Learning the Lessons of John Henry

The Importance for Attorneys of Embracing Automation *by Jack Pringle*

We've all heard stories of Human v. Machine. Perhaps the most memorable is that of John Henry, the "steel-driving man" who (legend has it) won a race with a steam-powered hammer, only to die from exhaustion soon after with his hammer in his hand. The late great Johnny Cash memorialized Henry's feats in the "The Legend of John Henry's Hammer":

John Henry said to his captain said "A man ain't nothin' but a man
But if you'll bring that steamdrill 'round I'll beat it fair and honest.
I'll die with that hammer in my hand but, I'll be laughin',
Cause you can't replace a steel-drivin' man."

In this age of ubiquitous computer technology, there is no shortage of opinions regarding the effects that automation may have on many occupations and professions, including the proposition that computers may replace certain jobs entirely. Once again the human is seemingly pitted against a machine.

Time of Potential *Transformation* (and Perhaps not Extinction)

So I am relatively encouraged to read some views suggesting that attorneys and law firms (and other businesses) are not necessarily in a death match with high-powered computers. As *The New York Times* article "The End of Lawyers? Not So Fast" suggested, citing a McKinsey & Company study, technology is "likely to transform, rather than eliminate, jobs." As the McKinsey study put it:

...few occupations will be automated in their entirety in the near or medium term. Rather, certain activities are more likely to be automated, requiring entire business processes to be transformed, and jobs performed by people to be redefined, much like the bank teller's job was redefined with the advent of ATMs.

In other words, the existence of one set of tools (computer technology) requires an organization to figure out how to use those tools in concert with its other tools (people and business processes).

To put a finer point on the importance of effective computer technology use, the authors of the McKinsey study asked "How Many of Your Daily Tasks Could be Automated?" and posited two principal benefits of automating tasks: 1) investments in automation generate benefits worth three to ten times the cost; and 2) businesses derive value from activities that employees do instead of the work that is now automated.

In other words, as tasks are automated, lawyers and law firm employees are freed up to do other work, and must determine how to use that time most productively. As the McKinsey Automation potential and wages for US jobs interactive graphic shows, 23% of a lawyer's time could be automated with the use of current technology, and fully 69% of time currently spent by paralegals and legal assistants could be automated. Of course, those statistics also suggest that if law firms do not automate those tasks, someone else

will. In other words, the outlook is not so good for those attorneys continuing to swing a steel hammer when they could be operating a steam-powered hammer.

Make Sure You Are Using the Right Hammer

The good news for attorneys is that there are a great many "steam-powered hammers" sitting (quite literally) at our fingertips, in the form of available computer tools. Automation in the law office context doesn't necessarily mean "big data" algorithms and writing software code. Think of computer technology tools helping out with any task that you do over and over again (words, sentences, paragraphs, contacts, pleadings, briefs).

As described in a recent issue of the ABA's Law Technology Today, automation may involve using your current tools more effectively (email rules, automatic renumbering of sections, spellcheckers, QuickParts, templates), or exploring new automation tools (like voice recognition software or document creation software).

Render Unto the Lawyers...

Other studies cited in "The End of Lawyers: Not So Fast" show how automation complements labor in the workplace, especially in the law office. Significantly, lawyers do a great many tasks that are less structured and not subject to being automated:

As it turns out, being a lawyer involves performing a range of tasks, from reading and analyzing documents, to counseling, appearing in court and persuading juries. Indeed, reading documents accounts for a relatively modest portion of a lawyer's activities.

Additionally, software programs employed for e-discovery require a great deal of human involvement. The trick is figuring out those tasks that are better suited to automation, rethinking processes to incorporate appropriate automation, and then doing more of the things—like counseling and advocacy, and the client development to have more of that work to do—that the machines don't do so well.

Conclusion: You Are Smarter Than You Think

Attorneys have the opportunity to transform their practices by working with—and not against—computer technology. As author Clive Thompson wrote, in his book *Smarter Than You Think: How Technology is Changing Our Brains for the Better*:

Which is smarter at chess—humans or computers? Neither. It's the two together, working side by side.

Unlike John Henry, lawyers are in the position to continue to be relevant, as long as we identify and utilize the strengths of both Human and Machine.

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