

The future of legal work

Eversheds Sutherland takes a closer look at the transformative impact of technology on the legal industry with a focus on empowerment, innovation and efficiency.

We live in a digital age and wherever we look, technology is transforming lives. We see these changes at home, in our roles as customers and consumers, and in business. Technology has long been a part of commerce but with recent advances, it is no longer just an opportunity to innovate, it is the potential to change entire industries with remarkable speed.

Notwithstanding its transformative power, the legal industry has been relatively slow to engage in digital transformation despite the significant potential to enhance delivery of legal services. Recent advances in Artificial Intelligence (“AI”), contract automation and, to a certain extent blockchain technologies, can all be used by in-house legal teams to drive efficiencies and foster closer links to the businesses that they support.

DIGITAL TRANSFORMATION AND THE ROLE OF IN-HOUSE LAWYERS

The role of in-house counsel is evolving as a result of advances in technology and automated processes are increasingly effective at conducting low to mid-value legal work. To many, this will be welcome relief given increasing workloads and it will allow lawyers to focus more of their attention on complex and high-risk matters.

As the ability of AI to understand unstructured data increases and develops, there may well be a role for AI in the more complex tasks further down the line and the true transformative role of technology is only set to increase. Already AI is getting smarter, and tasks that used to require human input can increasingly be learned by machines and completed as efficiently, if not more so, than by human counterparts.

Many businesses and legal teams are well on their way of their own digital transformation journeys and we hope that they may find additional resources or food for thought below. For those that are just starting and considering their options, we

have provided a brief overview of the most promising technologies and applications below in order to inform internal discussions.

ARTIFICIAL INTELLIGENCE

AI is at the heart of most legal innovation and, at its most basic, it is the practice of using algorithms to parse data, learn from it, and then make a determination or prediction about the information reviewed. Rather than hand-coding software routines with a specific set of instructions to accomplish a particular task, the machine is “trained” by subject matter experts (e.g. in-house lawyers or external lawyers) using large amounts of data. For example, by focusing on textual analysis, AI can learn to automate contracts and document review.

A good example can be seen in the context of due diligence for M&A deals or large property portfolios where manual reviews can be particularly time consuming. A document review using AI would work by analysing the document to identify clauses and data points in a document set, such as searching for a change of control clause or limitation of liability. It can then extract these clauses and bring them to the lawyers’ attention for review. This is not the same as what used to be ‘rule based’ word searches (i.e searching for keywords) – instead it uses machine learning to understand the context of a clause or data point and learns from previous examples.

As this technology develops, we expect that the level of analysis will eventually go a step further and start accessing the languages of a clause and potentially advising on the associated risk and negotiation positions of a particular provision. AI can use the vast data of a global organisation to assess the risks of agreeing amendments to a particular clause; for example, if a particular clause has never been contentious, then the commercial risk may be limited and attention better focused elsewhere.

Of course, these applications are not yet in common use but the sheer amount of investments pouring into the LawTech industry is a promising indication of accelerated developments on the horizon. Already, most big firms are investing in developing their own AI LawTech platforms or partnering with promising start-ups.

CONTRACT AUTOMATION

In business, automation is ever increasing and legal teams can harness this trend through the use of contract automation and, by so doing, creating a useful tool to allow the business to help themselves in certain scenarios. The process may involve a fact gathering digital questionnaire that would allow a business unit, for example the salesforce, to enter data and instantaneously generate a transaction ready contract. These contracts take the form of templates reviewed and approved by the legal team for self-service by the business. By adopting an automated process, the legal team can free up time by removing the need to review standard or low risk documentation. On the business side, the process is far more efficient and it would also eliminate the risk of human error by avoiding the temptation to re-use old documents signed off by legal but not necessarily appropriate for the current transaction. Furthermore, if automation is implemented in conjunction with a centrally managed storage system, it can easily be used by legal teams to track and trace contract lifecycles and to spot any common issues or trends.

BLOCKCHAIN AND SMART CONTRACTS

Blockchain technology takes slightly

different forms but it is essentially a shared database of a continuously growing list of records, called blocks, that are linked and secured using cryptography. The network is decentralised in the sense that every participant stores a full copy of the database and a consensus algorithm is used to keep individual copies of the blockchain in sync across the network. Although somewhat hyped, blockchain technology is interesting from a legal perspective because it provides the potential for transactions without trusted intermediaries and a new way of storing data. We are currently seeing a number of test cases being trialed in sectors ranging from finance to energy and supply chains.

Another feature of blockchain technology that is being explored by several technology companies is the use of self executing contracts known as “smart contracts”.

At a very basic level, coding in simple logic can be added to blocks to set the perimeters of the execution of the contract (for example; if X happens, then do Y). Although the smart contract technology we have seen today mainly works on simple pricing or binary issues, in the future, this technology may work on more complicated issues such as “if vendor offers these warranties, then respond with fall-back clause X”.

The practical applications of smart contracts remain to be seen but we can certainly picture industries or transactions where the potential is significant. For example, smart contracts could be well-suited for basic insurance contracts and other event contingent scenarios. The predefined event (for example, a delayed flight) would trigger the payment provision

Innovation through cloud computing

In this moment of profound technology-driven change, people everywhere are inspired by the promise of a new generation of innovations unleashed by cloud computing. Whether a law firm or a legal & compliance department, the choices your organisation makes as it explores the opportunities and risks of digital innovation will have a long-lasting impact on its ability to create value and thrive.

But how do you digitally transform, whilst addressing the rising challenges of privacy, security, trust and compliance? Nowadays, the adoption of technology has become a Board and C-level conversation and the Legal & Compliance Community must not only benefit from the transformation by accessing tools that improve its efficiency, but most importantly understand and advise its organisation on what privacy, security and compliance standards should be expected when selecting a provider of cloud services or everyday software. At Microsoft we believe in empowering every person and every organisation on the planet to achieve more and as we develop tools that boost productivity and efficiency, privacy, security and compliance are a key priority, so that as an organisation, you know you can trust the technology you use, making it possible for you to focus on your core business.



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of the insurance contract without the need for separate claim processing.

JUDICIAL INNOVATION

It is not just private and public sector organisations that are looking at digital transformations. Dubai hosts one of the most forward thinking judicial initiatives in the world that is actively leading the way both in terms of responding to the increased use of innovative technology in business but also by incorporating new technology in the way that the courts of the future will operate.

THE IMPORTANCE OF DATA AND PLANNING AHEAD

All innovative technologies rely on data and there are therefore many good reasons to

take a proactive approach in managing this aspect of your business, not least because of the increased regulatory scrutiny such as the implementation of the GDPR in the EU.

Even if in-house legal teams are unable to allocate resources towards new technologies at the moment, they can become familiar with the data already in their possession and by re-thinking existing processes, they can set themselves up for future developments. In our view, the digital transformation of the legal sector through AI, automation and blockchain has the power to markedly improve legal services, and reduce the administrative burden on in-house lawyers. We are likely to see a changing landscape as innovative technology is increasingly adopted across functions and disciplines. To keep abreast of developments, we recommend that in-house teams consider doing the following:

- » Start with small solutions that have big benefits. For example, if your business does not use e-signatures or does not have a document management platform then explore these options first.
- » Partner with innovative outside counsel. Most large firms are running pilot schemes for new technologies and already have some legal technology offerings. Ask to be informed and, if appropriate, volunteer to take part in pilots.
- » Identify a Tech Champion in your team. Ask your Tech Champion to review the legal offerings that may be suited for your business and provide an update to the legal team. Keep informed of new developments and look to use existing or planned legal reviews to assess the viability of new solutions.
- » Form a team of a number of lawyers and a representative from the IT department in order to examine the possibilities of AI-based and other solutions, and focus on deliverables that can be developed and applied practically and quickly.
- » Keep up with developments/training. 📖

The Courts of the Future initiative

The DRA's Courts of the Future initiative, a collaboration between DIFC Courts and Dubai Future Foundation, has seen substantial progress since its official launch in September 2017. The Courts of the Future has a forum that connects judiciaries with representatives from academia and the private sector (law firms, tech experts, legal engineers, and think tanks). The driving force of the initiative is a group of preeminent experts from around the world, who meet on a regular basis.

The Forum's mandate has evolved to extend this initiative to other global commercial courts, and to engage specialist technology sector and private sector participation. The recently revised Charter welcomes new membership applications, whilst also promoting dialogue and activities to take place along different topical knowledge areas. Over a short period, the Courts of the Future initiative has gained visibility across various jurisdictions, with other leading judiciaries collaborating on this initiative.

By creating a conducive space that allows thought leaders from a variety of fields to consult with each other and exchange ideas on third generation technology that impacts judiciaries, Dubai is leading with a fresh perspective on tomorrow's courts. In line with Dubai's vision to make this a smart city and to make use of sophisticated technology to provide better public services, it is necessary to think of challenges and opportunities associated with integrating developments such as AI and Blockchain into the operation of the courts. Alongside that, courts will also need to adapt to the demands of resolving disputes surrounding third generation technology.

In line with the 2018 DIFC Courts Work Plan set out by our Chief Justice, Michael Hwang, our long-term focus includes technology and innovation. This Forum provides an accessible and transparent platform which aims to foster LegalTech innovation and formulate concrete plans on how courts of the future could work. It will also consider new ways of integrating disruptive technology in the administration of justice, exploring the development of smart dispute resolution services.

There is potential for the forum to become the catalyst for prototyping and piloting novel judicial technological solutions.



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