussion we had with HP on what is the best structure for this business in a way that serves this community well."

That joint discussion lasted over 12 months. "It's complicated, because you have to get it right," Araujo says. "This time around, we wanted a structure that would enable us to build a great software business, rather than build something that gets rotated in three years. We're done with that. We also had to figure out as a management team how we could bring together the

capital and the infrastructure to make an acquisition of this size. It's not trivial."

According to Dan Carmel, the best thing about the buyout is that the senior management will determine the future of the company. "There is no other interest above us that will change any decisions," he says. "That's a very strong position to be in as a technology vendor. And it means we can get back to focusing on the customer."

The new structure also gives iManage greater agility. "Within three days of the divestiture, Mohit [Mutreja] was back and we have already changed how we organise R&D," says Carmel.

Where to find growth in a mature market?
This greater agility was undoubtedly one of the main reasons why iManage was able to make so many product announcements at ILTACON. As well as

unveiling its strategic vision and product roadmap for the next generation of matter centric collaboration, "work product management," the company announced "significant" enhancements to its core products: iManage Work (document and email management), iManage Share (secure file sharing), iManage Insight (enterprise search and analytics) and iManage Govern (records and information governance).

The management team is keen to emphasise that there is more to iManage than document management (DM). "DM is what we would call in the US market 'table stakes'," says Carmel. "Of course you're going to manage the security, integrity and the metadata around information. The competitive advantage now is what you do with the information."

It was 13 years ago at ILTACON that iManage stopped selling and talking

about document management, when it first brought email into its product and started talking about matter centric collaboration. The company has also been broadening its market beyond law firms, so its clients now include 250 financial service institutions and 120 government agencies.

"We think more people are going to want to work like lawyers in the future," says Carmel. "We don't think lawyers are weird; we think they are on the leading edge of managing information and extracting value. We see more of that kind of work, and more value adds."

Like many other legal IT experts, Carmel expects use of the cloud to continue increasing. The real question is what kind of cloud and what architectures will be used. iManage believes that it's not about one kind of architecture – SaaS-only or private-only – but about firms needing a hybrid cloud approach, where they can manage information in the appropriate cloud in an appropriate way, private or public, but still maintain information on-premise.

"We don't see that professional services firms are ready today in a single swoop to move all client information to the cloud," says Carmel. "They want to know what they are getting for it. They want a way out that allows them to explore the cloud and use it when appropriate, but still gives them the choice of having information on-premise."

One of the big differences between a professional services firm and any other enterprise is that in a professional services firm you are a steward of someone else's content, adds Araujo. "Any decisions you make about where you put content that are binary – either

here or there – can cause problems for clients who may be sensitive about their information and where it resides."

Whatever strategy you have needs to have flexibility, and that's where the hybrid model comes in, he argues. Managing other people's data is a big responsibility. "If you drive someone else's car, you are going to be more careful than when you are driving your own car."

iManage is also investing in support and user training, areas where Carmel acknowledges "there has been a lot of frustration" in the past.

Curiouser and curiouser!
iManage has undertaken an extensive R&D project – codenamed "white rabbit," in a reference to "Alice's Adventures in Wonderland" – to ensure its work product management applications evolve to meet the needs of a changing workplace and workforce. "This is our comprehensive response to developing a new user experience for what we think is the new professional," says Carmel. "User expectations and attitudes have changed. If we are going to continue being a leader for the next 10 years, we need a better alignment with where the puck is going – and that's to this new user and this set of mentalities."

Carmel says white rabbit is not a new product but a new experience for the user. It will be introduced in parallel to the company's existing experiences so that nothing is imposed on those who are not ready to change (Carmel affectionately refers to them as "dinosaurs").

The aim is to support the workflow given how lawyers work today, adds Araujo. "People don't go from Outlook to no Outlook overnight. They don't go from on-prem to cloud overnight. These things take time. So we've created a new generation of interface but not taken the existing one away."

He compares iManage's approach to Microsoft's. "I'm pretty sure that when they did Office 365 they didn't throw out all of Office," he says. "They took the bits that worked and said they would build on that core to develop a platform for the new world."

Underpinning all this is the key strength of iManage, which is dependability, says Araujo. "The system just works. It doesn't go down. I don't care what features you have – if your system is not reliable, the CIO's going to hear from the partners."

Looking ahead, Araujo says the management wants iManage to be viewed as a productivity enabler, so that it becomes a system that's demanded by users rather than mandated by IT. "If we can get 80% of the way there, we will be very happy, our customers will be very happy and our users will be very happy," he says.

A key part of achieving that is for the management to use its experience in the technology industry to build a great workplace. "iManage should be a place that people say is the best they've ever worked – not because there are great perks, but because they feel they have maximised their value." ◢

We've created a new generation of interface but not taken the existing one away - Neil Araujo
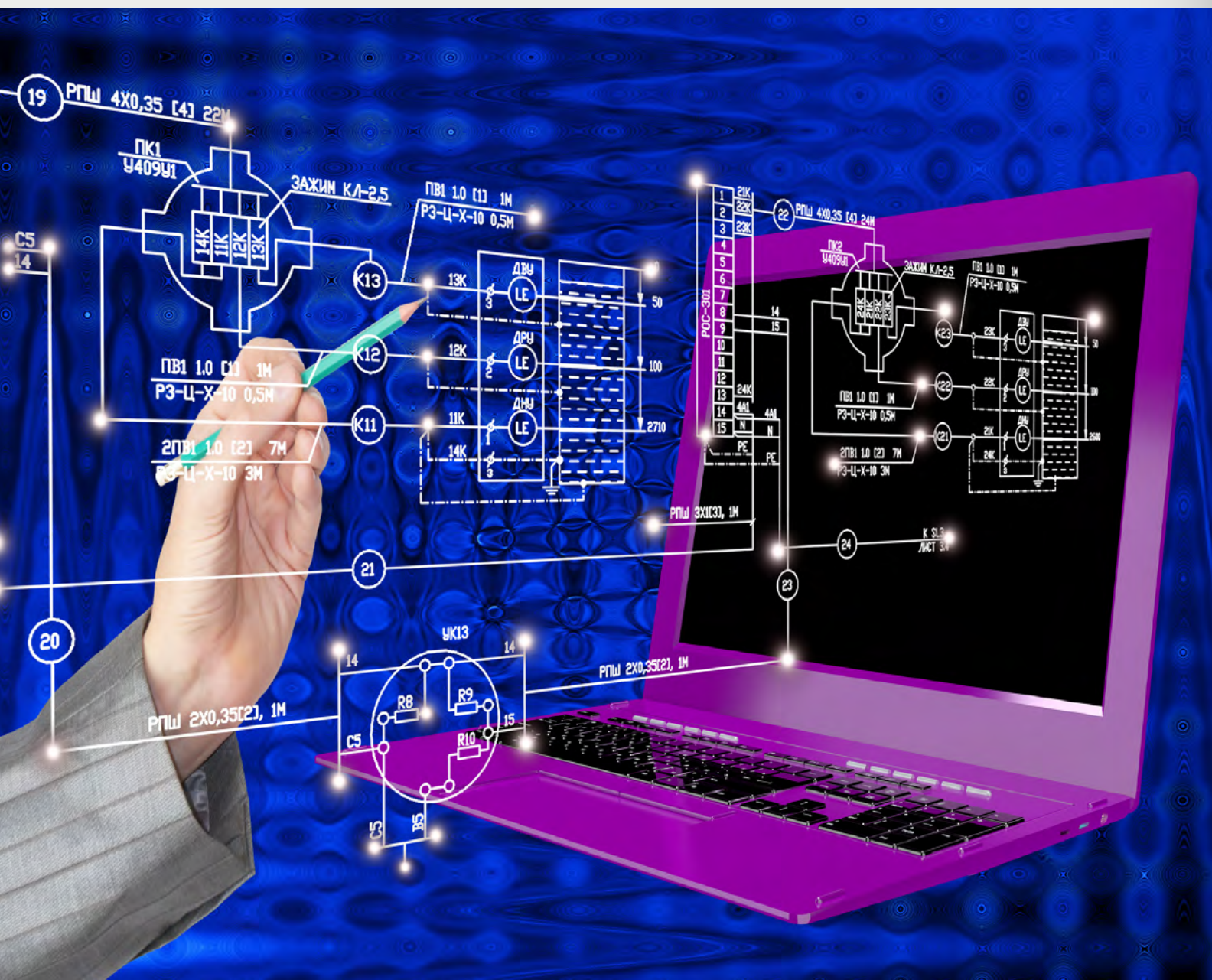
We are traditional in what we deliver, **but new in** how we deliver it

BY DONNA KENT

NewLAWu.s. offers clients a new, cost effective and value driven way to access high quality legal services and offers attorneys a new way of organizing their working lives, says Donna Kent.

Technology continues to change the world and have a monumental impact on our lives. It fuels innovation and efficiency and, for those who embrace it, provides tools for improved and more cost effective performance. Technological change occurs at an ever-increasing speed, and those who do not keep up risk falling further and further behind.

It is, therefore, puzzling that law firms have for the most part acted as if they are impervious to technologically driven change and even more puzzling that the marketplace has not yet crippled them for their failure to embrace and capitalize upon technology. My 40 years of business experience in technology industries tells me that all this is about to change – and change radically.

Law is surely different to retail, but not so different that it is immune to the economic realities that have taken down giants like Eastman Kodak, Blockbuster and Borders. Change is coming. Many say it is already here. And the $815 billion Old Law model will not be – and is not – exempt.

Buyer demands drive markets and law firm clients are increasing the volume of their demand for high quality services delivered on much more favorable economics. Those favorable economics are not fully available through traditional law firm models. New, technology-driven, innovative models will be required to meet these client demands.

Better for clients
30+ years in Big Law representing smart and innovative clients coupled with two economic crashes taught NewLAWu.s. founding attorney Scott Henderson that the current conventional law firm economic model was crumbling. Quizzing clients, he learned that the disconnect between a client's currency – results – and a law firm's currency – billable hours - was widening.

This gap was exacerbated and in many ways caused by the stifling effect that burdensome overheads and fixed salaries had on a law firm's ability to deliver value and invest in technology. These factors, coupled with comparative economics based upon profits per equity partner, have conspired to limit a traditional law firm's ability to maintain quality and at the same time reduce rates or deliver the meaningful, material alternative fee arrangements demanded by clients.

As noted above, clients are demanding changes. The traditional law firm model makes it more difficult to provide these changes. This is borne out by many recent studies of the legal market, such as Altman Weil's 2015 "Firms in Transition" survey that indicated that the gap between what the client wants and what the law firm hears is widening and that the client is beginning to take control.

Clients live in the real world – outside the law. Technology drives choice, efficiency and productivity. We operate with expectations for service. Responsiveness and quality are not negotiable. Pricing options abound in the real world, starting from self-service and continuing up a scale that moves from simplicity to complexity.

Choice and options in the real world are varied based on value, which is the currency of today's markets. That's until you engage the law, at which you point you face a throwback into archaic systems, brick and mortar structures, manual processes, inflexible pricing and inefficient processes with outputs often unbudgeted and ill defined.

The legal market is an anomaly. It has seemingly weathered the recent economic storm, with reports indicating that buyer budgets are holding and that in some cases, firm revenues are slightly higher. How long can it hold off adopting the tools needed to meet the new demands and requirements of the market?

Will clients step up their demand for value enough to switch and add non-traditional providers of legal services to their options? Will firms start to address their currency, change their structure and redefine old work processes to adopt new methods to drive client value? Will the old guard adjust their profit model to fit the needs of the market? Will Old Law adopt technology quickly enough to remain relevant to the needs of the client and today's industry? Perhaps most importantly, can Old Law do this even if it is convinced it must and wishes to?

Change is, in fact, already happening, although like an undertow it is not readily visible on the surface. Clients want to be able to choose a highly regarded and talented attorney with access to expertise who provides value that is reflected in price flexibility… and is efficient. NewLAWu.s. hires top-notch seasoned attorneys educated at the top law schools and trained by "best in class" Big Law. We are traditional in what we deliver, but new in how we deliver it. ▶

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Tools for communicating, collaborating, storing and retrieving documents between and among our attorneys are accessed in our portal and shared with the client. Business needs such as insurance, compliance, marketing and work processes are provided to keep the attorney focused on client engagement. They are largely unencumbered by the billable hour. With a flat organization and lean processes, we are a highly functioning team focused on our serving our clients' businesses and providing the best possible legal outcomes.

Creating a national and soon an international firm on a technology platform that drives value is good for the attorney as well. The structure and technology strip away cost, driving lower rates and greater efficiency. The benefits are flexible rate structures and predictable rates at 35-60% less than the same work from a traditional law model.

This drives more business for the attorney and more opportunities for cross selling. Improved efficiency allows each attorney to be in better control of their workload and output, and therefore of their compensation as well. Monetizing relationships builds work for the attorney and is rewarded with strong origination fees. Business access from a national / international firm provides broader reach into new opportunities.

The firm's underlying messaging and business development strategy nurtures opportunities through social media,

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The gap between what the client wants and what the law firm hears is widening, and the client is beginning to insist on being heard

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direct contact and applying value to the networks of each attorney. Since we are not location-centric, attorneys can work within the priorities of their life. The fee splits are generous and reward attorneys for their production. At NewLAWu.s., gone are the days where billable hour targets and profit per partner occupy the firm's strategic direction. Client need, attorney satisfaction, market demand and building value frame our growth.

Technology drives our case matter system, client communication portal, internal and external communication, document management, queries on legal matters and conflict checks. Tele/video conferencing, a marketing database and messaging are provided after the attorney's electronic onboarding is completed. Security, payment options, e-signature and electronic billing are built into the portal, which will soon also include a knowledge management system, database management system and an ongoing integration for dynamic legal research.

The vision of NewLAWu.s. is to be the premier law firm in the age of New Law. We want to meet the changing demands of a market in transition and to be a leader in industry change. We aim to be a firm where client needs are paramount, where leading edge efficiencies are adopted and adapted and high levels of value set a new standard for the law. A firm where attorneys choose to practice because it provides a good balance between life and career, and where our economics are highly regarded by practitioners and consumers.

At NewLAWu.s., we believe that we are in the right place at the right time. We are listening to and reading the tides, watching the ripples and navigating the current so that we continue to be prepared to meet the needs of the market and our clients with talent, technology and innovation.

Donna Kent is the Chief Operating Officer at NewLAWu.s. Prior to joining the firm, she spent 25 years with Xerox Corporation, subsequently becoming President and CEO of the Arizona Technology Council; SVP of Global Sales for Televerde; SVP of Venture Development at Tallwave; and an active Board Member of Partners in Action Missions.

It's time to rewrite the book of law **for the digital age**

BY CHRISSIE LIGHTFOOT
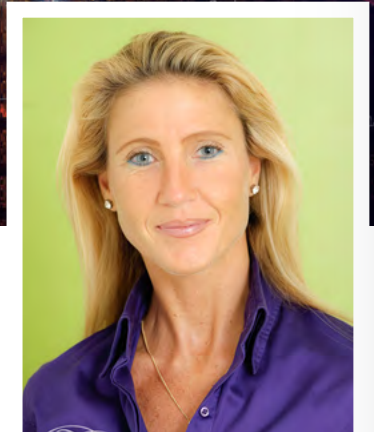
In the first of two articles for Legal IT Today, Chrissie Lightfoot asks what laws will be required to cater for the proliferation of machine intelligence, cognitive computing, artificial intelligence and robots.

It is widely documented that from now until 2025 there will be seven 18-month "Moore's Law" generations, resulting in a 128-fold increase in computing power. Coupled with similar progress in other technology fields, this means there will be huge potential for change in many areas of work / business, play / leisure and family – as well as in our social, economic, political and legal structures.

We're living in a world of:
- Wearable technology – Google Glass and Apple Watch have already become yesterday's news;
- Experimental chips embedded in human wrists – to open doors and pay for cafeteria food and photocopying, for example;
- Various products and services powered by IBM Watson technology, such as a natural language shopping app and ROSS, the world's first artificially intelligent attorney;
- Robot receptionists, robot waiters, robot saleswomen, robot nurses, robot bricklayers and robot sex "companions"; and
- Driverless cars and driverless shuttles (some would probably say that many law firms have been driverless for decades).

As social demographic shifts reshape society, the world population increases from seven billion to nine billion by 2050, we live longer, and artificially intelligent machines and robots increasingly make the majority of our current blue-collar and white-collar jobs redundant, not only do we need to question our purpose and meaning in life, we also need to figure out how we deal with all of these issues in law.

For example:

- Marriage: should we make divorce compulsory after 20 years?
- Our working life: to be capped at age 40?
- Human enhancement: what will be the policy / legal issues in our businesses?
- Google: if they were patenting wearables five years ago, what are they patenting now? Grafting or embedding technology in the human brain, perhaps?
- Consider: could we, would we, should we permit such things, and how will they permeate into our working lives?

Artificial intelligence (AI) has gone mainstream now, but there is still a huge amount we don't know or understand. It's little wonder that one scientist recently tried to persuade the Australian High Court that the fundamental laws of physics were wrong. Leading scientists and thinkers throughout the world, and particularly at the Massachusetts Institute of Technology (MIT) where STEM, AI and robotic research is being conducted, work in a hotchpotch environment where one field of study is in one room and a completely different field is next door.

If this is the case with regard to our current understanding of the laws of the universe and we become further enlightened as we make new discoveries on this planet and beyond (Stephen Hawking and others recently pledged $100 million for space exploration to find alien life), we will have literally rewrite the book of law – literally.

Only recently, scientists discovered a new link between the brain and the immune system. "They'll have to change the textbooks," said one of their colleagues at the University of Virginia upon hearing of the finding[1]. As in the medical profession, so it will be in the legal profession – and not just the textbooks.

Indeed, the law, in certain areas, as it stands now, is not fit for the digital age, let alone the robotic and interstellar ages to come.

Law in the digital age
Beyond the obvious point that we need to make new law and regulation in relation to AI and robotic advances, I advocate that considering further new laws (NewLaw) immediately appertaining to copyright, data protection,

privacy, porn, prostitution, family and employment would be welcome. They would all be relevant in our working lives and business conduct.

Consider for example the macaque (a type of monkey) that took a "selfie" and subsequently sparked a row (which went all the way to court) over who owned the copyright of the photo. "If we can debate this today… it is conceivable we have the same debate about

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The law, in certain areas, as it stands now, is not fit for the digital age, let alone the robotic and interstellar ages to come

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intellectual property that's developed through artificial intelligence in the very near future," commented David Bain, international GC and corporate secretary at cosmetics firm NuCerity[2].

The US has similar concerns. I strongly recommend you read "The Art of the Steal: Copyright in Retreat" by Peter Baldwin. Furthermore, both the UK and US are currently experiencing the ripple effect of revenge porn, defined as the intentional distribution of sexually explicit content without the subject's permission. It is a welcome progression that here in England and Wales, laws against revenge porn are now on the statute book. But is it right that it falls within criminal law and not civil law? And what about the rest of the world?

Let's briefly look at data protection and privacy law. While there is very little written about where privacy and regulation is going, I have come across a book entitled "The Future of Privacy" by Eduardo Ustaran, a data protection and privacy lawyer at a top 20 law firm here in the UK. The book proposes a legal framework that respects our privacy but also embraces the wonder of technology. Ustaran suggests the law of privacy needs looking at, immediately, for three fundamental reasons: ►

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- The evolution of technology;
- The value of data as an asset; and
- Data globalisation.

He argues that we shouldn't regulate technology because engineers (and designers) move faster. But he does propose that we should use the law to regulate behaviour. Market research companies collect data all the time, and we don't know if the use of said data is going to be harmful. Ustaran grapples with the two main debates:

- The human rights debate – the state has to serve all individuals, so it must justify the use of data for the benefit of the people; and
- The commercial debate – in today's world, information / data has value.

How do you reconcile a global approach by a company with an international legal framework with heterogeneous jurisdictions and data laws? And if "our privacy is a pillar of our freedom,"[3] quite rightly, then surely we have the right to be forgotten with regard to our digital footprint? Perhaps the ruling resulting in Google deleting 18,000 weblinks a month in the UK is the first step.

Law in the robotic age
The robot as worker
Humanoid robots are present in the workplace now in some parts of the world, strutting their stuff as robot nurse, robot waiter/waitress and robot saleswoman[4]. Avatars could be present in a work environment as early as this year too.

In the next 25 years, robots will possess both cognitive and iterative computing intelligence. If/when we have humanoids/iCyborgs /robots in the workplace and if a person/non-person has the ability to be injured but repaired and healed very quickly to a potentially better state than before, what does that mean for how we think about employment law, and in particular, human/robot rights, damages and what an injury is really worth?

For example, if an injury at work is caused by a non-person / avatar / robot, it begs the question "who or what will be liable or accountable for the damages?" Will it be you? The avatar is, after all, your copy, remotely controlled by you. Depending on how "human"

is defined, the level of personal liability, vicarious liability and whether the employer has recourse to the robot supplier will hang in the balance.

"Pure blood" human worker
I can envisage a future where discrimination will come down to a science, where "pure blood humans" without genetic intervention could become the underclass. Accordingly, should we prepare for the inevitable and consider that it ought to be illegal to discriminate between "pure human" and genetically enhanced human, iCyborgs and robots?

… to be continued in the next issue of Legal IT Today

Chrissie Lightfoot is an entrepreneur turned non-practising solicitor turned entrepreneur and CEO of EntrepreneurLawyer. She is the author of Tomorrow's Naked Lawyer: NewTech, NewHuman, NewLaw – How to be successful 2015 to 2045 (published November 2014) and its prequel The Naked Lawyer: RIP to XXX – How to Market, Brand and Sell You! (published in November 2010). ◤

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[2] David Bain in an article by Monidipa Fouzder in the Law Society Gazette, 23 October 2014: "Robots running law firms? Surely not"
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Will **non-lawyers play** an increasingly **important part** in the delivery of legal services **to clients?** If so, which roles do you think **will top the list** in the next decade?

Will non-lawyers play an increasingly important part in the delivery of legal services to clients? If so, which roles do you think will top the list in the next decade?

David J. Bilinsky
Practice Management Advisor and lawyer for the Law Society of British Columbia

If you asked clients who are the people best suited to solve their legal problems, I think the majority of them would say the person who could solve them quickly and cheaply, with a minimum of fuss and disruption. I think this is particularly true as we look to the gulf between the legal needs of the middle to lower classes and the availability of those who can economically meet those needs. It isn't the who so much as the what – in other words, getting the job done.

Clients don't much care who solves their problems as long as they get solved. Lawyers, as explained by the Chief Justice of Canada this summer, for any number of economic and other reasons, cannot presently meet the growing demand.

While nature may abhor a vacuum, it is the public who will eventually call for changes in the present system to have their needs met. This may be due to economics; it may be due to the growth of new technologies that allow greater resources to be placed in the hands of consumers; or it may be the emergence of law firms that have embraced "new law" and deliver services in non-traditional ways.

I think there will always be a role for lawyers in society for certain legal needs. I don't believe, however, that all legal needs must be met by lawyers. Certainly there is a great deal of room for non-lawyers to meet certain legal needs. Indeed this is happening already with notaries in British Columbia (BC)

and paralegals in many jurisdictions. With training and proper regulation, many other legal needs beyond real estate conveyances, mortgages and wills (notaries) and certain court appearances (paralegals) could be met.

Rechtwijzer, an online dispute resolution (ODR) platform developed in the Netherlands, deals with difficult problems such as divorce and separation, landlord-tenant disputes and employment disputes. In BC we will have the Civil Resolution Tribunal that will be an online platform for small claims disputes ($25,000 or under) and strata disputes and their decisions will have the same effect as a court order. These innovative ODR platforms will change how people seek solutions to their legal issues and those who assist or guide individuals through these platforms may not be lawyers.

I believe the areas of greatest opportunity for non-lawyers to play a role is in helping in the small claims and divorce and separation areas. It may be through the due application of technology; through the growth of new delivery models and individuals who provide those services, or through a combination of these along with a change in the structure of how we resolve disputes (such as greater use of ODR). But for lawyers, the times they are a-changin'.

Dave blogs at: http://thoughtfullaw.com. The views expressed in this article are those of the writer and should not be inferred as those of the Law Society of British Columbia.

Tom Clay
Principal / Altman Weil

The pace of change is accelerating significantly. The incursion into the profession by non-lawyers and technology is very clearly addressing the decreasing hold that lawyers have had on functions such as due diligence; document drafting and assembly; legal research; and document review in large litigation matters. Non-lawyers of many shapes and forms have for years been creeping, and are now running, into the space that once was lawyer specialized knowledge but is no longer.

Those lawyers whose professional careers have seen them achieve valued advocates and counselor positions are unlikely to be replaced anytime soon. But, if one is candid and objective, the brutal fact is that a great deal of lawyer specialized knowledge has disappeared through the process of commoditization. That process does not retreat but rather accelerates as marketplaces (purchasers) demand efficiencies and greater value for lower prices.

I am positive that technologies such as IBM's Watson will make increasingly speedy incursions into the legal profession. The ability to implement hugely robust knowledge management, yielding faster process and content management, will have the most profound effect on the profession. Therefore it is hard to believe that technologists, data analytics experts, KM professionals and so on will not play a large part in legal services delivery.

Paraprofessionals, such as those we see in "mini medical clinics" staffed by trained professionals who are not doctors, are likely to proliferate. Many paraprofessionals have significant experience, knowledge and know-how that retail consumers in particular would benefit from. It may depend on loosening the stranglehold that state bars have on the profession, but I think this will occur within the next 10 years, enabling a large group of people with cheaper specialized knowledge to grow in importance.

Jeffrey Schwarz
Chief Operating Officer /
Polsinelli PC

Non-lawyers have been involved in the delivery of legal services for a long time – paralegals, administrative assistants and IP specialists to name just a few. The markets are driving us to utilize even more skillsets more effectively.

Project management and business consultant skills are the two categories I think will top the list in the next decade. Project management principles mirror many aspects of the delivery of legal services and the increasing demands of clients. Delivering projects on time and on budget with transparency, predictability, measurements and milestones, in real time, are all part of the expertise of project managers.

Business consultants (at least that is what we call them at Polsinelli) help attorneys and practice leaders use technology, apply business principles and adopt aspects of Lean and Six Sigma to make the delivery of legal services more efficient and effective. It happens in other industries all the time and has happened in legal before with the growth of Big Law.

The client-driven market is driving the change again. In the next decade, this will result in a better model to support and deliver legal services. It will be a model that integrates different skillsets into the flow of work, highlighting the value of each role so that people are doing the things they excel at and making them happy. That is an empowered workforce that delivers value.

S. Dan Anderson
Chief Operating Officer / Dentons US

Many law firms that offer business consulting services, such as regulatory advice, communications or lobbying, utilize professionals who are either not members of the bar or non-practicing attorneys. I see continued growth in these areas as well as in other strategic business advisory services.

Law firms must continue to develop ancillary practices that can bring value to their clients, not just to survive, but to thrive. The true law firm of the future will not be limited to providing "pure" legal services, but may include business consulting in areas related to legal services such as data security, litigation and/or dispute resolution strategy and e-discovery advisory solutions, as well as consultation on privacy issues and concerns.

In addition, transactions as well as litigation work involve component parts that do not necessarily need to be per-formed by attorneys. Driven in large part by clients and com-petitive pricing pressures, firms will continue to look for ways to improve their cost competitiveness (and their margins) and will increasingly want and need to strategically source the performance of segments of the work product.