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Foreword

Have you heard of #smartcontracts? Do you know what #AI is? Are you aware of #legaltech?

It is no question that innovation, technology and digital disruptions dominate the major headlines in the legal space today. As a result, the legal profession finds itself in an increasingly foreign environment as they grapple with new and emerging technologies. The idea of robot lawyers no longer remains a distant threat and the demand for coding skills is increasing. Amid these industry trends, one clear message arises – the ones that can harness technology will be the ones to succeed.

‘Blockchain’, ‘AI’ and ‘cloud’ are just some of the terms that lawyers have found the need to define today. Law firms and in-house counsel in corporations, large and small, have raced to forge alliances with tech providers to remain competitive in the modern market. Australian Law Schools have started to introduce coding courses into their curricula and legal academics are suddenly demanding their students to tweet about topical issues in the law. As Law students graduating into this digital era, how should we respond?

Whilst millennials like us may have grown up with technology, digital capability requires more than just using the Microsoft Suite and having a LinkedIn account. Rather, we should be able to educate ourselves on the various digital tools and platforms that are and will be available to us, so that we may communicate information and generate innovative solutions more suited to the digital era. In doing so, we challenge a profession that has been slow to change and bring our capacity to relate to a client base that is increasingly dealing with technological challenges in their respective industries.

**Techup Law** is a student publication that specifically caters to law students’ understanding of digital technologies in the legal sector. We hope that it will inform, educate and inspire students to get a head-start in their future career by understanding the digital context we live in.

We would like to thank the Monash Law Faculty and our contributors for helping us bring these insights to the Monash Law community.

Nhien Dinh

9 May 2017
The Team

Nhien Dinh — 6th year, Bachelor of Commerce/Laws

Nhien has completed a Doxa cadetship with Allens, interned at a Beijing law firm and travelled the world through Model United Nations conferences. In 2016, she was sponsored by the New Colombo Mobility Plan to undertake a semester exchange at Peking University. She is excited to see how technology will shape the law and hopes to be at the forefront of leading such innovations herself.

Pratik Ambani — 2nd year, Master of Laws (Juris Doctor)

Being an international student, Pratik enjoys helping students in their personal and professional advancement. He currently volunteers as a Project Director with the Australian Federation of International Students (AFIS), as an International Student Ambassador for the Victorian Government’s Work Rights Campaign and as an Ambassador for the Faculty of Law at Monash.

Joslyn Ma — 4th year, Bachelor of Arts/Laws

Having spent more than 8 years of her life in Hong Kong, Joslyn describes herself as a domestic Australian student with a global upbringing. In 2015, she founded a not-for-profit and was recognised as Victorian Student of the Year - Internationalisation 2015. She aspires to become a lawyer and a successful entrepreneur in the future and hopes to work internationally.

Ninad Kulkarni — 5th year, Bachelor of Arts/Laws

Ninad is currently studying Law with a major in International Relations and minor in Philosophy. In the long term, he would like to work in the policy development field with either a domestic or international focus. Outside of university, his interests include reading, politics and talking about movies.
The Team

Karen Mak — 5th year, Bachelor of Arts/Laws
Karen is currently studying Law and Arts, majoring in Chinese and Politics. After completing a legal internship over the summer, she is interested in how the legal profession can harness new technology to solve problems innovatively. After completing part of her Chinese language studies overseas in Shanghai, she aspires to work internationally to broaden her global outlook.

Murphy Bong — 3rd year, Bachelor of Arts/Laws
Murphy enjoys meeting new people and exposing himself to new ideas. He recently completed an internship overseas and upon completing his studies, he intends to travel and work overseas, extending himself beyond the security and comfort that Clayton has provided him thus far. He is especially interested in Public Law as it showcases how the law interacts with the wider society.

Chavah Apfelbaum — 4th year, Bachelor of Science/Laws
Chavah is currently studying Law and Science, majoring in Psychology. She is particularly interested in Intellectual Property Law and Negotiation and Mediation. She has participated in the Vice-Chancellor’s Ancora Imparo Student Leadership Program, and is a member of the Editorial Committee for the Monash University Law Review. She also volunteers with the Monash branch of 180 Degrees Consulting.

James Teh — 4th year, Bachelor of Laws
James has experiences working and interning in both Australian and Singaporean law firms. Apart from that, he regularly volunteers his time the Global Consulting Group, a not-for-profit organisation that provides pro-bono consulting services to charities and at the Council of International Students Australia as a Strategic Policy Coordinator. Outside of work and academics, James enjoys a good cup of coffee and conversation.
DIGITAL DISRUPTIONS
Will Smart Contracts Disrupt the Legal Industry?

By Dick Ting

Introduction to Blockchain and Smart Contracts

‘Whenever blockchain comes up, the discussion almost always involves some mention of ‘smart contracts’. As lawyers, we hope ‘smart’ contracts have been around for a long time — we at least try not to write dumb ones’ — Simun Soljo, Managing Associate at Allens.

Blockchains are a special type of ‘Distributed Ledger’ Technology (DLT). Distributed ledgers are essentially an asset database that allows all participants in a network to own an identical copy of the ledger on the network. Any changes to the ledger are reflected and distributed by all copies of the ledger within seconds or minutes.

An emerging solution using blockchain is smart contracts. The term ‘smart contract’ was popularised by computer scientist Nick Szabo in his 1997 paper — ‘The Idea of Smart Contracts’. Smart contracts are computer programs that automatically execute the terms of a contract. While a regular contract must be executed by legal practitioners or a court system, smart contracts can be performed without the need for human verification.

At its crux, Szabo contends that smart contracts operating on blockchain can replace the legal practitioners in the future — that is, they become the ultimate trusted third party for all transactions.

Blockchain enables record holders to share official records with others in a safe, tamper-proof and trusted manner, which makes the following scenario possible. Imagine that instead of needing a law firm to draft your contract and have them enforced by a judge if one party defaults on its obligations — with the costs and uncertainty that goes along with the court’s involvement — the execution of those obligations can be automated by software, verified by the blockchain.

Szabo’s idea came into fruition in 2014, when the programmer Vitalik Buterin created the Ethereum blockchain protocol. This made it possible to write smart contracts in computer programming language that automatically executes itself.

What does a Smart Contract look like?

Well, quite simply, lines of code.

Consider a simple sale of shares contract that entitles the owner to sell their security at a defined price: Fiona, our buyer would purchase 100 shares of Tesla Inc. from John at a defined price of $10 per share. The contract has an expiry date, after which, Fiona can no longer purchase the shares.

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Contracts are in y of ambiguity to lawyers would be es to the , claims that the , , 7. 6. 5. 4. 3. 2. 1. Charles Dickens, *Tomorrow’s Lawyers*: An Introduction To Your Future (Oxford University Press, 2014).

Richard Susskind, author of *Tomorrow’s Lawyers*, claims that the working practices of the legal profession have not changed much since the time of Charles Dickens.\(^4\) Richard Susskind, author of *Tomorrow’s Lawyers*, claims that the working practices of the legal profession have not changed much since the time of Charles Dickens.\(^4\)

He confidently predicts that the legal profession is poised to change radically over the next two decades, where future lawyers will become massively dependent on or having expertise in information technology.

*Allens*, one of Australia’s largest law firms said in a report: ‘For almost 200 years, our own business has been built on the basis that people need to transact but often lack the trust to rely on a handshake alone’.\(^5\) So when smart contracts come along and commoditise trust by guaranteeing security and certainty of performance in accordance with coded terms, there is no doubt that lawyers would be concerned of its disruptive potential.

**Are Lawyers Safe from Smart Contracts?**

During his talk at the Smart Contract Symposium at Microsoft’s New York Headquarters held in December 2016, Szabo gave an update on the industry he first envisioned twenty years ago.\(^5\)

He believes that instead of legal jobs being at risk, it’s those in other industries with repeatable tasks with the most to lose: ‘Lawyers worried about losing their jobs to robots, you’re actually doing something that’s mostly complimentary to a smart contract. Smart contracts are mostly making possible new things that haven’t been done before.’\(^7\)

In other words, although lawyers today are becoming increasingly subject to disintermediation, with many contracts that may be automated in the future, any slightly complex interaction requiring judgement is still performed best by human lawyers.

‘[S]mart contracts will not disrupt the legal industry, but nonetheless will influence the role of a lawyer in the future. Lawyers must become “smarter” by learning how to utilise this technology.’

**Smart Contracts Complement Smart Lawyers**

The current emerging view is that smart contracts will not disrupt the legal industry, but nonetheless will influence the role of a lawyer in the future. Lawyers must become ‘smarter’ by learning how to utilise this technology. However, the biggest obstacles to the


\(^7\) Ibid.
viability and adoption of smart contracts today are the same characteristics that make it great. For instance, smart contracts lack the flexibility of traditional contracts which often contains intentional ambiguity. The deterministic and rigid nature of smart contracts removes the fundamental ability for lawyers and the court to construct the terms of the agreement and leaves no place for value judgements or generality such as ‘reasonableness’ and ‘good faith’.

“[F]oward-thinking law schools should assist students in tooling up their digital technology capabilities and encourage students with technology aspirations to learn dual skills of law and computer programming”

Jazek Czarnecki, associate in New Technologies Practice of Wardnski & Partners argues that ‘traditional legal solutions and smart contracts need not be opponents’. He argues that skilful marriage between the certainties of smart contracts with the flexibility of traditional legal agreements can be extremely useful.

This sentiment is echoed by various other legal practitioners in the field. John Stark, lawyer and head of operations at Ledger Labs, a blockchain consulting firm, provided the example of a supplier who enters into a smart contract with their retailer. The payment terms are defined in code and automatically executed via smart contract but the retailer may insist on a paper legal contract with an indemnity clause that refers to their smart contract.

Adapting to Disruption

The area of smart contracts is fast moving but remains significantly unregulated. Even when we have fully formed self-executing contracts, we will still need to refer to legal terms and concepts that will define each party’s rights and liabilities.

Therefore, the ability to understand smart contracts in their coding language on top of the evaluation of common legal practice will promise a range of new opportunities for people trained in law and technology.

Skills and education in digital technology is critical to ensure that many in the industry are not left behind when the day arrives for smart contracts to become viable enough to replace traditional contracts. Legal academic, David Thompson, describes the difference between ‘learning about’ and ‘learning to be’. He argues that the legal careers of students today frequently change directions because more sophisticated technologies are developed over the course of their careers, and likely more than once.

Therefore, forward-thinking law schools should assist students in tooling up their digital technology capabilities and encourage students with technology aspirations to learn dual skills of law and computer programming.

Some larger law firms have already begun adapting to smart contracts. For example, Ashurst partner, Phil Trinca, said lawyers today are already advising clients about smart contracts and blockchain technology, with firms equipping their lawyers with the necessary skills and training to engage with them.

Conclusion

Smart contracts are great for reducing operational risk and can be seen as an automated trustworthy workflow between parties without a central specific co-ordinator. However, like all disruptive technologies, it has a number of hurdles to adoption.

Ultimately, smart contracts require smart lawyers and for now, the legal profession is safe. One thing remains clear — that amidst the hype and the hopes of new disruptive technology, being willfully blind to the change brought about by blockchain technology and smart contracts, is not an option for the lawyers of tomorrow.

Dick is an international student from Malaysia studying in his third year of a Bachelor of Laws (Honours) at Monash University. He is a part-time legal assistant at Mendis & Gibson Lawyers and is passionate about litigation law. Outside work, he enjoys innovative technologies and regularly volunteers as a youth group leader.

10. David Thompson, Law School 2.0: Legal Education for a Digital Age (Lexis Nexis, 2009).
The Fourth Industrial Revolution and the Legal Profession

By Jonathan Lim

As times change, so must we.

Increasing automation of the means of production within developed countries, coupled with increased economic emphasis on intangible goods and services, has resulted in wide acknowledgement of a Fourth Industrial Revolution (4IR). This Revolution has been characterised by a period of machine-to-machine interaction through development of cyber-physical systems and computerisation of manufacturing. Many predict dire socioeconomic consequences. For example; it is predicted that within the next two decades, 47% of total employment is at risk of automation by computerised equipment.

Machines make fewer mistakes compared to humans, and are more efficient and productive. These inherent attributes have already contributed to the increasing automation within various industries, and growing unemployment among low-skilled jobs globally. This trend is expected to extend to middle-skilled/white-collar jobs, and cumulate in the polarisation of the labour force. White-collar jobs at risk include those involving office work, administrative support, sales, commerce, transport, logistics, manufacturing, construction, as well as virtually all services that lend themselves to automation or relocation; translation, accounting, personal assistance, etc.

The Legal Industry is No Exception

The legal industry is no exception to 4IR. Computers having already taken over some of the work conducted by lawyers and paralegals; primarily within the area of civil matters, but also document review, research, process automation, and NewLaw.

Over the past decade, computers have been utilised extensively in discovery; sorting through corporate documents to attain relevant documents within lawsuits. Traditional methods of document review involved manual review conducted by paralegals, legal secretaries, and other types of entry-level law industry professionals. Often, it has proven impossible for professionals to read and catalogue all potentially relevant emails and documents within the time period established by the court. In response, recent technological developments within artificial intelligence (AI) driven software and machine learning have paved the way for automated document review in conducting relevance assessment.

The use of technology assisted review (TAR) has improved productivity by saving potentially millions in legal bills and work hours. It has also promoted greater competition as firms work to provide the most reliable and cost effective case management for

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clients. For example, McConnell Dowell was the first Australian decision to make orders for the use of TAR in discovery. Conducting manual review upon the 1.4 million documents in the case would have amounted to $3.360 million and 2,800 days to complete, however the use of TAR reduced the amount to $48,000 and 40 days (a cost time reduction of 98.57%). Moreover, the use of AI software codes in eDiscovery correctly found 95% of relevant documents, contrasted with 51% for humans. This affirmed that technology-assisted processes are significantly more efficient, and yield superior results, compared to exhaustive manual review. It has been posited that legal-technology solutions could perform 30-50% of tasks currently carried out by junior lawyers.

This development has been accompanied by the increased use of process automation — software that eases the burdens of manual administrative work normally undertaken by legal secretaries. This includes software such as Clio; a practice management program that automates the manual processes around billing, calendaring, and task management. Such manual legal administrative tasks usually occupy time that would have been better spent in billable hours, and the majority of services and software offered by Information and Communication Technology (ICT) companies, have focused upon improving productivity in this area.

The Fourth Industrial Revolution and globalisation have redefined the legal profession through NewLaw. This is a term used to describe any model, process, or tool that represents a significantly different approach to the creation or provision of legal services than what the legal profession traditionally has employed. An essential differentiator between NewLaw and the traditional BigLaw model is the flexibility of work arrangements. NewLaw gives top legal professionals flexibility in their daily work schedule, more freedom, and a better work-life balance. This is underpinned by the use of alternative fee arrangements, which has resulted in increased benefits, value and efficiency.

This model is further distinguished by NewLaw ventures innovating with respect to process and technology; empowering them to deliver more value to clients. NewLaw firms have been categorised into the following groups:

1. Dispersed law firms — Connect a network of consultant lawyers who operate independently from their own locations.
2. Lawyer placement agencies — Handle screening and client intake for client-attorney relationship online.
3. Virtual firms — Provide specialist advice online.
4. Online document retailer firms — Customise legal documents online for free.
5. Fixed fee firms — Provide specific types of legal service for a fixed fee.
6. Hybrid firms — A mixture of any of the aforementioned categories.

For aspiring legal professionals, they will need to evolve and state their value proposition within emerging technologies in order to survive in such [technologically advancing] environment.

Movement Away from Engagement of Established Law Firms

Consequently, there has been increased movement away from engagement of established law firms by business entities and individuals. This has been illustrated by the increased use of TAR by in-house attorneys in the US; with 40% of those surveyed indicating their reliance on TARs. This covers many aspects of machine reading, including analytics, predictive coding, etc.
Predictive coding uses patterns of human responses to train machines to read and decide if documents are relevant to a legal matter. This has led to questions as to why large corporations with in-house lawyers need to refer to law firms when they can engage eDiscovery companies to manage computerised reviews for a lower fee instead (i.e. Update Legal\textsuperscript{16} and Epiq Systems).\textsuperscript{17}

Conversely, this has led to concerns that this ‘disruptive technology’\textsuperscript{20} may be effecting harm by providing unlicensed legal advice prohibited by law.\textsuperscript{21} The present use of technology within the legal profession may expose users to various problems:\textsuperscript{22}

1. Software users may encounter an unanticipated contingency but fail to alert the user.
2. The software cannot synthesise novel legal arguments that can initiate change in the law.
3. Having such softwares may facilitate unfairness and abuse when one side is unable to afford the costs of complementary legal technologies.

**Greater Awareness of Information and Communication Technology (ICT) Processes**

Another notable response by the legal sector to 4IR has involved the increasing need for law students and legal professionals to obtain greater awareness of ICT processes.\textsuperscript{23}

There has been increased demand for ‘techno-legal’ lawyers who are comfortable with coding, which will enable firms to better assist clients in fully exploiting the vast potential of blockchain and smart contracts.

In addition, many companies and small businesses have sought to engage online legal services (OLS) instead of law firms for legal affairs. Between 2006 and 2016, revenues of OLSs doubled, amounting to $4.5 billion by 2015.\textsuperscript{18} This involved OLS companies such as LegalZoom.\textsuperscript{19} LegalZoom sells a monthly subscription service; providing customers with legal advice, review of legal documents, annual legal check-ups, access to legal forms and further services if needed.

There has been increased demand for ‘techno-legal’ lawyers who are comfortable with coding, which will enable firms to better assist clients in fully exploiting the vast potential of blockchain and smart contracts.

The service benefits consumers, as they can speak with a lawyer without the meter running. Its benefits are most evident for smaller business entities as it improves the affordability and thus accessibility of legal services. Hence, this also carries public benefit; by assisting to ensure that a greater percentage of business as-a-whole nationwide are compliant with relevant legislative requirements and regulations in their operations.

In Australia, the Supreme Court of Victoria has adapted to ICT developments; using the RedCrest Electronic Filing system for initiating cases, and organising and filing documents for and within civil cases.\textsuperscript{27}

20. Definition: An innovation that creates a new market and eventually disrupts/overturns an existing market.
Within other common law jurisdictions, recognition concerning the importance of ICT processes within the legal profession is becoming more evident.

In the US case of Da Silva Moore v Publicis Groupe, it was acknowledged that ‘[c]omputer-assisted review appears to be better than the available alternatives, and thus should be used in appropriate cases’. Likewise, the UK case of Pyrrho Investments v MWB Property saw the use of AI-derived ‘predictive coding’ in document review approved by UK courts for the first time; implying its acceptance by the judiciary.

Computers Create About as Many Jobs as They Eliminate

Paradoxically, it has been advanced that the increased use of AI within discovery has not contributed to increased levels of unemployment for paralegals and lawyers. This has been supported by the fact that jobs for paralegals and legal-support workers within the US have grown faster than the labour force; 50,000 jobs created between 2000 and 2016, and the number of lawyers increasing by 250,000.

Studies have indicated that computer automation of an occupation is associated with increased demand for that occupation; thus, computers create about as many jobs as they eliminate. Although automation is not associated with job losses overall, specific groups of occupations are negatively affected.

Generally, as technology advances, people in low-wage jobs suffer job losses, while people in high-wage occupations experience a rise in employment through leveraging the opportunities provided by such technologies. Thus, automation is implicated in a major reallocation of labour across occupations. As such, prospective legal professionals must expand their horizons beyond their legal boundaries, and adapt and leverage new technologies, to survive in an increasingly competitive industry.

Advances in automation and AI are primarily centred around empowering lawyers to reduce the amount of time spent upon labor-intensive and repetitive tasks, such as document review, and instead focus on higher-value work. Cognitive computing and AI have augmented rather than replaced human capabilities. Full automation of legal services is hindered by the requirements of court appearance and preparation, negotiation, legal writing, advising clients, and drafting and signing court documents.

“[P]rospective legal professionals must expand their horizons beyond their legal boundaries, and adapt and leverage new technologies, to survive in an increasingly competitive industry

AI will struggle to emulate human creativity, which is subjective and difficult to measure. AI may also struggle to comprehend and sufficiently address the various essential policy-oriented ethical and philosophical aspects that underpin a case. This is particularly true when a rigid rule should not be applied to a specific set of facts for certain policy, efficiency, or fairness reasons. Furthermore, there is an inherent ethical dilemma in a robot providing legal representation instead of, and even delivering judgements upon, a human being.

While AI is not yet prevalent in Australia, many firms are predicted to adopt cognitive technologies soon to assist in handling large bodies of unstructured documents; such as case files and legal records. Its widespread adoption within Australia carries far-reaching implications for the legal industry. Like other digital technologies such as the cloud, AI can be used by sole practitioners, small firms and large firms alike.

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32. Bindman, above n 21.
For larger firms, adoption of AI would allow junior lawyers to focus more on other tasks and improve their skills in higher-level areas, instead of focusing on research and discovery. For smaller firms, such technology would level the playing field in allowing smaller legal practices with few staff to conduct more research at a faster pace, and with similar competency compared to larger firms.37

Conclusion

Given this intense competitive environment fueled by technological advances, business as usual will not be an adequate response.38 Legal professionals will need to choose to either embrace such changes, or risk having business taken away by more innovative firms. For aspiring legal professionals, they will need to evolve and state their value proposition within emerging technologies in order to survive in such an environment.39

However, it must be emphasised that the prevalence of AI within the legal profession has been limited to ‘soft AI’ in augmenting the roles undertaken by legal professionals, rather than outright replacement of people. While the legal industry and technology is a narrative of incremental changes, one must never forget that the early bird catches the worm.41

Change is the law of life. Those who look only to the past or present are certain to miss the future.

Jonathan is a current fourth year Juris Doctor student at Monash University, and currently also holds a Bachelor of Arts in International Relations with Monash. Outside of work, he enjoys participating in Model United Nations debating conferences and is an active member of the Australian Institute of International Affairs. His post graduate ambitions include International Law; with particular interest in International Space Law.


38. Kershaw, above n 8, 12.


40. Known also as weak AI, this concerns commonplace artificial intelligence created or designed to perform intelligent data procession within the limitations of its programming. Such AI would operate competently within its limited pre-defined range, but lacks genuine intelligence or self-awareness; See, Michael Ryan, The Digital Mind: An Exploration of Artificial Intelligence (CreateSpace Independent, 2014) 6.

Professionalism Online (For New Lawyers)

By Kate Galloway

This blog post has been reproduced with the author’s permission.¹

I have been meaning for some time to write a post about what’s described as ‘personal branding’.

My interest lies in providing a constructive platform for those entering the profession and who seek to dip their toes into social networks as part of their development of a professional identity.

I was prompted again by the recent cases of academics Roz Ward and Martin Hirst each of whom has had their employment threatened due to a personal Facebook post unrelated to work, and a series of publicly available tweets, respectively. These cases, and many others like them, raise a myriad of issues about privacy, employers’ rights, employees’ responsibility, contemporary standards of discourse, and working out when they apply.

Before I could get my thoughts together to finish a post, Martin Hirst posted on his own blog most eloquently about the issues he and others face. So, I have scaled back for now. The topic will likely need a series of posts to canvass the different facets of the complex issue of personal freedoms online and their intersection with our professional lives.

This post is a minimalist start on the topic of online professional personae. It addresses what I see as the professional needs of that most conservative of professions, the law. It is designed to offer a starting point for reflection about one’s digital presence in the context of professionalism in the law. It is not a highly critical piece — critique will come in later posts.

The idea of ‘personal branding’ is not new. When I started in legal practice in 1990, even as articled clerks we were urged to engage in marketing activities. This was more than taking clients to lunch. We were taught that every time we engaged with people, we were presenting ourselves to a potential client. (Welcome to Big Law.) We were encouraged to do volunteer work, to join clubs, in general to ‘brand’ ourselves as engaged citizens — although the label of branding was not around then, that was what we were doing.

The goal of personal branding ... is to establish ourselves as holding the relevant expertise and authority to do our work — we package ourselves to appeal to clients, and to appeal to employers.

I use the term ‘personal branding’ to mean establishing a consistent professional persona. I do not distinguish between online or in real life activities, although this post is about online presence. Building up a CV has always involved interpreting our lives and our activities to represent our professional capacities in a way that is attractive to an employer. There is however a qualitative difference between in real life and online.

¹ Kate Galloway, ‘Professionalism Online (For New Lawyers)’ on Kate Galloway, (16 June 2016) <https://kategalloway.net/2016/06/16/professionalism-online-for-new-lawyers/>.
Our digital footprint is becoming ever larger. While it encompasses the metadata of our web surfing, and smartphone and communication activities, I use the term here to mean our visible online presence — notably through social media. For the aspiring lawyer, there are two sides to this: an active plan to build a professional identity online; and a risk-management facet. These two aspects converge in three foundation principles that lawyers need to know before going online.

1. Anything online, or sent digitally, is forever and will haunt you till the end of days.
2. Nothing is private.
3. Lawyers’ professional responsibilities extend to conduct occurring in private contexts.

Once you accept these foundation principles, the rest follows. Lawyers have always had to watch their behaviour for fear of censure for bringing the profession into disrepute. I think that this is a good foundation for considering how we conduct ourselves in the online environment too.

Kate is an exciting and innovative law teacher, who became a legal academic following 16 years as a solicitor in private practice and with an NGO. Kate is an internationally recognised scholar in many areas, including legal education, with a focus on the role of digital literacies in legal practice.
Tech Skills – How Important Are They Really, In the Legal Sector?

By Murphy Bong

While there is a plethora of literature arguing that technological skills are increasingly important for law graduates, we decided to interview a lawyer from a top-tier commercial law firm for a different perspective on the issue. The conclusion? Remaining proactive is the safest best.

As law students, we are often under constant pressure. If the pressure of assignments, exams and tests wasn’t enough, we are also told of the need to ‘stand out from the crowd’ when applying for graduate jobs. Beyond the short-term outlook of law school, law students often hear of the ‘automation threat’ reducing the importance of lawyers in the long run. This is a view supported by the Foundation of Young Australians, which found in their report, ‘New Work Order’, that 90 per cent of roles will require digital literacy, skills and capabilities.

According to The New York Times, a research conducted by academics from the University of North Carolina School of Law and Massachusetts Institute of Technology confirms these concerns - their paper determined that the implementation of new legal technology could result in a drastic 13% decline in lawyer’s hours. This supports the emphasis placed by Monash Law School lecturers and library staff on the effective use of legal technology, for example, proficiency in using legal databases such as Westlaw.

Nick Li agrees that ‘making effective use of research skills and legal databases is one of the key to success for law students’. As a Monash graduate lawyer at Allens who works in the Technology, Media and Telecommunications practice group, he talks of the advent of ‘cloud technology’ and the need to understand its digital implications. He advises that ‘not having specialised skills like coding won’t be a deal breaker … but it will definitely make you stand out’.

“Legal disruption is evident and may slowly take over traditional law firm practices. New firms such as LawAnswers, LawSquare, LawTap and DragonLaw are improving access to justice by digitising the orthodox ‘client-advice’ process into an online forum.

Nick qualifies this by saying ‘reasonable minds will differ’, but, to him, technology is the icing on the cake rather than the standalone cake itself. ‘For example, Allens is very good at adapting to new technology. We have new price management tools, databases that make discovery more manageable, and we have legal databases on the cloud to ensure confident sharing of information.’

For Nick, a lack in technology expertise won’t be a detriment so long as the firm that one works at, is able to keep up with changes in the legal tech space. ‘It changes your clientele, however’, he concedes, suggesting that studying elective units (such as ‘Biotechnology in the Law’) will make a budding lawyer more comfortable with a diverse set of work. With more billable hours, he notes, come better opportunities for ‘career advancement’.

At another leading law firm, Gilbert + Tobin, the value attached to technology appears to take a whole different meaning. According to Computerworld, the firm has recognised the importance of coding, arguing that teaching legal practitioners to code and utilise technology in the application of their work is so important, it is essentially akin to a new form of literacy essential to lawyers.³ The firm puts the majority of their lawyers through coding and technology programs. This includes ‘a two-hour workshop in HTML and JavaScript’, and while this does not ‘make a full stack developer’ it ‘does create a window into how to design a product’.⁴

This does pose the interesting question as to what extent law students need to proactively seek out these opportunities. Will they slowly become part-and-package of the training process at law firms? Should law schools introduce digital capabilities into their curricula?

Our Analysis

Noting the importance of technology, law schools in Australia have started to shape their curriculum with the future in mind. As a result, technology courses have been specifically created to allow law students to learn about the automation of legal tasks and advice, how to design and build legal information systems, and use technology to generate legal documents. For example, UNSW has recently teamed up with Gilbert + Tobin and Neota Logic, a software company, to introduce the course, ‘Designing Technology Solutions for Access to Justice’, which aims to provide law students with practical experience in using state-of-the-art legal technology.⁵

To the average law student hoping to get ahead in this tech environment, these are some simple steps you can make:

1. Remain proactive and open-minded about changes in technology — legal disruption is evident and may slowly take over traditional law firm practices. For example, new firms such as LawAnswers, LawSquare, LawTap and DragonLaw are improving access to justice by digitising the orthodox ‘client-advice’ process into an online forum;

2. Make sure your basic computer skills are up to scratch — this means knowing the ins and outs of Microsoft Office, Google Drive and legal databases. When there is an urgent task at hand, having basic word-processing skills is important;

3. Understand that academics, communication and technology skills are not discrete categories — they all work together to provide a well-rounded individual. Although this does not mean everyone needs to learn coding over the summer break, having that skill will be impressive.

Conclusion

We understand the importance of not over-stating the importance of technology as a ‘be-all and end-all’. But the legal landscape is changing in response to the rise of 21st century technology. Having some basic technological awareness will go a long way.


4. Ibid [6].

Upscale Your Tech Skills with Podcasts

By Ninad Kulkarni

While podcasts might not strike you as being directly relevant to the legal field, this form of digital media has the potential to be utilised for many purposes in your digital journey.

So, what is a podcast?

Podcasts are basically online audio shows which can be downloaded directly to a smartphone or browser, usually with a specific app, such as Pocketcasts or Downcast. There are podcasts on virtually every subject — from general human interest shows such as This American Life, true crime shows such as Serial as well as sport, economics and history.

Podcasts have been around since the early 2000s but in recent years they have been steadily growing in usage and popularity.

Part of this can be attributed to the emergence of specific shows that introduce new users to the medium such as Serial. Additionally, radio stations such as the ABC have also been uploading past broadcasts online for users to listen to later.¹

As podcasts have only recently become popular, utilisation from the legal field has generally been limited to radio shows such as the ABC’s Law Report or academic podcasts such as the Kaldor Centre for International Refugee Law’s podcast.² However, the interaction from the legal industry has been relatively limited.

Nevertheless, considering the rising popularity of the medium, it is possible that knowledge of podcasting and specifically, the ability to create, edit and upload podcasts on a regular basis could soon be viewed as a desirable skill for graduates to have.

Podcasts can also be used for keeping up to date with news and developments in specific areas of interest. In the legal field, LexisNexis and Bloomberg both provide a few podcasts that focus on various areas of the law, although these are mostly American-centric.³

A potential development in the future may be the use of podcasts to inform others about changes in the law. Some firms outside of the legal industry have already begun their own ‘official’ podcasts, for example, Goldman Sachs runs a podcast focused on financial news.⁴ This suggests that it is possible that law firms could follow suit and utilise podcasting as a method to communicate legal news and events to clients and potential clients.

The use of podcasting as a medium for storytelling has also been utilised as a way of explaining the legal principles established in court cases as well as the social and political implications that are established.

For example, the American podcast *More Perfect* explains important United States’ Supreme Court cases in an engaging manner often utilising sources such as audio from the cases and interviews from those involved. These types of podcasts can serve as a method by which the wider public and community can engage with the legal system.

On the practical side of things, podcasting is a fairly easy process to set up yourself. Part of the reason behind the proliferation of the medium is the fact that basically anyone can create a podcast on a subject that interests them.

Generally, the technical equipment required is simple to acquire, for example, editing software and headphones. Additionally, a script to ensure the recording is organised and clear may also be necessary. Most podcasts usually have at least two or three hosts which means the recording generally sounds natural and conversational.

Podcasting might not seem like the most obvious way of improving and developing technological skills. However, the fact that it is so easy to start your own podcasts means that it might be a more accessible method of developing practical skills that may be useful for future careers — compared to other digital tools that might seem more complicated and intimidating.

**Recommended Podcasts**

- *The Lawyers Weekly Show* — Discusses fascinating careers, ground-breaking case work and insights into the Australian legal profession.
- *Law Radio* — Explores the unexpected world of law, its impact on society and the practice and learning of law.
- *Serial* — Narrates an investigative journalist journey to determine whether a high schooler, found guilty of murder, was wrongly convicted.
- *More Perfect* — Investigates the United States’ constitutional issues, with a focus on the stories behind famous legal cases such as *Lawrence v Texas*.

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How Do You Make a Digital Lawyer?

By Melissa Castan and Kate Galloway

This is a transcript of a Law Radio podcast recorded on 7 April 2017. In this episode, legal educators, Melissa and Kate, had a conversation about the new report that the Law Society of New South Wales has just released — ‘The Future of Law and Innovation in the Profession’.

M. Can you explain to me what this report was designed to do?

K. The legal profession, as those in the profession would know, is facing great challenges brought by technology. It is hard to find a part of society that is not undergoing some significant sort of change as a consequence of digital technology. So, this seems to be a sound response, by the Law Society of New South Wales and the ‘Futures Committee’ to establish a basepoint for the profession in New South Wales to assess these changes that are happening and how to respond to these changes.

M. How did they come to write the report? What was the process of generating the information on the various views that they have come to?

K. I quite like the way that they have gone about it. They have, from about May to November, had a series of meetings and received submissions from people in practice [and] from legal services providers. So in other words ‘specialists,’ in what we might call a disrupted profession, [have] submissions about the effect of technology on legal practice and the needs of the profession into the future.

In terms of looking at the future and innovation, it was not restricted in its scope to technology per se. There is a chapter, for example, on ‘Diversity in the Profession’ and the ‘Effect of Internationalisation on Legal Practice’. So, it canvassed quite a wide range of scenarios, that comprise the landscape for legal practice in New South Wales and across Australia.

M. The legal profession and lawyers are very invested in precedent and doing things the way they have been done before and we move fairly incrementally. So, as a profession, we are fairly risk adverse. What do you think are the key findings in this report that are in tension with the kind of characteristics that we have?

K. I think that the report does both an excellent job and perhaps a much more cautious job in dealing with the inherent risk adverse nature of the profession.

My first observation is that the report overall is fairly measured. I mean quite early on, it shows you the hype curve, [which] is quite graphic representation of when new technologies come on the scene (things like blockchain) and everyone gets super excited about them and then within two years there has been quite a slow steady uptake relative to the hype that has been generated.

So, this is not an over-hyped report by any stretch. It is very measured in its approach. There is a chapter on ‘Implementation’ and it recognises that we need to take measured and incremental steps in introducing change. It recognises the risk for people’s well-being and mental health in trying to rush in drastic changes all the time. It also recognises somewhere in the report the fact that we can become overwhelmed by the pace of change.
And I think the strength of the report is it offers the profession a more measured approach to understanding the context within which we are working. Now while that is a strength, I think that that also turns out to be somewhat of a weakness in the report because it anchors our understanding of lawyers, legal profession and even legal service delivery within a traditional mould. I think that really imposes some quite strong limitation on the possibilities for innovation.

“...We need people who can manage projects, who can manage diverse teams across time and space ... so it recognises the features of contemporary and future practice.”

M. Do you mean that it is because we are still quite captured by the idea of the ‘lawyer who works with the client’ with the bespoke services that you get from your law firm or your specific lawyer?

K. I think on the one hand, there are a lot of findings in the report along the lines of that — they recognise what we call the ‘unbundling’ of legal services. So, one lawyer does not necessarily listen to the client’s instructions and then take those instructions through a process all the way through within that firm until they reach a conclusion. We now have outsourcing — there are lots of technologies that come into play that automate a lot of work and some of that automation is done external to the firm or it is done not by people, but it is done by computers.

There are a lot of ways in which tasks are broken down. We are not talking about what I describe as a ‘legal matter’, we are talking about tasks that together comprise a legal matter. This requires a different type of skillset. We arguably do not necessarily need a lawyer who is skilled in all the things that go together in one transaction or one matter. We need people who can manage projects, who can manage diverse teams across time and space, all these sort of things. So, it recognises the features of contemporary and future practice.

Yet, there are other parts of the report that emphasise the importance of bespoke legal services or that is my reading of it. In terms of legal education, it says that we still need to do exactly the same things that we are doing now except with more experience with technology. So, these things indicate to me that there is still a very traditional understanding of what it means to be a lawyer and the nature of the profession.

M. If we are looking at the legal education and educating the 19 to 25 year old’s of today for their legal practice coming forward for years from that age group, what kind of things do we need to be looking at to equip the young, emerging lawyers with this future disruption brought about by digital and other technology and does the report adequately address some of those issues?

K. I think that is really interesting. The ‘Legal Education’ chapter was the shortest of the chapters in the report and to be fair, the committee are not legal educators, so they did not make any explicit findings. They simply observed that there was nothing that should be taken out of the existing curriculum but that graduates needed experience with technology.

I think that it is the ‘Legal Education’ chapter that really offers such an enormous scope for innovating the profession and for generating the change that is needed to embrace the contemporary raft of technology that are affecting practice but also developing solutions for the future.

So, the sort of things that it did not recognise were the constraints on students. The report did mention that it is a challenge to add more to a crowded curriculum and it is true that we are already trying to do so much in legal education. But like that old saying goes — are we trying to work harder instead of working smarter? Maybe we need to unbundle legal education.

M. We have always been in this paradigm of what we call the ‘Priestly 11’ which are our compulsory units that every law students must complete. Is it a proposal from you that we make it ‘Priestly 12 and there is a twelfth subject which is ‘Business Project and Technology Skills’?

K. It was not prescriptive at all about the way that this would be done. There was a suggestion that we needed to add blockchain and smart contracts to the subject ‘Contracts’ and the subject ‘Property’ and experience technology like e-discovery when you are doing ‘Civil Procedure’ for instance.

I do not think it grapples with the nature of digital capabilities which is what we are calling for in our graduates. This is something that higher education globally is still grappling with at the moment. It seems that there have been a number of reports and commentaries on the contemporary imperative for higher education to generate graduates who are global citizens and who are also digitally capable and digitally literate.
M. Is it enough to say our students are digital natives as they know how to work Facebook so they are ready to go?

K. Absolutely not, that is totally the wrong thing. We cannot assume digital capabilities based on an existing set of skills or attitudes. It is much more than that. In the same way that the citizen might have a basic working knowledge of the political system, it does not mean that you understand the ‘Principles of Public Law’. You still need to develop your skills in that area.

I think what it might mean is that in terms of the unbundling aspect or the potential for unbundling of legal education, it might be that, there is a move afoot in some quarters for what they call a ‘stackable degree’. So, you get a number of learning experiences through different means perhaps and you can bundle them together to generate an overarching qualification. Now it may be that you do not come out at the age of 22 or 23 as a graduate lawyer; it may be that you come out with a series of learning experiences and you might have particular components of legal knowledge. So, you could be a conveyancer or you could be a migration person or you could be a family paralegal or these sorts of discrete areas and you can build them together over time to constitute what we now currently understand to be a lawyer. That is one way of looking at it.

And if you have an undergraduate experience, whatever it is called, maybe a law degree or such where you have released yourself from that imperative of getting those Priestly 11 as your foundation experience. Maybe that is a capstone experience of your Priestly 11 and on the way through, you have developed these other skills such as project management or understanding how business works or effective collaboration and communication in an online environment or all those other sorts of skills.

I think we need to leave our students with more time to develop this suite of skills and knowledge. We can’t just say you have to do more, in the same or less time than you are presently doing it so you come out as a fully-fledged lawyer. Because that is what they are asking for — work-ready graduates. And in my world, that means a fully-fledged lawyer and I think it takes more time than that.

M. What is a fully-fledged lawyer now, I mean, you introduced technological competence?

K. Well that is an interesting question, one that might cause some lawyers to feel quite anxious. For years, I taught a decision note Heydon v NRMA [(2000) NSWCA 374], which was heard in the NSW Court of Appeal against the former High Court judge who was not then the High Court judge. It was when Heydon was a barrister and the question was whether he had been negligent in failing to appraise himself of a forthcoming judgement of the High Court and it was found in his favour. But the reason I used to show it to my students is to say that now that we got email alerts and everything online and this sort of thing, is it good enough to use the old fashion type of research skills to keep yourself up to date and I posed for consideration the suggestion that I wonder if we do have standards of competence back in those days, that are changing, and I think it has moved on even more since then.

And yet the former Justice Heydon still doesn’t read his own emails.

K. Yes, that is really interesting and I think those are the real questions that are facing the profession about what that might mean and whether it does comprise professional duty. But I do not think that the solution to this is allowing students to play around with e-discovery as the sole solution. And I do not think that including one week’s lectures on blockchain in your Contracts class is going to, maybe replace the ‘postal rule’, I don’t know. I just do not think that that is the answer to this. I think we need a comprehensive overview of not just what our students are learning, but how they are learning and how we are structuring their learning experiences till we get to the point of what we might understand to be a ‘fully-fledged lawyer’.

Also, I do not know whether this report necessarily grapples with that foundational question of what that fully formed lawyer looks like.

M. I guess it’s time for a FLIP report in the specific context of legal education in Australia in order to really feed into those issues directly.

K. I think that it is now, a number of years since the threshold learning outcomes (TLOs) — so this was when the standards came out. It was always meant to be a living document and something that is revisited. I think it is time to revisit that. I think it is time to revisit the Priestly 11. But I call on the regulators to start to immerse themselves in thinking about contemporary practice and the future of the profession and for the regulators to revisit even the Priestly 11 and the requirements for admission, because I think we need something to shake up all-round.
Q&A with a Tech Start-up Co-founder

Matthew Vethecan, Monash Law Graduate and Tech Start-up Co-founder

Matthew graduated from Monash Law School in 2015 and has interned at various top-tier corporate firms. He is currently working on his own tech start-up, Jarvis, a home services tech company that links customers with their very own personal butler.

By Joslyn Ma

J. Tell me a bit about yourself. Why did you choose to study law?

M. Right after high school I developed an interest in economics — I particularly liked the concept of economics as a lever to greatly improve the quality of life of many of the world’s neediest people. (For anyone interested, I can strongly recommend ‘The End of Poverty’ by Jeffrey Sachs). Yet what struck me the most after reading more about economics was just how important legal systems and institutions were in the story of economic development and success. So, for me, law coupled with my commerce degree became a combination that let me explore the best of both worlds.

J. Were you thinking of becoming a lawyer at that point or did you choose to study law only because it complemented your commerce degree?

M. No. I was definitely more into the commerce side of things, but I viewed law as a terrific way to understand a key component of how commercial and financial systems work. At the end of the day, it’s the legal system and its accompanying set of institutions that hold all commercial transactions together, so I don’t think it’s really possible to have a deep grasp of the world of commerce without having an understanding of the laws, the legal systems and the institutions that sit behind it.

J. Apart from studying, what else did you do throughout your time at university?

M. I was extremely lucky throughout my time at Monash to be surrounded by many like-minded peers and friends, and to have a range of great opportunities open to me.

One of those presented itself in 2014, when I co-founded the Economics Student Society of Australia (ESSA) Monash Chapter with one of my close friends, Sam Kothari. I also benefited immensely from a stint as Research Assistant to Dr Lisa Spagnolo, where I got to see cutting edge, extremely innovative and immensely practical work in the field of international commercial law. Actually, that was such an interesting period that ended up roping Lisa into supervising my thesis in that area!

In addition, I was very fortunate to have done internships at AT Kearney, a management consulting firm and Allens, a law firm. These internship experiences gave me a glimpse into the ways in which the commercial world and legal world intersected and diverged. My experience in management consulting was very much about looking forward: how can we improve a business unit, optimise a process, leverage technology to enhance the customer experience, enter a new market etc.

In contrast, my experience in law was that, at least in my practice group, the focus was somewhat more defensive — focused on identifying and allocating risk in a commercial way. That’s not to say this wasn’t a great experience (I had a terrific time and the team at Allens is wonderful!) or that all areas of law are the same.

J. Did your aspirations change throughout your law degree and after you completed your first clerkship at Allens?

M. I guess I went through my Commerce/Law degree not being totally certain about what I wanted. I saw my degree more as an opportunity to build a skillset that would hopefully be helpful in whatever future, activity or career that I decided to pursue, but didn’t have a clear sense of what that ‘destination’ would be.

I also saw internships and clerkships as a terrific way to, at best, figure out what I wanted to do, or at worst, further sharpen up a skillset. I knew that business and solving business problems was something that interested me, but again, I don’t think I had a clear vision of exactly where my degree would take me.
In your opinion, what types of transferrable skills did you gain from your law degree?

I think you definitely get a lot of transferrable skills out of law and I am glad that I chose law as a degree. You learn how to read and interpret arguments and process and synthesise them rapidly. You’re also forced to structure arguments in a sophisticated, precise and evidence-driven way. I think being able to write and structure thoughts well will always be helpful, regardless of which field you decide to pursue.

How did you start getting involved in the tech and start-up world?

Tech has always been something that I found really interesting and exciting — you’re always on the leading edge of progress (and of course it doesn’t hurt that you get to see a heap of cool and potentially disruptive inventions!) I also know I’m the sort of person who really enjoys understanding how different systems work and how they fit together. Couple that with a terrific co-founder, Dennis Jap, who sees the world, business problems and technology in a similar way, and I think the circumstances were pretty ideal for me to step into it!

I think the best time to jump into a start-up is while you’re still at Uni and have a whole lot more free time and mental energy to push your project forward.

Are there any overlaps between the skills you acquired through your law degree and skills necessary for start-ups?

I think there are definitely many overlaps between what is required in a start-up and what’s required to be successful in a law degree. You need to be able to communicate well; structure arguments well; be able to take a whole lot of data points and interpret those in a coherent way; and, more importantly, be able to think through the implications of a certain set of facts. Of course, there’s plenty you need to learn on the job (every single day, it never ends), but even then, I think half the value of a law degree is that, to some extent, it forces you to learn how to learn fast and adapt quickly — probably the most important skill in the modern workforce!

Any advice for someone that is interested in the start-up space but isn’t sure whether it’s for them? Or, more generally, any advice for someone that wants to know more about the tech world?

I think the best time to jump into a start-up is while you’re still at Uni and have a whole lot more free time and mental energy to push your project forward. The minute you step out into the world of full-time work, putting the kind of time and energy required to push a venture to success becomes significantly harder. More than that, the longer you stay working, the more all sorts of other life commitments come up (whether it be mortgages, marriages or anything in between), and the harder it becomes to take the plunge into start-ups which, by their nature are a more risky venture.

University is a really good, almost risk-free, testing ground to see whether you can get your idea off the ground or, if that fails, at least whether entrepreneurship is something you’re both good at and enjoy. Importantly, figure out what your risk tolerance level is: some people enjoy the thrill of the unknown and not really knowing where your business will be in a month or a year from now. Others just don’t thrive in that sort of environment.

To help figure all these things out, I’d recommend talking to as many people working in the space as you can. It’s one thing to know the theory but another to see the people behind these tech ideas and innovation — more often than not, they will be happy to have a conversation with you.

How has technology revolutionised the law industry?

The way I think about it is that there are two sides to digital disruption of the law industry. On one hand, it is an enabler for traditional law firm business models, yet on the other, it can be a threat to their very existence.

Firstly, technology can be an enabler — there are a lot of law firms that are leveraging tech in very innovative ways to create real value for their clients. Some examples include systems that assist with monitoring banking transactions and facilitating a rapid and efficient due diligence process, the use of big data and machine learning in the context of discovery (previously an extremely manual and tedious task for law firm juniors) etc. Technology has increased these firms’ output and value delivered to their clients while not fundamentally affecting the underlying business model.
However, technological advancement can also be, in some cases, a potential threat. As with many other industries that have been disintermediated by apps and platforms, including no less than Uber and the taxi industry, economies across the world have seen a slow rise in platforms that promise to connect the supply and demand sides of the legal world in more efficient ways than ever, connecting clients and lawyers directly and inevitably taking some market shares away from traditional law firms.

Another potential disruptive force is the use of artificial intelligence; not just as a means to automate simple, manual administrative tasks, but in a way, that extends to higher-skill components of the legal industry, including drafting documents, assisting with due diligence process, identifying risk etc. which would otherwise take hundreds of skilled-lawyer hours.

It’s hard to see traditional law firms competing on such uneven playing fields, and clients ignoring the huge potential cost benefits.

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**J.** What was something that you wish you knew before you started your law degree?

**M.** I wish someone had given me a heads up five years ago that now is a better time than ever to try launching my own business and building a start-up. I really only caught onto the fact at the very end of my degree, but I think there’s so much more that I could have experimented with, if I had started a lot earlier.

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“[P]otential disruptive force is the use of artificial intelligence ... that extends to higher-skill components of the legal industry, including drafting documents, assisting with due diligence process, identifying risk etc. which would otherwise take hundreds of skilled-lawyer hours.”

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**J.** Where do you see yourself in 10 years’ time?

**M.** I actually don’t know and, particularly in 2017, I don’t see that as too much of a problem. I think it’s important to be open-minded enough to see opportunity when it arises, and to have the flexibility and adaptability to make the most of it. I also happen to think that’s what gives you the best shot at finding that something that will bring you the most satisfaction and ultimately, happiness!
Q&A with an In-house Counsel

Matthew Leung, In-house Legal Counsel at Telstra Corporation Limited

Matthew was admitted to legal practice in 2002 and has since worked with various top-tier commercial law firms including Ashurst and King & Wood Mallesons. He is currently working at Telstra as an in-house legal counsel and has broad experience in telecommunications, trade practices, data/privacy, IP rights and commercial contracts.

By Joslyn Ma

J. What sparked your interest in technology and why did you choose to study law?

M. I think it runs in my DNA! My father was a computer programmer and I remember the first time I played around with an old-school laptop was when I was 8 or 9 years old. Being exposed early to technology fuelled my passion for it and influenced me to work in the IT and IP team at Blake Dawson Waldron (now Ashurst).

As for law, I kind of “fell into” it. I chose to study law because I knew it would challenge me, and I like reading and analysing text. I ended up doing studying a Science degree (focussing on Computer Science and Mathematics) and a Law degree at the University of Melbourne.

My first year of law school was a bit of a struggle. I loved my time at high school and the structured environment there. So, I found the transition to university, which had less structure, a bit hard. But things picked up after my first year and I came to really appreciate the rhythm of university life where I could explore doing a lot of different things beyond study. In my studies, I ended up focusing on commercial law subjects and really thrived on IP law subjects.

J. How did you end up being where you are now?

M. I wanted to get a taste of legal practice early, so I did a lot of vacation work at smaller law firms in the suburbs and at larger corporate firms in the city. I really wanted to make an informed choice as to where I wanted to practise law in the future.

I had a ball at the suburban firms! I loved the community aspect and helping people solve issues that affected their personal lives. But one thing I wanted more of was exposure to technology and IP law. So, I joined Ashurst after graduating and got to work with really skilled lawyers in IT and IP law. Those were my formative years and I developed key skills as a commercial lawyer. I went on a short-term secondment to Telstra and they must have liked me as during that time, I joined as an employee. It has been a huge privilege to work with a really collegiate and competent team of lawyers here at Telstra.

“[I]n the legal industry … some activities that were once performed by lawyers are now automated and performed electronically. Lawyers will need to be more technologically literate as people live and thrive in a digital world.”

J. What does your role as an in-house legal counsel for Telstra involve?

M. My primary role is to give legal advice to Telstra so we can achieve our business goals. This involves a wide spectrum of work, like drafting and negotiating contracts, compliance with laws and regulations, and corporate governance work. I also have a passion for customer service so another key role is making sure we treat our customers with dignity, respect and integrity. A question I often ask myself when projects come across my desk is, “How can I help make this the best experience we can offer to our customers?”.

J. What are some of the things that you love about your job as an in-house legal counsel working for Telstra?

M. I love the team I work with. They’re skilled operators who know the law and can apply it sensibly to new technologies and want to make a difference for our customers. That’s a great combination for a Telstra lawyer.
I also get to experience the latest digital technology. What excites me is that we’re looking to expand beyond traditional telecommunication products like phones and broadband. We’re acquiring digital commerce start-up companies and helping them grow. It’s fascinating to be involved in new growth businesses and thinking where Telstra might be next!

Working in-house means I’m at the coalface of deals and I get to shape our strategy as we chart our way forward.

“Being tech savvy is non-negotiable for a lawyer... Technology also helps us work more efficiently and collaborate more effectively.”

J. What are the challenges for the future lawyer and how should law students better prepare themselves for these challenges?

M. There are definitely changes happening in the legal industry where some activities that were once performed by lawyers are now automated and performed electronically.

While this means change in the type of work lawyers will do in the future, it also creates opportunities. Law students should embrace technology and have an inquiring mind about the kinds of legal issues that arise relating to technology, like intellectual property, data, privacy. Do some vision-casting and think about how legal advice can be delivered online, or through mobile apps or social media platforms. Lawyers will need to be more technologically literate as people live and thrive in a digital world.

J. What are the benefits of being tech savvy as a lawyer and vice versa?

M. Being tech savvy is non-negotiable for a lawyer. Technology is changing how we communicate and relate. If you’re advising clients who are in the tech industry, you’ve got to be able to speak their language. Something I do is monitor industry trends to know where the risks and rewards are for the commercial teams which I advise. This helps to build their confidence in me as a trusted legal advisor.

Technology also helps us work more efficiently and collaborate more effectively. Our legal team is situated in different countries and we share knowledge and collaborate on team projects using the latest technologies.

J. You mentioned that keeping up to speed with current technologies is essential to the management of client relationships. How should one approach this?

M. I think many law students would be accustomed to embracing technology already. If you aspire to advising clients on issues relating to technology, I’d suggest joining some legal interest groups to get connected with other lawyers. These groups may publish journals and run seminars that can give valuable insight into current issues of law and technology. You’ll also be able to talk with lawyers who are currently in this area and get a view of what it’s like to work in this area from different perspectives. It’s all part of doing due diligence so you make an informed decision on the next steps in your career.
AN INTRODUCTORY GUIDE TO THE FUTURE OF LAW AND TECHNOLOGY

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