A 3Kites Consulting article

Legaltech 2019: A consultant's view of the contrast between UK and USA markets, tools and services

Legaltech is a large conference and exhibition which takes place annually in New York. For me, coming from the UK, every visit re-emphasises the differences between the UK and UK legal technology markets. The number and range of litigation tools in the US is in stark contrast to the UK, where the needs are more modest. I was particularly struck this time by the different extent to which the two markets have had to address lawyer efficiency, information visibility and a focus on assigning tasks to the most cost effective level. To my uneducated eye the American legal services market, driven by a more overtly litigious culture, still feels buoyant to the extent that the drive for efficiency is more muted, although efficiency is mentioned frequently enough to tell me that it is bubbling up on the agenda. By contrast, the UK market has been pushing hard since 2009 to help firms maintain (or re-establish) profit levels through the use of cost cutting and the application of different tools and services. The exercise is getting harder as firms become leaner, leaving them with less fat to cut away and this will be a concern as and when the next downturn hits (perhaps post Brexit).

To my mind, long term business stability can benefit by getting closer to your clients and looking to share the rewards of technology in tangible ways such as reduced fees. Ignoring this option runs the risk of pushing in-house teams towards their own technical solutions which will accelerate the trend we are already seeing for these teams to do more for themselves, thereby reducing the pool of work for private practice firms. Indeed, at 3Kites we have invested in this looming wave by adding a former GC to our group so that we may advise in-house teams how best to arm themselves and also to advise private practice firms on how to build stronger relationships with clients based on a more comprehensive understanding of requirements *along with* the sharing of ideas and benefits. This is a symbiotic relationship that is being changed by the increasing professionalism of procurement, so it's worth getting on board before your clients leave the station!

AI (Artificial Intelligence)

No technology conference would be complete without at least one session on AI. I should start by setting out my take on AI in the legal market, which is that I see this for the most part (and where it truly is AI and not just enterprise search or the like) as a narrow sliver usually focused on understanding document content – and which is more properly termed machine learning. Don't get me wrong, I think there is much that is interesting and empowering here and, with so many tools being delivered via the cloud as true SaaS (Software as a Service) offerings, it opens up the options for small in-house teams that have previously been held back by corporate IT strategy paying little regard to a cost centre rather than a fee earner.

Applications of AI. It is worth bearing in mind that, much like humans, AI solutions are not 100% accurate although where mistakes are picked up they can be corrected to prevent repetition, increasing the accuracy and speed of processing to a point way beyond what we can achieve.

Some interesting points and barriers to adoption were raised in these sessions including:
- It is important to rein in unrealistic expectations for what AI can achieve;
- Lawyers on both sides of the Atlantic are likely to resist systems that bite into the billable hour;

- Lawyers struggle to believe that systems can do a better job than them in certain situations, even if they occasionally go wrong (as do lawyers) – the exception is unlikely to be the rule;
- Systems should ideally be built with suitable legal oversight and transparency (try reading 'Too big to fail'[1] to see what happens when the top of a business doesn't know how it operates);
- US firms need to be mindful of systems breeching rules on non-lawyer assistance;
- Firms need to teach AI tools what an entity is *and* what it is not to help avoid false positives;
- Garbage in, garbage out – no amount of AI can fix a poor data collection;
- It is difficult to use AI tools across systems which are themselves not fully integrated;
- With the introduction of 5G networks, AI will be available to a wider audience;
- When AI starts to take hold, existing roles and organisation structures may need to change.

Maura Grossman, a research professor at Waterloo University in Canada, spoke eloquently about the need to safeguard individuals in a world increasingly driven by statistics. She referred to a case where a black American woman with no previous criminal record received a high recidivist rating following a bike theft and contrasted this with a white, male repeat offender who received a low rating on the same index because the system in question was not set up to discriminate on individuals but rather their neighbourhoods. In the UK, we would call this a post (Zip) code lottery.

Interesting products on display. We saw a tool that identified suitable judges for specific cases based on the analysis of court records in two US states (to date). This would be unlikely to hold as much interest in the UK as it seemed to garner in America and may even set some GDPR meters fluttering. Of more interest, even with its foot firmly in the US States court system, was **LegalMation** which also analysed court cases but used this knowledge to enable reviews of claims and to suggest questions or challenges, potentially saving many days of junior lawyers' time. Other tools focused on contract review, but did not appear to provide the human-like (true AI ?) insight that I felt LegalMation provided.

Also on show was **Luminance**, which is a Cambridge (UK) based product that we at 3Kites have seen in the UK market. The tool's ability to review content and provide a filtered index of documentation was impressive, although care needs to be taken to teach such tools about the false positives that might otherwise undermine trust in results (see bullet list above).

I believe there is potential for optimism amongst firms of all sizes and especially smaller ones which can use AI and some creative thinking to punch above their weight. Whilst we heard about some of the largest firms investing huge sums in this space (one mentioned a figure of $50m being invested to look at opportunities and transformation), the prize is still available as big guys don't always get it right and the small firms tend to be more fleet of foot.

Relationships between law firms and in-house teams

In Legaltech's Business of Law (BoL) stream, sessions focused on in-house teams and started with a day in the life of a GC. In many cases the role now has a broader business focus than might have previously been the case. The GC may also be the Company Secretary and may have a seat on the Board, which, combined with the legal and regulatory aspects, provides businesses with a more commercial and brand/reputational view of any risks. Whether compliance should be a part of the legal function or a separate role will depend on the nature of the business, but there is also some debate about whether cybersecurity should fall within the GC's remit, although the session agreed that this should be managed by the IT function with input from the GC where appropriate. One

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[1] Andrew Ross Sorkin, 2010

panel member spoke about the role of GC being the enterprise connector, the nexus of the company.

The external spend of in-house legal departments often equates to a large number in terms of US$ and has traditionally been fuelled by an overspend on junior lawyers which (perhaps unfairly, perhaps not) was felt to be funding law firm partners. However, the wind has certainly changed here even if private practice firms have not yet caught up – there was definitely a feeling in the room that technologies such as AI should be employed at the expense of law firms to reduce inefficiencies in their services.

A contrasting approach was evident in a session on automated document assembly. An example of its application which targeted an area of start-up businesses and allowed the law firm to use online forms to gather information rather than resorting to the more normal phone calls was interesting, but disappointing. The speaker stated that this allowed the law firm to double its margins on this work – I asked how the improvements benefitted clients and was told that this made the process easier and quicker (which I don't doubt it did) but that no cost savings were passed on.

It is certainly the case in the UK that firms which do not look at how their clients can benefit from greater efficiency risk simply encouraging in-house teams to look more closely at options such as ABSs and ever more sophisticated and affordable IT tools (including AI) to reduce their dependence on law firms. Encouragingly, one session that dealt with law firm innovation suggested that collaborating with clients on such initiatives is a good way to build more open and inclusive relationships with them.

Discussions on law firm pricing indicated that this remains something of a dark art in many cases. In the past, this was often fuelled by the cosy relationship that existed between buyer and seller but the role of procurement has tended to disrupt this, certainly in the UK. However, a feeling remains that costs are too difficult for in-house teams to ascertain and that comparisons between law firms are therefore convoluted at best and often unattainable. We at 3Kites feel that there is an alternative here: buyers can and do demand more and better information from legal advisors about the work that is done, who has undertaken that work and how much it has cost. These demands are only going to increase and firms need to be ready to present improved financial information to lawyers and their clients. This can help law firms to monitor and manage costs in ways which help to improve realisation rates, whilst clients can be granted access to details previously locked away. As I said at the top, the relationship should be symbiotic… get on board!

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