

# Accelerating Freedom to Operate (FTO) Analysis at Medtronic



## Company Overview & The Issue at Hand



Controlling costs, optimizing resources like attorney time, and streamlining processes are top concerns for all legal departments. For medical technology company Medtronic's Freedom to Operate (FTO) team — a group within the IP Department charged with the complex tasks related to clearing new products from patent risk before their market debut — creating an internal team to manage and execute on a portion of the FTO work was one way to address these issues.

"Like many other legal departments, we have been facing consistent budget pressures from the past couple years to really refine and cut our outside counsel spend in particular, and be as lean as possible," said Mishele Kieffer, IP Director of FTO at Medtronic. "One of the ways that our chief IP counsel saw that we could potentially alleviate some of those pressures, was to create an in-house team that would do some of the clearance work that we would typically send to outside counsel."

With the internal team in place, more budget predictability was expected, and with continued immersion in the technology, increased ability to identify risks.

"Over time, we would be pretty well versed in the technology, like our counterparts that are working closer to the business and with the engineers," continued Kieffer. "We could work faster and understand things quicker, and we would be able to produce the work product that they needed to advise on risk without incurring additional cost from going to outside counsel."

In fact, according to the IP counsel, the team started to gain interpersonal efficiencies while getting the work done, and getting it done well. And the business units noticed. That said, one thing remained unchanged — the nature of the FTO team's work.

"The work that my team does is very detailed, it's very intense; hard legal work, and we were looking for ways to make that a little bit more efficient," she said. "As the reputation for my team grew, we got more and more requests to support some of our businesses as they were going through the clearance process for new technologies. So, my team started to pilot some AI tools to see if there were ways that we could actually gain efficiencies and still create the high-quality work product that we were used to and that our clients were used to seeing."

## The Solution

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Before deciding on a path forward, the legal team is wise to investigate various service providers across the team's areas of need.

"The first thing that we had to do, and that I would advise, is to really think about what you want to do," said Kieffer. "You can't do everything, and you don't need a tool that does everything, you need a tool that does exactly what you want." In other words, clearly define your goals and define the problem the technology is to address in order to meet them. Stressing that the tool be reliable, she also advised working to develop a good relationship with the provider. "That's certainly been a key to our success with Crane," she said. Executive leadership that embraces technology and people willing to problem-solve with creativity has aided in her department's 'wins.'

"We do have a directive from our executive leadership to lean into AI for productivity gains," explained Kieffer. "Having a team that's willing to be creative and try things out, that's been the key to our success, and it's put us ahead of the curve on adoption. It's almost a person-by-person and provider-by-provider experience."

## The Process (and the Partnership)

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Dan Lin, cofounder and CEO of Crane Patents echoed Kieffer's thoughts, crediting her team with being "incredibly focused as to what they wanted to look for in an AI-based product." Stating that it was clear the FTO team was evaluating several teams and from their questioning, that they understood what they were looking for.

"They knew the area that they had identified; that they wanted to see if they could create efficiencies. They understood where they thought AI could help them, out of all the things they have to do," said Lin. "From our perspective, they asked the questions, and we walked them through the platform, and fortunately for us, this was sort of exactly something that they were looking for — at least what we were offering from a philosophical perspective." From there, the partners were able to work together to fine tune the platform to fit Medtronic's needs.

"I would say that working with Crane allows my team to get more quickly through their work product, especially the early stages of creating the documents that we rely on for our clearance analysis, without having to go to a couple different platforms, and doing so in less time as well," Kieffer added.

## Outcomes



“The thing I’m most proud of might be the cost savings,” said Kieffer. “It’s real and it really impacts our bottom line and lets us do the work that we need to do with the budget that we saved. It would be wrong to answer in any other way.”

In fact, Medtronic’s FTO team has reduced outside counsel and vendor spend on FTO work by approximately 30 percent year-on-year since implementing the in-sourcing model across parts of the company and achieved savings that exceed the cost of adding headcount to the IP group by more than \$1 million.

“It does cost a lot to add a team, my team has six attorneys on it,” explained Kieffer. “That is definitely a cost to Medtronic, and so to be able to save money above and beyond that headcount cost is, I think, an outcome that is better than what we expected.”

Further, by leveraging AI tools, the FTO team can more efficiently analyze strategic complete IP, for example, and is able to in-source and automate prior art analysis and claim chart generation and in the process, reduce outside counsel spend on these activities.

“The other piece that I’m really proud of, is the work that we do is the same or better — it’s usually better — than what we get from outside counsel,” added Kieffer.

The IP counsel went on to again compliment her team’s intellectual curiosity, as well as its creative approach to supporting the business.

“I’ve been really surprised that there’s so much room for creativity within a legal department to do something like this, and to get that support from our senior legal leadership,” said Kieffer. “That’s gratifying, to see creativity rewarded.”

## Implementation of the Platform and Departmental Success: Key Takeaways



For legal teams looking to implement similar tools to create efficiencies and add value to the business, Kieffer recommends first taking stock of what the challenges truly are, and to then figure out where your team is spending the most time. “Those are places where it’s worth investigating if there are AI tools that can help,” she said, crediting her team with dedicating the effort to figure out where they were losing hours, and on what type of work. This made it possible to find the areas “ripe for disruption.”

“Be focused on where you think you can drive efficiencies in your process and in your workflows,” advised Lin. “Where are the pain points and where do you think AI can help and really lean in heavily and be precise and articulate that, very clearly.”

The CEO is equally proud of his company’s partnership with Medtronic, and its ability to help the legal team identify and ultimately address the areas where AI would help them achieve its goals and add value.

“I’m most proud of the ability to be responsive to the Medtronic team. To sort of grow with them,” he said, noting that his company is small and its platform imperfect. “With their vision and their help, they’ve given so much feedback to us over the time.”

## Advice & Demonstrating Value

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While many companies and legal teams have implemented technological solutions into their processes and workflows, some are further along than others. If your organization is a bit more hesitant to add AI, Kieffer suggests testing the waters, perhaps more than once. “I would say to identify some providers and try them out, and give them more than one chance,” she said. “AI typically is not a perfect solution to most problems, but that is on both sides. The AI products are getting better and providers who are responsive, like Crane, makes all the difference.” She continued, “We had some significant back and forth over the pilot period to get a product that was tailored to exactly what we needed, and to be fair, it’s good. We can rely on it, because I think the primary concern in the legal sphere with AI is hallucinations, and to not find those in the product is important.”

Of course, lawyers will be (risk adverse) lawyers.

“The trust but verify nature of lawyers is not going to go away, and I think that’s great,” explained Kieffer. “AI adoption is something we kind of have to accept and embrace. But keeping that skepticism is what’s going to make your work product better and hopefully save you time.”

According to Lin, this aligns perfectly with the intention behind the platform and their goals as a company supporting their clients: to give customers a way to “accelerate their own understanding of the facts.”

“It’s not to replace the facts,” explained Lin. “The platform itself is not trying to give you the answers, it’s just trying to help those attorneys go through their journey of knowledge acquisition a little bit faster and then allow them to exercise their legal judgment the way they would like to.”

Saving your company money and being able to point to process efficiencies created through the evaluated implementation of new tools, are definite ways to demonstrate value to organizational leadership. Before any of that, however, Kieffer reemphasizes the importance of familiarizing yourself with the needs of the business.

“Really understanding what your clients need on a proactive basis makes a big difference in how you’re perceived,” she said, debunking the notion that legal departments are “cost centers and the land of no” simply because the team’s working to mitigate risks that may not be as obvious to the business. “The earlier you can have those conversations, the more straightforward you can have that relationship be,” she said.

It all comes down to interpersonal relationships.

“That makes a huge difference,” she continued. “Because then when you do say no, your business partners trust you.”

## An Award-Winning Solution

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“We’re seeing the outcomes that our clients need to feel comfortable with our analysis, and we are meeting those efficiency expectations and relieving some of those budget pressures,” Kieffer replied when asked what made Medtronic and Crane Patents partnership, and the solutions it created, award-winning.

“At the end of the day, we’re meeting the goals that we set out with the group and we’re able to do that more, better, because of our use of Crane.”