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LEGAL IT TODAY

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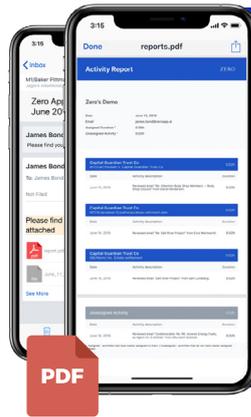
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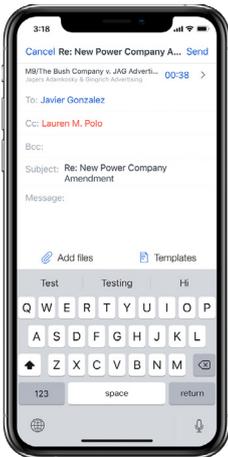
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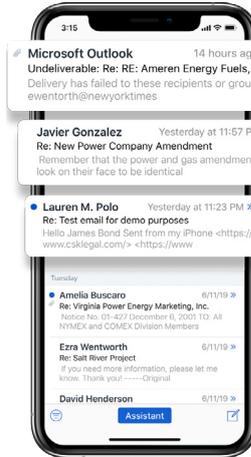
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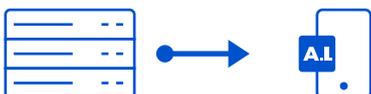
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EDITOR'S NOTE

WELCOME TO ISSUE 26 OF LEGAL IT TODAY!

If you went to Lexpo '19, I hope you enjoyed it and found it useful. Security specialist Andy Miles, who has contributed one of the articles for this issue of *Legal IT Today*, concluded his presentation with the words: 'As we say in the UK—don't have nightmares, do sleep well.'

This confused me. Is that really something we say in the UK? I had never heard it before. I have since discovered that it was the sign-off line used by the presenter at the end of *Crimewatch*, a BBC programme that showed reconstructions of major unsolved crimes in order to gain information from the public that might assist in solving the case.

These reconstructions tended to be very dramatic and highly alarming. Many of the viewers probably did have nightmares afterwards. Those who listened to Andy's talk probably did too, after hearing that his firm, when testing law firms' security arrangements, had successfully managed to hack 98% of them.

Those who were there for Marcus Weinberger's presentation probably also had nightmares—about all the clever teenagers in the world who might be trying to breach their firms' networks using information and equipment that is easily obtainable via the Internet. Jeffrey Brandt has interviewed Marcus for this issue.

I guess lots of people have favourite quotes, such as the line from *Crimewatch*. But like Dennis Kennedy, who is the 'legaltech legend' profiled in this issue, I don't have one favourite that has stayed with me over many years. As Dennis says, we are inspired by different things at different times in our lives.

When I was young, like Dennis, it was lyrics from rock songs that tended to get stuck in my head, just as the vinyl they came from would be stuck on the turntable (he said, sounding incredibly old). These days, working as a journalist, the quote that springs to mind most often is the writer Douglas Adams's comment on getting work done on time: 'I love deadlines. I love the whooshing noise they make as they go by.'

Incidentally, Adams' most famous book, *The Hitch Hiker's Guide to the Galaxy*, features a somewhat stuffy, out-of-touch middle-aged man whose whole way of life suddenly disappears, meaning that he is left to fend for himself in an unfathomably large universe of mind-bendingly advanced technology which he never fully comes to terms with. Remind you of anyone in your organisation?

I hope you enjoy *Legal IT Today*. As ever, we aim to share ideas and opinions across the global legal IT community and stimulate discussion. Please get in touch with feedback and suggestions for topics, features and images. It is always good to hear from you.

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WHAT'S HAPPENING AT DOCSCORP?

BY JONATHAN WATSON

Data security is a key focus for the team at DocsCorp this year. Ben Mitchell, the firm's VP for Global Commercial Operations, gives Legal IT Today the lowdown on how its offering is evolving in response to client demands.

What are you seeing in the legal IT marketplace at the moment?
One thing we've noticed in the last 18 months or so is firms deploying different types of devices for their users. Rather than having desktop PCs, there's a big move to laptops, tablets and other forms of mobile device. Even the laptops we're seeing deployed are stylus-enabled. That's become an expected norm.

In response to this, we brought in the ability to make handwritten annotations in PDF documents. That was driven by client feedback. We were seeing firms deploying these devices and realised that most PDF editing applications don't include handwriting capability. This is not designed for drafting documents—it's for lawyers to be able to mark up a document they've been sent. They might simply add some instructions about what should happen next and then send it to someone else internally to process further.

We've also noticed a real surge in requirements for better handling of spreadsheets and PowerPoint presentations. We've focused for a long time on delivering the highest possible level of accuracy when comparing Microsoft Word documents. We can

also provide that capability for Excel spreadsheets, but it's largely been dependent on first converting them to PDF and then comparing the PDFs. Demand is now growing for being able to compare those file formats natively. It's quite a challenging area, but we've invested heavily in it and will soon release an enhanced spreadsheet comparison offering.

We're also undertaking a full review of PowerPoint comparison as well. PowerPoint presents some specific challenges because not only do you need to see changes to text, you also need to see changes to image positioning and the movement of objects as well. And if a user deletes an entire slide or inserts new slides, how do you show that? It doesn't fit the standard mechanism that we would use for showing changes in a Word document.

DocsCorp recently exhibited at Infosecurity Europe for the first time. What was behind your decision to go there?
Data security is a key focus for us. Most of our efforts focus on data leak prevention. We've provided metadata cleaning functionality for many years. That term (metadata cleaning) doesn't really resonate with anyone, but when you explain how it relates to all those news stories about confidential information being accidentally disclosed, people suddenly become very interested!

If you have a 300-page contract and you left some notes on page 197, for example, it's very easy to miss that those notes are still there. They

may contain content you don't want disclosed outside the firm. It's the same with tracked changes. Another one we see regularly is instances of bungled redaction, where people think redacting just involves putting black boxes on top of things. We're always looking for new types of metadata to be cleaned. This can include geotagging in images, for example. There are several legal reasons you may not want the location where a photo was taken to be disclosed.

DocsCorp recently published a guide to redaction. What do people need to know about that?
Redaction is not a new thing. We actually introduced it into our solutions before Adobe did! Recently, we've introduced pattern searching for redactions so users can eliminate all instances of phone numbers, for example. Or National Insurance numbers, social security numbers—any sort of patterned data

that the system can recognise can be redacted if it fits the pattern. Proper redaction will irrecoverably remove the data from the text layer of the document and also etch the black box into the image layer of the document so that it cannot be removed and any text beneath it cannot be revealed.

Research suggests that the major cause of data leaks is human error. What should firms be doing to minimise the risks?
One thing they can do is to implement email recipient checking functionality, which we've added to our offering in the last 18 months. It prevents users from sending emails to unintended recipients and has genuinely stopped me sending an email to the wrong person on 12 separate occasions since I installed it on my machine —and two of those would have been real clangers!

Our research suggests that for every 500 staff in a law firm, incidents of email going to the wrong people occur approximately 10 times every month. And when this happens, firms tend to have fairly inadequate processes in place for what to do next.

Email's not going away, despite the rise of online collaboration spaces, deal rooms and other similar services. Firms need to recognise the risks and do something about them. There is a parallel with the emergence of cars. People drove around for decades before seatbelts started to become the norm, because of the number of accidents that were occurring. Just because email communications have

> *When cars emerged, people drove around for decades before seatbelts started to become the norm. We're now at a similar stage in the evolution of email communications*

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been available for some time doesn't mean that safeguards aren't needed to ensure their safe and proper use. That's the point we've reached now in the evolution of this technology.

What's going to be driving your work over the next 12 months?
Until recently, we've predominantly been a provider of desktop software or software systems that people deploy on-premise in their firm. We're now seeing increased demand for the types of technologies we provide, but heavily integrated into other solutions. This means they need to be delivered in a completely different way.

In response, we've been developing software development kits for our solutions so that the core technologies like document comparison or metadata cleaning or OCR processing can be embedded within other vendors' software. NetDocuments OCR, for example, a fully automated system for ensuring that every single document within a repository is fully searchable, is powered by DocsCorp technology. We

currently have a similar project under way with another document management vendor that will be released by the end of this year.

What other new requirements have you seen emerging in the market?
Firms are consuming online data services far more than they have in the past, and exponential growth in that area looks set to continue. A lot of those online collaboration spaces or online document management systems have a chargeable component which is based on the total volume of data stored. Firms have good reasons to move towards these cloud and online systems, but as the volume of data they store grows, so does the cost.

This means we are seeing an emerging requirement for the ability to bulk compress documents before uploading them to any form of online collaboration space. That will become a mainstream core requirement, especially for litigation teams, who have big court bundles that need to be provided online and made accessible to a number of different parties.

That's an emerging requirement. One that we see ongoing is a requirement for vendor consolidation. One firm I spoke to recently said they had over 300 software vendors that they deal with. That was a mid-sized firm in the City of London. For all those, they need to manage support contracts and keep abreast of developments and product roadmaps. That's an enormous amount of communication and administration. Firms are trying to consolidate vendors wherever possible and source multiple applications from single vendors.

What is your key message for law firms?
It's good to talk about all the latest innovations, but law firms still have to keep the lights on! New technology is exciting and can deliver fantastic benefits, but firms can still achieve a lot just by improving their existing systems. There are many things law firms can do to improve the way their workers transact their daily work, and to drive further efficiencies, without having to make major investments in new technology.

THE FUTURE'S IS SO BRIGHT…

BY JEFFREY BRANDT

Marcus Weinberger is only 16, but he is already giving presentations on cyber security at IT conferences across the world.

When you meet Marcus Weinberger, he seems like a pretty normal teenage boy. He has lived in various places in the US and is now based in London, England. Marcus likes music, goes to school, hangs out with his friends, plays video games and gets along (most of the time) with his two younger brothers. He's polite, unassuming and speaks with an English accent.

But appearances can be deceptive. Marcus is in fact very different to your average teenager. He is a hacker. A self-taught hacker. To be more specific, Marcus is an ethical or white hat hacker. And he's pretty darn good at it.

Marcus has given presentations, on multiple continents, to standing-room-only audiences of IT managers and security professionals on the ease with which hackers can access their systems.

That's not something you see on a typical teenage resume!

Marcus's first speaking gig, when he was 15, was at the 2018 LegalSEC Summit, the International Legal Technology Association (ILTA) conference dedicated to legal security issues, for which I was the educational co-chair. In addition to speaking, he ran live demos of some of the tools in his hacker's arsenal.

As Marcus explained, some of the tools interact poorly on his cast-off laptop and reboots are a big part of his life. When parts of his demo crashed or hung, this poised young man took it in his stride, rebooting and restarting where needed and continuing with his presentation as if nothing had happened. I know many adult presenters who can't handle live demo crashes even half as well!

After hearing Marcus speak at LegalSEC and then performing an encore presentation at the annual education meeting of ILTACON 2018, I managed to catch up with him and his father, legal IT stalwart Ben Weinberger, on the phone.

Hacking is his hobby

I asked Marcus to define 'ethical hackers'. He said they are people who 'work for what they believe is right, usually on the right side of the law' and that 'they try to make people more aware of vulnerabilities'. It's all about 'creating or changing things to make them better'.

I asked Ben what he thought of his son's endeavours. 'I guess from my viewpoint I find it interesting,' he said. 'I haven't encouraged or taught him any of this. Yet there appears to be some sort of genetic predisposition to it. I think it's good that he has focused on it in a productive way.'
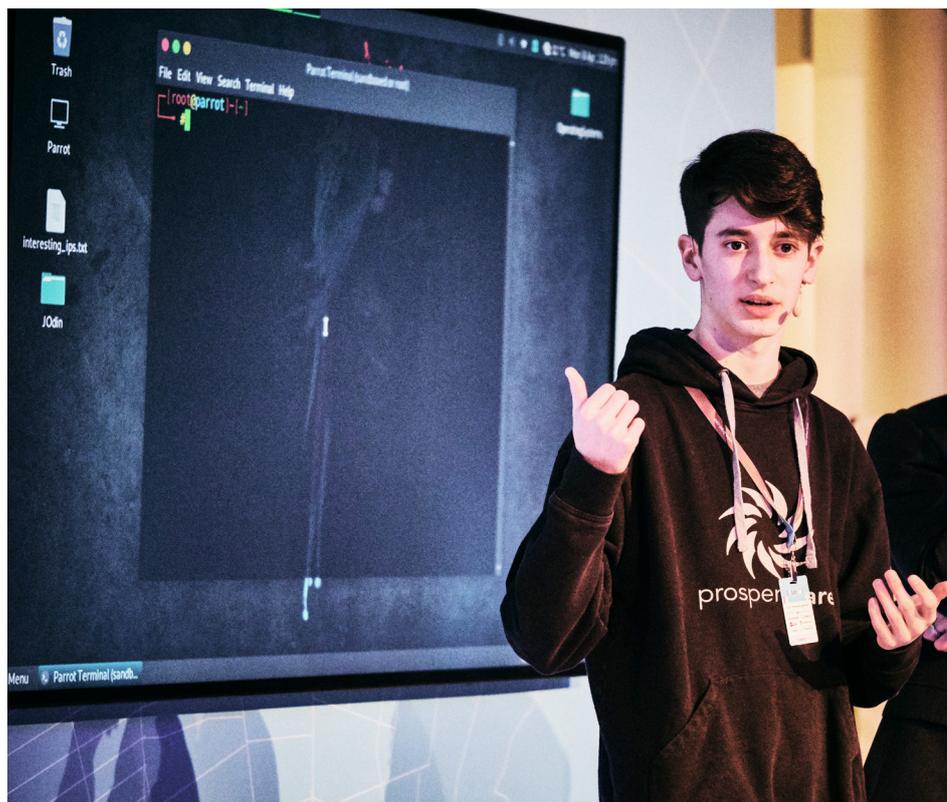
Everyone should be trained about the dangers of cybersecurity. Make everyone aware

Marcus was using computers from a young age, but got interested in hacking because it 'looked cool' and because he could mess with his friends. He was also drawn to the hacker culture—'taking things apart, seeing how they worked and changing them so they work better'. Asked about his first hack, he thinks it may have been getting around a school system that prevented access to gaming sites.

To hone his skills and acquire new ones, Marcus downloads purposely vulnerable systems and practises hacking them, he said. He and his friends write programs that the others try to tear apart and hack. He follows a lot of people on Github and looks for new scripts and tools to

experiment with. He's also tried to see if the family's new smart doorbell is accessible in ways it shouldn't be.

Asked about his favorite hack, he mentioned Samy (Samy Kamkar's cross-site scripting worm that was designed to work in the social networking site MySpace). As he described it to me, there was admiration in his voice. Kamkar exploited a feature of MySpace and did something cool with it—he added everyone on the system as his friend. 'I think that's pretty neat,' Marcus said.

Asked about the negative image of hackers, Marcus said we need to look at hacking and cybercrime as two different things. He believes that 'hacking is more positive and cybercrime is abusing things to do not such good things'. The most unusual hack he's heard about was the utilization of some scripts on a somehow-network-attached coffee maker.

Marcus isn't associated with any formal hacking groups. The biggest misconception about hackers is that 'they are all super-smart tech geniuses who know every single Linux command,' he said. Most of them are not like that. They are average people who go online, download some tools and run automated scripts.

In his personal software toolkit, he's selected from the over 400 programs on GitHub. The OS he uses on his newer laptop (thanks Dad!) runs Kali Linux, a distribution widely used for ethical hacking and penetration testing. He's also got a smartphone with a mobile version of Kali Linux that allows him to do some mobile hacking. He has several circuit boards, a WiFi Pineapple, some BadUSB drives and other inexpensive things he's

No
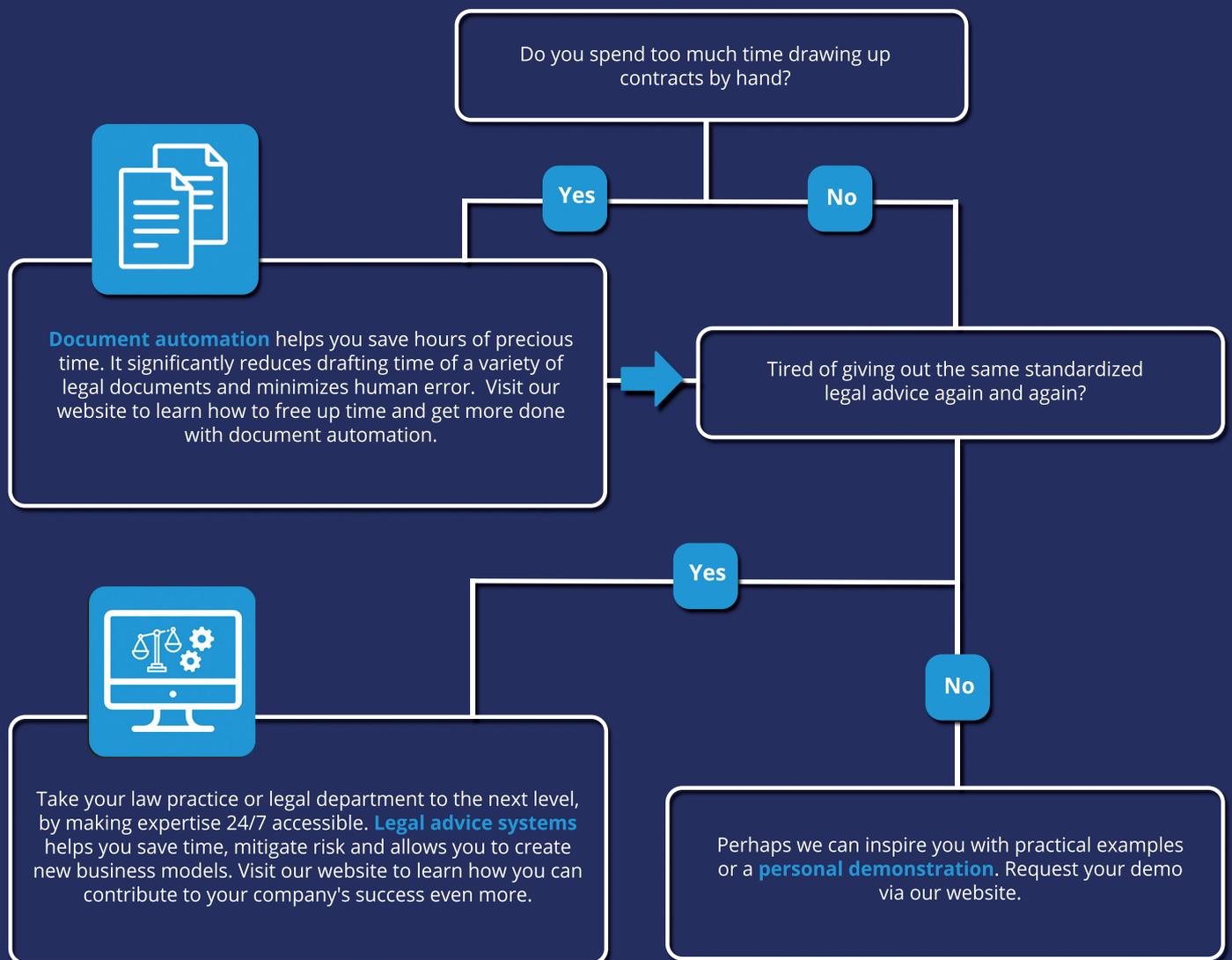
bought on eBay. Programming mostly in Python, he's started making some of his own hacking tools. He also has created his own libraries.

Educating others

When I was Marcus's age, the biggest presentation I ever gave was to my fellow high school students in Mrs Wentz's 'advanced composition and speech' class. How did he feel at his first presentation, in front of over a hundred adults? 'I didn't know what to expect,' he said. 'If I had actually gone to other people's presentations, I would have been more nervous. It went by in a blur. I probably should have taken off my hoodie beforehand, I was quite warm at the end of it.'

'You were sweating buckets at the end of it,' added Dad.

To the audience, Marcus seemed smooth, controlled and poised. I have to admit to a degree of jealousy. My first business presentation wasn't nearly as polished as his and I was over a decade older. Now with several more presentations under his belt, Marcus said he's more knowledgeable about preparing for them, but he still gets nervous.

I couldn't pin Marcus down on any predictions for cybersecurity. 'Things are changing too much to make any serious future predictions,' he said. But what security advice would he give people responsible for security in their organizations? 'Aside from focusing on organizational security, it is very, very important to train individuals at the company,' he said. 'Everyone should be trained about the dangers of cybersecurity. Make everyone aware.'

He's gotta wear shades

Marcus has spoken at ILTA events in the US (twice) and at Lexpo, the legal innovation event, in Amsterdam. Next up are presentations at the Tikit Client Day held at the Oval cricket ground in London in September and at the Futures Law Faculty in Cape Town, South Africa, in October. He also has multiple paid internships with US-based consultancies (AlphaServe and Conversant Group) over the summer.

In the autumn, he'll be starting his A-levels (the final stage of secondary school in the UK). He will focus his studies on computers, physics and math. He's considering attending university in either the US or the UK to study cybersecurity or programming.

All of this reminds me of the famous song by Timbuk 3. 'Things are going great, and they're only getting better,' sang the legendary one-hit wonders in 1986, long before Marcus was born. 'I'm doing all right, getting good grades. The future's so bright, I gotta wear shades.'

LEXPO'19: REASSURINGLY INNOVATIVE

BY JONATHAN WATSON

The speakers at our annual legal innovation event tackled a wide range of topics and one of them even dressed up as a robot.

One of the first things I noticed when I checked out the programme for Lexpo'19 was that on the opening day, three of the first four presentations were to be given by women. That was great to see in an industry where conferences are often so male-dominated. And on the second day, there was an all-female panel session.

The first session on day one, a keynote address given by Harvard's Heidi Gardner, focused on collaboration. She was keen to stress that collaboration was not a 'soft and fluffy' idea that means people talking to each other and generally getting along with everyone. 'It's not big group hugs,' she said. 'And it's not about everyone being nice to each other. Meaningful collaboration

means there may have to be some uncomfortable conversations.'

The other thing collaboration definitely isn't, Heidi said, is cross-selling. 'Clients despise that,' she said. 'I would like nothing more than to drive it out of the legal industry altogether. While you're advising them, they don't want you to say hey, how about you have a quick chat with our under-utilised tax partner.' It's the legal industry equivalent of 'do you want fries with that?'

If collaboration is so great, why aren't more people doing it? According to the research Heidi has been working on at Harvard, partners at law firms cite a number of reasons. They include time pressure, a lack of trust in others, a lack of knowledge of others' expertise and an inability to value that expertise.

Cross-selling is the legal industry equivalent of 'do you want fries with that?'

The generation game

Joy Heath Rush, who was recently appointed CEO of the International Legal Technology Association, highlighted the five different generations who are currently active in the global workforce, and emphasised that the so-called 'digital natives' are not necessarily the ones who are going to drive the uptake of legal IT. In fact, she said, they are the least prepared, because they think of IT in terms of the consumer and education and applications they've used since they were young.

As Casey Flaherty, now of Baker McKenzie, said in LITT#12: 'While young people are surrounded by technology, most of their usage is consumption or rudimentary communication (such as texts or Facebook) that does not prepare them for generating business content in an enterprise environment.'

Jenny Jones of Metis also tackled the differences between the generations now active in the legal workforce. Increasingly, she said, millenials want to know the purpose of the organisation they are joining. This is raising the pressure on law firms to define themselves more creatively so they can differentiate themselves from their competitors. They can do this by developing a culture that is less focused on following a clear strategic plan and more on building a rich, engaging mission.

Heath Rush also made the point that today's young lawyers are more business-minded than their predecessors. 'The financial crisis meant that many people went to law school to avoid going into the stock market, which was bombing,' she said. 'And they are on the management committee now.' Bad news for old-school attorneys.

This reflects the increasingly business-oriented nature of an industry where law firms can now be publicly traded, there are non-lawyer shareholders and there are non-traditional competitors. The current legal services environment is characterised by the rise of legal operations departments, a focus on cost predictability, pressure to conform the procurement of legal services—ordering them as if one were ordering pens or PCs—and the increasing use of data and metrics that were not traditionally relied upon by law firms.

Learning from other industries

Oz Benamram of White & Case said that most innovative developments tend to come from copying someone else's idea and applying it to one's own scenario. The legal industry, he believes, has a lot to learn from Uber, the taxi firm that famously doesn't own any cabs. He argued that Uber's key achievement has been to change the buying experience. It has introduced clarity and transparency, reduced buyer anxiety and created an efficient market.

If, as a lawyer, you choose a different route to others, one that perhaps takes a bit longer, then like an Uber driver, you will have to explain to your client/ customer why you are doing it.

Law also needs to look at the record industry, Benamram said. In the old days, if you wanted to find new music to listen to, you had to go to a record store and ask the guy who worked there for recommendations (it usually was a guy). 'Now, thanks to Spotify and its algorithms, that is all done instantly and automatically,' he said.

Benamram also noted that when clients talk to law firms about 'innovation', what they usually mean is that they want something 'exactly the same, but cheaper'.

Security and pricing

Security was unsurprisingly a big focus at Lexpo. First up, we had teenager Marcus Weinberger, son of Prosperoware's Ben, who showed the audience how easy it was to be a hacker using code and equipment that is easily obtainable for very little cost via the Internet.

Andy Miles, founder and CEO of cybersecurity firm ThinkMarble, made the point that firms may need to think about doing more than simply complying with regulations to secure their data and those of their clients. There were only 16 lifeboats on the Titanic, he said, which was nowhere near enough and contributed significantly to the death toll when the ship's hull was breached by an iceberg. However—it was in line with the regulations in force at the time.

Richard Allen, a consultant at Burcher Jennings and Validatum, focused on pricing. His presentation sought to answer one simple question: how can law firms package their offerings to maximise profits? One of his suggestions when bidding for work was to disaggregate the job into components. By offering a bronze, silver and gold package, firms can outline what the client gets for each option.

'Carefully crafted simultaneous presentation of "compare and contrast"

options can steer the client towards the most profitable one,' he said. Pricing can be seen as a proxy for quality, and like Stella Artois beer, law firms could think about presenting their services as 'reassuringly expensive'.

'What message does your pricing send to your market?' Richard asked. 'Low pricing and a willingness to discount could damage your brand.'

Scale and sinning

Mitch Kowalski took on the tricky issue of scale and law firms. The key question he sought to answer was 'why be big?' Contrary to many other legaltech luminaries who argue that BigLaw's days are numbered, he said being big still offers a number of advantages. Big law firms can handle more deals. Big clients like big firms who can deal with sophisticated legal issues. Big firms have stronger brands and stronger reputations.

However, that said, the most profitable firm in the Am Law 100 has 81 partners, while the least profitable has 336. 'It's not simply the case that bigger is better,' Kowalski said. 'It's about achieving appropriate scale.'

One of the most memorable aspects of Lexpo '19 was the inaugural appearance on stage of 'Lexpo Bot', a robot that claimed to have 'BI built in'. However, this turned out not to be business intelligence, as those initials suggested, but Brian Inkster (get it?), who emerged from the android casing to outline the 'seven deadly sins' of legaltech predictions.

One of these, of course, is the prediction that robots will replace lawyers, which despite all evidence to the contrary seems to be a very hard one to shake off. There is bound to be a legal futurist writing an article somewhere, right now, insisting that robots will replace lawyers in five years' time—because in the world of legal futurists, Brian said, big changes are always about to arrive in five years' time.

But if robots really do replace lawyers, Brian will be ready. He will simply put on that robot costume and carry on as before. I guess that's one way of engaging with the latest technology...

See you at Lexpo'20!

WHAT DOES A CHIEF PRACTICE MANAGEMENT OFFICER DO?

BY JOE DAVIS

Simply billing time is no longer enough—the market is increasingly requiring firms to respond differently, and the field of practice management is working to facilitate that transition.

Toby Brown oversees a variety of functions—including legal project management and lateral partner acquisition—but pricing is at the core of his role. Brown is the Chief Practice Management Officer at Perkins Coie, an Am Law 50 firm with more than 1,100 attorneys. 'My focus on pricing is really around revenue and margin,' he says. 'I do a lot of evangelizing on what profitability is and how to improve profitability in the way we price and deliver our services.'

Brown is part of a growing number of professionals focused on the business of law in order to keep their firms competitive. His transition from the knowledge management field into pricing coincided with the 2008 recession. Prior to that point, he says, law firms had a simple pricing model. 'Every year firms would raise their rates 6-10%, and demand was always going up, so every year they just made more money.'

Once the recession hit, clients began to push back on fee increases and ask for alternative fee arrangements, forcing some lawyers and firms to consider the possibility of working under a different business model for the first time. 'I remember sitting down and doing the really hard math on a matter and client level to determine profitability,' he recalls. 'I started talking to a partner about it a couple of days later, and he looked at me like I was from another planet.'

When that partner admitted that the idea of analyzing whether his work was profitable had never crossed his mind, Brown initially thought he must be an anomaly. 'By the time I got to the third partner, I realized that none of them understood it. Why would they care, when without caring, their incomes are going up dramatically every year? The old joke is they went to law school because they didn't want to do math.'

While the economy has improved significantly since its 2008 lows, firms looking to stay ahead of the curve are continuing to explore pricing and profitability. 'Obviously, firms did very well last year,' Brown says. 'That kicks the can down the road a little bit on whether we need to worry about profitability. But even with that, I think it's on the agenda more and more with leadership and partnership at my firm and at other firms.'

The basics of pricing
According to Brown, firms can begin working with a practice management team in two ways: being proactive on fee arrangements and reducing costs. He says that instead of waiting for a client to ask 'are you going to give me a fixed fee?' firms should be going to clients and saying 'look, we have an idea here'. For example, a firm could offer to handle all the SEC filings required of a public company at a single fixed fee rather than at an hourly rate. Clients and firms both appreciate the predictability of this kind of arrangement.

The challenge for the firm is to document the scope of the project and figure out how much to charge for that portfolio of work. This is where Brown and his team come into play. 'We need to manage against that budget number and find ways to be more efficient,' he says. 'We really watch and reduce our cost of delivery wherever we can. That will drive our profitability.'

He also points out that these kinds of non-traditional deals may require investments in non-traditional areas like alternative staffing, process improvement and legal project management. 'You now have the ability, because of the bigger revenue number, to make that kind of investment and then make the investment back. Fixed fees open the door to that.'

Staffing the pricing role
Brown is asked so frequently about how to start a practice management team that he has a ready-made response. 'The short

answer is you're going to need a pricing professional and there are two ways to get one. You can build one or you can buy one. If you choose to buy one, I say get out your chequebook, because there aren't many experienced pricing people out there and they command a high price in the market.'

He is quick to point out that physical location should not be an issue. He mentions one US west coast firm that reached out to him for advice about hiring a pricing person, but wanted to have that person sit in their main office. He told them: 'You just took 95 per cent of the qualified candidates off the list because they're not going to move to Palo Alto.' When they asked why not, he said it was because they don't have to. 'I've been a pricing guy for over a decade and I have yet to be based in the main office,' he told them. 'Just suck it up and be very flexible with the candidates.'

Given that there are relatively few individuals with legal pricing experience, Brown believes that 'building' a pricing professional is a valid option. 'I came from knowledge management, some people come from finance, some people come from marketing,' he says. 'I poached my current senior director on the pricing side out of the library. She was a former lawyer, knew numbers, understood the practice and she rocks it!'

However, putting an attorney in a pricing role is not always the right move. 'If someone has been a lawyer for six, seven, eight-plus years, that can be a negative because they can become dogmatic and narrow-minded in their thinking,' Brown says. 'That said, I actually have a number of lawyers on my team who have come from practicing and there is absolute value in understanding the practice. But even then, they might understand litigation well and know nothing about transactional stuff.'

Tools of the trade
The market for pricing talent is small but growing, and the same can be said for the software tools for pricing. 'We have a very large portfolio fee deal with one of our clients—it actually covers a lot of practices in a relatively new deal,' Brown says. The partner came to him and said

there had to be a product out there that the firm could use to monitor budgets in real time. 'I said, "well, you would think that is out there. It would make sense for it to be out there. But it isn't".'

Brown's team at Perkins Coie is testing an early version of one pricing / budgeting / monitoring tool that looks promising. They began looking at it in order to replace a different package that was not meeting their needs. 'I told the lawyer this was the first time he had asked for one of these. Why would there be a product if no one has asked for it?'

Brown's team also handles scenario modelling. An attorney can come to Brown and his team with a potential fixed fee engagement, with a certain level of staffing and leverage, and ask whether it will be profitable. 'We need tools to

movement. Once you get below 12 and 13, the number of moves up and down starts to increase. When you get into the Am Law 200, even though they had a decent 2018 compared to the Am Law 100, their decent year was half of what the Am Law 100's was. So the firms that are downmarket and midsize firms are going to start to have pain, and some of them are already having it. Last year (2018) kicked the can down the road, but that's where I see cracks in a lot of foundations. I don't think 2019 is going to be a bad year, but it's not going to be like 2018.'

Firms that understand these changing market dynamics are looking to patch those cracks and reinforce those foundations with the kind of insight Brown and his team can offer. Simply billing time is no longer enough—the market is increasingly requiring firms to respond differently, and the field of practice management is working to facilitate that transition. 'It starts to sort of seep into the DNA of the firm,' he says. 'I think we're talking about it a lot more now, and pricing has been the catalyst for that.'

Joe Davis is the Director of Product Strategy at Litify, a practice management platform. He has spent over 20 years in legal technology at large law firms and in the corporate legal space, and is a frequent speaker and author on a variety of legal tech topics, including artificial intelligence and enterprise content management. Prior to his IT career, Joe was a teacher, an entrepreneur and a DJ in a flea market. Contact him at joe@ josephpdavis.com.

be able to come back and say "okay if we do take it, at whatever the number is, and we manage it, our margin will be X per cent and if we do it this way, with a slightly different type of pricing, our margin will be a little higher or a little lower". A lot of people just do it with spreadsheets. When I was deeper into it, that's what I would end up doing. There are a lot of them coming on the market, and pricing people are really hungry for tools to model things like that.'

The future of pricing
Recently, the driver for increased profits has been an increase in rates rather than an increase in demand, Brown says. Most sources are reporting that the demand for legal services will remain flat for at least the coming year. 'I actually think demand is going up, but our current measurements don't measure what our clients are buying,' he says. 'We measure what we are selling to them, which means if somebody else is cutting into our market, like alternative providers and the "big four" and others, we don't know about it. Our market stats don't even tell us that.'

Even if law firms have no hard metrics around it yet, the potential impact of the big four accounting firms entering the legal market is being closely watched. 'You're always worried about a disruptor coming in,' Brown says. 'The big four have really ramped

up in a quiet fashion. They're coming at us hard, and they already have relationships with our clients.'

Despite the competition, he believes that law firms are not in imminent danger. 'What will save or prolong this for law firms is the fact that our clients are former "big law" lawyers. They're not really evaluated around cost savings, so our clients aren't waiting to embrace a disruptor. That's a huge risk for them to take. Why would they do it?'

Brown's data-driven approach does highlight some potential problems in the market. 'The rich are definitely getting richer. If you look at the top of the Am Law list, there is not a lot of

We really watch and reduce our cost of delivery wherever we can

HOW SUPPLIERS CAN THREATEN LAW FIRMS' CYBERSECURITY STRATEGIES–AND WHAT TO DO ABOUT IT

BY ANDY MILES

Through contractual protections and proactive supply chain management, it is possible to put firms in the best position possible to protect themselves and their customers.

The expansion of the extended enterprise and reliance on third parties has reached a tipping point, fuelled by cloud-based technology and 'as a service' offerings. In parallel, data breaches stemming from third parties are at an all-time high, with 47% of organisations experiencing a risk incident caused by one of their third parties in the last three years[1].

There is a growing awareness that third party cyber risk must be managed to protect firms' reputations and intellectual property, along with clients' and firms' data and competitive advantage. While more due diligence is needed, it can be difficult to know where to start or how to scale when it comes to managing third party risk within the supply chain.

More than half of businesses do not know anything about their suppliers' security measures and whether these are enough to prevent a data breach

Most firms rely on suppliers, often a chain of suppliers. Sometimes, supply chains can be large and complex and effectively securing the supply chain can be difficult because a number of vulnerabilities and unexpected risks can be inherent, or introduced and exploited at any point in that chain.

In November 2018, the third annual Ponemon Institute 'Data Risk in the Third-Party Ecosystem' report was published. It includes the following findings:

- 59% of businesses experienced a data breach caused by one of their suppliers.
- 29% of businesses experienced a data breach caused by a sub-contractor of one of their suppliers.
- Only 29% are confident that a supplier would notify them if a third party had a data breach.

Crucially, more than half of businesses did not know anything about their suppliers' security measures and whether these were enough to prevent a data breach.

What does the UK's National Cyber Security Centre (NCSC) say?
The UK's NCSC has issued guidance about how firms can ensure that their supply chains are held to the same standard as their own internal cyber defences.

Within this guidance there are 12 core principles that firms must consider when establishing supply chain security:

- Understand what needs to be protected and why.
- Know who your suppliers are and build an understanding of what their security looks like.
- Understand the security risk posed by your supply chain.
- Communicate your view of security needs to your suppliers.
- Set and communicate minimum security requirements for your suppliers.
- Build security considerations into your contracting processes and require your suppliers to do the same.
- Meet your own security responsibilities as a supplier and consumer.
- Raise awareness of security within your supply chain.
- Provide support for security incidents.
- Build assurance activities into your supply chain management.
- Encourage the continuous improvement of security within your supply chain.
- Build trust with suppliers.

What does the General Data Protection Regulation (GDPR) say?
The GDPR contains several provisions that are relevant to supply chain security. These provisions will vary depending on whether your business is a 'controller' or a 'processor' as defined in the regulation. In the context of supply chains, your suppliers will sometimes be a processor and you will be the controller.

Controllers shoulder the highest level of compliance responsibility and must comply with and demonstrate compliance with all the data protection principles as well as the other GDPR requirements. They are also responsible for the compliance of their processor(s).
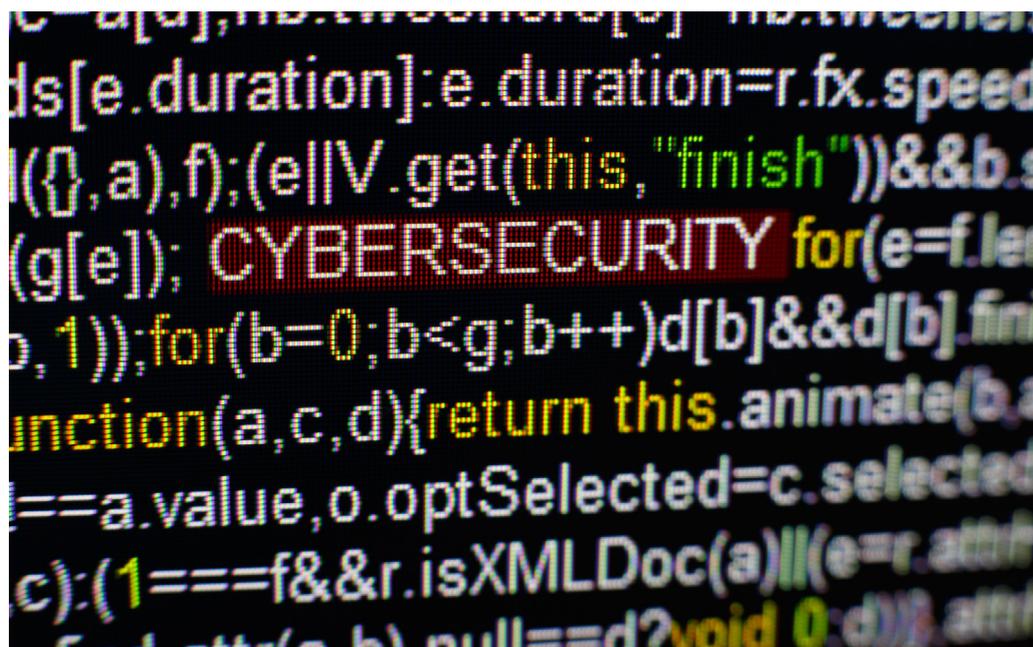
One platform, unlimited possibilities.

THE POWER OF ONE

SAFE

READY

PROVEN

Business priorities are ever evolving to meet the needs of your employees and exceed client expectations. We provide the tools you need to accomplish the priorities of the present while establishing the framework to prepare for the future:

- Spend less time searching for content and worrying about version control with the platform's core document management functionality.

- Take control of inbox overload with ndMail. The predictive email filing tool allows users to save and organise emails with just one click.

- Collaborate more effectively with ndThread. Users can share information using secure conversations linked to the topics at hand and annotate content to quickly share thoughts or call out concerns.

- Eliminate accessibility issues. Users can work on documents from home or in the office with the NetDocuments web interface and mobile applications available for both iOS and Android devices.

The effect of GDPR (Article 28) when you are a controller is that:

- Before entering into any arrangement with them you must satisfy yourself about a potential processor/supplier's security measures; and
- Enter into a contract that 'sets out the subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subjects and the obligations and rights of the controller'.

That contract or other legal act must set out some specific terms and place an obligation on the processor to have appropriate security measures in place. It must also deal with the use of sub-processors and permit audits and inspections.

Some supply chain attacks

In 2013, the giant US retailer Target suffered a data breach which according to the New York Times cost it at least $202 million. The attackers used the credentials of a supplier who had been accessing Target's network through a portal that was freely available on the internet.

In 2016, US telecoms firm Verizon suffered a data breach which involved six million customer records, caused by poor security at a provider of customer service analytics.

In 2017, data analytics and technology company Equifax blamed 'the greatest security catastrophe of modern times' on a malicious link on its website to a third party.

In 2018, British Airways (BA) revealed that hackers had managed to breach its website and applications, stealing data from many thousands of customers in the process. Although the cause has not yet been definitively identified, it is strongly suspected that BA was the victim of a supply chain attack.

And in 2018, Perth Mint, Australia's official bullion mint, was hit by a data breach caused by a supplier's poor security.

Data compromised included the names, addresses, passport and bank account details of 3,200 customers.

All firms must ensure that they adopt strong data governance and cybersecurity practices to reduce the risk of third-party data breaches. This means:

- Conducting regular audits and assessments to evaluate the security and privacy practices of all third parties.
- Tracking all third parties (through an inventory) that have access to sensitive data and how many of these parties are sharing this data with others.
- Implementing formal processes to regularly evaluate the security and privacy practices of third parties, particularly to address new technologies and innovations like 'Internet of Things' (IoT) devices.

'While corporate executives understand the implications of a data breach or cyberattack to their business, far fewer are aware of the source of these attacks and the vulnerabilities that their organisations need to address to properly secure their data,' Larry Ponemon has said. 'Considering the explosive growth of outsourced technology services and the rising volume of third parties, companies need to take control of their third-party exposure and implement safeguards and processes to reduce their vulnerability.'

All firms should take a long hard look at their supply chain in order to assess and mitigate risk. Through contractual protections and proactive supply chain management, it is possible to put firms in the best position possible to protect themselves and their customers. Remember—security is really only as good as the weakest link.

Andy Miles is founder and CEO of ThinkMarble, an award-winning, component-level, end-to-end cybersecurity operator that offers a security package designed to protect organisations from the latest threats and vulnerabilities. Its comprehensive approach covers people, processes, technology and legislation to create a proactive and dynamic defence across entire organisations.

EVALUATING AI AND ML TOOLS, ONE COMPARATIVE TRIAL AT A TIME

BY FRIEDRICH BLASE

What happens when you carry out an extensive comparative trial of well-publicized AI/ML contract analysis vendors on behalf of a consortium of six corporate legal departments?

AI tools are still the shiny new object in legal. Everyone wants to use AI and machine learning (ML) and reap the rewards with increased productivity, more automation, cost savings and streamlined workflows. Nowhere is this more evident than in the crowded AI/ML contract analysis and contract assistant field. With dozens of vendor options, how can you thoroughly evaluate what you need without getting stuck in (in) decision purgatory or just choosing a tool that seems 'safe'?

I decided to conduct an extensive comparative trial of nine well-publicized AI/ML contract analysis vendors on behalf of a consortium of six corporate legal departments. They included the legal departments at Etihad Airways, Innogy and Teleperformance. They represented various vertical markets, including aviation, energy, retail, defense, industrial manufacturing and outsourcing services.

This process, from beginning to end, consumed more than 18 months of my life. I am happy to share best practices, tools and tips that will benefit anyone, be it a law department or law firm, when looking to evaluate and select an AI vendor as part of a comparative trial process.

Getting started
Let's step back for a moment to provide some more context. Originally trained as a lawyer in Germany, I left the practice of law for the business of law nearly 20 years ago, mostly working with law firms and law departments on management issues. Roughly four years ago, I began diving into the world of legal technology and looking to help the same audiences better navigate technology evaluation and use.

During this time, at a board meeting of a legaltech startup, the idea of evaluating contract extraction AI tools on behalf of corporate clients (and others that I could bring into the mix) took hold. Thus the comparative trial idea, backed by a consortium of law department 'buyers', was born.

The time and effort it took me to assemble the consortium and set the ground rules in terms of what the law departments' commitment would be provided a good lesson in how difficult it can be to get overall buy-in and corporate commitment (i.e. time).

The consortium was keen to see which tools made up the AI/ML landscape and how they might be leveraged to help them address contract analysis

challenges. I assembled an RFI (request for information) for vendors interested in participating. The process of assembling the vendor roster was interesting on its own, as it consisted of contacting known players in the space and reaching out to familiar law firms already using specific tools. It also involved cold calling other vendors to see if they were interested in taking part. Hard selling was definitely not involved.

Crafting the perfect RFI
I could easily spend the remainder of this article on the 'art of the RFI'! Here are just a few of the valuable lessons I learned that can be applied to any information seeking scenario:

- Clear objectives: The RFI should be crafted to solicit interest from vendors who are qualified to participate in a collaborative and collegial fashion. No 'gotcha' questions should be included. I sit on the boards of several legaltech companies and have seen first hand how complex RFIs and RFPs have caused major time and resource strains.
- Limit questions. Don't include questions that you just happen to find interesting. Focus on questions that will yield the specific information you need. Make sure vendors clearly understand what you are asking in order to ensure accurate responses.
- Build bridges, not barriers. RFIs crafted by lawyers are often complex and cumbersome to navigate. Our goal was to provide a concise and simple RFI that would foster collaboration with vendors rather than create an adversarial climate. We also vowed to be as transparent as possible and

> *We provided a clear AI/ML tool path forward—much better than gearing up to climb Mount Everest!*

HOODIE GUY & THE LAW FIRM

1. Monitoring the Budget

Hey – I'm buying another start-up called Kumquat.

We need an agreed budget for your legal fees, and I need you to update me every two weeks and report on how you're on target with that budget.

FINANCE OFFICE

I need you to help me monitor and meet this budget!

2. Data Access

We'll need this new matter setup in the Contract Review, Transaction Management, and Document Management Systems. Oh, and only Mary and Joe should have access.

TIME GOES BY

Oops, sorry, my mistake – the company's called Kumquat, not Kiwi! Oh, and Sam also needs access.

3. Data Breach

Hoodie Guy suffers data breach. Government starts investigation.

This is bad! I need to know where you keep all my data! Who touched my stuff!?!

I'll get you a report.

Ugh, please tell me you can figure out what systems have Hoodie Guy's data in them and who's accessed it?

I'll work on it.

How To Write Reports Tin Python

prospero**ware**

provide vendors with clarity regarding trial costs and resource commitments.

Avoiding 'Mount Everest Syndrome'

Based on 20 years of working with lawyers, including practising myself, we definitely wanted to avoid scope creep. The best way to do that is to keep the trial scope simple and transparent, steering clear of what one of my great mentors Gerry Riskin refers to as 'Mount Everest Syndrome'. This is how he defines it:

'While brainstorming team-building options, the idea of taking a walk in the park is shared. The lawyers immediately chime in: "If this law firm goes for a walk, we can also climb Mount Everest at the same time!" All the lawyers nod while everyone else stares at them. Fast forward six months, and the firm is still planning to climb Everest instead of having taken the simple walk in the park. In the end, nothing is accomplished, because the original idea becomes more important than its execution.'

It was vital that we avoided putting vendors through unnecessary hoops and hurdles that would further complicate the RFI process and potentially sacrifice the integrity of the trial. The one question I kept on asking the consortium related to the trial scope was 'how does this make the trial better? And do we absolutely need it?' At the end of the day, the only must-have vendor commitments focused on the destruction of data and the limitation of its use. Everything else was merely 'nice to have'.

Trial construction: more is not always more

Once our RFI was crafted, we were ready to 'let the dogs out' and begin the vendor invitation process. With an extremely large vendor field to choose from, we expanded our scope. With hindsight, I have realized that arriving at an 'apples to apples' comparison for a larger sample size takes more time and resource and involves more complexities. We ended up redesigning the trial protocol based on the final number of vendor participants. Even with all the care taken in putting together a reasonably scoped RFI within a reasonable response time frame, it was remarkable how many vendors misunderstood the process and missed what we felt were realistic deadlines. In

the end, we included nine AI/ML contract analysis tools as part of the trial.

In the initial trial phase, we focused on getting a keen understanding of the available tools, only to quickly realize that we were dealing with two distinct solution types: plug and play, DIY, ready to use 'out of the box' applications versus a professional services approach featuring offerings disguised as AI/ML technology.

From my viewpoint as trial lead and vendor-consortium liaison, this professional services approach was a lot less intuitive and transparent, and not conducive to an extensive 'apples to apples' trial. The people component in these service-heavy AI/ML applications appeared rather intense. This is something that might work in an eDiscovery scenario but not in the scenario we were looking to test. Ultimately, having a better understanding of what the various vendors' systems could do versus what we wanted to test enabled us to redesign the test protocols accordingly.

Testing, testing

We devised a four-part testing protocol for the nine ML tools. First, we aimed to familiarize ourselves with vendor pricing and the various technology stacks. Overall, we focused our inquiry solely on items designed to add value to the people we were doing this for—the consortium members. Next, we provided a subjective review of certain pre-set criteria, including how intuitive and easy to use the tools were as well as levels of training and support.

During the pre-learned extraction phase, we put the tools to the test focusing on precision and recall based on previous manual review and validation by the consortium members. The most significant learnings and overall vendor differentiation were achieved during the actual AI/ML phase. We wanted to know how much a specific tool could learn based on ingesting four sets of documents. After ingesting the fourth set of documents into the system, the winning contract analysis software started to find clauses that we had missed as part of the manual review. For me, this was one of the most rewarding parts of the process. It really illustrated

the potential of certain AI/ML clause extraction applications—if properly trained and fine-tuned.

Delivering results

The value of the trial results to the consortium members ranged from purely informational ('thank you for the report and associated detail') to educational advocacy ('can you present these results to our skeptical lawyers?') to potential purchases ('I was looking for this specific feature provided by vendor X so would like to have a further discussion').

Overall, tackling our 'which AI/ML contract extraction tools are out there?' question from a group/consortium comparative trial perspective not only provided a clear and steady comparison baseline but also offered distinct cost and resource savings. Individual law departments (or law firms) might spend between 120 and 200 hours in running a comparable trial spanning document search, RFI development and vendor selection, solution setup and training, trialing solutions, compiling results and making a final decision. If nothing else, I am confident we provided a clear AI/ML tool path forward that is much better than gearing up for Mount Everest.

Friedrich Blase is an entrepreneur, business builder and legal industry leader with expertise in improving the competitiveness and financial performance of legal service providers. Over the past 20 years, Friedrich has consulted with and worked for law firms, legal departments and alternative legal service providers in 17 countries spanning four continents. When he's not designing and conducting AI trials for law departments, Friedrich mentors legaltech founders and invests in legal service providers.

NOW IS THE BEST TIME I'VE EVER SEEN TO GET INTO LEGALTECH

Our Legaltech Legend for this issue is Dennis Kennedy, a legaltech and innovation advisor, adjunct law professor, infotech lawyer, professional speaker, author and podcaster. He retired as Vice President, Senior Counsel for Mastercard's Digital Payments and Labs group in 2017 and currently teaches a course on Entrepreneurial Lawyering at Michigan State University, focusing on legal business model design and legal technology. Prior to Michigan State, Dennis was an adjunct professor of law at Washington University School of Law, where he taught a class on IP and E-commerce Licensing and Drafting. Dennis was one of the first lawyers with a website in 1995 and one of the first with a blog in 2003.

How and when did you get involved in the legaltech sector?

My law school friends tell me now that I was always considered the 'computer guy' in school. A 'computers and the law' seminar taught by Milton Wessel at the Georgetown University Law Center in 1982 probably ignited my interest and later involvement in the legaltech sector. Fast forward to 1990 and I was implementing document assembly applications for drafting wills, trusts, and other estate planning documents for my then law firm.

In 1995, I got the internet bug. Concerned that I had missed the whole internet thing, I launched a website, one of the first group of websites by lawyers. It was a small group. Then in 1996, Elaine McArdle, an editor at Lawyers Weekly USA, told a mutual friend she needed someone to write a tech column. That mutual friend recommended me and the rest, as they say, is history. I'd say that almost everything I've done in legaltech grew out of my website and that column, and perhaps also from my blog.

In the late 1990s and early 2000s, the Bar Association of Metropolitan St. Louis had an 'internet committee' where a group of us met regularly and talked about new tech and how to use it in the practice. The ABA's Law Practice Management Division and ABA TECHSHOW were also important to me. In the early days, I had the chance to meet and talk to great legaltech people like Marc Lauritsen. Their generosity shaped my approach to legaltech and to helping others with technology, pushing forward what legaltech could do in the profession.

What has surprised you most about our industry?

There are times when glaciers seem like race cars in comparison to the rate of tech change in the legal profession! But not always, because many cool things have happened over the years. I had a conversation last week with someone about document assembly and automation that covered the same topics and questions as a similar conversation would have done 30 years ago. That's been something of a surprise for me.

The biggest surprise to me, and the most troubling one for the legal profession, is the massive 'brain drain' of the most tech-savvy lawyers leaving the practice of law to do other things out of frustration. Nowhere has that had more profound implications than in e-discovery. The current sad state of the litigation process is in no small part due to that brain drain. The incentive systems within firms in particular do not encourage progress in technology. They often divorce technology from business model change, the improvement of client service and fair compensation systems.

What advice would you give to a legaltech newbie?

Now is the best time I've ever seen to get into legaltech. There are so many opportunities, especially for smart, younger (and younger-thinking) and diverse newbies. The first big step is understanding all the possibilities. The legaltech community is open, friendly and helpful, in my experience.

The biggest hurdle for newbies is dealing with the feeling that others will think that they have failed if they go to law school and don't become lawyers—even if they have amazing jobs and make more money than they would at a law firm. The irony, of course, is that many experienced lawyers would like to leave the practice of law to get in involved in legaltech. It's such a fascinating time.

> *It's troubling that the most tech-savvy lawyers keep leaving the practice of law out of frustration to go and do other things*

When have you been most satisfied in your life and why?

There are some obvious things, like the birth of my daughter, but I'm guessing that's not what this question is getting at. A long bicycle ride on a great spring day is a joy for me. I like coming up with new ideas and seeing them get put into action, whether by me or by others. I love it when people come up to me, often years later, and say that an article I wrote or a presentation I gave literally changed their lives, not just their practices, and they want to say thank you.

Sometimes I feel that I write, present and do the podcast (The Kennedy-Mighell Report) and never really know if it has any real-world impact. In 2005, I wrote an article about how important blogging could be for lawyers. As far as I could tell, it got no traction at all. I told my wife it made me feel like I was writing articles and throwing them off a cliff into the ocean. But over the next year or so, at least half a dozen lawyer bloggers told me that article was their inspiration for starting a blog and their blog had changed their lives. There are many things that can give satisfaction, but seeing my ideas and work have a positive impact on people is a big one.

What do you consider to be your best achievement in your professional life, and why?

My career path itself is my best achievement. I've been able to do many things I've wanted to do, at high levels of complexity and impact. I've been in different legal fields, such as estate planning and infotech law. I've been in different settings—large firm, small firm, medium firm, large law department, solo, speaking, writing, volunteer work, meeting and knowing so many great people. I've also been involved in starting a number of projects with continuing impact.

Lately, people have told me they wish they could do what I've done in my career and ask me how I created the path I did. I made it up as I went along, with occasional help from career counselors and coaches when I got stuck. I keep trying to get closer and closer to what I like best, what keeps me interested, and what helps people. Technology is often the vehicle, although I can feel my focus shifting a bit from technology to innovation, which in many ways tends to put technology within a practical context. All of this has enabled me to keep learning new things and has led me to the things I'm starting to launch now, such as the Kennedy Idea Propulsion Laboratory.

Is there anything (non-legaltech) you would like to learn more about? If so, why?

The list is so long. I've become fascinated lately by innovation, business models and design thinking. I've got to learn to draw in a way I feel comfortable with. I find myself going back to early interests in ancient history and space exploration. Statistics and data analytics, of course. When I do strength and personality testing, I always score very highly on 'learner' and 'seeker'. I try to ask myself on a regular basis whether I'm honoring that 'seeker' need.

Tell us two facts and one lie about yourself, in random order.

- With my brothers, I helped my Dad grow popcorn at my grandparents' farm when I was a teenager.
- I have cycled across the entire state of Missouri twice.
- I am the sole inventor or co-inventor on three pending blockchain-related patent applications.

How do you spend your time when you are not working?

I'm currently wrapping up a 'gap year' after taking early retirement from Mastercard, so my answer now may be different to my answer in the future. Cycling and working out with kettlebells are the core parts of my workout routine. My wife and I like travel, great food and watching British and European TV mysteries and police procedurals. Since we moved from St. Louis to Ann Arbor, Michigan, we've had a new place to explore. That's been fun. And we are close to my family in Indiana and I can visit the farm that I may or may not have told a lie about in the previous answer. We're trying to see more live music, get outdoors more and try new things. As many people know, I do a ton of recreational reading. I feel that I'm at the start of a new adventure.

What is your favorite quote? Why?

My friend, podcast co-host and legaltech legend Tom Mighell would say that he has heard me quote science fiction writer William Gibson's famous line a million times: 'The future is already here—it's just not evenly distributed.'

I've never thought of myself as much of a quote person. In order to be a writer, you do sort of have to feel that you can say something as well as anyone else can. And the meaningfulness and importance of quotes changes over time. It's hard for me to imagine people who can get a tattoo of a quote. It's hard enough for me to wear a silicon wrist band with a slogan on it for too long before I'm ready to change it. I still cringe thinking about the line from the rock group Rush I thought of using in my high school commencement speech.

While I have song lyrics and other things that stick in my mind and that I think about from time to time, it's hard to imagine just one quote that would stay. The first thing that popped into my mind when I read this question was 'And so it begins...' from my favorite science fiction TV show, Babylon 5. I used that quote to start my blog. It captures the notion that we are always starting new things and it's important to think in terms of potential and action.

**What question should we ask our next Legaltech Legend?**

If we brought in your best friends in legaltech and asked them, with you outside the room, what do they like and respect about you and your approach to legaltech, what do you think they would say?

[Question from previous Legaltech Legend, Gabriela Isturiz] What is that 'thing' in your professional career that, if you had the opportunity, you would do all over again?

I was writing an article in 1996 or 1997 about the top ten trends in legaltech. Yes, I could come up with ten even then. As a placeholder in the draft, I wrote something about the internet being the most important development of our lifetimes, like the invention of the printing press, and moved on to some other points. I had already started my webpage and it may even have been mentioned in the Wall Street Journal as one of the best estate planning pages on the internet at the time.

When I came back to the placeholder text I had written, I first thought 'What a cliché!' and then I thought, 'Hey, I really do believe that, so shouldn't I do something about that?' If the internet was as important as the printing press, wouldn't I regret that I wasn't able to say that I played a small part in it? I knew at a fundamental level that I would regret it. I found a career counselor and made the decision to change my career from that of a successful estate planning partner in a prominent firm to a leap into the unknown and a way to get closer to the internet. I'm not saying it was easy—or is easy even now—but I'd do it again in a heartbeat.

THE VERDICT
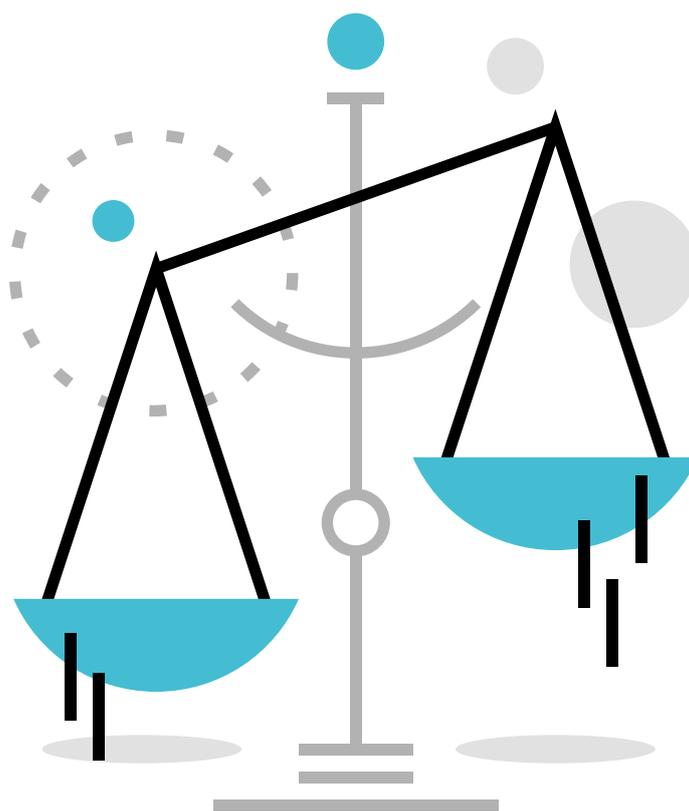
HOW CAN LAW FIRMS FURTHER IMPROVE SECURITY?

Law firms have overcome many issues and grown in their security capabilities. Gone are the days when partner convenience overruled security initiatives. Many firms have upped their game and can no longer be considered the 'soft underbelly' of cyber security, as some once called them. But there is still some way to go. What do you think remains the most significant security hurdle for the legal market and law firms in particular?

Kate Riley CISA, CISM, MBA
Director of Information Security and Compliance
Braintrace

The legal market is now in focus for security requirements that are affecting clientele. Information is digital and transmitted across mechanisms unheard of just 30 years ago. Law firms are now storing personally identifiable information (PII) along with compliance-based information such as healthcare and sensitive information. Law firms face investing in the technology to support matters, billing and portability of information. The costs to secure information are a hurdle law firms struggle to address. Costs for the equipment, costs for the personnel to manage the equipment, costs to train employees to follow security rules and procedures (logical and physical) and so it goes on.

Another significant hurdle is capabilities. Law firms are struggling to define

how lawyers, paralegal, human resources, employees, and facilities are all coordinated through network infrastructure to access information on-premise, at the courthouse, from client sites and from home. Changes in technology require users to learn new tools, make frequent password changes or use two-factor authentication techniques. They also need the capabilities to receive information from clients, who require you upload to their public and shared Dropbox, or from lawyers who are ingrained in using their own laptop that isn't encrypted. Law firms need the cultural capabilities to design, implement and enforce information security principles.

Gary L. Berger
Director of Information Security
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
Educational Co-chair, ILTA LegalSEC Summit 2019

The most significant hurdle remaining for law firm security is that of making the shift from a reactive, conservative and cost-averse approach to a more proactive, risk-averse approach with representative funding. I must admit I was shocked to learn recently that law firm security budgets are typically 5% of the IT budget, whereas the majority of other industries are at nearly 20%. It's tempting to dismiss such metrics on the assumption that security in other verticals is different, but generally, programs are not that dissimilar and many controls exist in some form across all verticals.

Law firm security staff are cost conscious and creative in getting things done, but

ultimately, inadequate funding results in gaps even with the best of efforts, with the best intentions, by the most conscientious people. Inappropriate levels of funding indicate the more systemic issue of taking a minimalist approach, which is a sign that we are not doing a good enough job of ensuring the management of our firms understands the risks we face and what is necessary to address them. We must take responsibility for ensuring we have communicated the needs of and business case for our security programs.


Michele Gossmeyer
LegalSEC Steering Committee Member
International Legal Technology Association (ILTA)

I would say it is less of a hurdle and more of an opportunity. Our industry has been able to attract great talent and we have solid service providers and products in our market. Valuable collaboration within and across industries, including with our clients, continues to increase. New groups, think tanks, associations, events and publications are popping up all the time. Multiple views and sources are key to driving diversity of ideas. However, there is a tipping point where too many can divide focus and fragment participants and efforts, making it harder to connect dots and draw valuable conclusions.

Our opportunity is to effectively align the many interests, groups, sharing organizations/associations, tools and knowledge sources to reduce redundancy, duplication and splintering of our efforts. The more we can align on things such as standards, audit criteria, contract/agreement language and baselines for our common goal—data protection—the better we can continue to focus our efforts in areas that can be even more impactful. Many of us in ILTA's LegalSEC arena are focused on driving these efforts and collaborating with an overarching view to continually determine valuable, effective ways to do this.

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