

Technology lawyers in ‘unchartered territory’ due to lack of regulation and case law

Considerable opportunities exist for lawyers to sell technology-related services to clients, however many law firms ‘still resistant to technological developments’

Given that technology develops so quickly, there is often a lack of applicable regulation or case law, which means lawyers are often operating in uncharted territory, says CCA Ontier partner Filipe Mayer.

Mayer adds that, while this scenario means lawyers have the ability to find creative solutions to clients’ problems, it also means they have to anticipate the regulator’s reaction. “Guessing how the system will adapt to new realities brings a lot of responsibility”, says Mayer. However, he adds that there are also considerable opportunities for lawyers to sell technology-related services to clients, especially those that rarely, or never, use any technology. Mayer says it is now necessary for every company to have some sort of interaction with technology, whether it’s hiring new staff, doing advertising or filling in tax forms, for example.

Such trends apply to a wide range of sectors, says Mayer. “Take

agricultural companies, which are now implementing manifold tech processes.” With such a large variety of clients requiring advice on the legal requirements related to technology, the opportunities for cross-selling are huge as TMT is becoming mainstream, according to Mayer.

Technology is taking over all sectors, and the legal sector is no exception. Clients now expect law firms to use legal technology, and as a result, medium-sized and large firms are investing in such products. However, the legal sector is very traditional, and many firms are still resistant to technological developments, Mayer says.

Yet other firms, including CCA Ontier, are already using knowledge management tools, as well as artificial intelligence to help draft contracts and enable clients to sign documents digitally. By optimising processes, the cost of legal advice is reduced, time is saved and human error is avoided.



Filipe Mayer

Portuguese legal framework ‘not ready’ for the digital world

The Portuguese legal framework is still not ready for the digital world, and this is creating challenges for technology, media and telecommunications lawyers when drawing up contracts, says Joana Gomes dos Santos, partner at Caiado Guerreiro in Lisbon.

Gomes dos Santos adds: “Portugal is a civil law country, which means that a lot of things are already foreseen in our legislation, so we don’t need to include them in contracts.” However, she adds that, as TMT [technology, media and telecommunications] is such a fast-moving area, legislation “just isn’t keeping up as we would like it to, which means that the contract process in this area is a little more exhaustive”. TMT lawyers must approach contracts in a slightly different manner than they would normally, says Gomes dos Santos.

“Sometimes, a big challenge for us is to give a very straightforward answer, to say yes or no, because the legislation is not really ready,” she explains.

“You have to say, look this is our understanding of the law, this is what we think is the correct interpretation, but there is a big chance the regulator will not agree.” Gomes dos Santos continues: “And even then the regulator can change its opinion, particularly now there’s a new generation coming in that is more comfortable with new technology.”

Meanwhile, people working in the technology sector tend to forget that most people are unfamiliar with the terminology used, says Gomes dos Santos. “Contracts in Portuguese are usually simpler than those in English, but in the area of TMT, there are new words used and new inventions, so lawyers must detail them and specify their meaning to avoid conflict.”



Joana Gomes dos Santos