The Law School Of The Future: How The Synergies Of Convergence Will Transform The Very Notion Of “Law Schools” During The 21st Century From “Places” To “Platforms”

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The Law School Of The Future: How The Synergies Of Convergence Will Transform The Very Notion Of “Law Schools” During The 21st Century From “Places” To “Platforms”

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I. INTRODUCTION: THE THESIS OF CONVERGENCE

What will law schools be like ten years from now? Twenty? How about at mid-century—i.e., in the year 2050? Some have been inspired to approach this question from a perspective of a dystopian future.1 Rather than assume catastrophe, others have tried to visualize how legal

1 See Richardson L. Lynn, It’s Not the End of the World, But You Can See It from There: Legal Education in ‘The Long Emergency, 40 U. Toledo L. Rev. 377 (2009). Dean Lynn’s envisions what law schools (as well as the legal profession itself) might be like in an era, predicted by Robert Kunstler in his book of that title, of the “long emergency” — Kunstler’s thesis is that we have reached or will soon reach “peak oil”—the point at which new discoveries of petroleum will not replace rapidly depleting oil fields.” Id. at 378. As Dean Lynn puts it in his unique, Twainesque conciseness:

My conversational summary of Kunstler’s The Long Emergency is that if one-quarter of what he predicts takes place, we will live as we did in the 1920s; if one-half of his predictions come true, we will live as we did in the 1880s; and if they all come true, we will be living in a world somewhere between the frontier days of the Wild West and the darkness of the Middle Ages.

Id. at 378. As applied to the legal profession and to law schools, Dean Lynn explains the dystopian vision thusly:

Recent reports and conferences on the future of legal education have focused on topics such as teaching to the different student learning styles, preparing graduates for a global
education—almost moribund in its basic approach after the innovations of Dean Langdell at Harvard in the 1870s—is responding to the “disruptive change.” That “disruptive change” results from three principal sources. First, “disruptive change” is being produced by rapidly proliferating computer and virtuality technologies applied in graduate education. Second, “disruptive change” arises from the evolution of the students themselves: new generations of law students have grown up in a cyber-crucible of virtual reality — what I choose to call “virtuality.” Third, law practice itself is poised to enter upon a new age in which the virtual law practice, and the continuing need for greater diversity in the legal profession and improving the “pipeline,” perhaps all the way back to elementary schools. If The Long Emergency arrives, those concerns will seem quaint. Just as lawyers still will be needed in dark times, albeit in a quite different kind of law practice than we see today, law schools can also survive—but not all of them and not as large or encyclopedic as they are now.

The demand for legal services will decrease sharply after the demise of most national and international commerce. There will be substantially less need for the legal specialties mentioned earlier. So, fewer students will seek legal training and those who do will attend nearby law schools because of the greater expense of travel. Course offerings will revert to a core curriculum, plus legal skills training, to reflect the needs of small town and, in cities, neighborhood practices. In a time of economic collapse, our recent recessions will seem comparatively gentle, and current tuition rates will be unsustainable and generous loan programs will be extinct.

Id. at 381. Interestingly, Dean Lynn makes a prediction about online education in the long emergency that is worth noting: “Legal education from sources other than law schools will resume the prominence enjoyed in the nineteenth century, including studying in a lawyer’s office or by correspondence,” to which Dean Lynn adds “[t]his might include on-line law schools, if the World Wide Web survives.”

Id. at 382 & n. 41.


office becomes an increasingly common choice for law-school graduates, and as well as more experienced attorneys reinventing their law practices, and the judicial system itself embraces video conferencing as an increasingly attractive solution to a number of persistently intractable problems.

I have been inspired to ask—and respond—to the question of how legal education will evolve in the future by the excellent interchange I was privileged to have with Professor Dr. Feridun Yenisey, one of Turkey’s great legal scholars. Professor Dr. Yenisey and I were

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4 This was the subject of a presentation by my former faculty colleague, Lucille Jewell, now of the University of Tennessee law faculty, The Indie Lawyer, made at both the Istanbul and Ankara sessions of the Legal Education Conference in May 2014. Conference—Legal Education In The 21st Century, http://www.bahcesehir.edu.tr/icerik/701-conference-legal-education-in-the-21th-century (posted 5 May 2014) (detailed program available for download).


members of a panel at the international conference *Legal Education In The 21st Century*, May 5-8, 2014, in Istanbul and Ankara, Turkey, co-sponsored by Bahçeşehir Üniversitesi, Atlanta’s John Marshall Law School, and the Union of Turkish Bar Associations. During my portion of the panel in Ankara, I presented my paper on programs delivered via the Internet for foreign-educated lawyers to study aspects of American law in dialogue with American professors, lawyers, and law students—particularly the Global Forum for American Legal Studies at my home Institution. During the question and answer session, a Turkish colleague in the audience asked about the future role of online legal education and whether purely online legal education was tenable. Not only is entirely online legal education tenable — indeed, it has been done successfully in the United States since 1998 by Concord Law School — but, I responded, “it is the future.” I then hazarded a prediction for the next meeting of this particular conference at Bahçeşehir Üniversitesi, presumably in the 2020s:

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9 “Legal Education In The Digital Age” was the name of the panel, and “A Bridge To The Practicing Bar Of Foreign Nations—Online American Legal Studies Programs” was the name of Associate Dean Van Detta’s presentation, given in Istanbul on 5 May 2014 and in Ankara on 6 May 2014. The programme is downloadable at [http://www.bahcesehir.edu.tr/icerik/701-conference-legal-education-in-the-21th-century](http://www.bahcesehir.edu.tr/icerik/701-conference-legal-education-in-the-21th-century).

10 See Atlanta’s John Marshall Law School, LL.M. In American Legal Studies Online, [http://www.johnmarshall.edu/llm/ll-m-in-american-legal-studies-online/](http://www.johnmarshall.edu/llm/ll-m-in-american-legal-studies-online/).
“Law schools will no longer be ‘places’ in the sense of a single faculty located on a
physical campus. In the future, law schools will consist of an array of technologies and
instructional techniques brought to bear, in convergence, on particular educational needs
and problems.”

This paper elaborates on that prediction. In so doing, I share a happy discovery that I made as I
was contemplating the present article.

In 1994, Robin Widdison – at that time the Director of the Centre for Law and Computing at
the University of Durham in England\(^\text{11}\) – published a brilliant, visionary article, entitled *Virtual
Law School*.\(^\text{12}\) In that article, Dr. Widdison presented a prophetic description of “the central role
that information technology will undoubtedly play in law schools of the future,” providing a
“science[-]fiction style” narrative, worthy of a Ray Bradbury, in which he presents a “futuristic”
portrait of what a 21\(^{st}\) century law student’s life and studies would be like in a generation hence.
While Dr. Widdison is now happily retired from Durham,\(^\text{13}\) his ideas live on, and they convey
an even greater persuasive power today than they had twenty years ago. I shall quote liberally
from Dr. Widdison’s article, because it illustrates precisely the kinds of “synergies of
convergence” in applying technology to educational activities that I predict will make the law

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\(^{13}\) He and his wife maintain a website, in which they chronicle their retirement activities. See [http://www.widdisons.co.uk/](http://www.widdisons.co.uk/) True to his visionary views of legal education, Dr. Widdison has brought technology to bear in equally innovative ways to his favorite pastimes in retirement: “Living in the centre of Durham allows Robin and Penny to visit the magnificent Cathedral frequently. When not in the Cathedral itself, Robin can take a virtual tour from his armchair designed by his own fair hand.” Id. Dr. Widdison has posted information about the tour at [http://www.widdisons.co.uk/tour/](http://www.widdisons.co.uk/tour/)
school no longer a place, but rather, a platform, unfettered by the bonds of time and physical space.

II. THE ELEMENTS OF CONVERGENCE

A. The Origins and Growth Of Online Legal Education

The author of this article was transitioning from law practice as a partner in a major Atlanta-based law firm to faculty member at his present law school in 1999 when he learned for the first time of an online law school while reading the then-new Jurist website. Supreme Court Justice Ruth Bader Ginsburg was quick to criticize the concept—with no knowledge or experience of online education from which to draw—and she succeeded in establishing a pattern both of stereotyping and shooting from the hip that was to define too much of the conversation about the role the internet should have, and would have, in legal education.

Justice Ginsburg fired the first shot of the debate in 1999 when she delivered an address at the then-new Rutgers University Center for Law and Justice in which she decided to hold forth on the relationship of the Internet to legal education. Justice Ginsburg saw this

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14 Portions of Section II.A previously appeared in the author’s article, Jeffrey A. Van Detta, A Bridge To The Practicing Bar Of Foreign Nations—Online American Legal Studies Programs As Forums For The Rule Of Law And Pipelines To Bar-Qualifying LL.M. Programs In The U.S., 10 SOUTH CAROLINA J. INT’L L. & BUS. 63 (Fall 2013). The author made presentations based on that article in both Ankara and Istanbul as part of the panel, “Legal Education In The Digital Age” at the Conference “Legal Education In The 21st Century.” See note 3, supra.
relationship exceptionally narrowly as “a supplement to classroom teaching,” and—having never taken (so far as anyone could tell) a moment of online legal education—decreed that “[t]he process inevitably loses something vital when students learn in isolation, even if they can engage in virtual interaction with peers and teachers.” She concluded these ex tempore remarks by observing that she was “troubled” at the idea that “a student can get a J.D. . . . without ever laying eyes on a fellow student or professor.” Had she accepted the invitation of a plucky online law school dean at the time, who invited Justice Ginsburg to “experience” the online curriculum of the school, which he emphasized “won’t replace fixed facility schools and doesn’t seek to do so, but . . . can make quality legal education accessible to those who otherwise wouldn’t be able to take advantage of it,” Justice Ginsburg might have refined, and perhaps even modified, her opinion. Had she held her commentary until she had time to do some research on the topic of online legal education, she might have benefitted from the enlightenment of a landmark article by Professor Oliphant of William Mitchell College of Law, who closely examined and explained the detailed and thoughtful learning model and highly effective technology platform used by the country’s only entirely online law school.15

The “proof of the pudding,” as an Old World proverb goes, “is in the eating.”16 Since 2001, the author of this article has designed and taught multiple online J.D. program courses in Commercial Law, International Business Transactions and Writing, Jurisprudence and Writing, and Conflict of Laws to many groups of students. He has also taught online courses in Torts,

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Contracts, Criminal Law, Contract Drafting, and Corporations and Business Associations. It is not boastful for the author to observe that he is almost certainly more experienced in teaching law school courses online than any other member of a law faculty at a brick-and-mortar facility accredited by the American Bar Association. That experience has taught the author that online legal education can be consistently as effective, and often even more effective, than the traditional classroom, despite the alchemy claimed for the latter by those who have had little or no experience with online course design or delivery.

Over the fourteen years since Justice Ginsburg’s comments, the presence of online instruction in legal education has increased dramatically and enjoyed success. Rather than isolating, online legal education has proven to be bond-building. Rather than passive, online legal education has proven to be highly interactive. Rather than becoming a separating force, online legal education has been an incredibly cohesive force by creating (particularly in moderated, online live classrooms) a safe space where students are so engaged that class

17 For the brick-and-mortar law schools currently accredited by the American Bar Association, see http://www.americanbar.org/groups/legal_education/resources/aba_approved_law_schools/in_alphabetical_order.html.

participation rates soar on a regular basis, as the moderated format brings forth the “silent majority” of law students who rarely speak in class.19 Furthermore, online legal education helps students (and helps professors to help students) focus on the logic and syntax of written legal expression—the skill that is at the heart of modern-law practice and the one that many graduate students, in law or other disciplines, find to be the most challenging. (Indeed, that is precisely the reason the author recently transformed two of his online J.D. program seminar courses—“International Business Transactions” and “Jurisprudence”—into courses now called “International Business Transactions and Writing” and “Jurisprudence and Writing” to further emphasize the online forum’s suitability for focus on the written word.)20

19 See Paula E. Berg, Using Distance Learning to Enhance Cross-Listed Interdisciplinary Law School Courses, 29 RUTGERS COMPUTER & TECH. L.J. 33, 40 n.26, 43 n.31 (2003) (citing five separate, scholarly articles authored by law professors who have taught online courses for the proposition that “online discussion forums increase student participation in class discussions by providing an environment that is less intimidating than the traditional classroom”); see also Randall D. Burks, From Paper Chase to Cyberspace: A Case Study of Two Law Professors’ Perceptions of Their First Experience Team-Teaching a Multimedia Online Law School Course (Aug. 2004) (unpublished Ph.D. dissertation, University of Nebraska), available at http://digitalcommons.unl.edu/dissertations/AAI3147134/ (describing a study of two different online law school course offerings in which teachers and students reported results consistent with the description offered by the author here from twelve years’ worth of personal, weekly experience).

20 These courses were further enhanced by adding a real-world deliverable—a client memorandum in one and a bench memorandum for an appellate judge in the other—both of which require original research, and are returned with extensive “Track Changes” commentary from the author. They are then discussed in an individual, extensive online conference, finally resulting in a substantial second draft (i.e., “re-write”) by putting the author’s comments to work in pursuit of holistic improvement. These courses therefore satisfy the upper-division writing requirement adopted by the faculty at the author’s law school, which itself had been crafted by the faculty in response to ABA Standard 302. See Kenneth D. Chestek, MacCrate (In)Action: The Case for Enhancing the Upper-Level Writing Requirement in Law Schools, 78 U. COLO. L. REV. 115, 118–19, 121–25 (2007) (discussing the 2001 amendment to Standard 302, “requiring, for the first time, ‘at least one additional rigorous writing experience after the first year.’”) (quoting AM. BAR ASS’N SECT. OF LEGAL EDUC. & ADMISSIONS TO THE BAR, STANDARDS FOR APPROVAL OF LAW SCHOOLS 24 (2001)). The author was particularly attentive to ensuring that the writing experiences met the stipulation of the 2005 amendment to Standard 302 making it clear that the writing is to be done “in a legal context,” i.e., through the research, writing, and revision of a real-world client or legal workplace deliverable. Id. at 140–45.
The literature regarding online legal education has grown substantially since Professor Oliphant’s pioneering article, as selected citations in the margin attest, both in first-law degree programs (e.g., Juris Doctorate programs in the U.S.), as well as in graduate law degree programs (e.g., the LL.M. degree in the U.S. and a number of other countries including Canada and Scotland.

Online components to legal education have grown. They have become part of the accepted practice—as reflected in the ABA Standards which, over the last 15 years, have increased the allowed distance learning hours toward a J.D. degree from zero to six to the current twelve, with fifteen hours adopted in a revision to the Standards that is set to go into

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21 See, e.g., Perlin, supra note 6; Daniel C. Powell, Five Recommendations to Law Schools Offering Legal Instruction over the Internet, 11 J. TECH. L. & POL’Y 285 (2006); Cahak, supra note 6.


23 See LLM Program Search, LLM GUIDE, http://www.llm-guide.com (search “LL.M. Distance Learning”) (providing a long list of law schools around the world that offer distance learning courses).


25 See Online Distance Learning, UNIVERSITY OF EDINBURGH, EDINBURGH LAW SCHOOL, http://www.law.ed.ac.uk/teaching/online_distance_learning/llm_degrees


28 Diana L. Gleason, Distance Education in Law School: The Train Has Left the Station 2 (BEPress Legal Series, Working Paper No. 1762, 2006), available at http://law.bepress.com/expresso/eps/1762 (noting that “the American Bar Association (ABA) Standard 306 on Distance Education stands firm since 2002, allowing just 12 hours of online instruction towards a J.D., and then only after a student has completed 28 credit hours of instruction,” and observing that “the change from zero to 12 units allowed toward a J.D. was a watershed decision that required a great deal of study and discussion”).

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effect next year after it was approved this summer by the ABA’s governing body, the House of Delegates. While not as rapid as it had been hoped, the opening of the accreditation body’s collective mind to online legal education will result, sooner rather than later, in the accreditation of an entirely online law school. The process begins not only with the ABA’s recognition of online courses for credit towards the J.D. degree and its increase of the standard to permitting 15 credit-hours of purely online instruction, but also with the ABA’s approval of William Mitchell College of Law’s hybrid online/ground campus J.D. program, which is the first to 

of Frame Relay Videoconferencing, 8 ALB. L.J. SCI. & TECH. 305, 323–24 (1998) (noting that before 1997, “[t]he Standards specifically prohibit distance learning in its earliest form of correspondence study,” and that “[c]onsequently, before a law school could experiment with distance learning programs using computer and telecommunications technologies, it had to seek a waiver or approval from the Accreditation Committee of the A.B.A.’s Section on Legal Education and Admission to the Bar or the Consultant on Legal Education,” but that in 1997, “[t]o facilitate experimentation, the A.B.A. . . . proposed Temporary Distance Education Guidelines, which waive the necessity of prior approval in most cases”); A. Benjamin Spencer, The Law School Critique in Historical Perspective, 69 WASH. & LEE L. REV. 1949, 1999 n.195 (2012) (noting the ABA’s accreditation Standards Review Committee has proposed expanding to 15 hours the amount of online coursework creditable towards the J.D. degree). But see Perritt, supra note 26, at 271 (noting that while the ABA encourages experimentation, it prefers in-class experiences over other mediums). See generally A.B.A. STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS § 306. 

30 Tony Mauro, ABA Delegates Approve Law School Reforms, NAT’L L.J. 12 August 2014, at http://www.nationallawjournal.com/id=1202666475781/ABA-Delegates-Approve-Law-School-Reforms#ixzz3ABk41aN0. Mr. Mauro’s article notes that the Delegates approved a package of amendments to the ABA’s Standards for the Accreditation of American Law Schools to, among other things, “allow students to take up to 15 credit hours of distance courses, up from 12.” Id


32 See http://web.wmitchell.edu/admissions/hybrid-program/. A press release from the school summarized the details:

Students who enroll in the new hybrid program will be on campus for at least one week each semester participating in 56 intensive hours of realistic simulations and other coursework. Students will prepare for their on-campus work through an e-learning curriculum designed by William Mitchell faculty to integrate legal doctrine with practical legal skills. In addition, students will have the opportunity to complete externships in their communities under the supervision of practicing attorneys. This innovative hybrid
receive such approval in the U.S., but won’t be the last.\textsuperscript{33} Courts in states presently without online law schools are starting to recognize the online J.D.\textsuperscript{34}

As a result, online legal education has grown to offer opportunities to enhance ground-based legal education programs in numerous ways.\textsuperscript{35} The growth in online education in law schools should not be confused with what has been the most visible and public face of distance-learning – and at the same time, one of the least effective forms of online education for law students – the currently popular talking head approach of online education, called Massive

\texttt{http://web.wmitchell.edu/news/2013/12/william-mitchell-to-offer-first-aba-accredited-hybrid-on-campusonline-j-d-program/} To offer the program with an online content in excess of the ABA’s (at-the-time) standard of counting only 12 online-earned credit hours towards the J.D. degree, “William Mitchell received a variance from the American Bar Association allowing it to combine its nationally recognized skills-training curriculum with expanded use of digital technology.” Id. Because of that variance, the new program will be able to make a large part of that program “available through distance learning, including live and pre-recorded online lectures, web-based student-to-student assessment, moderated online discussion forums, and live chat,” for a total of “about 50 percent of its curriculum via e-learning technology” Id.


\textsuperscript{34} The most noteworthy published case to date is \textit{Mitchell v. Board of Bar Examiners}, 897 N.E.2d 7 (Mass. 2008). Until the ABA decides to formulate and issue a comprehensive set of online J.D. accreditation standards, online graduates outside of California will continue to have to seek a waiver of various states’ requirement that bar-exam eligibility depends on holding a J.D. degree from a school appearing on the ABA’s list of Approved Schools. See, e.g., \textit{In the Matter of Batterson}, 286 Ga. 352, 354, 687 S.E.2d 477, 479 (2009) (“Certainly, this Court is cognizant that current technology has provided additional means by which students may pursue a legal education, and students such as Batterson are not precluded from admission to the bar. The Board’s procedures provide the opportunity to show good cause that the traditional educational requirements should be waived.”).

\textsuperscript{35} See \textit{Online, Distance Legal Education}, supra note 18 at 99–100 (describing the successful mental disability law program at NYLS); see also Gleason, supra note 28, at 5–9 (listing several advantages to integrating online learning into a course’s curriculum).
Open Online Courses (MOOCS),\textsuperscript{36} which are little more than the old “large lecture hall approach,” lacing the kind of interactive and individualized learning that lawyers both need and want, and providing them but little insight.\textsuperscript{37} The key to legal education, whether it takes place in an online campus or on a ground-based campus is interactivity, not passive learning.\textsuperscript{38}

\textbf{B. Disruptive Change/Disruptive Innovation}

“Disruptive change,” or “disruptive innovation” as it is sometimes called, is a concept that has entered into the dialogue about college and graduate-school education. Distilled to its essence, disruptive change “is the process by which a sector that has previously served only a limited few because its products and services were complicated, expensive, and inaccessible, is transformed into one whose products and services are simple, affordable, and convenient and serves many no matter their wealth or expertise.”\textsuperscript{39}

\textsuperscript{36} Nora V. Demleitner, \textit{The Challenges to Legal Education in 1973 and 2012: An Introduction to the Anniversary Issue of the Hofstra Law Review}, 40 Hofstra L. Rev. 639, 650 (2012) (describing MOOCS as a way for law schools to join “the online market and mak[e] their best faculty and lecturers available to a broad audience across the globe”).

\textsuperscript{37} See, e.g., Philip G. Schrag, \textit{MOOCs and Legal Education: Valuable Innovation or Looming Disaster?} Vill. L. Rev. (forthcoming 2013) (recognizing that MOOCS would have to be supplemented by considerable, small-group, on-site work under mentor supervision in order to be viable in legal education). Cf. Jacob J. Walker, \textit{Why MOOCs Might Be Hindered by the Definition of Correspondence Education}, Soc. Sci. Res. Network EJournal (Jan. 28, 2013), http://ssrn.com/abstract=2208066 (acknowledging that “MOOCs don’t necessarily have a lot of interaction with the instructor, as the instructor has often been pre-recorded, and cannot interact with each of the hundreds of thousands of students who enrolled”). See generally Todd E. Pettys, supra, note 134 (discussing MOOCs in a broader context of technology in legal education); Warren Binford, \textit{Envisioning a 21st-Century Legal Education}, 41 Wash. U. J.L. & Pol’y (forthcoming 2013), available at http://ssrn.com/abstract=2280250.


\textsuperscript{39} C.M. Christensen, M.B. Horn, L. Caldera, & L. Soares, \textit{Disrupting College: How Disruptive Innovation Can Deliver Quality and Affordability to Postsecondary Education} at 2 (Center for American Progress & Innosight Institute 2011)(hereafter, “Disrupting College”, available for downloading from
“Disruptive change” operates “by redefining quality in a simple and often disparaged application at first and then gradually improves such that it takes more and more market share over time as it becomes able to tackle more complicated problems.” Recently, commentators have used the theory of disruptive innovation in evaluating the changes that technology brings to the provision of legal services in the United States. A similar phenomenon, driven by digital and internet technologies, has been recognized in the college and graduate school sector generally, and is the subject of an emergent discussion in legal education.

Periodically, our economy generates these “disruptive innovations. Joseph Bower and Clayton Christensen introduced the idea to describe new technologies that undermine and eventually displace established products, firms, or even entire industries. Iconic examples include automobiles, personal computing, and cellular phones. But the idea’s explanatory power extends to many other products and industries. As a result, disruption theory has inspired prolific writing in the business academy and now creeps into other disciplines.


40 DISRUPTING COLLEGE, supra n. 31,at 2.
42 See, e.g., See Michele R. Pistone & John J. Hoeffner, No Path But One: Law School Survival In An Age Of Disruptive Technology, 59 WAYNE L. REV. 193 (2013); J. Robert Brown, Jr , Law Faculty Blogs and Disruptive Innovation, 2 J. Legal Metrics 525, 526 (2012)(discussing faculty blogs as a disruptive innovation that initially “were perceived as an inferior technology used by faculty to convey random, often personal, “ but which have, over time, having become “[w]idely read [and] regularly cited” palpably “altered the continuum of legal scholarship and reduced the role of traditional law reviews”) (footnotes omitted); Rogelio Lasso, From the Paper Chase to the Digital Chase: Technology and the Challenge of Teaching 21st Century Law Students, 43 SANTA CLARA L. REV. 1 (2002).
Within six weeks after the conclusion of our international legal education conference in Istanbul and Ankara, the Economist magazine featured a cover story on the disruptive change that technology is bringing to higher education.\textsuperscript{43} The authors observe that change is afoot in higher education, driven by three factors. First, by cost: “Higher education suffers from Baumol’s disease—the tendency of costs to soar in labour-intensive sectors with stagnant productivity.”\textsuperscript{44} Second, by change in the labor market:

In the standard model of higher education, people go to university in their 20s: a degree is an entry ticket to the professional classes. But automation is beginning to have the same effect on white-collar jobs as it has on blue-collar ones. According to a study from Oxford University, 47\% of occupations are at risk of being automated in the next few decades. As innovation wipes out some jobs and changes others, people will need to top up their human capital throughout their lives.\textsuperscript{45}

But it is technology that is proving to be, as the great American baseball player Reggie Jackson is said to have once described himself, “the straw that stirs the drink.”\textsuperscript{46} As the Economist puts it,

\begin{flushright}
\textsuperscript{44}Id.
\textsuperscript{45}Id.
\textsuperscript{46}Dave Anderson, Earn Those Pinstripes, Reggie, N.Y. TIMES, 26 May 1977, at D15.
\end{flushright}
By themselves, these two forces would be pushing change. A third—technology—ensures it. The internet, which has turned businesses from newspapers through music to book retailing upside down, will upend higher education.\textsuperscript{47}

The *Economist*’s vision, however, is a bit skewed in perceiving MOOCs as the most important technology that will bring disruptive change. As discussed below in Section II.A, supra, MOOCs won’t have that kind of impact in legal education—or in credible business-school education, as a recent debate about the direction of Harvard Business School’s first major online expansion has demonstrated.\textsuperscript{48} In commenting on choice of approaches, the Business School’s dean captured precisely why the MOOC-approach absolutely has no value — no value whatsoever — in delivering American-style legal education:

The dean had taken a wait-and-see approach — until 18 months ago, when his own university announced the formation of edX, an open-courseware platform that would hitch the overall university firmly to the MOOC bandwagon.

He said he remembered listening to an edX presentation at an all-university meeting. “I must confess I was unsure what we’d be really hoping to gain from

\textsuperscript{47} Creative Destruction, supra n. 43.

\textsuperscript{48} Jerry Useem, Business School, Disrupted, N.Y. TIMES, 1 June 2014, at BU1, also available for download at http://www.nytimes.com/2014/06/01/business/business-school-disrupted.html.
it,” he said. “My own early imagination was: ‘This is for people who do lectures. We don’t do lectures, so this is not for us.’ ” In the case method, concepts aren’t taught directly, but induced through student discussion of real-world business problems that professors guide with carefully chosen questions.49

Indeed, in developing their online program, Harvard Business School’s Dean, Nitin Nohria, observed that “[w]e don’t do lectures.” “Part of what had already convinced me that MOOCs are not for us is that for a hundred years our education has been social,” Dean Nohria observed. Thus, the Business School embraced the challenge to offer a much more sophisticated platform — one that met the “challenge ... [of] invent[ing] a digital architecture that simulated the Harvard Business School classroom dynamic without looking like a classroom.”50 Unlike the MOOC, the Harvard Business School platform “replicate[s] the Harvard Business School discussion-based style of learning.”51 In accomplishing that end, the Harvard Business School architects of the online platform have created what sounds like an incredibly and dazzlingly more sophisticated realization of Robin Widdison’s futuristic vision of 1994.

Thus, as discussed in detail in Section III, infra, it is other internet and digital technologies which are bringing change to legal education, rather than the MOOC. Nonetheless, if we simply broaden our perspective on the disruptive technologies beyond the

49 Id.
50 Id.
51 Id.
MOOC, the Economist’s observations about the nature and extent of the disruptive change in higher education are equally applicable to the world of legal education:

Now the MOOC, or “Massive Open Online Course”, is offering students the chance to listen to star lecturers and get a degree for a fraction of the cost of attending a university.

MOOCs started in 2008; and, as often happens with disruptive technologies, they have so far failed to live up to their promise. Largely because there is no formal system of accreditation, drop-out rates have been high. But this is changing as private investors and existing universities are drawn in. One provider, Coursera, claims over 8m registered users. Though its courses are free, it bagged its first $1m in revenues last year after introducing the option to pay a fee of between $30 and $100 to have course results certified. Another, Udacity, has teamed up with AT&T and Georgia Tech to offer an online master’s degree in computing, at less than a third of the cost of the traditional version. Harvard Business School will soon offer an online “pre-MBA” for $1,500. Starbucks has offered to help pay for its staff to take online degrees with Arizona State University.

MOOCs will disrupt different universities in different ways. Not all will suffer. Oxford and Harvard could benefit. Ambitious people will always want to
THE SYNERGIES OF CONVERGENCE

go to the best universities to meet each other, and the digital economy tends to favour a few large operators. The big names will be able to sell their MOOCs around the world. But mediocre universities may suffer the fate of many newspapers. Were the market for higher education to perform in future as that for newspapers has done over the past decade or two, universities’ revenues would fall by more than half, employment in the industry would drop by nearly 30% and more than 700 institutions would shut their doors. The rest would need to reinvent themselves to survive.\(^{52}\)

Of course, “[l]ike all revolutions, the one taking place in higher education will have victims.”\(^{53}\) However, the disruptive change in higher education “does promise better education for many more people,” which will create an occasion of which the *Economist* observed, “[r]arely have need and opportunity so neatly come together.”\(^{54}\) The *Economist* quotes *The Idea of a University*, “published in 1858,” in which “John Henry Newman, an English Catholic cardinal, summarised the post-Enlightenment university as ‘a place for the communication and circulation of thought, by means of personal intercourse, through a wide extent of country,’” and most aptly observes that “[t]his ideal still inspires in the era when the options for personal intercourse via the internet are virtually limitless.”\(^{55}\) The disruptive change brought by digital and internet technologies are resulting in an array of technologies that enable new teaching techniques to be...

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52 Id.
53 Id.
54 Id.
implemented, and the aggregate of these advancements create synergies that enable more and more sophisticated subjects to be delivered to students entirely online. In this way, the digital and internet technologies creation of disruptive change leads to synergies of convergence, making law schools platforms rather than places. That is the subject explored in the following section.

III. THE SYNERGIES OF CONVERGENCE

While Concord Law School created an entirely online Juris Doctor degree program that enrolled its first students in 1998, the brick-and-mortar law school world more slowly and tepidly tried to wrap its faculty’s collective mind around using online resources originally as a component of on-campus classes, then as a means of delivering a few courses within the curriculum. This, in turn, has led to one American law school introducing what is known as a “hybrid program” in which the program is delivered by a combination of online and on-campus instruction.

Meanwhile, Turkish law faculties are also beginning to offer online coursework\(^{56}\), following in the footsteps of the institution that is leading the way in the provision of online education, Anadolu University. A recent article in English observed several very notable — and yet-to-be well-known — attainments of that institution:

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\(^{56}\) This observation is based primarily on interchanges between panelists and law-school faculty in the audience in the Ankara session of the International Legal Education Conference that the author attended in May 2014. See note 2, supra.
When [Professor J.S.] Daniel researched the mega-universities—those distance education institutions with enrolments of over 100,000 that have so dramatically increased participation while markedly reducing costs—he was surprised to discover that Turkey had the greatest proportion of university students enrolled in distance education in the world. He was equally surprised to find that, in terms of degree-level students, the relatively unknown dual-mode Anadolu University . . . was one of the world’s largest universities. Visiting the campus in Eskişehir in central Anatolia to study the Open Education System, he found that the Open Education Faculty (OEF) staff were acutely aware of global developments in distance learning and displaying leadership in technology development.57

Law faculty in Turkey will be following closely the ways in which Anadolu University meets the challenges that the authors described for it:

57 Colin Latchem, Ali Ekrem Özkul, Cengiz Hakan Aydin, & Mehmet Emin Mutlu, The Open Education System, Anadolu University, Turkey: e-Transformation In A Mega-University,” 21 OPEN LEARNING 221 (Routledge 2006); Kamil Cekerol, The Demand For Higher Education In Turkey And Open Education, TURKISH ONLINE JOURNAL OF DISTANCE EDUCATION-TOJDE 11:3 (2012), available at www.tojet.net/articles/v11i3/11332.pdf. For an informative account of the history of distance education in Turkey, see the article by Assistant Professor Dr. Nursel Selver Ruzgar, Technical Education Faculty Marmara University, Distance Education in Turkey, TURKISH ONLINE JOURNAL OF DISTANCE EDUCATION-TOJDE 5:2 (2004), available at https://tojde.anadolu.edu.tr/tojde14/articles/ruzgar.htm (noting that “Ankara University-Law Faculty-Bank and Trade Law Research Institute started the first concrete and significant application on distance education in Turkey in 1956. With this application, the bank personnel were trained with letters. In 1961, the Education Center With Letter was established under the management of Ministry of National Education, and at this Institute, the preparatory courses were given with letters to the persons who wanted to complete their educations from outside.”)
Anadolu University has successfully provided distance education for Turkish people in Turkey, across Europe and in Northern Cyprus since the early 1980s. The size, diversity and distribution of the student body and associated technological, logistical, legal and political issues present enormous challenges to the Open Education System. Anadolu is now improving its educational products and services through e-transformation and by employing new instructional models in its undergraduate, graduate and e-certificate programmes. However, there are still many issues to consider; how to prepare the learners for self-managed, collaborative, technology-based learning; how to train faculty in the new technologies, methodologies and research practices; how to persuade politicians and administrators to write legislation and bills that will support open education; and how to improve the technological infrastructure and services.58

Distance learning in higher education, and online classroom environments, are still in an emergent state in Turkey — although observers on the scene have commented that “[a] number of universities are now introducing e-learning into their on-campus and off-campus programs, but there is a lack of instructional design expertise, and the universities mostly produce digital versions of existing teaching materials rather than new and effective e-learning

58 Id. at 233-234.
environments”\textsuperscript{59}—but the synergies of convergence may eventuate in a rapid acceleration in Turkey’s e-learning sector.

Some in the legal education field have declared a state of perfection to have thereby been reached, suggesting that the optimized program of legal education has been attained and will always be hybrid—never entirely, or even primarily, online. The author disagrees, and profoundly so. One is reminded of the 1907 American Nobel laureate’s proclamation that “The more important fundamental laws and facts of physical science have all been discovered, and these are so firmly established that the possibility of their ever being supplanted in consequence of new discoveries is exceedingly remote.”\textsuperscript{60} (We all know how well that statement has stood the test of time!\textsuperscript{61}) Legal education has discovered online delivery, and having unleashed the Promethean fire, that discovery continues to advance—and its ultimate destination is not as the handmaiden to the traditional brick-and-mortar law school. Thus, while some have argued that a hybrid approach is the way of the future\textsuperscript{62}, I take the view that it is but a way station on the road to legal education’s transformative future — as an education delivered primarily online.


\textsuperscript{60} ALBERT A. MICHELSON, \textit{LIGHT WAVES AND THEIR USES}, 23-25 (U. Chicago Pr. 1903).

\textsuperscript{61} See, e.g., Gerald Holton, \textit{Einstein, Michelson, and The “Crucial” Experiment}, 60 Isis 137 (1969).

\textsuperscript{62} In addition to remarks at the Ankara session of the Legal Education in the 21\textsuperscript{st} Century conference, see notes 2-6, supra, see also Gerald F. Hess, \textit{Blended Courses In Law School: The Best Of Online and Face-to-Face Learning?}, 45 McGEORGE L. REV. 51 (2013); Joseph Rosenberg, Confronting Clichés in Online Instruction: Using a Hybrid Model to Teach Lawyering Skills, 12 SMU SCI. & TECH. L. REV. 19, 21 (2008)}
The vision painted below draws both from Robin Widdison’s amazing 1994 article, as well as my own experience designing and teaching law courses online, both synchronously and asynchronously, for the last thirteen years.

The variety of digital information and communications technologies that have been refined over the last 20 years are converging in their application to higher education. Concomitantly, the technologies are being brought to bear on the problems and challenges facing legal education and the legal profession in the 21st century. The synergies of this convergence will revolutionize legal education in a way more dramatic and more long-lasting than the “case method” of Christopher Columbus Langdell. The result will not be a hybrid approach, in which law schools as currently configured will sit comfortably in the Langdell model of American legal education or in the undergraduate, Continental model of Turkish legal education, with these technologies as mere appurtenances. Rather, the synergies realized by the convergence of these technologies will forever alter the very notion of what a “law school”

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64 Edward Rubin, What’s Wrong With Langdell’s Method, And What To Do About It, 60 VAND. L. REV. 609 (2007)
is. To my delight when I discovered it, Widdison’s view of the future described the law school of the future in exactly this way:

The phrase ‘law school’ no longer brought to mind a clear-cut, geographical location. For example, both academic and support staff invariably worked from home these days. Video-linking obviated the need for expensive office accommodation and time wasted in travelling to and from work.66

The erosion of law school as a place will be due to the incredibly liberating effect that the synergies of convergence will bring to the entire legal education process. Those synergies will not merely permit online legal education. The advantages arising from those synergies will mandate it. And it is from this fountainhead that law schools will cease to be primarily “places”. Instead, they will become “platforms” for legal education, offered with a student-centeredness and flexibility that the mind of Langdell could never have comprehended in 1870 – and that many law school deans and boards even now find incomprehensible. But come it will – and they’d best be prepared, or they will end up67 like the weavers of Scotland, driven to poverty and commercial extension by their defiance of the industrial revolution’s reality.68

66 Robin Widdison, Virtual Law School, 8 INT’L REV. L. COMP. & TECH. 185, 190 (1994)
67 See Pistone & Hoeffner, supra note 42.
68 See, e.g., NORMAN MURRAY, THE SCOTTISH HAND LOOM WEAVERS, 1790-1850: A Social History (1978); see also NEIL J. SMELSER, SOCIAL CHANGE IN THE INDUSTRIAL REVOLUTION: AN APPLICATION OF THEORY TO THE BRITISH COTTON INDUSTRY, at 129-157 (Routledge 2013)(reprint of 1959 ed.). I owe great thanks to my colleague, Professor Liza Karsai, who pointed out the potential analogy to me as she spoke to me generously about her research into this period during her year in residence (2013-2014) researching and
A. Location Becomes Global; Localization Becomes Irrelevant

Much of the challenge for those seeking a legal education outside of the largest of urban centers is that they have been forced by the brick-and-mortar concept of the law school to localize themselves in order to be near the physical location of the law school. As Widdison foresaw it, however, law students of the future will no longer be forced to upend their lives to relocate physically for law school; nor, on the other hand, will they have to limit their choices of school based solely on their proximity because of life limitations that make physical relocation untenable. Rather, the law school of the future – while maintaining rigorous academics – overcame the myth that rigor can only be found in drafty, garishly lighted classrooms. The student is no longer compelled to meet the school on the school’s terms. The school has been intentionally designed to meet the student on her terms—while providing rigorous academics, the school no longer purveyed the utter fiction that a campus setting optimizes learning. In so doing, the future law school makes good on the commitment to open the profession even further, and to thereby make it more representative of the people it serves. Widdison describes how this works for his typical law student of the future, a bright, nonconformist he called Zena:

Zena was most definitely human. As a person, she had always been inclined to be rather hedonist by nature. This showed up in her school reports as frequent comments to the effect that she was high on intelligence but low on motivation. And that just about summed it all up. For her, life had been what happened before, after, but never during school hours. Towards the end of this first stage of

writing her LL.M. thesis at the University of Edinburgh, under the supervision of Dr. John W. Cairns. See http://www.law.ed.ac.uk/people/johnwcairns
her educational career, she was seldom seen on or even near the school premises by the teachers. Despite an unfailing believe that everything would turn out all right in the end, it had not. Not up to now, anyway. Leaving school at sixteen without any qualifications worth having, she drifted into, and out of, a number of boring, unsuitable jobs. Eventually, she had met and married Alec. Shortly after, the children had come along.

After the separation and divorce, she had been totally at a loss for a while. To her, it felt as though she was doomed to an eternity of grueling, stuck-at-home, single parenthood. Then, and just for fun, she had followed an interactive careers guidance series on the TV and was very surprised at the outcome. In essence, the advice had been that she should get herself into higher education and seek to qualify as a lawyer. But how could she do this without any decent school qualifications? A one year tele-access course was the way to remedy that problem. At thirty, wasn’t she too old to be going back into education? It seemed not. Mature students were actively encouraged to apply and, indeed, made up more than 50 per cent of the student community at most law schools. And, even before Parliament had passed the Age Discrimination Act, law firms had already begun to put a high premium on such qualities as maturity, reliability and pre-existing life experience. But who would care for the children? The advance of educational technology had brought about the situation where students could, for the most part, choose the day, time, place and pace of their studying. It was
more possible than it had ever been before to combine the roles of parent and student satisfactorily. 69

One of the traditional arguments for law school as “a place” was the centrality of the law-school library. Many law schools define themselves by their libraries, but do so in terms of the library as a place, rather than as a resource. However, because the internet has revolutionized how lawyers acquire most of their legal knowledge, imposing an entirely new professional responsibility in keeping abreast of vastly increased quanta of information accessible via the world-wide web, the law library as those of us educated in the 20th century knew it will cease to exist in the law school of the future 70, as Widdison predicts:

True, there were still clear, identifiable places on the map where equipment such as the machines holding the library archives and the central mail hub could be found. Come to think of it though, even ‘library’ had become rather an amorphous concept by now. A certain amount of material was indeed held on one machine in one place. But this facility was as much a gateway as a repository in its own right. From the law school library it was now possible to access

69 Id. at 188-189.
collections of material spread across the world. In reality, it could be argued that there existed just one enormous, global law library.\textsuperscript{71}

Hybrid programs remain limited by the inextricable tether to the brick-and-mortar, both as a place and as an ideology. Widdison’s vision of virtuality does not entirely eliminate any role for the physical gathering — it maintains a small role, and one that is decentralized from the central campus model. Rather, it is much more like the External Degree (now called International Studies Programme) that the University of London has provided since the 1850s — which, for example, allowed Nelson Mandela\textsuperscript{72} to study law while imprisoned. In that model, students study in their home countries and take examinations at correspondent locations in their home countries that are nearby the students.\textsuperscript{73} The University of London’s external degree

\textsuperscript{71}Id. at 190.

\textsuperscript{72} Nelson Mandela studied for the LL.B. degree through the University of London’s External Program while incarcerated at the infamous Robben Island prison. See \url{http://www.londoninternational.ac.uk/our-global-reputation/our-history/timeline}. As President Mandela wrote about his experience,

> At 8 P.M., the night warder would lock himself in the corridor with us, passing the key through a small hole in the door to another warder outside. The warder would then walk up and down the corridor, ordering us to go to sleep. No cry of "lights out" was ever given on Robben Island because the single mesh-covered bulb in our cell burned day and night. Later, those studying for higher degrees were permitted to read until ten or eleven.

"Robben Island - The Dark Years”, Excerpt From Chapter 61 of Mandela's autobiography \textit{Long Walk To Freedom} (1994), excerpted at \url{http://www.pbs.org/wgbh/pages/frontline/shows/mandela/prison/darkyears.html}.

\textsuperscript{73} See University of London International Programmes, \url{http://www.londoninternational.ac.uk/}; CHRISTINE KENYON JONES, “THE PEOPLE’S UNIVERSITY,” 1858-2008: 150 YEARS OF THE UNIVERSITY OF LONDON AND ITS EXTERNAL STUDENTS (2008); see also \textit{From Imperial To Transnational: Exploring The Legacy Of The University Of London External System Of Open, Flexible And Distance Learning In The Commonwealth Today}, \url{http://wikieducator.org/PCF5:Exploring_the_legacy_of_the_University_of_London_External_system_of_open_flexible_and_distance_learning}; see also 150\textsuperscript{th} Anniversary of the University of London External System, \url{http://www.londoninternational.ac.uk/150/history/index.shtml}. The author is also a student enrolled in the LL.M. Degree Program in the University of London’s International Programmes.
programs paved the way for the kind of meaningful interaction that Widdison foresaw as an ingredient of virtual law study – rather than the other way around:

. . . . at the end of each semester, students were required to attend in person at a law school 'study camp'. There they would take part in a week of intensive activities with fellow students and academic staff. Camps could take place at a regional study centre shared by a number of local law schools or, and especially during the summer, could be put on at a hotel either by the sea or in one of the nearby national parks. Free crèche facilities and organized activities for older kids were required by statute. Student-orientated activities at these camps would typically involve short lecture courses by 'big-name' academics, competitive mooting and role-playing games, group problem-solving exercises, visits to local courts, tribunals and law firms and a remarkable amount of socializing. Competitions involving groups would generally involve pitting one student video-conferencing group against another. This provided the benefits of promoting esprit de corps within the groups themselves and fitting the would-be lawyers with the teamwork skills that were so essential in legal practice.

These camps, Widdison envisions, are not done because they are academically necessary – as the advocates of hybrid programs as panacea might have us believe. Rather, they serve an emotional, rather than an intellectual or academic, function: “the technology was now capable of conducting the student through most of the course without the need for any direct contact
with another human at all” yet “the strongest support for maintaining the camp system had come from the customers themselves — the students” because “they enjoyed them.”74

B. The Corollaries Of “Mass Customization”: Technological Synergies Will Permit

Students Of The Virtual Law School Of The Future To Tailor An Incredible Amount

Of Their Education To Their Own needs

The 21st century will be remembered for the unprecedented customization of goods and services that business makes available to the individual consumer. “The continuous growth in the level of environmental complexity demands from the organization the pursuit of continuous growth in the level of customization,” Mohammed A. Sarlak has observed.75 “This dependence will create a threshold where customers will be part of the design, production, and management of their own needs, resulting in the generation of highly personalized and customized services and goods.”76 The phenomenon described by Dr. Sarlak is called “mass customization” — “the ability ‘to customize products quickly for individual customers or for niche markets at a cost, efficiency and speed close to those of mass production, relying on limited forecasts and inventory’”77—and it has been recognized to apply to higher education.78 “Educational mass-

74 Robin Widdison, Virtual Law School, 8 INT’L REV. L. COMP. & TECH. at 191
76 Id.
77 Farrokh Mistree, Jitesh H. Panchal, & Dirk Schaefer, Mass-Customization: From Personalized Products to Personalized Engineering Education, in SUPPLY CHAIN MANAGEMENT, Ch. 9, at 149 (2012)
78 Id. In that article, the authors discuss [their] efforts towards adapting the paradigm of mass customization from product development to the domain of engineering education. Our rationale for doing
customization supports personalized learning and thereby the development of diverse knowledge and competencies in a” class, a course of study, and an entire degree-earning education.79

The traditional model of legal education – filling large classrooms with a high student-to-teacher ratio—is practiced both in the United States80 and in Turkey.81 Writing early in my transition from 13 years as a practicing lawyer to a full-time law teacher, I made a number of observations about the ways in which that system of legal education was inadequate for emergent 21st-century needs:

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this is anchored in the continuing process of globalization and its ramifications on the education sector. In a world in which change is the order of the day, it no longer makes sense to offer a one-size-fits-all education as the competencies required in the workforce of near tomorrow vary significantly from one individual to another. In addition, there is a worldwide increasing demand for online education to accommodate students that, for a number of reasons, are not able to participate in traditional onsite education. In order to address these challenges, the National Academy of Engineering (NAE) has declared ‘Advance Personalized Learning’ as one of their Grand Challenges, along with, for example, the development of new energy systems. Reflecting on this and relating it to the evolution of product design, the similarities between personalizing products and services in general and educational programs and delivery modes in particular are striking. Hence, [the authors] decided to apply the paradigm of mass-customization to engineering education and demonstrate how this could be achieved in the context of a graduate design course.

Id. at 149-150.
79 Id. at 150.
81 See, e.g., Julian Lonbay, Experts’ Report on the Legal Education and Training System in Turkey, at 20 (August 14, 2009), available at SSRN: http://ssrn.com/abstract=1677818 (“University legal education is said to be of a rather theoretical character, lacking any practical application of the law. The personal relationship between the professor and students is mostly lacking and there is relatively little learning in small groups. The classes have a form of formal lectures ex cathedra without any significant interaction on the part of the audience or their active participation in a discussion.”).
What inspired me to search for ... multifaceted [non-traditional] learning opportunity for my law students? The reason is quite simple. I am privileged to teach law students who will become the representative demographic of many graduating law-school classes of the twenty-first century. The hallmark of these students is their diversity: diversity in culture, race, national origin, sex, age, previous educational opportunities, and learning styles. Graduating these students to become practicing lawyers will shift an anachronistic paradigm that has seen far too many resources educating far too narrow a range of students to work in over-compensated areas of the legal profession that are already saturated, over-lawyered, and over-served. Although such diverse students have often been referred to as “at-risk,” that label is usually misunderstood to denote some shortcoming in the student’s ability. However, “at-risk” students are really those who are harmed by the traditional inflexibility of legal education to respond to students of diverse learning styles with appropriate, diverse teaching techniques.82

82 Jeffrey A Van Detta, Collaborative Problem-Solving Responsive to Diverse Learning Styles: Labor Law as an Active Learning Experience, 24 N.C. CENTRAL U. L.J. 46 (2001)(discussing a class I designed during the summer of 2000 and facilitated in Fall Semester 2000)(footnotes omitted)(footnotes omitted). In the years since I wrote that article, I’ve developed – and taught—over a dozen courses for the online platform. Among those courses is a challenging survey course in American Commercial Law – i.e., the Uniform Commercial Code (UCC). A good example of the synergies that the online platform allows comes from my own course in Commercial Law. I hold 14 live online class sessions, each 2 ½ hours in length. My classes are conducted in a Socratic style, in which I focus on questioning the students about not only the cases we read, as well as answering plentiful questions from the students, but also, on a healthy sampling of short-essay problems from the casebook that I’ve selected for the course. That casebook is the classic, PROBLEMS AND MATERIALS ON COMMERCIAL LAW, published by Aspen in the U.S. and written by the legendary Professor Douglas Whaley of the Ohio State University Moritz College of Law faculty. See Adventures In The Law School Classroom, http://douglaswhaley.blogspot.com/2011/09/adventures-in-law-school-classroom.html; Douglas J. Whaley, Teaching Law: Advice for the New Professor, 43 OHIO ST. L.J. 125
And where is the traditional model of legal education fourteen years later? Well, its day is being drawn to a close by the synergies of convergence, which will push legal education into the “mass customization” market that is taking hold in every other sector of commerce and services.

Widdison saw this future quite clearly from his 1994 vantage point; in fact, one of the most impressive characteristics of the virtual law school – one that has yet to be realized but is on its way – is an incredible amount of customization of the program that an array of technologies, coupled with reconceptualized teaching techniques, will make possible.83 Widdison describes what he calls “the interface,” which is an artificial intelligence that the law student will create and customize to her specific needs, and with careful content programming from the law professors, will be her tutor and her daily study guide through her legal

(1982). In collaboration with Professor Whaley, he prepared 10 hours of video lectures for this course in 2003, and he re-filmed and updated those lectures in coordination with me during Spring 2013. In addition, I have added 24 practical exercises in reading and applying the UCC, which are submitted for credit and which train the students in the methodology and techniques of effective Code reading and synthesis of Code sections to solve problems. During the course, students write three 2 ½ hour timed analyses of essay-formatted, real-world client problems in commercial law, and these essays are scrutinized closely and commented upon extensively by both an Instructor (who is an experienced practicing lawyer) as well as by myself as the course professor. Our comments are typed directly into each student’s essay answers. Students also take quizzes totaling 60 multiple choice questions over the term, written in the style of the challenging multiple choice questions on the Multistate Bar Examination. Students are thereby very well prepared for the comprehensive final examination at the end of the course. All of this instruction is delivered entirely online. I estimate that over 400 students have taken the course with me in the 11 years I have taught it, and they have gone on to rewarding careers. See Dr. Brenda Ponsford Named Dean Of Henderson School Of Business, 26 March 2013, at http://www.hsu.edu/interior2.aspx?id=19492.

83 Widdison elaborated in more detail on specific technologies and techniques that he predicted will bring an unprecedentedly student-centered learning experience. See Robin Widdison, Learning Law In The 21st Century, 8 INT’L J.L. & INFO. TECH. 166, 192 (2000) (“In whatever way we deploy our machines - whether as information resources, communication devices, or interactive tutors - the potential is there to make a major contribution to learner-centered education and, through that, help to build the learning society.”)
education, providing her with the kind of strategic advice, counsel, and undivided attention that even a law professor’s son or daughter enrolled in law school could not expect to have:

Rob was, of course, the perfect one-to-one tutor for Zena. He had, after all, been preprogrammed to be infinitely patient, encouraging and wise. Zena herself had been the one who had selected his gender, his name and his basic personality characteristics from the installation menus right at the beginning of her first semester. At the start, she had dismissively dubbed him 'Robot'. But, within a few days, he had become 'Rob' to her and had remained so ever since. To begin with, she thought that all the claims made in the law school prospectus that Consortium tutor constructs were 'more human than human' was just hype. How could something made up of a few thousand lines of computer code ever be more than just an interface with a face stuck on? But now, when she recollected that there was no real Rob sitting at the other end of the videophone smiling at her, it sent an involuntary shiver down her spine. It was like being told your best friend had accidently been atomically restructured.

 Anyway, Rob himself had evolved a great deal since his installation. The Consortium was strongly committed to this whole ‘personality meshing’ approach. Each interface constantly evolved and adapted as it learned more and more about the student to whom it had been assigned. It only took a couple of weeks (or so it was claimed) before a tutor construct had developed into the ideal
companion and foil for its allotted student. Providing a face and a personality was the easy part, however. It was Microsoft's breakthrough in natural language recognition research at the turn of the century that had really made all the difference. Natural language recognition, coupled with the parallel development of a sophisticated conversation generator, had been the spark that had created life. No more keyboards, mice, touch-screens, barcode readers and all that sort of junk cluttering up the desk. No more artificial barriers between user and machine. Just interpersonal communication as nature - via its servant or agent, Bill Gates - had intended.84

In conversing with Bob, her interface to the virtual law school’s tutorial technology, Zena reveals an ability to obtain tailored learning, practice, advice, counsel, organization, and encouragement that even an Alexander couldn’t get with an Aristotle85, nor a Benjamin Cardozo with a Horatio Alger86:

'So', said Rob, 'what would you like us to do today? Do you want to start by going through a summary of the issues that arose during the offer and acceptance visualization exercise that you did on Friday morning?87

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84 Robin Widdison, Virtual Law School, 8 INT’L REV. L. COMP. & TECH. at 187.
85 Philip Merlan, Isocrates, Aristotle and Alexander the Great, HISTORIA: ZEITSCHRIFT FÜR ALTE GESCHICHTE, Bd. 3, H. 1 (1954), pp. 60-81
87 Id. at 185.
The offer and acceptance visualization exercise. It is worthy to note the potential for taking the learning – of offer and acceptance, for example – from the dusty Victorian pages of Carlill v. Carbolic Smoke Ball Co.\textsuperscript{88} to a life-like, interactive analysis of real human beings, in human communications, during the course of a business deal. Visualization of legal scenarios is becoming an accepted part of both learning the law, and practicing law.\textsuperscript{89} Interactive, internet-based visualization exercises for learning key legal concepts and processes not only enhance the lawyering skills that recent reports on legal education have so heavily emphasized; they also make the learning engaged and interactive in a way that cannot be achieved in large class sections of the brick-and-mortar law school world.\textsuperscript{90} Zena’s interface suggests that later in her


90 As Professor Berger-Walliser and her co-authors explain it, Rather than reviewing court cases examined elsewhere about ignorance or reluctance to read contracts or the consequences, we inquire into the question of whether visuals can aid individuals to read contracts regardless of their legal background. We also address whether visuals can increase comprehension of key contractual terms. In addition, we consider whether such visual scripts can aid the use of contracting processes and documents proactively to promote business success.

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The practice and discipline are far too new and the necessary research far too sparse to argue for a broader implementation. Rather, the purpose of this paper is to discuss the structural weaknesses inherent in traditional commercial contracting, examine the potential of visual contracting, and provide some specific applications where visualization tools might be most effective or most easily applicable in commercial practice. With this work we also hope to bridge the gap between literature on visualization that is gaining momentum amongst scholars in Europe and a North American academy which may be less informed of the power of legal visualization techniques.
study-day, she tackle a different kind of doctrine-and-skill building activity – a virtual reality game designed by faculty for law students:

“There is a virtual reality game sequence that I know you will enjoy playing. It involves the sale of a second-hand car in defective condition. You play the part of the solicitor for the plaintiff. You have to identify witnesses, question them, research the law, commence proceedings, and appear for your client at the hearing. A full run-through should take you no more than two hours. It’s very realistic. I strongly recommend that you play it. Shall I retrieve it for you?”

I have to remark here that when I read Widdison’s dialogue about the “virtual reality game sequence,” I thought of a comment my son made to me two years ago when he was 10 years old and saw me getting ready to teach an online law class. He suggested that I find a way to adapt the popular online “sandbox” video quest game called Minecraft to teach law to my students.

Visualization techniques have already been studied to good effect through improving the comprehension of jury instructions via the use of flowcharts or other illustrations, the use of visual and audiovisual evidence in court proceedings, and the use of decision trees to facilitate making complex decisions. Visualization tools might be similarly useful outside the trial scenario. For example, visualization can illustrate whether to sue or settle, by graphically illustrating the options, probabilities, and possible outcomes. The more questions that researchers ask, and the more opportunities that are brought that can possibly benefit from contract visualization, the more rapidly this field will grow beyond its embryonic state into a useful area of study and practice.

17 J. Bus. L. & Eth. at 57-58. Other kinds of visualization focus less on graphics, and more on working through legal scenarios by placing yourself in them and by using metaphoric and analogic techniques to express your evaluation of them. See generally McCloskey, supra.

91 Id. at 186. This kind of practical skills exercise reflects another convergence for which the practicing bar has hoped for over half a century. See, e.g., Louis M. Brown, The Law Office—A Preventive Law Laboratory, 104 U. PA. L. REV. 940 (1956).
“because they’d have a lot more fun!” I was startled by the laser-beam accuracy of my son’s observation, and to find that Widdison had himself visualized a similar aspect to the virtual law school two decades earlier was even more amazing to me. Secondary educators share my son’s observation92, and the game has captured the attention of serious academic behavioral researchers, who describe it more technically as a “Massively Multi-user Virtual Environment (MMVE)”.93 It is only a matter of time until Minecraft transcends its common emphasis on “construction and survival” to the introduction of law, as a concept and as a system, to regulate the affairs in that virtual world.94 The game has already captured the attention of behavioral researchers,95 and literature has appeared describing how online games—particularly massively open online games (MMOG)—may become integral to law study because they “have the capacity to help people understand when they have a problem that has a legal solution, how that problem can be addressed, and how to find those who are able to assist in addressing it.”96

95 Engelbrecht & Schiele, supra note 93.
But the array of interactive teaching techniques in Widdison’s virtuality allows the student even more room to learn what she wants, when she wants to learn it. To her interface’s suggestion about the offer-and-acceptance visualization exercise, Widdison’s Zena responds:

‘No, no. Not yet anyway. I would like to give that stuff more time to sink in. Perhaps we could schedule the summary for tomorrow morning. I would like to give that stuff more time to sink in. I want to begin by doing some basic reading on a brand-new topic. Could you get me, say, the first dozen case reports on the misrepresentation list?’

Not only does the interface do this for her, but it even reminds her of the orientation it gave her previously on this topic, and the suggestion that when she took the topic up in her studies, Zena should “start with the cases on actual misrepresentation and inducement to contract.” The interface also brings to her attention contextual reading material that students have found helpful in putting the rules and concepts from misrepresentation and inducement in context, and points out to her that “[b]y the way, I also picked up a couple of articles whilst I was searching the archives. One is a recent Modern Law Review piece by Professor Baker which I think you will find particularly interesting and helpful.” The virtual interface also permits Zena to determine interim challenges for herself, and to request – and receive – detailed feedback (rather than merely that which her teachers might offer or impose), as she looks for new challenges and seeks to stretch her emergent case-reading skills:

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97 Robin Widdison, Virtual Law School, 8 INT’L REV. L. COMP. & TECH. at 185-186.
98 Id. at 186.
99 Id.
“I’ll start reading the case reports first - full-text form please and don’t mark up the ‘purple passages’ for me yet. I want to look for the relevant bits myself and then have you check them over for me. Then I’ll transfer them to my contract notebook file. After the reading, I would like you to set me up an appropriate rule induction lesson. Then perhaps you can dig out a simple problem-solving exercise. Finally, I will have a look at those articles you found. Maybe we can then have a chat about them until around midday.”

Likewise, the interface also suggests additional work for Zena, based on its constant (daily) assessment of her skills, knowledge, and progress, and Zena suggests ways for the interface to tailor that work to her perceptions of her progress:

‘Now, do you want me to organize anything for you to do after lunch?’

inquired Rob.

‘Yes, but what do you think I should do?’

‘Well, I suggest that it is about time you tackled some written work. I could find you a suitable problem question if you would like me to.’

\(^{100}\)Id.
'Please make it a bit less complicated than the last one, will you? I really felt out of my depth.\textsuperscript{101}

This is a true dialogue – a meeting of intelligence, both biologically hosted and artificially hosted—to optimize Zena’s skills and progress. As Widdison describes it, this is an intentional result, inextricably intertwined with the design of the software for the virtual law school:

Behind it lay the business side of things - the applications software. This comprised some clever programming undertaken by, or for, the Consortium. In essence, the applications part was best conceived of as three major, interlinked components. Firstly, there was a databank which was full to the brim with sets of pre-prepared, learner-orientated exercises covering just about every major topic area in just about every course offered by the law schools. All these exercises (and there really were hundreds of them) were catalogued in a multitude of different ways. They were graded according to difficulty and complexity. They were classified according to the predominant technology used — multimedia hypertext, expert system, interactive video, full virtual reality simulation. They were sorted according to the types of skill to be imparted - comprehension, problem-solving, rule-induction, analytical and contextual skills, theorizing etc. And they were classified according to the role they invited the user to take on — law commissioner, legislator, judge, practitioner, academic, client or even law student.

\textsuperscript{101} Id.
The student always had the first say on which exercises and sets of exercises to do. However, the tutor construct would suggest, advise, strongly recommend, passionately urge or, by default, select which exercises should be undertaken by the student. It really could be remarkably persistent at times. The construct’s views on matters like this were informed by such factors as the general ability of the student, his or her level of performance on the course in question and, ultimately, the demands of the course syllabus itself.102

The new variety and flexibility introduced by the virtual law school’s virtuoso software also opened up entirely more credible and educationally sound means and modes of assessing student performance and progress, assessment tools that far outstrip the traditional “all-or-nothing” final examination that dominated law schools for 150 years:

The second of the three components was the student assessment module. This, the newest and most innovative piece of the applications software, monitored and weighed up every single written or oral word expressed by the student, whether during an exercise, in a pre-prepared contribution to the student video-conferencing group or during any resulting group discussion. Apart from having finally eradicated the need for formal examinations (needless to say, an enormously popular development as far as the students were concerned), this

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102 Id. at 187-188.
module was able to analyze automatically a student’s strengths and weaknesses. It could then constantly plan and replan the approach taken by the construct in order to achieve absolutely maximum educational effect. A student could expect to make rapid and purposeful strides until he or she reached his or her upper level of competence. Thereafter, the approach adopted would be orientated much more towards encouraging and challenging the student to roll back these limits. But if, after a few faltering steps, the student began to get into difficulties, the tutor construct would pick this up immediately and switch into a more remedial style of approach for as long as was deemed necessary. “Two steps forward, one step back” would have made an appropriate motto.¹⁰³

The interface’s programmed talents extend beyond the solely academic. Career services have become one of the most important functions within any law school¹⁰⁴, and thus, the interface’s functions, in Widdison’s vision, have been extended to that area as well:

Rob smiled. . . . ‘Anything else for this afternoon?’

¹⁰³ Id. at 188.
[Zena replied:] ’It would be nice if you could do that talk on legal careers that you offered. I guess it’s never too early to start thinking about what I am going to do after graduating.\footnote{Robin Widdison, Virtual Law School, 8 INT’L REV. L. COMP. & TECH. at 186.}

The functionalities of the virtual law school’s multi-media platform also allow for efficient, creative, and just-in-time scheduling of meetings that bring like-minded students together in a way that optimizes impact and convenience. For example, in the preceding exchange with her interface, Zena decides not only that she wants a dose of legal career counseling that day, but also, that she’d like to make a group discussion of it with two classmates — who could be located down the street from her, in another state from her, or across the globe from her:

“Perhaps we could turn it into a group discussion. Could you page the other student members of my video-conference group to see if they would like to join in for a little ad hoc chat? I know that Hannah and Steve are at least as keen to get on with this as I am.”

Rob nodded. “I will see what I can do.”\footnote{Id. The effectiveness of rapid, digital communications systems is a critical component of the virtual law school. As Widdison envisioned it, The third of the three components was a Consortium-inspired adaptation of ‘College Notes’, a Lotus educational groupware package. This application really did a number of things. It handled the one-to-one communications traffic via the law school’s own mail hub. Its tasks included managing the video-calls and electronic mail between student and}
Those kinds of video conferencing meetings are business as usual at the virtual law school:

For the students, the tutor constructs were not the only contact points with the law school. During the semester, discussions would be set up involving the members of each video-conferencing group. On average, such a group comprised a dozen students and one or two staff tutors. Discussions would either be prearranged according to a central timetable or set up on an ad hoc basis. As to these ad hoc discussions, they might be initiated either by one of the student members of the group, or by one of the tutor constructs. If an interesting new legal development occurred or, if the conferencing activities of any particular group were not going too well, one of the staff tutors might step in and take the initiative. Staff tutors also had an important one-to-one counselling role for the students in their allotted video-conferencing group. They provided this by means of a 'hotline' service whereby any individual student could raise academic or personal problems in confidence by simply 'posting' a note to the tutor’s email law school on the one hand, and between student and student on the other. It also dealt with everything to do with the video-conferencing side of things. Finally, there was the matter of two-way communications with the library. Law students, of course, still needed to get at large amounts of policy papers, legislation, case reports, monographs, articles, conference papers, law videos, careers materials etc. Accessing all this stuff, together with the associated file transfers back to the student, was all managed by this groupware application. To facilitate searches amongst the enormous quantities of material to be found in law school, national and international archives, the component made use of one of the latest generation of super-fast, high-powered ‘gophers’. These software devices, which had first started to be widely used in the 1990s, could be sent off to look for and retrieve any requested information completely reliably and automatically.

Id. at 188.
The staff tutor might then email a detailed reply, or, in appropriate cases, propose a face-to-face discussion via the video-link.\footnote{Id. at 186.}

The virtual law school indeed is a platform on which legal education transpires, rather than a place to which students must harken and journey in order to receive instruction in law. Technology, and creative and innovative software design will be the great levelers of the notion of law schools\footnote{See the authorizes cited in note 42, supra.} as a place and insipid rivalries between law schools and rankings derived from arbitrary and specious, not to omit suspiciously secretive, processes.\footnote{See, e.g., Rachel F. Morán, \textit{Of Rankings and Regulation: Are the U.S. News & World Report Rankings Really a Subversive Force in Legal Education?}, 81 Indiana L.J. 383 (2006); Michael E. Solimine, \textit{Status Seeking and the Allure and Limits of Law School Rankings."} 81 Ind. L.J. 299 (2006).} The fact that the law school will become a platform, rather than a place, opens up a universe of commodious possibilities that are virtually precluded under a balkanized brick-and-mortar law school, bounded as it is by time, space, and a desire for hegemony over other law schools. Widdison describes it this way, from the perspective of the British (undergraduate) LL.B. degree model:

\begin{quote}
By now, all the law schools in the country offered the eight-semester, combined academic course and vocational qualification. Based on full-time study, this type of course could, in theory, be completed in no more than four years. However, a high proportion of undergraduates these days were mature students with existing work and/or family commitments to take into account. Everything had to be arranged so that they were given the maximum flexibility in their study
\end{quote}
arrangements. It was not uncommon for students to spread the course over five, six or sometimes seven years. Flexibility extended beyond duration into location. Students were free to move from one law school to another (and even a third) during the relevant period.\(^\text{110}\)

This flexibility makes it possible for the law student like Zena to “access her system any time she wished, from any videophone and from any place on Earth (or anywhere else for that matter).”\(^\text{111}\)

The reconceptualization of “law school” that virtuality occasions does not, however, mean that law faculties are no longer necessary; quite to the contrary, they are more necessary than ever, both to create and constantly update and revise the digital content of the virtual law school, and also to focus their energies more individually on students, which the software and

\[^{110}\text{Id. at 189.}\]
\[^{111}\text{Id. at 189. In addition, the system itself is much less cluttered and clunky than the computer interfaces we’ve known:}\]

On the desk in front of Zena stood one A5-sized, portable, dark grey box of tricks with can ultra-high resolution colour screen and integral camera lens, a microphone and a couple of on-board microspeakers. It looked just like a modern cellular videophone. Come to think of it, it was a cellular videophone. Talking with your tutor construct was no different from communicating with another human at the other end of the line. No, that was not quite true. It could be very different in some ways. Your construct never said anything tactless or unkind, never told lies (not big ones, anyway) and never ever suffered from a hangover!

\[^{110}\text{Id. See also, Catherine Dunham & Steven I. Friedland, Portable Learning For The 21st Century Law School: Designing A New Pedagogy For The Modern Global Context, 26 J. MARSHALL J. COMPUTER & INFO. L. 371 (2009)(the authors suggest that “a more portable learning environment would better match the changing world and make legal education more effective” but also caution that “the most significant issue raised by accepting the premise of portability in legal education involves redefining the classroom,” which “raises normative and deep structural issues about legal education generally”\).}\]
the interface makes possible. To that, I must add an observation from thirteen years of simultaneously teaching in the virtual and physical classrooms: the role of the professor in interacting synchronously with groups of students will never be displaced, even by the “Bobs” and other interfaces that may come along. Rather, the role will be enhanced far beyond what it could ever be in the large, cold classrooms of a Langdell Hall. The synchronous, live classroom technology for teaching reasonably-sized groups of students online, and in dialoguing with students individually online, I predict will lead to a protocol of best practices among the effective law schools, which emphasize the personal and individualized contact between professor and learners that students of law and social philosophy enjoyed in the circle of Socrates. Those who might think otherwise – that the virtual law school threatens to

112 Id. at 190.
113 See, e.g., Matt Hlinak, The Socratic Method 2.0, 31 J. LEG. STUDIES EDUC. 1 (Winter 2014); Ruta K. Stropus, Mend It, Bend It, and Extend It: The Fate Of Traditional Law School Methodology In The 21st Century, 27 LOY. U. CHI. L.J. 449 (1995)
116 Amy R. Mashburn, Can Xenophon Save The Socratic Method?, 30 THOMAS J. L. REV. 597 (2008); Michael Vitiello, Professor Kingsfield: The Most Misunderstood Character In Literature, 33 HOFSTRA L. REV. 955 (2005). Some have pointed out that what law-school professors in America have referred to as “Socratic method” really isn’t so much Socratic as Protagorean. See William C. Heffernan, Not Socrates, But Protagoras: The
diminish the professorial role in legal education – I fear are those who do not share my vision of what legal education is all about or who do not have the experience that I’ve enjoyed of having, in a manner of metaphorical speaking, one foot planted firmly in the physical classroom and other foot planted firmly in the online classroom throughout the vast majority of my teaching career.\footnote{117} I believe that recent developments at Harvard’s business school confirm my contention that the professor, and the discussion method, will remain at the heart of online education for the professions, particularly for the virtual law school. Those developments are the subject of the next subsection.

\footnote{117}{For example, I have taught an online course in American Civil Procedure since 2001. I facilitate 12 to 14 live, interactive Socratic classroom sessions of 150 minutes each over the course of nine months. The students are also fortunate to have the benefit of 8 to 10 hours of video-recorded lecturing by America’s greatest scholar and teacher of civil procedure and Federal Courts, Professor Arthur R. Miller. See, e.g., Tammy K. Lefko, \textit{America’s Law Professor: More Than Most, Arthur Miller Has Been A Teacher In The Public Domain}, \textit{Harvard Law Today}, 1 Dec. 2008, \url{http://today.law.harvard.edu/leaving-the-mound}; Jennifer Frey, \textit{Faculty Focus: Introducing Arthur R. Miller, University Professor, NYU Law Magazine} (2007), at \url{http://blogs.law.nyu.edu/magazine/2007/arthur-r-miller/}; Adam Liptak, \textit{Virtual Jurisprudence: Forget Socrates}, \textit{N.Y. Times}, 25 Apr. 2004, at \url{http://www.nytimes.com/2004/04/25/education/virtual-jurisprudence-forget-socrates.htm}; Concord Law School Supplementary Lecturers, at \url{http://www.concordlawschool.edu/Lecturers.aspx}. Neither of us have supplanted the other in delivering the online education; rather, my synchronous and his asynchronous contributions have enhanced student learning. If a synchronous online law teacher can remain relevant even with the country’s greatest living authority on the subject as the asynchronous lecturer, I do not think law professors should fear the virtual law school – but rather, celebrate it. For some traditional academics, that understanding has come harder than for others, as Professor Miller knows from personal experience. See, e.g., Jack Brower, \textit{The Law School And The Law A “Benthamite” Dean Lets A Hundred Legal Flowers Bloom}, \textit{Harvard Magazine} (Jan.-Feb. 2000), \url{http://harvardmagazine.com/2000/01/the-law-school-and-the-l.html}; Leigh Jones, \textit{Long-Time Harvard Prof Leaves For NYU Law}, \textit{NAT’L L.J.}, 15 May 2007, at \url{http://www.nationallawjournal.com/id=900005481235/Longtime-Harvard-prof-leaves-for-NYU-Law}}}
C. Harvard Business School Paves The Way For The Transition Of American Law Schools To The Platform Rather Than The Place

Earlier in Section II.B, we discussed the similarity of the business school approach to education as exemplified at Harvard Business School, and we recognized its close analogy to the American style of legal education – a “discussion-based style of learning.” Part of that approach is to take the Socratic-style, case-intensive conversation of the brick-and-mortar classroom, and to make it even more effective when done online. The description of the virtuality created by the Business School’s online platform is nothing short of dazzling:

In a demonstration of a course called economics for managers, the first thing the student sees is the name, background and location — represented by glowing dots on a map — of other students in the course.

A video clip begins. It’s Jim Holzman, chief executive of the ticket reseller Ace Ticket, estimating the supply of tickets for a New England Patriots playoff game: “Where I have a really hard time is trying to figure out what the demand is. We just don’t know how many people are on the sidelines saying, ‘Hey, I’m thinking about going.’ ”

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118 Jerry Useem, Business School, Disrupted, N.Y. TIMES, 1 June 2014, at BU1, also available for download at http://www.nytimes.com/2014/06/01/business/business-school-disrupted.html
It’s a complex situation meant to get students thinking about a key concept — “the distinction between willingness to pay and price,” Professor Anand said. “Just because something costs zero doesn’t mean people aren’t willing to pay something.” A second case study, on the pay model of The New York Times, drives the point home.

Then a box pops up on the screen with the words “Cold Call.” The student has 30 seconds to a few minutes to type a response to a question and is then prodded to assess comments made by other students. Eventually there is a multiple-choice quiz to gauge mastery of the concept. (This was surprisingly time-consuming to develop, Professor Anand said, because the business school does not give multiple-choice tests.)

At a faculty meeting in April, Professor Anand demonstrated the other two elements of HBX: continuing education for executives and a live forum. He unveiled the existence of a studio, built in collaboration with Boston’s public television station, that allows a professor to stand in a pit before a horseshoe of 60 digital “tiles,” or high-definition screens with the live images and voices of geographically dispersed participants. “I’m proud of our team, and how
carefully they’ve thought about it even before they’ve done it,” Professor [Michael E.] Porter said.119

This, in a nutshell, is the future of law schools in the 21st century — a global educational platform, rather than a parochial place on the map.

IV. THE FUTURE: THE VIRTUAL LAW SCHOOL’S PARADIGM SHIFT FROM “PLACES” TO “PLATFORMS” — AND THE PROMISE THEY HOLD FOR PRESERVING THE RULE OF LAW IN AN ALARMINGLY DYSTOPIAN AND AUTHORITARIAN AGE120

The time is upon us when the power of the Internet as the principal medium for revolutionizing the delivery of higher education is demonstrated year after year. As the most

119 Id. Professor Michael E. Porter is one of the long-time stars of the Harvard Business School faculty, noted, among other things, for his groundbreaking, now classic, book, Competitive Advantage (1980) and “widely considered the father of modern business strategy,” Id. Professor Porter had taken the position that in moving into virtuality, the Business School needed to transpose the instructional style that made it such an effective educational institution. For him, to the question of whether the Business School should establish an online educational platform,

the answer is yes — create online courses, but not in a way that undermines the school’s existing strategy. “A company must stay the course,” Professor Porter has written, “even in times of upheaval, while constantly improving and extending its distinctive positioning.”

120 Portions of Section IV previously appeared in the author’s article, A Bridge To The Practicing Bar Of Foreign Nations—Online American Legal Studies Programs As Forums For The Rule Of Law And Pipelines To Bar-Qualifying LL.M. Programs In The U.S., 10 SOUTH CAROLINA J. INT’L L. & BUS. 63 (Fall 2013).
tradition-bound of disciplines, the law has lagged behind other disciplines in making use of the most powerfully democratizing force in the history of education. Resistance has emanated largely from uninformed stereotypes of online education as well as on the rarity of the skills required for online teaching among many in the legal academia who have never sought to immerse themselves into a radically new student-centered pedagogy. Slowly, but inexorably, the world of legal education, both in the U.S. and abroad, is being confronted with the reality that new generations of learners are coming to the study of law with the expectation of increasing emphasis on the use of online education as a—and one day, the—primary delivery medium.

Whether ready or not, legal education will be vaulted into the online world as its consumer’s ramp up their demand for it and demand the associated cost and convenience savings that it affords.

Not only is the virtual law school redefining the very concept of law schools from “places” to “platforms,” it also offers the opportunity for students from a broad range of cultures and countries to participate in a conversation about the rule of law by studying the legal system and laws of a particular country with lawyers and professors who are immersed and working within that system.\(^{121}\) Additionally, an online learning environment would remove not only the physical limitations that attend all ground-based programs, but it would also remove the constant and intrusive physical scrutiny of brick and mortar campuses by local authorities bent

\(^{121}\) See generally Lincoln Dahlberg, The Internet and Democratic Discourse: Exploring the Prospects of Online Deliberative Forums Extending the Public Sphere, 4 INFO., COMM. & SOC’Y 615 (2001), available at http://epphenicie.iweb-bsu.edu/5820550.pdf (discussing the role of the Internet as a host of public forums for a considered discourse).
on censorship. For example, when centered on servers located outside of the countries in which censorship is a web-based campus may operate with maximum academic freedom. That, of course, does not mean that even those programs will be able to operate with complete freedom or even optimal freedom.

The centrality of the Internet and the social media that inhabit it lend themselves to the determination of international legitimacy sought by governments. For example, through social media, the world took note of protests around the world, such as the Arab Spring and similar, popular movements against once entrenched governments. However, the reality of the 21st-century Internet is that there are multiple, well-known (and to the mind of many in the global community, notorious) examples of government programs that systemically limit the

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122 A recent and stark example comes from China. See China’s Universities Vow Ideological Campdown on Staff, Students, YAHOO! NEWS, 1 Sept. 2014, at http://news.yahoo.com/china-universities-vow-ideology-clampdown-staff-students-132939456.html (reporting that “Three top Chinese universities have vowed to tighten ‘ideological’ control over students and teachers, as a wider clampdown on free expression in the country intensifies.”). “The statement from Peking University — China’s top academic institution — condemned those with ‘ulterior motives’ who target the ruling party,” and asserted that “[i]n recent years, some people go on the Internet and with ulterior motives add fuel to the fire ... ultimately targeting the Chinese Communist Party and the socialist system.” Id. In an offensive euphemism that calls to mind Orwell’s dystopian world of 1984, Peking University’s “Communist Party Committee” concluded that “We need to respond to this with a cool head, [and] guide the teachers and students to strengthen political sensitivity.” Id. (emphasis supplied). Less euphemistically, Fudan University’s “Communist Party Committee” declared its intention to “strengthen educational guidance” for its young teachers so they could ‘grasp Marx’s way of reaching his viewpoint,” “reinforce” teaching the history of the Party and the country,” and “‘provide a deep understanding of why the West’s path of development is unsuited for China.’” Id. “The comments came from the Communist Party [C]ommittees of Peking University, Shanghai’s Fudan University, and Sun Yat-sen University in Guangzhou, which each wrote a statement in the Communist Party theoretical journal Qiushi” under the heading “‘How to carry out good ideological work at universities and colleges under new historical conditions.’” Id.

123 See, e.g., Jessica E. Bauml, Note, It’s a Mad, Mad Internet: Globalization and the Challenges Presented by Internet Censorship, 63 Fed. Comm. L.J. 697, 702–04 (2011) (discussing the various challenges associated with the Internet itself, and associated with who may control the Internet).


125 See id. at 333–40.
availability and kind of access to the Internet for their citizens.\textsuperscript{126} For countries in which there is internet censorship by the government, lawyers who seek to participate in the robust conversation of an online law-school program might find their internet access limited or even blocked.\textsuperscript{127} Fortunately, however, these countries are still few—but of those few, some are eminently populous.\textsuperscript{128} Yet, that does not mean, however, that ways cannot be—and are not—found to circumvent these restrictions; indeed circumventing censorship is both possible and, to varying degrees, practicable.\textsuperscript{129} A recent article analyzing the effects of censorship on internet-user behavior thoroughly explored the results of a study conducted with participants who (covertly) participated from an undisclosed, internet-censoring country.\textsuperscript{130} The researchers observed that “the ways that people in The Country experience blocking and censorship and the strategies they use to navigate the Internet underscore the urgent need to better understand


\textsuperscript{129} See e.g., Xueyang Xu, Z. Morley Mao & J. Alex Halderman, \textit{Internet Censorship in China: Where Does the Filtering Occur?}, PASSIVE AND ACTIVE MEASUREMENT 2011, http://pam2011.gatech.edu/program.html (then follow “Internet Censorship in China: Where Does the Filtering Occur?” hyperlink) (last visited Jan. 20, 2014); see also MacKinnon, supra note 92, at 32–38 (discussing proxy servers and blogs as a method that may be used to circumvent Internet regulation, to an extent, in China).

how people in a broad variety of contexts experience and navigate blocking and censorship when making decisions about online contributions.”

Any virtual law school would do well to include in its planning process a careful consideration of the policy factors underlying the decisions of internet censors in particular countries so that they might anticipate the actions and reactions of those censors as part of a long-term strategic plan for making the program accessible to students in that country. They would also do well to lobby the American corporations who have been complicit collaborators in a large measure of foreign-nation internet censorship. In addition, as another commentator suggests, there may be opportunities for legal educators to foment a complaint about a leading practitioner of internet censorship with the World Trade Organization in which the censoring nation has a major, vested stake in its membership.

131 Id. at 1118.
132 Dynamic research in such areas is being done not only by academics and professionals, but by doctoral dissertation students as well. See, e.g., David Bamman, Brendan O’Connor & Noah A. Smith, Censorship and Deletion Practices in Chinese Social Media, 17 FIRST MONDAY (March 5, 2012), http://journals.uic.edu/ojs/index.php/fm/article/view/3943/3169.
The rule of law concept\(^\text{135}\) is, at its essence, expressed as the bounding of power by reason in an atmosphere in which frank, public dialogue critiquing the legal system and its participants can occur without fear or threat of reprisal.\(^\text{136}\) The virtual law school of the 21\(^{st}\) century may prove to be not only superior to brick-and-mortar and hybrid programs. It may very well also prove to be the most effective and durable crucible of resistance to dystopian shadows and predictably authoritarian power-grabs that imperil the rule of law in places where it had been sustained for so long.\(^\text{137}\)

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Erixon, Brian Hindley & Hosuk Lee-Makiyama, *Protectionism Online: Internet Censorship and International Trade Law* 1 (European Ctr. for Int’l Political Econ., Working Paper No. 12/2009), available at http://www.ecipe.org/media/publication_pdfs/protectionism-online-internet-censorship-and-international-trade-law.pdf (suggesting that while many WTO members have “the option to selectively censor [cross-border Internet services], . . . there is a good chance that a [WTO Dispute Settlement Body] panel might rule that permanent blocks on search engines, photo-sharing applications and other services are inconsistent with the GATS provisions, even given morals and security exceptions.”).  

\(^{135}\) Jeffrey A. Van Detta, *A Bridge To The Practicing Bar Of Foreign Nations—Online American Legal Studies Programs As Forums For The Rule Of Law And Pipelines To Bar-Qualifying LL.M. Programs In The U.S.* 10 SOUTHERN CAROLINA J. INT’L. L. & BUS. 63, 74-88 (Fall 2013).  

\(^{136}\) Id. at 88-97; see also Michael Risch, *Virtual Rule Of Law*, 112 W. VA. L. REV. 1 (2009).  

\(^{137}\) Van Detta, *supra* note 121, at 159-161.