CHICAGO-KENT LAW REVIEW

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JUSTICE, LAWYERING AND LEGAL EDUCATION IN THE DIGITAL AGE

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ACCESS TO JUSTICE AND TECHNOLOGY CLINICS: A 4% SOLUTION Ronald W. Staudt and Andrew P. Medeiros 695

This article argues that law schools should add Access to Justice and Technology Clinics: a new type of clinical course that teaches law students how to use and deploy technology to assist law practice. If widely adopted, these clinics will help law students learn core competencies needed in an increasingly technological profession while simultaneously building tools and content to help low income, self-represented litigants overcome serious barriers in their pursuit of justice. In our prototype course at Chicago-Kent, Justice and Technology Practicum, students use A2J Author to build A2J Guided Interviews and in the process students learn legal research, writing and analysis, while also developing important skills such as project management and planning, collaboration, and empathy. In addition to teaching students how to use specific document assembly and automation tools, the course exposes students to an array of technology tools and skills, providing a better understanding of the transformative effect information technology has on the legal practice. Now through CALI’s Access to Justice Clinical Course Project, faculty at six other law schools are designing courses that will build on this experience to be shared with all CALI law schools.

IF ONLY WE KNEW WHAT WE KNOW Conrad Johnson and Brian Donnelly 729

This article contributes to the broader themes surrounding law and technology raised in this symposium by taking a look at lawyering and knowledge management. This topic is presented both as a theory and with a case study. The first part provides a brief summary of the basic lawyering paradigm used in the Lawyering in the Digital Age Clinic at Columbia Law School—that all lawyering activities can be understood within the context of gathering, managing and presenting information. The second category of the paradigm is expanded upon to review the activity of managing knowledge. Then, knowledge management is positioned as the foundation for “reflection in action”, a concept that has been widely recognized within clinical legal education.
What follows is to consider the A2J application as an example of an expert system. Then, finally, a brief case study is presented on how the Lawyering in the Digital Age Clinic used the A2J application in conjunction with partners in the New York Court system to address a pressing need on the part of pro se litigants.

THINKING LIKE A LAWYER, DESIGNING LIKE AN ARCHITECT: PREPARING STUDENTS FOR THE 21ST CENTURY PRACTICE

Tanina Rostain, Roger Skalbeck, and Kevin G. Mulcahy

Various law schools—Chicago-Kent Law School, New York Law School, Vermont Law School, and Georgetown Law Center among them—are beginning to offer innovative classes in which students learn to build legal expert systems intended to enhance access to the legal system. Working in platforms that do not require technical expertise, students are able to build apps that incorporate rules-based logic, factor balancing, and mathematical operations to implement the reasoning of a regulatory regime. In this essay, we suggest that teaching students to design apps furthers pedagogic goals associated with the traditional law school curriculum and clinical teaching. In designing legal expert systems, students are required to engage in careful legal analysis and anticipate the problems and questions a typical user will have. Students also need to learn to communicate legal concepts and categories in precise and plain language. Contrary to the traditional law school curriculum, however, which emphasizes case-by-case analysis, in clinics that focus on building legal expert systems, students learn to develop systemic solutions to legal problems. By exposing students to principle of systems design, these classes prepare them for the emerging challenges of 21st century practice.

THE TEACHING OF LAW PRACTICE MANAGEMENT AND TECHNOLOGY IN LAW SCHOOLS: A NEW PARADIGM

Richard S. Granat and Stephanie Kimbro

The teaching of law practice management in law schools is becoming more critical for our profession. Employment with a traditional law firm used to provide the training and mentorship necessary to practice law. As a result of fewer employment prospects with traditional law firms, law students are now faced with the prospect of entering into law practice without this critical training and knowledge base soon after they become members of the bar.

Additionally, the Internet and information technology is transforming the practice of law and, as a result, the management of law firms is also being transformed. Lawyers must understand the benefits and risks of information technology in law practice in order to ethically and efficiently serve clients and to develop a productive legal career that allows them to compete in a changed legal marketplace. This article presents a survey of the practice management skills required of the 21st century lawyer and proposes new approaches to the teaching of this subject in law schools.

TEACHING LAW AND DIGITAL AGE LEGAL PRACTICE WITH AN AI AND LAW SEMINAR

Kevin D. Ashley

This article provides a guide and examples for using a seminar on Artificial Intelligence (AI) and Law to teach lessons about legal reasoning and about legal practice in the digital age. Artificial Intelligence and Law is a subfield of AI/computer science research that focuses on computationally modeling legal rea-
soning. In at least a few law schools, the AI and Law seminar has regularly taught students fundamental issues about law and legal reasoning by focusing them on the problems these issues pose for scientists attempting to computationally model legal reasoning. AI and Law researchers have designed programs to reason with legal rules, apply legal precedents, predict case outcomes, argue like a legal advocate and visualize legal arguments. The article illustrates some of the pedagogically important lessons that they have learned in the process.

As the technology of legal practice catches up with the aspirations of AI and Law researchers, the AI and Law seminar can play a new role in legal education. With advances in such areas as e-discovery, legal information retrieval (IR), and semantic processing of web-based information for electronic contracting, the chances are increasing that, in their legal practices, law students will use, and even depend on, systems that employ AI techniques. As explained in the Article, an AI and Law seminar invites students to think about processes of legal reasoning and legal practice and about how those processes employ information. It teaches how the new digital documents technologies work, what they can and cannot do, how to measure performance, how to evaluate claims about the technologies, and how to be savvy consumers and users of the technologies.

DEVELOPING AN E-CURRICULUM: REFLECTIONS ON THE FUTURE OF LEGAL EDUCATION AND ON THE IMPORTANCE OF DIGITAL EXPERTISE

Oliver R. Goodenough

Legal education is in the midst of significant change, where much of how and what we have taught is under scrutiny. As we reform our curriculums in this moment of change, we should be guided by considerations of value added, values added, economic sustainability. It is no longer enough for our programs to target bar passage, doctrinal coverage, a shared language of argument, and skills and perspectives, important as these may be. Practice in the foreseeable future requires us to add new knowledge and competencies. Law and technology is an area that is ripe for expansion, with the possibility of satisfying all of these criteria. It also provides ample room for scholarly examination. Creating opportunities for learning how technology is shaping legal practice should be a priority for any school looking to provide a useful education for the lawyers of the present, let alone the future.

LAW SCHOOLS AS KNOWLEDGE CENTERS IN THE DIGITAL AGE

Vern R. Walker, A.J. Durwin, Philip H. Hwang, Keith Langlais, and Mycroft Boyd

This article explores what it would mean for law schools to be “knowledge centers” in the digital age, and to have this as a central mission. It describes the activities of legal knowledge centers as: (1) focusing on solving real legal problems in society outside of the academy; (2) evaluating the problem-solving effectiveness of the legal knowledge being developed; (3) re-conceptualizing the structures used to represent legal knowledge, the processes through which legal knowledge is created, and the methods used to apply that knowledge; and (4) disseminating legal knowledge in ways that assist its implementation. The Article uses as extended examples of knowledge centers in the digital age the research laboratories in the sciences, and in particular research laboratories in linguistics and information science. It uses numerous examples to suggest how law schools might implement the concept of a knowledge center.
GAMING THE SYSTEM: APPROACHING 100% ACCESS TO LEGAL SERVICES THROUGH ONLINE GAMES

William E. Hornsby, Jr

By all measures, the American Legal System falls short of providing access to justice for all. Legal needs studies show that people often do not recognize when they have a problem for which there is a legal solution and therefore do not seek out lawyers or the justice system to provide assistance with their problems. Some assert that the costs of legal services are beyond the means of many people. While that is true for the poor in some areas of law, both the marketplace and specific programs, such as lawyer referral modest means panels, provide affordable legal services for many types of legal matters. For many, it is not affordability but lack of engagement that causes people to forego legal solutions. Technology has addressed efficiencies in the legal process, once again driving down costs, but has not fulfilled its potential for creating engagement. Even though the public finds the courtroom a focal point of popular culture, from novels to movies to daytime television, the legal profession has not done a good job of using the Internet to engage the public about their legal needs. The Army has used Massive Multi-player Online Games (MMOGs) to engage potential recruits and in fact serve as an effective recruiting tool. Others have used MMOGs as platforms to explore societal crises such as petroleum dependency and crowd-source solutions to medical issues. Law schools, which are leading the creative use of technology for legal matters, are well-positioned to take the lead in the development of online gaming to advance engagement in ways that enable people to recognize the circumstances under which they have legal solutions to their problems.

LIBERTY, JUSTICE, AND LEGAL AUTOMATA

Marc Lauritsen

Legal work is increasingly doable by artificial systems built out of software. Providers in both commercial and non-profit contexts are making such systems available for direct use by consumers. Some lawyers and policy makers understandably worry that these developments pose dangers for users and may inappropriately intrude on the prerogatives of the legal profession. This article reviews the extent to which software-based legal assistance systems can or should be suppressed as the unauthorized practice of law in light of constitutional rights of free expression and the social good of access to justice.

STUDENT NOTES

TECHNICALLY SPEAKING, DOES IT MATTER? AN EMPIRICAL STUDY LINKING THE FEDERAL CIRCUIT JUDGES’ TECHNICAL BACKGROUNDS TO HOW THEY ANALYZE THE SECTION 112 ENABLEMENT AND WRITTEN DESCRIPTION REQUIREMENTS

Dunstan H. Barnes

Patent cases are decided exclusively by federal judges, who—unlike patent attorneys appearing before the United States Patent and Trademark Office—are not required to have any scientific or technical qualifications. The present empirical study explores whether there is a correlation between the technical backgrounds of judges on the United States Court of Appeals for the Federal Circuit and these judges’ analysis of the enablement and written description patent requirements under 35 U.S.C. § 112. The results indicate that Federal Circuit judges with technical backgrounds are more likely than their non-technical peers to reverse lower courts, but not significantly more likely to invalidate a patent for failure to comply with Section 112.
MARRIAGE IS BETWEEN A MAN AND A WOMAN AND . . . :
LATEST EVOLUTION OF MARITAL RESIDENCE REGIME
IN CONTEMPORARY CHINA

Yu Di 1013

This Note discusses the controversial August 2011 Judicial Interpretation on
the Marriage Law of China concerning the treatment of marital residence in di-
vorce proceedings. The Interpretation gives great weight to the title under which
the property is held, and commentators have criticized this approach as unfair to
women. This Note examines the Interpretation from a historical and compara-
tive viewpoint. Section I traces the development history of Chinese law of mari-
tal property. Section II summarizes the U.S. law on the most prominent scenario
addressed by the new Interpretation, that of the distribution at divorce of a mari-
tal residence to the acquisition of which the parents of one party have contrib-
uted financially. Finally, Section III argues that while the Interpretation may
represent a natural and reasonable development in Chinese law, a fact-based
case-by-case approach is a more equitable way to address the problem of divi-
sion of marital residence.

EDUCATING THE UNDERGROUND:
THE CONSTITUTIONALITY OF
NON-RESIDENCE BASED IMMIGRANT
IN-STATE TUITION LAWS

Alexander F.A. Rabanal 1059

Recent political discourse on undocumented immigration has triggered
questions regarding the extent to which the individual states are preempted from
making undocumented immigrants eligible for certain state benefits. In-state tui-
tion, in particular, has become a site of contentious debate. This Note examines
whether states may, consistent with federal law and federal preemption princi-
ples, make undocumented students eligible to matriculate at public universities
at the in-state rate. Part I of this Note provides historical background on the
development of the federal exclusivity principle in matters of immigration law.
Part II examines the federal laws against which immigrant in-state tuition laws
are analyzed for preemption. Part III draws insights from recent cases from the
U.S. and California Supreme Courts involving express preemption clauses. Fi-
nally, Part IV concludes that immigrant in-state tuition laws not based on resi-
dence within the state are constitutional.
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