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Choosing the Right Legal Technologies for Today and Tomorrow

Seven Key Findings from the 2020 LIBC Annual Conference

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About the Author:

Craig Courter brings to this report more than 30 years of broad-ranging experience in the legal industry and legal technology. Prior to joining Katten, he was promoted to global COO at Baker McKenzie from his role as chief technology officer. He also served as COO for Perkins Coie.

Craig began his career as a practicing lawyer with Seltzer Caplan McMahon Vitek in San Diego, where he specialized in complex civil litigation with emphasis in high tech. He has more than 45 years experience in computer programming and a significant background in databases and data architecture. Craig has taught college-level computer programming and a law school course on computers and the law. In 2016, he was named one of Legal Week's "Top 20 Legal Innovators" and has been consistently recognized by team members for championing diversity and mentoring and developing people for future success.

Introduction

Legal tech is transforming the business of law. It's opening promising new paths to growth and prosperity for those who embrace its possibilities. It's challenging the undifferentiated middle of the market to build more adaptable cultures, add costly new technical capabilities and re-imagine how law firms operate. And it's confounding a shrinking set of stragglers who are just holding on until they retire, or their tech-averse clients fade away.

Even without the immense challenges of operating amid the Covid-19 pandemic, it's a scary time to be running a law firm. Scary yet exhilarating. Clients are demanding not just lower costs, but new ways of doing things. Investors are pouring unprecedented millions into novel approaches to how law is practiced and how legal advice and services are delivered. Get ahead of the changes and you will be a winner. Fall behind and you eventually will be gone.

Get ahead of the changes and you're a winner. Fall behind and you'll eventually be gone...

The hard reality is that many firms are overwhelmed by all the choices; not sure where to begin or how to make sense of it all. Wrong choices cost money, waste sparse human capital and sap needed political support. They confirm the wisdom of investment-resistant partners and raise questions of leadership competence. Wrong choices also can lock you into fading or outdated technologies and limit your options well into the future.

Yet decisions must be made; risks taken. Precious time and treasure must be directed to building the firm of the future. And early adopters who take bigger risks will be in position to reap greater rewards. We are already seeing that. Research shows leading tech users perform better financially and, perhaps more important, are better equipped to keep pace with the competitive advantages of change.

What do legal tech leaders do to ensure that they are building a more competitive, more adaptable and more client-centered firm? How do they work through the myriad options to ensure that the legal tech they implement today will improve their performance without limiting their options tomorrow?

It's not about embracing every legal technology, but rather choosing the right legal technologies for your firm and its business model...

Participants in a recent Legal Industry Business Council (LIBC) forum identified seven major keys to legal tech success. These seven revolve around people, process, and technology. And, when fully and fearlessly supported, working together, they make it much easier to achieve well-considered, clearly defined and strategically chosen business goals and objectives.

The challenge is not to embrace every legal technology, but rather to choose the right legal technologies for your firm and business model, client base, practice mix, strategic focus, and priorities. It's about tech that does what you need it to do today and has the flexibility and financial and human resources behind it to adapt and grow as your and clients' needs and technologies evolve over time.

The task is not to modernize existing processes or simply replicate them on new platforms. It's about rethinking how things are done and redesigning processes to make them as efficient and effective as possible. It's about changing how things are done so they're truly done better, cheaper, faster – and, sometimes, not done at all. It's about opening your mind to learning (read that, borrowing) from others; taking the time to become familiar with and applying the practices and approaches -- such as design thinking, Six Sigma and business process optimization – that have helped transform other businesses and industries.

And it's not about simply adding people and skills, either. It's about identifying and choosing the right people with the right technical and interpersonal skills, and, ideally, a rich diversity of backgrounds and experiences, and integrating them into the business as valued contributors to practice development and operations, client teams, financial and risk management etc. If you think data analytics are essential, then so are sophisticated data analysts.

So, what are those keys to legal tech success?

- 1. Strategic clarity and discipline.***
- 2. Principles-based decision-making.***
- 3. Active awareness and avoidance of bias.***
- 4. Managing and limiting customization risk.***
- 5. Early, direct client involvement in planning.***
- 6. Thoughtful and far-sighted vendor selection.***
- 7. Aggressive and sustained change management.***


Key #1: Strategic Clarity and Discipline

It all begins with strategy.

Law firms today are much more aware of the need for and value of strategic planning. But in too many instances, they define their vision and establish their priorities without fully considering opportunities new legal technologies afford and/or the type, cost and resourcing implications of the legal tech products and services they will need to achieve success.

The results are strategies that prove either too ambitious or not sufficiently ambitious technologically; are far more costly than anticipated; or cannot be supported by the IT resources available. Too often, IT teams find themselves under constant stress to accommodate firm leadership ambitions without the perspective, knowledge, skills, experience, or resources necessary for success.

Importantly, engage your IT team in your strategic planning and have respected representation in early. If you don't think your IT lead(s) can add value or are up to the challenge, consider a change. You need someone with expertise, vision and gravitas to help you (and, ultimately, your firm's management and partners) understand: **a)** the state of your technologies, processes and resources against best practice and firm needs (existing and anticipated), **b)** what's available and how it will benefit their practice and clients, **c)** what's coming in terms of new and transformational legal tech that you need to take into account to have a credible roadmap to the future, **d)** what it will take (in terms of time, talent, resources and related capabilities, particularly project management, and **e)** what it will all cost to realize your vision.



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Key #2: Principles-Based Decision-Making

Good decisions are principled decisions.

Decision-making is easier and more effective if you spend time up front defining the principles that will guide your choices. Guiding principles enable you to more systematically choose among options, by providing a framework for assessing alternatives and the tradeoffs you may have to make.



For example:

- **Do you prefer to buy or build?**
- **Are mobile applications required or optional?**
- **Do you want simple point solutions or comprehensive solutions?**
- **Are you more comfortable with cloud solutions or servers of your own?**
- **Which matters more, a good client experience or a good and efficient firm user experience?**
- **Which is more important, performance or quality, price or ease of implementation?**
- **How much emphasis do you place on automating work currently being done by lawyers?**

You will make different choices depending on your strategy and the business problem you're trying to solve. If your strategy is to be a lean, low-cost, high-leverage firm, you'll give more weight to more economical and efficient options. If you're striving to be a globally fluent player able to move people, work, and ideas effortlessly across borders, you're more likely to pick the applications that best enable collaboration over less pricey options.

It helps if you reduce your most important priorities to a mantra – a few words – to help benchmark each decision's alignment with your key principles. For one panelist at the LIBC forum, the mantra was: “Must Be Mobile. Easy to Deploy. Improve Our Processes. And Has to Be Cool.” For another, it was: “Cloud First. Modern. Secure. Simple. No Compromise on Quality.”

Still another emphasized the importance of the 80/20 rule. Her firm had wrestled over competing enterprise software applications. Neither would meet 100 percent of the firm's needs out of the box. But one would get the firm 80 percent of the way there. When stakeholders were asked if they could live with 80 percent, opposition finally faded, and the decision was made. Without the 80/20 rule as a guiding principle, they might still be debating.

So, establish a set of guiding principles upfront to serve as the yardstick for your decision-making. You will find and appreciate that it's much easier to define what's important and make decisions when you're not already deep into (and enamored with) features, benefits, and the alluring promises of appealing options.

Key #3: Active Awareness and Avoidance of Bias

Beware your biases!

When it comes to legal tech decision-making, beware the status quo, peer pressure and confirmation bias. Making new technologies look and feel like the old might encourage faster take-up, but if that means you've just put old wine in new bottles, you've wasted an opportunity – and a lot of money.

Status quo bias is insidious. It sneaks up early on when you're drafting the business requirements for a new technology. Members of your design team (and certainly the lawyers who will eventually use the new product) will almost invariably have a strong background in, and attachment to, the product and processes you're planning to replace. They will tend to want to keep things as they are, without regard to whether that results in the best functionality, most efficient processes or lowest cost.

So, remind yourself (and your team) that comfort is not the mission. Efficiency, economy & excellence are...

Always ask yourself, is this a requirement because it satisfies one of our Guiding Principles? Or are we asking for this feature because it's the more comfortable way of doing things? If the latter, remind yourself (and your team) that comfort is not the mission. Efficiency, economy and excellence are.

Remember, you are investing a great deal of time, effort, and money to improve your firm. If you fail – and sometimes you will – make sure you fail forward. That you are a winner even in losing. By gaining valuable insights, improving processes and ways of doing things, and achieving clarity about the nature of the challenges you face and the solutions that are actually possible.

“What are other firms using?” It's an understandable question. But it frequently leads to poor decision-making...

Closely associated with status quo bias is the confirmation bias built into the commonly asked question: “What are other firms using?” It's an understandable question. But it frequently leads to poor decision-making at worst and slow decision-making at best. Why? Because what other firms are using often has little to do with what's available in the market today. At any given time, most firms will be using legacy applications, often built on older platforms and less-adaptable, less sophisticated technologies.

Of course, you should consider vendors with significant market share. Then, if their technology is as good or better than others, with a record of steady improvements, adaptable underlying technologies and a known commitment to innovation and client service, they certainly belong on your short list. Otherwise, what other firms are doing just provides a snapshot of peers' past decision-making, frequently irrelevant to positioning your firm for long-term success.

So, continually ask yourself if you're sacrificing opportunity for comfort. Ask if you're following the herd because they have chosen a truly better product? Or you've simply given in to peer pressure, enabling bias and compromising your choice, because there's supposed to be safety in numbers.

Key #4: Managing and Limiting Customization Risk

Customize at your own peril.

This is a corollary to Key #3. In theory, customized legal tech solutions make sense. You want tools and applications that deliver what your partners and clients need, want and expect. And, at the margin, it may be necessary in many cases to make some accommodations. Remember the 80/20 rule example. But there is significant risk involved in customization, and it grows each time you tinker with code to modify what comes out of the box from your vendor.

Your customization risk won't be apparent immediately. You may even feel a sense of satisfaction in knowing that you got the vendor to agree with your suggested changes. But the costs of customization will eventually become apparent when your vendor releases a major new upgrade of its product using new technology or vastly streamlined and simplified coding. That's when you'll find that you're unable to implement the update. Or, you may have to revisit all your customized coding to make it work with the vendor's update. Not on your timetable, but theirs.

So, think twice, even a third time, about every customization proposal. Especially, don't limit your future with marginally valuable enhancements. You'll be glad you don't have to revisit your customization choices down the road when change comes again. And it will.



Key #5: Early, Direct Client Involvement in Planning

Direct client input is essential.

When writing business requirements for a new technology, be sure they reflect a client perspective. Not what you think the client wants or needs, but what the client tells you they want and need. Too often, we take partners' assurances of client expectations as gospel. And, too often, partners have it wrong. Not out of arrogance or malice, but because they don't know the questions to ask, the processes to explore or the frustrations that lie hidden in the reality of day-to-day operations.

One LIBC forum participant recalled frantic calls from a senior partner demanding the tech team drop everything and focus everyone on installing a costly e-billing application because a major client was insisting on it. When the partner finally agreed to let them the tech team talk to the client CIO to verify the project's urgency, the response was laughter. The client was planning to use the application, the CIO said, but they were nowhere near ready to do so. The new technology was slotted into the IT work plan and delivered without a hitch months later.

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If you're considering changes in ways that will affect your clients, bring those clients into your decision-making. Get your firms' experts in the relevant areas (e.g., billing, new matter intake) together with IT specialists who know the technology best and spend time with clients reviewing their needs and experience. Explore workflows with them, identify pain points and determine root causes.

So, listen to clients. Unfiltered. Keep in mind that a fundamental goal is to improve the user experience. Making clients part of your due diligence will make it easier for you to identify a system that has been well thought out by the vendor, with client user needs in mind, and loaded with the preconfigured requirements most often sought by clients.

Remember, too, if clients love your new system, your partners eventually will as well.



Key #6: Thoughtful and Far-Sighted Vendor Selection

It's not just the product. It's the producer.

Today, there are hundreds of legal tech suppliers. And that number is growing as clients drive the legal industry to become more efficient. Some of these suppliers have intriguing, but unproven products. Others have limited or no track records when it comes to implementation and support. How do you hitch your firm to the future when there's so much risk in selecting a partner?



A good place to start is with a vendor's track record. Do they have a reputation for completing projects on time? Or are they known to miss project completion dates? If a provider can't deliver the projects it has been given, you may want to look for someone who does.

You should also take a close look at each vendor's balance sheet. Do they have the financial strength to deliver on the promises they've made to you? Are there worrisome signs, for example in oversized receivables, that may suggest that dissatisfied clients may be slow to pay or holding back payments pending the resolution of product or delivery issues?

What about their personnel? Do they have significant experience implementing the software you're about to buy? Or will they be learning about the applications alongside you? You will want seasoned hands to call on when the going gets rough. Also, do they have enough bench strength to withstand inevitable losses over time? Are key players sufficiently incented to remain motivated and loyal over time? And what's the plan if that proverbial bus comes along?

Look as well at the supplier's underlying technology and commitment to innovation. Specifically, ask what they're spending on product and service innovation. And consider carefully whether their core platform is likely to be useful beyond the next five to ten years or is built on sunset technology. Do they have an organized approach to identifying and building out upgrades and complementary offerings, or are they using acquisitions to complete their product line? If the latter, what's their strategy for integrating diverse products into a smooth-functioning whole?

Beyond track record, balance sheet, people and technology strategy lies an inevitable consolidation as the market picks winners and losers. Will your provider be the winner you need them to be? Are they truly focused on and invested in legal tech? Are they putting their own money in the business, or are they relying on outside investor capital that may be less patient than your needs require?

So, consider the producer before you buy the product. It's prudent risk management.

Key #7: Aggressive and Sustained Change Management

Finally, don't forget change management.

Getting lawyers and business professionals to accept a new, different technology solution is often more challenging than implementing the new technology itself. Why? Because people are creatures of habit. Even cumbersome, outdated and limited-use solutions engender loyalty when change is required.



If you want to succeed, you must candidly assess your readiness for change. Do you have strong, dependable firm leadership? Is leadership committed to the change? Are they willing to spend the money, devote the time and deploy the resources necessary for success? Will leadership stand firm when the going gets rough? (And it will!) Is your communications team up to the challenge? Does it have the resources, skills and credibility needed to drive change? And are you willing to add them if not?

Also, be sure to consider your project in the broader context of your law firm's operating and financial realities. Are other pressing issues or business changes likely to curb enthusiasm for this project? Are you trying to do too much, given all that's going on? If so, can you perhaps afford to wait? And if not, how do you gain consensus on prioritizing competing needs? Never lose sight of the fact that the more you do to change the more change you will be able to do. Successful projects build confidence and trust. Firms with success in introducing new applications generally find future successes easier to realize because success breeds success. So, remember, stay positive in communications among team members. Projects have challenges. If you bring negative energy when issues arise, your team will follow suit. If you lead with positive vibe so too will your team.

Final Thoughts

It's easy to get overwhelmed when it comes to the adoption of legal tech. Every member of the LIBC forum where this topic was discussed has struggled with a few (often several) high-risk projects. They have survived plenty of setbacks, had some outright failures and, fortunately, led more than a few highly successful projects that, collectively, contributed to the wisdom and insights shared here.

Certainly, there are additional keys beyond those we list. But in the main, we believe these seven keys provide a helpful roadmap; one we wish we had had much earlier to focus our efforts, smooth the road to needed change, and increase our odds of success in legal tech.

The Legal Industry Business Council (The LIBC) is an organization created to provide law firm individuals an independent and self-run forum to identify key industry challenges or opportunities and to raise industry awareness and provide guidance on how to overcome or achieve them.

Participants in the recent LIBC forum on which this article was based included:

Aaron Barton, chief risk officer, Gordon & Rees

Andrea Markstrom, chief information officer, Taft

Craig Courter, chief operating officer, Katten

Eric Hunter, chief information officer, Bradford & Barthel

Gayathri Vegulla, director of SAP systems, Baker McKenzie

Jeff Melnick, chief financial officer, EisnerAmper

Joe Palermo, chief operating officer, Lowenstein Sandler

Kim Curran, chief major projects officer, Katten

Leon Goldstein, director of information technology, Seward & Kissel

Rick Howell, chief information officer, Perkins Coie

Steve Capon, global programs manager, Eversheds Sutherland

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