

Special Report

Staying Competitive in a Crowded Legal Services Market

September 2019



 Bloomberg Law



Bloomberg Law Special Report

The law business is in the midst of change driven not only by new technology, but also by transformative structural factors. There's more competition being felt from legal services providers as well as the Big Four accounting firms edging their way into the market, and clients want the efficiency brought by new tech tools. This report looks at how those trends are being absorbed by the industry and where the most significant shifts are likely to take place.

Join us on Sept. 26 for our Special Report webinar, [Stay Ahead of Changes in Legal Services Delivery.](#)

About Bloomberg Law

Bloomberg Law® helps legal professionals provide expert counsel with access to action-oriented legal intelligence in a business context. Bloomberg Law delivers a unique combination of Practical Guidance, comprehensive primary and secondary source material, news, timesaving practice tools, market data, and business intelligence.

For more information, visit pro.bloomberglaw.com



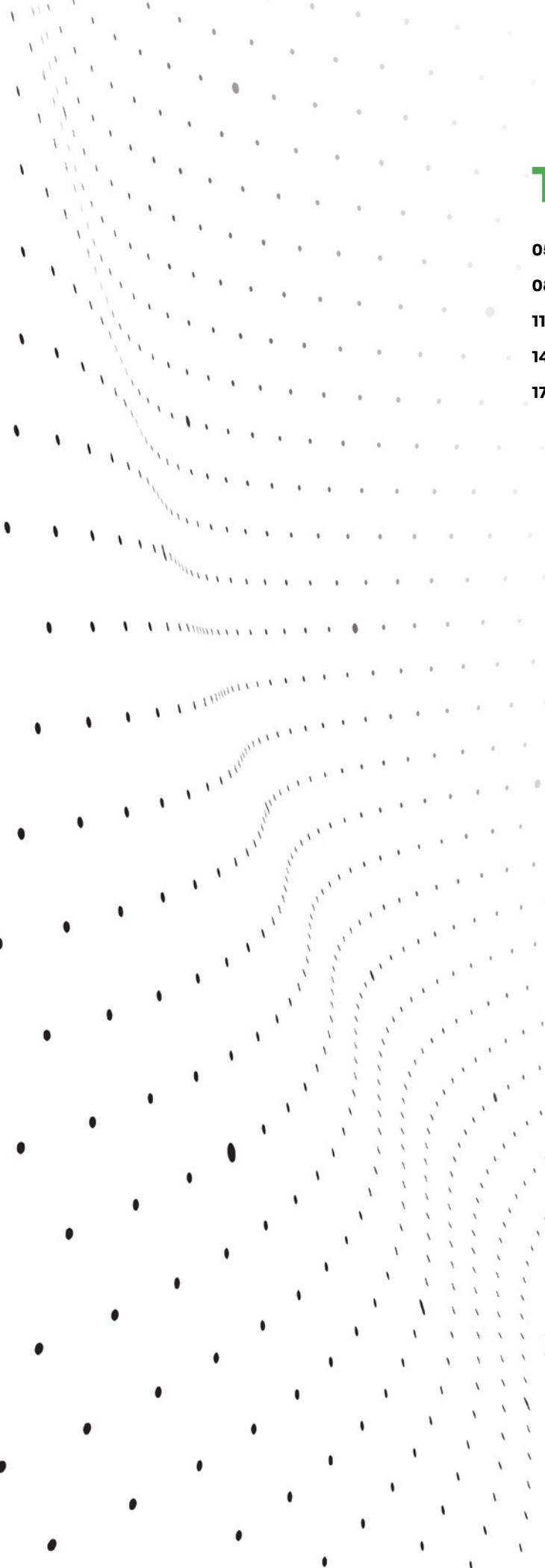


Table of Contents

- 05** Big Four Edge Into U.S. Legal Market
- 08** ALSPs Spur Big Law to Reexamine Offerings
- 11** Big Law Accommodating Change with New Perspectives
- 14** Inside Jobs: Legal Departments Adapt to Tech Change Data
- 17** Privacy Impact on Law Business Still Evolving



Since 2004 | A Minority Business Enterprise

✓ **Turnkey solutions for
routine legal work**

✓ **Tailored support of
complex projects**

Our Expertise

Contracts
M&A Diligence
Compliance
Legal Operations
Document Review

Our Value

Integrated Technology
Fixed Fee Options
Reliable Timelines
Consistent Results
Easy Transitions

innovation@quislex.com

Big Four Edge Into U.S. Legal Market

By Tam Harbert

The toeholds made by the Big Four accounting firms in the U.S. legal market are looking more like footprints.

Already a force in the legal space of many countries worldwide, the Big Four are prohibited by individual state bar association rules from practicing law in the U.S. Yet over the past several years, they've maneuvered to insert themselves into the U.S. legal services market. For example:

- In 2017, PwC launched ILC Legal, which advises U.S. clients on international legal matters. Last year, PwC struck an alliance with U.S. immigration law firm Fragomen to provide "tax and immigration services to clients and their cross-border employees," according to a press release.
- In June 2018, Deloitte UK and U.S. immigration law firm Berry Appleman & Leiden announced an alliance, under which Deloitte Global purchased the international locations of the law firm to offer immigration services. Berry's U.S. offices remain independent and are able to offer immigration services in the U.S.
- In April 2019, EY acquired Pangea3, a legal managed services outsourcing business, from Thomson Reuters in the U.S. This follows EY's purchase last year of U.K. firm Riverview Law.

The Big Four are targeting the needs of in-house counsel.

The Big Four have set their sights on the needs of in-house general counsel of large multinational corporations, said David B. Wilkins, director of the Center on the Legal Profession at Harvard Law School. That means offering multidisciplinary, integrated solutions to global business problems, not just legal problems.

"Legal is just one component of the much larger integrated problems corporations need to solve," he said.

Other components include cybersecurity and data privacy, risk management, and sustainability issues. "These are all things that require multiple kinds of expertise across a wide range of disciplines on a global platform," Wilkins said.

Platform technology is indeed an important part of the equation. Over the past several years, EY legal clients worldwide have been asking for more managed services, more process management, and more technology, said Cornelius Grossmann, EY's global law leader.

That was the driver behind EY's acquisition of both Riverview Law and legal outsourcer Pangea3, he said. Now, EY is integrating those services on a single platform. "Thus, we'll have the people, the scale, the domain knowledge, and the technology capabilities" that clients want, Grossmann said.

One of the latest developments is an alliance announced in May between employment law firm Epstein Becker & Green and Deloitte Legal. The move brings together Epstein's labor, employment, and workforce management expertise with Deloitte's multidisciplinary approach and global reach to address "a confluence of legal and business challenges for employers that can no longer be separated or dealt with in isolation," according to the joint press release.

Epstein is a U.S. firm with offices across the country. The alliance offers advisory services to multinational companies in areas such as employment policies, restructurings, and M&A.

"We work together to make a joint pitch, to put together a joint RFP," said Steven Di Fiore, chief operating officer of Epstein Becker & Green. Epstein performs the work pertaining to the U.S., and Deloitte does the international work, "but we are working together and delivering one product to the client," he said. For example, the firms are conducting a worldwide pay equity review and analysis for a multinational corporation with 20,000 employees, 10,000 of whom are in the U.S., he noted.

“What we are really doing is responding to demand from clients for holistic, workforce management solutions that are seamless across borders,” said David Garland, chair of the employment, labor, and workforce management steering committee at Epstein Becker & Green. “We are responding to what the market is telling us.”

These advances by the Big Four mean Big Law will be competing in a broader arena, in terms of disciplines and types of expertise. Often, that will mean providing more value in key areas or focusing on narrower specialties.

California proposals would allow non-lawyer law firm investments and tech company legal services, according to Bloomberg Law.

“This is not the death knell of Big Law by any stretch of the imagination,” said J. Stephen Poor, partner and chair emeritus at Seyfarth Shaw. “But law firms will have to understand their value proposition, how they are going to differentiate themselves, and where they fit in a more complicated ecosystem.”

The system could be in for more changes. The California bar has advanced proposals for new ethics rules that would permit non-lawyers to invest in law firms as well as allowing technology companies to provide legal services, Bloomberg Law reports. One driver is the effort to make legal representation more accessible to poor and middle-class people.

Arizona and Utah are considering similar actions. Although such changes aren’t aimed specifically at opening the market to the Big Four, there is little doubt that the big global firms are watching developments closely. The California bar’s trustees will vote on the proposals in January.

“We’re all working under the assumption that if California changes, then other states are likely to change as well, which I think is a valid hypothesis,” Poor said. “It may happen perhaps a little sooner than we all thought.”

Tam Harbert is a journalist specializing in technology, business, and public policy.

Big Moves by the Big Four

2017:	PwC launches ILC Legal
2018:	Deloitte U.K. alliance with Berry Appleman & Leiden
2019:	EY acquires Pangea3
2019:	Deloitte Legal alliance with Epstein Becker & Green



Driving the evolution of alternative legal services for over 20 years

Leading global provider of mission critical,
strategy dependent litigation, contract,
risk and compliance managed services

visit us at integreon.com
contact us at info@integreon.com



ALSPs Spur Big Law to Reexamine Offerings

By Lisa Singh

Alternative legal service providers' rapid push into the market is challenging long-dominant traditional law firm models. Experts advise that firms keep pace with the competition by reassessing current service areas, as well as future partnership models, to provide lower-cost, higher-volume work.

"Alternative legal providers have been most disruptive to Big Law," said James M. McCauley, ethics counsel with the Virginia State Bar, who cites recent industry data that ALSPs, across the U.S., U.K., and Canada, generated revenue of nearly \$11 billion in one year alone. Legal process outsourcers claimed the majority of the work, in areas such as litigation support and document review.

Corporate legal departments are shifting from law firms to alternative providers, according to Bloomberg Law.

"The impact is that work traditionally performed by newer associates in law firms has been outsourced to these ALSPs," McCauley said. Law firm revenue, by contrast, has remained flat for several years, he noted, despite the economic rebound since the Great Recession.

Further eroding Big Law's market share, U.S. corporate legal departments are slowly shifting funds from traditional law firms toward alternative providers, according to Bloomberg Law.

"We [anticipate] ALSPs are going to continue to take up some of the work that is going to law firms," said Lauren Chung, managing director for HBR Consulting, speaking with Bloomberg Law.

As competition from "new law" grows, three major firms recently established practice areas focused on legal process outsourcing work. High-profile hires have followed, including the first global director of legal operations by Baker McKenzie. Yet skepticism remains as to whether Big Law can provide ALSP-related services under the same roof with traditional legal offerings.

"As a legal buyer, I would take a long, hard look at what's behind those claims," said Mark Cohen, a law firm business consultant.

"There is a big difference between operating as a traditional law firm and delivering legal expertise [versus] the ability to efficiently, and scalably, deliver business-of-law activities. That's really two different businesses," he said.

So far, the numbers back this skepticism. In 2017, the few firms competing with ALSPs generated roughly \$300 million in revenue, as reported by Bloomberg Law in analyzing industry data. By contrast, alternative providers, spanning legal process outsourcing, managed services, and contract management tasks, raked in more than \$9 billion.

This imbalance exists as new legal entrants gain access. Recently, a State Bar of California task force proposed allowing non-lawyer investment in law firms and technology companies offering limited legal services. The proposed rules could set a wider precedent, experts say.

"The driver of which states will pick up the drumbeat that California is setting will be determined, in part, by whether the state bars are voluntary or compulsory," Cohen said. "Where voluntary, those states tend to pander to the interests of their dues-paying members."

Meanwhile, many firms still struggle to keep pace with growing client demand for new pricing structures. While many firm websites tout alternative fee arrangements, for example, roughly three-quarters of them say their billing models have not evolved with increased technology uses, according to Bloomberg Law.

Law firms risk falling further behind as ALSPs are able to exploit a strong base of technology.

"They've already disrupted and changed the document review [and] e-discovery space ... what else will follow?" said Aric Press, former editor-in-chief of *The American Lawyer* and current partner at PP&C Consulting.

Industry analysts increasingly see ALSPs moving into areas that require a higher level of analysis.

“There is a growing recognition that ALSPs can combine data analytics and legal expertise in other ways” than discovery, said Cassandra Burke Robertson, law professor at Case Western Reserve University. “One of the most important is in providing economic and risk-modeling services for litigation.”

Analysts differ on whether law firms can be all things to all clients.

Law firms’ inability to take outside capital limits the investment dynamic needed to underpin these offerings, industry analysts say. ALSPs, by contrast, “can make investments in technology, and can scale in ways that law firms are sometimes challenged to do,” said Cohen, the consultant.

In this environment, Big Law stands at a crossroads.

Firms That Have Launched Alternative Providers

Alternative Providers

- Bryan Cave Leighton Paisner
- Greenberg Traurig
- Eversheds Sutherland

“My best guess is that law firms will move to own that space, usually in tandem with their own or independent technology companies,” Press said. “In sum, there is room for both traditional and new providers of law firm services.”

In assessing options, however, industry analysts remain divided as to whether law firms can be all things to all clients.

“Most firms that continue to have practices from ‘A’ to ‘Z’ should ask, ‘Is my future really in offering all these different things, or might I collaborate with other firms and providers, who have deeper and better capability in certain areas?’” Cohen said. He advises law firms to instead emphasize specific expertise in areas such as cybersecurity, mergers and acquisitions, and intellectual property, and assess ALSPs as potential collaborators.

Due diligence, however, should be a priority in considering any partnership. “First and foremost, be sure to obtain your client’s written consent to outsource legal work to a third party,” McCauley said. “Second, make sure the company and its employees will keep client information confidential, and have them sign agreements promising to do so.”

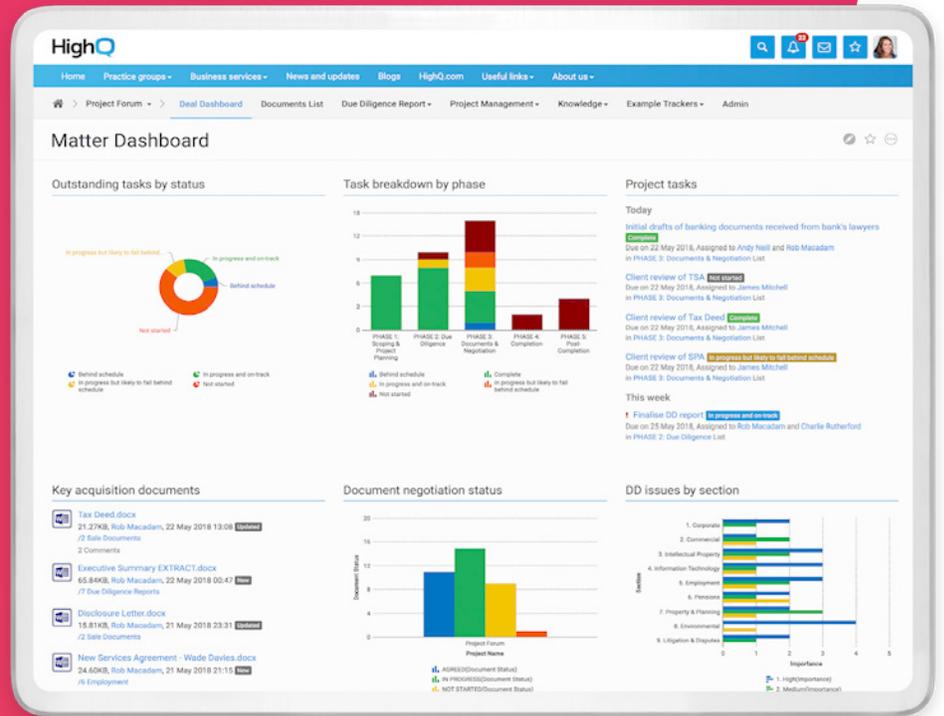
Law firms should also run conflict checks on ALSPs working for other firms. There should be a clear understanding of the allocation of work, McCauley noted, as well as checkpoints for monitoring, reviewing, and supervising deliverables. Without these measures, “you may be aiding and assisting the unauthorized practice of law,” he said.

In the short term, in partnering with ALSPs, law firms may “cede revenue,” Cohen said. “But in the longer term, it will allow them to focus on what they’re good at, and to drive a better overall result for the client.”

“Collaboration is key. It [should not] be an ‘either-them-or-us’ mentality – it can be both.”

Lisa Singh is a writer specializing in business and technology matters.

Transform
your legal
service delivery



Drive innovation, legal process efficiency and
deliver an amazing client experience with HighQ.

HighQ

highq.com

Big Law Accommodating Change With New Perspectives

By Stephanie Russell-Kraft

The legal industry has been buffeted by dramatic change in the past decade. In a short span of time, Big Law has faced the rapid rise of technologies such as big data and artificial intelligence, as well as the expansion of corporate legal departments. These factors have put pressure on old-school firms to streamline their services.

Bigger clients are pushing their law firms to be more innovative.

Client demands are the biggest driver behind Big Law change. Over the past decade, corporate legal departments have taken a sharper pencil to outside legal services, and general counsel now are expected to look for value and opportunities rather than just risk mitigation.

“Some bigger clients with more market pull are pushing their law firms to be more innovative,” said William D. Henderson, a law professor at Indiana University Maurer School of Law, who studies the legal industry.

Clients also put pressure on firms, particularly those in the middle market, to cut costs, which in turn drives innovation. Law firms feel less pressure to change their business models when business is going well, according to Bloomberg Law.

But the tremendous increase in available data also has been a factor. Clients can run AI programs on law firm invoices and predict how long a matter will take and what it will cost. They can generate litigation analytics for information about opposing lawyers or about how judges might rule on certain topics. Many of these analytics are conducted by legal operations teams, which represent an entirely new non-lawyer field in corporate legal departments.

“About five years ago was the real turning point,” said Lucy Dillon, chief knowledge officer at Reed Smith. “There are more questions around how legal services are delivered, transparency on pricing. These are things that 10 years ago nobody was even thinking about.”

In response to this shift, Reed Smith has developed its own internal corollary to the rise of legal operations: a team of about two dozen lawyers and non-lawyers whose job is to oversee legal product management and matter intakes. This often includes a product manager who keeps the process on track. “Clients want to see people from our client value team at pitches,” Dillon said.

Alternative legal service providers and potential competition from the Big Four accounting firms also have many law firms seeking new ways to innovate. Some firms are responding to the so-called new law companies by launching subsidiaries to develop new technology products. They’re betting clients will want to stick to one provider for their higher-end work as well as for lower-cost legal processing services, according to Bloomberg Law.

Greenberg Traurig launched an international subsidiary called Recurve that will bring together technology and legal service providers for a wider range of client offerings, while avoiding any engagement with what bar regulators in the U.S. consider the practice of law.

Some firms are launching subsidiaries to develop tech products, according to Bloomberg Law.

Wilson Sonsini Goodrich’s technology subsidiary, called SixFifty, recently launched an app that allows legal departments to generate documents that show compliance with the California Consumer Privacy Act. The firm charges a flat price that starts at \$7,500, Bloomberg Law reported.

Reed Smith developed a suite of software products under a subsidiary called GravityStack that will allow clients to buy technology independent of legal advice. For one client seeking an e-discovery platform who said it was beyond the current budget, Reed Smith was able to offer it through GravityStack without the client signing on for a legal matter.

“The fact that it comes from the stable of Reed Smith, which they’ve used for work, makes it much more attractive,” Dillon said, and for the firm, “it’s an additional stream of income.”

Reed Smith also recently introduced a program in which associates with technology backgrounds are invited to spend part of their summers coming up with tech solutions to legal problems. “It’s the lawyer of tomorrow we’re building from the bottom up,” Dillon said.

As law firms continue to respond to market changes, they’ll likely hire more non-lawyers to specialize in operations and technology. Firms also are creating chief innovation officer positions, suggesting more change to come in the legal industry.



Wendy Butler Curtis was head of practice analytics and service innovation before she became Orrick’s chief innovation officer two years ago. “We have a whole innovation department,” she said. “We have business units within the firm that are focused on alternative ways of delivering legal services.”

Other firms with chief innovation officers include Dentons, Bryan Cave, and Hogan Lovells.

Many players are thinking about innovation across the whole firm, not just in the realm of legal tech.

“What we’re hearing and what we’re seeing is that clients want on-demand practical solutions and predictable pricing that align with their strategic priorities,” Curtis said. “It’s just a huge mistake to assume an app or a dashboard is always the way you’re going to meet that need.”

Orrick’s innovation group, which employs about 50 lawyers and non-lawyers, has developed a wide range of AI projects for clients. It also hosted a large law firm hackathon with the goal of “reinventing and streamlining legal processes.”

Over time, Curtis predicts that law firms will start to mirror corporate law departments, which increasingly are hiring non-lawyer professionals to meet the evolving demands of legal services. “The ratio of lawyer to legal professional is constantly changing, and in many instances is now 60-40,” she said.

The staid character of the biggest law firms is evolving. “We are in the earliest days of true game-changing business models,” Henderson said.

Stephanie Russell-Kraft is an independent journalist covering law, gender, and religion.



we build **custom legal services solutions**
for your **business challenges**
using the **right team**
and the **right technology**
at the **right price**

Chicago | London | New York | Pune

info@mindcrest.com

mindcrest.com

Inside Jobs: Legal Departments Adapt to Tech Change

By Carlyn Kolker

The advent of new technologies presents challenges and opportunities to corporate legal departments, as they face decisions on cutting-edge tech tools while remaining under pressure to keep spending down.

Corporate legal departments and law firms both face the same conundrum. There's an abundance of new technology with potential for greater efficiency and lower costs, but those innovations require a sizable upfront investment.

Just 56% of law department leaders say their companies are spending enough money on legal technology, according to a November 2018 survey from Deloitte and Oxford Economics. "The budgets haven't yet caught up with the need," Meghann Kelley, then with Deloitte, told Bloomberg Law.

Since the recession that began in 2008, general counsel and chief legal officers have been under increasing pressure to keep costs down, even as many companies face higher legal expenses because of litigation over a wider range of issues.

"I think in this day and age, if the GC doesn't have efficiency at the top of what he or she needs to be worrying about, they are doing something wrong," said Joseph Polizzotto of QuisLex, an alternative legal service provider that advises corporate legal departments and large law firms about their tech choices. "There is no such thing as legal department exceptionalism."

Polizzotto advises legal departments to establish operations teams devoted to streamlining the work. Referring to law department leaders, he said: "Their closest advisers should be the legal operations advisers."

Several areas of legal technology are experiencing rapid growth and adoption, Polizzotto noted. Tech tools are evolving related to building, generating, and analyzing contracts, such as non-disclosure agreements, in due diligence for transactional deals, and in litigation analysis, he said. Many of these are embedded with artificial intelligence, automation, and prediction tools.

Retail giant Walmart, for example, is using automation and AI tools that help it analyze legal complaints and even draft responses in a bid to cut costs, according to Bloomberg Law.

Liberty Mutual is another company focused on implementing legal tech to streamline operations. The Boston-based insurance giant has an internal team devoted to legal operations that includes data scientists, lawyers, and technology specialists. As a property and casualty insurer that indemnifies and defends customers in litigation, it has to keep close tabs on its internal and external legal fees, said Jeffrey Marple, head of innovation for legal operations.

Just 56% of law department leaders say their companies are spending enough money on legal technology.

The company's quest for greater efficiency involves accessing technology both developed in-house and purchased from outside vendors, Marple said. The data analytics it uses to track spending on outside counsel, for example, can parse not just which law firm charged more or less money on a matter, but what outcome it achieved, providing a benchmark for quality.

Liberty Mutual also uses applications to automatically generate boilerplate contracts such as NDAs. The process integrates with e-signature technology, so a new contract can be signed almost instantaneously.

"We are completing, distributing, and signing contracts before the phone call is over, as opposed to waiting X number of days," Marple said. "It's been a huge success." Data analysis can then cull valuable information about the contracts, such as where they are signed, by whom, and how frequently.

Another application can go one step further, analyzing third-party contracts and comparing them with the company's existing agreements to spot provisions that might look troubling or potentially require negotiation.

Contract work can be labor-intensive. Ninety-seven percent of corporate legal departments said they typically review and draft contracts in-house, rather than farming the work to outside counsel, according to a June report from the Association of Corporate Counsel and Major, Lindsey & Africa that surveyed about 500 legal departments.

LegalSifter, eBrevia, Kira Systems, and LawGeex are some of the players in the market for contract automation and analysis.

Company law departments aren't the only ones experimenting with automated tools to keep legal fees down. Some forward-leaning law firms are developing tech tools themselves and partnering with clients to help the firms "gain a competitive edge," QuisLex's Polizzotto said.

For example, Littler Mendelson, a national labor and employment firm, created ComplianceHR, a stand-alone company that is a joint venture with Neota Logic, a maker of AI-based software.

ComplianceHR has about 150 clients – many but not all are Littler clients – and offers them a suite of human resources and employment law helpers for a fixed fee. Companies are under pressure to make their legal work more efficient as they bring more of it in-house, said chief executive Lori Brown, a former Littler partner who also served as general counsel of security firm GardaWorld.

"The shift I've seen is in-house expansion," Brown said. "A lot of the larger organizations are looking to do more internally – and decrease their external spend. [Legal department leaders] want smarter, better, self-service, on-demand tools."

Employment law is particularly challenging for companies because regulations on issues such as pay practices, parental leave, overtime, and background checks differ at the federal, state and municipal levels. One ComplianceHR application, for example, can give a likelihood of a potential employee's being exempt from state and federal overtime laws.

"Our application behaves and looks a lot like TurboTax," Brown said. "You complete a digital questionnaire, and it's already applying the legal and substantive standard so that you get a reasoned outcome that is based on all of the case law and regulations." She emphasized that it's not legal advice: "We call it 'risk guidance.'"

Hogan Lovells is another firm trying to create a product it can market to clients. Through a partnership with Kira Systems, FTI Consulting, and legal outsourcing company Cognia Law, it's launching a tool to help financial industry clients scrub file references to Libor, the index that will become defunct in 2021. Combining different levels of technology and outsourcing gives the firm "an ability to bespoke your delivery to your client," said Stephen Allen, head of legal delivery services at Hogan Lovells.

Legal tech attracted \$400 million in investment in first quarter 2019, according to Bloomberg Law.

The array of growing legal tech companies is attracting investors: Legal technology companies attracted \$400 million in investments in the first quarter of 2019, according to Bloomberg Law, with contract management tools a favorite among investors.

Marple of Liberty Mutual noted that his company has had a legal operations team for 20 years. But change didn't come overnight, he said.

His advice to other companies: "The culture of attorneys is they want to see precedent, so being able to show your work is a huge deal. Just start small; a couple of small wins can go a long way to moving things along."

Carlyn Kolker is a reporter who has covered the legal industry for more than 15 years.

Minimize the risks.

Global news and timely insight
on emerging compliance issues.

Advise clients and respond to complex compliance issues with confidence. Access a single-source solution that harnesses the expertise of our editorial team and dozens of national and global experts to deliver actionable intelligence.

Request a trial or
contact us to learn more:

[888.560.2529](tel:888.560.2529)

blawhelp@bna.com

pro.bloomberglaw.com

**Bloomberg
Law**

Data Privacy Impact on Law Business Still Evolving

By Stephanie Cohen

As the U.S. data privacy landscape remains unsettled, it's becoming clear that the associated risks and potential liabilities are affecting a growing number of business sectors. For the law business, that means privacy and security issues are seeping into a wider range of practice areas and a more nuanced perspective on compliance is needed.

"The real challenge in the last two years is that no one is immune from data privacy," said Jennifer Kashatus, a partner at global law firm DLA Piper, in an interview. "Companies are really embracing robust attention [to data privacy] across all sectors."

There's more to data privacy than cybersecurity.

The recent data breach at financial firm Capital One, involving 100 million accounts in the U.S., is only the latest example of the privacy risks and liabilities companies can face today. While data security and data privacy are under a single practice area at many law firms, attorneys say data privacy is an expanding burden that goes far beyond cybersecurity.

"Data security and data privacy are related concerns, in that without adequate security any law firm – or any business for that matter – may not be able to keep the data in its possession private," said Steven Puiszis, a partner at U.S.-based law firm Hinshaw, in an interview.

But as Puiszis noted, data privacy extends beyond just security and includes identifying the type of data a firm has, how it's collected or acquired, and who can access it and for what purposes, "which implicates how and where it is stored, how long it can be retained, whether the data can be shared with third parties, and under what circumstances."

Absent a national data privacy standard, firms and their clients must keep tabs on a multitude of state laws from California to Massachusetts, and the nuances of each. Nevada and California privacy laws no longer deal with privacy breakdowns only after the fact – they also tell companies how and when it's acceptable to use data, which translates into "how to run your business on a daily basis," said

Theodore Claypoole, a partner in the trans-Atlantic firm Womble Bond Dickinson's intellectual property practice group, in an interview.

For now, the EU's General Data Protection Regulation, which went into effect in May 2018, is the primary benchmark for compliance, as it applies to any entity transacting with an EU national, no matter where either might be located. GDPR also embodies a shift from passive to clear and direct consent by the data owner, as well as an expanded definition of what constitutes personal data.

Claypoole noted that "thousands of U.S. companies have grown internet-based business models over the past 25 years without the regulatory restrictions necessary to meet GDPR's obligations, and those companies may lose their core revenue generation by acceding to the new EU requirements."

Applying GDPR's compliance standards to their own firms has helped legal professionals better understand how to help clients. "How personal data is defined is far broader than how law firms traditionally have defined it," Puiszis said. Working with these expanded definitions and setting up new processes for information that may enter a firm can still be a challenge for businesses, said Puiszis, who redrafted his own firm's privacy policy in response to these laws and knows he may need to revisit them in the near term.

"I know a number of firms are trying to strengthen their own information-gathering practices" in the wake of these laws, he said. "It can get very costly for businesses that are unprepared."

A failure to comply could lead to penalties and class actions. Regulators have pledged to go after companies that violate the law, according to Bloomberg Law. And it is not clear whether these penalties will be covered by insurance policies, Puiszis added.

The good news, said Kashatus of DLA Piper, is that the work many companies do to become compliant under the GDPR can be used as a baseline to meet compliance requirements under the California Consumer Privacy Act, which takes effect Jan. 1, 2020. After that, firms need to set up procedures to be constantly monitoring the policy landscape, which means that data privacy policies can't be static.

Applying GDPR standards to their own firms has helped legal professionals better understand how to help clients.

"The goal is within each company that we will have a policy that will grow" as the company grows and laws change, Kashatus said.

Another piece of the compliance puzzle is that data privacy needs are intricately tied to the particular contractual obligations a firm has at any given moment. "That's where the rubber hits the road," Claypoole said. "What are the contracts they have? What are their clients required to do?"

Sean McGuinness, a lawyer at Butler Snow who represents clients in the gaming sector, said the biggest challenge for GDPR and emerging data privacy law compliance in the U.S. "is to make sure that adequate consent to share information is given by the individual, either in the engagement letter or other written communications."

In addition, as artificial intelligence tools increasingly are being used to manage data, attorneys have had to play a larger role, according to Bloomberg Law. Management firms, for example, have stepped up efforts to combat biases in online hiring tools by forming practice groups or informing themselves on potential issues.

The main investment that companies and law firms need to make is time, McGuinness said – time for employees and staff to identify, chart, and track individuals and entities to which these new standards apply.

Stephanie Cohen is a writer based in New York who specializes in regulatory policy.

About Bloomberg Law

Bloomberg Law helps legal professionals provide counsel with access to action-oriented legal intelligence in a business context. Bloomberg Law delivers a unique combination of Practical Guidance, comprehensive primary and secondary source material, trusted content from Bloomberg BNA, news, timesaving practice tools, market data, and business intelligence.

For more information on
Bloomberg Law, contact your
account representative or our
24/7 Help Desk at
888.560.2529
help@bloomberglaw.com
bna.com/bloomberglaw

Bloomberg Law