All Hands on Tech

By Erin Brereton

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Find out how industry members are utilizing instruments that incorporate emerging technologies — ranging from natural language processing to machine learning.

While tech solutions that provide internal communication, time tracking and other efficiencies have become relatively common within the legal industry, some law firms and departments are starting to adopt tools that use intuitive smart technologies to offer capabilities like document creation and management.

The e-discovery process, for instance, today increasingly includes solutions that are powered by artificial intelligence (AI), according to Daniel Linna, Senior Lecturer and Director of Law and Technology Initiatives at Northwestern University's Pritzker School of Law and McCormick School of Engineering.

"It's become the standard — such that if you were to use human attorneys for a large document review, there would be some questions about whether that's permissible under the Rules of Professional [Conduct], if there's a way of doing it now with technology," Linna says.

As in-house departments and law firms continue to face a growing need to reduce legal service expenses, efficiency-enhancing technologies are likely to come into sharper view.

Cost pressure is currently law departments' top challenge and priority, according to a Thomson Reuters report; a recent BigHand survey found North American law firms have seen a 28% increase in demand for alternative fee arrangements (AFA).

By 2024, 91% of law departments, according to a Wolters Kluwer projection, will be asking firms they're considering hiring about their legal tech use — which could help shift the perception of smart technology tools from an added value proposition to a necessity.

TYPES OF TECH

Firms are using smart technology — loosely defined as systems involving networked components, such as sensors and software, that can collectively communicate and automatically react to data — in a number of ways.

A recent survey from legal industry advisory firm Baretz+Brunelle NewLaw found that out of 10 emerging tech initiatives, tech-enabled document drafting and assembly was the most popular at law firms. Conversely, smart contract and blockchain-related capabilities were implemented least often.

A smattering of organizations are using blockchain systems. Global law firm Hogan Lovells, for instance, which employs more than 2,500 attorneys, launched a blockchain-enabled document management platform in April. It's designed for commercial transactions involving clients.

The platform creates smart versions of PDFs and Microsoft Word documents, allowing their data to be extracted quickly and automatically — data that would otherwise need to be located and exported manually before being entered into enterprise software systems or used to generate reports.

Earlier this year, Holland & Knight served anonymous defendants with a temporary restraining order via a nonfungible token, also known as an NFT, that contained a hyperlink to an order to show cause. As Law.com's article on the groundbreaking tech use suggests, that delivery method could potentially offer future service advantages when elements like a defendant's location are unclear.

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Global law firm Cleary Gottlieb Steen & Hamilton LLP launched a separate business unit, ClearyX, within the firm in June to develop solutions featuring machine learning and other technology that will support clients, the firm and potentially smaller law firms that wouldn't be considered a competitor, says ClearyX Chief Executive Officer Carla Swansburg.

Initially, the unit — which has invested in a platform designed by a Cleary associate that automates capital market disclosure-related drafting work — focused on transactional services.

"We have started over the first year to really build models of M&A [mergers and acquisitions] transactional support for due diligence and other contract analysis," Swansburg says. "We built a portal, which leverages document and process automation and a database, that is going to be pushed back into the firm as well as out to different clients who need it. It allows you to essentially automate nondisclosure and confidentiality agreements — keep them in a database, search them."

Smart tech automation tools, Swansburg says, can help firms that are either understaffed or hope to shift associates to doing more valuable work.

"During the pandemic, one of the major constraints was it was really hard to keep associates [and] have enough to keep up with the work," she says. "There's a lot of work that is nicely enabled by technology — and there are intractable problems. Whether it's constantly dealing with low-value, nondisclosure agreements [or] after M&A activity, how do you integrate the contracts you've acquired? We can essentially make [clients'] lives easier in ways typical big law business models don't really enable."

THE SMART TECH EFFECT

California-based business litigation firm Chatow Law uses an automated workflow option to generate complaints. Principal Mark Chatow also has looked at legal analytics, but opted to hold off on those offerings that predict how a judge is likely to rule based on certain arguments made in briefs.

Chatow says one such tool has saved the firm hours of prep work: It's an AI tool that automatically performs optical character recognition (OCR) and analyzes a PDF-style discovery request, creating perfectly formatted shell responses with appropriate draft objections in place in under two minutes.

"I noticed I kept doing more and more repetitive work, reinventing the wheel every time," he says. "Even if we used a template complaint and started dropping things in, doing that in Word still takes time; it's inaccurate, you miss things. You do have to obviously manually double-check the documents [from the AI tool] to make sure they're properly formatted; sometimes it'll miss something, but it still saves so much time."

Chatow hired someone to help build document workflows, which has helped him address needs relating to multiple cases he handles for a Fortune 500 client that involve a lot of similar facts, but different dollar amounts or dates.

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"Make sure you're really thinking about what you want the interface to look like and what sort of questions are going to get asked to generate that product," he says. "It's a process, and you've got to have a tech mind. If you don't have the time to do it yourself, there are people who do that."

As a solo practitioner without an associate to assign work to for a lower hourly rate, Chatow says automation has helped him reduce expenses and respond quickly to document requests — in one instance, within a day to counsel who sent him 300 queries.

"It gives you a lot of power; it certainly showed I wasn't going to be pushed around," he says. "My pitch to clients is always it's extremely effective and efficient. That money can either just be put in the client's pocket, or they can use it for other aspects of the case they might want to put more money into."

Although hourly billing-based firms may not have quite the same incentive as AFA organizations to test out increasing efficiency with smart tech, enhanced quality can also be a benefit.

"When you're using a machine learning tool that uses contextual natural language processing, you're more likely to find all of the relevant things than a really tired associate who's been working for 12 hours and reviewing 600 leases over the course of two weeks," Swansburg says. "You get lower cost, efficiency, accuracy — and offload less glamorous work from high-value associates."

As of 2019, a third of legal departments' corporate transaction work was automated, according to a Gartner survey; yet respondents indicated 55% of it actually could be. Law firms also have a fair amount to gain from automating processes. Lawyers frequently spend a sizable chunk of their time on administrative and other nonlegal work — as much as 40% at small firms, according to a 2020 Thomson Reuters report.

In a recent tech satisfaction survey, attorneys ranked the automation of repeatable tasks as one of their firm's top three unaddressed technology needs. As M&A work increases, Gartner estimates half of legal departments' major corporate transaction work will be automated by 2024.

"Firms that are the best at employing technology and data analytics see the ways they can use it to be more profitable and ensure they retain clients — because they're giving them better service," Linna says. "It's only a matter of time before more and more of those clients tell their outside firms, 'You need to be using technology like this if you want to keep getting our business.'"

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