



HARVARD LAW SCHOOL

Center on the Legal Profession

Legal Quality Metrics

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Introduction

“Do you measure ROI on legal spend?”

“No, because I can't measure quality.”

Value = benefit / cost

Can legal quality be measured? If so, why and how?

Assumptions

- The “ecosystem of barriers” to efficiency (e.g. technology) in the implementation of the legal system is weakening (especially internationally), though too slowly given the A2J crisis.
- The capabilities of legal technology are increasing in sophistication, scale, efficiency, and value.
- Clients of all types are increasingly aware of alternatives to a billable hour model (e.g. AFA's such as flat fees and subscriptions).
- New methods are being introduced to solve legal problems.

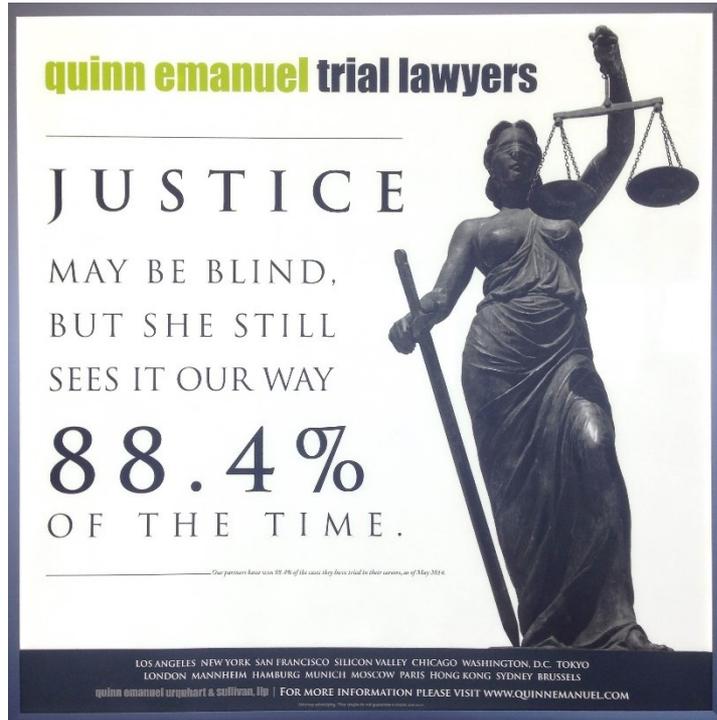
Typical Replacement Pattern: E-discovery

- Old system assumed “good”
- New process triggered: new tech, too many documents, costly, etc.
- Quality of new process questioned, shown to be less than “perfect”
- Forces an analysis (long overdue) of the prior process, with **metrics** (e.g. precision, recall)
- New process is higher quality, less expensive, and faster

The Need To Measure

- The usual engineering mantra “pick any two” doesn't apply when the prior methodology is so vastly inefficient
- How much quality is efficiency worth?
 - Corporate – CLOC, ACC: legal spend ROI, comparing vendors
 - A2J – UPL: comparison of viable options
 - Courts – ODR: redesigning for modern accessibility

Quality Is A Design Problem



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JUSTICE
MAY BE BLIND,
BUT SHE STILL
SEES IT OUR WAY

88.4%
OF THE TIME.

Our partners have won 88.4% of the cases they have tried in their careers, as of May 2014.

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Goals

- Apples-to-apples comparison of components/vendors
- Data-driven value assessment (ROI of legal spend)
- Focus on *what*, not *how* (licensing people and software)
- Measuring improvements
- Increasing efficiency without harm
- Preventing/discovering problems with continuous measurement
- Automating assessment work where possible

Principles

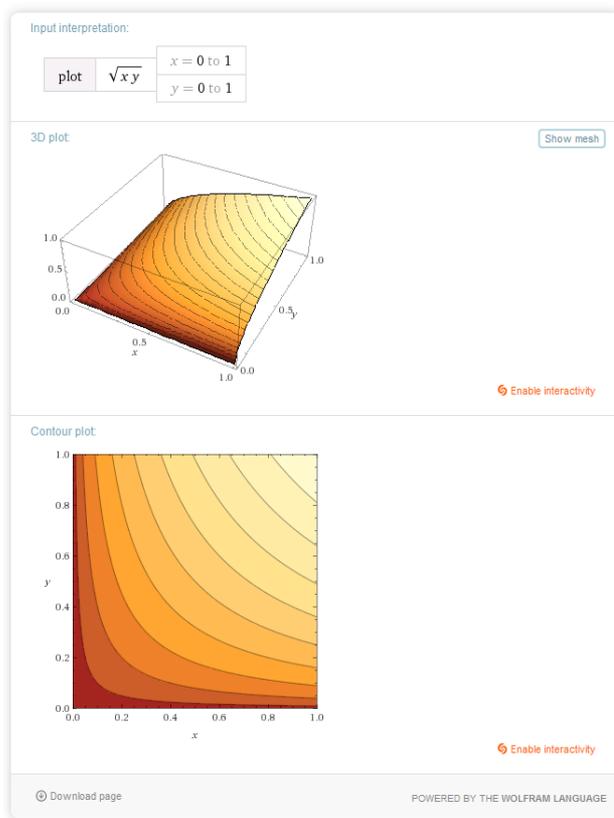
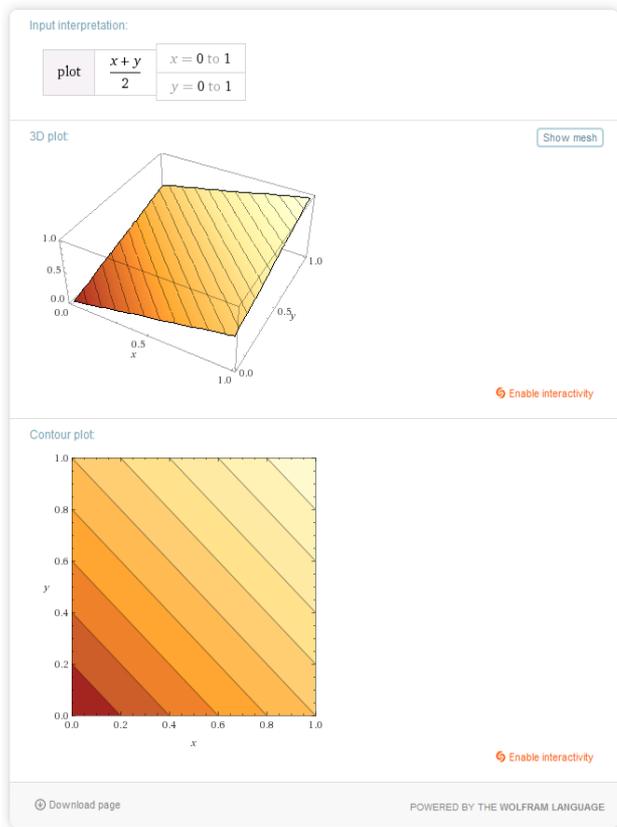
- Incentivizes desired market behavior (e.g. MTTF, FLOPS)
- Neutral to any particular interest or stakeholder
- Based on core use patterns and user needs
- Correlates to material aspects of subjective interpretation

- Objective, mathematical measurement

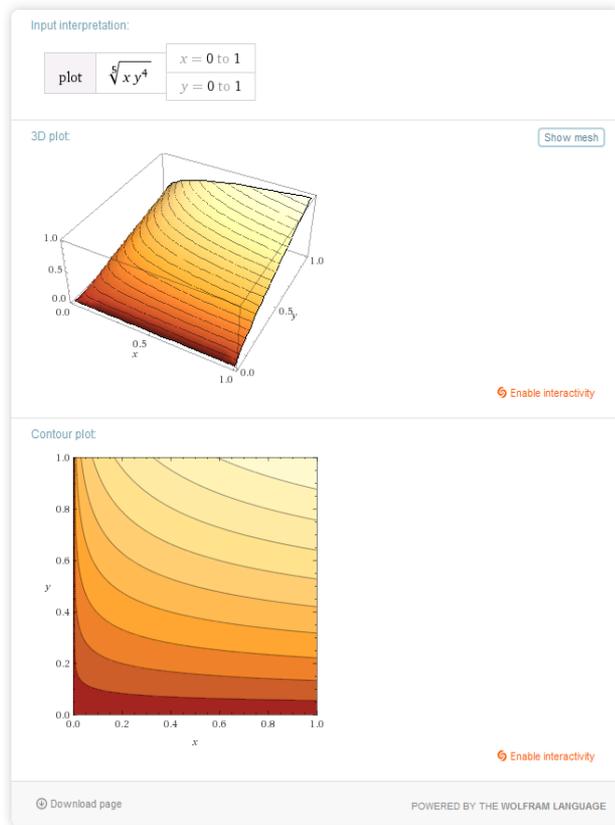
Quality? It's Complicated

- Witness deposition files: P, R, and E
 - How much quality is efficiency worth? to whom? – contextual
- What is a good brief? contract? estate plan? – multifaceted
- Selecting an attorney: cost, distance, experience, etc.
 - How far would *you* drive for an inexpensive lawyer?
 - What is the relationship between cost and distance?

Measuring the Subjective - Wrong



Measuring the Subjective – Right?



$$R = \sum_{i=1}^n W_i \sqrt{\prod_{i=1}^n F_i^{W_i}}$$

Properties

- Ordered Ranking (“non-strict total order”)
- Heterogeneous
- Filtering ($a * 0 = 0$)
- Normalized: range from perfect (1.0) to unacceptable (0.0)
- Hierarchical
- Linear Diagonal
- Weighted ($a \wedge 0 = 1$)

Potential Examples

- Deposition witness files
- Expert assessment of damages
- Patent prosecution
- Contracts (structure, terms, negotiation duration)
- Dispute resolution
- Bar exam essay scoring
- Legal research (case discovery)
- Court briefs

Real World Example – Judicata

Clerk: “What you can measure, you can improve.”

- Evaluative Measurement Claims:
 - Arguments: number of persuasive citations
 - Drafting: ratio of pro-client/anti-opponent citations; quotation errors
 - Context: win/loss stats; find outlier cases
- Law firm rankings based on objective rankings of briefs

Real World Example – Bankruptcy

(Current work from my student)

- Commercial Bankruptcy
 - Signal: repeat filing?
 - Inputs: Lawyers, law firms, clients, judges
 - Value: time sheets for repayment
- Personal Bankruptcy
 - Signal: final payments?
 - Inputs: assets, # creditors, lawyer

Implementation

- Comparison between expected and realized outcomes
- Assessing the assessor – reliability of anticipated values:
 - negotiation time, contract terms, settlement range
- Not at ROI stage, but probably can use to red flag problems in a “dashboard” of legal work

Human Factors

“Rate quality 1-5” insufficient – *why* did you rate it that way?

Where human input is required, behavior must be incentivized:

- impact of not including budget in reviews
- performance is effort per unit of output
- gamification of quality inputs

Metrics must measure features relevant to users

This all requires the user-centered design process central to innovation

Takeaways

- Legal quality *can* be measured
- Legal quality *must* be measured
- Legal quality *is being* measured
- Not all formalisms are the same
- Quality benchmarks are the sledgehammer to efficiency barriers

Next Steps

- Metrics design workshop (law firms, in-house, vendors)
- Student projects
- Longitudinal analysis of quality metric use ROI
- Legal Informatics textbook
- Take a vacation

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