




A tectonic shift
for the legal
profession



Facebook and Wikipedia have proven the immense power of networked collaboration. Now, Law 2.0 technologies and applications are poised to transform the legal profession itself.

By Paul Lippe

Illustration by Robert Johannsen

In October 1988, I left my secure law firm perch and embarked as general counsel of a company called Solbourne Computer, which made UNIX workstations and servers. Entrenched as we were in the high-tech world, we used e-mail for much of our communications. Naturally, I asked our law firms to use it as well. And that's when I first started noticing an interesting evolution.

- In 1989, when I asked our law firms to start using e-mail, they said, "What's e-mail?"
- In 1991, when I asked our law firms to start using e-mail, they said, "We would, but we can't decide which e-mail system to use."

- In 1992, when I asked our law firms to start using e-mail, they said, "We would, but we're worried about the possibility of breaching privilege."
- In 1993, when I asked our law firms to start using e-mail, they said, "We would, but we don't know how to bill for it."
- In 1994, when I asked our law firms to start using e-mail, they said, "We already do."

In the brief period between 1994 and 1996, the legal world went from a low percentage of lawyers using e-mail to almost universal e-mail use; today, lawyers probably spend more time using e-mail than any other profession. This sea change occurred almost overnight, without resolving along the way any of the objections lawyers had made to the use of e-mail — and more importantly, without any major change to the way lawyers worked.

Today, we are on the verge of a technology shift in law far more profound than the widespread adoption of e-mail. The technologies sometimes collectively referred to as "Web 2.0 collaboration" will have a far bigger impact on law than either the personal computer or e-mail.

While there is no single definition of the term, "Web 2.0" is generally understood to mean those applications that exist on no one person's or enterprise's computer — "in the cloud," so to speak — and that facilitate collaboration among users. Wikipedia and Facebook are among the best examples of Web 2.0 applications.

When I discuss this topic with law departments or law firms, none ever disputes that Law 2.0 will happen or will be beneficial. But many are skeptical about *how soon*, arguing (somewhat tautologically) that since the change hasn't happened yet, it won't happen at all. I'm not seeking to make the case for Web 2.0, but rather to describe the array of observable data supporting the thesis that Web 2.0 adoption is imminent. Here are my top ten reasons why Law 2.0 may be closer than you think.

1. The rise of the legal department.

The practice of law today is unique in that most professional services are bought by other professionals (*i.e.*, law departments of big companies). This has five dramatic implications. Purchasers of legal services:

- are highly sophisticated and can assess value;
- are organized in groups (legal departments) that are often better able to achieve scale economies than are the service providers (law firms);
- are more closely aligned with the goals and operating styles of their clients, including process definition, measurement and efficiency;
- have a great deal of freedom in "build vs. buy" decisions (whether to proceed internally or to team with a law firm), such decisions often being fungible; and

• are increasingly the intellectual center of gravity of law. General counsel are much more interested in knowing what other law departments are doing than hearing abstract advice from law firms, and are more likely to talk to other law departments than to law firms.

If law firms don't embrace Web 2.0, clients will increasingly use it to communicate client-to-client, with a resulting decrease in the role of law firms.

2. The anomalous pattern of legal spending.

Simply put, just about everything companies buy (except energy) is getting less expensive on a value basis. But legal spending has been growing twice as fast as most areas of corporate purchasing; and as the Japanese saying goes, "the nail that stands out gets hammered down." Legal spending is large and visibly out of step with corporate reality.

The rise of private equity ownership has generated a lot of revenues for large business deals. But the more important long-term effect will be a clampdown on legal spending — just look at how private equity investors drive reductions in all spending categories. If Web 2.0 technologies have the promise of reducing spending, then CFOs, CEOs, investors and others in the enterprise will insist they be used.

Firms can enable associates to be closer to clients, or leverage "lawkipedia"-type systems to accelerate their training or garner recognition as contributors.

3. The low cost of technology deployment.

In law firms, information technology has traditionally been viewed as a cost center. Since most law firms minimize the capital in the firm and distribute cash to partners every year, there is a strong impetus to keep spending on technology down. But Web 2.0 technologies are now cheap to deploy.

Less expensive systems not only offer reduced costs on the front end, but also allow law firms to move away from the long and extremely expensive "consensus" decision-making processes.

4. The instability of the labour market for lawyers.

The greatest internal change among law firms over the last few years has been the growing attrition rate among associates. It is fueled by associates' recognition of the low probability of becoming a partner and by their overall frustration with their work. Law firms will have to find ways to improve the professional lives of associates.

Law 2.0 technologies can play a role here. Firms can enable associates to be closer to clients, or leverage "lawkipedia"-type systems to accelerate their training or garner recognition as contributors. Law 2.0 can also open up the possibility of more flexible work styles (30 hours per week from home for a young parent, for example).



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5. Successes outside the legal profession.

Wikipedia and Facebook are now colossal successes. Lippe's Second Law of Legal Industry Change states that "two years after their kids are using a tool, lawyers will say they don't get it and never will; five years after their kids are using a tool, lawyers will say they have always loved it." This happened with the PC, the Web browser, and e-mail. There's no reason to assume it won't happen with Web 2.0.

6. Global growth in demand

Most economic growth is occurring outside North America, and most of the growth in worldwide legal spending will occur in Europe- and Asia-based operations of companies headquartered in North America. London-based firms are larger, more global, better organized and better at collaboration and knowledge management — these are the principles upon which Web 2.0 technologies are based. More global operations mean more people in more places, creating a greater need for multi-jurisdictional information and more collaboration.

7. Organization of information in "the cloud"

Over the past ten years, the cost of computer storage and networking has dropped, which means that digital information can be stored and retrieved from essentially anywhere (this is the much more important implication of a "flat world" than the shift of jobs to India). Gmail users know it's easier to find a document in Gmail, thanks to its robust features and ease of use, than in their offices.

Since most legal organizations, whether law departments or law firms, have not yet fully organized the information within their bricks-and-mortar walls, they will soon find that it is easier to organize information outside their walls than within them.

8. The ascendancy of databases.

For most of human history, documents have been the best way to organize information. Over the last 30 years, however, the database has emerged as a superior organizational

system. Much of the present critique of the practice of law — the hours required to work on a file, the cost of services, the repetitiveness of tasks, the complexity of the process — is rooted in the inherent difficulty of working with large, unstructured documents.

The combination of collaborative "social production" and technologies that allow fluidity between documents and databases (e.g., XML, wikis) means that teams of lawyers can better manage complexity. For example, XML allows a user to find people, paragraphs (data or documents) and processes in one environment.

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9. The rise of collaboration.

David Maister and other commentators have noted lawyers' strong desire for autonomy. Yet as the scale and complexity of legal work has grown, lawyers find themselves in ever-larger organizations and teams. Facebook and Wikipedia have shown that Web 2.0-approaches allow users to be autonomous and collaborative, simultaneously.

For example, a team of both in-house and law-firm lawyers could use a wiki to manage the range of contracts and variations across their company, or to standardize ways of sharing policies across companies. The emergence of new forms of social production

is one of the most noteworthy phenomena of the last few years.

10. Non-lawyer ownership of firms.

Although not yet a factor in North America, emerging regulatory changes in Australia, the UK, and perhaps elsewhere in the European Union presage the emergence of law firms with investment from (and even control by) non-lawyers.

Whether this change in ownership occurs with just one firm or with dozens, it's likely to have a catalytic effect. Firms with pure financial investors will adopt conventional business strategies, such as price competition, product definition, greater labour specialization, and substitution of technology for labour. All law firms will then have to respond.

"There's nothing new under the sun" — that's never been more true than when talking about lawyers adopting new technologies. The context of Web 2.0 might be new, but in

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Droit 2.0 : le virage commence

Facebook et Wikipedia ont popularisé la collaboration en réseau. Au tour des juristes de se tourner vers les applications Web 2.0!

La pratique du droit est sur le point de subir des changements profonds, occasionnés par une évolution technologique plus significative encore que l'adoption répandue du courriel.

De fait, une nouvelle génération d'outils dite *Web 2.0* a le mérite de faciliter la collaboration et le partage entre les usagers. N'en déplaise aux cabinets de droit qui demeurent sceptiques quant à l'impact qu'aura le *Web 2.0* sur la profession juridique, voici 10 signes qui annoncent l'arrivée imminente de la génération Droit 2.0.

1. L'essor du département juridique

Aujourd'hui, la pratique du droit est unique dans la mesure où il faut servir des professionnels sophistiqués — eux-mêmes formés en droit — rattachés aux départements juridiques de grandes entreprises. À l'interne, ils sont organisés et mieux capables de réaliser des économies d'échelle que les cabinets juridiques. Puis ils sont à l'affût de ce qui se passe dans d'autres contentieux. En refusant de saisir les transformations occasionnées par le *Web 2.0*, les cabinets juridiques se verront exclus des réseaux de collaboration et leur rôle ira en diminuant.

2. Des dépenses juridiques injustifiables

Le prix relatif de presque tout ce qu'achètent les compagnies diminue, mis à part les services juridiques qui ne cessent d'augmenter à un rythme effréné. Si les technologies *Web 2.0* promettent de réduire les dépenses, les dirigeants d'entreprise, les investisseurs et autres encourageront certainement leur utilisation.

3. Le coût de déploiement

Les associés de cabinets de droit ont tout

intérêt à ce que les coûts reliés aux technologies soient minimisés. C'est le cas des technologies *Web 2.0* dont le coût de déploiement est faible.

4. L'instabilité du marché du travail

Les cabinets de droit peinent depuis quelques années à retenir leurs jeunes avocats salariés, peu impressionnés par les perspectives de devenir associé, et qui sont généralement frustrés au travail. Un cabinet prêt à aider un jeune dans sa vie professionnelle découvrira les avantages des applications *Web 2.0*, qui peuvent rapprocher l'avocat de ses clients, ou lui présenter à des systèmes du genre *law-kipedia*, des outils de formation qui lui seront bénéfiques. La nouvelle génération Internet offre également la possibilité de modes de travail plus flexibles (30 heures par semaine à partir de la maison pour un jeune parent, par exemple).

5. Succès en dehors de la profession juridique

Wikipedia et Facebook sont des succès retentissants qui laissent présager une adoption aussi généralisée du *Web 2.0* que celle de l'ordinateur, du « Web browser » et du courriel électronique.

6. L'internationalisation des services

L'internationalisation de l'économie mondiale crée un plus grand besoin de partage d'information de nature multi-juridictionnelle. Cela nécessitera davantage de collaboration via les réseaux *Web 2.0*.

7. L'organisation de l'information

On peut désormais classer et récupérer des informations numériques à partir de n'importe quel endroit, les coûts de la mise en mémoire informatique ayant beaucoup diminué depuis dix ans. Il est

même parfois plus facile de retracer un document à partir de son compte Gmail que sur son bureau! Cette constatation poussera les cabinets et départements juridiques à organiser leurs informations en fonction des nouvelles technologies disponibles.

8. L'ascendance des bases de données

Les approches *Web 2.0* permettent une plus grande fluidité entre les documents et les bases de données (XML, wikis), ce qui donnera aux équipes d'avocats la chance de mieux gérer la complexité des dossiers.

9. La collaboration et l'autonomie

Facebook et Wikipedia ont prouvé que les approches *Web 2.0* permettent aux usagers d'être à la fois autonomes et collaborateurs, un avantage qui marie bien l'autonomie de l'avocat avec sa participation grandissante au sein d'une équipe de juristes.

10. Propriété de cabinets par de simples investisseurs

La réglementation en Australie et au Royaume-Uni laisse déjà présager l'émergence de cabinets juridiques, dont les parts sont détenus par des non juristes. Les cabinets qui tomberont sous le contrôle partiel d'investisseurs avec un intérêt purement financier finiront par adopter des stratégies d'affaires plus conventionnelles, telles la concurrence basée sur les prix, la spécialisation du travail et la substitution des technologies.

Adopter de nouvelles technologies pour mieux servir les clients. Voilà pourquoi les avocats n'auront d'autre choix que d'adopter les applications *Web 2.0*. ■

— Yasmina El Jamaï

many respects, the motivation and the mechanisms are quite familiar. Long before there was Wikipedia, lawyers developed the common law — a linked, multi-authored, “emergent” codification of best practice. Long before Facebook, lawyers developed Martindale-Hubbell as a way to relate across geographies and leverage existing networks.

Lawyers have always understood the need and desire to adopt new technologies to serve their clients. Web 2.0 won't be any different. As lawyers start to see the benefits of Web

2.0 for their clients, they will quickly go from “worst to first” in their adoption of those technologies, just as they did with e-mail. ■

Paul Lippe is a founder and the CEO of Legal OnRamp, a Silicon Valley-based network founded in cooperation with Cisco Systems and other leading companies to improve legal quality and efficiency through collaboration, automation and process re-engineering. Paul is a former GC (Synopsys) and Harvard Law School 1984 (paullippe@legalonramp.com).