INTERNATIONAL COMPUTATIONAL LAW JOURNAL

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Computational Law Report · Release 3.0 · 2021-12-07

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Volume 1 · Issue 5 · Evidence, Interpretation and Machine Judgment

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Published on: Dec 07, 2021

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Lawyers rely on their legal expertise to create effective contracts and negotiate the best possible business deals. But what is “legal expertise”? Is it fine-tuned instincts honed from decades of experience? Hunches based on an elite education? Magic tricks and voodoo?

The uncomfortable reality is, today’s legal expertise can still look a lot like the “medical expertise” of medieval doctors who claimed mysterious knowledge of the need for balance among the human body’s four humors.

After much needless bloodletting, the medical community applied scientific principles to become more accurate in their knowledge of the human body.

The legal community is ready to stop the bloodletting, too, using purpose-built technology that supports and memorializes contract negotiations and analyzes data. Digitizing contract negotiations enables you to make fact-based decisions and answer these five perennial legal department questions:

What is in Our Contracts?

"What does the contract say?" is a number one legal question in any business. Just as blood tests, X-rays and MRIs gave medical doctors clarity into bodily functions, today’s contract management tools let you see into each phase of the contract lifecycle to quickly find contracts and answer questions with laser-like precision.

Digital negotiations occur on an AI-enabled platform that allows you to use data analytics to scrutinize the performance of specific clauses, individual contracts, and entire contract portfolios. Contracts and provisions become visible at scale, enabling you not only to determine what contracts say but also to evaluate how various factors impact business outcomes, i.e., supplement your legal expertise with data. Answer a variety of questions like “Does a specific category of contracts consistently deliver against forecasted expectations?” “How long can we expect a merger of this size to take to complete?” “What performance levels can we expect a specific type of service provider to consistently meet?” And many more.

What Contract Applies? When?

How do people know when a contract governs a business interaction and which contract applies? When you lock contract information away in a dark drawer or a static

PDF, they do not. Business professionals often remain unaware that a contract governs their current situation, and they do not follow up on required actions and omissions.

Effective legal service in our complex and fast-moving world requires that someone—or something—automatically flags specific contracts that apply as a situation unfolds. Digitally negotiated contracts include reliable automated processes that can reach out and alert lawyers and business professionals when they must consider a contract or take a specific action. This can include dashboard notifications alerting individuals of upcoming to-do items. Or, an event such as the lapse of a time period or crossing a specific monetary threshold can trigger an email telling a manager to initiate an alternate process.

Why Does the Contract Contain this Specific Clause?

How have lawyers neglected for so long to memorialize or learn about the hours and hours spent in contract negotiations? They are establishing terms that will govern risk and revenue generation for years to come. Yet, the ink is barely dry when collective amnesia sets in about why contracts include various provisions. Sometimes, dealmakers move on without proper transition, leaving those who inherit deals to scratch their heads and wonder, “Why is that clause there?”

Digital negotiations preserve conversations in easily accessible auditable trails. You no longer have to manually excavate troves of old emails or read tea leaves. You can analyze digitally negotiated contracts to answers questions like “How does the presence or lack of specific clauses affect contract performance?” or “How often are specific clauses negotiated, and what are the most common fallback positions?”

What Situations Should We Address During Contract Negotiations?

Legal expertise does not include using the Socratic method to add hundreds of unnecessary clauses based on nightmarish “what if'' scenarios. But it does include the ability to decide whether an additional limit of liability for 0.01% is worth the lost revenue and legal expense of an additional 90 days of negotiation. Does not negotiating the point put the company at risk of losing 85% of over $10 million in damages, or is it closer to 0.01% of a $100 loss?

It would no doubt help to be able to review analytics on the dollar amounts, timelines and performance results from prior negotiations for similar deals. Many organizations possess years, if not decades, of contract data that contain insights into the risk of specific clauses in varying contexts and under evolving circumstances.

With digital contracts, you can establish KPIs and track performance metrics to reveal how decisions made during prior negotiations impacted the organization. For example, you can determine what clauses are negotiated most often and what fallback positions are most commonly adopted. Over time, you can analyze how those contracts performed to assess whether the alternate clause achieved the desired results. Analytics help you identify what clauses matter most in the current context and why they matter, based on the historical data from similar situations.

What Can We Do Today to Create a Brighter Tomorrow?

Legal expertise today now includes the ability to evaluate a portfolio of contracts and answer in-aggregate questions such as “How can we increase value by 40% in 5 years?” or “How do I decrease risk by 10% in 3 years?”

Digitally negotiated contracts enable you to develop accurate data models to better predict the impact of current negotiations. You determine today’s priorities guided by data rather than gut feelings. Made wiser, you can answer questions with reasonable certainty and develop long-term plans that improve outcomes.

You can worry less about “known unknowns” when digital contracts can reach out at the appropriate time to direct action, help us determine what points to negotiate, and inform our decisions. You no longer need to follow hunches, rely on hope, or try to hocus-pocus your way to a brighter tomorrow. Digital contract negotiations can augment your legal expertise and help you actively co-create this reality every day.

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