Can Corporate Counsel Leveraging AI Give Contract Attorneys a Run for Their Money?

Beyond automating contract review, artificial intelligence technology may empower corporate counsel to automate their law firms' contract expertise.

Ricci Dipshan, Legaltech News

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Left unchecked, legal departments can easily take up a significant chunk of an organization's expenditures— and this is in no small part because of the law firms relied on to review and manage contracts on a daily basis. But these constant budget expenditures are not ones organizations look upon fondly. Rather, explained Ulf Zetterberg, CEO of Seal Software, there is "outside pressure on the legal department" to cut costs by turning to technology to do more with less.

Given the increasing sizes of contracts, many corporate law departments are relying on technology for contract review, and some are relying on artificial intelligence (AI) for scrutinizing their agreements.

The legal industry is, generally speaking, using AI technology to review contracts with a level of scrutiny comparable to that employed by a human reviewer. Companies like LawGeex, RAVN Systems and Microsystems have been deploying this sort of technology at major corporations.

Using AI technology empowers counsel to review far more contracts than would be possible by relying on human reviewers alone, and the increasing reliance on these sorts of tools is also shifting how in-house counsel and law firms interact, potentially making the legal market far more competitive for firms.

This is because, for many law firms employed by in-house counsel, these time-consuming manual review processes are their lifeline, as many rely on the billable-hour model as a foundation of their revenue.

For in-house attorneys, Zetterberg said that, when it comes to contract review, AI has little effect on job security. This is because the technology isn't currently able to work autonomously and therefore needs corporate attorneys to perform certain actions like looking for intent and meaning in contract clauses. Modern AI technology, after all, is only as good as how it is trained.

Zetterberg also pointed to what he called the "80/20" rule, noting that AI contract review will be 80 percent accurate, but cannot reach the level of skill and compression of a human attorney. AI contract review, therefore, focuses attorneys' efforts on higher-level, nonstandard clauses and concerns, and away from more manual contract review obligations.

The slow death of the billable hour might push law firms to join in-house counsel in offering more efficient services, but firm adoption of AI technology, which can be expensive to deploy, can be hindered by resistance to such innovation and the falling revenues caused AI disruption in the first place.

Dan Meyers, president of TransPerfect Legal Solutions' consulting and information governance divisions, previously wrote in Legaltech News that, "with a few notable exceptions, law firms do not maintain research and development budgets, do not develop their own software solutions and are generally resistant to investing additional capital in the 'latest, greatest' legal technology when they have already invested in the technology of yesteryear."

It is not, however, just contract review that AI technology may replace. As more legal departments turn to AI solutions for contracting, they also will be able to harness contract-data analytics that can supplant law firm expertise.

Before a legal department can deploy AI for contract review, it must have all its contracts in digital and searchable "computer-ready" formats, essentially organizing contracts in a database. AI can review all contracts to classify and tag them with various metadata, such as denoting standard or aberrant clauses. In doing so, the database also acts as a sort of knowledge repository. In-house counsel can then use all of the contract data it collects to set benchmarks, such as the usual contractual language for certain agreements in certain industries, to better streamline its contracting processes.

And if in-house counsel share or sell what are now essentially contract market analytics, it can grow its knowledge repositories to the point where they can be used in place of the contract expertise of their law firms.

Zetterberg pointed to a situation where a U.S. company was establishing itself in a new country and wanted to know what the standard business contracts were for setting up operations. Instead of relying on law firms in the new country, the company can obtain contract data from other organizations to draft its own contracts.

Of course, this sharing of data can only help with drafting standard, repeatable clauses and will not supplement the need for in-house counsel to negotiate the business and finer points of a contract.

While Zetterberg sees the automation of manual processes further squeezing law firms, he noted that it also provides law firms with an opportunity to offer more efficient and data-driven services to small and medium businesses that cannot afford to deploy AI or build contract data repositories.

How law firms can survive, then, is making sure their expertise outweighs any of what in-house counsel can obtain on their own through data-driven analysis. "There is always going to be a value where your collective knowledge outweighs whatever you can do," Zetterberg said.