2020
Legal Market Report:
How Innovative Technology is Reshaping the Business and Practice of Law

The Evolving Legal Landscape

If the traditional practice of law were a kitchen appliance, it would be a slow cooker with a few basic settings that got the job done, eventually, then billed you for every hour it was on, and insisted that the wait—and the cost—was worth it.

Today, however, intense pressure to find faster, cheaper ways of achieving the same results is pushing both in-house legal departments and law firms toward what might be called an "Instant Pot" approach to legal services. That is, an approach that prioritizes speed and efficiency, and seeks to deliver a variety of different services equally well, at a lower cost, with no compromise in quality.

Several cultural and economic forces are driving this transformation in how legal services are delivered with a key focus, being accelerated by the recent coronavirus outbreak, on maintaining productivity and minimizing business disruption. And rapid advances in technology—and the capabilities new technology enables—are a key decisive factor. An Instant Pot® can do anything a slowcooker can and more, five times faster, because it uses different technology. Likewise, in this era of exponentially expanding technical capabilities, it is now possible to perform many routine legal functions in a fraction of the time needed for a more traditional approach. Many expensive, time-consuming activities such as data collection, eDiscovery, compliance reporting, and general research can now be done using far fewer person hours, and in some cases can be partially automated. New technology solutions also enable more efficient processes for managing case matters, billing, communications, and other everyday concerns.

Because the benefits so profoundly outweigh the risks, finding technological solutions to legal management problems has become a competitive differentiator for dynamic legal teams of all kinds.

In a recent Thomson Reuters[1], survey, for example, 64 percent of law firm leaders cited "insufficient leveraging of technology" as a medium-to-high risk factor for profitability. And a whopping 91% of leaders expected to use technology to cut costs.

These declarations aside, the law has historically lagged behind other businesses and professions when it comes to adopting new technology. This relative sluggishness has opened up opportunities for other players to enter the legal marketplace—competitors that legal professionals never had to worry about before.

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Source: Thomson Reuters *2019 Law Firm Business Leaders Report*

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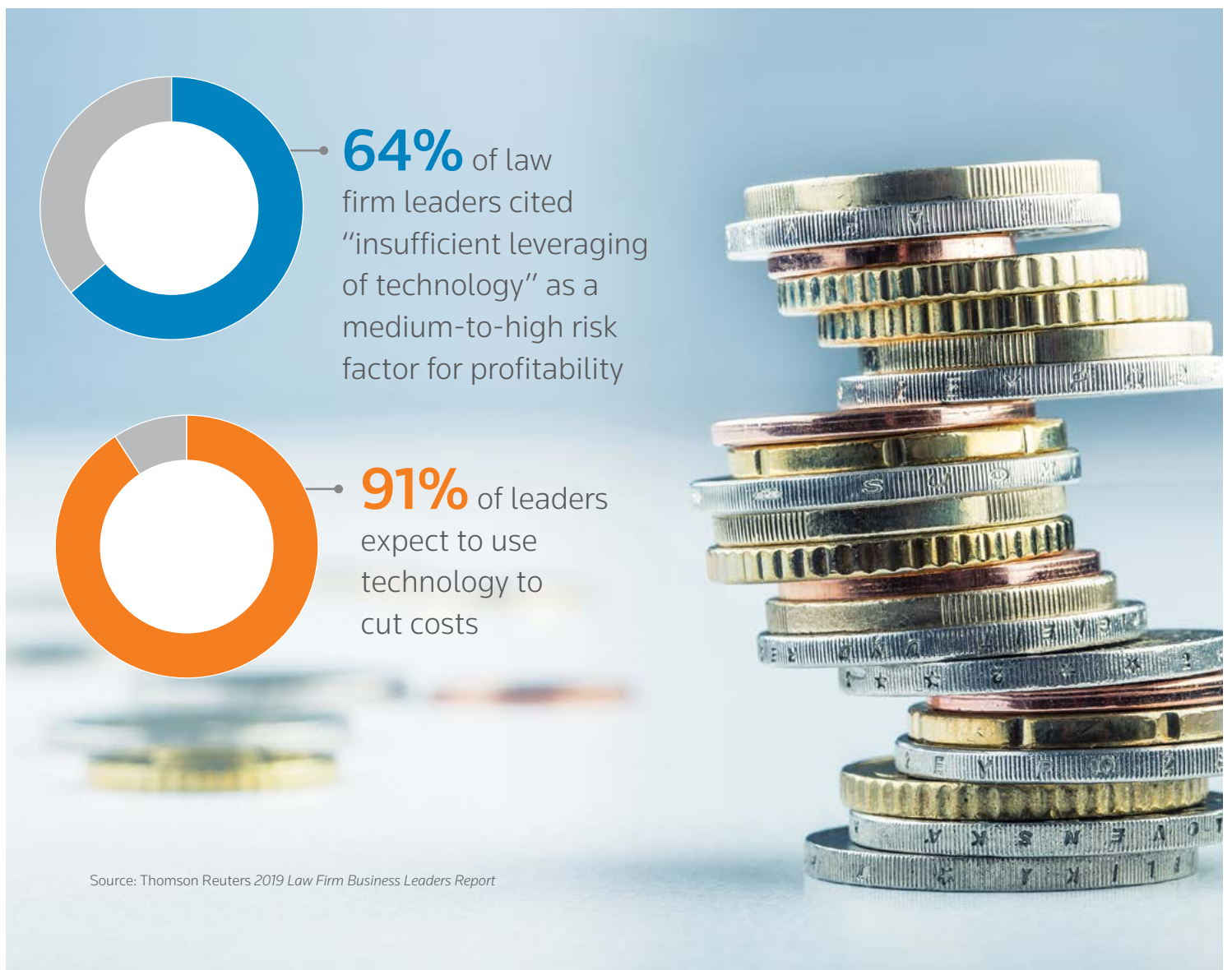
1   Thomson Reuters *2019 Law Firm Business Leaders Report*

Emerging Contenders

The legal profession's wait-and-see approach to new legal technologies has allowed an entire industry of innovative competitors to thrive. Known as Alternative Legal Services Providers, or ALSPs, these companies typically target a systemic, repetitive aspect of the legal process—such as eDiscovery—and use advanced technology to provide that service to legal practitioners more efficiently and cost-effectively than doing it in-house with paralegals and young associates logging vast numbers of billable hours.[2]

Technologically savvy ALSPs come in many forms. For example, the Big Four accounting firms—Deloitte, EY, KPMG, PwC—are chipping away at Big Law by aggressively diversifying their service offerings to create so-called "integrated service models" in the areas of tax, finance, consulting, data analytics, project management, and information technology. The Big Four are also hiring plenty of lawyers. According to the *Financial Times*, PwC currently employs approximately 3,600 lawyers in 98 countries; EY has 2,200 lawyers in 81 countries; KMPG has about 1,800 lawyers in 75 jurisdictions; and Deloitte employs more than 2,400 lawyers. These attorneys are re-shaping the business model with process and technology for delivery of certain types of data-intensive legal services, siphoning that business from both corporate firms and outside counsel. In fact, 23 percent of large law firms say they have competed and lost business to one of the Big Four. Twenty-one percent of mid-size law firms say they have suffered the same fate.

23% of **large law firms** say they have competed and lost business to one of the Big Four

21% of **mid-size law firms** say they have competed and lost business to one of the Big Four

Source: Thomson Reuters *2019 Law Firm Business Leaders Report*

Another type of ALSP that is gaining traction in the industry is the managed services provider. These providers often deliver faster, cheaper, better legal support services, particularly in the areas of eDiscovery and litigation support. They specialize in one or more aspects of the legal process, including document review, and the work is outsourced to them. But because ALSPs provide a more cost-effective service alternative, both corporate legal departments and law firms are giving serious consideration to using them for their matters and are increasingly viewing them as trusted allies and partners in the legal process.

Adapt or Die

These competitive challenges, along with pressures to utilize new technologies, are disrupting the industry and creating a transformative evolution toward a more diversified, flexible, technologically sophisticated model of legal-service delivery. The most resilient organizations are addressing a business continuity strategy to ensure their teams can remain productive as well as look to ways to deliver services – anywhere and anytime. This "new way to work" is particularly noteworthy especially as the world is tackling business challenges caused by global business and economic disruptions and containment measures that make the need for a flexible work environment a must.

Corporations, clients, and certain regulatory bodies are also exerting pressure on their legal representatives to use these capabilities to their fullest. Client insistence and increased competition have also pushed law firms to adopt a more strategic, business-oriented mindset, one that forces a re-evaluation of workflows and processes (sometimes reluctantly) to find ways to contain costs and remain competitive. When it comes to legal technology, legal professionals are faced with an increasingly stark choice: either use legal technology and expertise strategically to remain competitive in a rapidly evolving marketplace, or risk being slow-cooked to death by failing to recognize how quickly the heat and pressure to adapt are rising.

Accepting the need to adopt innovative technology can be difficult for those in the legal profession who are disenchanted with constant demands for change. However, skeptics should consider that there are several key factors pressuring law firms to up their technological game. For the purposes of this report, we have divided those factors into three categories: data, competition, and security.

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DATA: Better Data, Better Decisions

In addition to intelligence, experience, and intuition, legal professionals now have access to enormous amounts of data to help them do their jobs. And as the amount of data grows, and the means to analyze it becomes more accessible, legal departments and law firms are realizing what a gold mine of valuable data they are sitting on and what they can do with it. To be sure, law offices collect an enormous amount of data—from clients, court documents, research, discovery, legislation, matter management, billing—and, analyzed properly, that data contains a wealth of information on productivity, value, results, outcomes, talent, effectiveness, and strategy. Through analytics and other advanced technologies, legal professionals can accelerate work and productivity, improve legal outcomes, better predict behaviors and risk, and generally support their legal decision-making. Clients, too, are pressuring firms to provide data-based logic for case strategies and defensibility of evidence. And the more in-house legal departments are treated like just another business unit, the more crucial data is to controlling costs, limiting the need for outside counsel and legal services, and demonstrating the unit's overall value to the enterprise.

Using some combination of data analysis and technology to control costs in both law departments and law firms is now seen as a top priority by industry leaders.

Seventy percent of respondents to a Thomson Reuters survey[3] indicated that "using tech to simplify workflow and manual processes" to cut costs was a top priority going forward. In order of importance, e-billing/spend and matter management were identified as the top corporate priority, followed by legal hold/litigation hold, and document management.
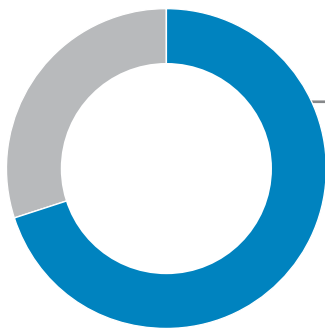
70% of respondents indicated that "using tech to simplify workflow and manual processes" to cut costs was a top priority going forward.

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Source: Thomson Reuters *2019 Legal Tracker LDO Indexing Benchmarking and Trends Report*

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3   Thomson Reuters *2019 Legal Tracker LDO Indexing Benchmarking and Trends Report*

Cost-saving efficiencies can certainly be gained by automating labor-intensive manual processes such as contract and document review, text-mining, time-tracking, task-coding, billing, and certain kinds of research. But cost-cutting is only one dividend of a more data-intensive approach to law. Using data to improve decision-making and achieve more favorable outcomes is arguably just as important.

Despite the potential benefits, relatively few firms utilize the sorts of technologies (e.g., machine learning, artificial intelligence, and text analytics) that enable analysts to extract their data's true meaning and value. According to one Thomson Reuters study[4], only 33% of respondents said they had adopted an advanced tech solution for document management, and only 28% were using advanced technology for litigation support.

LAW FIRM USE OF ADVANCED TECHNOLOGY SOLUTIONS

33% have adopted an advanced tech solution for document management

28% are using advanced technology for litigation support
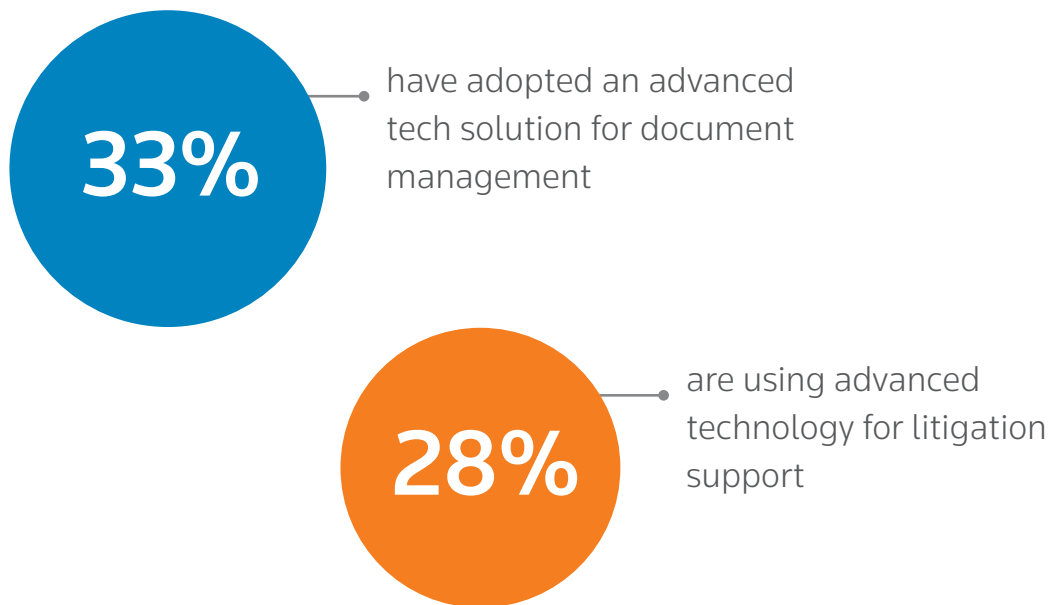
Source: Thomson Reuters *2019 Law Firm Business Leaders Report*

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4   Thomson Reuters *2019 Law Firm Business Leaders Report*

USE CASES FOR DATA INFORMED DECISION MAKING

Case Planning and Strategy:

Litigators can now use data to inform decision-making at almost every step in the legal process, particularly to identify trends, patterns, and tendencies that can inform their case strategy. For example, legal teams now regularly use court-docket data to construct comparison data sets about how certain judges rule, or which jurisdictions might be more favorable. Public records can also be mined to help decide the likely outcome of going to trial or not, based on decision patterns in state and federal courtrooms.

Knowledge management and process-management tools also make it possible to manage legal departments much more efficiently and leverage work product and IP to review relevant work history and identify internal expertise for matter or case support. Such systems allow users to intelligently search and rapidly analyze critical information across various systems and data repositories to capture knowledge, freeing up time to focus on high-value activities and more forward-looking data analysis and strategic activities.

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Legal Document Management:

Legal document or content management software platforms allow legal departments and law firms to centralize the collection, management, and tracking of legal documents throughout the enterprise. Not only do such solutions provide efficiencies when it comes to work product management and collaboration, they can also be used to search its contents to identify and highlight critical information for related cases—information that can be repurposed or shared with colleagues, or used to build customized databases full of valuable institutional knowledge.
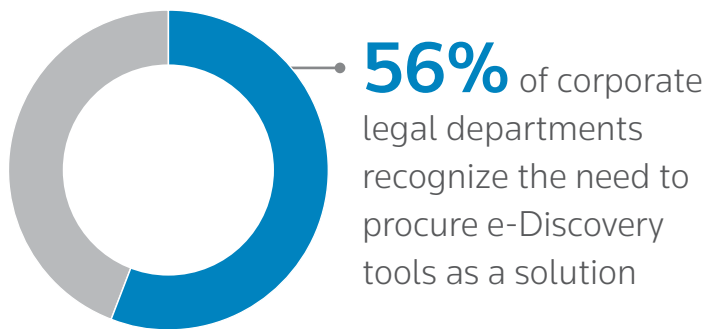
Predictive Analytics:

Using data to turn "unknowns" into "knowns" is quickly becoming a key factor in determining legal strategies and tactics everywhere. In-house counsel can also use analytics to predict their legal spend, optimize resources, defend decisions, and speak to C-level execs not only in terms of their legal value, but also of the business value they provide. Predictive analytics can also be used to model different legal scenarios and anticipate potential obstacles—or opportunities—that might otherwise get overlooked.

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Document Review:

Today's eDiscovery tools not only speed up the discovery process, they use machine learning with robust search capabilities that can identify patterns, create logic trees, trace e-mail strings, generate visual dashboards, and perform many other tasks that help pull needles of meaning out of haystacks of data. Many corporations are also using eDiscovery technology to reduce costs associated with outside counsel review, and to repurpose and reuse data for other litigation, thereby lowering costs and making more efficient use of information already at their disposal. Indeed, eDiscovery is such an essential, routine part of the legal process that many corporations are implementing or in-sourcing eDiscovery capabilities—not only for the sake of speed and efficiency, but also to contain costs and have greater control over their data.

56% of corporate legal departments recognize the need to procure e-Discovery tools as a solution

16% identify e-Discovery as the most important emerging legal solution on their agenda

Source: Thomson Reuters *2019 Legal Tracker LDO Index Benchmarking and Trends Report*

At a basic level, law firms can use machine learning to automate certain repeatable processes in the areas of billing, matter management, and contract development. Recent advances in artificial intelligence and analytics have also transformed the possibilities available in technology-assisted review (TAR) and eDiscovery. They can also identify key terms and logical connections in discovery documents and other materials in a fraction of the time it would take a team of human beings.

Pricing and Budgeting:

Law practice-management and financial systems allow firms to construct more efficient and predictable pricing models. Detailed budget analyses can reveal unrecognized areas of waste and inefficiency. In-house legal departments can also use data analytics to quantify their results and generate/report business intelligence about the department—and the company—that was previously inaccessible.

Though data-based analysis can yield immediate results, it's also worth noting that the benefits of a data-based approach tend to accrue and multiply over time, as data is accumulated, and definitive patterns emerge. The more skilled partners and staff become at identifying patterns and extracting meaning from data, the more valuable it becomes. Urgency may drive data-based decision-making, but patience yields its greatest rewards.

COMPETITION: Tech-Savvy Survival Skills

Regardless of what type of law is being practiced or where (in-house or outside counsel), virtually all legal professionals are under pressure to simultaneously boost productivity and cut costs, which means making more efficient use of available resources and personnel. But in practice, it can be used to justify anything from modest belt-tightening to morale-killing cutbacks.

Pressure to find yet more productivity gains has pushed lawyers to manage their operations with more business-like scrutiny—that is, to find productivity gains by re-thinking and re-structuring the way they deliver various legal services. Client pressure to improve and diversify legal-service offerings, demonstrate resilience during economic or business disruption, combined with higher expectations about results, have also played a role in this evolution.

PRODUCTIVITY THROUGH INNOVATION

Technology is helping legal professionals achieve productivity goals in many ways. Simplifying and automating labor-intensive, low-value work is typically the first and easiest step. Employing a content-management system to keep track of day-to-day workflows helps free up time for more complex, higher-value work. On the human side of the equation, these tools also allow for more flexible types of collaboration, and help legal teams develop more dynamic approaches to supporting a variety of case activities.

Most law departments and firms utilize at least some of these tools. According to Thomson Reuters[5], the solutions firms are most interested in acquiring involve e-billing/spend, matter management, contract lifecycle management, knowledge management, document management, e-discovery, legal project/task management, legal hold/litigation hold, and integrated legal platforms. Business intelligence/dashboarding/analytics tools are also in increasingly high demand. Overall, year over year spending on technology by law firms rose in 2019 by an average of seven percent, continuing an upward trend in tech investment over the past few years (see chart below).

LAW FIRM TECHNOLOGY EXPENDITURE GROWTH
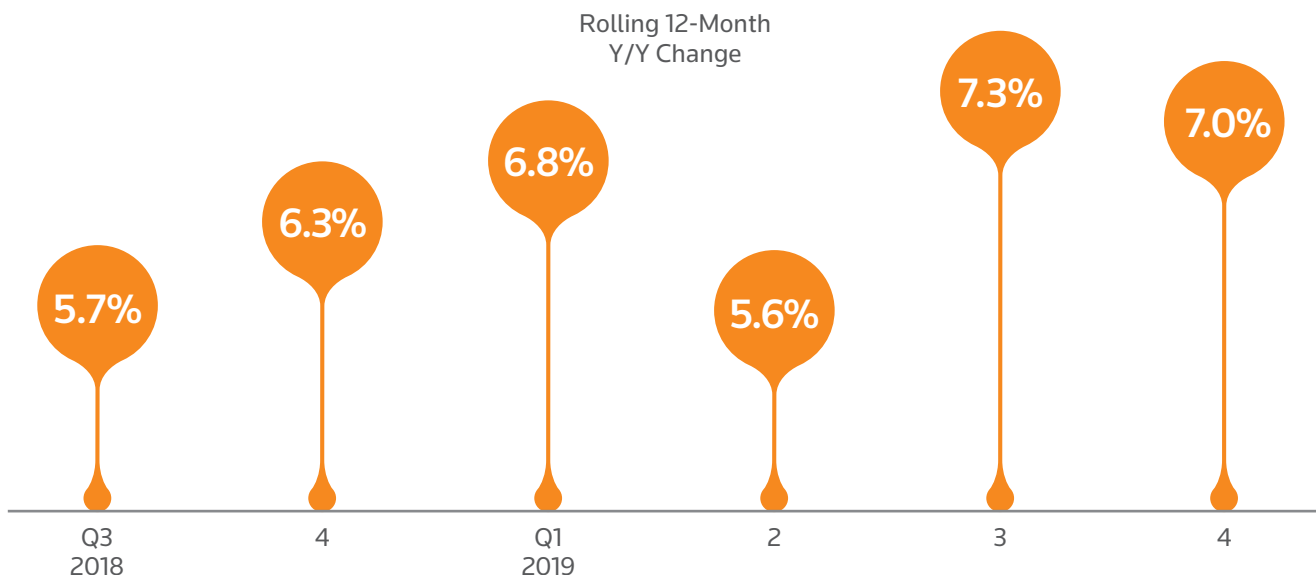
Rolling 12-Month
Y/Y Change

| Q3 2018	4	Q1 2019	2	3	4
5.7%	6.3%	6.8%	5.6%	7.3%	7.0%

Source: Thomson Reuters Peer Monitor

A SHIFT IN CULTURE AND MINDSET

In the long run, however, piecemeal or a la carte approaches to legal technology can only take an organization so far. Those in search of more dynamic, competitive modes of operation need to think more holistically about how people and technology can best complement each other to achieve the organization's larger goals. This not only means re-evaluating and optimizing various workflows and processes, it also means raising the collective tech- and data-intelligence of the organization; empowering younger, more tech-savvy personnel; and encouraging lawyers to experiment with different technological solutions, even if (perhaps *especially* if) it pushes them outside their comfort zone.

On the positive side, many law firms are recognizing the need to invest in more technically accomplished staff to remain competitive, and compensation for such people continues to rise significantly, as the chart below shows. However, anecdotal evidence suggests that law firms are also experiencing some difficulty attracting and retaining tech-savvy talent, because such people have a wealth of opportunities in large companies and more technology-focused organizations, including start-ups, which offer stock options and other potentially lucrative compensation perks. While critical in addressing business continuity challenges during periods of disruption or unrest like we are facing today, providing for a flexible and scalable information management infrastructure is also important for the retention of a younger workforce that is facing a cultural shift toward work-life balance and the desire to work anytime and anywhere.

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LAW FIRM TECHNOLOGY PROFESSIONAL COMPENSATION GROWTH

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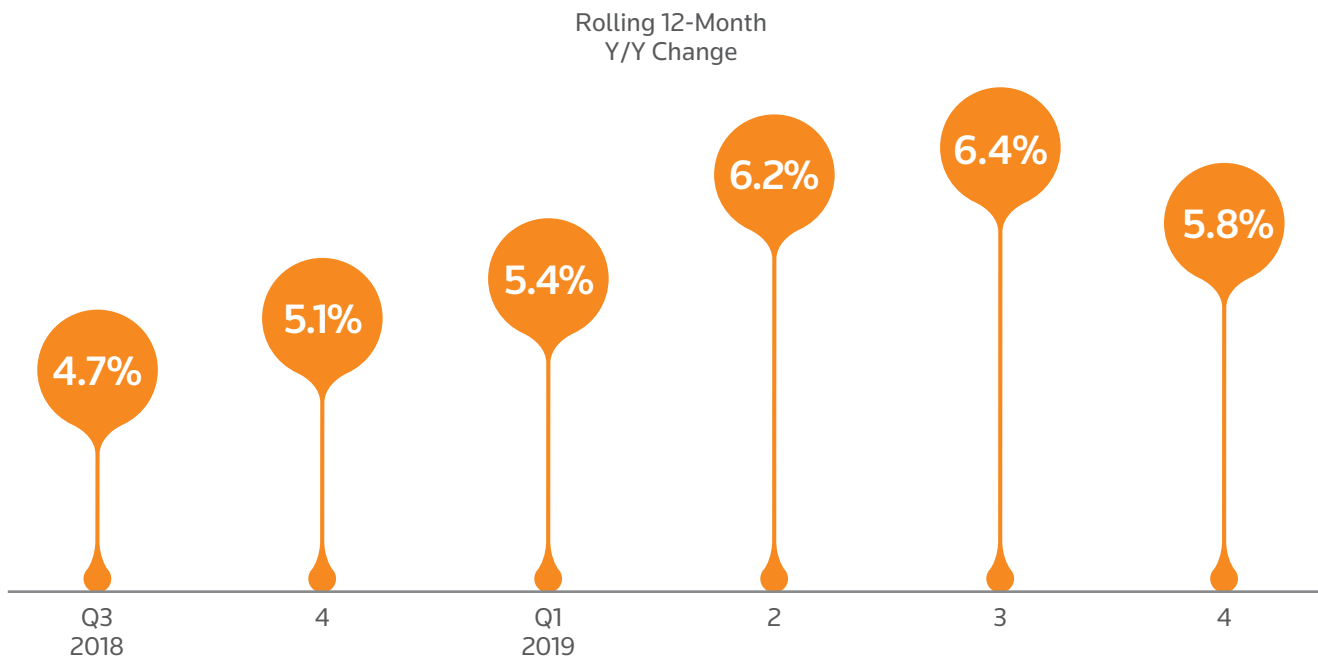
Source: Thomson Reuters Peer Monitor

SECURITY: The Privacy Imperative

Though technology touches virtually every aspect of our daily lives, mostly for the better, it also creates challenges of its own. The most pernicious downside to our ubiquitous technological infrastructure has been a dramatic rise in all kinds of cyber crime. Fraud, hacking, identity theft, ransomware, computer virus attacks, malware, phishing scams—these and many other types of internet crime now represent a constant and escalating threat to businesses, organizations, and institutions around the world. Sadly, cybercriminals are already trying to capitalize on the COVID-19 pandemic with emails and websites that will provide safety related information and statistics to track the virus and its spread.

REPUTATION AT RISK

Cyber criminals are constantly in search of ways to steal data from corporations, businesses, and other entities that law firms represent. Law firms store and have access to an extraordinary amount of sensitive and confidential client information. And law firms, because they do not always employ state-of-the-art security measures, are often viewed by criminals as a potentially weak link in the security chain. According to the American Bar Association, 25% of all law firms in the U.S. have experienced at least one data breach.

It is not that law firms are not concerned about security; they are. In fact, most law firms are justifiably terrified that someone might access client data, because they know that such a breach would betray the trust clients have placed in them, damage the firm's professional reputation, and potentially expose them to fines, censure, and sanctions, as well as a possible malpractice suit. Attorneys also have contractual or regulatory obligations to protect client information, which is one reason the American Bar Association has changed its Model Rules of Professional Conduct to include "technology competence" as a fundamental requirement for practicing attorneys.

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One of the biggest reasons cyber-criminals target law firms is that, relatively speaking, the value of the information they have access to is disproportionately high compared to the sophistication, or lack thereof, of the security measures protecting it. Because of the services they provide, law firms must collect, transfer, store, and access sensitive client data on a more-or-less constant basis, and each time data is accessed or moved, a potential crack in the system opens up.

Regular communications between lawyers and clients can also open up windows of opportunity for hackers—if, for instance, it is inadvertently conducted through an insecure, unencrypted channel or personal device. Cybersecurity risks are exacerbated by the need to implement work-from-home and other remote arrangements that are potentially more vulnerable to a data breach. As a result, law firms need to be more resilient than ever to tackle the most advanced forms of attack on the endpoint. Indeed, most law firm data breaches don't happen because their IT infrastructure is inadequate; they happen through phishing scams or other human mistakes that inadvertently allow a breach.

The biggest problem, however, is that many law firms have not developed a comprehensive security plan and cyber resiliency strategy, and haven't sufficiently internalized the need to organize and manage their security in a way that involves each and every employee in the firm, from top to bottom. And even if they have, many firms don't give their Chief Information Officer or other designated security chief mission-critical decision-making power, and they don't always back their security plan up with a budget commensurate with the importance of the job.

> *"...a flurry of new data-privacy regulations has organizations all over the world scrambling to keep up."*

EXPANDING RESPONSIBILITIES

Pressure has also been building because a flurry of new data-privacy regulations has organizations all over the world scrambling to keep up. In a survey[6] conducted by Thomson Reuters, 79 percent of organizations worldwide said they were failing to adhere to, or keep up with, data-privacy regulations in 2019, one year after the European Union's new General Data Protection Regulation (GDPR) was enacted. And almost half (47%) reported that they were failing to keep up with global data-security regulations in general. The California Consumer Privacy Act (CCPA) went into effect on Jan. 1, 2020, introducing strict new data-privacy rules and penalties for non-compliance. And the U.S. Congress is currently debating several new data-privacy bills, the most prominent of which is the Consumer Online Privacy Rights Act (COPRA), which would require more transparency between consumers and companies and introduce more fines for data abuse or other data-privacy offenses.
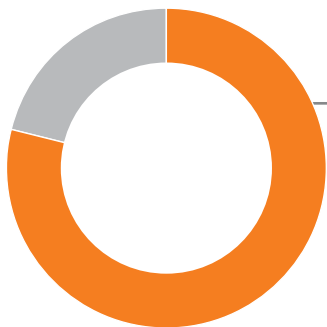
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Source: Thomson Reuters *GDPR +1 Year: Business Struggles with Data Privacy Regulations Increasing*

6   *GDPR +1 Year: Business Struggles with Data Privacy Regulations Increasing*

This confluence of new laws and regulations, escalating security risks, and a need for comprehensive IG procedures, has expanded the role of corporate legal departments to include enterprise-wide policy making and oversight. Corporate legal departments are working cross functionally with other stake holders to leverage technology they have in house to support information governance initiatives, including operationalizing data privacy and protection programs.

This sort of cross-departmental oversight is necessary because data privacy and security are complex, multi-dimensional problems that can't simply be purchased or silo-ed. They need to be addressed systemically, involve everyone in a firm's professional network, and be viewed as an organic, ever-evolving challenge that must be met with a vigor proportionate to the threat.

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Conclusion

Due to a number of factors—client expectations, increased competition, regulatory changes, pandemics and other unforeseen business disruptions, technological advancements, and various business imperatives—legal professionals everywhere are under pressure to change how they operate. In order to adapt to these new realities, both law firms and corporate legal departments are adopting a more strategic, business-oriented mindset aided by a burgeoning industry of outside service providers and exponentially more capable legal and management technologies.

New technologies and software solutions are giving legal professionals the ability to operate more efficiently, and to use data analytics to support decision-making and improve legal outcomes. Law-firm clients are also demanding that their legal representatives make optimal use of the tech tools at their disposal and expect the services they receive to reflect these efficiencies, especially when it comes to data privacy, legal outcomes, and the final bill.

Likewise, corporate legal departments have at their disposal any number of leading-edge technologies to help them serve the larger organization. Increasingly complex regulatory changes, mounting concerns over data security, organizational pressure to optimize resources, and growing interest from the C-suite in predictive analytics have also forced—and enabled—corporate legal departments to take on greater responsibilities and new leadership roles.

In 2020 and beyond, these trends will continue to re-shape the ways in which legal services are delivered at all levels. Those who can evolve and adapt—that is, those who use the available technology wisely to enhance their productivity and competitiveness—are the ones most likely to survive.

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