

## **IBM's Watson, Predictive Coding in E-Discovery and the Future of the High Priced Associate**

February 23rd, 2011

Last week, IBM's super computer Watson dominated Jeopardy legends Ken Jennings and Brad Rutter for three consecutive nights. Watson, like IBM's Deep Blue which defeated chess master Garry Kasparov in 1997, represents a significant advance in the development of artificial intelligence. The National Law Journal and ABA Journal have reported that IBM's General Counsel Robert Weber believes that Watson and its artificial intelligence technology could perform legal research typically performed by associates and will ultimately enhance productivity in the legal profession. Hubbard & Jenkins wholeheartedly agrees with this sentiment.

Similarly, the development of predictive coding software in the electronic discovery arena represents a similar significant albeit less dramatic advance in the ability of artificial intelligence to assist lawyers and increase their productivity. Technical analysis of e-discovery predictive coding platforms have established that the software identifies relevant and/or responsive documents with the same rate of accuracy as its human counterparts.

The legal profession is undergoing rapid change due to emerging technology including next generation e-discovery software, Google Scholar, websites such as LegalZoom and CyberSettle and globalization. This rapid change is evidenced by the almost daily stories of layoffs at large law firms, increased usage of outsourcing, the increased usage of project based fees rather than the traditional billable hour, and disenchanted recent law graduates.

In the current and future emerging legal market, the successful law firms and attorneys will be those that truly are able to bring value to their clients. The billing of associates at a full hourly rate to review emails and conduct routine research is simply unsustainable. It is too costly, does not add value to the client and is an unproductive utilization of a highly educated individual's time. The advancements in artificial intelligence will cause even the reluctant law firms to eventually accept this reality.

The implication of the new reality in the short-term is probably more pain for younger associates and current law school students. Major firms will have to adjust their business model and will have to reduce the amount of new hires in this environment. However, the long-term implications for the legal profession and incoming lawyers will be positive.

Let's compare the future world in which the profession shifts basic research tasks and review of emails to machines with the current world. In the current world, a law firm is retained to negotiate a business transaction. The necessary research required for the project is 50 hours and the estimated time needed for the true value creating abilities of the attorneys for analyzing and negotiating the contract is 200 hours. In the future, we can

imagine a situation whereby plugging in the proper information to the artificial intelligence software or search platform reduces the research aspect to analyzing and summarizing the answers given by the software. In this future world, the summarizing and analyzing of the research requires 5-10 hours of attorney time. We have now freed up 40-45 hours of attorney time to be devoted to other value creating activities for this client or another client. We have also freed the associate from the mundane research tasks. Now, a significant portion of his or her time can be devoted to truly shadowing the partner in charge of the transaction and becoming a more competent and productive member of the profession.

The cost and productivity benefits in the e-discovery context are even more dramatic. The use of predictive coding or other future enhancements can reduce the review time by thousands of hours on a given case freeing the lawyers to address their full energy to the actual merits of that lawsuit. The firm should be able to handle more litigation because they will not have staff constantly engaged in document review. Associates may actually find their way back into the Courtroom under this scenario.

Attorneys are notoriously slow to change. The emerging technologies should be embraced just as word processing, online research, and email were. Those previous changes to the legal profession led to more productivity, more informed clients and did not result in a lack of need for highly competent, well-trained attorneys. If fully embraced, the emerging developments in artificial intelligence will result in the same.