

AI Consulting v Next Legal

By Tom Valenti

GENERAL INFORMATION

Artificial intelligence mimics certain operations of the human mind and is the term used when machines are able to complete tasks that typically require human intelligence. The term machine learning is when computers use rules (algorithms) to analyze data and learn patterns and glean insights from the data.

Artificial Intelligence now has the capability of analyzing data to help it make predictions about the outcomes of legal proceedings better than humans. Clients are often asking their legal counsel to predict the future with questions such as “If we go to trial, how likely will it be that I win?” or “Should I settle?” With the use of AI that has access to years of trial data, lawyers are able to better answer such questions.

Next Legal (“LAW”) is the largest Law Firm in India. It has a main office in Delhi, and satellite offices in 5 other Indian cities. It focuses on dispute resolution and has a heavy concentration on litigation and arbitration. It leads the legal industry in value based fee structures, tied to results rather than hourly assignments. Clients are given a budget geared to an expected result. The number of hours worked do not factor in to the total fee, once a resolution is reached.

AI Consulting, (“AIC”) is a global consulting firm, based in Dublin, that picked off some of the brightest consultants in Artificial Intelligence from around the world and created a cutting edge consulting company, that has leveraged its unique qualifications in the area of artificial intelligence, specifically as it relates to the legal industry.

Last year, **LAW** contracted with **AIC** to create and test an AI system to use to assist in its dispute resolution practice and to operate that system for a period of five years. **LAW** agreed to pay **AIC** a consulting and design fee of 250,000 euros to design the program and put it in place within the first year, and then 50,000 Euros a year for the remaining 4 years of the term of the

contract, which included minor coding adjustments that may be necessary based upon the flow of work and caseload. **LAW** wanted to make sure that at the end of the five years, the program worked across all of its offices and case types, and with all of its litigation employees. **LAW** runs a lean payroll, and the program was intended to allow it to manage cases with the highest technology, that would allow it to budget fees to ensure a profit, and a competitive fee structure to attract a broad range of international litigation.

At the end of the first year of operation under this contract, AIC presented **LAW** with a bill for approximately €150,000 in addition to the 250,000 euros fee. This bill represented costs incurred by **AIC** staff in attending trainings at **LAW**'s 5 satellite offices, related to the use and operation of the AI platform it designed.

Upon receipt of this bill, **LAW** wrote to **AIC**, advising that it could find no express term in the contract requiring reimbursement for these charges, and that it refused to reimburse **AIC** for these expenses. **AIC** responded quickly, informing **LAW** that this type of charge was universally reimbursed by the purchasers of artificial intelligence consulting services, and that it would continue to look to **LAW** for reimbursement.

The conflict is already generating angry feelings. An attempt to negotiate this matter by the **AIC** and **LAW** operating personnel with day-to-day responsibility for the project failed. Both parties have stated that they can see no way of compromising on the costs already incurred by **AIC**, and of course **AIC** expects to be reimbursed for such charges in the future as well. Under relevant law, reasonable expenses directly related to the performance of a professional service contract are recoverable as an implied term of the contract, if it is industry practice that they be so paid. It is unclear however, whether the purchaser of these services must be aware of the industry practice at the time of contracting. The contract between the parties contains no dispute resolution clause.