

Challenging the Way Law is Delivered

How technology is challenging the traditional law firm business model and changing the way law is delivered.

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Introduction

What is the paradigm you default to when thinking about how law is delivered? Is it one of comfort and rich wood-grained furniture, where paper files are neatly arrayed and archived securely; or does it incorporate banks of video monitors, smart phone apps and tiny little headpieces that look like ear fascinators?

Whether you are a staid traditionalist or an edgy technophile, or somewhere in between, there is much to be said in the way you choose and use technology to deliver legal services.

This paper will identify some major global technological trends and relate them back to the practice of law in Aotearoa. It will examine one law firm's use of technology to increase profitability. It will raise some opportunities and threats that are just around the corner for law in this country.

Let me pose this question: how do you feel when Michael Horne, a UK solicitor, says "The law profession is dead, it's a dinosaur... solicitors just don't know it yet; they are still wandering around thinking that people need them and they don't" (Rose, 2015, p. 9). I accept many in the profession might be angry, insulted or even disappointed that a fellow practitioner would say such a thing.

What you should be feeling, though, is concern. Because Michael Horne might be right.

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Global Trends

To understand the journey of one small Kiwi law firm challenging the way law is delivered, it is necessary to glimpse the bigger picture of why and how technology is changing the world of law.

When considering such impacts I immediately think of the United States and the United Kingdom. The USA is a leader in electronic discovery and the use of the Internet to drive business. In the UK, firms are investing heavily in technology as the profession slowly reacts to massive structural changes in the way law is practiced, after following the lead of Australia and allowing non-lawyers to take a stake in law firms.

Let's first consider the USA, where a 2009 study published in the Harvard Journal of Law & Technology showed how the Internet is being used to deliver new legal products and services at a fraction of the cost of traditional bricks and mortar operations (Johnson, 2009).

The first use of the Internet to deliver legal assistance can be traced back to 1995, the year before the release of Microsoft's Internet Explorer. Since then two key product differentiations in the delivery of law have emerged: "commoditization" and "unbundling" (ibid.).

'Commoditization' was a term coined to describe the competitive packaging of legal services into products that can be accessed by consumers from multiple vendors (Susskind, 2006), as opposed to *bespoke* legal services that were traditionally customised to a particular client and created at the time the client engaged the lawyer. This is in keeping with the popular business model of *just in time* production where the vendor assembles a product out of existing parts to meet the needs of the client, resulting in less inventory overhead (i.e. less staff cost) and faster delivery times (Broyles, Beims, Franko, & Bergman, 2005).

'Unbundling' was described by the American Bar Association in the year 2000 as a situation where "*...the client is in charge of selecting one or several discrete lawyering tasks contained within the full-service package.*" (Mosten, 2001). It was promoted at that time as beneficial to clients as it could significantly lower fees and put more control into clients' hands.

Fast forward to today and there are several businesses delivering commoditised or unbundled legal products, or both. Three US firms cited by Johnson are LegalDocs, USLegal and We The People (WTP) (Johnson, 2009). Each firm takes a slightly different approach. LegalDocs provides auto-generated legal documents customised to the client's requirements and is delivered solely online. USLegal offers a spectrum of services from basic legal primers to auto-populated legal documents that are then reviewed by a lawyer. WTP has a presence in the virtual world alongside bricks-and-mortar sites, offering a full range of legal services, however at the time of publication of Johnson's article it appeared the real-world outlets were slowly disappearing: from 175 in 2005 to 49 in 2009. This has dropped further, with only 32 outlets listed on WTP's website at the time of writing (We The People, 2015).

The combination of allowing a client to pick-and-choose what they want their lawyer to do for them (unbundling) and providing user-customised legal documents in a just-in-time production methodology (commoditization) opens up vast new markets to the legal profession. There are many people who will not engage a lawyer because of a) the cost or b) the loss of control over their affairs, yet we have seen over the past decade a flood of consumers embracing the Internet despite horror stories of shonky products, rip-off merchants and identity theft. Why? Because of convenience. Going to see a lawyer means making an appointment, taking time off work, organising child-care, putting on your best clothes and feeling inferior under the gaze of the receptionist as one sits in the impeccable lobby surrounded by priceless artwork. Using an online legal service means one doesn't even have to get out of bed!

Future predictions of legal product delivery in the United States sees a mash-up of Web 2.0 development and legal services, where online law businesses become aggregators of data from not

only the World Wide Web but also from lawyers who are paid subscribers (Johnson, 2009). USLegal has already opened its site up to third-party developers, akin to the Apple and WordPress models (US Legal, 2015) and invited lawyers to join their business network as affiliates. Marketing – the universal solvent to competition – is becoming strongly established in law in the United States. I'll come back to that later.

I won't touch on E-Discovery too much except to share with you a recent interesting development in the USA that emphasises the fact that some lawyers will one day be unable to do their jobs without the help of powerful computers.

The amount of information available to us – the human race – has exploded in (relatively) recent times. Consider how the advent of the telescope and microscope enabled humans to gather data from places never before seen. The printing press gave us a mass-production method of storing data and sharing it, replicating it, beyond the traditional means that involved roomfuls of celibate men scratching ink onto parchment with hollowed-out feathers.

It seems like yesterday when I first ventured onto the Internet. I still remember how awestruck I was at the implications of having all that information at my fingertips... and that was in 1996! In the 20 years hence the amount of information has multiplied exponentially. Erin Schmidt, former CEO of Google, said in 2011 that “between the birth of the world and [the year] 2003 there were five exabytes² of information created.” Bear in mind that this includes the entire works of the Oxford English Dictionary in all its editions, every single Bible and Quran ever printed, the contents of every library in every town and city and village in the world and all of the memos ever sent by every bureaucrat in history. Schmidt continued to say that humans now create that much information every two days (King, 2011). It has been estimated that by the year 2020 there will be 44 zettabytes³ of data (Gantz & Reinsel, 2011). Where does that information come from? In 2010 there were 255 million websites: that number swelled by 217% to 555 million the following year. There were 250 million Tweets per day in 2011: up from 95 million in 2010. Short-message-service (text messages) became available to consumers in 2002: a decade later in 2012 there were 6.5 trillion ‘texts’ sent (Jellyvision, 2015). To give that some context, if the time cost to a human to send a text is one second, the number of texts sent in 2012 took about 1.4 million years in total human time.

The torrent of information has serious implications for legal discovery and the US Advisory Committee on the Federal Rules of Civil Procedure moved to address these in April 2014. The new rules proposed will – if adopted later this year by the US Supreme Court – save time and money by “encouraging cooperation” between the parties, limit the amount of discovery to what is proportional to the matter and encourage consistency in the approach of the Courts and the Judiciary (Hummel, 2015). As with any matter involving law and new concepts, it appears the problems will not meekly dissolve once the new rules are in place – much more work needs happen in this area.

From the USA to England and her colonies. Australia and the UK do something very different from New Zealand: they have Alternative Business Structures (ABS): law firms that can be owned by non-lawyers⁴. The Legal Services Act was passed in 2007 by the British Parliament, partially deregulating the ownership of law firms, but the Aussies have had the same rights since 2001. Yet it took six years for the first law firm in the world to float an IPO (Australian firm Slater & Gordon). That firm opened in 1935 and now employs 2,500 staff across Australia and the United Kingdom (Slater & Gordon, 2015). The company floated with a share price of \$1.70 and now commands \$7.48 eight years on (ASX, 2015).

² An exabyte is 10¹⁸ bytes.

³ 44 zettabytes (44 x 10²¹ bytes) is 6,780 times more data than the human race generated in the 127,000 years prior to 2003.

⁴ Although lawyers remain the only people who can undertake reserved areas of work.

This is so game-changing that even the Americans haven't had gone there yet, although the American Bar Association has given some consideration to non-lawyer investment in law firms (ABA Commission on Ethics 20/20, 2011) and there's an ongoing discussion in the US, with one academic raising the spectres (in other countries) of "major insurance companies [buying] law firms", and "grocery stores ... offering legal services" (Robinson, 2014, pp. 1-2). Indeed, the British Legal Services Act 2007 is sometimes referred to as the "Tesco law" (ibid.).

Eight years on and debate still rages across England and Wales around non-lawyer ownership. One quarter of the 160 respondents in the most recent annual Winmark Looking Glass Report "cited ABSs as the top threat" (Hilborne, 2015). Many of the major accountancy firms in the UK have ABS certification, meaning they can deliver legal services. The report shows grim concerns from the profession, who are also concerned about self-destructive price wars, increased competition and holding onto staff (ibid.). Many are investing large sums on technology – in my opinion a knee-jerk reaction by the more traditional firms who were not just slow off the mark, they missed the stadium altogether.

Is this what we want our profession to become in New Zealand? Avoiding the inevitable means starting now... if it's not already too late. I don't meant to be a fear-monger, but if you own a traditional mid-sized law firm and this is all news to you then you should be concerned.

Having sampled some innovative practices in the UK and USA I hope I've provided a flavour of global trends that might soon be coming our way. Australia already has a form of deregulated law (in terms of ABSs) going on for 14 years. The pot of customers is only so big and both the UK and US firms are engaged in highly competitive behaviour, resulting in innovations that have opened up new markets. Many of those innovations would not be possible without the huge leaps in communications technology (Internet, smart phones, etc.) that have been made in the past decade. But what is happening closer to home?

Doing Things Differently Down-Under

Earlier I gave the example of USLegal as a marketing approach to thrive in a competitive environment. It is important to consider this in relation to the New Zealand market.

Law in New Zealand has had its share of innovation. The area of family law is an obvious example⁵, as are our laws around universal suffrage, social security, land title, torts and the Accident Compensation Corporation, the Waitangi Tribunal, homosexuality and prostitution (Palmer, 2013).

Australian law firms have been pushed toward thinking differently for many years now – being driven, in my opinion, from increased competition and the threat of innovative, new entrants to the market as a result of Alternative Business Structures. It is important to also acknowledge the new thinking that has resolved from allowing non-lawyers to own law firms, too. Examples of such innovation include outsourcing in-house legal services for fixed-fee prices; abolishment of time recording; online delivery of legal services; the 'open law model', and; use of mobile technology. These are all innovations delivered by Australian law firms as listed in the 2014 Legal Innovation Index (Nexus, 2014). Many of those firms are recent start-ups.

The profession in New Zealand is still staid and steeped in tradition, many of which are not as necessary today as they were at the start of the last century. Simon Tupman, who many of you will know or have heard of, does a lot of research around law firms in this country. In 2012 he released a study that showed "reluctance to change" was a major impediment to developing leadership within

⁵ The old-style Family Court, mediation and Family Group Conferences were world-leading.

law firms (Tupman, *The Leadership Imperative: A Study into Law Firm Leadership*, 2012). This mirrors an earlier study on law firm innovation, where it was identified that “risk aversion, conservatism and a lack of business skills” were the major factors in preventing innovation (Tupman, *Law Firm Innovation Survey (Australia/New Zealand)*, 2011).

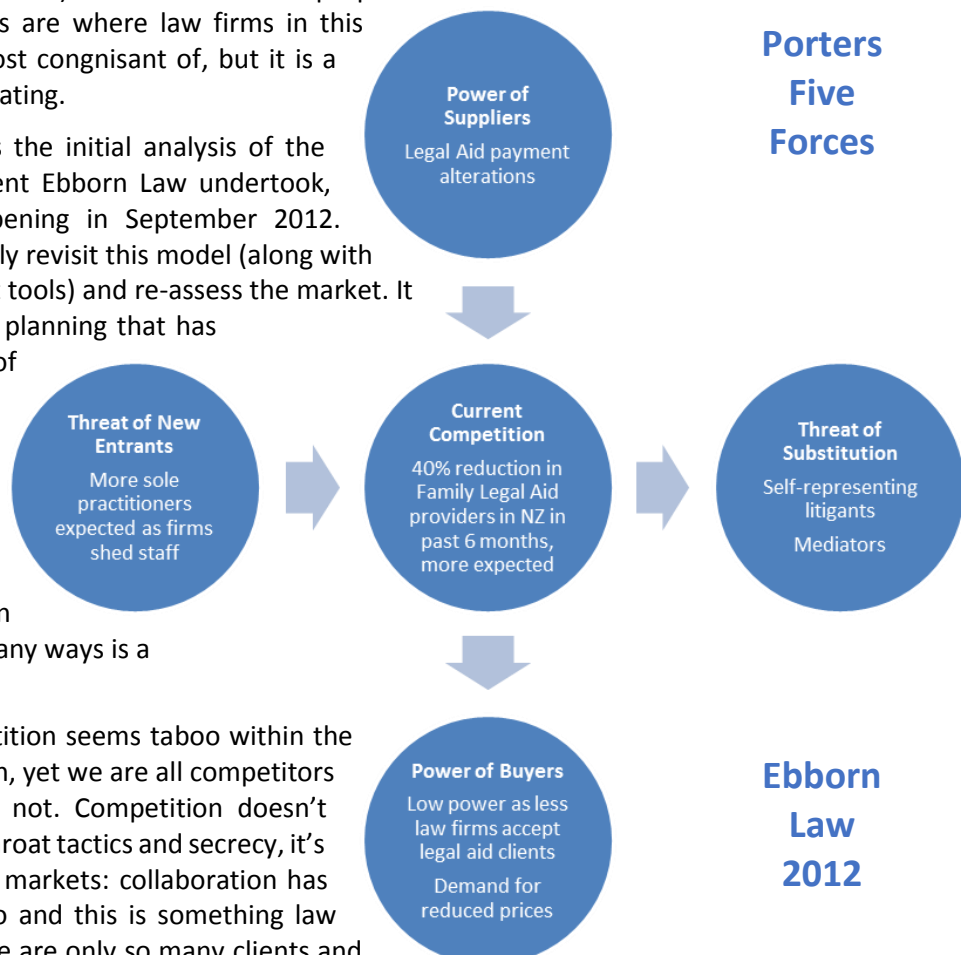
Senior players in the profession acknowledge that change is needed. Last year DLA Phillips Fox partner Martin Wiseman urged law firms to improve their efficiency to better meet the cost expectations of clients. Mr Wiseman said clients will no longer “pay for the inefficiencies of firms” and that law firms need to “meet the growing demand of clients who consistently want you to deliver more for less” (McCarty, 2014).

Change is a tool to manage risk, not a risk in itself, and risk is both threat and opportunity. So when a firm is said to be ‘risk averse’ it is not just ‘playing it safe’ but also refusing to see how things might be done differently, better.. This is thinking from a generation past, and the threat a lot of New Zealand law firms face in the next five years is that of obsolescence.

Allow me an indulgent wander into business theory. Michael Porter, from the Harvard Business School, developed a useful tool now known as ‘Porter’s Five Forces’. This is a simplistic means to analyse current and future threats from competitors. The five areas of analysis are current competition, the powers of buyers and suppliers, the threat of substitution and the threat of new entrants (Porter M. E., 1973). I’m not the first to propose that the last two areas are where law firms in this country need to be most cognisant of, but it is a proposition worth repeating.

The figure displayed is the initial analysis of the competitive environment Ebborn Law undertook, six months before opening in September 2012. Twice a year we formally revisit this model (along with other risk management tools) and re-assess the market. It is this sort of strategic planning that has sparked a number of innovations within the firm: not because we have ‘good ideas’, but because we look ahead and see the threats we face and the opportunities we can utilise. Innovation in many ways is a child of necessity.

The concept of competition seems taboo within the New Zealand profession, yet we are all competitors whether we like it or not. Competition doesn’t necessarily mean cut-throat tactics and secrecy, it’s just the nature of free markets: collaboration has an important place too and this is something law firms excel at. But there are only so many clients and there are ‘X’ number of lawyers: firms can prosper by direct competition (e.g. advertising) only so much because of the limited number of customers. What the US firms I mentioned earlier did was to create new markets: tapping into groups of people who normally would never have gone to a law firm. Of course there will be collateral damage when this happens, as some traditional customers will defect to the ‘new’ legal services. And who suffers when



this happens? In New Zealand it is going to be the traditional mid-sized firms: too big to be agile in response to changing markets, too small to be able to absorb the losses and seek a share of richer pickings (such as corporate clients).

Ebborn Law: Our Contribution to 'The Challenge'⁶

Bearing in mind the lessons of Professor Porter, and in the wider paradigm of market competition, let me tell you the story of Ebborn Law. Started in late 2012 we did many things differently, in fact our motto was "we are not like other law firms". Everything the firm does was designed from the bottom up to avoid the 'that's how we've always done it' syndrome. That's important because tradition is such an easy thing to replicate yet often is not questioned, certainly not by the junior members of staff who might be too scared or just too inexperienced to speak the obvious (think *The Emperor's New Clothes*). Yet these are the staff who are often the most linked in to the evolving world of the future.

Ebborn Law was incorporated as a limited liability company and even though it is technically a sole trader, it has a very clear split between governance and operations. It is a specialist law firm, focusing only on family law.

A major aim of the company is to deliver legal services as efficiently as possible to take best advantage of the fixed-fee pricing structure of family legal aid. Why? Well our values definitely drive us to provide services to those who could be considered 'vulnerable' but we are also a company and therefore must make a return on investment, and frankly we saw the gap in the market: everyone seemed to be shrugging off family legal aid work because the fee structure changed from hourly to fixed.

Ebborn Law, therefore, was something that should have been in everyone's *Threat of New Entrants* bubble when they used Porter's Five Forces to analyse the competitive environment. But it wasn't, because nobody does.

We've operated for two and a half years and grown from three staff to twelve. We are still growing and intend to double our staff numbers by the end of 2016. We are already a major player: last year we were the largest family legal aid provider, and the second-largest overall provider of legal aid services, in the South Island (MoJ, 2014).

To cope with the fast growth and expanding demand on our services we have had to incorporate some clever thinking with regards to the technology we use:

- Virtual private networking (VPN)
- A move to in-house hosting
- Legal services delivered by video (VLaw™)
- Hybrid tablets for lawyers
- Web-based portals
- Increased VDU workspace
- Auto-drafting
- Fibre
- VOIP technology

Before we opened the doors we had already started planning how to replace or upgrade our technology, and we regularly review our needs, because technology is not cheap and it is not fast to implement. That's a very important learning that I will share with you: upgrading to a new level of

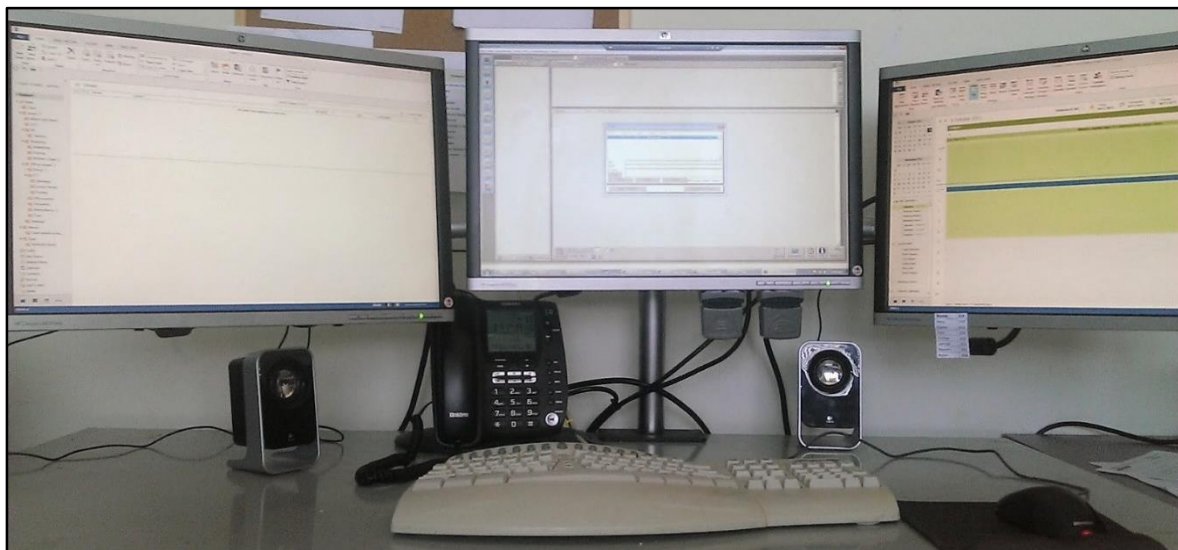
⁶ Parts of this chapter were first presented at the 2013 Family Law Conference, co-written by Erin Ebborn, Rowan Cochrane and Jarrod Coburn; also presented in part at 10 Points in 1 Day seminar in November 2014.

technology is a strategic exercise, not a tactical one. It needs careful planning. There are many pitfalls for the unwary or the hasty, and I will discuss those later.

We started out with computers from earthquake insurance sales and a big ink jet printer from Warehouse Stationery. Our total fit-out cost including computers, office furniture and equipment was under \$1,000, thus the need to start planning an upgrade straight away. As we employed more staff we needed better ways of processing, storing and sharing information. We soon moved to an externally-hosted virtual environment, which had the added bonus of allowing the principals to work from home (or indeed anywhere there was a computer and the internet). Virtual networks also mean work is protected from sudden systems failure: if the power were to go out then the desktop and all our current open documents would still be there, exactly as we left them.

Working in a fixed-fee environment presents both threats and opportunities that can be mitigated or exploited through high levels of efficiency. From the outset we have had a system that allowed us to record details of a case and the people involved, and generate documents automatically based upon precedents we have developed. Legal documents, client letters, forms, almost everything we draft starts as a template and is auto-completed with known variables by this system. We currently have over 140 precedents (and a waiting list of at least another 100 still to be developed).

In the drive for efficiency we have always sought to provide the best tools to our staff wherever we can afford to. Initially our staff had two computer monitors each (the increased screen real estate allows better multitasking as it reduces the time to open and close windows). Now all staff have at least three monitors and our lawyers have four, counting the tablets used for video conferencing.



Lawyers and support staff each have three video monitors at their workstations.

Yet even with the auto-generated documents, virtual platform and multiple monitors I still witnessed something that turns other business owners green with envy: staff productivity was being *held back* by our systems. In other words, the staff were working faster than the computers could handle.

In business it is essential you pay attention to constraints. The Theory of Constraints is a useful tool to help identify blockages in a firm's workflow. In his book *The Goal*, Eliyahu Goldratt explains the Theory of Constraints as a science that allows for organisations to be managed by examining throughput, inventory and spending (Goldratt, 1984). He proposed five "focusing steps" to overcome the things that hold up the smooth flow of work through an organisation. At Ebborn Law we use these to help develop processes that move clients from the first point of entry through to conclusion of their case whilst ensuring all essential steps are undertaken on the way.

Identifying and rectifying constraints is important because otherwise you end up with underutilised resources, and no amount of technological whizzbangery will fix your problem. The common ways to

deal with a constraint are to open up the bottleneck by either adding more resource to the problem or creating a mirror of the function to help take up the slack. This is the very reason why urban planners can't just build ten-lane highways into cities without first ensuring the roads and streets in the cities can handle the increased traffic flow. When it comes to fixed-fee work, the faster and more efficiently a client can be serviced, the more money is left over at the end.

Because the computer systems themselves were the constraint, we needed to make some drastic decisions around investing in technology. We could ask the staff to slow down of course, but that would have a negative impact on morale and damage the carefully cultivated organisational culture: everyone works hard at Ebborn Law and that's how we all like it. To get a better handle on the situation I designed a survey for staff, asking them to rate a number of different computer tools we used and sought their input on how things could be better. The results of that survey informed a discussion document outlining our needs for practice management software that reflected not only the now, but also the future.

That survey was undertaken in March 2014. We appointed P&L Limited to project manage the development of a bespoke piece of software based on Microsoft CRM in October 2014, after a frustrating search for a modern software system that would meet our needs. We're almost at the end of the process and, almost \$170,000 later, we will go live on the 1st of May 2015. We call our new system JEMIMA and it's so good our developers are taking it to the market.

That's a lot of money and effort for a law firm with only twelve staff. Is it worth it? Yes, it certainly will be. The project is in two parts: develop new software and bring our virtual server in-house. Solving the major constraint will see productivity gains of at least 1FTE staff member per year in our support team and will allow our fee generators to track their own metrics easily. It will also automate many processes, thereby reducing the number of steps and the number of hands that must 'touch' a matter or document. This in turn reduces a number of threat-risks surrounding information storage, accuracy and privacy.



JEMIMA - a cute practice management package everyone will adore

Bringing the virtual server in-house is important because we take our duties of privacy and confidentiality very seriously, and the so-called 'Cloud' – whilst new and shiny and exciting – is not the safe place that you have been led to believe. I'll address some of the bigger issues later, but one the main reasons for hosting our own data might surprise you: it is cost. We have found that it is cheaper to host our own servers in-house than to pay an outside company to do it on our behalf. Incredible, when you consider the huge economies of scale these Cloud-hosting companies must be realising.

Whilst much effort has been spent on upgrading our internal software systems, it is equally important to keep an eye on the external environment. In mid-2013 the buzz amongst family lawyers was the proposed change to the Family Court, in particular the Care of Children Act. This prompted us to begin

to think of other areas of family law and where we could innovate to attract more clientele. One of the conversations we'd been having around that time was with the refuges, who had praised us for being able to take their clients 'quickly' (e.g. within a week) for drafting and filing urgent protection orders. Because of the drop-off in lawyers providing legal aid services, some refuge case workers were spending an hour or more on the phone tracking down someone who would take their client. We realised that if we could solve the 'pain' the refuges faced then we would be able to put more resources into urgent domestic violence work, as we would have a regular referral base. Thus, the concept of the Online Urgent Domestic Violence Portal was formed.

Web-based portals aren't new, but they are new in the practice of family law in New Zealand. The idea was simple enough: create a win-win-win situation whereby refuge case workers can quickly access legal assistance for clients with a degree of urgency that reflects the seriousness of the situation. The win for the refuge is a saving in time, as case workers no longer need to spend up to an hour or more searching for a lawyer. The client wins as we often can make an appointment to see a lawyer within 24 hours. We win, because this is a product that the refuges like to use, for all of the above reasons.

The technology behind the urgent online portal is a portmanteau of existing products and services. We built and manage our own site using Weebly and it was a simple task to develop a web-based form as the front end of the portal. An email is generated once the 'submit' button is pressed and this goes to our exchange server, which forwards emails to the principals' and general office inboxes. An email also goes to Spark's e-Txt service, which automatically sends an SMS message to a cellphone attached to the wall of our main office area, causing the phone to sound an alarm that alerts everyone that a portal request has been made.

The urgent portal means we are able to inform the refuge case worker within 15 minutes whether we can take the client and when we can see them. If we can't take the client (due to conflict of interest or workload) we will find another law firm who will, all within the 15 minute deadline.

The Online Urgent Domestic Violence Portal is an example of efficiency and accuracy being achieved through automation, which is the result of using technology to apply a system to a workflow. Taking a strategic approach to any tasks common, consistent and repeatable for all clients should result in automation. This is a key to efficiency, because things that need repeating can normally be made more efficient through use of technology.

Sometimes technology can be used in a way that takes everyone by surprise. In 1995 the Harvard Business Review published an article about 'disruptive technologies' and the phenomenon of large, established businesses being superseded by smaller, more agile firms who developed products that customers apparently didn't want (Bower & Christensen, 1995). The article argues that because the larger companies "listened" to their clients, they overlooked new ways of doing things that in the end became accepted ways of doing things⁷.

Adopting a new technology (or adapting an existing technology in a field that it is not normally used) carries significant business risk, but it is important to bear in mind that the business environment and the market as a whole are constantly changing and businesses have to keep up. The clients of today do not think the same as the clients of 30 years ago, because in 1983 there was no EFTPOS, no laptops, no smartphones. There was no gay marriage or Care of Children Act. Indeed, the Family Court was just two years old!

An example of a disruptive technology is the use of computer systems to pre-populate templates based on precedents. This is not new technology, but Eborn Law has applied it in an innovative way

⁷ I realise this is in complete contrast to my story about the Online Portal, but we were not listening to the 'customer' *per se* but to people who shared the same customer. Subtle difference. Also, there are many times you should listen to your customers. Business is complicated, academics sometimes don't make it any easier.

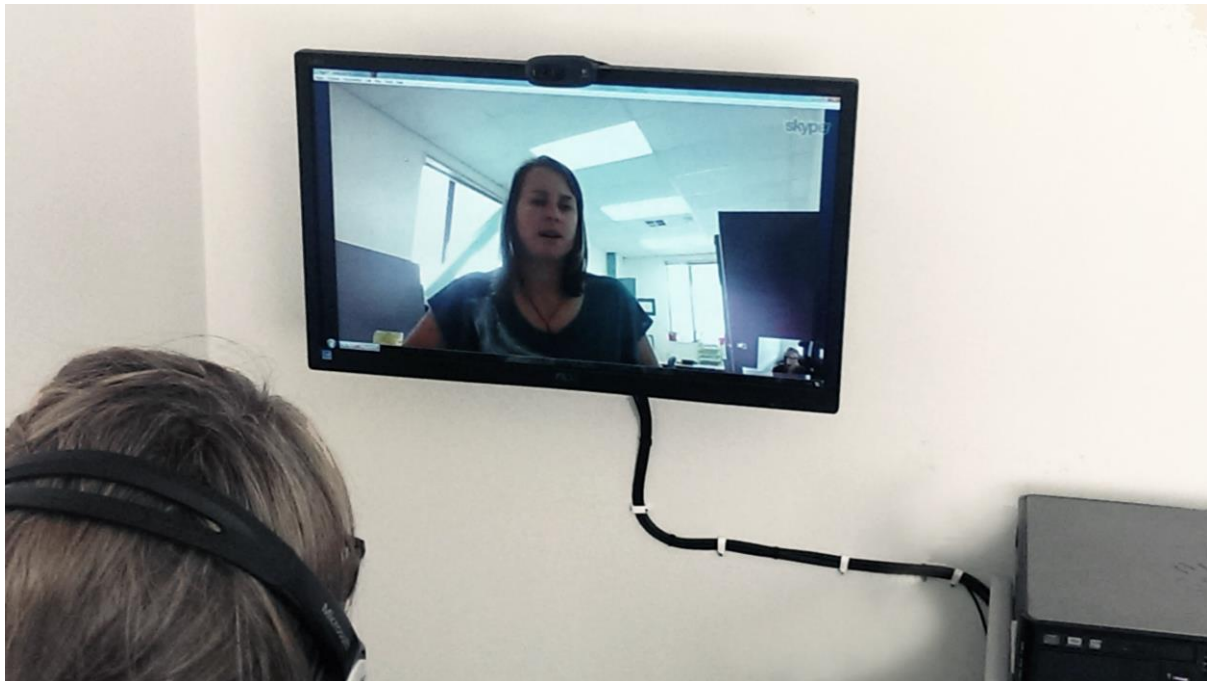
that – when combined with systems and risk management – enables very high levels of efficiency in the office.

Ebborn Law’s latest technological foray lies with video conferencing, titled ‘VLaw™’. Services like VLaw™ are not widely available in New Zealand but there is a latent need, especially in areas with few or no legal aid lawyers. Currently a pilot trial is in place with a refuge in Christchurch to provide urgent legal services over video link.

The technology is simple and has been around for many years, but the infrastructure required to get a good video link has only been available since 2008. TelstraClear started offering VDSL2 (Very-high-bit-rate Digital Subscriber Line) to select clients in 2008 although the market really picked it up from around 2013.

We have recently outfitted our five lawyers and two case managers with either audio-visual equipment or hybrid notebooks that sit at their workstations⁸. This has allowed us to expand our practice outside of the Christchurch area to other parts of the South Island (including the Chatham’s) that are struggling with low numbers of family legal aid providers. There are of course some things that need to be done differently when undertaking legal work via video link, and some areas of work (such as wills) that cannot be done because of statutory reasons. But by and large this model is a win-win for the both the client and for Ebborn Law.

The VLaw™ model is also a boon for refuges. The current pilot between us and a major women’s refuge should see the amount of time a case worker has to spend getting a protection order for their client reduced by at least three- and up to five hours. That could be a salary savings of up to \$10,000 a year for the refuge and result in victims of domestic violence being put through far less stress and worry, as they don’t need to leave the safety of the refuge to apply for a protection order. Our partners in this pilot are Spark, who provide the VDSL2 connection and Ricoh, who have contributed a fully serviced laser MFC printer/scanner to sit in the refuge. Ebborn law paid for and installed the computer and audio-visual equipment.



Lawyer Amy Lake talks to a refuge social worker over the video link. It’s like a window in the wall of the refuge with a little lawyer inside.

⁸ We also invested in Spark 4G Wi-Fi hotspots to allow the lawyers to use their tablets in Court, thus allowing them to access their desktop, make file notes or to consult matter files without the need of bulky folders full of paper.

Coming soon will be a switch from standard phone lines to an advanced Voice Over Internet Protocol (VOIP) telephone system that utilises the fibre pipe we've recently installed. Aside from the obvious cost benefits (lines are one third of the price) there are a number of smart features on offer with Spark's Voice Connect service. Both voice and data travel over the same line, which has failsafe and disaster recovery safeguards. Unified Communications (UC) that will allow us to re-route calls between desk and mobile phones; combine email, fax and SMS communication, and; integrate our communications infrastructure with JEMIMA™, our new practice management software.

Tips, Trips and Traps

Doing things in different ways, or using new technology to make law better, can be a bit nerve wracking. I'll finish with a few tips on getting the best out of technology for your business.

To start with, invest for the future. Before you commit any time or money to new technology ask yourself if you really know what your firm's needs will be in two years. Depending on the size of the firm and what you're implementing it can take a year or more to transform into the new way of doing things using the new tools. Remember that there is time required for planning, perfecting your needs, tendering the work, building or installing the system, smoothing out the bugs and training the staff. It will also take time for you to utilise the new system or technology to its full advantage. When you begin to consider your future needs, project in advance as much as you can with certainty. Undertaking this exercise alongside your strategic planning is ideal.

Once you have identified your needs make sure you take some good, independent advice. Look before you leap. When we recognised the necessity of a new practice management system we could find nothing on offer that met our *future* needs. Knowing this meant building our own system, and being very scared as a result, I put a call in to my friend Duncan at a company called Intergraph. Duncan's a software architect and he gave me some excellent advice – advice that I followed to the letter, incorporating it into our scoping document. As the old saying goes, if you think you don't know what you're doing, you're probably right.

Dealing with tech people and companies can be challenging. Expect a great deal of puffery and promises that can sometimes serve (too late) to highlight the gap that exists between the sales staff and the people who actually deal with the technology. Remember that computers are relatively new and they are evolving at a rapid rate – so fast that even the people in the tech industries can find it hard to keep up with. My advice is to buy the best you can afford, but don't be ripped off. Negotiate hard, test the need for what you are being offered. It's likely you will be offered a Rolls Royce product initially: the onus is on you to negotiate it down to a Toyota Corolla. After all, in many cases you don't need fancy bells and whistles, you just need something that gets the job done to your specifications.

I'll include here a dire warning: don't just read the contract... understand it. We had an unfortunate incident with a hosting supplier who promised us the world (see above) and charged us the earth for a product that is sub-standard according to other expert's we've talked to subsequently. Whilst we're resolving the situation it will cost us several thousands of dollars to migrate our data from their servers onto our own. That's a rookie mistake and I take full responsibility for it. My only excuse was that I was a rookie when I entered into the contract. I won't do that again.

Speaking of mistakes, remember that personal technology is not business technology: the two are vastly different and for good reason. I'm shocked at the number of lawyers in this country who are using 'free' online service as their company email. In a recent LawTalk article it was pointed out to the profession that using such email services is "no longer an acceptable and trusted way to communicate" (Sim, 2015). In 2014 over five million email addresses, passwords and user names from Gmail accounts were publically posted on the Internet (Sparkes, 2015). Whilst Google says that no

more than 2% were real (they would say that of course) that's still 10,000 hacked Gmail accounts. If you are using a free web-based email system for your law practice then stop. Personal technology is not as robust or secure as business technology. That's why it's so much cheaper.

Let me continue the theme by stating that every Cloud does not have a silver lining. Cloud computing is in its infancy yet many would have you believe it is a panacea for all business ills. The 'Cloud' is an ephemeral place that exists digitally in the realms of the World Wide Web. When someone uses the term they might mean a specific location (such as a Cloud hosting facility in Auckland) or mean a fragmented and largely random collection of servers scattered across the world. The Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008, as well as the Privacy Act 1993, place a requirement on lawyers to "protect and hold in strict confidence all information concerning a client acquired in the course of the professional relationship" (NZLS, 2014, p. 1). The New Zealand Law Society advises that international police or intelligence agencies may from time to time lawfully access data from a Cloud hosting provider (ibid. p 10). This could happen with or without your knowledge and in my opinion any law firm concerned about strict confidence should ensure their client's information is stored within New Zealand's jurisdiction.

Grim prognostications aside, sometimes it takes the wisdom of many heads to come up with a solution. Asking your staff what you need in terms of technology is a great place to start planning. Such a conversation within a firm can develop into a team dynamic that means once the new system or technology is in place there is a far greater buy-in by staff members.

Finally, don't be afraid to dream. They can print chocolate body parts now, and there are clothes that tell you when they need washing. Pretty soon every single individual food item will contain a microdot with its very own IP address⁹. That means a company that farms eggs will be able to track an egg from the hen to your plate and, using the chips embedded in your pots and pans, know how you cooked it. If weird and wonderful things like this are possible, what could YOU do to challenge the way law is delivered?

⁹ These numbers are starting to get ridiculous. There are now potentially 340 undecillion (3.4×10^{38}) IPv6 addresses available (American Registry for Internet Numbers, 2013). That's 1.1 trillion times more than the number of stars in the observable universe (Villanueva, 2009).

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References

- ABA Commission on Ethics 20/20. (2011). *Issues Paper Concerning Alternative Business Structures*. American Bar Association. Chicago: American Bar Association.
- American Registry for Internet Numbers. (2013, May 21). *Explore IPv6*. Retrieved Mar 16, 2015, from ARIN IPv6 Wiki: <https://getip6.info/display/IPv6/The+Basics>
- ASX. (2015, Mar 13). *Slate & Gordon (SGH)*. Retrieved Mar 15, 2015, from Australian Stock Exchange: <http://www.asx.com.au/asx/research/company.do#!/SGH>
- Bower, J., & Christensen, C. (1995). *Disruptive Technologies: Catching the Wave*. *Harvard Business Review*.
- Broyles, D., Beims, J., Franko, J., & Bergman, M. (2005, April). *Just In Time Inventory Management*. Retrieved Mar 11, 2015, from Academic Mind: <http://www.academicmind.com/unpublishedpapers/business/operationsmanagement/2005-04-000aaf-just-in-time-inventory-management.html>
- Ebborn, E., Cochrane, R., & Coburn, J. (2013). *Smart Practice - Making Fixed Fees Possible. Proceedings of the Family Law Conference - Reclaiming The Ground*. Auckland: NZLS CLE Limited.
- Gantz, J., & Reinsel, D. (2011). *Extracting Value from Chaos*. Retrieved March 10, 2015, from EMC2: <http://www.emc.com/collateral/analyst-reports/idc-extracting-value-from-chaos-ar.pdf>
- Goldratt, E. M. (1984). *The Goal - A process of ongoing improvement* (2nd (1992) ed.). Great Barrington, MA: North River Press.
- Hilborne, N. (2015, Mar 4). *Large Law Firms Most Worried about Threats from ABSs and Accountancy Firms*. Retrieved Mar 15, 2015, from Legal Futures: <http://www.legalfutures.co.uk/latest-news/large-law-firms-most-worried-about-threats-from-abss-and-accountancy-firms>
- Hummel, J. M. (2015, Mar-Apr). *New Federal Rules and Big Data will Require Consideration in The Face of Continued Uncertainty*. *Law Practice Magazine*, p. 56.
- Jellyvision. (2015). Retrieved March 10, 2015, from www.jellyvision.com: <http://www.jellyvision.com/resources/understanding-growth-information/>
- Johnson, C. (2009, Fall). *Leveraging Technology to Deliver Legal Services*. *Harvard Journal of Law & Technology*, 2.
- King, B. (2011). *Huffington Post*. Retrieved March 10, 2015, from www.huffingtonpost.com: http://www.huffingtonpost.com/brett-king/too-much-content-a-world-_b_809677.html
- McCarty, M. (2014, Feb 03). *Martin Wiseman: Time for New Zealand firms to shift focus*. *NZ Lawyer*.
- Moj. (2014). *Legal Aid Payments to Firms*. Retrieved Mar 15, 2015, from Ministry of Justice: <http://www.justice.govt.nz/publications/global-publications/l/legal-aid-payments-to-firms-1-july-2013-to-30-june-2014>
- Mosten, F. S. (2001, Oct/Nov). *Unbundle Your Practice*. *GP Solo Magazine*, 18(7).
- Nexus, L. (2014). *2014 Legal Innovation Index*. Retrieved Mar 15, 2015, from Lexus Nexus: <http://lexisnexis.com.au/legal-innovation-index/>
- NZLS. (2014, Jun). *Practice briefing: Cloud computing guidelines for lawyers*. Retrieved from <http://my.lawsociety.org.nz/in-practice/practice-briefings/Cloud-Computing-2014-07-21-v2.pdf>
- Palmer, G. (2013, Jul 11). *Law - Legal Innovation*. Retrieved Mar 15, 2015, from Te Ara - the Encyclopedia of New Zealand: <http://www.teara.govt.nz/en/law/page-9>

Porter, M. E. (1973, Mar/Apr). How Competitive Forces Shape Strategy. *Harvard Business Review*, 57(2), pp. 137-145.

Robinson, N. (2014, Aug 27). When Lawyers Don't Get All the Profits: Non-Lawyer Ownership of Legal Services, Access, and Professionalism. *HLS Program on the Legal Profession*. Retrieved from <http://ssrn.com/abstract=2487878>

Rose, N. (2015, Feb). *Innovation Nation*. Retrieved Mar 9, 2015, from Legal Futures: <http://www.legalfutures.co.uk/reports>

Sim, E. (2015, Jan 30). Stop Using Free Email Services, Expert Says. *LawTalk*, pp. 16-17.

Slater & Gordon. (2015). *Firm*. Retrieved Mar 15, 2015, from Slater & Gordon: <https://www.slatergordon.com.au/firm>

Sparkes, M. (2015, Sep 10). Have Five Million Gmail Users Been Hacked? *The Telegraph*. Retrieved Mar 16, 2015, from <http://www.telegraph.co.uk/technology/internet-security/11087756/Have-five-million-Gmail-users-been-hacked.html>

Susskind, R. (2006). From Bespoke to Commodity. *Legal Tech Journal*, 4.

Tupman, S. (2011, Dec). *Law Firm Innovation Survey (Australia/New Zealand)*. Retrieved Nov 03, 2014, from www.simontupman.com: http://www.simontupman.com/uploads/4/4/5/0/4450528/law_firm_innovation_survey.pdf

Tupman, S. (2012, Mar). *The Leadership Imperative: A Study into Law Firm Leadership*. Retrieved Nov 03, 2014, from www.simontupman.com: http://www.simontupman.com/uploads/4/4/5/0/4450528/the_leadership_imperative_2012.pdf

US Legal. (2015). Retrieved March 10, 2015, from www.uslegal.com: <http://uslegal.com/builduslegal/>

Villanueva, J. C. (2009, Jul 30). *How Many Atoms are There in the Universe?* Retrieved Mar 16, 2015, from Universe Today: <http://www.universetoday.com/36302/atoms-in-the-universe/>

We The People. (2015). Retrieved March 10, 2015, from www.wethepeopleusa.com: <http://www.wethepeopleusa.com/store-directory>