

## Man Versus Machine: Or, Lawyers Versus Legal Technology

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*Law360, New York (November 14, 2016, 12:14 PM EST) --*

*“The first thing we do, let’s kill all the lawyers.” — Shakespeare’s Henry VI, Part 2 Act 4, scene 2, 71–78.*

Emerging legal technologies and increasingly cost-conscious clients have created a perfect storm for the extinction of the legal profession as we know it, a hypothesis that has been getting considerable media attention.

Take BakerHostetler’s decision in May to implement the IBM Watson-inspired ROSS, the application billed as the “Super Intelligent Attorney.” ROSS is an artificial intelligence software package designed to perform the work of legal researchers to support attorneys and is intended to streamline e-discovery efforts and make legal research more efficient. And in recent months, both DLA Piper and “Magic Circle” firm Clifford Chance announced that they had partnered with Kira Systems to implement artificial intelligence technology: DLA Piper, to aid in document review during the due diligence process for mergers and acquisitions transactions, and Clifford Chance, to search and analyze contracts for legal loopholes and errors.

The plunge taken by big law firms — likely to be followed by many others — is representative of a larger shift in the legal landscape that is looking for efficient ways to cut costs, including big law billable hours, long-considered the linchpin of the lucrative big law legal model. Despite the kneejerk reaction of the industry to see this as cause for alarm, these legal technologies, and their increasing presence in big law practices, do not necessarily portend the demise of our profession. In fact, such technologies may liberate attorneys to spend more of their time doing the legal reasoning and analysis that they were trained to do, allowing more work to be reviewed in a shorter amount of time and freeing up staff.

Legal technologies, such as ROSS and Kira Systems, equip professionals to deliver legal services more effectively, more efficiently and at a more competitive price. As the use of technology to help perform legal tasks begins to surge, investments in legal technology among law firms and in-house legal departments are expected to grow. For instance, the number of lawyers using cloud computing is expected to increase, and more legal tasks will be automated in 2017. Forecast alongside a reduced demand for legal services due to clients’ reduced spending —down 25.8 percent between 2004 and 2014 in inflation-adjusted dollars — law firms are under increased pressure to invest in innovation. This



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article will focus on the following key areas poised to reshape the legal landscape as attorneys' time and functions evolve: e-discovery, legal research, document automation, and professional education and training.

## **E-Discovery**

The first area that has been hot for automation for a while is discovery, which comprises the largest — and most lucrative — piece of the legal technology pie, and remains an important profit center for any litigation group at a big firm. Junior litigators spend many billable hours plowing through hundreds of documents a day: memos, emails, PowerPoint presentations and anything else on a hard drive to determine the relevancy of such documents to previously agreed-upon search terms. These days, “predictive coding,” wherein a small number of lawyers can swiftly sample a large set of documents and, in conjunction with software technicians, construct algorithms to decide which documents are relevant, is removing that labor-intensive task from lawyers. As John O. McGinnis aptly summarizes in the *City Journal*, computer applications aren't vulnerable to “fatigue, boredom, and everyday distractions [which] reduce human accuracy, [but rather] work nonstop, without a lag in attention or need for caffeine or sleep.” The rise of automation in legal search is not a one-time disruption but an emerging revolution.

For instance, programs like Logikcull, Texifter or CS Disco, among others, give legal professionals a powerful document discovery platform they can access from anywhere. After uploading documents (email, office files, etc.), the various platforms process and organize them all — in different ways — into easy-to-find categories that cut hours of time. For instance, Dragonfile has devised a method of finding structure in unstructured data by using a combination of natural language processing, machine learning and predictive coding, allowing information to be organized and retrievable in a multitude of ways.

## **Legal Research**

Network analysis is redefining the way the legal profession assesses the strength of case law precedents by considering the degree to which other cases and briefs rely on certain decisions. Alongside heavyweight online legal research search engines like Westlaw and Lexis Nexis, for instance, which provide more than 40,000 databases of case law and state and federal statutes, new legal technology startups such as Ravel Law investigate the current significance of the cases being researched, interpret key passages relevant to the researcher's topic, and assist the attorney in locating additional recent decisions that make the same point. As AI technologies progress, such applications not only will be able to identify precedents, but will also guide a lawyer's judgment about where, when and how to cite them.

In addition to document review, junior litigators bill countless hours researching and analyzing case law across jurisdictions to draft comprehensive memos on discrete questions of law, sometimes incurring additional expense by using search engines such as Lexis and Westlaw — the cost for which may be passed on to clients. While Lexis and Westlaw still charge for their search engines, certain startups provide free search capabilities, which are now employed by many legal professionals through databases like Casetext, which pairs free legal research and publishing so attorneys and lay persons can search state and federal cases, statutes and regulations for free, annotated by insights from attorneys, law firms and academics. These resources are especially helpful for solo practitioners who can't justify the considerable overhead of their big law counterparts. Today's new legal technologies' search capabilities still require people to identify the legal issues at stake in a given matter, but search engines and increasingly intelligent applications will eventually be able to suggest the case law that is likely to

prove relevant to the matter.

Another great example is Tel Aviv-based Lawgeex, a company whose artificial intelligence technology analyzes documents against precedents in its database and flags provisions that are rare, missing, or potentially problematic, and provides a plain English report that lets you know exactly what you're signing. And tools such as MLex and Lex Machina provide access to accurate up-to-the-minute data on how the law is evolving in key areas like competition law, allowing judges to make better-informed decisions. And BakerHostetler's attorneys will have an easier time drafting briefs with the assistance of ROSS, which can automatically analyze and flag new court decisions relevant to an attorney's case.

### **Document Automation**

By making the drafting process more efficient, the use of legal forms is perhaps the first logical frontier for technology helping the legal profession scale. In fact, the use of form templates to reduce costs has been in use since at least the Middle Ages. Today, the use of technology in the drafting process has, in some instances, shifted the balance of power to consumers, offering them the ability to shape legal documents based on their individual needs by providing data online, thus dispensing with the legal middleman altogether. This kind of mechanization is attractive — and is proving popular — for areas of law where people have relatively simple needs that can be met with few variations. For instance, computer programs can draft a will, suggest the terms of a contract, or determine whether or not one should sue. Certain applications can even automate simple briefs and memos. Legal forms, as they depend on largely preset formulas, are generally easier to systematize than legal memos or briefs.

While one would think that many lawyers and law firms would frown upon the public's consumption of online legal forms, a few innovative firms are leveraging these technological advancements in their favor. For example, Wilson Sonsini Goodrich & Rosati LLP was the pioneer in leveraging document-generator technologies to create a suite of document automation tools available to entrepreneurs and startups for drafting startup and venture-financing-related documents. WSGR's "Term Sheet Generator," for instance, is a publicly available online tool that allows entrepreneurs and investors to generate an initial draft of a term sheet for a preferred stock financing. By answering a series of questions, users are guided through the variables contained in a venture financing term sheet. After answering as many questions as desired, users can generate a Word version of the term sheet, which is intended to be useful in deal discussions and in crafting a final, customized term sheet with the help of attorneys.

Or consider Cooley LLP, which also recognized the benefits afforded by document generators when it launched its "Cooley Go" portal, a resource center for entrepreneurs with businesses at all stages of the growth cycle. Cooley Go generates important legal documents, provides reference guides and incorporation packages, and boasts clients such as The Honest Company, Jawbone and Littlebits, among others.

### **Professional Education and Training**

Yet another area — and perhaps the most useful and immediately beneficial for all attorneys seeking to gain practical skills is leveraged technologies that deliver learning and practical skills training online in a swift and convenient manner. In a post-financial-crisis world, where clients scrutinize their legal bills and refuse to allow training to occur on their dime, effective practical skills training has become a hot commodity for the profession. Lawyers, whether at a firm or in a solo practice, seeking ways to keep training costs down, and in-house legal departments, seeking ways to reduce their reliance on outside

firms, can tap into these online learning platforms for meaningful practical skills training. Taken this way, rather than directly replacing the work of attorneys, as some fear, such technological innovations allow attorneys to focus on solving problems efficiently rather than waste time spinning their wheels on new matters.

The digital transformation of learning has certainly taken shape elsewhere. Education technology (ed-tech) startups such as Udacity, Udemy, Lynda.com and Pluralsight, have made their mark in the learning universe by taking dense content and repurposing it into bite-sized “bursts” of video-based learning and graphics that are easily accessible and digestible for enthusiastic learners from all over the world. Similarly, in the legal profession, innovative ed-tech startups such as Hotshot Legal and Lawfirmlearning.com have taken on the bold task of repurposing dense legal content (cases and complex corporate constructs) into bite-sized and just-in-time video-based learning for practicing lawyers looking to get up-to-speed on specific subjects. We at AltaClaro take it one step further by leveraging technology to bring back a time-honored tradition of learning by interaction, collaboration and doing. Through AltaClaro’s proprietary algorithm, lawyers are optimally matched virtually with seasoned practitioners who are paid for offering one-on-one or small group learning sessions and simulations. And to the extent both parties are interested, the platform also pairs attorneys for apprenticeships or co-counseling opportunities for deeper learning.

Make no mistake, when leveraged appropriately, emerging legal technologies will empower lawyers to better perform the work that clients truly value, i.e., the work of the intellect. The growing role of legal technologies will create new competition in the legal profession and possibly replace many aspects of lawyers’ jobs; automated tools are adept at rescuing lawyers from low-level and repetitive tasks, such as document management, contract review, filing, docketing, billing and accounting, which bear little connection to law practice but have long consumed much of lawyers’ time. In fact, the rise of these technologies means that the almighty billable hour can now be reallocated to allow lawyers to engage in the original, analytical and strategic parts of legal practice that attracted most of us to the profession, transforming the legal profession as we know it.

Legal blogs and commentators opine that “[p]erhaps, in time, the legal profession will find a way to mentor young lawyers into future leaders without the hazing of performing their own legal research.” Yet as lawyers usher in this new era of efficiency, we can find ways to continue the mentoring while leaving hazing as a relic of the past. Legal technologies are redefining efficiency without sacrificing quality, and changing the face of the profession. Yet, as the landscape changes, we need to ensure that the intellectual property of today’s legal leaders infuses the practice of tomorrow’s legal trailblazers.

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