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TWENTY-NINTH ANNUAL
CORPORATE COUNSEL SYMPOSIUM
TUESDAY, OCTOBER 30, 2018

The Times, They Are A-Changin': AI Goes to Court

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Program Materials

1. PowerPoint Presentation

Reference Materials

Dorsey Blog: *How Will Artificial Intelligence Impact IP Litigation?* (Published March 6, 2018; Updated April 5, 2018)
https://lawoftechnology.com/how-will-artificial-intelligence-impact-ip-litigation/

Webinar Playback: *How IP Litigation Will Be Impacted By New Technologies: AI, Smart Devices, and Cryptocurrencies* (March 14, 2018)
https://www.dorsey.com/newsresources/events/videos/2018/03/webinar-playback-ip-litigation-new-technologies

For more information on exploring dramatic advances at the intersection of law and technology, see Dorsey's *Law of Technology Blog* at https://lawoftechnology.com/.

Materials are Available on www.dorsey.com at
https://www.dorsey.com/newsresources/events/event/2018/10/corporate-counsel-symposium-2018-materials

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The Times, They Are A-Changin': AI Goes to Court

Owen Byrd, Lex Machina

Jeremy Elman, Jocelyn Knoll and Caroline Sweeney, Dorsey & Whitney LLP

Tuesday, October 30, 2018

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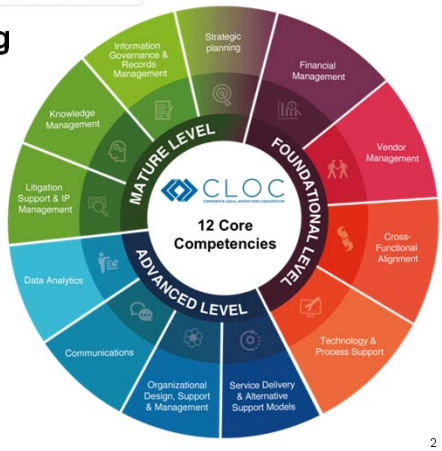
Current State

- **Cost pressures**
- **Need for strategic lawyering**
- **Need to increase productivity and efficiency without adding head count**
- **Growth of legal operations**



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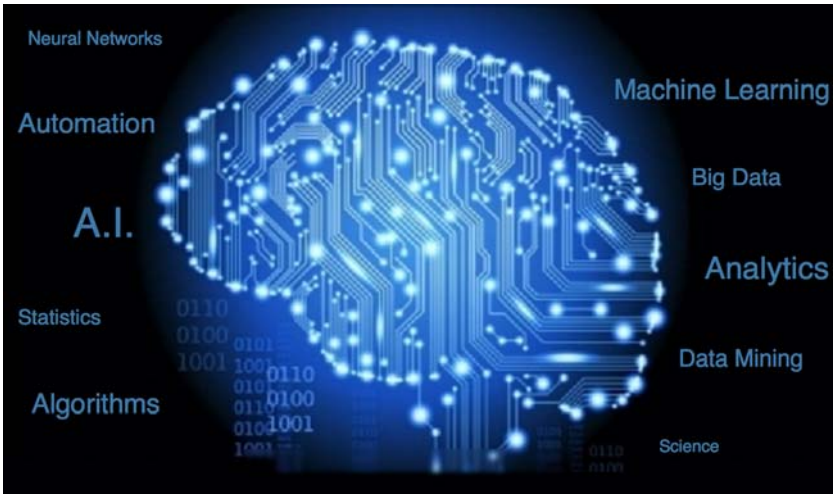
The legal industry is being disrupted now



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Corporate Legal - Difficult for Technical Innovation

- **Legal departments often amongst the last to innovate in a company**
- **Mix of outside counsel who use different types of technology in their practice**
  - **Rarely in budget for corporate legal department to demand outside service providers use uniform solutions**
- **Legal tech vendors, beyond e-discovery, are typically focused on large law firms, not corporate legal departments**

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Corporate Legal – Potential Tech Solutions

- Large departments can set their own roadmap and demand that vendors, including outside law firms, uniformly comply
  - Many examples of large organizations leading the way
- Corporate legal increasingly able to borrow best practices from other parts of the business
  - Attorneys working with developers, innovation groups
- Send leadership to industry meetings such as CLOC to keep business-people focused on potential benefits of technology and AI in the legal department

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Law Firms – Even More Difficult for Technical Innovation

- Historical reluctance to be in the "tech" business
- Ethical bar from non-lawyer ownership typically prevents long-term investment in software
- Lack of traditional personnel solving technical issues
- Lawyers are trained skeptics

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Law Firms Are Finally Starting to Adapt

- Most Firms are piloting various vendor technologies right now, with some doing nothing and some trying to devote large data projects to AI-type problems
- Many firms are hiring Knowledge Management employees with increasing responsibilities
- Some law firms are trying to be both a law firm and a technology company
  - Large firm "skunkworks"
  - Small firm + small legal tech company

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Potential Solutions for Law Firms

- The strength of most outside law firms is the collective ***knowledge*** of its lawyers
- The missing piece for most firms to effectively use AI is to ***manage*** that knowledge
- Law Firms should:
  - Invest in knowledge management professionals
  - Analyze their systems for large data that can be effectively mined
    - Document databases (briefs, term sheets, etc.)
    - Budgeting tools
    - Legal Project Management

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Corporate & Law Firm – Unique Opportunity as AI Leaders

- **Both corporate legal departments and law firms utilize the most relevant AI capability already – KNOWLEDGE**
- **Many vendors are trying to mine that knowledge and sell it back to us**
- **Corporate & law firms CAN optimize their own knowledge internally or through vendors/partnership**
- **KNOWLEDGE + AI = superior service**

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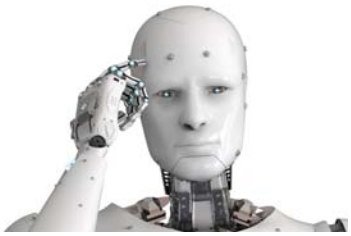
Where Does AI fit in?



- **The HYPE**
- **Fear of the ROBOTS**
- **Varying degrees of implementation**
- **Many tools focus on automating business processes**
- **Increasing recognition of the value of data analytics**

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Don't Fear The Robots

- **Artificial intelligence is still mostly theory**
- **Artificial intelligence is currently invoked in the law to manage huge sets of data**
  - **Current applications are more appropriately coined as data mining or machine learning, not giving out legal advice or serving as a "trusted advisor"**
- **AI will augment processes that humans cannot perform efficiently**
  - **Computers did not replace human lawyers, nor will AI**
  - **AI has the potential to eliminate many repetitive tasks that are not cost-effective for human lawyers**

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AI In Action

- **Legal Analytics/Business Intelligence**
- **Legal research tools**
- **Legal drafting tools**
- **Predictive coding**
- **Decision Tree modeling**
- **Financial dashboards**
- **Application development**

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Legal Analytics

In the past – what could you know about judges, attorneys, parties?

- Stanford graduate
- 9 years on the bench
- Said to be plaintiff friendly
- 89 reported cases

- Chicago Law School ‘85
- Clerked for one year
- With Orrick since 7 years
- Rumored to play hardball

?

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Legal Analytics

Today – what you can know:

- Heard 37 similar cases
- Ruled for plaintiff in 11
- Median time to trial 452 days
- Denies transfer motions 82%
- Awarded $27M in damages in 4 cases
- Awarded Attorneys' fees in 2 cases

- Plaintiff lawyer for IBM
- Never had a similar case
- Has 4 current cases in trial and 3 others filed
- Likes to file in E.D. Mich.
- Appeared 3 times before this judge and lost 2 transfer motions

- Took 11 similar cases to trial and won 7
- Won $13M in damages
- Median time to termination 528 days
- Used Orrick for 10 cases
- Files cases in D.Del.

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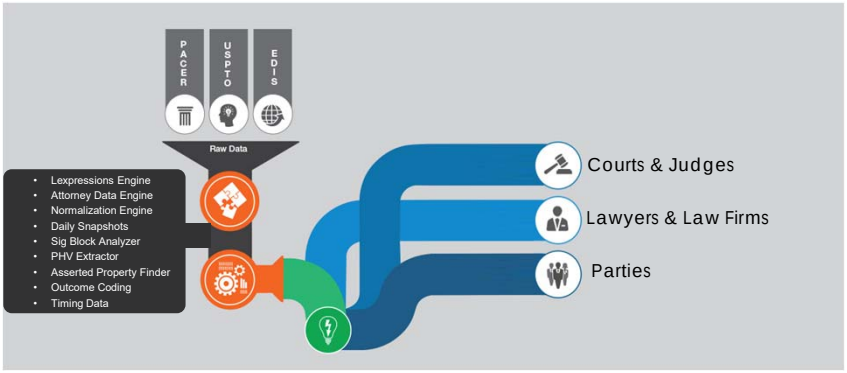
Legal Analytics: How it Works



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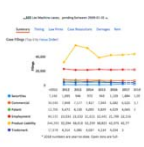
Legal Analytics

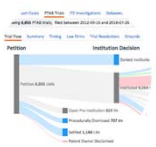
Business of Law: Outside Counsel Selection

- **Identify and assess your competition**
- **Demonstrate expertise about judges, districts, opposing parties and counsel**
- **Predict legal spend and timing**
- **Respond to RFPs in real-time**

Practice of Law: Win Cases

- **Anticipate the behavior of judges, lawyers, and parties**
- **Develop successful motion strategy**
- **Predict the outcomes of different legal strategies**





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Legal Analytics

PARTNER	ASSOCIATE	BUSINESS DEVELOPMENT	KNOWLEDGE MANAGEMENT
Litigation Strategy - Assess Judge Tendencies - Analyze Venue Trends **Competitive Intelligence** - Opposing Counsel **Litigation Insights** - Litigation Alerts	**Litigation Strategy** - Assess Judge Tendencies - Motion Strategy - Case Timing - Case Management	**Marketing** - Pitch Deck **Competitive Intelligence** - Opposing Counsel - Opposing Parties **Litigation Insights** - Trend Analysis	**Litigation Strategy** - Assess Judge Tendencies - Analyze Venue Trends - Parties Litigation Behavior **Competitive Intelligence** - Opposing Counsel - Opposing Parties **Litigation Insights** - Trend Analysis

AVERAGE TIME SAVED PER WEEK WITH LEGAL ANALYTICS

Source: Lex Machina 2017 User Case Survey (n=238)

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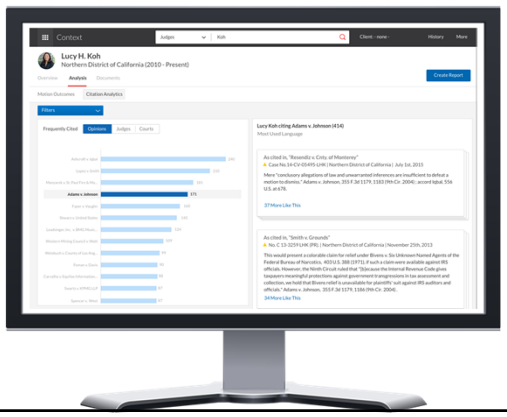
AI-infused Legal Research

Know the language. Argue the motion.

Did you know that Judge Koh likes to cite Adams v. Johnson in cases like yours? And these are the sentences she uses most frequently.



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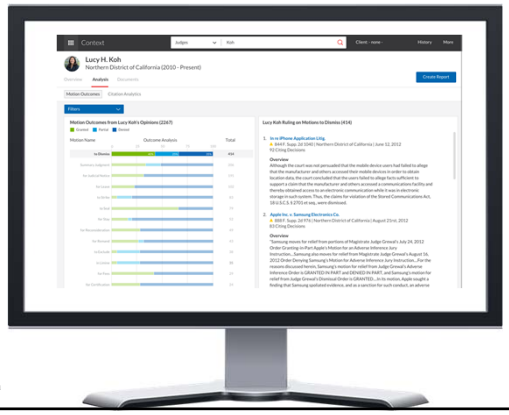
AI-infused Legal Research

Know the language. Argue the motion.

Grant rates for 100 motion types, extracted from caselaw.



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AI-infused Legal Research

- Ask your legal research question on case law, statutes, and regulations.

ROSS responds to your natural language question with passages from cases, statutes, and regulations. You can emphasize specific motions and facts by completing the designated fields.

Question

What is the standard for patentability of business methods since 2010?

Analyze a brief, in .docx or .pdf format:

1. Check if cited cases are still good law
2. View cited cases on ROSS (they will be on the brief)
3. Find cases having similar language as the uploaded brief

Drag & Drop

your file here or click here to upload

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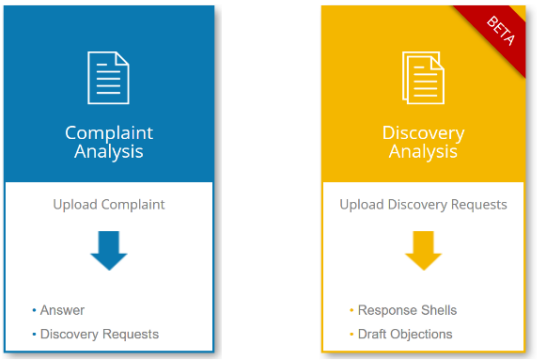
Legal Drafting Tools

LegalMation leverages the power of artificial intelligence to transform the practice of law.



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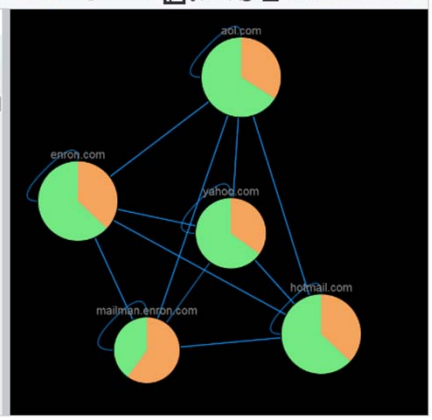
Zoom Domain Network

		Name	Sent	Received
5	0	15,240	99,881	224,374
		enron.com	47,457	83,291
		aol.com	1,620	3,216
		hotmail.com	1,384	2,387
		mailman.enron.com	1,234	852
		yahoo.com	817	1,562
		nymex.com	785	205
		enron.net	736	2,576
		haas.berkeley.edu	729	1,000
		txu.com	668	689
		carrfut.com	609	600
		lists.thebiz.net	574	7
		caiso.com	539	597
		enerfax.com	526	0



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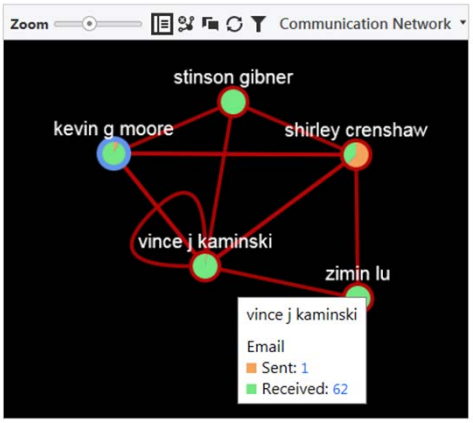
Predictive Coding & Case Discovery Analytics



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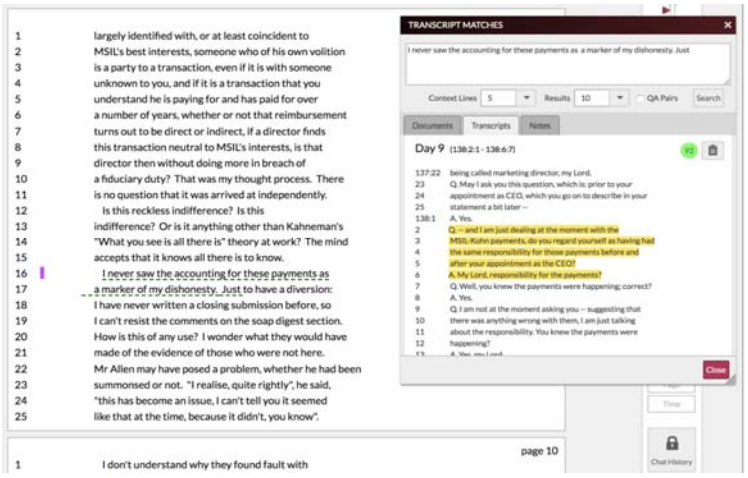
AI & Transcripts



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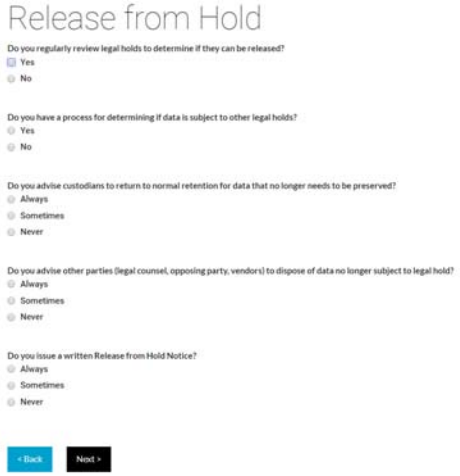
Application Development: Gap Analysis to Automated Workflows



Source: Dorsey & Whitney

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What Does the Future Hold?

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How Do We Get There?

- **What are the pain points?**
- **Change management**
- **How and where can automation help?**

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Recommendations for Counsel

Data literacy for lawyers

See what CLOC/In-house counsel are saying

Mine internal data

Keep an eye on new tech/ accelerators/CodeX

Adoption: Leverage partner retreats/practice group meetings/law department training

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Captain AI has been busy during this presentation…

- **53% of you were paying attention to the conversation!**
- **25% of you checked your phones only once during the panel!**
- **2% of you nodded off…**
- **95% of you are excited about AI in the Legal Profession!**

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