Product Review: Kira

Contract Extraction Software for M&A Due Diligence

BY OTTO HANSON

In mergers and acquisitions, a tremendous amount of time and money are spent on due diligence. Before a buyer can close, it must find and quantify the risks associated with the target company post-closing. Does the target own its intellectual property? Is it in violation of employment laws? Will its key customer or vendor contracts be compromised as a result of the transaction? The list of concerns can be extensive.

How do we assess these risks? For many of them, lawyers analyze the relevant contracts in light of the circumstances of the transaction. This type of legal analysis varies in difficulty. At times, it can be deeply complex, requiring the exercise of both wisdom and judgment to successfully navigate. This is the domain of humans—lawyers, to be precise.

But before lawyers can analyze the relevant provisions, they must find them. Typically, this function is performed by gangs of associates who are handed gigabytes of documents and asked to mine data from them. Find the change of control provisions in these 100 documents. Make sure every employee has signed an intellectual property assignment agreement. Stacks of PDFs of varying quality, many of which are completely unsearchable, must be opened, sifted through, and the relevant provisions found. These data mining tasks, which can be very time-consuming, are better suited to the domain of machines.

Kira has one such machine, in the form of a software as a service (SaaS) platform backed by artificial intelligence, taking humans out of the data-mining function.

How It Works

Kira lets you upload large quantities of documents onto its platform. Once uploaded, you can ask Kira to extract any number of provisions from a preset menu. Kira has more than 430 provisions that it is already trained to look for, but it also employs artificial intelligence to let you train Kira to look for more unique provisions specific to your deal type.

Let's imagine we're performing one of the most common tasks in M&A due diligence—a change of control analysis. We need to find out which of the target's contracts require notice or consent upon a change of control of the target company. Without Kira, lawyers visually search PDFs for words like "assignment," "change of control," and "acquire." If a PDF is not OCR-enabled (i.e., not searchable), the lawyer must manually scan the document. With Kira, the lawyer uploads the documents of interest to the Kira platform and Kira spits out a table with all of the requested provisions. In a change of control analysis, one might produce a table showing, for each contract uploaded, the contract name, parties, effective date, termination provisions, assignment, and change of control provisions. The lawyer spends his or her time reviewing only the relevant provisions of the agreement, letting the machine focus on the data mining.

The Luddites among us might ask how we could trust a machine to tell us that a provision isn't present in a contract. The answer is that we can't, at least not for mission-critical contracts. However, we can trust a machine to tell us when a provision *is* present. In other words, if Kira shows me a change of control provision it extracted from contract X, I can comfortably rely on the assumption that the provision actually came from contract X. However, if Kira tells me that contract X doesn't have a change of control provision, I have to make a judgment call about whether I trust that. If I choose not to trust it, I can always open the contract up the old-fashioned way and take a look for myself.

Kira for Document Comparison

In addition to contract extraction, Kira provides a document comparison feature capable of comparing dozens (or hundreds) of documents against the form of that document when each of the documents being analyzed is based off of the form. The output of this feature is an interactive version of the form with a colorful heat map showing where, and to what extent,

Kira's artificial intelligence-backed SaaS solution has the potential to dramatically decrease the amount of associate time spent mining data from documents. The net effect could result in fewer lawyer hours billed—and fewer lawyer jobs. However, that's not necessarily the case.

variations to the form exist in the various documents. The author of this article compared dozens of employment agreements, using the heat map feature to show how often changes were made to the intellectual property assignment provisions, with great success. In addition to showing frequency of changes, hovering over any provision in the form document output reveals a list of all documents containing changes to the provision, with the ability to click through to the agreements or print reports. It's easy to imagine myriad other use-cases for Kira, and indeed Kira highlights others on its website (kirasystems.com).

A Few Considerations

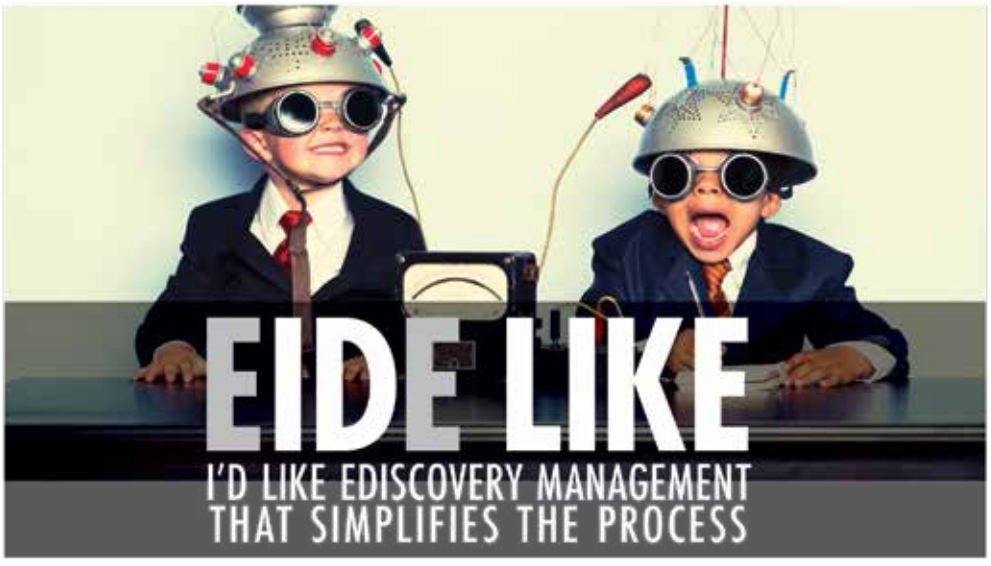
While certainly a game changer when dealing with large sets of documents, Kira isn't perfect. Certain PDFs simply can't be read, due to poor scanning or other issues affecting resolution. Documents with prominent watermarks can also cause readability issues. While Kira does do a good job flagging contracts that it was not able to read, with some document sets the number of unreadable documents could be high. Finally, Kira's pricing model is aggressive. It charges on a per-document model, based on bundles of anticipated usage. For large firms, estimating usage is difficult. Furthermore, the pay-per-document model creates a disincentive to fully utilize the platform, causing lawyers to engage in a cost–benefit analysis before using Kira for a particular project. Notwithstanding these setbacks, Kira is an excellent new technology with very strong potential.

Conclusion

Kira's artificial intelligence-backed SaaS solution has the potential to dramatically decrease the amount of associate time spent mining data from documents. The net effect could result in fewer lawyer hours billed—and fewer lawyer jobs. However, that's not necessarily the case. By automating the data mining function, law firms can now offer clients a wider scope of review in due diligence for a similar price. Instead of reviewing your top 50 customer contracts for X, Y, and Z provisions, we can now review your top 200. In other words, Kira offers law firms the potential to offer the same scope of review at a reduced cost, or a broader scope of review at the same cost. CL

Otto Hanson is an attorney in the Finance and Acquisitions group at Davis Graham & Stubbs LLP in Denver.

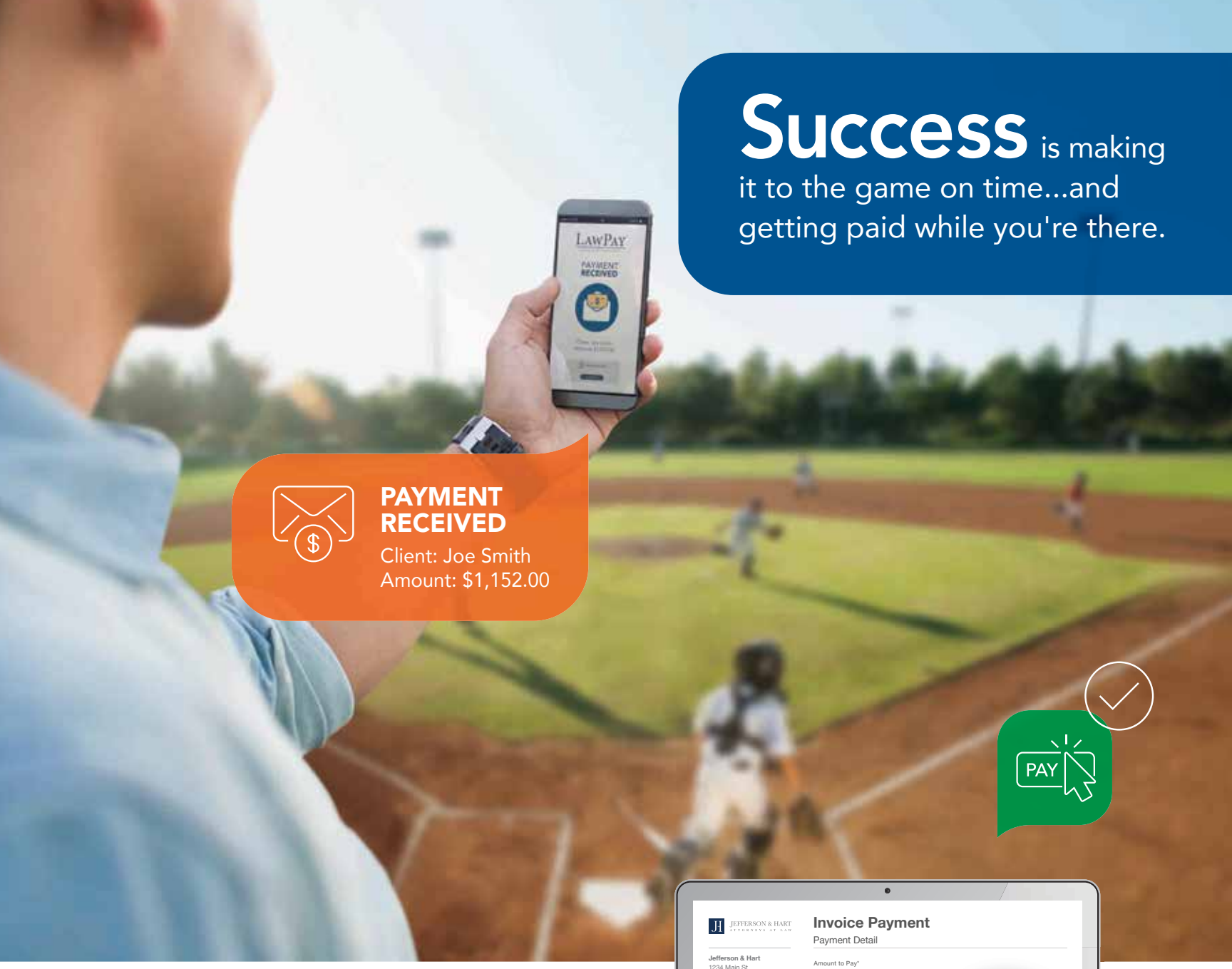
Coordinating Editor: Joel Jacobson, joel@rubiconlaw.com

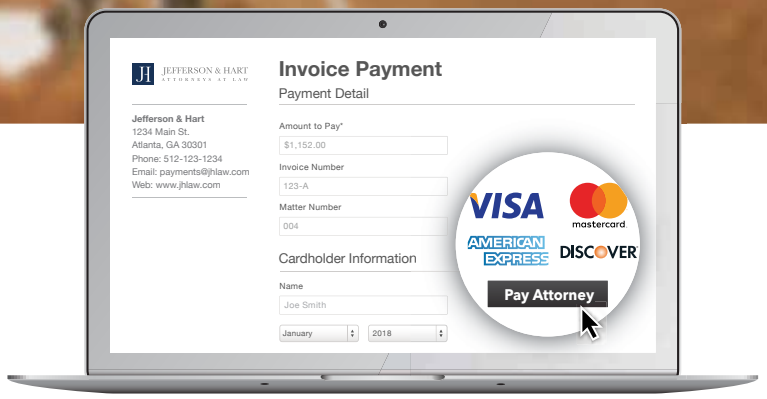


Today's data rich environment calls for better eDiscovery Management solutions. We offer computer forensic investigative expertise combined with a cost-effective data processing protocol.

EideBailly
CPAs & BUSINESS ADVISORS

What inspires you, inspires us.
303.586.8504 | eidebailly.com/ediscovery





Have the best of both worlds

LawPay was developed to simplify the way attorneys get paid, allowing you to run a more efficient practice and spend more time doing what you love. Our proven solution adheres to ABA rules for professional conduct and IOLTA guidelines. Because of this, LawPay is recommended by 47 of the 50 state bars and trusted by more than 45,000 lawyers.

LawPay® AN AFFINIPAY SOLUTION + CBA® Est. in 1897 Colorado Bar Association

LawPay.com/COBar | 866-227-6006

The experts in legal payments

LawPay is a registered ISO of Merrick Bank, South Jordan, UT