

THREE LAW FIRM LEADERS SPILL THEIR LEGAL TECH VALUE SECRETS

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The McKinsey Global Institute predicts that in the next few decades, half of the work performed by humans today will be executed by “robotics, artificial intelligence, and machine learning.” Recognizing that “machines match or outperform human performance in a range of work activities, including ones requiring cognitive capabilities,” the McKinsey report projects how increased automation will impact a variety of global industries.

For the legal industry, exactly how technological innovation will transform the workplace is subject to much debate. What is beyond question, however, is the growing trend of law firms investing significant resources to advance the integration of innovative technologies and methodologies across their practice groups. These law firm leaders of legal technology are not only differentiating themselves by driving innovation, but also developing the legal services model of the future. This article looks at three firms at the vanguard of the tech movement to identify cutting-edge service trends and how they provide value to both the firms and their clients.

THE RISING TIDE OF DATA

To appreciate the importance of tech innovation in the practice of law, one must understand the staggering volumes of data (i.e., electronic documents) that businesses generate today. The Coordinator of Corporate Litigation for ExxonMobil reported that the company’s employees generate 5.2 million emails every single day. While significant, that number only represents emails and was reported over a decade ago (in 2005). With increased connectivity and the spread of smart phones, companies today generate exponentially greater volumes of emails, text messages, IMs, chats and social media postings than ever before. In fact, more data has been created over the last few years than in the entire prior history of the human race.

Most business verticals respond to exploding data volumes by trying to identify the best way to extract actionable operational intelligence from their growing data ecosystem. For the legal sector, however, inflated data volumes present a different challenge. Legal advice is only as good as the information upon which it is based, so in order for information to be useful, it must be accurate, up-to-date and complete (“garbage in, garbage out,” as a colleague likes to say). Thus, the modern lawyer must be prepared to sort through its client’s voluminous digital infrastructure to find the proverbial needle(s) in the haystack in order to provide reliable and accurate legal advice based on the best information available.

Whether conducting due diligence for a M&A transaction or responding to a Civil Investigative Demand issued by the Department of Justice, the present-day lawyer must wrestle with this challenge and strike the appropriate balance between speed and thoroughness. It is in recognition of the complexity of this task that leading law firms are embracing the fields of data analytics, data science and machine learning to explore and develop technology-driven solutions. The end-goal is simple: delivering the same high-quality legal advice that their clients are accustomed to receiving, but on a quicker, more nimble timeline and with increased confidence that the advice is based on the best underlying information available. The path to get there, however, is not simple.



LAW FIRMS AT THE VANGUARD

In March 2014, Paul Hastings enlisted Tom Barnett to create and run the firm’s eDiscovery and Data Science practice group. Six months later, Reed Smith brought in Anthony Diana to help lead the Information Governance practice as part of the firm’s IP, Information & Innovation group. More recently, Cravath Swaine & Moore retained Scott Reents to lead the firm’s Data Analytics & E-Discovery working group.

Each of these law firm initiatives, and the people who lead them, have noticeable commonalities. Barnett, Diana and Reents are all practicing litigators. They entered the legal tech space by way of e-discovery and immediately recognized the profound ways in which technological advancements can positively impact the practice of law. Barnett and Reents also both share a technological and entrepreneurial background—the former running the e-discovery division of a legal process outsourcing company and the latter as the co-founder of a voting rights technology company—so it’s not surprising that their teams include a variety of technologists.

Each group was also founded upon the steadfast belief that, in the words of Diana, “it is a business imperative to identify and implement better, more efficient service models across practice areas.” Reents adds that “the constant development of technology is the key to maximizing efficiency and getting better client results; at bottom, deploying new technology and associated methodologies is just better client service.” This same principle was aptly summarized by Barnett:

“Law firms simply must take advantage of innovations in analytical technology, computer processing speed and statistical engineering. The legal industry should not lag behind the rest of the business world in unlocking the power of these techniques.”

Of course, the commonalities between these industry leaders (and the firms for which they work) is not limited to background and vision. Their ongoing work has revealed the following trends within the legal tech community.

THREE TRENDS IN TECHNOLOGY-BASED LEGAL SERVICES

Trend 1: Technology Augments, not Displaces, the Practicing Lawyer

One of the natural obstacles to innovation is the fear that technology will replace humans and leave large numbers of lawyers unemployed and unable to carry their massive law school debts. Reents immediately rejects that mindset. While he recognizes that technology will continue to impact the everyday tasks that lawyers perform in a significant way, he stresses that “innovation is not about automating the legal process, but rather augmenting the provision of legal advice by providing better information quicker.”

Echoing this sentiment, Barnett shares that the ultimate value of technology-based solutions in the legal practice is enabling the firm’s fee-earners to “learn about the case issues and the underlying facts under short time frames when the need for accurate data is paramount.”

As each of our leaders of legal tech independently recognizes, technology is not an “easy button.” You need the right people around to not only understand how the technology works generally, but also specifically in light of the case objectives and timeframes. You need to make sure you are utilizing the right technology-based workflow and then provide the resulting information to the legal team so that they can do what lawyers do best: apply applicable law to the facts, formulate the case strategy and confidently advise their clients about their risk exposure and options.

Trend 2: Alternative Fee Arrangements are Rapidly Driving Innovation in Corporate and Transactional Practices

Most advances in legal technology have come in the context of litigations and other contentious proceedings. E-discovery has been part of common legal parlance since as early as 2003, when now retired Judge Shira Scheindlin issued the first of her now-famous Zubulake decisions. As a result, much of the legal tech community has historically been focused on developing e-discovery technologies and processes. While efforts to refine e-discovery continue, it is notable that Diana, Barnett and Reents each report a growing focus on tech-based innovations on the transactional side of the house.

“The expansion of alternative fee arrangements with fixed fees for transactional matters has really driven the value to law firms of innovation in corporate work,” Diana explains, “with flat fees, every minute saved of attorney time to get to the same result is directly attributable to increased profit.”

To that end, Reed Smith has developed a Consent Tracker tool, which won the firm the Best Law Firm Solution award at the 2016 Relativity Innovation Awards. The Consent Tracker, which was developed while representing the target company in a large M&A transaction, enabled the firm’s lawyers to quickly identify and prioritize all of their client’s contracts that would require third-party consent to assign to the acquiring company. The use of analytics and the tool not only identified which contracts required consent, but also tracked the status of consent obtained from the relevant third parties.

Barnett also identified the spread of alternative fee arrangements as a driving force behind tech innovation in corporate legal services. For example, his team at Paul Hastings is in the R&D stage of developing technology-driven compliance tools and processes.

Trend 3: As Clients Become More Sophisticated, the Demand for Legal Innovation is on the Rise

Gone are the days when corporate clients look at legal tech as a black box. “Clients range from receptive to insistent when it comes to hearing about how the firm is going to use technology to provide better results,” Diana says. He notes that many clients are themselves looking for better ways to manage processes and risks internally, so they are extremely interested in hearing how their law firm utilizes technology-based methodologies to achieve their objectives.

“It’s a huge change in the dynamic of the client relationship – it’s not just managing legal services better, but managing client risk better,” Diana adds.

For Cravath, this approach to client service is “consistent with the fundamental business model, which has always been premised on delivering top-quality advice and services in an efficient manner,” Reents explains. He continues, “Meeting the demands of clients that insist on technology being part of that process is a natural extension of the business model; Cravath has never been a firm that simply throws more bodies at a problem.”

With this changing dynamic in mind, it is not surprising that Barnett and Diana both report that their teams are more and more frequently at the table during client pitches and presentations. Barnett explains, “It is imperative that the prospective client understand how the firm identifies and implements efficiencies by applying leading technology and intelligent workflows.” This principle is fundamental to the value-added legal services model of the 21st century.

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