

Who Is ...

Marc Lauritsen

Q&A with Mark Tamminga

TECHNOLOGY IN PRACTICE. WHAT WORKS? WHO GETS IT?

VITAL STATISTICS

- ➔ Marc Lauritsen
- ➔ President
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Thus far in his varied and colorful career, Marc Lauritsen has explored the outer limits of a range of legal technologies. Among other endeavors, he has been a pioneering advocate of document assembly systems, pushed law office technology into Harvard Law School's education programs, and worked to provide online tools promoting equal justice initiatives. In 1998 he founded Capstone Practice Systems, which builds custom document automation systems for legal organizations. He has built dozens of applications for law firms, law departments, government agencies and others. He remains active in the scholarly community and plays a leading role in many areas of law and technology. How did he get here and what's coming next? Read on.

You went to Harvard Law School and then spent six years as a poverty lawyer. What's the story with that?

ML: Few students at any law school set out to represent poor folks, even back in the 1970s. Legal services work paid about a third of what most of my

classmates made, and the overall hours weren't much different from those on Wall Street. But my prime motive for becoming a lawyer was to work for justice on the side of the underdog. I had good company and role models. And there's energy in fighting the good fight. It appealed to my contrarian personality.

I've always tended to swim against the current. Conservative Republican Barry Goldwater was a hero of my early adolescence, replaced not much later by Timothy Leary and Leon Trotsky. I was your proverbial math-science geek in high school, who compounded his weirdness by wearing a funny hat as the drum major. But I also played in one of the leading local rock bands. Then as an MIT undergrad, I became disenchanted with science and technology and ended up taking degrees in philosophy and music. So it made sense that I would act counter-culturally as a young lawyer.

There's something about frontiers and intersections that grabs me. I fancy myself an emissary among worlds that don't normally connect. Also, working in the poverty law trenches opened up sobering realities I otherwise would have missed.

How did you make the transition to legal education?

ML: Law school had been a heady intellectual experience. I worked for Professor Duncan Kennedy, a leading bad boy of the critical legal studies

movement, and wrote papers on things like legal consciousness and Chomskyan psycholinguistics. But I yearned for the real world. A clerkship with a senior judge in the Southern District of New York cemented my interest in courtroom advocacy. In the course of that, I got to see memorable performers like Louis Nizer and David Boies up close.

Legal services in central Massachusetts gave me plenty of unglamorous bench trials, but also voting rights litigation, a nationwide class action and cutting-edge appellate law reform work.

Then, three years into practice I was encouraged to apply for a supervising attorney position at the Harvard Legal Aid Bureau, where I had been a member. (And here's a story: One of my own supervising attorneys ended up kidnapping his young daughters in a bitter divorce and disappearing for 20 years. He was living the life of a wealthy socialite in Palm Beach under an assumed name when he was finally apprehended.) Incidentally, the student president at the Legal Aid Bureau who interviewed me was a bright young fellow named Deval Patrick, who is the recently elected governor of Massachusetts. *Tempus fugit.*

So I began working half-time in Worcester representing poor tenants and half-time in Cambridge supervising student lawyers, sometimes with my own (unkidnapped) daughter propped up in a baby seat in the corner. Midway through those supervision years, I was

upgraded to a “fieldwork instructor,” which had more explicit academic dimensions. More surprisingly, the dean later offered me the directorship of the entire clinical program. I had to drop my legal services job and surrender to the ecstasies of academic administration. With several dozen courses, some 40 instructors and more than 500 students per year, directing the clinical program was like running a small law school. But I also began a 12-plus year collaboration with legendary civil rights lawyer and clinical professor Gary Bellow, who became my most important mentor.

Poverty law, law professor, how is it that you’ve become a prominent technology user and evangelist? That’s a bit of a stretch, isn’t it?

ML: I carried the title “professor” only once, when visiting at another school. At Harvard I was more of a para-professor, which was true of many clinical teachers. I supervised and coached students, gave seminars and co-taught courses, but didn’t land on the tenure track. Still, as clinical director I attended faculty meetings and enjoyed perks like unlimited library borrowing rights.

Being insufficiently marginalized, I sought new pastures in the even less-reputable field of law and computers.

Harvard had received a grant from the Digital Equipment Corporation for a research program on the uses of information technology in legal services and education—it was called Project PERICLES. Technology was beginning to interest me again, so I raised my hand and got involved. Next thing I knew, I was the project director. Not quite a one-eyed man in the land of the blind, but close.

PERICLES (1984-1988) was one of the best-funded and most ambitious

legal technology research efforts of its day. We assembled a great team of specialists in AI and computer-aided instruction; we pulled Ethernet cables

through the dank subterranean tunnels of Langdell Hall; and we started getting e-mail! It turned out to add another

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zig to my zagging career.

Partnering with Brigham Young University around the Computer Aided Practice System (CAPS) launched my long involvement in document assembly technology. We built eviction defense, bankruptcy, wills and divorce systems. I used CAPS several years later to write the MicroMax expert system, which still amazes me in its ability to assess a family's detailed eligibility for 70-some government benefit programs in seconds. (Still the best overall practice system "engine" yet in my opinion, CAPS was eventually retired by its developers in favor of HotDocs.)

The PERICLES years also brought me into contact with Chicago-Kent College of Law professor Ron Staudt, who became another important mentor and friend. And with Viktor Mayer-Schönberger, then a graduate student, now a professor at Harvard's Kennedy School of Government. He and I created the SubTech conference series that has brought leading international law and technology scholars together every two years since 1990.

Those years also ushered in my involvement with the ABA Law Practice Management Section, and with ABA TECHSHOW®, where I've done several dozen sessions.

You had great hopes for technology in legal education in particular, and in law practice in general. Lawyers seem to be making progress on the practice implementation front, but legal education technology has pretty much stagnated. What happened?

ML: I bailed out in 1996, after several years of working part-time at a school that showed little interest in subjects I cared passionately about. It just

seemed crazy that so few legal educators recognized the importance and pedagogical usefulness of legal technology. I wasn't making headway, and my consulting practice was beginning to thrive, so I moved on.

My subsequent glimpses into legal academia leave the impression that little has changed on the technology-of-law side. (There's certainly been no lack of attention to the law of technology, or the technology of education.) I hope things aren't as bleak as they seem. One of these days, I'd like to go back.

In the meantime, there are huge opportunities for legal tech education *outside* the academy. Some of my most satisfying engagements have been running workshops for lawyers and legal technologists, doing keynotes at conferences and retreats, and leading discussions among practitioners. There is so much capacity for reflective deliberation about work even among the busiest lawyers. Law schools should be proactive in tapping the latent demand for lifelong learning.

You're running your own consulting gig, but still maintain a deep commitment to doing good for the disadvantaged and dispossessed. How do you mesh the two?

ML: I've got two fabulous colleagues, Alan Soudakoff and Bart Earle, both also former practitioners, who share my sympathies for this kind of work. And while there's some volunteerism, and steep discounts, we do charge for most of our nonprofit engagements. Plus, the technical and sociological challenges there are every bit as exciting as those we encounter with top law firms and law departments.

We're in the midst of a renaissance in equal justice technology efforts. They're at their highest level since the

early 1990s, and the federal Legal Services Corporation has injected significant funding into innovative field projects. One is National Public ADO (Automated Documents Online), a free service for low-income people who can't afford lawyers (and their nonprofit advocates). NPADO has been a central concern of mine over the past five years, and I'm proud that Capstone has been instrumental in bringing it to life. It's recently come under the able stewardship of Pro Bono Net.

In addition, part of contributing to the greater good is putting useful ideas in writing so others can share them. I get great pleasure out of *having* written, even if writing itself is painful. I've been blessed by some brilliant coauthors, too. (And of course my wife, Joy Bahniuk, who did the heavy lifting on two magnificent works of parental coauthorship.)

You've talked for years about AI and the law, but is it even constructive to think that we can do any more than just build elaborate rule-based systems? Shouldn't we abandon the phrase "artificial intelligence"?

ML: I've stubbornly pursued things I find important and interesting, even if they don't turn out to be very remunerative. AI is one of them. I follow the literature and go to the biannual international conferences on AI and the law, and the interdisciplinarity is intoxicating. Sometimes the conferences give me an excuse to think more deeply about low-end systems like document assembly; sometimes they give me an excuse to read all of Shakespeare in order to prepare an article on argumentation. And who can pass up the opportunity for tax-deductible trips to places like Amsterdam and Bologna?

But, yes, it *is* constructive to think beyond rule-based systems. Scholars and researchers are making good progress in modeling sophisticated dimensions of legal reasoning. Some of that work is quietly showing up in commercial products. Come to the International Conference on AI and Law at Stanford Law School in June if you don't believe me (<http://iaail.org>).

The arc of artifice is long, but it bends toward intelligence.

What technologies are out there that you think merit more attention or will soon emerge from obscurity to play a role in law practice?

ML: It's not very obscure, nor quite a technology, but e-lawyering—the delivery of legal services over the Web—is likely to command significantly greater attention in the next couple of years. The ABA's eLawyering Task Force that I co-chair with Richard Granat is dedicated to that proposition.

Also, although I waxed irrationally exuberant about the tablet PC in this magazine's pages a couple of years ago ("Smart Pads on the Wireless Web," November/December 2003), I still suspect that truly lightweight, yellow-pad-like devices will, in fact, emerge before long and reshape our legal computing behavior.

Another trend to watch is "intelligence augmentation" (IA)—a catchphrase for methods that use people in large numbers to perform tasks that computers aren't good at yet, like recognizing pictures and answering questions in plain English. The Google Image Labeler game and Amazon's Mechanical Turk are examples. Maybe we'll pay hordes of lawyers in the developing world a fee for spotting arguments in draft briefs that fail the laugh test.

What I'm personally most looking

forward to are mature technologies for indefinitely postponed mortality and interstellar colonization. Talk about frontiers! LP

Mark Tamminga (mark.tamminga@gowlings.com) practices law at Gowling Lafleur Henderson LLP in Hamilton, ON. He is *Law Practice's* Technology Editor and coauthor of the ABA book *The Lawyer's Guide to Extranets: Breaking Down Walls, Building Client Connections*.

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