

2023 Digital Accessibility Legal Update Part Two

[00:00:00.14] JENA WALLACE: Thank you so much for joining us for part 2 of our 2023 Digital Accessibility Legal Update, presented by Lainey Feingold. Today's presentation will cover a global accessibility law and policy snapshot, Staying Ahead of the Legal Curve, and Accessibility Convincing With the Law in Your Pocket.

[00:00:20.19] If you have not watched part 1 of the presentation, don't worry. You can view the recording on our website. My name is Jena. I'm on the marketing team here at 3Play, and I'll be moderating today's session.

[00:00:31.80] Just a quick self-description-- I am a white woman in my 30s with wavy, light-brown hair and green cat-eye glasses. And with that, I'd like to welcome back Lainey Feingold. For those who don't know, Lainey is a disability rights lawyer, author, and international speaker. Thanks again for joining us for session number two, Lainey, and I'll pass it off to you.

[00:00:55.36] LAINEY FEINGOLD: OK, thank you. Thank you, Jena. Thank you, 3Play. For the past several years, we've done this as one session, and there was just too much content. We decided last year it would be two, and there's still a lot of content. So I'm really glad to be here. I do have a slide deck, which I will turn on now. Actually, hold on.

[00:01:22.75] OK. OK, here we are. In part 2 of the Digital Accessibility Legal Landscape talk for 3Play Media, which is so generous to offer these free to the community with recording and captions and sign language interpreters and make it available online. So really, we should-- I am personally, and I hope everyone is, grateful to 3Play.

[00:01:55.76] On the title slide, I do have my website, which is lflegal.com. I try to write about things that happen in the law and write about collaboration and structured negotiation as a way of solving accessibility issues with relationship building, instead of conflict and runaway costs. I have-- my Twitter handle is @LFLegal. I'm not on Twitter that much, but I do have the @LFLegal account also on mastodon.social, and I am on LinkedIn.

[00:02:30.20] It does say at the bottom of the slide, no legal advice here, so please do remember that. Before I dive into today, three things happened since part 1, two of which we'll talk about going forward, but one, I just want to mention quick at the start. Last week, we talked about the US Supreme Court having a case brought by a woman who was an ADA tester on websites that didn't provide information about accessible hotel rooms.

[00:03:04.64] And I did check to see, what did I say about that last week? Last week, I said, the Supreme Court may decide it's moot. Well, in fact, this week, the Supreme Court did decide it was moot. They're not going to handle the case, which is a great outcome if you care about disability rights and accessibility.

[00:03:22.38] So there's a link that will be in the chat or is in the chat. I wrote about this update. So-- and it was another example. I did have a chance to write about the update-- update my article about the case. But I put it on LinkedIn.

[00:03:39.24] So if you want to know quicker what's happening in the legal space when I know it, I put it on LinkedIn. So that's one thing that happened, just since last week. There'll be another two as we come up.

[00:03:52.22] So for today, what's today's roadmap? We're going to talk about global accessibility law and policy overview. Obviously, country-- the globe is big. We can only do an overview. I pulled out-- we're going to talk about big picture and resources.

[00:04:08.08] Because really, for this kind of webinar, I think maybe the best thing I can offer everybody is how to find out more information and where to turn if you need to know about a particular country or what's happening in enforcement. So we'll do a big picture.

[00:04:23.47] I pulled out a few things-- the Convention on the Rights of People With Disabilities, what's happening in the European Union, India, and Kenya, so we'll do a quick touch on that. And then, we're going to pivot to how to stay ahead of the law wherever you are. That was the real reason I wanted to do a two-part webinar this year.

[00:04:45.00] Because if you're on this call, if you're one of the over 800 people who signed up to learn about the digital accessibility legal space, you're someone who doesn't want to be on the wrong end of a lawsuit. So I want to share with you my ideas about that and how to talk about the law or, as Jena said in the intro, how to put the law in your pocket to advocate for accessibility.

[00:05:10.13] So the image I have here is a road map. The road is in the European Union, because that's one of the things we're going to talk about this morning or this afternoon, whenever you're listening. And these turned out-- the picture I used-- I wanted a cross-country road in the EU. Turns out that these are self-driving trucks.

[00:05:30.49] So that's what the image is. I want to start with a quote I used last time about the US-- also true, global. "The legal framework gives us permission to dream what is possible." "The legal framework gives us permission to dream what is possible."

[00:05:49.52] I heard that during Microsoft Ability Summit in 2021 from Lizzie Kiama in Kenya. The legal framework-- I hope one takeaway you have today-- is growing and strong across the globe. And when we say-- when what it means to me-- this "gives us permission to dream what is possible"-- is that the law can be-- if we think about it as civil right and a human right-- and that is why accessibility is part of the legal system-- we can dream of a society, and we can act to create a society that does not exclude people with disabilities.

[00:06:29.66] So that's why I love that. Accessibility is global. I've been saying that for a very, very long time. And it's more and more true today. I have an image of a globe.

[00:06:39.92] Last time, we talked about why accessibility is a civil and human right. I won't talk about that again. I urge you to look at part 1. But all the laws across the globe-- the core of it is that without accessibility, people with disabilities are excluded. So accessibility is a civil right, a human right.

[00:07:01.22] I use those terms interchangeably. In much of the world, the term is more "human right," compared to "civil right." But to me, they're both the same, in that we're talking about right of inclusion, privacy, autonomy, being able to make your own choices, being able to decide how to live your life. And in today's digital world, accessibility is crucial to that.

[00:07:28.37] So biggest takeaway for the global law and policy-- if you have to leave right now, just remember this. This year, I have had a global law and policy page on my website since 2013, which I did for Global Accessibility Awareness Day. Over the years, I've updated it. It was kind of messy.

[00:07:47.18] This year, on Global Accessibility Awareness Day, I wanted to relaunch the page. And to do that, I had to put out a call through social media to people in the accessibility community. Please help me update the page.

[00:08:02.96] And I'm really, like, happy to say-- honored to say-- that over 35 people from around the world sent me important information about what's happening in their countries. So this page, which you can find on my website-- llegal.com-- there's a high-level navigation dropdown menu, called Law and Policy. There's two things off of that.

[00:08:31.21] One is US Legal Updates, and one is this page, Global Law and Policy. So for everybody who contributed-- and their country, their name, and their link to their own website or to LinkedIn. And I did that, one, to acknowledge all the help I got, but two, to help create more community.

[00:08:53.16] So if you look up a country and you see a person's name, that's someone you can reach out to to find out more. This page always needs updates. So it's divided by geographic region. I have a global one for treaties, and we have Africa, Australia, New Zealand, Canada, the US, East Asia, et cetera, et cetera.

[00:09:16.36] And not every country is included. And I encourage you to send me updates, which I will try to faithfully include. I'm also really interested in how are these laws and policies being enforced. What is the action side of the dream?

[00:09:35.23] So I have some enforcement, but mostly, what's on that page is the laws that create the framework. So that's llegal.com, on the dropdown menu for Legal Update, Global Law and Policy. Direct link is here on the slide-- llegal.com/global-law-and-policy.

[00:09:59.03] So I encourage you to check that out if you are interested in global, which-- those of you in other countries, obviously, yes, but everyone everywhere needs to be. Because as we'll see, you make a website, you're not just making it for the United States.

[00:10:15.88] So Convention on the Rights of UN-- the United Nations Convention on the Rights of People With Disabilities-- I just want to give a shout-out to that-- referred to in shorthand as the UNCRPD. 185 countries have ratified this-- ironically, not the United States. I say "ironically," because there's an understanding that much of it was based on the Americans with Disabilities Act.

[00:10:42.77] So 185 countries have ratified. There is a section with links in the global page that I just referred to. I think there'll be some links put into the chat for this slide. Article 9 specifically deals with accessibility.

[00:10:59.34] So one thing I like about this Article 9, Accessibility, is that it starts with the why. Because the why is so important. The why is stated as "to enable persons with disabilities to live independently and participate fully in all aspects of life," which is what accessibility allows. So the accessibility section talks about access to information and communication, including information, communication, technologies, and systems, including electronic services and emergency services.

[00:11:38.12] And there's a section at the end that says one of the goals is to promote access to new information and communication technologies and systems, including the internet-- this is from 2006-- and to promote the design, development, production, and distribution of accessible information and communication technologies and systems at an early stage so that the technology and systems become accessible at minimal cost. So many of the 185 countries who have ratified have implemented laws around this.

[00:12:10.72] There's also a implementation optional protocol for the treaty, which I didn't quite understand before was getting ready for this talk. And now, I understand that another set of countries within the 185-- less than 100 have signed on to be part of the optional protocol, which lets people in these countries make complaints about the lack of access. I don't like the word, "complaint," because it sounds like complaining, but bring the lack of access to the attention of the United Nations.

[00:12:43.71] So there's been some implementation around that. I don't know too much about it, but I know about this. I put a picture of an ATM, because in 2013, the United Nations got such a complaint about ATMs in Hungary that were not talking ATMs for blind people. And there'll be a link in the chat, where you can read my article about that as well as a UN press release, which started out in May of 2013-- UN disability rights body confirms that equal access-- equal access to banking services should be granted to all.

[00:13:24.74] So that was back in 2013. So I don't know if someone on this call knows more about the-- bringing issues to the attention of the UN or other access initiatives that were brought to the UN and had a ruling, like in Hungary. I'd really welcome hearing about it. But--

[00:13:42.98] And again, like-- I should have said this at the beginning. Like all legal activities, all the laws, all the implementation, they happen because people with disabilities assert their rights. And in this article that I wrote that links to the UN press release, you'll see the names of the blind people in Hungary who push to make sure that the Convention on the Rights of People With Disabilities covered eight talking ATMs.

[00:14:13.08] I have a couple of resources on that. One is my page, and the G3 ICT has what they call a Dare Index. Forgetting right now what the initials stand for, but that is also linked on my page. You can get a lot of good information and links about the CRPD.

[00:14:28.90] The European Union, the European Accessibility Act-- I have the map of the EU. This is a very big and exciting development for the world of accessibility. The big picture of it is that it creates accessibility requirements for products and services.

[00:14:48.56] Entering the market, entering the market of the European Union-- it kind of feels like a trade initiative. Again, I'm not an expert on the European Accessibility Act. I do have a lot of resources on the global page for those who want to learn more. But instead of-- for example, in the US, the way the ADA works-- the bank has to make sure the ATM is accessible, even if they're not building the ATM. They're buying it from someone else.

[00:15:20.20] Here, it has to do with products and services entering the market, which means the European Accessibility Act applies to anybody who's manufacturing these products and services. They don't have to-- they don't have to be in the European Union. Just the product and services have to.

[00:15:37.06] So the basic obligation is public and private economic operators, they call them. Manufacturers, their representatives, et cetera, must ensure that any products they place in the European Union market or any services they provide covered by the Act comply with the accessibility requirements. So it's a different way of doing accessibility. And I think it's very exciting and something we all need to pay attention to, because the accessible product and services have to be in the market.

[00:16:10.35] That part of the European Accessibility Act goes into effect by June 25, 2028. And each of the countries in the European Union were supposed to have a law that implements the European Accessibility Act on the country level by last December. I have a lot of resources on this on the global page. Most countries did. Not all of them did.

[00:16:34.26] The resource on this-- a main resource I rely on-- is the European Disability Forum, which is linked. They do wonderful work in the European Union, and they have a lot of materials on their site, webinars, and resources, and some things in plain language. So that's all linked on my site, and I encourage you to-- I encourage you to check it out.

[00:16:55.64] OK, the other country wanted to pull out from the many countries on the global part of the global framework is Kenya, which is why I have a map of Africa with a magnifying glass on Kenya. Because Kenya became the first African country-- first country in Africa to adopt accessibility standards, which they did in 2022. So if you search Kenya on the website, you will find what I wrote about Kenya.

[00:17:23.88] And that was at the pushing and urging, advocacy and organizing of many people, including a nonprofit in Kenya. It does have an office in the US. If you're not familiar with it, I invite you to check it out. It's called inable.org. They have a conference that is in-person and remote in May, called "Inclusive Africa," where they announced the first accessibility standards in Africa back in 2022.

[00:17:55.76] So I invite you to check that out. Also, while we're in Kenya, I want to give a shout-out to Nigeria, because recently, Nigeria started a LinkedIn page for the Nigerian accessibility community. And I think the link will be in the chat on that.

[00:18:12.95] And I love LinkedIn as a community builder. You know, Twitter used to be that for me. And now, it's much more LinkedIn. And I follow this page, and I invite all of us who care about developing accessibility requirements and practices everywhere to follow the page and support this grassroots effort that's happening in Nigeria.

[00:18:36.93] So that's that. India calls itself a digital first nation. There's a map of India here. I have India on my Global Law and Policy page that was written by a group of blind lawyers. They're named individually on the page. I want to give a shout-out to the group, who sent in a detailed analysis of what is happening in India around accessibility.

[00:19:06.91] One thing that gives me kind of added hope is that these lawyers are blind lawyers, and they are bringing-- they sent me two recent things. They sent to me a text this morning, that there was an important verdict in 2022 on a case brought by one of these lawyers, Rahul [? Bajaj, ?] who is one of the people who sent me the information on the global page-- "held that private service providers are also bound to make their digital platforms accessible under the Rights of Persons with Disabilities Act and related rules."

[00:19:42.51] And there have been other landmark rulings there, too. And just like anything else, when disabled people are involved with the law, the law is going to move forward on accessibility. There was a recent case this year, where a deaf lawyer, for the very first time, was able to present her case in India in court with sign language interpretation. Never happened before.

[00:20:06.37] So very exciting about India. I'm very excited about India, because they're having a conference next week-- "Inclusive India-- Digital First." That's what it's called. I invite you to look it up. And I'll be speaking there. So I'm very excited about that. And I'll also be on a panel of Indian law and global law. So I'll know more about that and will add to the global page when I get back from my trip.

[00:20:33.25] So that's what I want to share about the global law and policy-- the overview, how you can find resources, the big picture, the few parts of the global framework that I pulled out. Now, I want to pivot to talking about staying ahead of the curve, wherever you are. This road is an Indian Mumbai-to-Delhi road with very many lanes in it.

[00:20:59.69] So I tried to pick a different road for every road map slide. So let's talk about staying ahead of the law. What are the best practices? The shortcut-- because we could-- I could facilitate a conversation with all of you.

[00:21:17.57] There's more than 800 people who have signed up for the 3Play legal update, and we all-- you all, whatever your role, are doing your part to help your organizations stay ahead of the curve. But we don't have a day to share ideas on that, so my shortcut answer is understand the accessibility cookie.

[00:21:42.77] If you've heard me speak before, I always try to put the cookie into the slide deck. First of all, fun to have a picture of cookies. They look so yummy. They were actually baked for me for a talk I did in New Zealand, which is kind of fitting for today's global theme.

[00:21:55.53] And it says "Bake accessibility into your organization's culture." Also, it could also say, "Bake accessibility into your organization's culture to help you stay ahead of the law." And the cookies-- they asked me, well, could we do anything for your talk?

[00:22:11.29] I said, well, could somebody bake cookies with lots of ingredients? Because these cookies, which have nuts and chocolate chips and coconut and flour and butter and eggs-- to represent that there's so many parts of accessibility. Back when I started in the '90s, it was more thought of, well, accessibility is more something developers do. So long as developers know how to build an accessible platform, website, then we're set.

[00:22:39.64] But not so true anymore. Well, it was never true. But now, we understand that so many different roles, so many different parts of an organization, go into making sure that technology and content is accessible, which, of course, is key to staying ahead of the legal curve.

[00:23:03.33] So number-one ingredient-- hire and engage disabled people. There's no alternative to that. I was talking to someone in a big company a while ago, and they were saying, well, we had one team that was just really-- everything coming out of that team was really solid on accessibility, and we were trying to understand, what was it about that team, and what learnings could we get?

[00:23:29.46] Well, not surprisingly, someone on that team was deaf. And that's why the product that they were working on always hit the mark on accessibility. So hire and engage disabled people throughout the process. We're doing much, much better, I think, in hiring disabled people in the testing end. Very good.

[00:23:52.47] There needs to be more people with disabilities in all these stages that we'll be talking about. So that's really the key ingredient. If you don't yet have people with disabilities on your staff, there's other ways of engagement, all of which should be paid-- focus groups, even talks, lunch-and-learns, all those kinds of things. So hiring, engaging disabled people-- key ingredient of the cookie to stay ahead of the legal curve.

[00:24:20.74] Transparency-- which I have here-- accessibility statements. I think I put the link in for the chat, for the accessibility statement article I've been keeping up for at least 10, 12 years. Transparency is important, because there's some countries-- I believe in the UK, and maybe even the EU, too, the Web Accessibility Directive requires statements of what has been done and what hasn't.

[00:24:53.48] So I don't have that off the top of my head, but I urge you, if you have content technology that's covered by laws in other countries, it's important to see what their requirements are. In the US, there is not a requirement to say, we have not fixed this yet. And it's hard to recommend people do that, because of the litigation environment that we find ourselves in here.

[00:25:19.88] However, it's important internally to be transparent. It's important if you get calls to say, that's on our roadmap. Here's our schedule for fixing. Because the truth is-- and I might say this again later-- people with disabilities do not want to file lawsuits. They want access. They want inclusion.

[00:25:40.90] And somebody comes to me and wants to hire me as a lawyer or be involved in structured negotiations-- first thing I do is look for an accessibility statement and say-- and if it's a good one, if it's a one that has contact information, et cetera, I say, well, here's a company that understands accessibility. Let's find someone inside to talk to first.

[00:26:01.97] So of course, there's lawyers operating not like that, but having transparency, focusing on a good accessibility statement-- so many I look at-- I hate to say, clear it hasn't been updated for many years, referring to old technology. Some of them sound like they're written by a lawyer. Others sound like they're written by a company with a real commitment and a real culture of inclusion.

[00:26:26.68] So really encourage you to look at the accessibility article I have. It has tons of sample accessibility statements as well as links to other people. There's a few other people who also keep lists. Testing and training-- of course, so important.

[00:26:42.00] The training piece is so important for everyone in your organization, especially to communicate the why. Why are we doing this? Why does it matter? We want to be an organization, a school, a college, a nonprofit public sector, private sector, that doesn't exclude people.

[00:27:02.47] So training, and training by people with disabilities-- really important ingredient in the cookie. Ethics, understanding digital accessibility as really an ethical mandate-- because without accessibility, there's no privacy. There's no autonomy. There's no choice. There's no fairness-- all the key ideas around ethics.

[00:27:24.70] Making sure your organization understands, you know, we want to be an ethical company. We need accessibility. Design and development, as I said, used to be the only thing we talked about-- now, one of many. I have the three arrows, shift left. Earlier you can-- earlier you can start thinking about accessibility, the more the end result is going to be accessible, and therefore, legally, you're less likely to run into problems.

[00:27:53.63] And then, procurement-- and this is understand the cookie part 1. There's another part. I want to stop with procurement to just do a quick, separate, little slide on procurement, which shows a picture of someone smashing a computer with a hammer, breaking it. Because the slogan for accessible procurement is "don't buy broken things." We have to think about that.

[00:28:18.11] When we bring-- when we buy something, when we license something, is it accessible and inclusive? Is your procurement department, which some of you may be joking-- you may say, I'm a one-person show. I am the procurement department. I understand that. I'm also a one-person show.

[00:28:37.28] Whoever's procuring has to understand accessibility. And I want to-- one thing that happened between last week and this week is last week, I talked a little bit about the resolution of the \$66 million web case, which was a case against California Parks Department for bringing in a website that had the potential cost of \$66 million.

[00:29:03.05] And it was a novel, first-time-ever, as far as I'm aware, lawsuit that says, you know what? California bought a website that was supposed to be accessible. It was specified in the contract. But when it was delivered, it was not accessible. That's a false claim, and that's fraud.

[00:29:25.43] And this week, the press release came out. I updated my article. So I really-- this is such an important case. It's about public sector procurement. If you're buying and selling in the public sector, got to read the case. The update has a link to the settlement agreement, but foreshadowing how it should work in the private sector as well.

[00:29:50.84] So procurement is key. Don't just take a-- don't just take a VPAT. Make sure the VPAT is very specific. Know what it's about. Know what product was tested, what version of the product, when it was tested, what was done for testing. That's just a few of the questions.

[00:30:08.70] So the California Parks case is really critical. There'll be something in the chat about that. Resources for that-- I want to share the Procure Access Initiative and the Accessible Procurement Toolkit from Disability:IN.

[00:30:21.17] I used to consult with Disability:IN and did some work on this project and can really recommend everything Disability:IN is doing as a facilitator of a business-to-business initiative on how to do accessible procurement. There's resources. There's contract language. There's videos. There's webinars. I highly recommend.

[00:30:41.72] Higher-education accessible procurement-- a lot of good work is being done. And I have a link that will go in the chat, from EDUCAUSE. The PEAT-- P-E-A-T-- Guide for Purchasing Accessible Tech is a really great resource. All the resources from PEAT are very good.

[00:30:58.25] And then, I put in law departments. If you have a law department, find out if they have resources on accessible procurement. Have they ever heard of accessible procurement? We can use this California Parks case to leverage more accessibility in the procurement space.

[00:31:13.76] So back to the cookie-- same picture, same yummy cookie. Policy and culture is also a key ingredient. Some companies like policy. Others like culture. I heard someone from a big company say on the stage once, at our company, culture eats policy.

[00:31:31.55] So these cookie ingredients-- you have to make your own cookie. That's another way to say it. Understanding your own company's organization. HR, marketing, communications-- all part of making sure that public-facing things are accessible and staying ahead of the law.

[00:31:50.36] Collaboration-- working with people with disabilities, bringing in people, breaking down silos within your company-- this is how I've done my work and structured negotiations since the '90s. And you don't need to wait for a lawyer, even a structured negotiation-friendly lawyer like myself. Like, I try to have collaboration be of value to get the best results on accessibility.

[00:32:17.16] Take an act on feedback seriously. When you get a call from a consumer or a student or someone that you serve in the public and they are talking about things that have to do with your digital product, listen to it. Are they saying, I couldn't find this, I couldn't see this, I couldn't hear this, this was confusing to me?

[00:32:39.57] Those are all accessibility concerns, and you need to take the feedback seriously and be transparent about how it's going to be handled. No shortcuts, no overlays. This was another development in-- hold on. Let me just do a time check with myself.

[00:33:02.55] Yeah. No shortcuts, no overlays. I've spoken and written a lot about this. If you're new to this issue, please, please check out the overlayfactsheet.com. And I have a link in today's chat-- very important, as some of you in the US may know. There was a lawsuit by an overlay company against an accessibility advocate champion in this space, and that is still pending out there. We don't know the result.

[00:33:35.76] However, there's also two-- two lawsuits in France by an overlay company-- not the same overlay company in the US that sued Adrian Roselli-- a different overlay company. And just this week, I read-- happened in November, but I read it this week-- that the overlay company got a verdict in France requiring the seven-person accessibility shop, run by a lovely woman who's an accessibility champion-- has spoken out about problems with overlays, harms to disabled people that they cause, et cetera, et cetera.

[00:34:14.67] There's a verdict against her. She's written about it. I have the link in here. She has a GoFundMe type of campaign to help her raise the cost to appeal this. I think it's a critical issue for all of us in the accessibility space to support the advocates who are really out front on this-- no shortcuts, no overlays-- and make sure they don't have to go bankrupt because they're getting sued by big overlay companies.

[00:34:39.67] So that's one. And the last one-- compliance and the law on the cookie. I always say, compliance in the law is a salt. Because for those of you who bake, there is not a good cookie. A cookie can't be sweet without salt. Sounds weird, but it's true.

[00:34:58.97] But if you have too much salt, you have a bad cookie. So it's important to keep up with the law. If you're listening to this, you're someone who cares and knows about that, because you're listening to the 3Play Media legal update for the year. Resources I put on here-- one is my website, llegal.com, and my social media accounts, where I try to keep people up to date.

[00:35:23.00] In the United States, the federal agencies have email lists. The Department of Justice, the Access Board, the EEOC-- they have email lists where they send you emails about

what's happened-- when they do something in accessibility, you get an email. So I get those, and I usually just go right-- put them on LinkedIn.

[00:35:41.57] People are like, how did you find that out so fast? I said I'm signed up for the federal agency email list. So I encourage that. The Web Accessibility Initiative, which is part of the W3C-- they just finished, this week-- another thing that-- this week-- updating their global law and policy page.

[00:36:01.07] So I really recommend that to you. I have a link to it at the top of my page. I don't have the direct-- I don't think I put it in the chat-- the direct link, the Web Accessibility Initiative Global Law and Policy page. If someone sees it, they can put it in the chat.

[00:36:17.16] But the Web Accessibility Initiative is an unsung hero of accessibility enforcement and knowledge and skills. Maybe not enforcement, but knowledge and skills and huge part of the framework. They're the ones responsible for issuing the guidelines, like the WCAG. So I invite you to check out their global law and policy page, too.

[00:36:39.54] 3Play Media always does a good job with any legal thing that's happening around captioning or sign-language interpreter, audio description. So you're probably now on the 3Play Media email list. I encourage you to pay attention to what the blog posts say, because they've been very helpful to me.

[00:36:58.29] And then, the last one-- Seyfarth Shaw is a firm that represents companies and people who are sued. They do counseling. They don't quite have the same perspective as I do. However, they're ethical, and I learn a lot from their blog posts.

[00:37:13.59] They have ADA Title III blog. It's from a business perspective. You can learn from that about the law, too. So that's what I say about compliance in the law.

[00:37:24.80] Yet, still, OK, this is a new slide for me. Usually, I just kind of leave it at that. Do all these things, and you can stay ahead of the law. You can. I still believe in the cookie. I still believe you can stay ahead of the law.

[00:37:38.17] Yet still, you're on the journey. You're trying hard. You've got a lot of ingredients. Cookie isn't fully baked yet. Maybe your cookie is fully baked. You may still get a lawsuit.

[00:37:49.12] And that's because-- that's because there's a type of lawsuit filed in the United States that doesn't call first and say, oh, there's an accessibility statement. Here's a problem of my client first. Doesn't ask any questions, just sues.

[00:38:09.19] We don't have time to really talk about the pros and cons of that. They were in my "Things I don't like about the space" section of part 1, so I invite you to hear what I think about it. So you might still get a lawsuit.

[00:38:23.25] I just have four things I want to share. Hire a responsible lawyer. And you need to determine yourself what responsibility means, but you get a lawsuit, you have to decide. Is this something you want to spend money fighting or not?

[00:38:36.85] So hire a responsible lawyer. Just like hiring anyone else, make sure you have someone who fits your budget as well as your prospective, attitude, and culture. Don't be demoralized.

[00:38:49.03] I can't really, you know. I would like you not to be demoralized, because there's people in companies that get lawsuits that I know have strong accessibility departments, are doing good work, and they still get the lawsuit. So you have to keep it in perspective that this is something happening in the US, and don't be demoralized.

[00:39:09.38] Don't look for Band-Aid. Part of the overlay problem is these lawsuits, and 4,000 being filed last year. People look for a quick fix. They don't know any better. They look for a Band-Aid. They end up with an overlay.

[00:39:22.77] So if you get the lawsuit, don't let that be your go-to. And maybe, if possible-- and I know when I say "you," not everybody listening to this has the ability to do these things. But to the extent we have any ability to share these ideas, let the lawsuit be a spark for sustainable access.

[00:39:45.11] Understand, even if you're angry, even if it doesn't feel fair, and it may not be fair, we can still let the lawsuit be a spark for sustainable access. So that's the big picture. That's the "staying ahead of the law" idea.

[00:40:00.77] And I want to close with a few ideas for how to talk and not talk about the law. Because too many people talk about the law with fear. And that does not create long-lasting, sustainable accessibility.

[00:40:15.10] So I think it's important to talk about the law with these ideas. I illustrated this slide with an image of people talking. There are people of color. One woman is in a wheelchair. One woman has a cane.

[00:40:28.68] This came from a website called "Disabled And Here" that has great, free stock photography. And in the chat, you'll find my article about how to find other stock photography sites that embrace our ideas of inclusion and we can use for our writings and our talks.

[00:40:51.64] OK, talk about the law with these ideas. Civil rights, human rights-- accessibility is a human right. That's why we have the laws. All the laws were created by advocacy of disabled people.

[00:41:07.57] The laws aren't dropped from on high to give everybody a headache and one more thing to do. They're laws created from grassroots effort by advocates for civil rights, human rights protection. We talked a little bit about that last week.

[00:41:22.52] So when we talk about the law, always remember that we have a law in the accessibility space for human and civil rights. Inclusion and exclusion-- that's what accessibility law is about. Inclusion of people with disabilities or exclusion because we don't take the time to build and create accessible.

[00:41:44.14] Privacy and security. Without accessibility, there is no privacy and security for disabled people. Diversity, inclusion, and belonging-- if you have any sort of initiative to that effect, the legal side of accessibility belongs right in there.

[00:42:00.34] Independence of people with disabilities to use technology independently, as it was designed to be used. Accessibility is good for business. Yes, it's a legal requirement. You can hear, if you follow on LinkedIn, some of the people from the companies like Microsoft or Google that have-- Accenture-- companies that have-- HSBC. I shouldn't have named any, because there's many that have accessibility commitments.

[00:42:31.75] You'll hear people say, well, yeah, we want to follow the law, but this is good for business. This is why we want to do it. So when we talk about the law, yes, it's important. Compliance is important.

[00:42:43.87] It's also good for business. You end up with better products and services. You have an ethical company. And yes, you have compliance. So we can talk about the law, but too many people just talk about the law with this last element of compliance.

[00:42:57.01] So talk about the law with these ideas. Talk about the law with a focus on people. "Blind workers can't check vacation time." That is how you could describe a case against a software company that had inaccessible HR software.

[00:43:14.02] "Deaf learners can't access podcasts." "Blind campers can't make a park reservation." "Deaf gamers can't play in virtual reality." We talked about those cases last week in the US part. Let's try to frame cases, not just as "somebody got hit with a lawsuit," but "this was an experience of a person with disabilities of exclusion." "Blind students can't access course materials."

[00:43:37.93] Understand who you're talking to. My favorite picture of a cat looking in a mirror and seeing a lion-- because everybody we talk to sees themselves in a certain way. What do they care about? How do they see themselves? What are their values? What is their worry? And how can we talk to them in a way that accessibility fits in?

[00:43:59.19] Be curious. We have to be curious. Otherwise, we won't find out what the people were talking to care about. So that's-- it's how to talk about the law, how to stay ahead of the law. We need to be curious, and we need to understand what the blockers are other people are experiencing.

[00:44:18.21] How not to talk about the law-- talk about it without fear. "Fear is the path to the dark side. Fear leads to anger. Anger leads to hate. Hate leads to suffering," which is a line from Yoda in The Phantom Menace movie, and a picture of Yoda illustrating that.

[00:44:36.48] If you want something from your neighbor or your kid or your parent or your partner or your anybody, we wouldn't lead with fear. So why, when we talk about the law, do we lead with fear? We should not.

[00:44:48.99] ["MAIN THEME FROM JAWS" PLAYING]

[00:44:49.23] Don't be a shark. I have the Jaws theme song playing with a big X. Same idea-- you don't get things from people [INAUDIBLE]. That has been my experience. We don't have to act like a shark either, which is why I have a cute little picture of the goldfish with the shark fin.

[00:45:09.39] You know, I feel we can be passionate about accessibility. We can care about the law. We want enforcement. What is the best path to legal enforcement?

[00:45:20.66] In my experience, when possible, if we are collaborative and we don't act like a shark, we're likely to do better. We don't want to reduce accessibility to a checklist. Instead, as many of you have heard my talks, try to be a dolphin.

[00:45:39.64] My idea of the dolphin is that dolphins are the opposite of sharks. First of all, their sound is very cute.

[00:45:46.80] [CHIRPING]

[00:45:47.23] Chirping dolphin here in the background. They collaborate, they communicate. This picture-- they're eating fish out of a tube, because they work together to open the tube.

[00:45:57.01] My recommended dolphin skills for talking about the law, for advocating for legal compliance and digital accessibility-- is we got to have trust. We have to have active patience, because these things can't happen overnight. Small steps and celebration-- try to be kind. Think of it as a strategy, even if kindness is not something you're actually feeling to the person you're talking about.

[00:46:22.70] Good listening skills, equanimity, acting-- being blown by the winds of somebody else's anger doesn't usually get me to a place I want to be. Having empathy. And like Helen Keller said, having hope and optimism. So Jena, back to you. I think we have a few minutes for questions.

[00:46:44.46] JENA WALLACE: We do. So with that, I will get started with one of our remaining questions from last week. What effect do you see the Accessibility Guidelines in the EU affecting the evolving laws and guidelines in the US?

[00:47:02.16] LAINEY FEINGOLD: Well, I'm not sure-- yeah, thank you for bringing that up. I meant to mention that. I'm not sure the guidelines-- they're basically using a version of a WCAG standard. It's interesting.

[00:47:16.71] Like I said, the EU law is about the products themselves. And like in the US, when I was working on talking ATMs, we couldn't go directly to an ATM manufacturer. Because they weren't the ones serving the public. The banks were.

[00:47:32.94] When earlier, before I got into digital, I worked on Shell and Chevron gas station access, we couldn't go right to the pump manufacturers. So it'll be interesting to see, as the EU, European Accessibility Act evolves, how that's going to play out. Good question.

[00:47:51.34] JENA WALLACE: Yeah. So going to our next one-- so looking ahead, what trends do you foresee in the digital accessibility legal space, both in the United States and globally?

[00:48:08.21] LAINEY FEINGOLD: I see more. I see the framework getting stronger. The European Accessibility Act does have exceptions. We didn't really have time to go through that. It has things that aren't covered.

[00:48:20.07] I think that-- as I said, most of these laws are pushed, created, happening because of people with disabilities. The more accessibility there is, the more and greater the accessibility expectation is. So I think things are moving forward and creating a stronger framework for us all to dream and act.

[00:48:44.60] We didn't talk about Canada. There's attention on the Ontarians With Disabilities Act now. All the provinces have similar-- I don't know all, but many provinces have similar ones. Those are linked on my global page.

[00:48:58.31] So I think the moral arc of the universe bends towards justice, as Martin Luther King said. I don't see-- if, somebody asked last week, if we get a Republican president in the United States, we'll see a stop to any new regulations. But we're not, and there may be backsliding, but overall, I think things are moving forward. I think that's the trend.

[00:49:26.17] JENA WALLACE: Cool. Our next isn't a question, but we had an attendee, Keith, point out another useful resource on procurement, which is the W3C Accessibility Maturity Model. We've just included that in our chat to look at as well. We have another question.

[00:49:42.98] LAINEY FEINGOLD: Thank you for mentioning that. I should have mentioned that. Very good.

[00:49:48.27] JENA WALLACE: Our next question comes from Eric. He'd like to know if you have any recommendations for a good place to look for disabled people to hire.

[00:50:01.30] LAINEY FEINGOLD: That's a good question, too. On my re-- I have a resources page on my website, at llegal.com/resources. And there's some nonprofits listed there, where you can contract with-- well, almost all the vendors, you can contract with. And if you ask for usability testing with disabled people, any vendor who you should be hiring-- I mean, that's a good question for any vendor.

[00:50:34.26] Like, we want to have disabled people involved in our usability testing, for example. Can you put together a panel on that? Organization called Fable does a wonderful job if-- they're out of Canada. It's called makeitfable.com, I think. But they're a wonderful organization that has a testing platform where disabled people are front and center.

[00:50:59.96] A lot of nonprofits-- I know blindness best. The National Federation of the Blind, the American Council of the Blind, National Association of the Deaf in the US. I think it's a question of looking. Yeah. But good question.

[00:51:19.27] JENA WALLACE: Yeah. And just to comment-- that 3Play, we have a webinar we're going to link in the chat, on inclusive design and the recruitment process that we hosted last year, which was presented by Chris Fawcett. So that'll be in the chat as another resource there.

[00:51:36.70] For our next question, in the realm of accessibility settlements, what trends are you observing in the resolutions of cases? And how might these trends influence the priorities and strategies of businesses seeking to enhance their digital accessibility?

[00:52:01.95] LAINEY FEINGOLD: Well, OK, one thing I said last week was that one of the problems I have with a certain type of lawsuit is we don't see the settlements. And sometimes if you do see them, they're very cursory. You know, WCAG is a standard, even though we still don't have WCAG written into the ADA.

[00:52:22.17] I saw someone asked about the status of the ANPRM or the NPRM from DOJ. I think I touched on that last week. But we still don't have WCAG, but WCAG is a standard in settlement agreements.

[00:52:37.32] The ones that I work on where-- and the ones that Department of Justice works on-- that's really a good place to turn. Or if you're in higher ed, the higher ed settlements that I referred to last time really are a roadmap. So I'm trying to get more about procurement in the settlements I work on, because everything is now procured, you know. And like I said, we don't want to buy broken things.

[00:53:06.80] But yeah, separating the WCAG testing from the usability testing-- you can look on my website. I have a settlements category. And you can see all the settlements I've ever done since 1999. So I didn't-- if anybody's a student and wants to analyze trends, I would love that. I try to be transparent, so they're all up there. Yeah.

[00:53:30.55] JENA WALLACE: Well, that's great. I think that just about does it for questions. And we're coming up on the end of this session. So I will just say, thank you, Lainey, for today's wonderful presentation, for another wonderful presentation.

[00:53:47.45] And thank you to everyone who showed up today, everyone who registered and will watch a recording of this. You've asked great questions, and this was wonderful. Thanks so much again to everyone, and I hope everyone has a great day.

[00:54:07.10] LAINEY FEINGOLD: Yeah, thank you. Thank you, 3Play. Thank you, audience.