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Future of AI and Law

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History of Technology and Law

Technology has already transformed the way that law is practiced. The use of computers and digital legal resources, such as LexisNexis and Westlaw have been around for decades, but these are just some of the major technological advancements that have transformed law. For instance, it was groundbreaking for a law firm as prestigious as Orrick, Herrington & Sutcliffe to have a website in the late 1990's, which was getting around 5000 visits a week.[1] Now law firms not only have websites but also use a variety of social media services to promote their firm and services.[2] In addition to promoting firms, this technology has also been used by attorneys to keep in touch with their firms and complete work from anywhere.

Another radical change in the legal industry due to technology is the rise of services that offer legal forms that individuals can tailor themselves.[3] These forms are easily accessible on the internet and allow people to bypass using a lawyer for basic legal tasks, such as drafting a will or drawing up a contract.[4] Although it would have been possible for someone to find these forms previously, these services have made it easier than ever before.

Discovery is another area where technology has greatly impacted law. E-discovery is much different than traditional hard-copy discovery in a number of ways. One of the major differences between the traditional methods of discovery and newer e-discovery is that lawyers are dealing with much more information than previously.[5] The ABA reported in the early 2000's that some cases already involved as much as a terabyte worth of data,[6] and the amount has only increased since then.[7] The rise of e-discovery and the drastic increase in documents that goes

with it has created more work for lawyers. It has also led to the rise of technological solutions to deal with e-discovery.[8]

<p align="center">Rise of Predictive Coding</p>

Technology is going beyond merely assisting lawyers to doing some of their work. A number of law firms are now making use of predictive coding to replace some of the work done by associates.[9] Predictive coding is has begun to replace the previous method of e-discovery, which involved the use of Boolean search terms and an associate poring over the documents to determine if they were relevant to the case in question.

Predictive coding utilizes software to discover documents that are relevant to a case.[10] Attorneys who are very familiar with the case and therefore the relevant search terms train the software what to look for by introducing a seed set of documents.[11] After that, more documents that fit the criteria are added to teach the program.[12] An attorney might review the findings too and then accept or reject documents depending on whether or not they match the criteria. This process is usually repeated several times until the program's coding and results are at a comparable level to the attorney's work. How the relevant search documents that the program has identified are used depends on the how comfortable the lawyers and clients are with the amount of risk involved.

The use of predictive coding raises some legal issues with regard to lawyers' duty to conduct a reasonable search for documents under the federal rules for discovery as well as how to protect attorney-client privilege when a privileged document is disclosed under the federal rules of evidence.[13] Both of these rules require a reasonableness standard, and this comes up in predictive coding with regard to how accurate it is at finding the relevant documents.[14] In fact, the argument can be made that using predictive coding is more in line with the rules, especially

because its accuracy can be statistically validated. Thus, parties know the likelihood of relevant documents slipping through.

<div align="center">AI Bots</div>

Predictive coding is relatively new to the legal profession, but many think that it is merely the beginning of this trend and that artificial intelligence and robotics do have a future in law firms. Some experts have predicted that within fifteen years law firms are going to use artificial intelligence (AI) bots to handle a number of matters that involve processing a large amount of information.[15] It is true that those in the field have speculated about artificial intelligence for decades, but with the claim of an AI bot passing the Turing test last year the possibility of putting such technology to use seems closer than ever.[16] Some of the tasks that these bots will be capable of doing include data linking, file checking, collation, document improvement, and due diligence.[17] Artificial intelligence also has potential in trawling through data to figure out odds for how much an increased offer would affect the odds of a settlement happening.[18]

There are a number of reasons why law firms would want to make use of these bots. They are capable of handling a lot more work than one associate could, and these bots are able to work 24/7 without any break. Additionally, the bots can be used for multiple projects at once by lawyers at the firm and learn as they work on projects, so the more they are used the more effective they become.

Bots do require an initial cost and fees to manage them, but they do not require an annual salary, bonuses, an office, or other costs that are required for each attorney. According to a report by Jomati Consultants, the average salary for more junior lawyers who do the type of work that bots would take over is $100,000.[19] Although there are no definite figures on the cost

of AI bots because they have not yet been developed, the expected cost for a bot is $500,000 at the beginning, and the cost would go down over time as the technology was refined and competition increased.[20]

The Changing Legal Field

According to consultants studying this issue, the rise of AI would change the legal field in different ways for lawyers at varied points in their careers. Attorneys who will become managing partners by 2030 are currently in their thirties and will likely take advantage of AI developments for their firms.[21] As clients become less willing to pay the bill for junior associates learning how to do the work, partners have to absorb the expenditure and look for ways to cut costs. Law firms would be able to save money switching to AI bots, but it is also possible that eventually clients will also not be willing to pay more than what the AI work costs the firm.[22]

As partners implement technology such as this into their firms, their role would change somewhat as well. With AI bots doing more of the review work, there would be even more pressure on partners and senior associates to be rainmakers.[23] Additionally, the role of senior lawyers would be more as decisions makers with clients valuing lawyers who understand their business and are able to find creative solutions.[24]

The use of bots would have mixed results for partners' careers, but it would have a largely negative impact on the careers of new associates. After all, the work done by bots, such as due diligence, is mainly handled by more junior lawyers. With bots taking over a lot of this work, there would be a need to hire fewer new associates. Law firms would need to still hire some associates though in order to work with the bots as well as to get training for more senior

positions in the firm. Additionally, law firms might not be able to charge their clients for the work new associates do; it would merely be for training purposes.

Different types of law practices will likely be affected in various ways by predicted technological developments. For instance, smaller general practice firms outside of major legal markets in the United States are not going to be able to afford the these bots, nor would they necessarily need them because they would not be doing the type of due diligence or other data work that the bots would take on. Thus, this technology will be used by larger commercial firms where that currently attract new associates with the promise of interesting and challenging work.[25] Although larger law firms would more likely to use AI bots and similar technology, smaller law firms are also going to face challenges from services that provide legal forms online to virtual law firms.[26]

The legal field is an industry that is traditionally slow to change, but it as seen with adoption of computers and other technology, it does eventually adapt. Furthermore, because the legal industry is relatively small compared to other industries, this kind of technology will probably be developed for other fields before it is tailored to the legal industry.[27] Thus, some experts think that law firms adopting newer technology such as proposed AI bots will proceed slowly, but that it is still inevitable.

Technology has already drastically changed the face of the legal field in the last thirty years, and the rate at which new technology will be developed is only increasing. While AI bots may seem more science fiction than reality today, the same could be said for other tools, such as predictive coding used heavily in law firms. Due to various factors, including the pressure to cut fees and technology, the legal industry is changing and firms need to structurally adapt in order to stay competitive.

[1] Marcus, Richard L., *Essay: The Impact of Computers on the Legal Profession: Evolution or Revolution?*, 102 Nw. U.L. Rev. 1827.

[2] *Id.*

[3] American Bar Association, *Virtual Law Practice Basics, available at* http://apps.americanbar.org/abastore/products/books/abstracts/5110707_Ch1.pdf.

[4] *Id.*

[5] Marcus, *supra* note 1.

[6] *Id.*

[7] Kerschberg, Ben, *E-Discovery and the Rise of Predictive Coding*, Forbes, http://www.forbes.com/sites/benkerschberg/2011/03/23/e-discovery-and-the-rise-of-predictive-coding/.

[8] *Id.* In order to deal with some of the issues brought up by e-discovery, the Federal Rules of Civil Procedure have been changed.

[9] Hampton, Wallis M., *Predictive Coding: It's Here to Stay*, 2014, http://www.skadden.com/sites/default/files/publications/LIT_JuneJuly14_EDiscoveryBulletin.pdf.

[10] *Id.*

[11] Kerschberg, *supra* note 7.

[12] Hampton, *supra* note 9.

[13] Kerschberg, *supra* note 7.

[14] *Id.*

[15] Bindman, Dan, *Report: Artificial Intelligence Will Cause "Structural Collapse" of Law Firms by 2030*, http://www.legalfutures.co.uk/latest-news/report-ai-will-transform-legal-world.

[16] Cross, Michael, *Role of Artificial Intelligence in Law*, Raconteur, Feb. 2015, http://raconteur.net/business/time-for-technology-to-take-over.

[17] Bindman, *supra* note 15.

[18] Cross, *supra* note 16.

[19] Bindman, *supra* note 15.

[20] *Id.*

[21] Melnitzer, Julius, *Associates Threatened by Artificial Intelligence*, Law Times, 8 Dec. 2014, http://www.lawtimesnews.com/201412084366/headline-news/associates-threatened-by-artificial-intelligence.

[22] *Id.*

[23] *Id.*

[24] *Id.*

[25] Bindman, *supra* note 15.

[26] Goyal, Monica, *Bits & Bites: Are Automated Lawyers the Way of the Future*, 2012, http://www.lawtimesnews.com/201212312671/commentary/bits-bytes-are-automated-lawyers-the-way-of-the-future.

[27] Bindman, *supra* note 15.