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Chapter 13:
The impact of technology on attracting and retaining talent

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Introduction

Name recognition. Base pay. Bonus. Benefits. Training support. Chargeable hours requirements. Hybrid working policy. Progression opportunities. Directory rankings. Industry specialisms. Client base. Size of team. Size of firm. Locations. Financial performance. PEP. Time to partner track. Strategy. Values. Culture. Innovativeness. Sustainability. Diversity.

Ask any lawyer or other legal professional considering where to apply for and/or accept their first or next role, or why they are considering leaving a role, and these are amongst the most likely responses.

"Technology", however, is probably not a key consideration typically cited – even if it may be part of considerations including "training support", "culture", and "innovativeness".

Why not and is this changing?

The initially gradual and eventually exponential acceleration of adoption of technology-enabled ways of working has had a profound effect on the expectations of both employers and employees alike over the past 70-plus years. The availability of increasingly sophisticated technologies and tools has influenced the redefining of roles and workplaces in all industries.

Law has not been immune to this macrotrend, although it has really been the most recent wave of technological innovation that has pushed it towards a true inflection point when it comes to the role of technology in attracting and retaining talent.

This chapter will explore more fully both the negative and positive impacts that technology has, and will continue to have, on the "war for talent" within the legal industry.

A short history of the evolution of technology in law

First, it is helpful to remind ourselves of the evolution of technology in law, for which we must go back to the mid-20th century.

Technology such as Dictaphones and word processers was initially aimed

at providing efficiency gains for practice support personnel. Over the second half of the 20th century, secretaries, librarians, paralegals, and eventually junior lawyers used technology to prepare documents, send correspondence, and conduct legal research more efficiently for the lawyers they worked with. Lawyers relied on this support so that they could focus on the complexities and the very human and relationship-driven nature of their practices.

Eventually, and particularly with the proliferation of internet-connected computers at the turn of the 21st century, technology became useful (and eventually necessary) also for practicing lawyers. It allowed them to communicate instantaneously with colleagues and clients, stay on top of client matters when on the go, and capture and share their knowledge and expertise more easily. In turn, this gave lawyers independence and self-sufficiency. While new technologies were also created for practice support roles, such as case and practice management software, ultimately the digital empowerment of lawyers created both blurred lines with, and question marks about, practice support roles. In relation to the latter, firms started to grapple with redesigning practice support roles to ensure they added value to legal practices and began outsourcing and offshoring purely administrative roles.

Most recently, and particularly driven by the profound advances in artificial intelligence (AI) of the 2020s, technology has become the great leveler within law. Those without law degrees and practicing certificates can use technology to complete legal tasks as ably as, and more time and cost-efficiently than, most lawyers. It has become the market norm for firms to have multi-disciplinary teams of professionals who contribute fully to the delivery of legal services, including being able to provide lower-cost and more commoditized legal advice. In part, this has created tremendous opportunities for law firms and those people who desire to join firms without needing to be trained and qualified lawyers. However, this also has raised existential questions about the way lawyers learn and are trained, the continued role of the lawyer in business and society at large, and the business models of law firms.

Today and for the foreseeable future, the attractiveness of a law firm, and the perceived strength of its strategy, values, culture, and performance is underpinned by a successful and people-centric approach to technology.

The role of technology in law

Before diving into the specific impacts of technology on legal talent, it is helpful to understand a bit more deeply what types of technology are being used in legal and the benefits they bring.

There have been several attempts at creating a taxonomy for technology

used in legal, although none have been adopted widely. For the purpose of this chapter, we propose four principal categories:

- *Core enabling technology.* These are underlying shared enterprise systems and software that form the essential backbone of any legal business, such as servers and other infrastructure, general business software such as the Microsoft Office suite of products, and digital telephony and conferencing tools.
- *Task and workstream improvement technology*. These are individual solutions and digital tools aimed at streamlining, and in many cases automating, the way a particular task or workstream is conducted, such as case management, document drafting, and due diligence. In some cases, these solutions and tools may be practice-specific and so will be targeted at particular audiences.
- *Knowledge delivery technology.* These are individual solutions and digital tools aimed at providing legally correct guidance and information, such as legal resource platforms that are offered by private businesses, law firms, and barrister chambers. Importantly, with very limited exceptions, these solutions do not provide legal advice and cannot be relied upon as such.
- *Client solutions.* These are specific solutions designed and built to be used directly by and/or with law firm clients. They put firms' technology-based capabilities into the hands of the clients and allow them to access digital services and products online and on-demand. Such solutions are typically designed to support and strengthen client relationships, and there is an increasing trend towards commercializing them.

Fundamentally, these technologies enable improved experiences for employees and clients alike, drive efficiencies that in turn can improve profitability, create business and revenue growth opportunities, and can help to reduce and mitigate risk for the firm. When implemented effectively, they can also support a firm's sustainability and inclusivity credentials.

A growing and diverse legal talent base
Just as the role of technology in law has evolved over time, the profile of legal talent has likewise evolved. Today, inter-generational dynamics within law firms is especially acute and presents an added dimension to the technology challenge.

Law firms' most senior cohort of lawyers and legal professionals came of age in the 20th century, meaning they started practicing without the aid of computers or other internet-enabled devices. When they joined the profession, they had no expectation of digital enablement; writing, researching, and analyzing in fully manual ways was not just the way things were done but, in many cases, enjoyed. Over several decades, this cohort has learned to adapt to technological change, in large part through targeted training and a focus on onboarding tools that don't require upheaval of the ways they prefer to work.

Law firms' most junior cohort of lawyers and legal professionals are often referred to as "digital natives". They were born with the whole of the world's information on a small device that fits inside their pocket. They are used to engaging intuitively and haptically with technology that moves with them, rather than following instructions or being provided with formal training on fixed machines. However, much of law firm technology is likely to be unfamiliar and frustrating to them, and so they too require adaptation and training focus.

Thinking about these cohorts, and all of those sitting on the spectrum in between their extremes, it would be easy to surmise that the lawyers and legal professionals of today expect and require modern mobile technology that gives them access to immediate answers and information, more like that they use in their day-to-day lives, and that legal employers who fall short of that expectation are doomed to extinction.

This would be an oversimplification.

Importantly, the types of activities people use technology for in their personal lives are different from the activities they need to undertake in the legal profession. While the gap between these two things may be narrowing with the advent of technologies like generative AI, it will be some time before there is broad commonality between personal and business technologies.

However, it is true that digital natives, as well as the cohorts before them, continue to wonder why the technology used within law firms does not offer better user experiences, work more intuitively and seamlessly, and generate more efficiencies for them so that they can focus on their advisory role rather than on task execution.

How technology impacts talent

As noted above, technology has had and can have a range of impacts on the practice and business of law. These impacts also contribute to a more positive overall perception and experience of the firm by those within and outside of it, and a more positive overall view of the value that the lawyer or legal professional ascribes to themselves.

This is because by investing in technology, a firm is investing in its people.

Having effective systems, software, and tools, as well as the right learning and development support to ensure its people are using technology to its greatest advantage, makes for a better, more supportive, and collaborative workplace.

Moreover, ensuring those technologies are best-in-class and continue to provide greater benefits over time helps to combat the fear of commoditization of legal services, the devaluing of lawyers' training, expertise, and experience, and the reduction of the practice of law to mere digital interactions.

When Ashurst undertook a lawyer-led trial of a new generative AI solution over four weeks in late 2023, 88 percent of respondent participants reported that being part of the trial made them feel that the firm was preparing them for the future.

Technology has become an important differentiator for legal talent.

However, and naturally, it is not mere access to technology that creates differentiation, but the approach of the firm in introducing and embedding technology and technology-enabled capability into everything it does.

Technology must be accessible, intuitive, and easy to use, and deliver the intended benefits. Lawyers and other legal professionals must find technology-enabled ways of working better than manual ways. They must have sufficient training and support available, so that challenges and issues can be addressed quickly and easily. But they must also not be required to retrain as a technologist or spend hours learning a new way of doing things. Adopting technology-enabled ways of working and thinking must be incentivized and supported by the firm. There must be both top-down and bottom-up direction.

Done well, people should feel empowered and enabled by technology, and that technology helps them to do their best work.

Done poorly, however, and the legal industry is likely to see "underinvestment in technology" cited ever increasingly as a reason for people leaving either their employer or the industry altogether.

Technology as a positive differentiator for new talent

What can law firms do?

Ultimately, each law firm needs to take the approach and actions that will work best considering its circumstances.

But, regardless of how a firm determines to proceed, progress is likely to require an iterative approach. This may mean starting small, focusing on

specific cohorts, practice areas and/or offices, and then replicating successes across the firm. Or it may mean working through common work types or experiences and systematically enhancing them to the benefit of all.

As a result of the most recent generative AI innovations, which has led to widespread speculation about not just whether, but when, AI-based technology will eventually replace the work of lawyers and legal professionals, it has become particularly important for law firms to focus on the impact on attracting and retaining new talent to the industry.

Start with new entrants

Over the past decade, there has been a concerted effort to increase diversity within law firms, starting with new entrants. Proactive steps have been taken to attract new talent from underrepresented genders, ethnicities, and socio-economic backgrounds. Yet how these new entrants – whether apprentices, graduates, or trainees – are onboarded, trained, and progressed has largely remained unchanged.

Why might this be a problem?

As mentioned above, it is often assumed that new entrants are "digital natives" who are more technologically-savvy than their predecessors. This can lead to complacency and, therefore, deficiency in the provision of essential technology support and training – which, given the growth in technology-enabled ways of working, means they may become ill-equipped to function well in their roles.

It is important to recognize that not all purported "digital natives" will have the same level of digital literacy. Further, they will not all have grown up with access to the latest technologies, or the benefit of technology training in school or otherwise. Universities are only just starting to introduce modules that focus on how lawyers work and the types of technologies that new entrants may be required to use.

It would be a bit naïve to expect that by merely introducing technology into the school or university curriculum, new entrants will be more capable of using the available technology more and to greater effect – and thus be more effective overall in their roles. This is because much of what a lawyer or legal professional must know about working within a firm and being successful in their role is learned by doing.

While most aspiring lawyers and legal professionals recognize that technology will be a more prevalent aspect of their work, their affinity for the industry is still driven by aspirations far greater than becoming adept at using technology.

Ultimately, they want to become leaders and experts in their roles and

fields of specialism. They want to do great work and have that work valued by their employers and their clients. They also want to know that there is room for them to grow and develop within or outside the organization, and that they will be equipped with the tools and support to achieve their goals.

Reinforce the importance of expertise and experience

So, what is the best way to prepare new entrants for working in law and what is the role of technology in this?

Most practitioners would agree that there is no greater teacher than experience.

This principle has been the foundation on which most law practices have been built. New talent is brought in, learns by observing and doing, builds their technical expertise and knowledge of the market, and progresses. And then the cycle repeats.

But in a post-pandemic world, with the proliferation of technology solutions and tools aimed at automating certain types of legal tasks and work, this premise has started to unravel.

How does a trainee or junior lawyer learn what needs to be in a commercial lease agreement, and how to negotiate it in the best interests of their client, if technology can do the heavy lifting in terms of drafting, reviewing, and analysing its terms?

There are at least two schools of thought on this conundrum.

On the one hand, it can be argued that technology is making the less experienced trainee and lawyer redundant. Any person can use technology to do this work with a few clicks of a mouse, provided they have the right instruction and knowhow to use the technology to faithfully execute that instruction. For example, most reasonably intelligent persons can be trained to follow a playbook to complete a document automation questionnaire or to glean information about the terms of the contract. Therefore, why have a trainee or junior lawyer at all? Why not just have the technology pass that first draft or analysis to the experienced lawyer, or even directly to the client?

On the other hand, it can be argued that although such tasks and work can be done using technology by persons with limited to no specialist legal skill and knowledge, providing legal advice or a legal service is not just an amalgamation of task completions. In the example, at some point a lawyer knowledgeable about commercial leases will need to weigh in, provide quality assurance, and interject practice and market experience points. The ability to do those things is not something learned from following a playbook once. It is learned by performing the task repeatedly (with or without

technology) and speaking to colleagues and clients about other relevant considerations that should inform finalization of any outputs.

It is worth noting also that technology does not always get things right. First, many technology tools are automating processes and information created by lawyers. If there is any mistake in those underlying instructions and playbooks, the technology will implement those errors repeatedly. More advanced technologies, such as generative AI, may not simply automate lawyer-created instructions, but they still get things wrong. Getting things wrong sometimes is a key feature of how generative AI works.

Also, there are many practice and market experience points where lawyers and clients can exercise discretion in a way that would otherwise defy a typical instruction. For example, just because a contractual clause is drafted in a certain way 99 percent of the time, the lawyer or client may decide that circumstances exist that mean that clause needs to be drafted a different way. Most technologies simply cannot cater for these exceptional scenarios.

This is exactly the reason why technology should not be seen as a complete replacement for the "human in the loop", and why new entrants to legal must gain their experience through using technology rather than being replaced by it.

Augment talent with technology

The technology-empowered lawyer is the lawyer of the future. The same is true for other legal professionals.

To best understand and augment their talent pool, firms must maintain a deep understanding of the types of work that their people are engaged in. In understanding what their people are trying to accomplish and what helps or hinders their ability to successfully achieve those things, it is possible to identify the full range of needs they have and how to meet them.

Technology can help address those needs, but it's not just about the technology.

Internal innovation and technology specialists who have been tasked with selecting the right technologies for their firms will universally report how great of a challenge adoption has been and continues to be. The reasons for this include the fact that third-party tools are aimed at broad audiences and so may not meet all the needs of individual law firms or lawyers, the technology may require too much training to use well, and/or adoption may require adaptation of behaviors and ways of working that lawyers are simply unable or unwilling to undertake.

Ultimately, there are no silver bullet solutions in technology and any

expectation that the introduction of a technology on its own, without the attendant support and mindset and cultural shifts required for law firms and lawyers to understand, appreciate, and extract value from technology, is likely to lead to disappointment.

However, firms that get this mix right will find a welcoming and loyal talent base. If technology helps reduce their workload and the associated stress of managing that workload, improves productivity, creates space in the day to focus, and enables personal and professional growth, then they will not just believe in the benefits of technology augmentation. They will feel invested in and valued.

Conclusion

Over the past few decades new technological innovations have led to the occasional toll of the death knell for lawyers. The advent of ever more advanced technologies, such as generative AI, have heightened those fears. Still the concern is premature.

Yes, technology is becoming ever more relevant and important to the practice and business of law. Yes, apprentices, graduates, trainees, lawyers, and other legal professionals should expect that using technology will become an integral part of their role. And yes, law firms and legal employers will need to adapt and evolve the way they think about, support, and develop their talent as technology embeds itself further. But no, technology has not yet reached the point where people cease to have purpose or value.

Indeed, it can be argued that the rise of technology's prominence has also led to the rise in understanding and appreciation of the value that people continue to have in the legal sector.

In an industry built on relationships, expertise, and experience, how technology is approached, leveraged, and adapted to enable, empower, and augment will play an increasingly important role in the attraction and retention of talent.

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