

LEGAL *BUSINESS* WORLD

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Van try-out naar 200K Lezers

Al geruime tijd publiceren we 2 verschillende versies van het 'Business of Law' eMagazine. De Nederlandse uitgave, ooit geïntroduceerd als try-out, bestaat inmiddels enkele jaren en kent een vast lezerspubliek. De internationale, Engelstalige uitgave groeit gestaag en krijgt ook steeds meer Nederlandstalige lezers. Nederlandstalige lezers, want deze groep bestaat uit lezers woonachtig in Nederland, België en de overzeese gebieden.

Een terechte vraag van onze Raad van Advies was dan ook: "Waarom maken jullie eigenlijk 2 verschillende versies en iedereen leest toch Engels?". De enige reden die we konden geven is dat het zo gegroeid is. Daarom zijn we met ons lezerspanel rond de tafel gaan zitten en hebben diverse nieuwe scenario's besproken. De uitkomst ziet u terug in deze uitgave. Voor dit nummer dient de Internationale versie (inmiddels +200K lezers) als basis, en hebben we een Nederlands Katern toegevoegd.

Is dit dan het nieuwe concept voor het eMagazine 'Business of Law'? Dit weten wij nog niet. Net zoals we ooit zijn begonnen met een try-out, is deze bladformule ook een try-out. In de tweede helft van dit jaar evalueren we deze bladformule en wie weet, werkt deze formule zo goed dat we hem ook uitrollen naar andere landen.

Wordt vervolgd!

namens het team van Legal Business World Publications,

Joek Peters

CEO Legal Business World

Legal Business World consists of Legal Business World Publications,

Management/Publisher

LegalBusinessWorld International
Joek Peters | CEO | President
Allard Winterink COO | SVP

jpeters@legalbusinessworld.com
awinterink@legalbusinessworld.com
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Editorial

LBW Editorial Dept.
MBL Media

Advertentie & Media Advies

Capital Media Services B.V.
mail@capitalmediaservices.nl
024 - 360 77 10

Sales Representatives International

Alisha Hall
ahall.sales@legalbusinessworld.com
Michael Blakely (US/Canada)
mblakely@mblakelysalesandmktg.com

Telesales: Fox Associates
800-440-0231 ext 116
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Design & Layout

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09

Legal operations in de praktijk

2

Hoe te beginnen? (deel 2)

Door Cindy de la Fuente

Dit is het derde artikel uit de artikelenreeks 'legal operations in de praktijk' waarin voornamelijk advocaat en legal counsel Cindy de la Fuente de verschillende deelgebieden van legal operations behandelt, met de nadruk op de praktische toepasbaarheid.

Mit een toenemende werkdruk en een jaarlijks afnemend budget zou je verwachten dat tegenwoordig elk juridisch team legal operations op de agenda heeft staan. Niets blijkt minder waar. Uit recent onderzoek van Altman Weil (1) blijkt dat slechts 33% van alle juridische afdelingen een formele legal operations functie heeft. Terwijl uit datzelfde onderzoek naar voren komt dat het inzetten van een legal operations professional de meest effectieve manier is om de efficiëntie te verbeteren. Overigens zit de focus vooral nog in de HR, maar het zijn voornamelijk de grote juridische afdelingen die hierin aan belang gaan.

15

Legal operations in de praktijk

3

De inrichting van de juridische bedrijfsvoering (deel 3)

Door Cindy de la Fuente

Dit is het derde artikel uit de artikelenreeks 'legal operations in de praktijk' waarin voornamelijk advocaat en legal counsel Cindy de la Fuente de verschillende deelgebieden van legal operations behandelt, met de nadruk op de praktische toepasbaarheid.

'Structure follows strategy', het adagium dat Alfred Chandler in de jaren '60 introduceerde geldt ook in de juridische sector. Tot voor kort werd daar echter weinig aandacht aan besteed. De juristen werden gezien als het klad en daar word de strategie vervolgens omheen geconstrueerd. Daarmee werd feitelijk van binnen naar buiten geredeneerd in plaats van andersom. Het is echter de behoefte van de (interne) klant die leidend zou moeten zijn en niet de reeds beschikbare middelen.

22

Legal operations in de praktijk

4

De activiteiten van legal operations (deel 4)

Door Cindy de la Fuente

Dit is het vierde artikel uit de artikelenreeks 'legal operations in de praktijk' waarin voornamelijk advocaat en legal counsel Cindy de la Fuente de verschillende deelgebieden van legal operations behandelt, met de nadruk op de praktische toepasbaarheid.

Legal operations is de multidisciplinaire functie die er binnen een organisatie of advocatenkantoor voor zorgt dat de juridische bedrijfsvoering is afgestemd op de strategie en doorlopend wordt verbeterd. Maar hoe doet zij dat eigenlijk? Welke werkzaamheden worden in dat kader verricht? Ik zal in dit artikel eerst ingaan op de kernactiviteiten die de koppeling leggen met de strategie en sluit deze artikelenreeks af met een overzicht van een aantal ondersteunende activiteiten die nodig zijn om een juiste implementatie te bewerkstelligen waarbinnen de kernactiviteiten kunnen plaatsvinden.

28

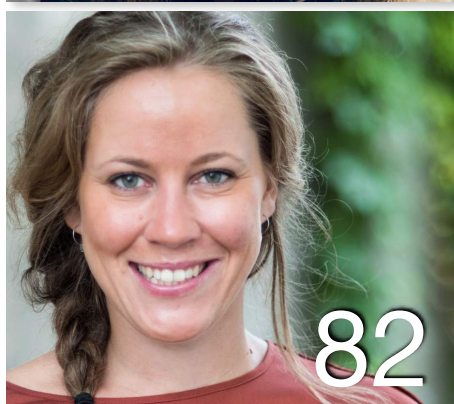
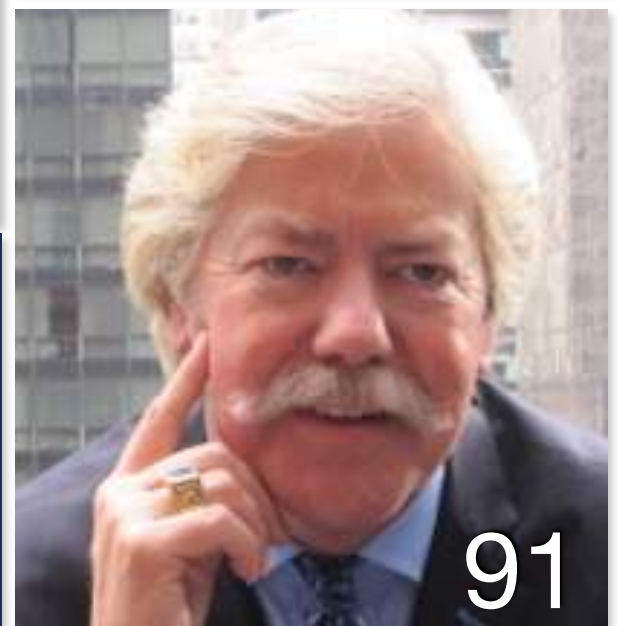
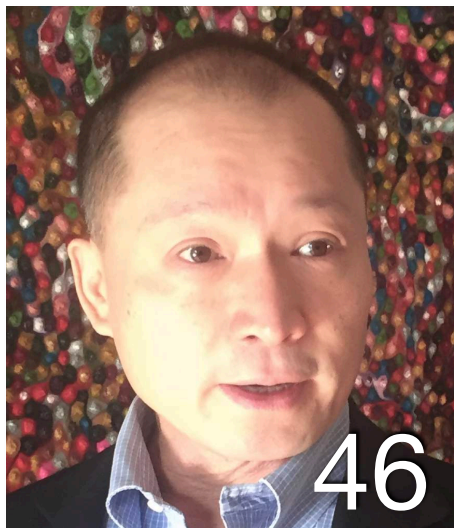


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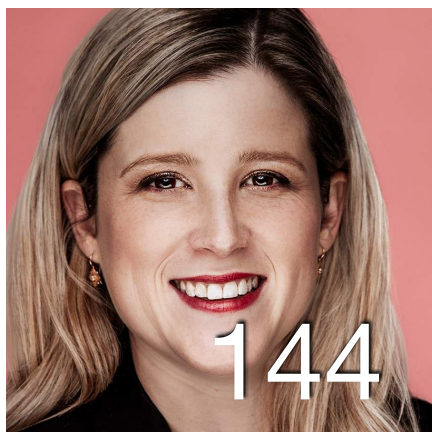
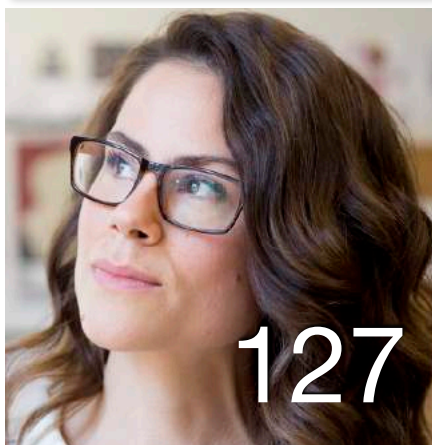


40

Special Legal operations in de praktijk, Cindy de la Fuente	09
Het belang van legal operations (deel 1)	09
Hoe te beginnen? (deel 2)	15
De inrichting van de juridische bedrijfsvoering (deel 3)	22
De activiteiten van legal operations (deel 4)	28
Klantgerichtheid in tijden van SteamPunk, Prof. dr. Rudy K. Moenaert	35
6 sleutels om uw conversie tot advocaat-ondernemer te starten, Laure Losseau	40

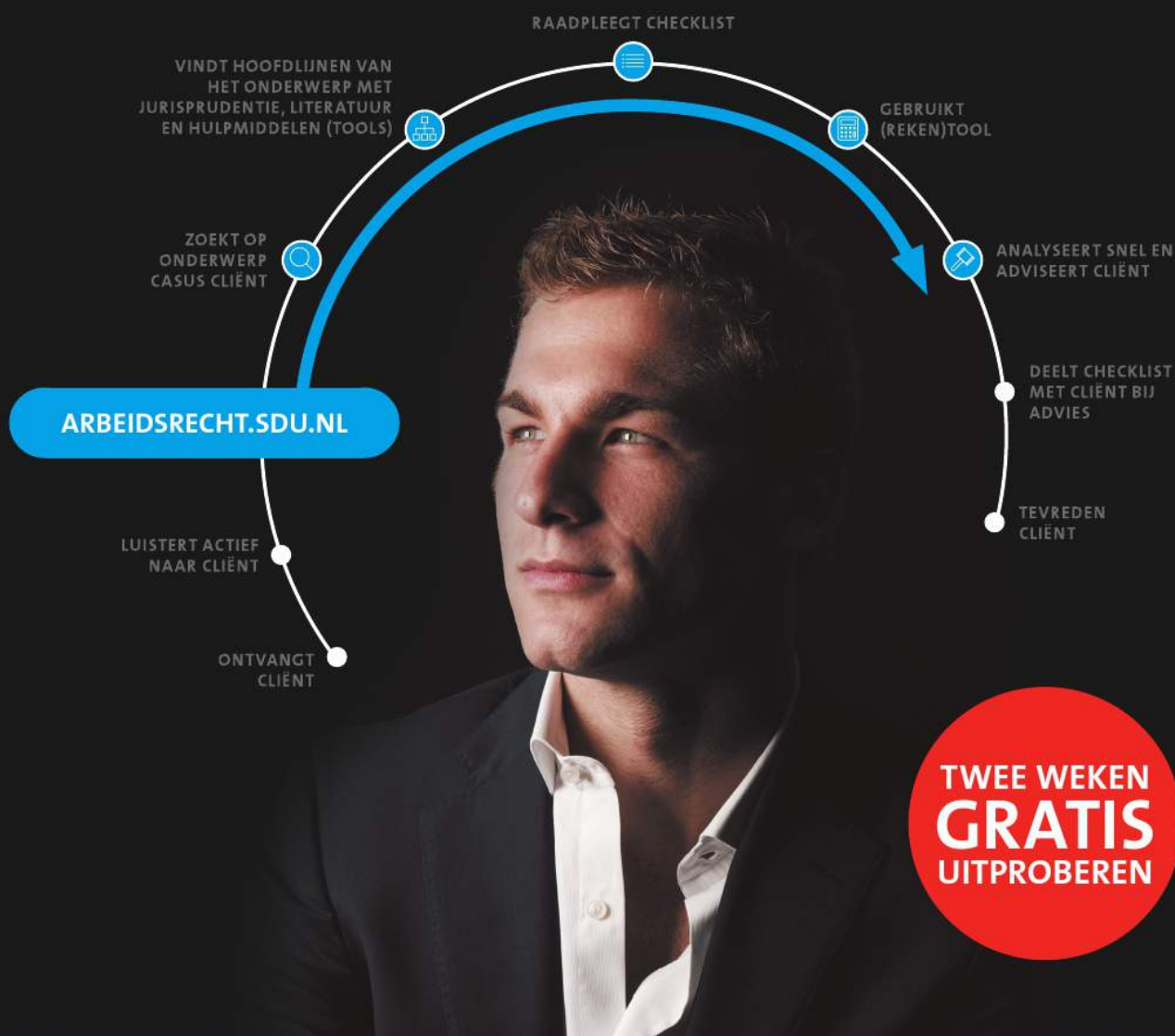


Ecce Advocate - Reflections from Conversations in the Field of Legal Services Circa 2019, Kenny Tung	46
The role of natural language in driving innovation in the legal sector: a focus on multilingual legal data, legal tech and global legal education, Argyri Panezi,	61
What should firms consider at the outset of creating an innovation team? Jessica Lim	65
The Future of your Legal Practice, Kristi Erasmus	72
Interview with Marc Lubber, Founder of JD Careers Out There	76
Why the Nordic Legal Tech Scene is taking off!, Merete Nygaard	82
What's this World Legal Summit all about any way? `General Information	86
A Lucrative Micro-Niche for Lawyers: Additive Manufacturing/3D Printing, Patrick J. McKenna	91



Corporate Responsibility And Social Impact For Law Firms - Do Your Clients Care? Pamela Cone	99
On Collaboration For Lawyers. Why It's Not What You Think, Daniel Gold	102
In-House Lawyers And Transformation, Britton Guerrina	109
Legal Tech Adoption: A Principled Approach, James Côté	114
Man Vs. Machine, It's A Complimentary Relationship, Aileen Schultz	127
The Five Pillars Of Performance For The Legal Department, Richard G. Stock	133
A Clarilegal Interview With Priya Keshav, Founder And Ceo Of Meru Data, Cash Butler And James Johnson	138
Thank U, Next. Design Thinking – When The Craze Ends, Sara Rayment	144
Expertises: Accelaration Model For Becoming An Expert, Itzik Amiel	149

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Legal operations in de praktijk

Het belang van legal operations (deel 1)

Door Cindy de la Fuente

Dit is het eerste artikel uit de artikelenreeks 'legal operations in de praktijk' waarin voormalig advocaat en legal counsel Cindy de la Fuente de verschillende deelgebieden van legal operations behandelt, met de nadruk op de praktische toepasbaarheid.

De tijd dat een jurist achter zijn bureau zat te wachten totdat er een contract zijn kant uit werd geschoven, is voorbij. Wil een juridische afdeling in de toekomst van betekenis blijven, dan zal het meer moeten bieden dan juridische expertise. Vakkennis wordt vandaag de dag aanwezig verondersteld en kan daarnaast vaak goedkoper worden ingekocht bij andersoortige spelers die door middel van technologisch gedreven processen efficiënter opereren dan traditionele juristen. Waar het tegenwoordig om gaat is de vraag wat de juridische afdeling doet met haar juridische expertise. Is het in staat

deze kennis op een efficiënte en effectieve wijze om te zetten in waarde voor haar klant? Dit is het terrein van *legal operations*.

Legal operations heeft de afgelopen jaren een grote vlucht heeft genomen [1]. Met de financiële crisis en de daaropvolgende bezuinigingsdrift als katalysator lag de focus in het begin vooral op efficiëntieverbetering. ‘Meer voor minder’ was het nieuwe credo van juridische afdelingen en dat betekende vooral snijden in de kosten. Maar hoe belangrijk ook, legal operations is meer dan een kostenbeperkingsmaatregel. Verbetering van de efficiëntie zorgt wellicht voor een blijde CFO, maar levert geen lange termijn concurrentievoordeel op. Om dat te bereiken moet erop worden toegezien dat niet alleen de kosten, maar ook de kwaliteit, snelheid, betrouwbaarheid en flexibiliteit van de operatie voortdurend zijn afgestemd op de behoeften van de klant.

Wat te verwachten in deze reeks?

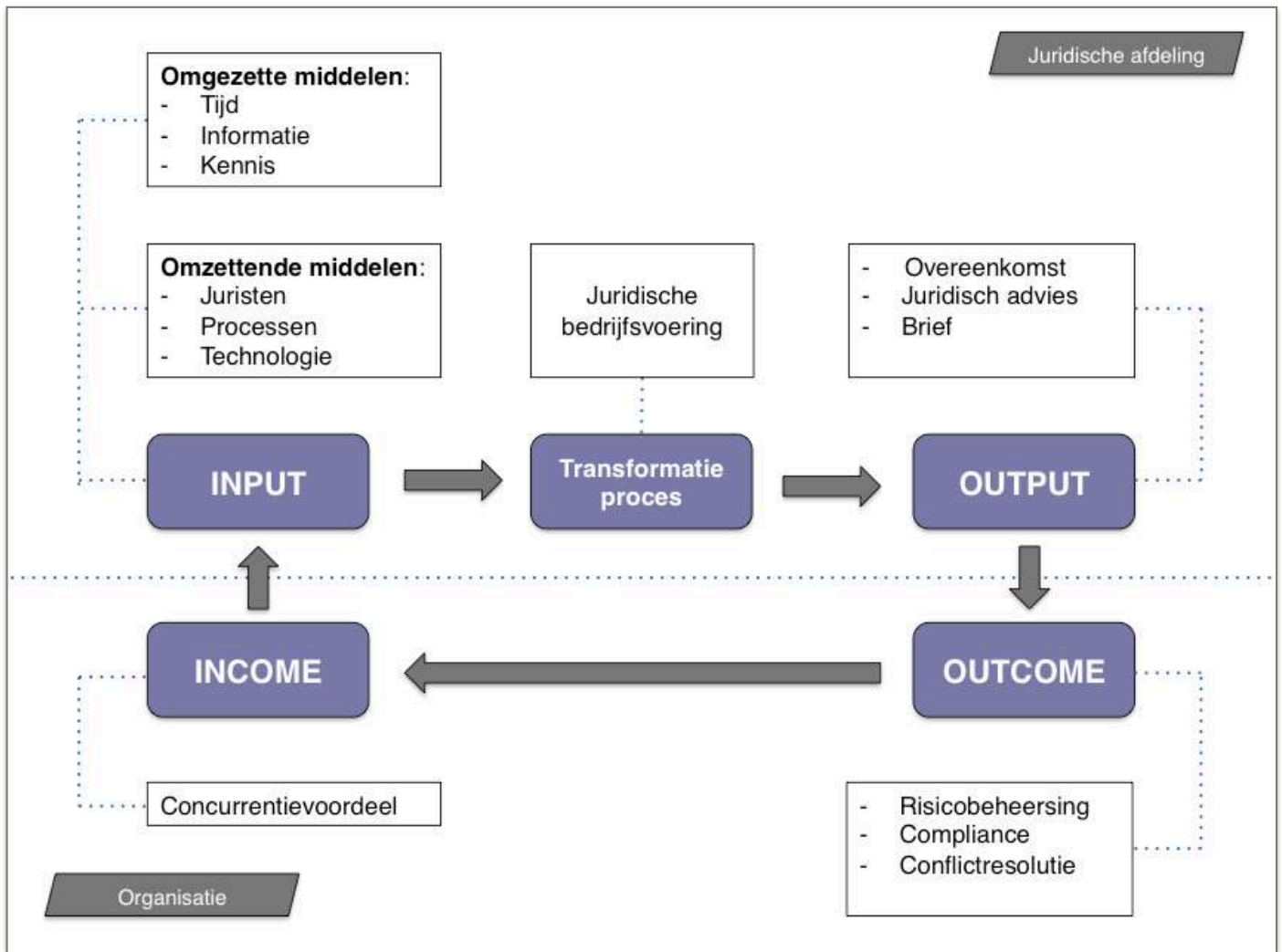
In deze artikelenreeks behandel ik de verschillende deelgebieden van legal operations waarbij de nadruk zal liggen op de praktische toepasbaarheid in het bedrijfsleven. Dit betekent niet dat het onderwerp voor de advocatuur niet relevant is. In tegendeel, juist voor advocatenkantoren biedt legal operations kansen. Zij kunnen legal operations inzetten om hun eigen juridische organisatie te optimaliseren, waardoor zij beter kunnen inspelen op de behoefte van de klant [2]. Maar zij kunnen ook een stap verder gaan en hun werkveld uitbreiden door legal operations als dienst aan te bieden aan hun klanten. Een aantal advocatenkantoren heeft op dit gebied al stappen gezet, zoals Kennedy van Der Laan met Sync en HVG via EY/Riverview Law. Zij onderscheiden zich hiermee van de tradi-

tionele kantoren omdat zij de klant op meerdere niveaus kunnen bedienen, wat uiteindelijk een sterkere concurrentiepositie oplevert. Legal operations is overigens niet alleen iets voor de grote kantoren. Ook kleine(re) kantoren hebben er baat als zij focussen op één of een paar deelgebieden die aansluiten bij hun kernpraktijk. Met deze artikelenreeks hoop ik meer inzicht te geven in dit nieuwe vakgebied zodat juristen en advocaten daar hun voordeel mee kunnen doen.

Wat is legal operations?

Bij veel juridische afdelingen is de bedrijfsvoering niet optimaal ingericht. Beperkt inzicht in de werkprocessen maakt dat juristen veel repeterend werk doen en onvoldoende gebruik maken van de mogelijkheden die de (reeds aanwezige) technologie biedt. Meestal komt dit omdat juristen niet beseffen dat zij procesmatig werken, waardoor zij zich niet bezighouden met het verbeteren van de werkprocessen. Van oudsher ligt de focus op de juridische inhoud en niet op de manier waarop het werk wordt uitgevoerd. Dit resulteert echter in een bedrijfsvoering die moeilijk is te managen en hoge kosten tot gevolg heeft.

Legal operations zorgt voor een goed geliede juridische bedrijfsvoering. Daarbij ligt de focus op twee aspecten: enerzijds zorgt het ervoor dat de input op een zo efficiënt mogelijke manier wordt omgezet in output door de juridische bedrijfsvoering (ook wel het transformatieproces genoemd) te optimaliseren. Anderzijds zorgt het ervoor dat het transformatieproces doorlopend is afgestemd op de behoefte van de klant zodat de output ook daadwerkelijk waarde oplevert. In *figuur 1* wordt dit schematisch weergegeven.



Figuur 1: Input- outputmodel van een juridische afdeling

De input

Met input worden de middelen bedoeld die in een proces worden ingebracht. Dit zijn zowel de omzettende middelen als de omgezette middelen. Omzettende middelen is alles wat ervoor zorgt dat het beoogde resultaat wordt bereikt. Bij een juridische afdeling zijn dat bijvoorbeeld juristen en paralegals, maar ook technologische tools, vaardigheden en processen. Omgezette middelen is alles dat tijdens het proces wordt verwerkt en getransformeerd naar iets van waarde voor de klant zoals bijvoorbeeld tijd, documenten, expertise en informatie.

De output

De output is het uitvloeisel van de input en het transformatieproces. Bij een juridische afdeling is de output bijvoorbeeld een op de feiten toegespitst juridisch advies, overeenkomst of een processtuk dat tot stand is gekomen door omzetting van de middelen tijdens het transformatieproces.

Het transformatieproces

Het transformatieproces is het geheel van onderling samenhangende processen dat ervoor zorgt dat input wordt omgezet in output. Door de juiste middelen in te zetten voor de

juiste klant op het juiste tijdstip tegen de juiste kwaliteit wordt waarde gecreëerd. Als dit vervolgens met behoud van kwaliteit ook tegen de laagste kosten wordt gedaan wordt verspilling gereduceerd.

Outcome

Output en behoefte van de klant komen niet altijd overeen. De klant vraagt wellicht om een juridisch advies of overeenkomst, maar heeft in wezen behoefte aan compliance of risico-beheersing. Die behoeftevervulling, ook wel de outcome genoemd, daarin zit de waarde voor de klant. Bij de inrichting van het transformatieproces moet dus ook rekening worden gehouden met de outcome.

Income

Enkel als output en outcome op een lijn liggen leidt dit tot income. Een organisatie die compliant is en in staat is haar risico's goed te beheersen zal immers minder rechtszaken hebben en dus ook minder (juridische) kosten. Dit leidt tot meer besteedbaar inkomen dat de organisatie vervolgens weer kan investeren in het verbeteren van de bedrijfsvoering.

De focusgebieden van legal operations

Bij legal operations gaat het dus enerzijds om de effectiviteit van de operatie (wordt het juiste werk verricht) en anderzijds om de optimalisatie van het transformatieproces (wordt het werk juist verricht).

Effectiviteit en klantwaarde

Effectiviteit gaat over de vraag of de activiteiten die worden verricht waarde creëren voor de klant. Deze ogenschijnlijk simpele vraag laat zich niet zo eenvoudig beantwoorden. Klantwaarde is namelijk een subjectief begrip dat afhankelijk is van de behoefte en de

beleving van de klant. Als de output voldoet aan de verwachtingen van de klant, of deze overtreft, is er waarde gecreëerd. Bij de een zal daar reeds sprake van zijn als de organisatie wordt behoed voor juridische missers, terwijl de ander pas waarde ervaart als proactief wordt bijgedragen aan het bereiken van de strategische doelstellingen. Daar komt bij dat zowel de klant, als dat wat de klant waardeert, in de loop van de tijd kunnen veranderen. Dit maakt dat er doorlopend aandacht moet zijn voor klantwaarde.

Door een lijst op te stellen van waarde elementen en deze als juridische afdeling (of advocaat) te identificeren voor de klanten, krijg je inzicht in wat waarde betekent en kan je de dienstverlening daar beter op afstemmen. Een waarde element is alles dat invloed heeft op de baten en de lasten die de klant ervaart bij de dienstverlening. Neem bijvoorbeeld een overeenkomst die de verkoopafdeling aan de juridische afdeling voorlegt ter beoordeling: een voordeel van de beoordeling is dat de risico's beter zijn afgedekt als de overeenkomst is gecontroleerd door een jurist. Een nadeel is echter dat de juridische beoordeling tijd in beslag neemt, waardoor de overeenkomst minder snel kan worden afgesloten wat mogelijk geld kost. Een waarde element hier is de reactietijd van de juridische afdeling. Op het moment dat deze te lang is (in de ogen van de klant), overtreffen de lasten de baten en wordt er geen waarde gecreëerd. Met deze wetenschap kun je de werkwijze zodanig inrichten dat een minimale reactietijd wordt gewaarborgd.

Optimalisatie transformatieproces

Is eenmaal duidelijk welke activiteiten waarde creëren, dan zal vervolgens moeten worden

beoordeeld hoe deze activiteiten op de slimste manier kunnen worden uitgevoerd.

Legal operations focust daartoe op de volgende vijf facetten van het transformatieproces:

- Kwaliteit
- Flexibiliteit
- Snelheid
- Betrouwbaarheid
- Kosten

Kwaliteit

Kwaliteit moet het logische gevolg zijn van een proces dat wordt gemanaged en niet een toevallige uitkomst die afhangt van de persoon die de zaak behandelt. Bij veel juridische afdelingen is dit wel het geval, omdat de processen niet zijn beschreven, laat staan dat deze zijn gestandaardiseerd. Door op de juiste manier te werken probeert legal operations de kwaliteit van de diensten te verbeteren. Goede kwaliteit heeft niet alleen een positieve invloed op de klanttevredenheid, het zorgt ook voor kostenvermindering omdat er minder fouten worden gemaakt.

Flexibiliteit

Legal operations draagt bij aan de flexibiliteit van de juridische afdeling door de processen te optimaliseren. Deze flexibiliteit maakt dat de juridische afdeling beter in staat is om te reageren op veranderingen in de behoefte van de klant. Stel dat de vraag naar de juridische ondersteuning tijdelijk toeneemt omdat er een groot project plaatsvindt, dan zal een flexibele juridische afdeling in staat zijn deze piek op te vangen zonder dat zij hiervoor extra kosten hoeft te maken of dit extra tijd kost. Dit zorgt voor een consistente dienstverlening en draagt daarmee bij aan de betrouwbaarheid.

Snelheid

Een ander focuspunt van legal operations is de snelheid: door snel en efficiënt te werken wordt de responsetijd van de juridische afdeling beïnvloed. Dit werkt omzetverhogend. Hoe eerder een interne klant een overeenkomst van de juridische afdeling ontvangt, hoe sneller zij in staat is de deal te sluiten met de externe klant; des te groter is het voordeel voor de organisatie. Daarnaast zorgt het voor lagere kosten omdat het bijdraagt aan een sneller productie- en leveringsproces van de organisatie, waardoor beter kan worden ingespeeld op de vraag van de externe klant.

Betrouwbaarheid

Een hoge mate van betrouwbaarheid zorgt voor besparing van tijd en geld. Als de responsetijd van de juridische afdeling onvoorspelbaar is en zij niet tijdig kan reageren op een vraag vanuit de business, kan dit het gehele proces stilleggen. Een marketingafdeling bijvoorbeeld, die voorwaarden voor een nieuwe campagne ter beoordeling aan de juridische afdeling voorlegt, moet weten wanneer zij daarop antwoord kan verwachten omdat zij voor haar planning daarvan afhankelijk is. Daarnaast zorgt betrouwbaarheid voor een prettiger werksfeer, omdat je weet wat je van elkaar kunt verwachten.

Kosten

Tot slot legt legal operations de focus op de kosten van de juridische bedrijfsvoering. Door zo efficiënt en effectief mogelijk te werken, dalen de kosten. Niet alleen leidt dit op de korte termijn tot meer winst, het kan ook bijdragen aan het lange termijn concurrentievoordeel van de organisatie.

De organisatie van legal operations

Een effectieve juridische operatie heeft een groter effect op de winst dan bijvoorbeeld het investeren in een extra jurist om de flexibiliteit te verhogen. Uiteraard neemt door een extra jurist de hoeveelheid werk toe die kan worden verricht (en daarmee ook de omzet), maar dit leidt eveneens tot een structurele toename van de kosten. De werkwijze blijft immers hetzelfde, er worden alleen 'extra handjes' ingezet. Als wordt geïnvesteerd in legal operations zal dit ook leiden tot extra kosten, alleen laat deze investering zich snel terugverdienen. En omdat wordt ingezet op een andere, meer effectieve, manier van werken is dit een permanente verbetering.

Kortom: investeren in legal operations loont. Ook bij kleine of eenmansafdelingen. Sterker, hoe kleiner de afdeling, hoe belangrijker legal operations is. Juist dan is het essentieel dat de jurist zich volledig kan concentreren op activiteiten waarmee hij waarde kan toevoegen en dat is niet mogelijk als de operatie niet goed is geregeld. In plaats van de omvang van een juridische afdeling als graadmeter te hanteren voor het wel of niet investeren in legal operations, kan beter worden gekeken naar de strategische doelstellingen van de organisatie. Wat wil de organisatie op de korte, middellange en lange termijn bereiken, en kan het die doelstellingen behalen als de juridische afdeling op de huidige manier blijft werken?

Het is aan te raden een aparte legal operations functie te creëren en deze activiteiten niet te beleggen bij een jurist die dit "erbij" moet doen. In dat laatste geval zal het nooit de beoogde resultaten opleveren, aangezien de jurist altijd prioriteit zal geven aan het inhoudelijke juridische werk. Daar komt bij dat een

jurist eerder genegen zal zijn te oordelen dat er niets schort aan de (eigen) effectiviteit. Een legal operations professional speelt geen inhoudelijke rol in het juridische transformatieproces en is daardoor beter in staat een onafhankelijk oordeel te vellen over de werkwijze.

Voor het managen van de juridische operatie is zakelijk inzicht en affiniteit met operationele processen een minimum vereiste. Daarnaast is grondige kennis nodig van de juridische sector en de markt waarin de organisatie opereert om de output van de afdeling te kunnen afstemmen op de behoefte van de (uiteindelijke) klant. Een goede legal operations professional denkt mee op strategisch niveau, heeft interesse in innovatie en technologie, is resultaatgericht en kan juristen inspireren tot veranderen.

Conclusie

De conclusie is simpel. Legal operations draagt bij aan het succes van de organisatie. Door de juridische bedrijfsvoering te verbeteren en juristen in te zetten op de juiste onderdelen van het werkproces wordt waarde gecreëerd. Het wordt dan ook tijd dat legal operations in Nederland wordt erkend als specialisme. Zolang dit niet gebeurt en juristen de operationele taken erop hun (toch al overvolle) bord bij krijgen zal dit niet tot de beoogde resultaten leiden en dat is een gemiste kans.

Noten

[1] Het Corporate Legal Operations Consortium en de Legal Operations-tak van de Association of Corporate Counsel hebben een grote bijdrage geleverd aan het uniformiseren van de legal operations rol. Zie voor meer informatie www.cloc.org en www.acc.com/LegalOperations.

Legal operations in de praktijk

2

Hoe te beginnen? (deel 2)

Door Cindy de la Fuente

Dit is het derde artikel uit de artikelenreeks 'legal operations in de praktijk' waarin voormalig advocaat en legal counsel Cindy de la Fuente de verschillende deelgebieden van legal operations behandelt, met de nadruk op de praktische toepasbaarheid.

Met een toenemende werkdruk en een jaarlijks afnemend budget zou je verwachten dat tegenwoordig elk juridisch team legal operations op de agenda heeft staan. Niets blijkt minder waar. Uit recent onderzoek van Altman Weil [1] volgt dat slechts 39% van alle juridische afdelingen een formele legal operations functie heeft, terwijl uit datzelfde onderzoek naar voren komt dat het inzetten van een legal operations professional de meest effectieve manier is om de efficiëntie te verbeteren. Overigens zit de functie sinds 2016 wel in de lift, maar het zijn voornamelijk de grote juridische afdelingen die ermee aan de slag gaan.

Door te veel te focussen op de juridische inhoud, en geen aandacht te besteden aan de manier waarop de juridische diensten worden verleend, plaatst een juridisch team zichzelf (onbewust) in een reactieve positie. Een dergelijk team doet niet alleen zichzelf tekort, maar ook de business. Die heeft namelijk behoefte aan een juridisch team dat proactief bijdraagt aan het verbeteren van het bedrijfsresultaat en continuïteit kan waarborgen. Dat vergt een langetermijnvisie en een juiste prioritering.

Begin daarom bij het begin: de strategie. Is de juridische afdeling bekend met de koers die de organisatie de komende jaren zal varen en heeft zij haar eigen strategie daarop afgestemd? Zo ja, volstaat deze strategie nog en sluit de operationele strategie daarop aan? Hebben de juiste doelstellingen prioriteit of moet de rangschikking worden aangepast gelet op de huidige behoefte van de business en de veranderende juridische omgeving? En hoe past legal operations in dit plaatje?

De verschillende niveaus van legal operations

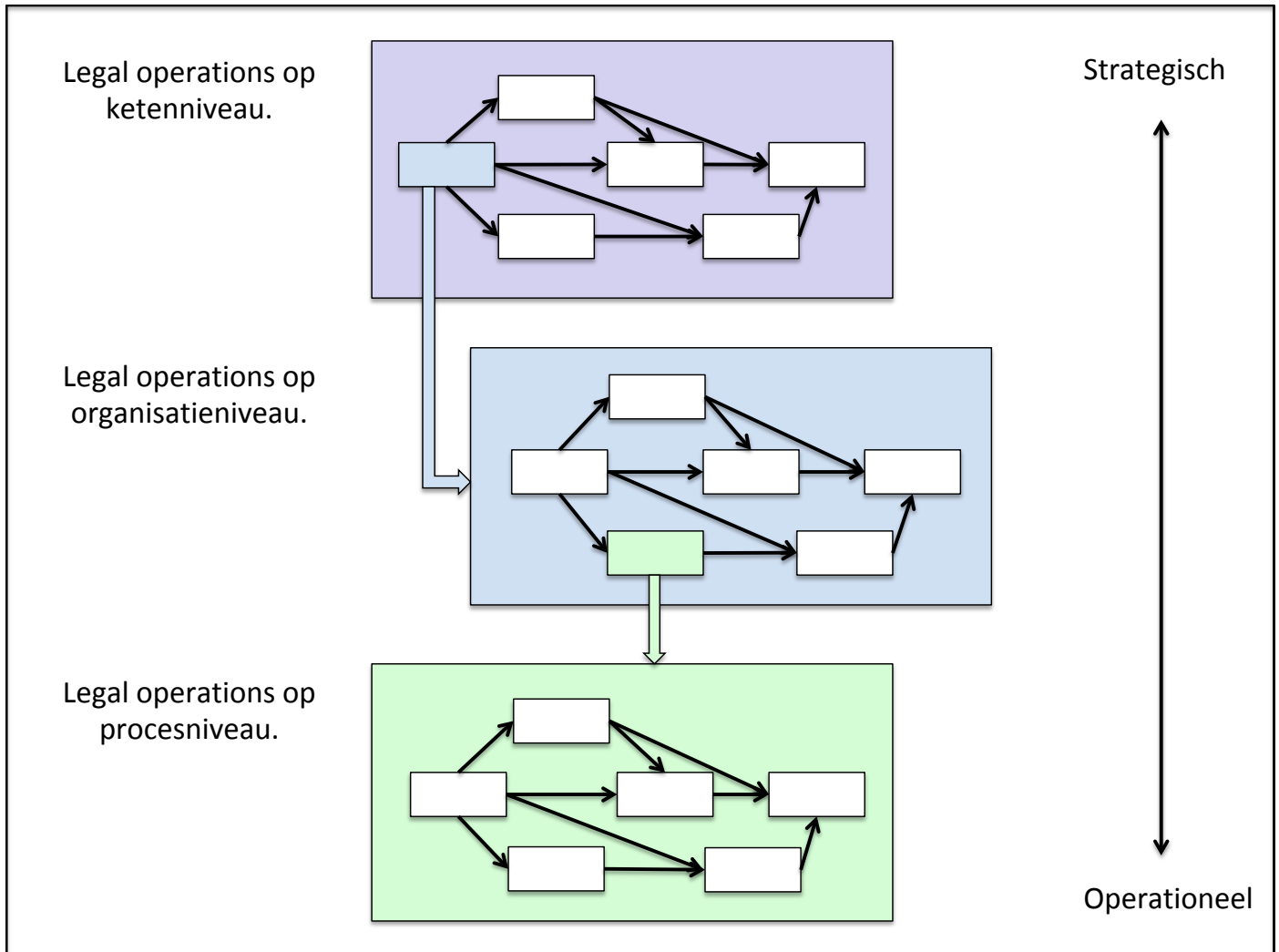
Het is allereerst belangrijk om te realiseren dat legal operations een rol speelt op zowel strategisch (planmatig) niveau, als op operationeel (uitvoerend) niveau. Ten onrechte wordt vaak gedacht dat legal operations alleen betrekking heeft op de day-to-day operatie en vergeet men de koppeling te maken met de strategie waardoor -ondanks een goedlopende juridische bedrijfsvoering- de beoogde bedrijfsresultaten niet worden behaald. Omdat strategische en operationele activiteiten op elkaar voortbouwen is begrip van, en inzicht in, de verschillende lagen van legal operations cruciaal voor het goed kun-

nen inrichten en managen van de juridische bedrijfsvoering. *Figuur 1* (op de volgende pagina) laat zien hoe de verschillende niveaus zich tot elkaar verhouden.

Op ketenniveau gaat het om de relatie tussen de verschillende organisaties in de toeleveringsketen. Elk bedrijf heeft leveranciers en klanten. Voor de continuïteit van de gehele keten is het belangrijk dat de organisatie een duurzame relatie onderhoudt met allebei. Dit geldt ook voor de relatie tussen een bedrijf en haar juridische dienstverlener. Zo komt het bijvoorbeeld steeds vaker voor dat bedrijven en advocatenkantoren samen investeren in de ontwikkeling van juridische technologie [2]. Deze partnerships worden voor lange termijn aangegaan en moeten actief worden gemanaged. De legal operations specialist neemt daarbij een belangrijke strategische positie in.

Op organisatieniveau gaat het om het geheel van werkprocessen dat er tezamen voor zorgt dat de organisatie haar middelen (input) op effectieve en efficiënte wijze omzet in producten of diensten (output).

Een bedrijfsproces bestaat uit verschillende fasen of werk-processen die veelal door meerdere functies worden uitgevoerd. Neem bijvoorbeeld het verkoopproces. Dit proces start met de verkoopfase zodra de salesafdeling met de klant onderhandelt over het product. Hebben partijen eenmaal overeenstemming bereikt over de verkoop, dan worden de afspraken doorgezet naar de juridische afdeling die er in de contracteringsfase voor moet zorgen dat afspraken correct op papier komen te staan en de risico's goed worden afgedekt. Deze fase wordt afgerond met de ondertekening van het contract.



Figuur 1: Verschillende niveaus van operations [3]

Daarmee heeft de juridische afdeling wellicht haar taak volbracht, maar dit is nog niet het einde van het bedrijfsproces. Dat gaat vervolgens over in de klantbeheerfase, waarbij enerzijds wordt gemonitord of het geleverde product conform is en anderzijds of de klant aan haar betalingsverplichtingen voldoet.

Voor de voortgang van het gehele bedrijfsproces is het essentieel dat al deze werkprocessen goed op elkaar aansluiten en het is de taak van de legal operations specialist om ervoor te waken dat er geen kloof ontstaat tussen juridische werkprocessen en andere werkprocessen. Legal operations handelingen,

die daarmee gepaard gaan kunnen zowel strategisch als operationeel van aard zijn.

Tot slot wordt op procesniveau ingezoomd op de werkprocessen zelf. Wat is de behoefte van de business en is de inrichting van de werkprocessen daarop afgestemd?

Neem bijvoorbeeld een modebedrijf dat tegen bodemprijzen haar producten verkoopt. Wil een dergelijk bedrijf winstgevend zijn, dan zal het moeten concurreren op snelheid. Hoe eerder de nieuwe collectie in de winkel hangt, hoe beter. Om snel te kunnen handelen zal het moeten inzetten op een hoog en voor-spelbaar volume en de bedrijfsprocessen

daarop moeten inrichten. Dit geldt niet alleen voor de productieprocessen, maar ook voor de ondersteunende processen. Elke minuut dat de nieuwe collectie langer in de opslag ligt, is er één teveel, en dus zullen ook de juridische werkprocessen moeten zijn ingericht op snelheid en volume. Dit betekent dat de focus moet liggen op een efficiënte inrichting van de processen (standaardisatie, procesoptimalisatie en gebruik van technologie). Op dit niveau zijn de legal operations activiteiten voornamelijk operationeel en ligt de focus op de operationele prestatiedoelstellingen (kwaliteit, snelheid, betrouwbaarheid, flexibiliteit en kosten) [4].

Strategisch management en de juridische bedrijfsvoering

Strategisch management is het doorlopende proces van plannen, uitvoeren, evalueren en verbeteren van (in dit geval de juridische) strategie, en zorgt ervoor dat de middelen die worden ingezet door de juridische afdeling en de activiteiten die plaatsvinden voortdurend zijn afgestemd op de missie, visie en strategie van de organisatie.

De verschillende fasen van strategisch management worden hieronder toegelicht aan de hand van een voorbeeld.

Fase 1: Strategievorming

Strategievorming begint met het opstellen van een visie voor de juridische afdeling. Daarbij draait het om de vraag hoe de juridische afdeling van plan is in de toekomst waarde te creëren voor de organisatie. Analyseer om die vraag te kunnen beantwoorden eerst de bedrijfsstrategie en identificeer de juridische behoeften die daaruit voortkomen. Beoordeel vervolgens of je als juridische afdeling deze behoeften reeds vervult en zo nee, hoe je er-

voor kan zorgen dat dit in de toekomst wel gebeurt. Vat dit alles tot slot samen in een strategisch plan dat als leidraad kan dienen tijdens de uitvoering van de strategie. Ook is het belangrijk dat al in deze fase wordt begonnen met het activeren van de stakeholders. Voor de uitvoering heb je draagvlak nodig binnen de gehele organisatie. Door de stakeholders tijdig bij de plannen te betrekken weten zij wat er komen gaat en zullen zij eerder bereid zijn mee te werken aan de uitvoering.

Ter verduidelijking geef ik een voorbeeld. Een bedrijf in de levensmiddelenindustrie heeft drie strategische ambities: 1) het vergroten van haar marktaandeel in opkomende economieën; 2) het optimaliseren van de klantervaring en 3) het realiseren van operational excellence. Hoe vertalen deze bedrijfsambities zich nu naar de juridische strategie?

De juridische afdeling kan een positieve invloed hebben op het bereiken van de groei-doelstelling door zich te concentreren op in-house kennisontwikkeling. Aan een betere klantervaring kan de juridische afdeling bijdragen door te focussen op de verbetering van de waarde die zij levert aan de klant en het bereiken van operational excellence kan zij ondersteunen door de juridische organisatie te professionaliseren. Ook al is dit een versimpelde weergave, het is duidelijk dat een juridische strategie een hoog abstractiegehalte kent en verder uitgewerkt zal moeten worden om te kunnen worden uitgevoerd. Dat gebeurt in de executiefase.

Fase 2: Strategie executie

De uitvoering van de strategie begint met het omzetten van het high-level strategische

plan naar een operationele strategie waarbij de langetermijnambities worden vertaald naar concrete operationele doelstellingen en acties op de korte en middellange termijn.

In het eerdere voorbeeld was een van de strategische doelen meer aandacht voor in-house kennisontwikkeling. Wat betekent dat nu concreet? Stel dat de organisatie in het verleden vooral organisch is gegroeid, dan is de kans groot dat het juridische team weinig projectmanagement en M&A-expertise heeft. Deze behoefte kan dan worden vervuld door ofwel de kennis in-house te ontwikkelen, ofwel het werk uit te besteden aan de outside counsel. Wat de beste keuze is hangt af van de overige plannen van de organisatie, maar als veel overnames worden verwacht dan kan het slimmer zijn om de kennis in-house te ontwikkelen.

De klantwaarde kan de juridische afdeling verhogen door bijvoorbeeld haar interne dienstverlening te verbeteren zodat klachten van eindgebruikers sneller kunnen worden afgehandeld. En de juridische bedrijfsvoering kan tot slot worden geprofessionaliseerd door de juridische werkprocessen te optimaliseren en daar waar mogelijk te automatiseren. In *Tabel 1* is de transformatie van bedrijfsstrategie via de juridische strategie naar opera-

tionele strategie weergegeven.

De volgende stap is het prioriteren van de operationele prestatiedoelstellingen en het verder concretiseren van de operationele strategie. De prioritering vormt de brug tussen de (strategische) planningsfase en de (operationele) uitvoerende fase en is nodig om de juridische bedrijfsvoering op een lijn te brengen met de langetermijnplanning van de organisatie. Aan deze stap wordt vaak weinig aandacht besteed, met als gevolg dat bij de uitvoering het accent verkeerd ligt en de beoogde resultaten niet worden behaald.

Een handig hulpmiddel bij het omzetten van de juridische strategie naar een operationeel plan is de in *Figuur 2* weergegeven strategiematrix.

In de linkerkolom zijn de operationele prestatiedoelstellingen weergegeven. Het aantal sterretjes geeft aan hoe belangrijk de desbetreffende doelstelling is voor het bereiken van de bedrijfsdoelstellingen (hoe meer sterren, hoe belangrijker). In de bovenste rij is vervolgens de operationele strategie van de juridische afdeling beschreven. Deze wordt in de rijen daaronder vertaald naar operationele doelstellingen. Door de prioritering is in één oogopslag duidelijk op welke operationele

Tabel 1: Transformatie

Bedrijfsstrategie	Juridische strategie	Operationele strategie
Vergroten marktaandeel	Optimaliseren in-house kennisontwikkeling	Ontplooien in-house team
Optimaliseren klantervaring	Verhogen klantwaarde	Verbeteren juridische dienstverlening
Realiseren operational excellence	Professionaliseren juridische bedrijfsvoering	Procesoptimalisatie en automatisering

		Operationele strategie juridische afdeling		
		Ontplooien in-house team	Verbeteren juridische dienstverlening	Procesoptimalisatie en automatisering
Operationele prestatie doelstellingen	Kwaliteit***	Ontwikkelen M&A kennis	Accurate juridische advisering	Toegang actuele juridische kennis
	Snelheid ****	Ontwikkelen kennis projectmanagement		Standaardisatie en DIY-tools
	Betrouwbaarheid**		Consistente conflictafwikkeling	
	Flexibiliteit*		Snelle aanpassing werkvolume	
	Kosten *****	Groot en functioneel divers in-house team		Correcte werkallocatie

Operationele doelstellingen

Figuur 2: Strategiematrix [5]

activiteiten de nadruk moet komen te liggen om optimaal te kunnen bijdragen aan het bereiken van de strategische doelstellingen.

Terugkomend op het eerdere voorbeeld: de prioriteit ligt bij deze organisatie op snelheid en kosten. Snelheid is essentieel voor het behoud van de concurrentiepositie, waardoor M&A-projecten een snelle doorlooptijd moeten hebben. Daarnaast is efficiëntie belangrijk om operational excellence te kunnen realiseren. Dit betekent dat, gezien in het licht van de bedrijfsstrategie, de meeste aandacht uit zou moeten gaan naar de inrichting van een functioneel divers in-house team en ook naar de ontwikkeling van projectmanagement en M&A-kennis, zodat het werk juist kan worden gealloceerd en de doorlooptijd van de projecten wordt verhoogd. Minder belangrijk voor het bereiken van de bedrijfsresultaten is in dit geval bij-

voorbeeld het afstemmen van de dienstverlening op veranderend werkvolume.

Fase 3: Strategie evaluatie en verbetering

Deze fase behelst het evalueren en verbeteren van de strategie. Inhoudelijk richt de evaluatie zich op de vraag waar de juridische afdeling staat met betrekking tot het bereiken van de strategische doelstellingen. Stel van tevoren concrete indicatoren vast (bijvoorbeeld: de kosten voor outside counsel moeten dit jaar met 15% omlaag of de gemiddelde doorlooptijd van een M&A-project moet met 10% omhoog) en verzamel doorlopend data.

Toets vervolgens periodiek of de operationele activiteiten ook daadwerkelijk bijdragen aan het bereiken van strategische successen en stel deze tijdig bij als deze niet de gewenste resultaten opleveren.

Conclusie

Niet zelden wordt veel tijd en geld geïnvesteerd in het opstellen van een strategisch meerjarenplan, maar verdwijnt dit in de bureaulade zodra het is afgetekend door het bestuur. Terwijl het echte werk dan pas begint. Een strategie opstellen en uitvoeren is geen eenmalig project, maar een doorlopend proces dat continu moet worden gemanaged.

Een legal operations professional kan daarin een belangrijke rol spelen. Gelet op zijn positionering is hij in staat eventuele hiaten tussen de strategie en de operatie snel te identificeren en tijdig op te vullen waardoor een positieve bijdrage van de juridische afdeling aan de business wordt gewaarborgd.

Noten

- [1] <http://www.altmanweil.com/AW111218/>
- [2] Een voorbeeld is het recent opgerichte Reyren Court dat een services automation platform ontwikkelt voor snel en eenvoudig gebruik van innovatieve software door advocatenkantoren. Zij worden ondersteund door een consortium van twaalf internationale advocatenkantoren.
- [3] N. Slack, A. Brandon-Jones, R. Johnston, A. Betts. Operations and Process Management: Principles and Practice for Strategic Impact. 4e druk. Harlow, Pearson Education Ltd, 2015
- [4] Zie hierover uitgebreid: [Legal operations in de praktijk: Het belang van legal operations, Legal Business World \(Nederland\), 2018, 7.](#)
- [5] Gebaseerd op: N.Slack, M. Lewis, Operations Strategy, 3e druk, Harlow, Prentice Hall, 2011

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Legal operations in de praktijk

3

De inrichting van de juridische bedrijfsvoering (deel 3)

Door Cindy de la Fuente

Dit is het derde artikel uit de artikelenreeks 'legal operations in de praktijk' waarin voormalig advocaat en legal counsel Cindy de la Fuente de verschillende deelgebieden van legal operations behandelt, met de nadruk op de praktische toepasbaarheid.

'Structure follows strategy', het adagium dat Alfred Chandler in de jaren '60 introduceerde geldt ook in de juridische sector. Tot voor kort werd daar echter weinig aandacht aan besteed. De juristen werden gezien als het kader en daar werd de strategie vervolgens omheen geconstrueerd. Daarmee werd feitelijk van binnen naar buiten geredeneerd in plaats van andersom. Het is echter de behoefte van de (interne) klant die leidend zou moeten zijn en niet de reeds beschikbare middelen.

Zoals ik in mijn [vorige artikel](#) heb aangegeven: focus eerst op de strategie, vertaal dit vervolgens naar een operationeel plan en beoordeel tot slot welke inrichting daar het beste bij aansluit.

Om te komen tot een goed ontwerp van de juridische bedrijfsvoering moet je weten wat de behoefte is van de business (vraag) en het vermogen van de bedrijfsvoering (aanbod). Een mismatch tussen vraag en aanbod leidt tot over- of ondercapaciteit met als gevolg frustratie bij de medewerkers en hoge kosten voor de business. Daarmee is dit onderwerp voor zowel bedrijfsjuristen als advocaten relevant.

De inrichting van de juridische bedrijfsvoering

Ter herinnering: de [juridische bedrijfsvoering](#) is het geheel van onderling samenhangende processen dat input omzet in output. Tot voor kort was de jurist het enige middel dat daarbij werd ingezet, waardoor over de structuur van de bedrijfsvoering niet echt werd nagedacht. Want of de activiteiten nu door jurist 1 of door jurist 2 werden uitgevoerd maakte voor de klant weinig uit. Hooguit zat er wat verschil in de doorlooptijd of kosten als de een meer ervaren was dan de ander.

Door de ontwikkeling van allerlei technologische tools, de opkomst van alternatieve juridische dienstverleners en de verbreding van de beroepsgroepen in de juridische sector verandert dit in rap tempo. Werk dat voorheen door juristen werd gedaan kan nu door andere middelen sneller, efficiënter en soms zelfs beter worden uitgevoerd. Hierdoor wordt het steeds belangrijker om inzicht te hebben in de activiteiten die juristen verrichten, zodat een weloverwogen keuze kan

worden gemaakt over de inzet van de middelen.

Uiteindelijk gaat het erom de processen zodanig in te richten dat de juiste middelen op het juiste moment het juiste werk kunnen doen. Op die manier kan de juridische bedrijfsvoering bijdragen aan het realiseren van de strategische doelstellingen van de organisatie. Breng daartoe eerst in beeld wat de benodigde output is. Beoordeel vervolgens wat het vermogen is van het huidige proces en onderzoek tot slot of dit vermogen kan worden vergroot door het proces te optimaliseren.

Wat is de benodigde output?

Om te weten welke output de bedrijfsvoering moet kunnen leveren, zal je inzicht moeten hebben in de behoefte van de business. Maak deze behoefte meetbaar. Zonder getallen blijft het giswerk, dus vertaal de vraag van de klant naar cijfers. Heb je (nog) geen inzicht in de concrete vraag binnen jouw organisatie, werk dan met aannames of benchmarks uit de sector. Het is aan te raden in dat geval gelijktijdig een meetprogramma op te stellen zodat je na verloop van tijd kan evalueren of de aannames correct waren en zo nodig kan bijsturen. Het belangrijkste is dat je begint, maar wees wel kritisch. Data verzamelen over elke stap in elk proces is zinloos. Focus eerst op de processen die direct bijdragen aan het behalen van de strategische doelstellingen.

Neem bijvoorbeeld het contractbeoordelingsproces. Elke juridische afdeling heeft met dit proces te maken, maar lang niet alle afdelingen hebben in kaart gebracht hoeveel contracten de business ter beoordeling voorlegt, uit welke stappen het beoordelingsproces bestaat en wie (welke onderdelen van) de

beoordelingsactiviteiten verricht. Als je namelijk weet dat de business gemiddeld 5 contracten per dag laat beoordelen is het zinloos om een proces te ontwerpen dat een output heeft van 10 contracten per dag. Dat resulteert in overcapaciteit en leidt tot hogere kosten omdat de middelen niet volledig kunnen worden ingezet. Stel dat het middel in dit proces een jurist is die als enige taak heeft het beoordelen van contracten, dan betekent dit concreet dat de jurist een paar uur per dag zit te niksen. Legt de business echter vijftien contracten per dag voor ter beoordeling, dan is bij een dagelijkse output van tien contracten sprake van ondercapaciteit. Er kan niet (tijdig) aan de vraag worden voldaan en dat heeft een negatief effect op de omzet.

Dit simpele voorbeeld laat zien waarom het zo belangrijk is dat vraag en aanbod goed op elkaar aansluiten. Dit geldt vooral in de dienstverlenende sector. In de productiesector kan overcapaciteit nog worden gebruikt voor het opbouwen van een voorraad die kan worden aangewend in tijden van ondercapaciteit. Dat is in de dienstverlenende sector lastig. Ieder uur dat een jurist niet productief is, is voor altijd verloren.

Wat is het vermogen van het huidige proces? Het vermogen van een proces wordt uitgedrukt in capaciteit. In dit artikel ga ik daarbij gemakshalve uit van de *design capacity*, maar wees ervan bewust dat dit een versimpelde weergave is van de realiteit. De design capacity geeft de maximale output weer van een proces in een bepaalde tijdsperiode bij volledige inzet van de middelen. In de meeste gevallen is de output van een proces echter geen 100%, omdat ook rekening moet worden gehouden met geplande onderbrekingen

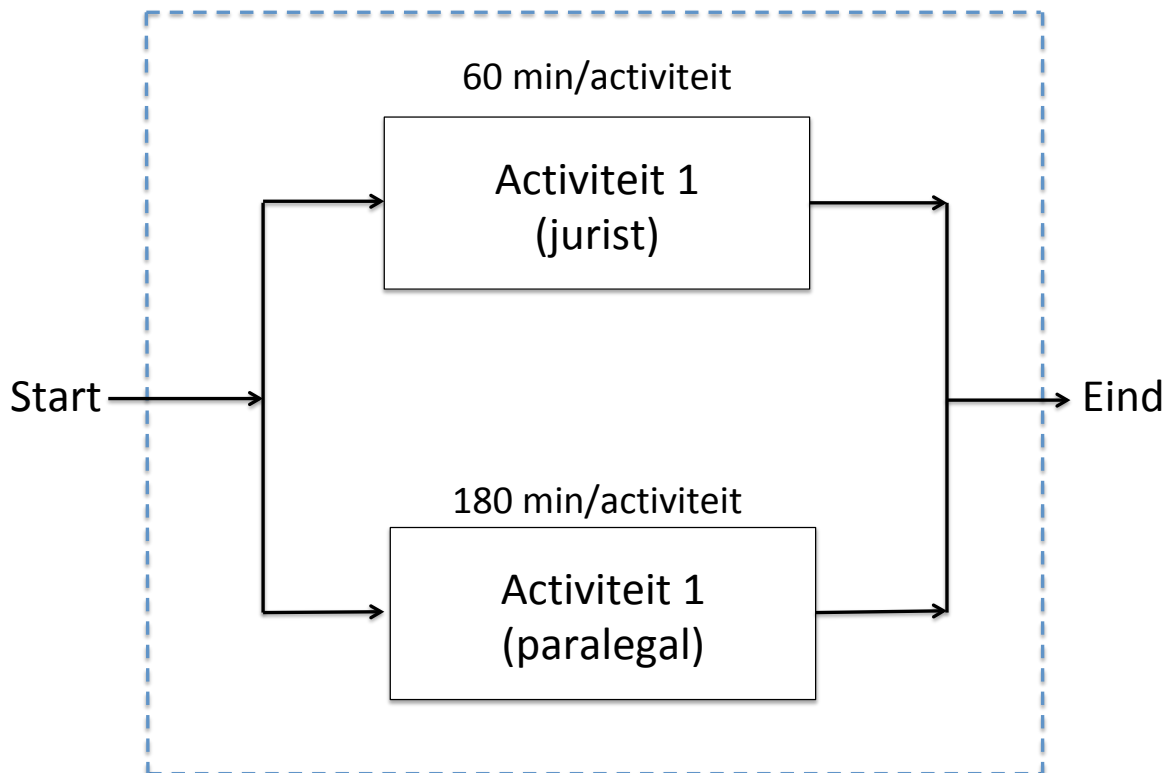
zoals pauzes en vakanties. De maximale capaciteit minus de geplande onderbrekingen wordt de *effective capacity* van een proces genoemd. Maar naast de geplande onderbrekingen kunnen er ook ongeplande onderbrekingen zijn zoals ziekte of een computerstoring. Als de ongeplande onderbrekingen worden meegenomen in de berekening van de capaciteit spreek je van de *realized capacity*. Zodra je weet wat de benodigde output is, kan je berekenen of het proces gegeven de huidige inrichting voldoende vermogen heeft om die output te kunnen leveren.

Voorbeeld

Een organisatie laat haar contracten beoordelen door een jurist en een paralegal. Zowel de jurist als de paralegal beoordelen het gehele contract. De jurist doet daar vanwege zijn ervaring 60 minuten over en de paralegal 180 minuten. Tot slot legt de business dagelijks 15 contracten ter beoordeling voor en hebben de jurist en paralegal beiden een 8-urige werkdag.

Om te beoordelen of dit proces voldoende capaciteit heeft, kan je het beste beginnen met het opstellen van een procesflowdiagram. Dat is een schematische weergave van het proces, waarin is weergegeven welke processtappen worden doorlopen van begin tot eind.

Figuur 1 is een versimpelde weergave van de procesflowdiagram van dit beoordelingsproces. Dit proces bestaat uit 1 activiteit, namelijk de beoordeling van het gehele contract. Er zijn 2 middelen beschikbaar (de jurist en de paralegal), die onafhankelijk van elkaar kunnen worden ingezet. De procestijd van beide middelen is verschillend.



Figuur 1: procesflowdiagram contractbeoordeling

Omdat zowel de jurist als de paralegal het gehele contract beoordelen, kunnen zij gelijktijdig worden ingezet. Dit betekent dat de maximale (*design*)capaciteit van het totale proces $\left(\frac{60}{60}\right) + \left(\frac{60}{180}\right) = 1\frac{1}{3}$ contract per uur bedraagt. Bij een 8-urige werkdag heeft dit proces dus een totale capaciteit van $(8 \times 1\frac{1}{3}) = 10\frac{2}{3}$ contracten per dag. Dit betekent dat met de huidige procesinrichting de jurist en de paralegal de vraag van 15 contracten niet aankunnen. Er is sprake van ondercapaciteit.

Hoe kan het proces worden geoptimaliseerd?

In de praktijk wordt een capaciteitsgebrek vaak opgelost door een extra jurist of paralegal aan het team toe te voegen of door meer werk uit te besteden aan de ‘outside counsel’. Dit is een dure oplossing die lang niet altijd nodig is. Door het proces te analyseren wordt

inzicht verkregen in de verschillende activiteiten die moeten plaatsvinden en kan worden onderzocht of een andere procesindeling leidt tot een verhoging van de capaciteit.

Het analyseren en verbeteren van processen is één van de kerntaken van legal operations. Dit lijkt simpel, maar moet niet worden onderschat. Om een goed beeld te kunnen vormen van een proces moet data worden geanalyseerd; werkzaamheden geobserveerd en stakeholders geïnterviewd. Wat er moet gebeuren en wat er daadwerkelijk gebeurt wil namelijk nogal eens verschillen. Door de activiteiten vervolgens schematisch weer te geven in een procesflowdiagram kan bij de stakeholders, die onderdeel zijn van het proces, worden getoetst of verbeteringen mogelijk zijn door bijvoorbeeld activiteiten af te

stoten die geen waarde toevoegen of werk te laten verrichten door andere middelen.

Terugkomend op het contractbeoordelingsproces. Na analyse blijkt dat dit proces bestaat uit drie activiteiten:

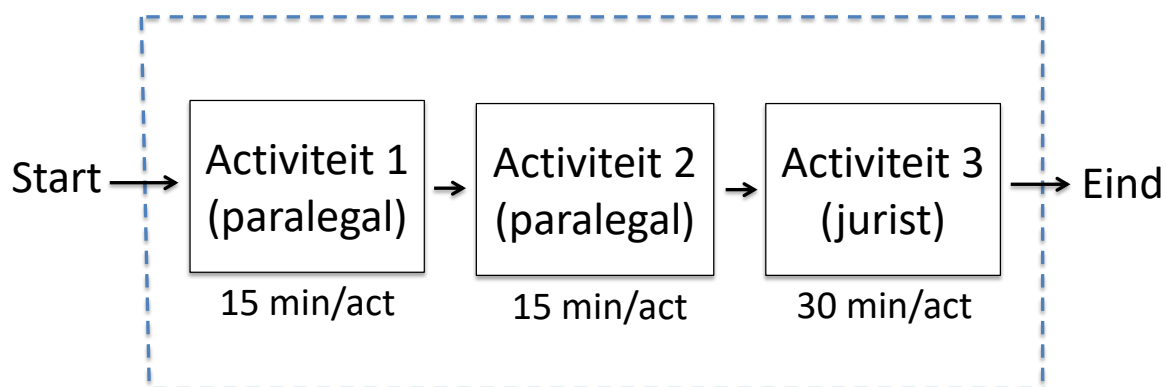
- *Activiteit 1*: invullen gegevens contractspartijen (15 minuten ongeacht wie dit uitvoert)
- *Activiteit 2*: verifiëren bevoegdheid contractspartijen (15 minuten ongeacht of een jurist of paralegal dit uitvoert)
- *Activiteit 3*: beoordelen contractsbepalingen (30 minuten jurist of 150 minuten paralegal)

Omdat er nu meer inzicht is in de stappen die nodig zijn om een contract te beoordelen, kunnen de middelen gerichter worden ingezet. Van activiteit 1 en 2 is duidelijk dat ze in totaal 30 minuten in beslag nemen ongeacht of de jurist of paralegal ze uitvoert. De kennis van de jurist levert hier geen meerwaarde omdat de activiteiten administratief/repeterend van aard zijn. Dit is anders bij activiteit 3, daar is de jurist in staat sneller te handelen dan de paralegal vanwege zijn kennis en ervaring. Met deze wetenschap kan de capaciteit worden vergroot door het proces anders in te richten. De procesflowdiagram

van het aangepaste proces is weergegeven in *figuur 2*.

Door de paralegal alleen in te zetten voor activiteiten 1 en 2 en de jurist alleen in te zetten voor activiteit 3 wordt de doorlooptijd voor ieder contract 60 minuten, in tegenstelling tot de eerste situatie (fig.1) waar de doorlooptijd van een contract bij de jurist 60 minuten was, maar bij de paralegal 180 minuten. Door deze aanpassing wordt de capaciteit van het gehele proces met 50% vergroot. De paralegal kan in deze opzet namelijk per uur = 2 keer activiteiten 1 en 2 uitvoeren en de jurist $\left(\frac{60}{30}\right) = 2$ keer activiteit 3.

De gehele beoordeling bestaat uit de activiteiten 1, 2 en 3 tezamen, hetgeen betekent dat het proces bij deze inrichting een maximale capaciteit heeft van 2 contracten per uur. Dit levert bij een 8-urige werkdag een capaciteit op van $8 \times 2 = 16$ contracten per dag in plaats van $10 \frac{2}{3}$ zoals het geval was bij de oorspronkelijke inrichting. Dit voorbeeld toont aan dat door het proces anders in te richten met dezelfde middelen wel aan de vraag kan worden voldaan. Sterker: een andere inrichting leidt zelfs tot overcapaciteit.



Figuur 2: herinrichting contractbeoordelingsproces

Verdere verbetering van het proces

Daarmee ben je er nog niet. De nieuwe inrichting leidt weliswaar tot een hogere capaciteit en is gelet op de reeds beschikbare middelen optimaal, maar dat betekent niet dat dit de beste oplossing is. Bij de laatste stap beoordeel je of het proces nog verder kan worden verbeterd door bijvoorbeeld verspillingen te reduceren of andere middelen in te zetten.

Terugkomend op het eerdere voorbeeld: nu bekend is dat activiteit 1 door iedereen in 15 minuten kan worden uitgevoerd kan je overwegen om deze activiteit door een administratief medewerker te laten uitvoeren. Dit is een goedkopere kracht en de paralegal houdt zo meer tijd over voor inhoudelijk werk. Maar je kan nog een stap verder gaan en activiteit 1 automatiseren door een koppeling te maken tussen het beoordelingsprogramma en de database van de Kamer van

Koophandel. Dit leidt naast een kostenbesparing ook tot een versnelling van de doorlooptijd omdat de informatie niet meer handmatig hoeft te worden ingevuld.

Conclusie

Dit eenvoudige voorbeeld laat duidelijk zien waar de schoen wringt in de juridische sector. Juristen zijn kenniswerkers die van oudsher gewend zijn om zaken van begin tot eind te behandelen. In het verleden werd dat geaccepteerd omdat er vrijwel geen andere middelen voorhanden waren, maar dat is niet langer het geval. Advocatenkantoren en juridische afdelingen doen er daarom goed aan hun processen eens onder de loep te nemen en daar waar mogelijk te optimaliseren. Voor ze het weten hebben ze een oneervol Kodak-moment te pakken omdat ze de beste juristen in huis hebben, terwijl de klant niet langer accepteert dat zij worden ingezet voor het werk.

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Legal operations in de praktijk

4

De activiteiten van legal operations (deel 4)

Door Cindy de la Fuente

Dit is het vierde artikel uit de artikelenreeks 'legal operations in de praktijk' waarin voormalig advocaat en legal counsel Cindy de la Fuente de verschillende deelgebieden van legal operations behandelt, met de nadruk op de praktische toepasbaarheid.

Legal operations is de multidisciplinaire functie die er binnen een organisatie of advocatenkantoor voor zorgt dat de juridische bedrijfsvoering is afgestemd op de strategie en doorlopend wordt verbeterd. Maar hoe doet zij dat eigenlijk? Welke werkzaamheden worden in dat kader verricht? Ik zal in dit artikel eerst ingaan op de kernactiviteiten die de koppeling leggen met de strategie en sluit deze artikelenreeks tot slot af met een overzicht van een aantal ondersteunende activiteiten die nodig zijn om een juiste omgeving te creëren waarbinnen de kernactiviteiten kunnen plaatsvinden.

De strategische activiteiten van legal operations

Bij de vertaling van de organisatiestrategie naar de juridische bedrijfsvoering kan legal operations helpen en de volgende activiteiten spelen daarbij een cruciale rol:

- A. Strategisch management
- B. Financieel management
- C. Risicomanagement
- D. Leveranciersmanagement
- E. Kennismanagement
- F. Talentmanagement
- G. Innovatiemanagement

A. *Strategisch management*

Strategisch management is het proces van plannen, uitvoeren, evalueren en verbeteren van de juridische strategie en zorgt ervoor dat de middelen die worden ingezet door de juridische afdeling en de activiteiten die plaatsvinden voortdurend zijn afgestemd op de missie, visie en strategie van de organisatie. Dit onderwerp heb ik in een eerder artikel uitgebreid behandeld.

B. *Financieel management*

Financieel management geeft inzicht in de geldstromen van de juridische afdeling. Het juridisch budget wordt vaak gezien als een statisch gegeven, dat eenzijdig wordt opgelegd, terwijl dit een uitvloeisel zou moeten zijn van periodiek overleg tussen de juridische en financiële afdeling over de resultaten, prognoses en toekomstige doelstellingen. Dat kan alleen als de juridische afdeling zich als volwaardig en proactief gesprekspartner opstelt. Daarvoor is nodig dat zij real-time inzicht heeft in de inkomsten en uitgaven. Vaak ontbreekt het daaraan, omdat

deze gegevens niet worden beheerd. Dit is niet alleen een risico omdat inefficiënties over het hoofd kunnen worden gezien, maar ook een gemiste kans omdat een strategisch middel onbenut wordt gelaten.

Neem bijvoorbeeld de outside counsel.

Juridische afdelingen besteden gemiddeld genomen zo'n 50% van hun budget aan hun outside counsel en investeren vaak veel tijd en geld in de contractonderhandelingen. Maar zodra het contract is ondertekend verdwijnt het veelal in de bureaulade, terwijl het echte werk dan pas begint. Levert de outside counsel de diensten voor de afgesproken tarieven? Worden eventuele volumekortingen op juiste wijze doorberekend? Maar ook: wordt de kennis die de outside counsel opdoet over de organisatie of de branche wel gedeeld met de organisatie? Vooral bij decentrale juridische afdelingen en organisaties waar juridische kosten (deels) door de business worden gedragen is het cruciaal dat deze afspraken centraal worden gemanaged omdat degenen die de outside counsel gebruiken vaak niet betrokken zijn bij de contractonderhandelingen.

Daarnaast stelt financieel management de juridische afdeling in staat haar bijdrage aan het succes van de organisatie te kwantificeren. Door bijvoorbeeld de outside counsel-kosten voor en na de implementatie van e-billing-software te vergelijken of gedurende een verbetertraject de totale juridische kosten af te zetten tegen de omzet, kan het effect van doorgevoerde maatregelen worden berekend. Dat helpt bij het aantonen van de waarde van de afdeling en het verkrijgen van budget voor toekomstige projecten.

C. Risicomangement

Risicomangement is één van de kerntaken van de juridische afdeling, maar heeft naast een juridisch inhoudelijke ook een strategische kant. Neem bijvoorbeeld de juridische dienstverlening. Juristen zijn er om juridische risico's te beheersen, maar het is aan de organisatie om het kader te bepalen waarbinnen dit dient plaats te vinden. Dit kader is de risk appetite van de organisatie en idealiter wordt de juridische dienstverlening daaraan gekoppeld. Gebeurt dit niet, dan kan dit tot gevolg hebben dat de juridische afdeling wordt overspoeld met onbenullige vraagstukken of juist wordt gepasseerd bij risicovolle zaken. Legal operations zorgt ervoor dat de risicobereidheid en de juridische dienstverlening op één lijn komen te liggen en communiceert dit binnen de organisatie.

Een ander strategisch aspect van risicomangement is het vergroten van het risicobewustzijn van de organisatie. Hierdoor neemt de zelfredzaamheid van de business toe en houdt de juridische afdeling meer tijd over om te focussen op het voorkomen van juridische risico's. Dit vergt educatie van de business en een kader waarbinnen zij vrij is te handelen, maar waarbij de grenzen duidelijk zijn gemarkeerd. Juristen zijn daarbij verantwoordelijk voor de inhoud en legal operations zorgt voor het kader en de verspreiding van de boodschap. Een voorbeeld daarvan is een contracting playbook voor de salesafdeling waarin is weergegeven welke bepalingen in contracten wel, misschien en absoluut niet acceptabel zijn, met duidelijke instructies wanneer de juridische afdeling benaderd moet worden.

D. Leveranciersmanagement

De juridische dienstverlening was lange tijd het exclusieve speelveld van de advocatuur, maar daar is de afgelopen jaren verandering in gekomen. Inzicht in werkprocessen en technologische ontwikkelingen maken het tegenwoordig makkelijker om delen van het juridische werk te standaardiseren en te automatiseren. Zogenaemde 'alternatieve juridische dienstverleners' zijn in dit gat gesprongen en bieden allerhande diensten aan tegen een fractie van de advocatenprijs. Hierdoor wordt leveranciersmanagement steeds belangrijker. Voorheen bestond dit uit het onderhouden van een goede relatie met de huisadvocaat, terwijl dit nu een veel grotere managementcomponent bevat omdat het juridische werk in stukjes wordt opgeknipt en door verschillende leveranciers wordt uitgevoerd. Een goede aansturing van de verschillende leveranciers in de toeleveringsketen is daarmee van cruciaal belang geworden.

Maar ook de relatie met de leveranciers is veranderd. Waar advocaten in het verleden op afroep juridische diensten verleenden, verschuift deze rol steeds meer in de richting van een externe juridische business partner die actief meedenkt met de juridische afdeling. Dit vereist niet alleen juridische kennis, maar ook kennis van de organisatie, de industrie en de werkwijze van de juridische afdeling. Dit vergt initieel een extra investering, maar leidt uiteindelijk tot een langdurige samenwerking en kan zo voor beide partijen een win-winsituatie opleveren.

E. Kennismanagement

Juridisch kennismanagement is het proces van het creëren, gebruiken, delen en beheren

van de juridische kennis binnen een organisatie. Het is belangrijk dat dit onderdeel is van het gedrag en de organisatiecultuur. Het doel van juridisch kennismanagement is het vergroten van de kennisproductiviteit waardoor een juridische afdeling beter in staat is haar doelstellingen te realiseren. Daarbij is het cruciaal dat de kennis die wordt gemanaged doorlopend wordt getoetst aan de strategie. Kennis beheren die geen strategische waarde heeft levert niets op.

Bij juridisch kennismanagement wordt vaak gedacht aan databanken met jurisprudentie, documentmanagementsystemen of contract templates. Hoewel niet onbelangrijk, is dit soort inhoudelijke juridische kennis slechts één kant van de medaille. Juridische kennis omvat meer en is ook weten over welke contractsbepaling in het verkoopcontract altijd wordt onderhandeld en bekend zijn met best practices. Nog te vaak wordt alleen gefocust op de juridische inhoud en ontbreekt de koppeling met de strategie. Dat is een gemiste kans. Als je immers weet dat de organisatie het verkoopproces wil versnellen, maar die ene contractsbepaling telkens weer zorgt voor discussie en vertraging in de onderhandelingen, dan is de stap naar het herschrijven van die bepaling snel gezet.

F. Talentmanagement

Juridisch talentmanagement gaat om de afstemming tussen de behoefte aan talent en de beschikbaarheid en ontwikkeling van dit talent. Dit begint met weten welk talent je nodig hebt op de korte, middellange en lange termijn. De strategie en organisatiedoelstellingen zijn daarbij leidend. Op welke producten, klanten en markten gaat de organisatie zich

richten en hoe kan de juridische functie daar een bijdrage aan leveren?

Een belangrijk vraagstuk daarbij is: wat wordt in-house ontwikkeld en wat wordt ingekocht? In sommige gevallen kan het de voorkeur hebben kennis en talent in-house te ontwikkelen, terwijl in andere gevallen inkoop een logischere keuze is. Zo ligt het voor de hand dat een projectontwikkelaar talent in huis heeft op het gebied van bouw- en aanbestedingsrecht, maar specialistische kennis op het gebied van milieurecht zal inkopen. Vaak wordt ervoor gekozen kennis die van strategische waarde is in-house te ontwikkelen om de afhankelijkheid van leveranciers te verkleinen. Talentmanagement, kennismanagement en leveranciersmanagement lopen hier in elkaar over.

Daarnaast zal er aandacht moeten zijn voor de ontwikkelingsmogelijkheden van zowel individuen als het team. Wordt gestreefd naar een team dat hoofdzakelijk bestaat uit juristen of wordt juist ingezet op een functioneel divers team bestaande uit bijvoorbeeld juristen, projectmanagers en legal operations specialisten? De inrichting van het juridisch team zal sterk afhangen van de behoefte van de organisatie en de mate van volwassenheid van de juridische functie.

Tot slot heeft de samenstelling van het team ook invloed op de persoonlijke ontwikkelmogelijkheden. Een team dat enkel uit juristen bestaat biedt beperkte doorgroeimogelijkheden. Juristen kunnen zich wellicht ontwikkelen in andere rechtsgebieden, maar niet andere vaardigheden aanleren, met als gevolg dat talent de organisatie vroegtijdig zal verlaten.

G. Innovatiemanagement

Om te kunnen overleven in de huidige maatschappij waar veranderingen aan de orde van de dag zijn, moet een organisatie zichzelf telkens opnieuw uitvinden. Dit maakt innovatiemanagement een belangrijke activiteit, ook voor de juridische functie.

Innovatie staat echter niet gelijk aan technologie. Innovatie kan plaatsvinden op meerdere gebieden zoals bijvoorbeeld op het gebied van processen, dienstverlening of producten.

Technologie is slechts een middel dat kan bijdragen aan innovatie op een van deze gebieden. Pas daarom op voor een tunnelvisie en kijk verder dan legal tech.

Innovatiemanagement is het proces dat zich richt op het creëren, ontwikkelen en realiseren van ideeën. Innovatie kent twee vormen: radicaal en incrementeel. Radicale innovatie is de vorm waarbij het gaat om het creëren van iets geheel nieuws, iets dat nog niet bestaat. Dat kan een nieuw product zijn, maar ook bijvoorbeeld een nieuw bedrijfsmodel, nieuwe technologie of een nieuw proces. Bij incrementele innovatie gaat om vernieuwing en staat de vraag centraal hoe bijvoorbeeld een bestaande dienst of leveringswijze kan worden verbeterd zodat het beter aansluit op de wensen van de klant.

Ook bij innovatiemanagement moet er een link zijn met de strategie. In een organisatie die streeft naar customer excellence en veel contracten sluit met consumenten, kan een juridische afdeling bijvoorbeeld contracten innoveren door minder tekst te gebruiken en meer te werken met visuals, zodat consumenten hoofden bijzaken makkelijker kunnen onderscheiden.

De ondersteunende activiteiten van legal operations

De kernactiviteiten slaan een brug tussen strategie van de organisatie en de dagelijkse werkzaamheden van de juridische functie. Dat waarborgt een goede afstemming en draagt bij aan het creëren van concurrentievoordeel voor de organisatie. Deze kernactiviteiten staan echter niet op zichzelf. Ze worden veelal gefaciliteerd door ondersteunende activiteiten die het juiste kader scheppen.

Stel bijvoorbeeld dat een juridische afdeling wil inzetten op verbetering van kennismanagement, maar de juristen zijn terughoudend in het delen van kennis. Het opstellen van een kennismanagementbeleid of het implementeren van een kennismanagementsysteem zal in dat geval geen verbetering opleveren aangezien de onderliggende 'deel-cultuur' ontbreekt. In zo'n situatie zal gelijktijdig moeten worden gewerkt aan het veranderen van de cultuur en gedrag van de medewerkers. Verandermanagement is hier ondersteunend aan het kennismanagement.

Hieronder een overzicht van de meest voorkomende activiteiten die ondersteund kunnen zijn aan de uitvoering van de kernactiviteiten:

- *Verandermanagement*

Een van de belangrijkste ondersteunende activiteiten van legal operations is verandermanagement. Een juridische functie die doorlopend wordt verbeterd, zal voortdurend te maken krijgen met verandering. De eerste horde die daarbij moet worden genomen is het wegnemen van weerstand. Dat is op zich al een uitdaging in de juridische sector, die

niet bekend staat om haar veranderbaarheid. Een juridisch team dat verandering omarmt zal zich echter een stuk sneller ontwikkelen dan een team dat zich tegen elke aanpassing verzet. Het uiteindelijke doel is het creëren van een cultuur waarin iedereen meedenkt, actief bijdraagt en zich verantwoordelijk voelt voor continue verandering.

- **Proces- en projectmanagement**

Procesmanagement gaat kort samengevat over het doorlopend identificeren, analyseren, ontwerpen, implementeren, aansturen en verbeteren van processen. Maar om processen te kunnen verbeteren moeten soms ook projecten worden uitgevoerd. Het grote verschil tussen projecten en processen is de tijdelijkheid. Processen hebben in beginsel geen einddatum, projecten daarentegen wel. Dat zijn tijdelijke activiteiten die gericht zijn op het bereiken van een specifiek resultaat. Het implementeren van een contractmanagement systeem is bijvoorbeeld een project. De implementatie vindt plaats gedurende een bepaalde periode en het eindresultaat is een werkend contractmanagementsysteem. Dat systeem dient op haar beurt ter verbetering van het contractmanagementproces dat geen einddatum kent. Zowel proces- als projectmanagement bieden cruciale ondersteuning aan de kernactiviteiten van legal operations.

- **Technologiemanagement**

Ook technologiemanagement speelt een belangrijke rol in de ondersteuning van de kernactiviteiten. Het is echter geen doel op zich, maar een middel dat kan worden ingezet om activiteiten of processen sneller uit te voeren. Het is daarom belangrijk om eerst de onderliggende processen in kaart te brengen en

te optimaliseren alvorens ze te automatiseren. Een inefficiënt proces automatiseren zal de inefficiëntie namelijk niet doen afnemen.

- **Data analytics**

Tot slot faciliteert data analytics de kernactiviteiten. Door data te verzamelen en te analyseren wordt meer inzicht verkregen in de werkwijze en kan gerichter worden gestuurd op verbeteringen. Doelstellingen kunnen meetbaar worden gemaakt en worden gemonitord aan de hand van key performance indicators (KPI's). Het is belangrijk dat goed wordt nagedacht over de data die wordt verzameld en geanalyseerd. Meten omwille van het meten is zinloos en leidt tot een overload aan nutteloze informatie. Stel daarom een gedegen data-analyse programma op en koppel dat aan de kernactiviteiten zodat je ook daadwerkelijk iets kan doen met de verzamelde informatie. Informatie die niet kan worden omgezet in actie draagt namelijk niet bij aan het behalen van de strategische doelstellingen.

Over de auteur

Na jarenlang aan de juridische inhoud te hebben gewerkt in de advocatuur en het bedrijfsleven heeft Cindy de la Fuente in 2014 de switch gemaakt naar legal operations. De afgelopen vijf jaar heeft zij vanuit haar eigen consulting firm diverse bedrijven en advocatenkantoren geholpen met het verbeteren van de juridische bedrijfsvoering. Sinds april is zij als Legal Excellence Manager werkzaam bij AkzoNobel.

Cindy heeft dit artikel op persoonlijke titel geschreven.

Aantjes Zevenberg

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Mr. K. Aantjes
aantjes@aanjeszevenberg.nl

Mr. F.I. van Dorsser
vandorsser@aanjeszevenberg.nl

070-3906260 | www.aantjeszevenberg.nl



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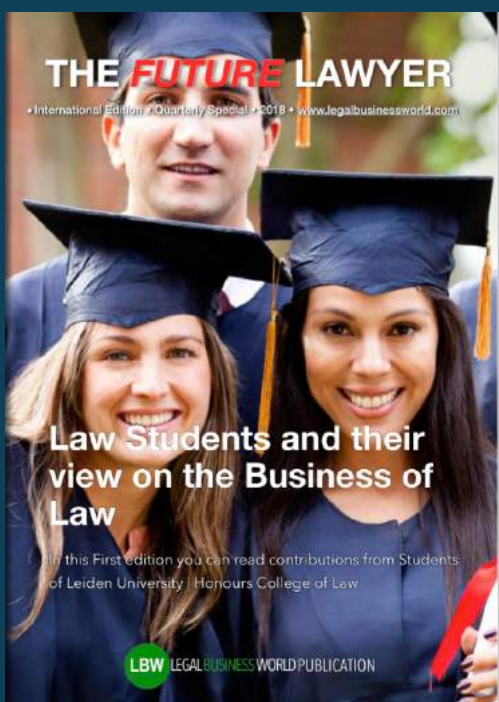
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KLANTGERICHTHEID IN TIJDEN VAN STEAMPUNK

Door Prof. dr. Rudy K. Moenaert

Klantgerichtheid?

Ik zie het u al denken – we hebben daar toch ondertussen een rijk gevulde toolkit voor? De praktijk toont echter het tegengestelde, zoals Keith Patel op ontnuchterende wijze omschrijft: ‘We zijn opgelicht. In het beste geval hebben we ons vergist. We hebben ons vergist op de meest fundamentele aspecten. We hebben de fout gemaakt door te geloven dat de analyse het antwoord zou bieden. We waren fout door te denken dat we strategen waren. Fout in het geloof dat analytische denkkaders, methodes, modellen en formules ons tot strateeg zouden maken. De gelijkheid van labels zorgt ervoor dat we een tekenaar een architect noemen, een illustrator een ontwerper en een analist een strateeg.’ [1]

Heel vaak is het recept dat aan een klantgerichte marktstrategie voorafgaat immers heel eenvoudig: een carpaccio op de wijze van Porter, een ratatouille op de wijze van Osterwalder, en een tiramisu volgens Sinek. Een Portertje, een Osterwaldertje; een Sinekje.

Een Carpaccio van de Markt (Porter)

Een eeuwige geleden bracht Harvardprofessor Michael Porter ons een simpele tool om de markt te analyseren. Het vijfkrachtenmodel is subliem in de eenvoud, en de vivisectie lijkt omvattend.[2] Michael Porter was zo tevreden van zijn eigen briljantie dat hij een kleine dertig jaar later aanhield dat zijn inzichten onveranderd blijven gelden.[3]

Een vijfkrachtenanalyse blijft altijd nuttig, maar het is verre van toereikend in de huidige turbulente arena. Het feit dat Porters eigen adviesbedrijf Monitor ter ziele ging, geeft misschien aan dat ook vooraanstaande Harvard-

professoren niet altijd het gelijk aan hun kant hebben. Een Harvard-hoogleraarstoga verschaft je dan wel prestige, maar het maakt je niet immuun voor de omgeving. Want marktstructuren zijn, mede door digitalisering en internationalisering, sterk veranderd. We hebben de opkomst gezien van ecosystemen en multi-sided markten. Dit maakt dat het vraagstuk “Wie is de klant?” minder eenduidig valt te beantwoorden. Bovendien legde Porter de nadruk op concurrentie en niet op samenwerking. De sleutel tot succes heden ten dage is evenwel verstandig samenwerken om concurrentieel te kunnen winnen.

Een Ratatouille van jouw Businessmodel (Osterwalder & Pigneur)

De marketing van Osterwalder en Pigneur en hun team is zonder meer briljant – in co-creatie met tientallen adviseurs een eenvoudig framework opmaken om het businessmodel van een bedrijf te ontwikkelen.[4]

Ook dit uitermate populaire denkraam heeft belangrijke verdiensten. Hun businessmodel canvas kun je uitstekend gebruiken als startpunt voor de opmaak van het klantmodel. Bovendien hebben Osterwalder en Pigneur de onschatbare verdienste om het begrip inzake two-sided en multi-sided markten inzichtelijk te maken.

Maar hun model mag en kan nooit het eindpunt zijn. Diverse competenties, segmenten en criteria worden in hokjes geplaatst, maar de onderlinge verbanden worden niet duidelijk gemaakt. Het is alsof je als neofiet naar een keukenkast kijkt, de diverse ingrediënten voor de ratatouille ziet staan in de vakjes, maar je niet weet wat bij wat hoort, en hoe de timing hoort te zijn.

Een Tiramisu van uw Visie (Sinek)

Inzake return on investment heeft Simon Sinek iedereen achter zich gelaten.[5] Met een eenvoudig TED-filmpje, eclectisch opgebouwd, heeft hij met “Start with Why” de wereld veroverd. Een boek kon niet uitblijven.[6]

Dit past perfect in het moderne tijdsgewricht waar de zoektocht naar purpose en authenticiteit de conversatie overheerst.

Sinek’s presentatie heeft storytelling in een hogere versnelling gebracht. Iedereen wil een raconteur d’histoires worden. Op het internet vind je talloze wijsheden om je verhaalkracht aan te scherpen. Mijn advies – Chip en Dan Heath hebben in Made to Stick op verbluffende wijze de wetenschap van storytelling samengebracht.[7] De eenvoud van

Sineks boodschap verdient lof, de afwezigheid van wetenschappelijke onderbouwing iets minder. Maar het belangrijkste gevolg is dat Sinek’s pleidooi voor een authentiek formuleren en nastreven van het hogere doel inzake business en samenleving is verzand in storytelling allerhande. Managers en marketeers worden steeds beter in het vertellen van verhalen, en slagen er steeds minder in de authentieke essentie van hun bedrijf of organisatie te vatten.

Wat Betekent Klantgerichtheid dan Wel?

Elk klantgericht denken bestaat uit drie stappen: (1) het grondig begrijpen van de klant, (2) het ontwikkelen van een winnende waardepropositie, (3) het bouwen van een marktgerichte organisatie.



1. Het grondig begrijpen van de klant.

In de moderne arena is 'Wie is mijn echte klant?' een eerste belangrijk vraagstuk. Dit is niet enkel zo in not-for-profit markten, maar eveneens voor veel B2B-bedrijven die ontdekken dat B2B2C steeds belangrijker wordt. Middels value blueprinting ontwikkelt u het ecosysteem, waarna u de focale klantengroep kunt segmenteren. Persona geven marktsegmenten een menselijk gezicht. Hoe kunt u, middels de opmaak van de customer journey empathie opbouwen voor uw klant zonder daarbij de ratio te vergeten?

2. Het ontwikkelen van een winnende waardepropositie.

Concurreren betekent anders of beter zijn dan de concurrenten. De huidige markten vereisen dat het productdenken hierbij wordt aangevuld met een gedegen dienstenbenadering ('the service-dominant logic'). Daarnaast zijn een aantal trends onmiskenbaar, zoals o.m. digitalisering en responsabilisering. Wat zijn de implicaties hiervan voor uw waardepropositie?

3. Het bouwen van een marktgerichte organisatie.

Een waardepropositie en een organisatie zijn twee zijden van dezelfde medaille. Marketing moet middels scherpe informatie, goede processen en stevige commitment de gewenste impact verkrijgen op de organisatie, en zorgen dat klantgerichtheid onderdeel van het DNA van de organisatie wordt. Marketing is immers de regisseur van de klantgerichtheid van uw organisatie.

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Over de Auteur

Prof. dr. Rudy Moenaert (1961) is een Westvlaams academicus met een hoog rock-'n-rollgehalte. Rudy is hoogleraar strategische marketing aan de TIAS School for Business and Society en tevens academic director van het Executive Master of Marketing program. De felbegeerde TIAS Best Teacher Award veroverde hij reeds driemaal.

Rudy's academische carrière op het domein van marketing en innovatie startte meer dan drie decennia geleden. Hij publiceerde in de toptijdschriften (o.m. Management Science,

6 sleutels om uw conversie tot advocaat-ondernemer te starten

Door Anne-Laure Losseau, Executive Business Coach

Anne-Laure Losseau had het genoegen deel uit te maken van het expertpanel op een symposium georganiseerd door de incubator Avocats.be in Luik. Het thema die dag was “De digitalisering van de advocatuur”.

Zij was uitgenodigd om haar ideeën over dit onderwerp te delen vanuit het perspectief van de carrière en het welzijn van de advocaat. In dit artikel geeft zij enkele van deze ideeën weer, verzameld rondom 6 sleutels om uw transformatie te starten.

Een wind van vernieuwing blaast door de advocatuur

De komst van kunstmatige artificiële intelligentie zal zeker leiden tot een aardbeving in de juridische praktijk zoals wij die kennen, maar het vertegenwoordigt slechts een deel van de huidige problemen.

Het lijkt in elk geval een beweging tot het initiëren van verandering en we zien een wind van vernieuwing in het vak.

Het lijkt erop dat er een 'momentum van heruitvinding' is, en dit ten goede van het beroep. De advocatuur is, net als elk ander beroep, geleidelijk aan het veranderen, jou het moment dat klanten en klantbehoeften veranderen. Bovendien moet worden opgemerkt dat, afgezien van de e-mail die de post heeft vervangen, de praktijk van de meerderheid van de advocaten vandaag niet fundamenteel verschilt van die van hun collega's in de 19e eeuw.

Hoe moeten de advocaten omgaan met de angst die veroorzaakt wordt door deze veranderingen?

Als tegengif voor paniek, raad ik aan de aan de gang zijnde omwentelingen te benaderen met nieuwsgierigheid en vertrouwen.

In de eerste plaats omdat de advocaten dit keerpunt gezamenlijk zullen aanpakken: sommigen zullen baanbrekender/avontuurlijker zijn dan anderen, er zullen experimenten zijn en incrementele aanpassingen. En er zullen ook fouten gemaakt worden. Maar het lijkt mij duidelijk dat de advocaten elkaar samen opnieuw zullen uitvinden. Het gaat hierbij echter niet om een nieuwe profes-

sionele verplichting die aan de advocaten wordt opgelegd, maar meer een geestgesteldheid van openheid. Het komt er voor een advocaat op aan om van tijd tot tijd 'hoogte te nemen' en de dagelijkse routine te verlaten om zijn praktijk opnieuw te bekijken.

Zoals gezegd, zijn de evoluties waar we het over hebben breder dan enkel artificiële intelligentie. Het gaat om paradigmaverschuivingen op verschillende niveaus, variërend van een verandering in communicatie en marketingroutes tot een meer diepgaande heruitvinding van het economische model van de advocatuur.

Enkele ideeën om u te lanceren

Er kan worden verondersteld dat deze diepere heruitvinding van het economische model, meer en sneller zal plaatsvinden bij de juridische adviesverlening (in tegenstelling tot de ondersteuning bij geschillenbeslechting); activiteiten waarbij andere actoren directe concurrenten zijn of kunnen worden. Dus waarom niet onmiddellijk beginnen met dichter bij uw klanten te staan, sneller te reageren, toegankelijker en zichtbaarder te zijn, tijdsverlies te elimineren, en soms buiten de gebaande paden te treden? Hoe dan ook, het lijkt tamelijk normaal en gezond om uw bedrijf te laten evolueren teneinde de cliënten (en uzelf) beter van dienst te zijn.

Hier volgen enkele ideeën om u op weg te helpen: 2 voorwaarden en 4 actielijnen.

Voorwaarde 1 wees trots op wie u bent en wat u doet

Stop met excuses aan te bieden. U heeft hard gewerkt om advocaat te worden, u heeft

sterke waarden en u bent (zeker) een goede persoon.

Herhaal van tijd tot tijd opnieuw uw ‘waarom’, uw missie: Wie wil ik helpen als advocaat, Hoe en waarom? Welk verschil wil ik maken in de levens van de mensen die ik kruis? Uw missie is tegelijkertijd datgene waardoor u gedragen wordt en dat wat u uniek maakt.

Het gaat er niet om uzelf te stimuleren met een verhoogd zelfvertrouwen, opgezwollen met steroïden, maar trots en dankbaar te zijn voor wat u gebracht heeft tot waar u nu bent, en erin te blijven vertrouwen voor de toekomst.

Voorwaarde 2: Wees een (humanistisch) ondernemer

U bent uw eigen ‘legal start-up’! Het is een kwestie van instelling. Wat uw leeftijd ook is, uw ervaring, of hoe groot uw praktijk is, wees een ondernemer (of “intrapreneur”) met een visie: wat wil ik bereiken en wat wens ik te verwezenlijken voor mezelf en mijn klanten, over 5 jaar, over 10 jaar?.

Natuurlijk is advocaat zijn geen ‘job’ zoals een ander, en er zijn een aantal specifieke waarden die ten grondslag liggen aan uw activiteit, waarvan sommige van deontologische aard zijn, die gelden voor de gehele beroepsgroep, en andere die specifiek aan u eigen zijn.

Dus u bent een ondernemer (en een bedrijf, volgens het Wetboek van Economisch recht) maar wel een ‘humanistische’ ondernemer!

Met deze 2 voorwaarden in gedachten, laten we een paar ideeën van concrete acties

voorstellen om u op gang te zetten.

Actie 1: Zet uw klant centraal

Als ondernemer is het uw plicht om de klant (opnieuw) centraal te stellen in uw activiteit. Stel uzelf de vraag en vraag uw klant: Hoe kan ik u beter van dienst zijn? Ga vaker samen met uw klanten eten zonder de timesheet in te vullen. Ontwikkel het vertrouwen dat ze u geven!

Ken uw klanten steeds beter. Wat zijn hun uitdagingen, hun moeilijkheden, hun twijfels? Wat moeten ze weten (nieuwsbrief, uitnodiging voor een conferentie, flash-update, juridische updates, etc.)? Hoe kunt u meer partner zijn en minder een noodzakelijk kwaad? Kortom, aarzel niet om uzelf een beetje minder centraal te zetten: een van de beste manieren om te weten hoe u moet en kan evolueren is door te observeren en te luisteren naar uw klanten en hun behoeften

Actie 2: Omring u met mensen verschillend van uzelf

Huur mensen in die anders zijn dan uzelf, mensen die mogelijk een andere en frisse kijk op de activiteit zullen hebben. Vermijd uzelf te omringen met klonen van uzelf! Durf medewerkers te werven die beschikken over vaardigheden en competenties die u zelf mist, of het nu gaat om creativiteit, empathie, marketing, netwerken of een gezonde verslaving aan nieuwe technologieën.

Maar omring u wel met collega’s die, zoals u, nadenken en in beweging zijn. En laat u inspireren door andere omgevingen, andere benaderingen (informatici, grafisch ontwerpers, ondernemers, start-ups, Kamers van Koophandel, ontwikkelaars, IT-geeks).

Actie 3: Wees serieus zonder uzelf serieus te nemen

Het is natuurlijk heel serieus wat u doet, maar vermijd uzelf te serieus te nemen: vergeet niet uzelf regelmatig kritische vragen te stellen! Durf oude, versleten gewoontes in twijfel te trekken: heeft uw cliënt echt behoefte aan een advies van een halve doctoraatsthesis geschreven in uw mooiste literatuur? (Dat gezegd zijnde, als u echt een goede pen heeft is er niets dat u belet in uw verloren uren een roman te schrijven.)

Wat is uiteindelijk uw echte toegevoegde waarde?

Ontwikkel een cultuur in uw kantoor waar men buiten de gebaande paden durft te denken en waar voorstellen worden ontvangen met nieuwsgierigheid, openheid en vriendelijkheid. Houd echter het hoofd koel en haast u niet. Vermijd de cosmetische 'verandering om te veranderen' en beperk u tot de veranderingen die voor u en uw activiteit zinvol zijn

Actie 4: Start. Begin klein. Blijf in beweging

Om je in het diepe te gooien, enkele kleine veranderingen om meteen te experimenteren.

- Update uw website: controleer of uw informatie actueel, relevant en consistent is met uw visie.
- Begin met publiceren/delen op LinkedIn.
- Ga gedurende een hele week na wat uw belangrijkste bronnen van verspilling van tijd en energie zijn. Observeer, noteer, neem de nodige acties, en geniet van de gevonden tijd en energie.
- Experimenteer met het organiseren van

bepaalde activiteiten, zoals bijvoorbeeld vergaderingen, consultaties of zelfs conferenties via videoconferenties of webinars;

- Als het dossier er zich toe leent en de klant daarvoor openstaat, neem dan uw tablet mee naar een vergadering en werk samen met uw klant (co-creëer met hem in plaats van na de vergadering alles alleen te doen)

Conclusies

Laat mij besluiten met u eraan te herinneren dat in deze heruitvinding, zoals in alles, u moet vertrekken vanuit uw sterktes (het is uiteraard daar dat u op natuurlijke wijze uitblinkt). Maar zonder te vergeten regelmatig goede redenen te vinden, in uw missie of visie, om uit uw comfortzone te komen.

Tot slot wens ik u dat deze wind van moderniteit u zo ver brengt als u kan dromen, rekening houdend met het feit dat sommige dingen tijdloos zijn:

“Er is geen gunstige wind voor degenen die niet weten waar ze naartoe gaan.” (Seneca)



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A close-up portrait of a man with short dark hair, wearing a blue button-down shirt and a dark suit jacket. He is looking directly at the camera with a neutral expression. The background is a dense, colorful pattern of small, multi-colored dots or confetti in shades of red, blue, green, and yellow.

Ecce Advocate - Reflections from Conversations in the Field of Legal Services *Circa* 2019

By Kenny Tung, General Counsel at Lex Sigma Ltd

The backward-looking, risk averse approach to the law, which is so common in corporate America, doesn't work in the Internet Century, when business evolves at a pace that is several orders of magnitude faster than the pace of legal change. A smart creative-fueled business that is trying to innovate will be lucky to be right 50 percent of the time, which can be a problem for a lawyer whose risk

tolerance is in the single digits.” [1] Five years since the publication of this critical observation, this sentiment remains a common refrain from clients and consumers of legal services. Gone are the good old days when there was a steady and straightforward world and economic order, progressing in a gradual, predictable direction, where specialization and knowledge are the key to success.

Pain Points

A common journey of an in-house legal department - Upon joining company, a GC discovers that every department has its own way to sign a contract. Documents are filed but lacks a system, and contracts frequently are missing, let alone having a basis to enforce performance such as special payment terms and expiration. Contract review was merely part of the process for meeting requirements for invoice or payment purposes. No RASIC arrangement exists between business and legal silos, and lawyers do not know what the contracts are about beyond general business and boilerplate terms. IP system barely exists, and the products development function regularly defaults into grey area in freedom of practice exercise. Business and even HR activities freely receive third party information that may be trade secrets, while the company fails to protect its own IPR.

Once Legal managed to institute processes like contract management, IP, employment from interview to exit, and the business knows what Legal does, the work load increases with the industry and economic growth while compliance becomes more complex and consequential. Some GCs manage the function by improving processes, and some implement automation. However, most approach from the perspective of legal tasks only, and adoption remains anemic even within the legal silo. Most legal departments struggle to assess and ground their effort-impact analysis. Rarely do GCs get their wish to throw more people at problems and routine work.

As senior GCs start to yield their roles to successors, the struggle with some of the previ-

ously set up processes returns as people turnover heads north while institutional memory walks out the door with employee departures and contractor changes.

Department slides further down the path to be another cost center.

More with less – For many GCs, being seen as a contributor to glamorous projects like M&A, major financing, and helping the company to overcome existential disputes and avoid business interruption is more worthy than controlling costs. Numerous heads of legal function still bristle at the “help” from purchasing departments in managing outside legal spend. However when business model revolutions, digital disruptions, compliance avalanche converge on a less popular corporate sector, legal departments can only count themselves among the fortunate if they can maintain their headcounts and focus on hammering the outside counsel on fees. New vocabulary for lawyers include AFA (alternative fee arrangements), In-sourcing, LPO (legal process outsourcing), ALS (alternative legal service). Many service providers like Bodhala wield AI to help clients to “rationalize” law firm bills.

Law firms revenue may be back up but baseline realization rate may not be. The “willingness of a firm to accept a discount from its standard rates” remain elastic, especially among “Top Rate Growth firms and Top Demand Growth firms.” [2] The changing value proposition away from the business model of selling hours is a part of this current, but ultimately the issue is rooted in the gap between business and law (more on this later under “Underlying, Deeper Issues”).

Customer satisfaction - Costs down can be viewed as a customer satisfaction problem as well as an issue of efficiency. Personality stereotype aside, lawyers may sometime be seen as just practicing law and not solving business problems. When the former Google senior executives describe the average corporate lawyer as backward looking, the issue seems to be about doing more to anticipate change and going beyond approaching new issues under the current legal system. While most lawyers may appear singularly focused on risks, and failing to move from risk-biased anecdotes and to data that informs on a bigger picture, the real problem is they have been casted to manage risks which somehow are uncoupled from related opportunities.

Some are starting to prioritize with tools like importance-urgency matrix and effort-impact matrix to manage customer relations and resource. However most legal functions continue to be the department to remedy problems and facilitate deals but not a go-to resource for business transformative, demand driven, strategic initiatives. The challenge in matching effort to impact is like spinning legal wheels but not getting into gear with rest of the business organization. While all this is happening, in the age of continuous communication, practicing law by email, messaging and whatsapp/wechat on the fly and delivering instant advice is aggravated by pressures to keep external cost down or maintain internal efficiency.

Discontent throughout ranks - After 150% effort and seeing work-life imbalance slip but only barely holding on to status quo frustrate many lawyers. This is especially among more junior lawyers, perceived as being outside the

core team and cast in the role as the brakes to the engine, under resourced police, “department of no,” but not senior enough to be invited earlier on to shape an issue or as the “conscience of the company.” Tilling the land with true grit, juniors can only be “glad to have a job,” and even some seniors have expressed private feeling that this is “just a job.”

Responses

The human wave strategy – Facing increasingly complex and fast changing world and compounded with new and complex regulations driven by but still lagging behind an increasingly political world, a common reflex is to throw more people at problems and work harder! Although the reasons for law firms and large legal departments equating success with the size of their organizations are different, both ultimately are grounded on values based on input rather than output or outcome for clients.

Cut costs – As illustrated above, legal market communication is already full of AFA, LPI (legal process insourcing), LPO, and ALS providers. Some of these offerings try to find a way around the headcount restriction, but with limited success. As the journey of business process outsourcing or BPO has demonstrated, productivity gains will eventually taper. Even the gains under Moore’s Law do.

“Do less law” [3] - We have been hearing this call, perhaps a cousin of the Lean concept on doing only the right things. This should be distinguished from managing client’s expectation on what certain legal actions and resulting costs may fetch. An analogy would be an international law firm, acting for an emerging market client in an acquisition, ending up not

getting paid for half of the hours billed because the M&A process was basically left running unsupervised by the client. This is not uncommon as the lack of an experienced VP for Legal leads to insufficient guidance for the law firm which went on to perform according to its perfection standard, one that the client actually did not want to pay for.

So lawyers should triage more frequently with clients, perhaps along the line of the approach to legal function described in *How Google Works* from which the quote that initiated this article is drawn. Calling this “Horseback Law,” the authors prescribe for lawyers to avoid the need always

“to dismount and spend weeks writing a fifty-page legal brief... of all the things that could possibly go wrong and what would happen if they did. In the early stages of a new project, the analysis won’t be 100 percent correct anyway. In those situations, it isn’t the lawyer’s job to cover every possible angle in detail; it’s his job to look into an unforeseeable future and provide educated, quick guidance to the business leaders making the decisions.”

And then move on.

Yet “do less law” certainly does not mean “don’t do any law.” The question that “horseback law” begs is which legal tasks should be on the menu and the level of legal scrutiny to apply?

LegalTech – This term certainly conjures the common scene of users shopping for off-the-shelf, undiscerning or quick solutions. A pop-

ular product would be to automate knowledge management or KM, offering laws, regulations, and document templates such as contract management at the fingertips. While some services are based on machine learning, e.g., e-discovery, prediction of case outcomes in domains like IP or the Supreme Court of the U.S., or rationalization of legal bills like bodhala.com, most products are still built upon expert systems as machine learning in the legal field requires, among others, time, effort to train the algorithms and capital.

Most LegalTech remains focused on the efficiency of legal tasks. Some even go beyond cost management to offer throughput value proposition e.g., contracts reviewed, number of filings, deals negotiated and closed, disputes outcomes. Thus far, there are few real solutions with output driven value propositions.

Benchmarking – By far the most common response, though it can at best be the starting point of a response. But benchmarking itself is not a strategy. Safety among the herd may reduce liability at the legal issues level, but rarely a competitive advantage at the legal function level.

Benchmarking with peers does not always delve sufficiently into why and why not, in part due to confidentiality considerations, and yields only stereotype generalities. It rarely informs on successful business strategies which by definition fits a unique business model that cannot be copied or challenged in the short term.

Indeed the trending consensus often ends up doing nothing which is the most dangerous path in today’s era of disruptive, accelerating change.

Underlying, Deeper Issues

If the legal department is to do less law, what will its lawyers do? One analytical lens is the journey from selling what one makes to making what sells. But what have been the offerings in the market for legal services? According to Jeffrey Carr, a former General Counsel of FMC Technologies, lawyers basically offer advocacy, counseling, content and process. [4]

Advocacy – representing the client’s interests in relationship to external parties, most commonly adversarial matters like litigation, government investigation, averting PR disasters; but also less immediately adversarial matters such as preventive compliance and internal assessment of complaints and potential risks. Also under this category are transactions from bet-the-farm M&A to the smallest operational level transactions.

Counseling – advising the client on actions that favor long-term over short-term interests. However, longer term considerations may apply to some daily and operational matters. This need not, but may also involve deep, novel expertise in complex areas. Often the counsel requires “judgment” to triage between or among options involving disparate stakeholders vested interests.

Content – providing information about legal issues, generally called legal advice and analysis, again of a wide variety - from the longer term, more complex topics to the mundane and commoditized.

Process – moving information from one place to another to create legal work product, typically either generating or analyzing contracts, or working through discovery in litigation or

sifting through data and information in investigation. But again it may surface in day-to-day transactions and commoditized information and legal forms, e.g., company secretarial routine activities.

There are, of course, activities that cut across the above, e.g., facilitating transactions, especially major M&A; or IP strategy like mapping freedom of practice across global markets. Services enhanced by negotiating skills are often incorporated in legal services like advocacy, facilitating transactions large or small.

While this may describe at a high level what clients have been buying, there is varying degrees of commoditization of the work but overall legal service providers are losing some pricing power. The tug-of-war over pricing aside, activities that clients refuse to buy are spreading like wild fire through GCs’ terms of engaging outside providers and external legal spend “rationalization” services. Much of this exercise are the natural results of the excess of the business model based on input, i.e., selling hours, but the principal operating paradigm is the concept of Lean, or do only the things that the customer will pay for, not just doing them more efficiently which remains the focus of a great deal of LegalTech today.

For sure, many lawyers will not consider practicing law as a waste, but many clients certainly perceive some tasks as not adding value. Yet both lawyers and clients know that some delivery and insight actually is in demand, and the value cannot be referenced in terms of input like time unit. Indeed such insight or advice valued by the client often make the hours billed by other colleagues tolerable and worthy of being bundled together.

As the pressure builds to rationalize legal spend, the trick is to know what service the business truly values. However clients often don't know themselves. This is not uncommon, just as one-hour photo minilabs and iPhones were not initially perceived as popular in market testing, let alone when there is a great gap between business and legal in terms of understanding each other. Take for example the value of preventive practices - the lack of measures on the benefits from cost avoidance under the short term focus in companies financial statements makes it almost impossible to take initiatives across functions. With preventive law on limited demand, much less can be said about the legal function helping business to shape and execute its strategy or achieve transformation.

Despite the headwinds, lawyers do have a chance to elevate the legal function (and integrated value chain like law firms and other external service providers) to a strategic level while supporting operations in a way that delights clients. Imagine requests from clients on what resources the department needs so that it can deliver more of something that is in demand? However, the purposing of legal resources continue to chase after legal expertise and deepen the legal silo, and any efforts to improve people-process-technology dabble mainly to drive legal efficiencies rather than business efficacy. While GCs may sit at the C-suite table, the legal function as a whole has not been considered strategic.

Limited to Downstream - One challenge that has been holding the legal function back is the deep-seated notion that equates its value proposition to remedial activities, e.g., disputes resolution. As mentioned above, pre-

ventive initiatives have been poorly managed as initiatives although they can be pervasive in terms of contract negotiation and management if measurement of benefits can be in place. Nevertheless, the remedial characterization is a serious drag on any hope to integral to business strategies and transformation.

To be fair, lawyers do have occasions to brag about helping business to execute strategies. M&As and other investments can be strategic to a business although its track record has not demonstrated satisfactory odds as a successful strategy. Also the legal function is involved more often to facilitate deal-making, closings and documentation rather than assessing early feasibilities, target selection, and more critically to plan and execute integration which is the graveyards of a majority of M&A strategies.

Lawyers find more success in the IPR field, e.g., mapping technology, integrating the freedom to practice in terms of patent, trade secrets with business strategy and offensive and defensive litigation. Here, names like Apple, Samsung come up, and in terms of business transformation, Qualcomm.

Unfortunately, mostly lawyers do not work on the inside of major transactions, existential dispute resolutions or transformative IPR strategies all the time, and the average legal function will consider itself having earned its keep if it is considered to play a role in the company's risk management. Yet mere risk management may turn out to be a fool's errand unless the risks are connected with related opportunities across businesses and corporate functions. Risk management by itself is akin to trying to clap with one hand.

Hoping bright, shiny tech will avert threats - It is in this light that Legaltech as a field has thus far failed to shine. This is due in part to most offerings pay only lip service to the business organization, processes and underlying strategy. Most products and projects revisit the common gap between tech vendors and law, on top of the gap between business and law. Often tech providers are driven in part by the business model to sell software products based on off-the-shelf templates and designed for another organizations with minimal customization, sometimes starting with completely unsuitable configurations. Also offerings are mainly concerned with lawyers' tasks and address mostly cost down pressures, without the experience and knowhow to analyze whether certain legal tasks actually contribute to the business and solve specific client and customers problems. No wonder some executives of the "horseback law" or "do less law" persuasion would wield the Lean concept to judge offerings with only what the customer will pay for. It is a rare contract management package that would integrate contractual provisions into business strategy, operational metrics and KPIs like balance sheet hygiene, earnings and cash flow. Few systems can reduce wastage in process across functional verticals. Legaltech needs strategy and process analysis to build metrics to help clients to price legal risks and support decisions on risks and opportunities.

Even in a field that until recently still depends mostly on labor resources, some labor-capital/software balance is gaining acceptance, but adoption is still in embryonic stages. Legal service pricing models other than recalcitrant input based ones (including shadow hourly pricing) also suppress a more balanced resource model. Most law firms do not have the

strategy, organizational and financial structure to invest in capital assets like software solutions. Adjacent players with experience in a labor-capital mix such as the Big Four have yet to change the game in the legal sector.

Indeed most tech efforts is a picture of the cart before the horse. In addition to the gap between tech vendors and law mentioned above, vendors' interest and buyers' lack of appreciation of outcomes and process mapping being critical precursors to automation efforts further lessen the chance of success. In this space, without a handle on people and process, there will be little technology adoption.

All these factors result in adoption rates no better than other corporate tech efforts, which is at best lacklustre. It is no surprise that business management already takes a view that it is not the enterprise's purpose to finance LegalTech development and would not devote resources for LegalTech. Generally in LegalTech, publishers sell content; SAAS providers sell expert systems, but few vendors sell ML and other AI systems. This is because it takes time and resources to train algorithms, one task at a time. Relatively un-tethered to business strategy, and unguided by ultimate business outcomes, "Legal R&D" thus far has been seeking value propositions mostly for lawyers who trade in knowledge and information in an era when exploding information comes at a few clicks through search engines and channels that are user centric.

Decision Process Without Probability - In the spectrum of solutions, people-process-technology are table stakes. Contract templates, now "smarter" in the form of expert systems and even AI, can be useful when the commercial ecosystem has been in an equilibrium or to

serve as a checklist among less experienced stakeholders or in less sophisticated markets. However, calcified templates can also be overkill when what clients need is a designed suite of starting clauses with alternative language calibrated by business tools to support desirable combinations that allows deal-making. The use of templates sometimes requires too much customization and instead of being a “device” designed for the context, becomes a crude instrument counterproductive in the process. As the pace of business accelerates, and regulatory climate becomes more complex, templates regularly contribute to putting business in a perpetual catch-up mode as the facilitator lacks the strategic alignment to design a process to maintain evergreen templates suitable for market conditions. To be fair, such process excellence calls for organizational enablers for change management to overcome the gaps across silos. Addressing organizational scorecard issues requires leadership from the top, but all business units and functions, including legal, still need to be mindful of the organizational purpose of existence - to serve and sustain value propositions to customers.

Take Knowledge Management (or KM). In an era where answers are often a few clicks away, people now focus on solving problems and making decisions. In the legal space, familiar KM comes in the form of if-then-else predictions and related research. The part of the process involving the base of the decision tree, sometimes performed repeatedly, should be automated. But this will not come before sufficient legal information and documentation has been digitized and in a way native to search and analytical engines to organize them in a user friendly designed manner. It goes without saying that regular information up-

date, a continuing digital feed and design maintenance will realize sustainable KM.

While this sounds like destruction of “value” from legal service providers charging for repeated, formulaic work, considerations for bespoke work exist. Quality control of overall delivery against changing circumstances needs general intelligence like a seasoned professional to identify and handle. Even if we have automated most of these KM building block, a legal project manager will pass judgment on utilization of if-then implications in context of stakeholders and the organization. This is especially when the law has not caught up with the reality which seems increasingly the norm. The organization will also need to consider how to train junior lawyers, or “legal engineers” on how if-then-else applications of rules to facts before they take over from the seniors.

Lack of measurements and data – To manage risks in the context of opportunities, a measure of both is necessary. We all know what is not measured does not get done. If-then-else predictions will be useful if reliable probabilities are ascribed. Some pricing of risks reminiscent of the insurance actuarial has been taking place in the legal sector; however, it is early days to account for arguments lost and won, judgments passed and penalties levied. Legal probabilities analytics has yet to expand its ambit to connect with the business world to include cost avoided, reputation saved, time bought and even business won. An important part of business considerations concerns insurance, and the actuarial work underlying insurance is the ancestor of data analytics today and will serve as a model for legal data analytics tomorrow.

Equally importantly, for lawyers to stay as trusted counselor in the world of data today, long term considerations will likely be lost unless supported by data.

Multiple headwinds – On the demand side, the market does not believe in or regularly concern itself with root cause and solutions. On the supply side, today most legal service providers are not incentivized to migrate from the input pricing business model. In-house lawyers are also married to the people end of the people-process-technology spectrum as a measure of the legal function's worth and prestige. Management does not generally view Legal as an integral part of business and corporate strategy, and legal process management has yet to reach core business considerations as to serve as foundation of LegalTech. Without sufficient appreciation of the legal-business divide and job to be done, technology providers cannot be said to have moved beyond the mainstay of selling off-the-shelf products to help lawyers to do more lawyering.

Underlying these headwinds lies change management. In addition to putting some muscle to align stakeholders based on an overall corporate strategy, the exercise also requires a two-speed transformation – meeting the needs of today while actively preparing for tomorrow - by another analogy, changing the engines in mid flight. This is no ordinary project, especially for a large organization with the current market to lose. Although the business does undertake a certain level of risks to transform, the endgame of not changing the engines is certain. As many seasoned executives will remind us, hoping to survive with the status quo is not a strategy. If organizations and the world can take the leap across existential

changes like the Big Bang, Y2K, and prospects like Brexit, legal functions can get on the flight of transformation with the rest of the enterprise.

Considerations for Business Leaders (Including Legal Sector Leaders)

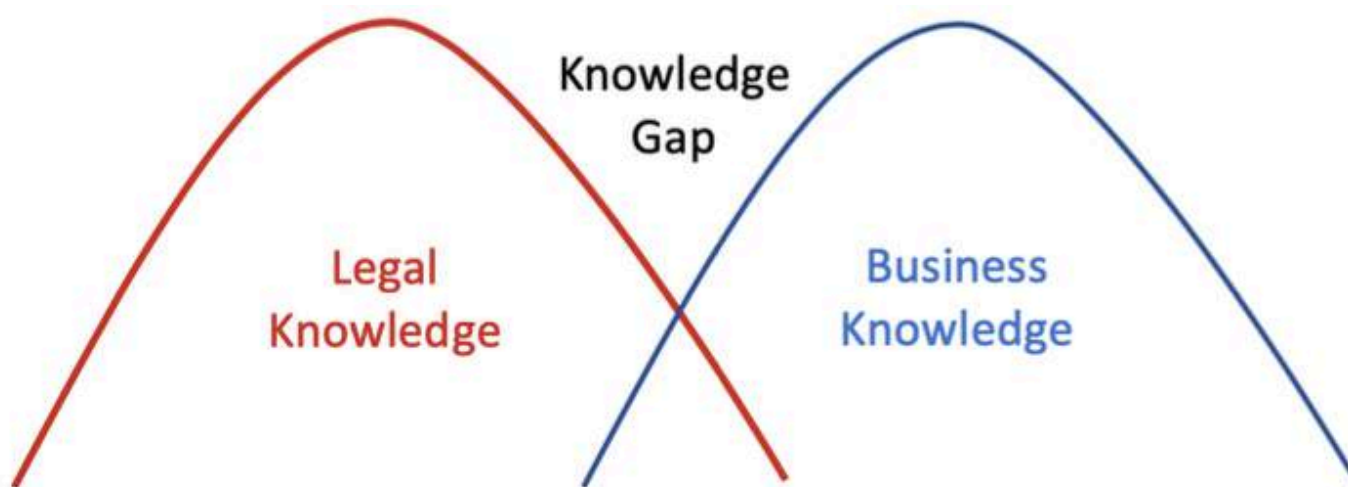
Customer satisfaction beyond surveys and budgets - As cost management is just table stake, legal departments should approach clients value proposition beyond going through the motion of getting vague and top-of-mind annual surveys. Mere cost down initiatives lead only to the bottom. However, to be prepared to set a baseline with zero based budgeting principles will align the legal function's raison d'être with business strategy. To design and refresh a corporate legal strategy (CLS) that is integral to corporate and business strategies will be one way to find and connect with that reason. A CLS will underpin contributions to operational excellence, and anchor people-process-technology initiatives and execution to strategic business outcomes. While shorter term initiatives like number of contracts reviewed to facilitate sales are easy to aim for, it is long term initiatives that are difficult to be copied or overcome at least for quarters ahead that will bring sustainable competitive advantages for the enterprise, e.g., for the organization to keep up with industry transformation such as enabling transaction and dispute resolution mechanisms for massive volume, finding the sweet spot for users to serve each other while protecting a platform business model to achieve network effect and early mover advantage.

This may amount to redefining the scope of the legal function, for lawyers and the business.

Taking the entire legal function and its supply chain, such as law firms, to the next and more strategic level requires organizational buy-in and alignment, nothing short of a change management exercise. Law department leaders must start to build a bench of T-shaped lawyers, including talent that can bridge the interim gap whether from the legal or the business side, such as corporate legal strategists. [5] The absence of a long-term talent strategy could be a major speed bump down the line for firms looking to gain a competitive advantage and fully benefit from larger-scale opportunities like AI. Early adopters need the right mix of talent to accelerate their progress. In the meantime, the legal staff must immerse into the daily activities of business stakeholders, from sales calls to supply chain operations, and explore angles for educating the business folks on relevant legal risks applicable to opportunities, but avoid slides full of quotes of the latest laws and regulations. The vision is a virtuous cycle in

which the business comes to lawyers and ask what resource they need to deliver more of something the business needs.

From input to outcome and legal engineering – Lawyers have long been pricing their work in terms of inputs, i.e., time (whether actual or shadow) or full-time-equivalent headcounts, and the hour has arrived to focus on outputs beyond memos and court judgment - better connect legal tasks and process to business activities and outcomes. But how to persuade clients and business colleagues to include the legal function as part of the business strategy and operations? Lawyers must give risks its due chance, i.e., pricing risks against opportunities, rather than just practicing law with zero risk tolerance. Cooperate with businesses to tap into data relevant to risks assessment, design the legal function to be native in that data flow and analysis in order to provide risk adjusted values to business.



Based on a graphic from "4 Must Have Skills Every Data Scientist Should Learn," B. Rogojan, <https://medium.com/coriers/4-must-have-skills-every-data-scientist-should-learn-8ab3f23bc325>, Jan. 5, 2018.

Bolstered by management tools – Part of the transformation of the legal function is to broaden problem solving skills of lawyers beyond the law. Before rushing into problem solving skills seminars, leaders of the legal function needs to prepare the team. This means to truly appreciate operations from end to end, keep up with the current strategy that underpins the business model, and master the strategy map to apply legal initiatives. This is increasingly necessary as laws further lag behind dynamic markets and broader ecosystem such as social forces. Another critical success factor is to upgrade the staff's engagement to

solve change management problems rather than stopping short of corporate politics gossips.

Problem solving - Lawyers are supposed to be skilled in stating issues, applying rules to relevant facts, analyzing the impact and recommending options. However, most seem to find it difficult to go beyond the initial queries and are stuck in the simple Q&A stage and fighting fires in the backend of events and processes. The legal function needs to be on the same page as the rest of the organization and extend beyond the legal analytic method to acquire problem solving skills such as defining and



"It's important to understand how the end user uses the product!"

Credit: <https://twitter.com/vipinmittal143/status/1095287089111941120>

isolating a problem, structuring the analysis (to test causes and relationship to the problem and any externalities to keep in mind), formulating and testing hypotheses with validated assumptions, before jumping in to generate solutions.

This approach applies in more familiar territory where the trouble shooter has some ideas of what problems and contributing causes are. However, where it is simply not clear what causes there might be, the legal function must borrow from the design thinking approach to solving problems. This requires getting into the stakeholders' perspective to sort out what the problem may be and experimenting with hypotheses generated from this exercise. This will help to solve the problem for the client or at least isolating the cause if it is outside the scope of the legal function.

To achieve desirable outcomes for the enterprise, the legal function also needs to learn to sell the solutions. This is often the case in larger organizations with streamlined resource management across silos when the problem solver does not own the resources required to address an issue. Lawyers will need to figure out how to help management to navigate organizational aspects of forming, adjusting and selling solutions. The legal function can undertake these efforts only if it sees itself tasked by the business to take initiatives to solve what might have not been perceived as purely legal problems. Indeed to accomplish these tasks, sometimes it may even get into the data needed before asking for permission first.

Legal process management and Continuous Improvement built upon CLS - Solving problems for the business can benefit from work-

flow process management, e.g., operations process mapping, implementing RASIC, 6 sigma and Lean (doing things right and doing the right things). Connection to and feedback from the right business data will lead to a virtuous cycle of improvements. However, why only stop at doing the right things, but also provide what the customer needs above all – support to formulate and execute business strategy.

Picture an e-commerce platform with an initiative to facilitate the maximum amount of successful, completed transactions. A relevant CLS may be to minimize disputes and delays arising from uncertainties or confusing terms and conditions in the ecosystem. The legal function can take the lead to reduce transactional frictions and enable handshakes and deal performance, in addition to protecting the e-commerce platform's own interests. It may also leverage emerging technologies such as blockchain among trusted parties to take the platform to the next level and legal-proof the design of the ecosystem based on relevant processes among parties and touchpoints. This is the profile of a function that wins strategic competitiveness.

Being an integral part of business (vs. just practicing law inside a business) – This needs not be a dilemma, and being more business savvy can enhance, rather than dilute, the ability to balance risks and opportunity. Whether the compliance function should report to the board (ultimately the top organ in an enterprise) or to the legal department is a false choice. An ignorant compliance function, albeit one with a “conscience,” is no more effective than one that is overly sympathetic with business objectives.

There is no replacement to learn the language of business to craft legal devices and better connect them to business tasks and measures. What all this is about is for the organization's constituents to be thorough in an honest and meaningful conversation to assess the risks as part of its strategy. This is just as lawyers learn to avoid drafting document full of Latin terms and ending up losing the attention of the stakeholders on even commercial terms and having clients throw contracts back.

Enabling LegalTech - While LegalTech still needs much time, effort and capital, the key ingredient to successful adoption is an orientation to outcomes and business benefit. Not all benefits need to be in the short term as strategy by definition prevails in the mid to long term, but explorations must be guided by outcome orientated data and a worthwhile win. That requires starting from business strategies and mapping today's legal tasks with business processes and the changes needed to deliver those business outcomes.

Automating predictable/repeatable aspects of legal tasks to minimize lawyers being the slowest link in the organizational workflow is useful. This will free up resources for the legal function to manoeuvre for the bigger wins. Figuring out and negotiating improvements in work flows and process across silos will be the critical skills to acquire whether the project concerns existing business or a disruptive change.

As the laws are woefully incomplete relative to the dynamic ecosystem and behind today's pace of change, the road is no longer certain and continuing reference to the past is dangerous. Yet lawyers are still called upon to address If-then scenarios, whether in advisory, contracting, negotiating in disputes or transac-

tions. So what lawyers may do is to interpret legal intent and policies, to be integrated with a broad range of intelligence that is outside the legal vertical such as technological development, socioeconomic trends and developing political forces. While information explosion and specialization adds to this challenge, availability of data analytics is keeping this within grasp.

To mine and curate data for efficacy, lawyers need to master the decisions that business need to undertake, beyond whether to sue or agree to a clause in a contract. To migrate from practicing law by anecdotes, the legal function is to leverage data, build the analytical framework, derive the odds to price risks against opportunities, with a view to arrive at desired outcomes. In other words, the data needs to help generate if-then predictions to fill out scenarios in decision trees to train algorithms. The practice of law may evolve from being case based to include pattern based approaches. Today this effort should start with leveraging corporate efforts in mining and cleaning data feeds. Tomorrow legal engineers will design data pipelines that are digitally native.

To design and update sustainable data streams, the same CLS's that enable legal functions to deploy people-process-technology to transform itself into a strategic function will be the core exercise to triage more valuable initiatives and supporting data feeds. Legal R&D should proceed hand-in-hand with business experimenting with new products and value propositions, circumscribing commensurate risks and solutions to gain a sustainable, competitive advantage - something to keep as a trade secret rather than to share in benchmarking.

With CLS's that are purposeful and strategic for business outcome, AI/ML algorithms, blockchain based solutions and possibilities for computable (smart) contracts will be designed to be deployed rather than as a solution looking for a problem.

Summary

Although the era of digitization is already in its fourth decade, the legal sector seems to have only digitized documentation, communication and some knowledge management. Although some in the profession recognize the potential of machine learning and other technology, lawyers have yet to work with clients and colleagues to mine and build the data pipelines to train algorithms to help business in the problem solving and decision making in the bigger picture. Input based business model, the professional hesitance to explore on labor-capital continuity and other change management obstacles remain to be overcome. Nevertheless, change is afoot, just not evenly distributed. [7]

Quantification, organizational change, uncertain economics may not be what many lawyers went to law schools and sign up for. Some may think they will retire by the time the first wave of transformation arrives. But we should be measured by what we do with the time given to us. Lawyers have been prized for judgment, experience and longer term views and zealous advocacy in some cultures, but these qualities are facing a different world in the age of data and changing economics and industries dynamics. The legal profession should make what sells rather than just sell legal knowledge, derivative analysis and negotiated documentation, and getting to why is not enough when the times demand also asking why not.

Lawyers have been taught to spot issues beyond addressing the question asked, and legal

function transformation should take the same approach. The way to ground the transformation is to get to the reason of existence of the client organization as well as that of the legal service industry. When many see tech, we should see strategy, business models, goals, outcomes, process, work flow, decision making and problem solving.

The journey of a strategic function is paved by strategy and execution, not cost control. The spectrum from the bespoke to commoditized legal activities pictured by Richard Susskind describes an inevitable reality that will be common in a profession hitherto considered a bastion of human intelligence, but the digitization of knowledge will drive the legal sector to extend the bespoke side of the spectrum rather than rest on past laurels.

Notes

- [1] *How Google Works* (2014), E. Schmidt & J. Rosenberg, section titled "Horseback Law."
- [2] 2019 Client Advisory, Citi Private Bank and Hildebrandt Consulting, p.6.
- [3] See Ron Friedmann's blogs: <https://prismlegal.com/to-reduce-legal-spend/> (2012); <https://prismlegal.com/do-less-law-a-taxonomy-of-ideas/> (2015), quoting Peter Drucker "There is nothing so useless as doing efficiently that which should not be done at all."
- [4] "The New Normal: The \$60-Per-Hour Lawyer—Why Dewey Isn't Ab-Normal" by Paul Lippe Mar 28, 2012, ABAJournal.com.
- [5] "Finding the Right Corporate Legal Strategy," R.C. Bird and D. Orozco, *MIT Sloan Management Review*, Fall 2014; see also a

reference to legal strategists and engineers – who “design systems that balance risks [with opportunities] and improve transparency” in “Measure Twice, Cut Once: Solving the Legal Profession’s Biggest Problems Together”, V. Mary Abraham, *aboveandbeyondkm.com*, Aug. 30, 2016 (noting the keynote speaker, Dan Katz’s, reference to Paul Lippe’s insight on the three types of lawyers).

[6] See “The Right Way to Solve Complex Business Problems,” Harvard Business Review Ideacast, interview of Corey Phelps, December 04, 2018.

[7] A saying often attributed to William Gibson (https://en.wikiquote.org/wiki/William_Gibson), and also Richard Susskind.

(during which time the department received the top award for Best Asian & South Pacific Legal Department 2014 by International Legal Alliance Summit) and before that as general counsel in the region at PepsiCo, Goodyear, Honeywell and Kodak where he fielded a vast variety of issues and projects and drove efficiency projects/practices. In 1994, he came to China as a lawyer with Coudert Brothers and led major projects such as the Shanghai GM JV negotiation.

Born in Hong Kong to Shanghainese parents, Kenny received his bachelor and JD degrees from Columbia University and practiced in New York City before coming to China.

About the Author

Kenny Tung is General Counsel at Lex Sigma Ltd., where, in addition to facilitating strategic projects and transactions, he served as the China advisor to a top U.S. PE fund, the Asia Pacific advisor to one of the world’s top auto components companies and provides support to other large and small enterprises in China. Kenny also co-founded In-Gear Legalytics Ltd. to complement and serve providers, clients, developers and investors in the legal service value net. Projects with law firms and corporate legal departments cover consulting, capability assessment, workshops to address longer term issues, but a common stream concerns the design and implementation corporate legal strategies. In March 2019, Kenny started an additional role as the Senior Advisor to SSQ in Asia Pacific, facilitating business development and alliance for law firms and management of legal departments. Previously Mr Tung served as the Chief Legal Counsel of Geely Holding

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The role of natural language in driving innovation in the legal sector: a focus on multilingual legal data, legal tech and global legal education

By Argyri Panezi, Professor of law and technology at IE Law School, Madrid

While the debate on *whether data is the new oil* is ongoing (compare Wired Magazine's [No, Data Is Not The New Oil](#), February 2019, to The Economist's [The World's Most Valuable Resource Is No Longer Oil, But Data](#), May 2017) the rising importance of data is becoming obvious to an increasing number of people. This includes the importance of data access, data ownership, the vast digitization of data, and finally the use of big data to train algorithms and create intelligent machines with ever-increasing usage and applications in the business sector and beyond. Together with many promises (efficiency, predictive analytics, artificial intelligence) the rise of big data has also come with a number of threats, as for example the rise of data monopolies [1], serious challenges for data protection and privacy [2], and also the much-discussed phenomenon of algorithmic bias in view of biased data that are fed into the algorithms [3].

There are many instances of algorithmic uses of big data that have transformed a number of sectors. Take for example the advertising sector, and the use of big consumer data to predict consumer preferences and then facilitate targeted advertising. There is also, for instance, a rising use of big data in the healthcare sector, leading to critical changes in predictive medicine but also in the insurance sector.

Another example is the use of big data and predictive analytics in policing. This article focuses on **the use of big data in the legal sector**, and specifically on the development of legal tech tools: **how legal resources (legislation, judicial decisions, Court submissions and other resources, such as legal treatises and scholarship) are used to train algorithms that will provide for important tools for lawyers and judges.**

Data is relevant for law; so is the data revolution relevant to the forming future of the legal profession and inevitably also the legal education. Among the many other sectors affected, big data is relevant for the future of the law in many ways: data analytics can help us predict how judges decide, and can thus become a powerful tool in the hands of both lawyers and judges. And while we might not be ready yet to accept a robot as judge, or AI treaty drafting and the robot negotiator, the transformation of the legal world of practice in view of legal tech innovations is already underway. Legal education has also been affected: law school curricula adapt quickly to provide to students the necessary technical understanding and skills to enter a legal world where the management of data is of critical importance, where legal tech startups are proliferating, and where machine learning and artificial intelligence are of the utmost relevance for the future of the profession.

A relatively understudied element of computerized data, especially data relevant in legal tech (mostly digitized or born-digital legal resources), **is the natural language in which the information exists and in particular the multilingual nature of legal**

resources around jurisdictions. English legal resources can help build algorithms that could be useful in litigation by, for example, predicting or helping to predict legal outcomes in English courts. This data includes pleadings, other submissions to courts, legal decisions, legislation, regulation, treatises etc. **While the legal world is increasingly becoming more global, linguistic diversity among different jurisdictions and legal cultures persists. Is this legal diversity reflected in the development of legal tech tools?**

The challenges in working with different languages in creating, interpreting and applying the law are substantial, even in the context of experienced multilingual supranational structures. Case in point: the EU institutions, which are some of the most important multilingual legislative bodies around the world, and their grappling with the 24 different languages of the member States. Suffice to think about the role of language in the European Parliament deliberations, or of the role of the legal translation service officially translating new directives and regulations as they come out of the European Council [4]. Finally, think of the Luxemburg courts hearing pleadings in different languages and publishing decisions in all official languages. While the legal value of each language within the EU is the same, the languages are not functionally equal (or at least equivalent).

Indeed, there is a *de facto* dominance of certain languages as legal (and other) professionals gravitate towards one or few common languages to read, to write, and to communicate legal texts. Thus, the development of legal tech

tools is bound to be faster for the *de facto* dominant or wide spoken languages.

The above conclusion applies in broader contexts outside of the EU. In the global context, especially in certain legal domains as for example for international contracts, English has been established as the *lingua franca*. It is thus to be expected that in this domain the development of legal tech tools will also be predominantly using data written in English and subsequently producing results in the same language.

Furthermore, the ethnography of legally relevant data that are actually gathered, and then fed into legal tech algorithms in order to create algorithmic tools, is not necessarily representative of the real ethnography of legally relevant data. **Dominant languages, such as English, Spanish and French seem to have the biggest potential for experimentation and growth in the space of legal tech. The volume of data for these languages is big and thus the quality of the algorithmic results rises.** At the same time jurisdictions with official languages spoken by fewer people offer a smaller volume of data which might be affecting the quality of effectiveness of such algorithms. On the flip side, **less widespread languages offer for niche markets to produce legal tech tools** – that is algorithms that can read legal and process resources in those languages, for example in Italian, Czech or Greek. Finally, experts from those jurisdictions must be involved to determine which resources are relevant and which not in order to build such tools. This creates space for another niche market of legal experts including legal translators. Indeed, a national expert can point to the

relevant legal databases that include legislation and case-law and can also identify good and bad law and also possible gaps and how to fill them.

Given the language silos between legal jurisdictions, and also the differences in legal cultures in the broadest meaning of the term (most notable example is the Judges' different writing styles in different jurisdictions), there is ample room for diverse legal tech market tools, just like there is room for diversity of languages in legal jurisdictions.

The evolution of the legal market directs changes at the level of legal education. What are the implications for legal education at a global level? As legal education becomes increasingly globalized, should future lawyers and judges also be trained to build and use legal tech tools? And if so, in which language(s)? Arguably, besides tech skills that are increasingly becoming a learning priority in legal education, **the lawyer of the next generation can benefit from a systematically comparative reading and understanding of the law, from familiarity with multiple jurisdictions and ideally also from multilingual skills.** These are skills and assets that would allow future lawyers to participate actively in the creation of legal tools in their respective jurisdictions and in niche areas of practice. One could predict that fluency in more than one most spoken natural languages will remain a valuable asset to face the new challenges and opportunities that the recent transformations of the legal profession bring about. And this, I argue, now extends also to the transformations in the domain of legal tech.

Notes

[1] See, for example, Tim Wu, *The curse of bigness: Antitrust in the new gilded age*. (2018).

[2] The Medium, The Privacy Paradox: Is the End of Privacy Inevitable? The Price of Convenience, August 2017, at <https://medium.com/@himaya/the-privacy-paradox-is-the-end-of-privacy-inevitable-2516a7fa0a98>.

[3] See Alex Campolo, Madelyn Sanfilippo, Meredith Whittaker, & Kate Crawford, AI Now 2017 Report, available at https://ainowinstitute.org/AI_Now_2017_Report.pdf.

[4] General Secretariat of the Council Directorate Report, The language service of the General Secretariat of the Council of the European Union - making multilingualism work (2012), available at https://www.consilium.europa.eu/media/30482/qc-32-11-696_en_web.pdf.

About the Author

[Argyri Panezi](#) (LL.M., Ph.D.) is an expert in law and technology and intellectual property. She is a professor of law and technology at [IE Law School](#).

Argyri received her LL.B. from the University of Athens, her LL.M. from Harvard Law

School and her Ph.D. from the European University Institute in Florence. Her thesis examined the legal challenges for the creation of digital libraries and explored normative directions for copyright rules and exceptions currently applicable to libraries. Since 2018 she has worked as a research fellow at the Digital Civil Society Lab at the Stanford University Center on Philanthropy and Civil Society, where she is exploring digital civil society interactions with libraries and other cultural heritage institutions and the nexus of AI and digitization. Prior to her doctoral studies she practiced competition law in a private law firm in Brussels.



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What should firms consider at the outset of creating an innovation team?

By Jessica Lim, Managing Director of Strategic Planning at Lenczner Slaght

For those sold on the idea that their law firm needs innovation, they are confronted with decisions about how to get started, move forward and make an impact. This article sets out practical considerations to help those decisions, based on input from experienced law firm professionals from around the globe as well as inspiration from outside legal.



There is a common perception that many firms claiming to implement innovation are not executing true innovation - “it’s just window dressing” and more about marketing than a true belief in the need to innovate. It’s unclear whether for firms it is just about marketing, they are unsure of what to do, or they are doing some great things, but we just

don’t know it yet.

It’s important to remember that there’s no proven blueprint for success, and factors such as firm size, degree of commoditization, capabilities, market maturity, leadership, and culture will affect what’s best for each firm.

To mitigate denting your firm’s brand with unwanted perceptions about your innovation purpose or success, it helps to align leadership on what your firm wants out of establishing such a function.

Setting clear direction will also help manage expectations among stakeholders, appoint the right leader and provide the team with resources and focus to make winning choices along the way.

Visible progress as a priority

Not all leaders are in a position or want to start with the long-term. Rather they perceive it's best to defer and instead check off some visible quick wins then figure the direction out later. In this case, law firms may move straight to appointing an innovation leader, announce the news, then work out the long-term plan once that person is settled in the role.

Pros are that firms check off two visible action items – person hired and social media blasts - and develop the long-term plan with the benefit of the innovation leader's time and experience. This raises firm profile and awareness and sends a message to the market about the firm's initial commitment, with the understanding that no innovations are yet underway.

Cons are that knowing the long-term plan and direction in advance would have been beneficial in the recruitment process, both to vet candidates by asking the right questions and attracting the right candidate by better demonstrating the firm's commitment to driving true innovation. There is also the risk of receiving a few eye rolls as your audience perceives another firm focused more on the marketing.

The eye rolls can come internally too. Sana Halwani, Partner at Lenczner Slaght and Innovation lead, comments: "In a firm like ours,

where the focus on innovation is new, an early step has to be building an innovation culture. Doing that requires showing internal stakeholders that innovation isn't just talk, and early *and* real progress is critical to fostering that culture."

Segments and priorities

Identifying and prioritizing which segments – whether by client, service or geography - the innovation team should focus on will help with alignment of the firm's short- and long-term strategies. Such priorities steer the innovation team in the right direction both in terms of their proactive efforts to generate ideas and as they respond to ideas from any corner of the firm. This will be important as the innovation team makes progress and the floodgate of ideas pours in.

Conventional wisdom of catering to top clients' pain points as a priority is not necessarily the best or only approach, as the principles in Clayton Christensen's *The Innovator's Dilemma* suggest. The premise is that traditional best-in-class organizations – bogged down with their cultural inertia and legacy systems - inevitably collapse because they follow the best practices: they cater innovations to high-value clients and move away from lower value clients. Incumbents' demise comes about when new entrants with little to lose target the lower value clients, refine their offerings, and then move upmarket to eventually attract the incumbents' high-value clients.

The legal sector may not be at risk of such dramatic disruption as seen in the tech sector and instead face a dialed back version, as discussed in the Harvard Law article *Adaptive*

Innovation, by Ron Dolin and Thomas Buley. These principles do, however, raise this issue of whether there is an expectation to cater to the firm's top clients or whether the firm is open to piloting and growing with the lower margin clients, services or geographies for longer-term strategic purposes, laying the seeds for moving upstream in future.

Low hanging fruit today v risky, unknown future v both

Going after low hanging fruit is an important priority among leaders, and for good reason: stakeholders need visible progress in a short timeframe to maintain and build confidence throughout the firm in both the innovation leader and team. But this should be balanced with the initiatives at the other end of the spectrum – the complex, long-term, risky, and unknown. Firms embarking on the long-term have more foresight to help prioritize quick wins with those that are laying the foundation for the future.

As Daryl Shetterly, Director of Orrick Analytics, a team using AI and other tools to disaggregate data-driven and scalable tasks commented:

“your strategic plan should include both quick wins and longer term firm-wide initiatives with broad impact. The quick wins are not merely symbolic but build momentum and set the stage for the more ambitious initiatives. And don't ignore firm culture when building your strategic plan. Initiatives should be developed with an understanding that firm culture will affect your ability to execute, but also recognize that executing on firm-wide initiatives will drive firm culture.”

A great perspective on long-term strategy is

McKinsey's Three Horizons framework, which suggests innovation takes place concurrently along three time horizons:

H1 – Maintain - Focus is based on the current year and short-term concerns related to maintaining the core business through process innovation, likely using more mature technologies. In this horizon it's all about execution and surviving for today.

H2 – Build - Focus moves to a mid-term outlook as firms build the business with new revenue-driving opportunities with new clients and markets. It's typically with emerging technologies not yet used, likely with product managers taking successful ideas that came from the third horizon to market.

H3 – Create - Focus moves to a longer-term outlook with activities mainly around research, experimentation, and pilots. Here the team incubates entirely new ideas that don't exist today and are potentially unprofitable for a period of time. The team creates new capabilities and new business to leverage, react to or counter disruptive opportunities. In H3 it's all about searching for new opportunities for the future business.

Disruptive start-ups operate in H3 while traditional firms, with their legacy systems and cultural inertia, largely operate in H1 as they focus on the short-term and drive incremental improvements to the existing business.

Once established, the framework operates like

a funnel with proven and profitable innovations moving from H3 to H2 to H1.

Robert Garmaise, McKinsey alumnus and Chief Innovation Officer at Fasken Martineau commented that he uses *“the Three Horizons to set expectations about capabilities the firm needs to build now and seeds it needs to lay to be a player in all three horizons and extend the firm and build new revenues.”*

In the article “To Succeed in the Long Term, Focus on the Middle Term” Geoffrey A. Moore set out the perfect analogy: *“Like good farmers, managers see that they must simultaneously harvest the current crop, till the ground for next season, and investigate new crops for the future.”* This is exactly how law firm leadership should view the role and direction of innovation teams.

Productizing Services

Another perspective on where firms can go with innovation is in the idea of productizing their services, which can take place in three stages:

1. Automate services – During this stage, firms start by identifying opportunities to systematize and automate aspects of their services – typically starting with the low hanging fruit of tasks performed frequently and requiring little sophistication. At this stage they continue to be paid for time and materials. This is often where firms can get quicker wins and work towards a platform.
2. Leverage data – In this stage, firms can use data to improve upon and develop their

services then possibly introduce new pricing models, typically per unit since automation is in place.

3. Monetize innovation– At this stage, firms can begin to get paid on an outcome basis and the pricing model can change for the resulting improvements or value provided.

Simmons & Simmons, an international firm with offices in the UK, is among the few firms operating in horizons 2 and 3 and developing new revenue streams through the productization and monetization of solutions. Simmons has done a great deal to break free from the traditional legal business model starting with online subscription services like their Navigator product suite over a decade ago.

Whether modeled after the Three Horizons or not, the firm’s innovation team is structured in a way that mirrors the concept. April Brousseau, Head of Innovation and New Business at the firm, explains how they’ve structured their department to reflect their commitment to innovation:

“Our department is made up of two teams: one team is focused on optimizing the delivery of existing legal services through, among other things, project management and process improvement. The other, my team, is responsible for diversifying the types of services we provide – we do this through the successful development of new products that complement our legal services as well as the ongoing promotion of the creative culture at Simmons.”

The image on the next page summarizes the different perspectives.

Connection to senior leadership

In speaking to various innovation leaders around the globe, all are of the view that a connection to the firm's senior leadership is critical. At a minimum, a firm's leadership needs to know what the team is doing, but it is also crucial to the innovation team's success that leadership serves as a strong champion of the innovation efforts. With the culture change required, such a connection sends a helpful and strong message throughout the firm.

Another reason for the connection is that innovation can affect all aspects of the business including:

1. Business functions
2. Legal services
3. Business model
4. Clients
5. Culture
6. Change management

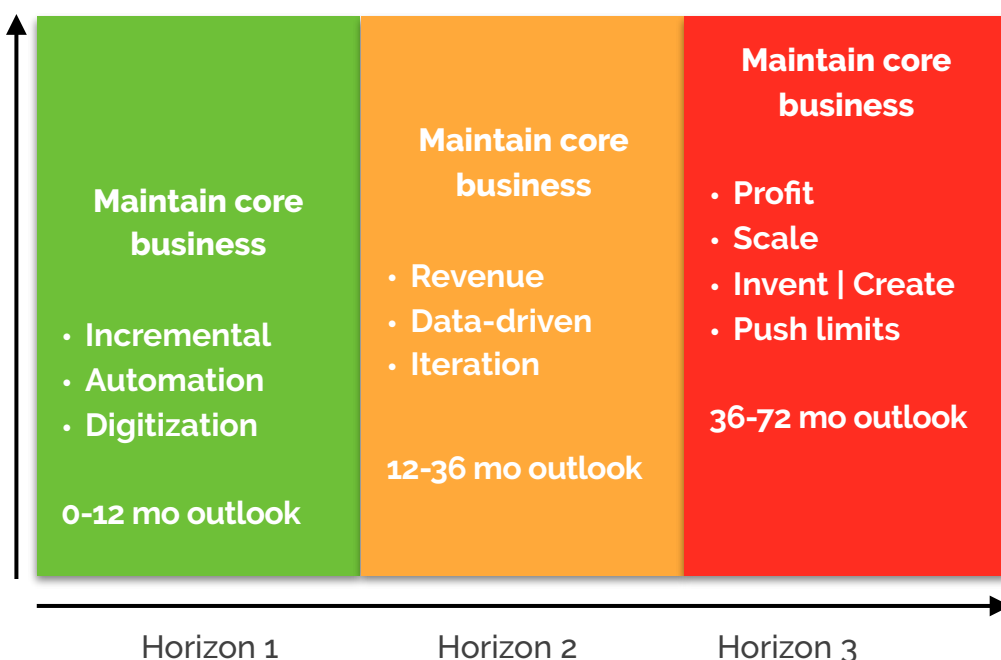
This broad impact makes innovation a bit like a firm's strategy and operations engine and puts

it at the epicentre of change, which leads to many short- and long-term decisions and issues that will need to be managed.

Simon Wormwell, Chief Knowledge & Innovation Officer at Osler, adds *"It's about change and change needs champions. Unfortunately, in any law firm the partnership structure gets in the way even though we're talking about the business operations. The role should be adjunct to the COO or Managing Partner – so if picking a team, it needs to be separated and at the right hand of leadership."*

Separate & defined structure

Firms serious about innovation are best to set up a separate and defined team with people and financial resources committed. Going back to the Three Horizons, if a new team is not carved out, true H3 and H2 innovation will constantly move to the bottom of the list and never get off the ground because the team will always focus on what is urgent today first, which will usually be H1 or not even on the innovation map.



This concept, best depicted in The Eisenhower Matrix (pictured below), is one we encounter every day as forces push us towards the not important/not urgent quadrant. Structure and discipline are required in order to dedicate any time to the important/not urgent quadrant, which is where innovation sits, particularly as we move up the horizons.

Kate Orr, Senior Innovation Counsel at Orrick, adds that a separate innovation team will also broaden the team’s perspective. *“It is helpful for the innovation team to exist as a defined group, whether it’s called an innovation team or not. Sometimes innovation teams pop up in law firms within traditional business functions such as IT, but it can be challenging to fully support the client innovation priorities of a firm when you are committed to other functions as well. Having a defined team avoids a narrow view. It is also, of course, important to have a leader on the team who participates with the leadership of the firm.”*

Dedicated resources with clear targets

It probably sounds elementary and obvious that dedicated resources with clear targets – at the individual and team levels - need to be set, but this does not always happen.

It’s all too common for the responsibility of innovation to be added to an existing full-time person’s role, whether the innovation leader or a team member.

That can still be done, but for it to work there should be clear targets in place and the right proportion of existing responsibilities removed to ensure capacity to achieve targets. These targets should be tied to annual performance reviews, career planning and compensation. Without this connection, innovation will always come after what is rewarded, and the firm’s leadership risks being surprised about what is or is not accomplished.

Small and mid-size firms are less likely to be in a position to hire new resources to establish the team and will rely more heavily on existing people to pitch in. There are many benefits to this including a connection to the delivery of legal services and business functions, if done properly. It is not only the small to mid-size firms that may rely on existing resources. At Allens, one of the biggest and most innovative law firms in Australia, Anna Collyer is Partner

	URGENT	NOT URGENT
IMPORTANT	<p>DO <i>Do it now</i></p> <p>Write article for today</p>	<p>DECIDE <i>Schedule a time to do it</i></p> <p>Exercising Long-term projects Researching articles Long-term biz strategy</p>
NOT IMPORTANT	<p>DELEGATE <i>Who can do it for you?</i></p> <p>Scheduling interviews Booking flights Approving comments Answering emails Sharing articles</p>	<p>DELETE <i>Eliminate it</i></p> <p>Watching television Checking social media Sorting junk mail</p>

and Head of Innovation where she dedicates 50% of her time leading innovation and 50% to the practice of law. Anna commented on these benefits and how this structure works at Allens: *“I’m lucky that I have excellent teams in both my legal practice area and our emerging innovation program who can get on with the work with appropriate touch points where I can provide direction, guidance and sign off. While my days are often hectic, I find the combination means I can really keep in touch with what’s important to clients, and bring this focus to all of our work in innovation.”*

Conclusion

Whether establishing a team for the first time or revisiting what is already underway, law firm leaders will benefit from going back to basics and solidifying the long-term direction then putting in place a structure that sets the innovation team up for success in getting there. This includes defining what is expected of the innovation team. Is a focus on incremental innovation and the core business a success and all that’s needed? Or is there an expectation that a roadmap is developed, innovative ideas are generated and business is built over time? It also includes prioritizing segments leadership wants the innovation team to focus on to ensure alignment to the firm’s strategy.

The structure is best to include a strong connection to the firm’s leadership, a team separate from the other business functions and dedicated resources with clear targets embedded in plans, annual evaluations and compensation.

At Lenczner Slaght, a mid-size, corporate litigation powerhouse, we continue to consider

these factors as we mature and expand from a focus on incremental improvements to the core business over the last few years to laying the foundation for the roadmap ahead, with the engine of our Innovation Hive™.

About the Author

[Jessica Lim](#) is the Managing Director of Strategic Planning at [Lenczner Slaght](#), corporate litigation firm recognized by many as Canada’s best. Jessica collaborates with the firm’s Management Committee and business function leads to build out and execute the firm’s strategic plan, facilitating a collaborative, cross-functional approach. Originally focused on marketing and business development, Jessica now leads the firm’s client listening, innovation, process improvement, project management and pricing functions.

Before joining Lenczner Slaght, Jessica worked for nearly a decade at national law and accounting firms, progressing through a series of roles focused on providing value to clients and showcasing specific capabilities and services.

More from Jessica at Legal Business World

Business Development

Does your law firm need an innovation team?

February 26, 2019 | By Jessica Lim

There’s a lot of hype out there about innovation. Innovation-related roles, teams and events are on the rise as are articles, conferences and education programs. But is this really necessary? If you don’t have an innovation group, should you create one? If you have one, should you keep it? And why?

To answer these questions, I referred back to literature by strategy and innovation thought leaders and interviewed a small population of senior legal industry professionals from around the globe. None are strategy or innovation consultants or have innovation in their title. I was on a mission to gather objective views from people who understand this space. And, conveniently, the end result of this research would also help to influence the path for the Lenczner Slaght Innovation Hive.

This article is focused on whether law firms need some form of an innovation team, what we mean by innovation and the rationale behind the answer. It does not aim to address the questions that naturally follow, which are typically centered around how the innovation team can realize its purpose. That is a whole other topic.

The Future of your Legal Practice

By Kristi Erasmus, Attorney, Futurist in the making and Academic Director of the Futures Law Faculty

As human beings we are inclined to constantly think about the future. As children we wish for weekends, school holidays, birthdays and Christmas and as we enter adulthood not much changes, other than perhaps not wishing for birthdays so much. We spend majority of our day thinking about getting home after work, majority of our week thinking about the weekend and majority of the year thinking about our next holiday. Then as soon as the future morphs into the present we merely

start thinking about some other future, never really living in the present.

Despite our constant wishing for, dreaming about and thinking of the future, we spend very little time really preparing for it. We tend to accept it will happen as it must and close our eyes, merely hoping that the future will come about as we had dreamed about it. In fact very few of us spend much time, if any at all, on foresight or futures thinking. In fact

most people are inclined to think of crystal balls, oracles and other similar fortune telling associations when they hear the terms such as “Foresight”; and “Futures Studies”

Although the future cannot be determined with absolute certainty, the future is knowable to a certain extent as the future can be known as possible, probable or preferable. (Bishop & Hines, 2012) The possible, probable and preferable futures are determined by considering, analysing and studying trends, patterns and changes to determine possible futures that may arise. (Bishop & Hines, Forecasting, 2012)

It is an undeniable fact that the future is now and if not now then tomorrow, or sometime from today in the very least. Despite where you draw the boundaries between the past, present and the future or where you regard the future to switch into the present, there is no denying that the future is happening or in the very least will soon be happening. The future is not about making predictions on what will happen and wagering money on how accurate a prediction is or was not, rather it is about determining the possibilities, probabilities and likelihoods of tomorrow or the next year or five, to plan accordingly so as to strategically grow your business or legal practice to ensure a trajectory of exceptional growth and returns, or in the worst case scenario, ensuring survival where growth is an impossibility.

It is within this context that the Futures Law Faculty was established, as an accredited training institute, hoping to create awareness and share knowledge, thoughts and opinions through our masterclasses and workshops on the possible, probable and preferable futures

of tomorrow and equip professionals with the necessary tools and questions to plan for the future accordingly.

To fully grasp the importance of Futures Studies and Futures thinking one merely needs to consider companies like Kodak, Blockbuster, Xerox and the like, who failed to look at the patterns, trends and changes that were providing clues on how the future was changing. Instead they fell into what is commonly known as the “Success Trap”, where companies rely on previous big successes as a business strategy, failing to think about the future, failing to innovate or produce new products or services to ensure they remain competitive in an ever changing business environment.

The Fourth Industrial Revolution, although the buzzword of the time, is here whether we like it or not, with the emergence of enthrallingly exciting and exhilaratingly terrifying and mind breaking technologically and AI that renders anything we have seen to date as insignificant, as we are only at the beginning of the evolution of change.

This is clearly evident if one considers some of the recent developments and advancements made in AI, such as a robot who can solve the rubik's cube in 0.38 seconds, that is 3.09 seconds faster than Yusheng Du, who currently holds the record for solving the rubik's cube in 3.47 seconds or the Chinese AI news anchor named Qiu Hao, developed by Xinhua and the Chinese search engine, Sogou to broadcast the news as a human news anchor, with whom it shares a strikingly real resemblance, with the only difference being that AI Qiu Hao can broadcast the news “tirelessly”, 365 days of the year.

Advancements that have been made in Machine learning is also noteworthy, given the substantial potential it holds. Take for example the Magna Science Centre project called “Living Robots”. Various robots were assigned either a prey status or a predator status and were then allowed to roam free in the science centre. Gaak, a small robot, was assigned a “prey” status and thus had to escape the predators. While left unattended for a period of 15 minutes, Gaak escaped the Magna Science Centre on its own accord, by breaking through the walls of the Science centre despite Gaak not being programmed to physically escape the dangerous environment by fleeing to another environment. More recently machine learning was seen during 2017 when Facebook challenged two of its chatbots to engage in negotiations with each other to barter various objects that were given to each of them. The chatbots eventually started creating their own language with which they successfully engaged in negotiations, acting like their human counterparts in pretending to have exceptional attachment to one item so that it would appear to be a great sacrifice when they give it up for another item they wanted. Although rumours were doing the rounds that the robots were switched off out of fear of them conspiring against the human race in their own language, it has since been confirmed that as the robots were merely programmed to work out how to negotiate and improve their bartering skills, which they had mastered, they were switched off as the experiment was not progressing any further.

The potential of AI coupled with machine learning is most evident considering Google’s AlphaGo. GO, itself is an ancient Chinese board game dating back some 2,500 years and is

considered to be one of the most complex, strategy games known to man. It involves two players who each have game pieces known as “Stones” which is moved along vertical lines and horizontal lines, placed at the line intersections with the principal aim being to acquire the most territory on the board. When played professionally it often takes approximately 16 hours to play and is usually played over two days. AlphaGo, developed by Google’s subsidiary DeepMind, was programmed with a data set of 100,000 GO games as played by “experts” as the basis from which it built its knowledge and strategies, with which it proceeded to beat the all time champion winner, Lee Se-dol. More recently AlphaGo has been upgraded to AlphaGo Zero, which was programmed only with the basic rules of Go and nothing else. It proceeded to play against itself, initially only making random moves on the board however as it became more experienced and won, it updated its data each time. Consequently, it taught itself the necessary skills required to beat its former self, 100 to zero and after 40 days AlphaGo Zero had a 90% win rate. The significance of this is the fact that AlphaGo Zero taught itself how to play and win at GO without any human knowledge or programming— it indicates the ability of AI to create and develop knowledge from first principals.

This holds substantial potential for the development of multipurpose algorithms which can be used to solve some of humankind’s most complex and difficult problems from designing new drugs to cure or eliminate cancer or AIDS to monitoring weather changes and patterns to predict natural disasters such as earth quakes and hurricanes.

The above must be considered in conjunction

with Moore's Law, which provides that the capacity of computer processes doubles every 18 months.

So what is the moral of the story, as so eloquently stated by Anton Musgrave an international legal futurist, we need to beware of and focus on the forces on the horizon, just in our line of vision, which will serve to shape the future of tomorrow and the context in which we conduct our business and practice law to stay ahead of the curve to ensure we remain competitive within the futures context. Learn to surf the Flux- www.futureslawfaculty.co.za

About the Author

[Kristi Erasmus](#) – Bcom (Law) [University of Johannesburg] LLB LLM (Company Law) [Stellenbosch University] – admitted attorney,

futurist in the making and Academic Director of the Futures Law Faculty, a branch of the accredited Institute of Legal Practice Development and Research, offering specially curated Masterclasses and Workshops, equipping professionals with the tools and techniques of thinking and preparing for the future of tomorrow.

Kristi engages in substantial research concerning the possibilities of the future of law and how same may be impacted by technology and AI. She has particular interest in Legal Tech and Legal Software and how it affects the practice of law.

Apart from the Futures Masterclasses she curates, she also runs a Paralegal Learnership Programme (SASSETA accredited) in association with an legal insurance company providing study material and practical work experience to the young legal professionals of today.

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Interview with Marc Lubber

Founder, JD Careers Out There, By LBW Editorial Department

Marc, among other activities you are Founder of JDCOT. “Best Career Site” just one year after your launch, according to the ABA Journal annual poll. What inspired you to start this career site? In what way does it differ from other career sites? And what do people (your clients) notice from this?

I started JDCOT to help lawyers choose career paths that fit them so they can enjoy what they do and feel fulfilled. As a lawyer who has always enjoyed *my* work, I wanted to see others get to experience the same.

I’ve always used my law degree in alternative ways beyond the traditional practice of law. After originally working in the music industry doing a variety of things that included music licensing, I later became a legal recruiter. I first worked at a search firm in Los Angeles and then opened my own search firm.

As a recruiter, the number of unhappy lawyers I talked to every day was eye-opening. Way too many people told me they felt stuck in the wrong path. I felt their pain since I had been through that crossroads of concluding that Plan A wasn't right – and I knew how hard that could be both emotionally and logistically.

Emotionally because, for a variety of reasons, we as lawyers tend to feel like failures when we conclude that law practice isn't the right fit. And *logistically* because it's not easy to figure out what you want or how to navigate your way to getting hired doing what you want.

Since I had put a ton of work and thought into both of my career changes, I learned what works and what doesn't work. I knew if I could find fulfilling careers, other unhappy lawyers could too. And I knew I could make life easier for them by being their guide.

The topic of what careers people choose, what they actually do all day and why they like their work has always been a major passion of mine. I concluded that I could help people by combining that passion with my experience from working on my high school's cable TV show as a news host and editor. Thanks to internet video, I could now create a talk show focused on careers. So I did.

First came Careers Out There, where I interviewed people from a wide variety of careers: from an OB/GYN doctor to a paramedic to an economist to a carpenter. This led to a partnership with the McGraw-Hill Education Company, where I provided career interview videos for high schools across the U.S.

Then I decided to return my focus to lawyers,

and JD Careers Out There was born. That name is a mouthful, so I copied IMDB and nicknamed it by saying each letter: JDCOT.

JDCOT's original focus was the career path video library, featuring video interviews I conducted with lawyers working in a wide variety of careers both in and out of law. The video guests share everything you would want to know about their career paths – from what it's really like to how to get hired in those paths. They also share general career advice in other videos across the site. This TV show format is probably what has made JDCOT differ from other career sites and led to our success with that ABA readers' poll.

My audience has included senior lawyers, junior lawyers, law students and law school career centers. Subscribers to the full video series and those who have watched the free material have expressed their appreciation over the years for the exposure to the wide variety of careers, the honesty of the interview guests, and the thoroughness of the interviews. Practicing lawyers often tell me they wish they had learned in law school what they learn about careers from JDCOT. It's always great to hear from the people who engage with the content.

You take an entrepreneur approach to offering career advice to legal professionals. You offer self-assessment tools, a video library, a guide for unemployed lawyers etc. Could you possibly elaborate a bit more on this approach?

My mission is to help people get unstuck and get to their happy place via a fulfilling career. Since different people learn differently, I offer a variety of ways to help them. Some people

like human interaction, some don't. Some like reading, some like watching and listening, some like data and test results. So I offer phone and Skype sessions with me, the video library, the Myers-Briggs personality testing, my own self-assessment questionnaire....I'm trying to help people however they like to be helped at a variety of price points so they can choose what best works for them.

I've been helping lawyers with their careers since 2003, which is the year I first became a legal recruiter. Thanks to what I've learned from that experience and my own career changes, I'm a big believer that everything starts with taking a good, hard look in the mirror. For a variety of reasons, this is something that lawyers don't tend to do without some pressure. And I'd equate that to trying to navigate your way through a city with a blindfold on. So that's why my approach pushes people to engage in self-reflection.

Recently you launched JD Refugee, a first-of-its-kind online course that serves as a step-by-step guide to career reinvention. What made you start this program and what does it bring to attorneys?

I started the JD Refugee class to help lawyers find and break into work that fits them where they could apply their legal skill set and background – whether that means doing something closely related to law or far removed from law. I often heard from people who loved learning about the different career possibilities from the JDCOT career video library, but they really wanted step-by-step help to get from point A to point B. Since I had learned so much from going through my career changes

and devised a system for success that I applied my second time around, I concluded it was time to turn that into a step-by-step program so I could help others get results and save them time and frustration from what could be a challenging and confusing process.

The JD Refugee class helps attorneys do the serious self-reflection that law school should have helped them do. A holistic approach is used to help participants determine who they are, what they want and what they have to offer. Then we focus on connecting those profiles to career paths that fit. The class then shifts its focus to helping people communicate about themselves with employers, meet with people to determine their true interest in a career path, and network with people to navigate their way to getting hired without having to send their resume into a black hole.

The JD Refugee class is a mixture of videos, downloadable writing and thinking exercises, and optional group calls led by me. Scripts are even provided to help with getting and attending networking meetings.

If you have to choose 3 unique selling points which 3 should you choose to describe your business as an expert on career advice and why?

I am my clients. I've been through what they're going through – and successfully found fulfillment on the other side twice. I'm a lawyer who chose not to practice law, had to figure out what type of work to do next that would be fulfilling, and had to fight my way into the right opportunity. Two times. I'm not just teaching theory or something I've read in a book.

Lawyers of all levels and backgrounds feel comfortable working with me. I've helped lawyers from the world of BigLaw and the top schools as well as from solo practices and unranked schools. As a graduate of the University of Michigan and the Chicago-Kent College of Law, I'm not personally a top law school grad or a BigLaw alum. But I know that world well thanks to my years of legal recruiting, where I was a trusted consultant for both lawyers and employers. I build all of my programs with the entire legal spectrum in mind and adapt live conversations to the specifics of any individual's situation.

I listen and I care. That's something you'll hear a lot from lawyers who have interacted with me and my programs. Lawyers tend to be a skeptical type, so I think they expect that I'll just take their money and leave them hanging! But I'm really here for them – and without judgment. I don't know if Myers-Briggs personality types mean anything to you or your audience but I'm an ENFP. ENFPs are often entrepreneurs, career counselors, and psychologists. They are empathetic, outside-the-box thinkers who are oriented to the future and able to see the possibilities in people and things. This means it's basically in my DNA to be doing the work I'm doing and providing the help I'm providing.

What's your overall opinion on current legal education, the way law firms in general are organized (partnership model etc) and upcoming (innovative) tech strategies? How does that effect lawyers, their careers and the legal job market in general? Do you see differences between the Asian, American and European market?

There's a lot to unpack there! I think the current legal education system needs to incorporate more career education into the curriculum. Many schools have a great career center filled with team members eager to help the students, but that career center essentially lives in a separate silo from the rest of the student's education experience. Career center teams have to bribe students with pizza (often unsuccessfully) to get them to attend an event. Students often don't connect the dots between the curriculum and their careers until after it's too late. President Obama said a few years ago that law school should be a 2-year program. I feel if it's going to continue to be 3 years, then the equivalent of a year needs to be devoted to learning the realities of a wide variety of careers and connecting the dots between the legal skillset and those realities.

As for how law firms are organized, I think business owners need to do what's best for their businesses. But I will say that I fail to see how it's good for morale for any organization to overwork their associates, provide a lack of feedback on their work product, and keep them in the dark indefinitely as to their status at the firm or their potential for partnership. These are issues I saw all too often at too many organizations. I think firms that have adapted to accommodate flexible schedules, parenting and feedback are doing a good thing for the careers of their teams, the happiness of their teams and I would assume the financial health of their organizations. But I haven't reviewed any data on this, so I'm speaking only from gut.

Innovative tech strategies are of course continuing to shake things up. Some will look at this and say it's going to wipe out legal jobs

and others will look at it as opportunities for those who want a more tech-friendly job. My law school, which is affiliated with the Illinois Institute of Technology, is particularly strong in the area of preparing future lawyers for a more tech-oriented legal world.

I can't really speak to differences in the Asian and European markets other than to say that European lawyers have written to me to express their appreciation for what I'm doing.

Do you think that Law Schools understand the need to change the traditional curriculum or at least give more attention to the business of law, including HR related topics like professional development, career planning etc.

It is essential that schools give more attention to the business of law. I would say that if law school continues to be a 3 year program in the U.S., that the business of law must be an essential part of the curriculum. The number of associates I encountered as a recruiter who had no idea about business development or how their lack of doing business development would negatively impact their careers was stunning. Many firms are so hush-hush about their business that the associates don't learn the economics of a law firm. If MBA programs can teach networking and the economics of running a business, so can law degree programs. And they should.

As for professional development, I do think law firms have gotten much better at this since the 08 crash. It's essential to morale to engage in professional development programs and training - starting with giving associates feedback on their work product. Sys-

tems need to be in place so that people know how they are doing, why they are doing what they're doing, and what their efforts mean to the big picture (the client's business, the firm's business, etc.). Then there is the component of training for improvement - how to be better at lawyering, how to be a future leader, how to develop clients, how to nurture the clients you have, how to be a good communicator, how to communicate better with your team members both up and down the ladder, etc. All of this is key. It's an area that interests me greatly.

When I worked in the marketing department at a record label, they had all of us spend a day working in a record store. This way we were able to see the customers who bought our music, see the sales people who sold our music, see the operation of the business that sold our products, etc. It's really key to any business to understand the 360 degree view. Law schools and firms can both improve in this area. But I do think law firms have been moving toward the corporate world on this topic over the past decade.

As Law Schools are the breeding ground for lawyers, do you feel that changing the curriculum could help lawyers do a better job of thinking outside the box with respect to their careers?

One of the reasons that lawyers struggle to think outside the box with respect to their careers is the law school curriculum. I do believe that if the curriculum focused more on the variety of ways one can use their law degree, that opening of minds early on would go a long way in getting law grads to accept

change and accept the idea of taking their law degree in different directions. If the curriculum focused on what skills are being developed as well as how those skills are in demand both in and outside the law bubble, it would open some mental gates that are otherwise padlocked. I also think that simply learning career path realities could go a long way. Many go into litigation because they liked a trial ad class, or a moot court program, or debating. But many end up finding the actual life of being a litigator to be too combative and petty. Learning realities before someone goes down the wrong path could save them from needing to make a change in midstream.

Another thing that I think should change is how school rankings in the US News & World Report are tied to the number of grads who get jobs requiring a JD. This downplays alternative careers and incentivizes schools to shepherd their students down the path to BigLaw or law firm life in general, regardless of whether that's the best fit for the individual student.

What advice can you offer the young legal professionals about starting a legal career? And what to aspiring legal entrepreneurs about starting a company and working for a legal startup?

To anyone starting a legal career, I would advise them to stay in touch with their classmates from high school, college and law school. This is a painless way to always be networking. You never know who in that bunch could be your future client or *lead* you to your future client or next employment opportunity.

When you're at work, don't just focus on keeping your head down and getting through your work. Build relationships with the people around you – whether they're older than you, younger than you or not even practicing law at your organization. Being a likeable team member goes a long way. And while you always want your work product to be good, the relationships you build will go a longer way in making your day-to-day and long term more fulfilling.

Never be afraid to ask for feedback. You deserve feedback – it's in the short and long term best interest of the firm and the firm's clients that you learn how to be better at what you're doing.

As for aspiring legal entrepreneurs, I'd say let go of your risk aversion and fear of failure. It's rare for any business venture to go exactly as planned. Entrepreneurship requires embracing risk and failure is how you'll learn and grow. Be able to go with the flow, wear many hats, and pivot where and when you need to.

Do you have a closing remark?

I look forward to helping anyone reading this who is interested in exploring their career options.

You can check out the JD Refugee class here: <https://jdrefugee.com>.

You can also learn more about the class and get some free guidance on making a career transition by watching this webinar: <https://jdrefugeewebinar.com>. Thanks again.

Why the Nordic Legal Tech Scene is taking off!

By Merete Nygaard, former business lawyer and founder of the Norwegian legal tech company Lawbotics.

Investment into legal technology platforms worldwide [hit a record in 2018](#), however only a few of the legal tech companies invested in came from the Nordics. This is soon about to change. While the legal tech space in the UK and the US might have gotten a head start, the Nordic legal tech space is now joining the party with many early adopters to new legal tech [according to the Artificial Lawyer](#). Much has happened over the past two years in the legal tech scene in the Nordics and things are gearing up to change even more in the coming years.

What makes the Nordics so special?

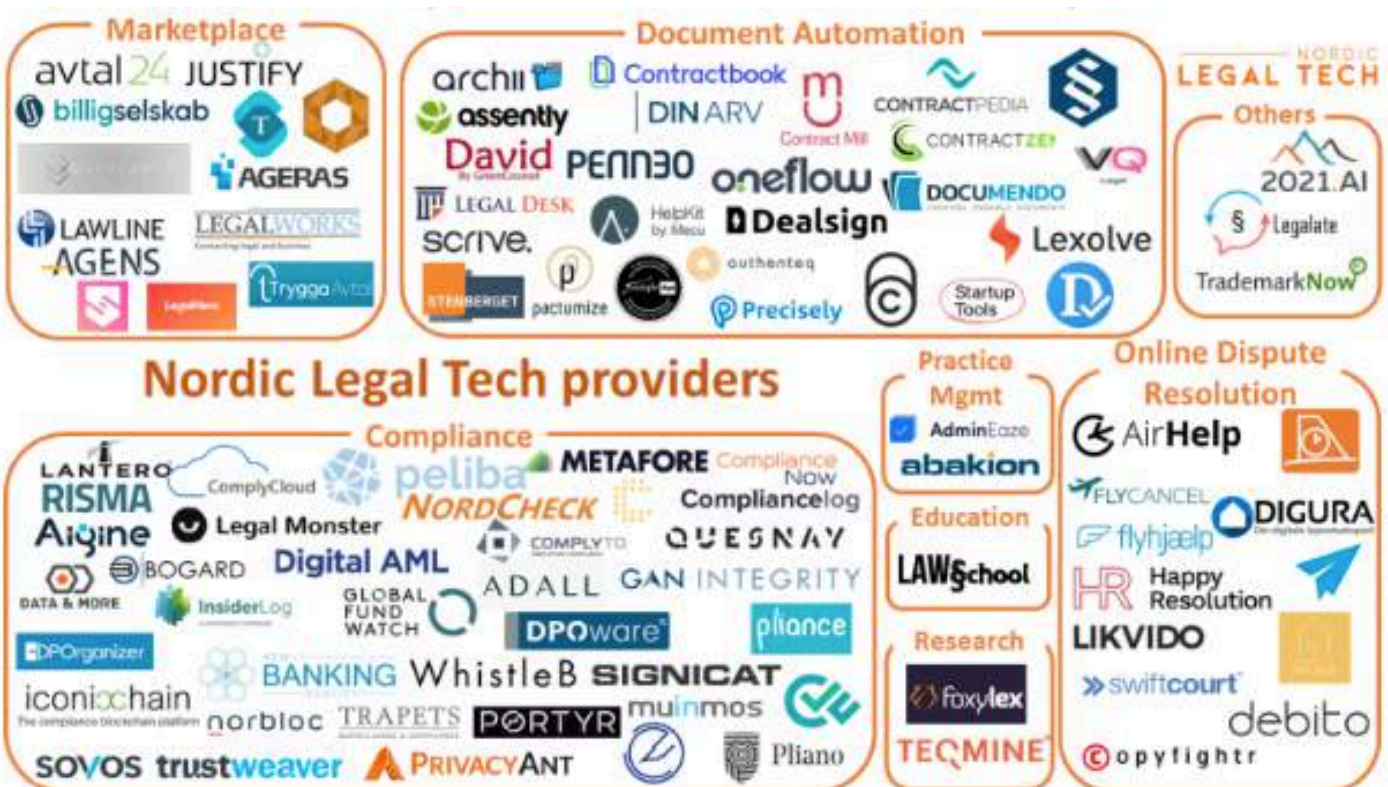
Not only are the number of legal tech startups steadily growing, but the legal tech communities all over the Nordics are attracting a large number of visitors. In Norway alone, the [Oslo Legal Tech Meetup](#), organized by [Lawbotics](#), is the third largest “legal tech meetup” listed on

Meetup globally. In Sweden, LegalWorks organize the annual [Nordic Legal Tech day](#) and there are also frequent meetups and conferences in Denmark in addition to the work that [Nordic Legal Tech Hub](#) is doing to unify the Scandinavian/Nordic legal tech environment.

While the legal tech startup scene in the Nordics in itself is fairly fragmented as a result of the different geographies and jurisdictions, I believe there is one factor that unites us more than other regions:

We like to collaborate with each other, realising that unification creates greater awareness than doing our battles alone in our common goal of changing the legal industry.

An overview of the current legal tech scene by courtesy of the Nordic Legal Tech hub:



Trusting the Nordics

Why should anyone work with Nordic legal tech companies? According to Nicholas Hawtin, co-founder of the Nordic Legal Tech Hub initiative, the answer is trust.

"Since Nordic people are known for being trustworthy and law-abiding citizens that obey traffic laws even when alone in the middle of the night, they are also attractive to work with when it comes to legal matters".

Notably, this apparently does not apply to cyclists, as they are anarchists - but for the rest of us, I do believe this quote sums up why the Nordic people have a good foundation for collaborating with each other adequately.

Trust and collaboration go hand in hand and the Nordics have a long tradition of collaboration for unification in the legal and political field which has also expanded into the legal tech scene.

Realising that unification creates larger awareness, the Nordic Legal Tech Hub acts as a connector between enterprises, startups, academics and law firms in the Nordic legal tech ecosystem, attracting contributors from all over the Nordics.

Community building as the key ingredients

Innovative solutions aren't created in silos. Academics, lawyers, technologists, entrepreneurs and enterprises all takes part in the Nordic legal tech community to exchange ideas to enable creativity and innovation.

From a Norwegian perspective, a truly remarkable exhibit of this cross-functional col-

laboration was the first legal hackathon held in Norway in september 2018, where more than 24 partners from the law industry worked together with the common objective of changing and innovating the legal industry. Participating partners included the Norwegian Bar Association, The Law Faculty of Oslo University, 15+ law firms, accounting firms and Norway's largest bank. Over 140 designers, entrepreneurs, lawyers, students, and technologists worked in teams using the Lean Innovation Methodology to develop creative solutions to the issues at the intersection of law and technology. All the work was done voluntarily - and is a great display of the distinct Norwegian concept we call "**dugnad**".

More on the hackathon and the results can be read [here](#).

This type of collaboration amongst academics, lawyers, technology enthusiasts and startups is seen all over the Nordics, like the legal faculty in Copenhagen University initiative for a "[Digitalisation Hub](#)". They have launched a monthly Tech & Law Breakfast series targeted towards external stakeholders, lawyers, researchers, students and everyone with an interest in technology and law.

Similarly, [the legal faculty in Oslo University has including the subject](#) "legal tech" in its curriculum and invited companies and legal tech startups to pitch problems to the students so they gain practical experience with law and technology.

In Sweden, legal tech is also characterized by innovation, start-ups and an increasing interest in the field. [legaltech.se](#) is an award winning initiative made by and for people that are interested in the intersection between law and

technology. Contributors include lawyers, startups and academics.

The cross-border collaboration in the Nordics will continue to expand. The increasing participation rates in the legal tech communities means that more and more stakeholders see the value in sharing knowledge, experience and network. Having more people adapting a mindset of sharing is absolutely necessary and extremely useful for contributing to the change in the legal industry.

Nordic Legal tech on the rise

So even if the legal industry in the Nordics is fragmented and local, tech providers are changing how legal is done all over the Nordics, and we have early adopters ready to use the solutions.

So keep looking out for more legal tech initiatives to come from the Nordics - our secret weapon of trust and collaboration is an unfair advantage it might be hard to replicate.

About the Author:

[Merete Nygaard](#) is a former business lawyer and the founder of the Norwegian legal tech company Lawbotics.

Founded in 2017, Lawbotics has already received recognition as one of the most innovative companies in Norway by the magazine *Innomag* and one of 10 Norwegian startups to watch in 2019 [according to EU-Startup Magazine](#).

The company has also created [a community of people](#) interested in “legal tech” with more than 1,300 members, organized the first [legal hackathon](#) in Norway together with benchmark companies and given lectures in “legal tech” at the Universities of Tilburg and Oslo. Lawbotics has developed Lexolve, a document automation tool for increasing compliance in legal document processes in enterprises, developed in close collaboration with dedicated and knowledgeable customers within enterprise segments such as member organisations and in-house legal departments.





What's this World Legal Summit all about any way?

The world is rapidly transforming. The increasing development and adoption of new technologies is affecting existing systems and paving the way toward previously unimaginable future global systems. A two-part initiative, the World Legal Summit (WLS) is designed to first understand and formulate global insights, then to facilitate a world-wide informed development sprint to bring those insights to life.

Date: Aug 1st, 2019, and Sept 6-8, 2019.

Location: world-wide in a city near you

Learn more and register here: worldlegal-summit.org

The Problem

Technology and global systems are evolving at unprecedented rates. We're at the tip of the exponential curve in terms of historical rates of tech evolution, and there is a lack of incentive to create the necessary legislative and regulatory frameworks for managing these technologies. Legal advances in tech governance - typically developed in silos - are simply not keeping pace at the rate necessary. Ultimately this is creating a vast chasm between emerging technologies, their associated global systems, and the necessary frameworks for a globally sustainable future. Out of these considerations three major concerns arise:

One: Law and governance are not keeping pace with tech development

Our legislative systems are bogged down in archaic infrastructure, and law makers are not equipped to create new law at the rate necessary to keep pace with emerging technologies and their development. As a result, we are experiencing a world in which technologies that have incredibly strong implications for all of us are being developed and operationalized outside of a legal context. No legal context? No consequences. The implications could be devastating.

Two: Lack of global collaboration

Everything is increasingly and globally interconnected through digital systems. We belong to a global community, and the development of most (if not all) emerging technologies have implications for all of us in an unprecedented way. Yet, many of these technologies continue to be developed in silos, and legislative considerations remain at the nation level (if they exist at all). Global collaboration is needed to understand and inform the development of

truly universal frameworks, and all stakeholders are needed.

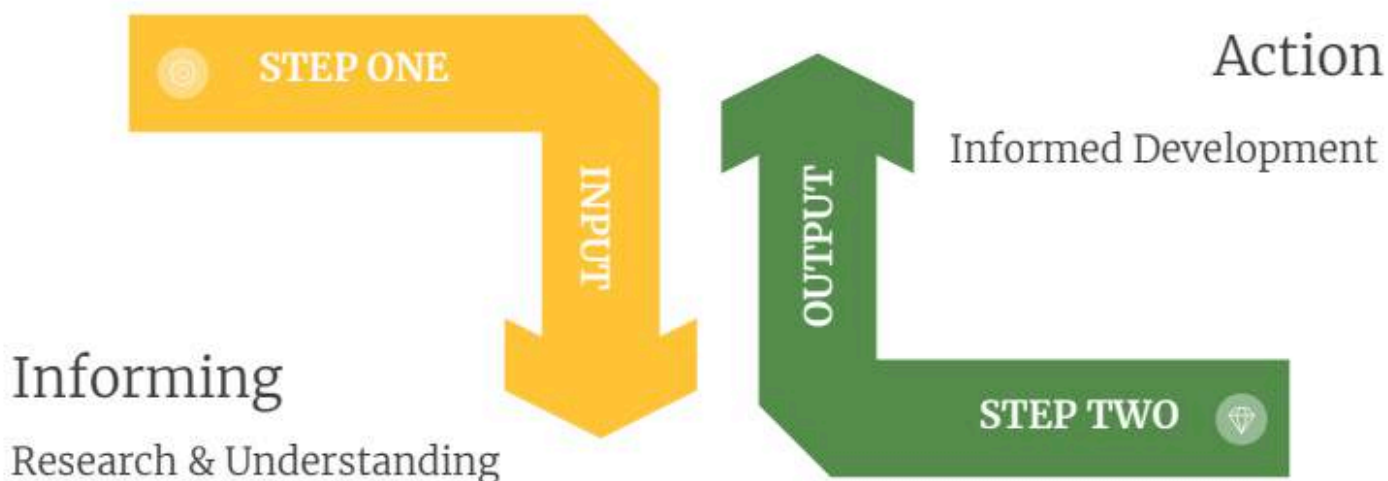
Three: Prevention of globally sustainable innovation

It's counter intuitive, however there's evidence to suggest that the lack of real-world legal context for these technologies can actually limit their progress. Not having a legal context for new technologies can prevent their adoption in a real world context. This ends up preventing their ability to improve, and for practical and sustainable innovation to happen.

The Solution

The World Legal Summit was established to create a globally collaborative environment in which all stakeholders can come together in bridging this gap between law and technology.

There's two parts to this equation; first, the demand for information and understanding, and second the need for translation of these insights into the actual development of the technology.



Part One August 1st, 2019:

Designed to facilitate the understanding and formulation of global insights about legislative and regulatory frameworks dealing with emerging technologies and global systems. It will happen in dozens of cities world-wide simultaneously, and will be connected through digital platforms.

Part Two September 6-8, 2019:

Designed to build from the insights of part one. It will be an environment in which technologists can come together in their city location with legal, policy, and governance professionals to translate legal insights into the development of their technologies. Similar to a hackathon, but focused explicitly on building legal frameworks into technologies.

Bring your expertise and get Involved!

The World Legal Summit (WLS) would not be possible without the contributions of organizations and individuals world-wide. All stakeholders have a role to play, and all are invited to play it! Law firms, universities, innovation hubs, bar associations, governments, and more, are coming together to bring the WLS to life.

You and your organization can join the world-wide action by:

- Hosting in your city,
- Partnering or sponsoring (global and city level opportunities available),
- Participating in the audience or as a panelist in Part One
- Bringing your tech team, or legal expertise to Part Two

Have ideas on how else to get involved? Let us know!

Learn more and register with your [city](#) at: worldlegalsummit.org

Contact: info@worldlegalsummit.org

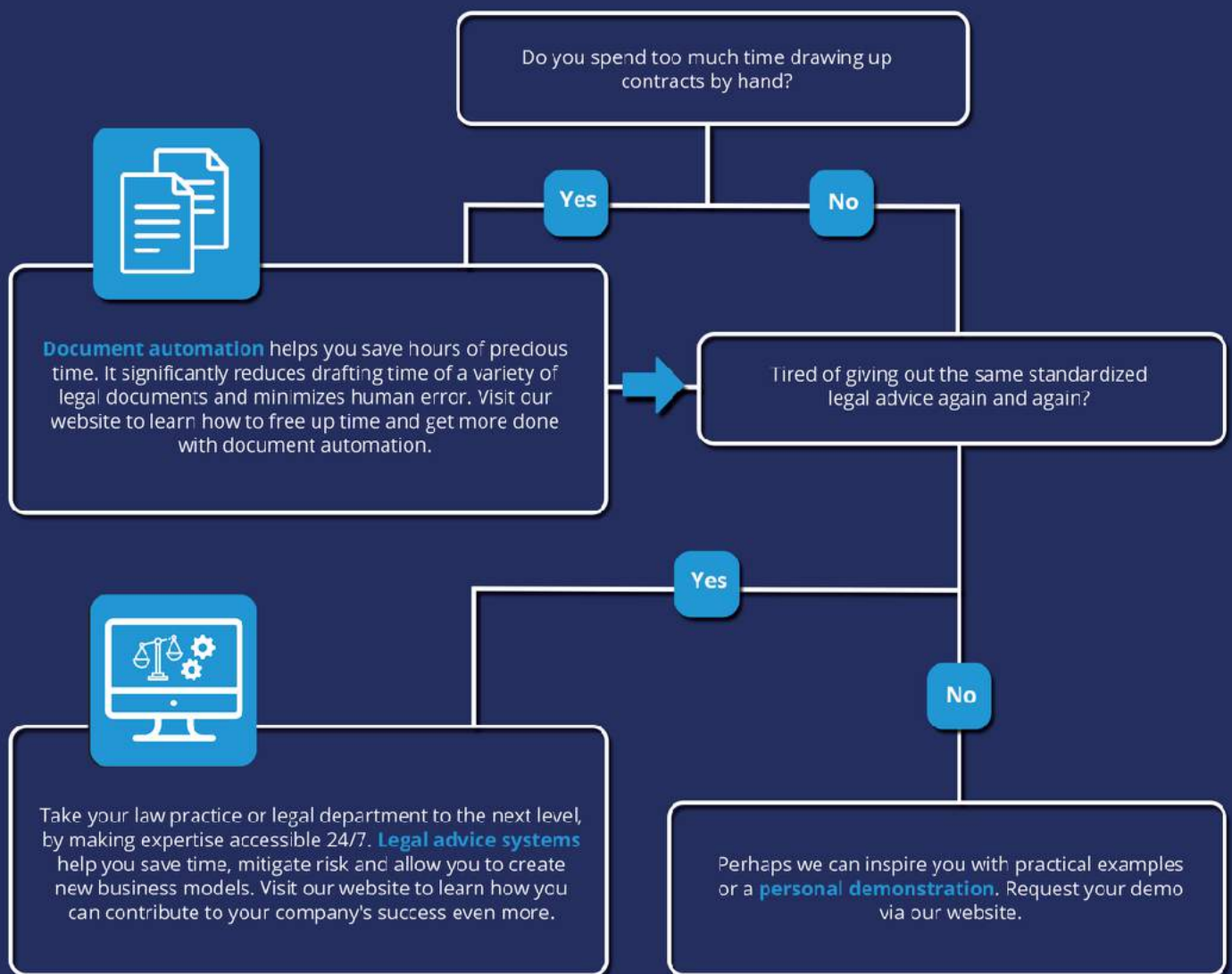




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A Lucrative Micro-Niche for Lawyers:

Additive Manufacturing / 3D Printing

By Thought Leader Patrick J. McKenna

Hints of new emerging areas of opportunity are usually discernible years before they enter the mainstream. For example, The Center for Internet and Society at Stanford Law School hosted one of the first seminars on 3D Printing, entitled “*Is The Law Ready For The Future?*” That event occurred back in May of 2013. Fast forward six years and one can only identify a few law firms that have targeted this area of opportunity. Robins Kaplan lists two attorneys in their 3D Printing Practice mainly focused on IP and business disputes; while Ice Miller identifies seven in their Additive Manufacturing/3D Printing group who “*serve as advisors and counselors to 3D printing think-tanks*” and claim to “*also own and use 3D printers.*”

When one hears the term 3D printing, it is just natural to think of it as a way to produce a small plastic desk accessory or toy you might pick up in a gift shop. But 3D printing is instead, part of a broader range of revolutionary technologies known as additive manufacturing (AM). 3D printing is a process where a physical object is created from a digital blueprint of something that’s “sliced” into thin horizontal layers and uploaded to a printer. This mode of printing refers to any kind of production in which materials are built up to create a product rather than cut, ground, drilled or otherwise reduced into shape. Initially 3D printing was merely 2D printing of layers of material, repeated over and over until a object came to fruition. Today, new methods are being developed that are far more sophisticated and powerful.

AM is now being adapted to a stunning array of different materials that will dramatically disrupt the future of manufacturing and at least 25

other different industries that I’ve been monitoring. AM is currently impacting architecture and construction; pharmaceuticals; automotive; packaging; firearms; drones; space tech; agriculture; consumer electronics; and the entertainment industry among others. Current 3D printers can produce functional part- and full-color objects from over 250 different materials, including metals, plastics, ceramics, glass, rubber, leather, stem cells, and even chocolate. And the next time you visit London, do check out Food Ink (<http://foodink.io> - which is called the most futuristic gourmet experience in the known universe), a restaurant where they have 3D printed the tables, the chairs, the eating utensils and even the food!

3D is one more example of what I have come to call a “tech-driven hybrid” in that it does not simply represent a substantive area of law (like intellectual property) or a specific industry (like manufacturing) but rather has potential applications across a wide range of the kinds of clients you are serving. So to simply say that you aspire to be your client’s “trusted advisor” rings hollow, should they ask you what you know about additive manufacturing and all you can muster is a shrug of your shoulders. Alternatively for those who care to explore this as a micro-niche to specialize in, the opportunities are beyond description.

3D printing has emerged from a hobby to an industrial-scale technology that is beginning an exponential growth curve. In 2015, the additive manufacturing industry grew to about \$5.2 billion according to Forbes and by 2021, IDC analysts expect 3D printing’s global spend to be about \$20 Billion. With newly accessible

design software, we can customize anatomy-conforming stents, personalized dentistry products, adapted airplane and auto parts, or microscale fabrication products such as sensors, drug delivery technologies, and lab-on-a-chip applications.

Here are a few more different examples:

- 3D printing has expanded rapidly with one of its most notable areas of application being the health and medical industry. Research firm Markets and Markets are projecting that the use of 3D printing applications within health-care will have a value of \$2.1 billion by next year. Innovations include printing everything from medications to human organs, but perhaps the most commercially successful so far has been prosthetics. Stryker Orthopaedics, a Kalamazoo-based company, is potentially important to the hundreds of thousands of Americans seeking a knee or hip replacement. With annual revenues of \$10 billion it is responsible for building titanium components for joint implants designed to precisely fit the bone structure and musculature of any individual. And many of these orthopedic implants are custom-manufactured by Stryker using 3D printers. The company is now planning specially programmed 3D printers that will create its custom implants right on the premises while the surgeons and patients wait, saving time and money.

- It has been reported that Lockheed Martin is applying 3D printing to aviation, having produced a new composite material that can be used to produce ultra-light, ultra-strong bodies for its F-35 fighter jets. While the F-35 is over 50 feet long and weights over 12 tons, Lockheed

builds the jet's body and interior panels via an array of printers mounted and moving up and down, and sideways on scaffolds of metal tubes. According to Lawrence Gasman, president of Charlottesville, VA-based industry analyst SmartTech Publishing, "there are no big aerospace companies that do not use 3D printing for major parts in their aircrafts."

- U.K.-based startup Orbex recently produced what they believe is the world's largest 3D printed rocket engine, standing at 56 feet (17 meters) tall; roughly one-fourth the size of SpaceX's Falcon 9. The engine is manufactured in a single piece without joints, creating a rocket that is up to 30% lighter and 20% more efficient and better able to withstand extreme temperature and pressure fluctuations. Orbex is working with engineers from NASA and the ESA, and also partnered with Swiss satellite startup Astrocast to launch 64 nano-satellites to build a global Internet of Things network.

- One company that made headlines at the 2014 International Manufacturing Technology Show in Chicago was Local Motors, when in front of a live audience they produced the world's first 3D-printed car – the Strati. I should note that about 75% of the Strati's components were 3D printed. Items such as the rubber tires, brakes, battery and electric engine were manufactured using conventional methods. The Strati took about 44 hours to fully print and consisted of 50 individual parts – compared to some 30,000 in a traditionally built car. Depending on the features one might select your new 3D printed vehicle retails for between \$18 and 30K.

- Recently, Austin-based ICON unveiled its new

“Vulcan II” 3D printer that can print up to a 2,000 square foot house quickly at half the cost. ICON has created proprietary concrete/mortar material which it calls “Lavacrete” that has passed every structural test; is safe for people and resilient to the varieties of conditions it may encounter. The company aims to make homes at a cost of up to \$125 a square foot. Their 3D printing has the ability to cut costs of homebuilding by 30-50 percent compared to traditional construction methods. Time Magazine named ICON one of the best inventions of 2018, while Popular Science named ICON one of the 100 Greatest Innovations of 2018. Meanwhile, the tools and processes are progressing rapidly. Dubai is aiming for a quarter of its new buildings to be based on 3D-printing technology by 2030.

- Personalized footwear is an excellent test case for the production capabilities of 3D printing. A good shoe must be tough and durable, yet flexible and lightweight, and meet your expectations for support and comfort. Imagine shoes custom-fitted to each of your feet, with the style tailored exactly to your taste. Adidas is showcasing a glimpse of the future of personalized footwear at its pop-up Speedfactory Lab Experience in Brooklyn, NY. The Speedfactory has a souped-up treadmill with data acquisition equipment to provide real-time analysis of a customer’s running strides. At the store, Adidas employees acquire information about how you run that would generally be used to help select your optimal running shoe style. Adidas can then use this data to design the perfect running shoe for you.

- Consider the new 4G smartphones. In order

to transmit signals at the higher frequency bands manufacturers will likely require a shift from aluminum bodies to stainless steel. Because it’s stronger than aluminum, less is needed. And that means less interference and more room for the battery. But here’s the challenge. Switching the material from aluminum to steel takes 10 times as long to machine, because the steel is so much stronger than aluminum, it’s hard to cut. Enter Desktop Metal with a 3D metal-printing system that could be competitive with traditional manufacturing in this situation. The Burlington-based company uses a jet of metal powder and an oven to fuse the printed metal. The system boasts what the company is billing as the fastest metal 3D printer in the world, at 12,000 cubic centimeters of printed output per hour—100 times as fast as older, laser-based 3D metal-printing techniques.

- And finally, there is Jabil Inc. Jabil is a Florida-based company with over 100 production facilities in 28 different countries. Jabil, now the third largest contract manufacturer prints thousands of machined parts for companies in industries from consumer electronics to aerospace; pharmaceuticals to home appliances.

3D printing has seen impressive adoption rates across the manufacturing industry, but suffered slow printing speeds. However, earlier this year, researchers at the University of Michigan developed a new 3D printing method that can produce complex shapes at up to 100 times the speed of traditional 3D printers. And using synthetic liquid resin and CT-like scanning technologies, scientists at the University of California, Berkeley have developed a 3D printer

that can produce replicas of nearly any scanned object in record time. Both innovations, capable of printing with a number of new resins, prove the technology has tremendous potential to commercialize high-speed and high-resolution additive manufacturing.

Additive Manufacturing is poised to revolutionize the global economy in ways that most experts are failing to grasp. What makes AM so revolutionary is that:

- it builds a product in a precise shape as dictated by a sophisticated software program;
- is easy to make the item fully customized to the needs of any particular user;
- dramatically reduces material waste, energy consumption, and market inefficiencies;
- it can mass-produce goods with quality and speed; and
- any future 3D manufacturing “factory” no longer needs to be a giant plant built over some protracted period of time, at a cost of hundreds of millions of dollars, but rather a small warehouse containing a few printing systems quick to set up, and easy to disassemble and move if and when needed.

An innovation once considered a gimmick is proving itself to be a formidable giant. One of the leading experts in AM is Avi Reichental, former CEO of 3D Systems, the largest publicly traded 3D printing company in the world and part of the core faculty at Singularity University, where I am a member of their online global

network. Within the next five years Avi predicts that:

- 50% of all manufacturing companies will have 3D printing operations in production;
- 40% of all medical surgeons will practice with 3D models; and
- 50% of all consumer businesses will have revenue-bearing 3D printing operations.

AM represents the complete digital transformation of the manufacturing process (you may want to access an earlier article I wrote on Digital Transformation) giving traditional manufacturers vastly greater flexibility, speed, efficiency and responsiveness – and AM developments can be found all across America. For example, General Electric’s former CEO Jeff Immelt was determined for the company to be a major player. Today, in Westchester Ohio, GE has 130k square-foot facility with 70 industrial additive printers producing a steady white-noise hum; while in Pittsburgh, 50 engineers clad in a strange mix of steel-toed boots and protective suits work intently producing state-of-the-art components. It seems rather ironic that a company like GE is building their billion dollar business in old steel towns like Cincinnati and Pittsburgh – the very cities AM is most poised to disrupt.

From helping companies open additive manufacturing facilities, protect their intellectual property, forge partnerships with AM companies, invest in start-ups that own promising new technologies, defend potential product liability issues, understand and comply with

government regulations (e.g. FAA and FDA), to hiring and retaining talent with a deep understanding of these new methodologies, there are lots of opportunities for those attorneys who choose to focus on this micro-niche.

For those looking for even more information, you might check out the Association of 3D Printing (<http://associationof3dprinting.com/about-us>) a “conglomeration of executives who saw the need for the industry to have its own voice” where, as of the last time I checked, there were a grand total of NO lawyers listed amongst their over 150 member firms.

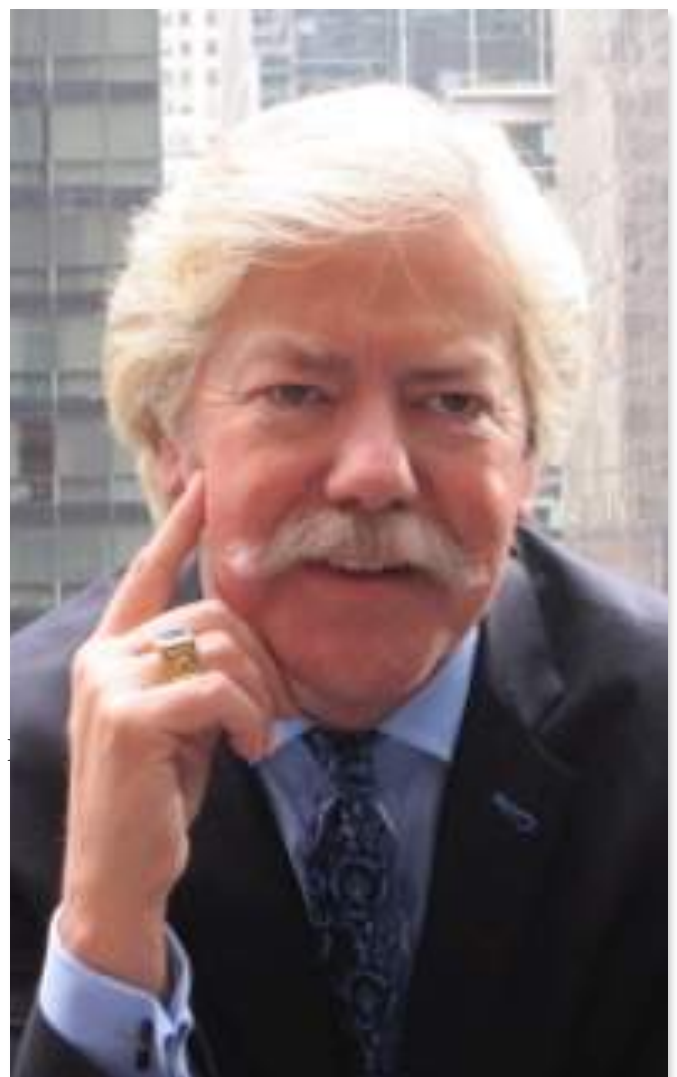
About the Author

Patrick J. McKenna is an internationally recognized author, lecturer, strategist and seasoned advisor to the leaders of premier law firms; having had the honor of working with at least one of the largest firms in over a dozen different countries.

He is the author/co-author of ten books most notably his international business best seller, *First Among Equals*, currently in its sixth printing and translated into nine languages. His most recent work, *The Art of Leadership Succession* (Legal Business World Publications, 2019), provides in-depth guidance on the leadership selection process in professional firms. Patrick’s three decades of experience led to his being the subject of a Harvard Law School Case Study entitled: *Innovations In Legal Consulting* (2011). One example of that innovation was his launching the first instructional program designed to specifically address the issues that new firm leaders of larger firms face in their

First 100 Days – which has thus far graduated over 80 new leaders many from AmLaw 100 and 200-sized law firms, as well as from notable accounting and consulting firms.

Patrick is the recipient of an “Honorary Fellowship” from Leaders Excellence of Harvard Square; and was voted by the readers of *Legal Business World* as one of only seven international Thought Leaders (2017).



Read more from Patrick J. McKenna [here](#) or go to the Thought Leader section at [Legal Business World Publications](#). Read his latest



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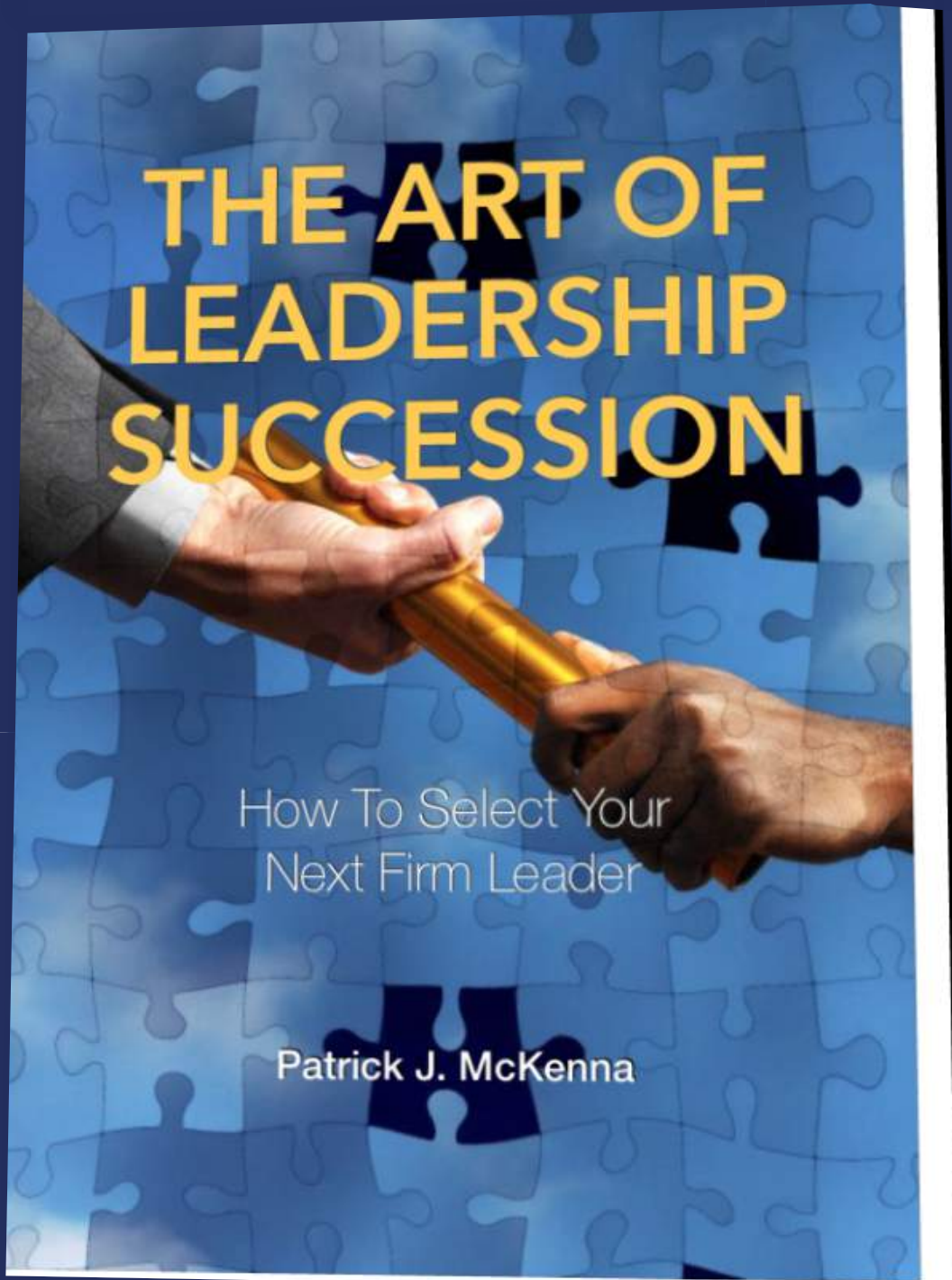
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Series on Corporate Social Responsibility and Sustainability for Law Firms.

By Pamela Cone, Founder & CEO Amity Advisory

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Goals interconnect and in order to leave no one behind, it is important that we achieve each Goal and target by 2030.”

www.un.org/sustainabledevelopment/sustainable-development-goals/

You might be surprised to learn what your clients expect from you. A growing number of companies have signed on to the United Nations Global Compact—more than 12,000 in 165 countries. They're committed to the United Nations Sustainable Development Goals, and they expect vendors and suppliers to also commit toward a more just and sustainable world. And yes, this includes law firms and other professional service providers.

Partnership for the Goals—Using your legal expertise to lead change

As your clients and prospects embrace the UNSDGs, many, if not all would benefit from the skills, talents, and knowledge of the legal industry. Perhaps more than any profession, lawyers shouldn't just BE the change they want to see in the world, but perhaps should be LEADING the change. As client companies step up, so should their lawyers—including in-house and outside law firms—to help achieve the changes necessary to progress toward these goals.

Goal number 17 – Partnerships for the Goals encourages signatory companies to ensure supply chain firms and vendors—including law firms—are also committed to making progress on the global goals. Hence, you may be seeing greater scrutiny than ever from clients during the RFP process, with probing and specific questions about your firm's corporate responsibility and social impact programs. And these expectations go well beyond ProBono programs and Diversity & Inclusion efforts. This practice will only continue to increase as demands for change and the expectations of all stakeholders grow exponentially. Goal #17 also encourages partnerships of all

types to help make greater progress than any one organization could achieve alone. This is a tremendous opportunity for law firms to engage with their clients to work toward the global goals that are most relevant and material to them. Partnerships deepen relationships between companies when they collaborate to achieve even greater social impact.

Find out if your clients are signators of the UN Global Compact

You can take these simple steps to learn whether your clients are signators of the UN Global Compact and/or are working on any of the UNSDGs.

1. **Simply ask.** Being proactive in this conversation can only help your position as a trusted advisor for all your clients' business needs—including social impact and sustainability—as well as legal issues.
2. **Refer to the UN Global Compact website.** Use the website search function to find your clients' names and determine if they're signators.
3. **Review your clients' websites.** Most companies who have joined the UN Global Compact and/or are using the UNSDGs as a framework for their social impact programs celebrate this on their website. Their specific social impact initiatives often are tied to the relevant UNSDGs their program aligns with. Your clients' website will reveal their priorities for social impact programs.

Maturity stages of a law firm's social impact program

Traditionally, law firms have played an integral role in their communities. Lawyers often serve

on boards or as pro bono counsel for the community's social initiatives and nonprofits. Charitable giving and philanthropy are often part of a lawyer's DNA, and law firms encourage community engagement and volunteering. However, these efforts are often random and transactional.

Stakeholders are looking for vendors and service providers to be much more intentional and focused in their social impact efforts, allowing for greater outcomes.

Many use the continuum of Transactional to Transitional to Transformational tool to assess the maturity stages of a firm's social impact program. Each stage involves varying levels of time, treasure, and talent:

- **Transactional:** Transactional programs involve mostly donating money, perhaps a little bit of time, but rarely specific skills or talent. These efforts are sometimes referred to as "random acts of kindness." All good, but unfocused.
- **Transitional:** Transitional programs identify two to three themes and give corresponding guidance to local offices and practices. This approach offers guidance to local decision-makers. Usually, firms in the transitional stage give money, volunteer time, and perhaps align talent with the identified themes.
- **Transformational:** At this level, firms identify broad projects that employees throughout the firm can participate in, along with third parties, whether they are clients or other public or private entities, nonprofits, or NGOs. Transformational initiatives consist of time, monetary donations, and talent. The corresponding impact is much, much greater

than what any individual office or firm could achieve alone.

It is vitally important to note that these three phases of social impact need not be mutually exclusive, and in fact, rarely are. Most firms have initiatives underway in all three stages. In other words, just because a firm may launch a transformational program firm-wide doesn't mean all initiatives already underway at the transactional or transitional phases must cease. Rather, initiatives in those phases may continue to advance along the spectrum to maturity.

Coming up

In next edition's article, I'll discuss the growing practice of CSR "audits" or "ratings" and how clients use that process to assess and evaluate their outside law firms' commitment to transformational social impact programs.

For more information, read [last month's article](#) about the United Nations Global Compact, the United Nations Sustainable Development Goals, and the movement of companies all over the world engaging.

About the Author

[Pamela Cone](#) has more than 25 years' experience in the professional services industry in marketing and communications roles, and more recently, building social responsibility programs in collaboration with clients and in alignment with the United Nations Sustainable Development Goals of 2030. She is the Founder and CEO of Amity Advisory, a consultancy to help firms strengthen their CSR programs beyond transactional to achieve truly transformational social impact outcomes.



On Collaboration for Lawyers

Why it's not what you think

By Daniel Gold, Attorney and e-discovery consultant

As children, most of us stood there in front of a new world with uncapped curiosity and boundless enthusiasm for life. Early on, our parents taught us how important it was to get along with others, [say “please” and “thank you”](#), and always try to work out a conflict through cooperation. Then, some of us go to law school, become lawyers -- and suddenly, those life lessons go out the door! As lawyers, we're taught the value of strategic thinking in every aspect of what we do; almost as if every new matter is a new game of chess against a new opponent. We are taught that our opposing counsel is really our adversary and we argue motions, and as such, we up the gamesmanship and perhaps hide some of our

pawns. The idea of cooperation between lawyers, therefore, tends to naturally get lost by the wayside.

However, cooperation between lawyers is not what you think. In fact, in order to dispel you of every notion of what cooperation may be, I will opine below that in order to get to a place in which we, as lawyers, can argue the actual merits of a case and not about file types, databases, and search terms, we must understand what's precluding us from cooperating, the benefits to cooperating, and interestingly enough, what is happening in our brains when we're asked to negotiate terms of a Discovery Plan.

What is this word you speak of? I'm a lawyer!

First, let's take a look at the fascinating etymology of the word as I think it'll help frame the discussion here. [Dictionary.com](#) defines it as "an act or instance of working or acting together for a common purpose or benefit; joint action."

The origin of the word cooperate comes from the Late Latin word *cooperāri*, which means "to work with or combine". The Latin word *operāri* means "to work". When you put it together, the word really means "working together" for a common benefit.

In a study by scientists Mirre Stallen and Alan Sanfey entitled, "[Cooperation in the brain: neuroscientific contributions to theory and policy](#)", they define cooperation as "any behavioral act that entails a degree of self-sacrifice to further the greater good".

The question for counsel for both plaintiffs and defendants becomes this: what exactly is the common benefit and the greater good for which counsel would be working together for?

It's all in your head (really, it is!)

Here's where it gets really fascinating for us as lawyers. Cooperation is really all in your head — to be more specific — it's literally in your brain. While I didn't get a degree in neuroscience, studying how the brain works can help nearly everyone in every profession as every interaction humans have are tied to a few very specific areas in our brain that is reacting to some event.

In his marvelous book, "[Brain Rules](#)", Dr. John Medina talks about how humans are the only

animal that has learned to apply analytical thinking to every day actions in life. In one example, he talks about how early humans learned that to survive, we learned how to cooperate early on. For instance, if one person wanted to take down a woolly mammoth it would be impossible. However, if there were two or three people, coordinating behavior, acting in a way that entailed some degree of self-sacrifice to further the greater good (lots of meat for everyone), the mammoth isn't in control any longer. In other words, as Median notes in his book, early humans learned to cooperate -- "creating a shared goal that takes into account our allies' interests as well as our own. In order to understand our allies' interests, we must be able to understand others' motivations, including their reward and punishment systems. We need to know where their 'itch' is. To do this, we constantly make predictions about other people's mental states."

But where does this natural and instinctive behaviour come from? What's clear is that brain scientists have not figured out our brain (just yet). It's a highly complex organ. However, what we do know is that the ventral striatum and ventromedial prefrontal cortex (aka the VMPFC) is what controls your ability to collaborate. The VMPFC is located in what is affectionately known as the "Mammalian Brain". Basically, it controls your emotional response. If someone makes you mad, sad, happy, madly in love, etc -- it's essentially a response that is controlled by this area of the brain. It processes your emotions and decides within 5 to 7 seconds whether or not to funnel the data over to the neocortex.

The neocortex is really important because it controls what we often associate with lawyers:

logic and reasoning. But, I bet you didn't realize that even when you thought you were making decisions based on "logic and reason", they were really *an emotional response!* No matter what, every decision you make starts with an emotional reaction. If you've heard of the "fight or flight" mode, that's when the mammalian brain takes over and shuts down the neocortex. Of course, I hope that never happens between lawyers in court! If you want to read more about this, I highly suggest reading "[Brain Brilliant: Increase Your Personal and Professional Profit](#)" by AmyK Hutchens.

Next to elephants, chimpanzees and ants, humans are the one mammal that knows how to collaborate better than any other species on earth. In an experiment to test elephant's ability to collaborate, [University of Cambridge professor Joshua Plotkin](#) said that "Intelligent species must learn to adapt to their changing environments, solve problems, cooperate — all of this requires great flexibility in behavior." History professor Yuval Noah Harari, author of [Sapiens: A Brief History of Mankind](#) wrote that "only Homo sapiens can cooperate in extremely flexible ways with countless numbers of strangers."

[Scientific research](#) has shown over and over again that "human beings are a social species that relies on cooperation to survive and thrive." What's more, [additional studies](#) show that even in "difficult situations, the desire for cooperation would appear to often be nascent and the evidence suggests that we are naturals at it, given the opportunity." What we can all deduce from some of this really cool science is ***that choosing not to cooperate actually goes against the grain of our genetic makeup.***

With this understanding, the question then becomes this: if humans are naturals at cooperation, then why don't we do it more in the legal profession?

"Cooperative Adversarialism" (Yes, I coined that!)

"Cooperative Adversarialism" is really no different than "coopetition". In other words, it's being a strategic advocate on behalf of your client while at the same time, cooperating where it makes simple, logical sense — like at a discovery conference. Why doesn't it happen more often then? One can easily opine a few reasons for this, but quite simply: it's ingrained in the vernacular we've used as lawyers for thousands of years!

First, let's take a look at the word we use to describe our opposing counsel: our ***adversary!*** The word adversary dates as far back as the Old Testament, and since those early days, [the word has always been defined](#) as an "***unfriendly*** opponent" or "***enemy***".

Second, historically, we have been taught to be "zealous advocates" on behalf of our clients. But, the word [zealous](#) dates back to the 14th century and has been defined as a "passionate ardor in pursuit of an objective" or "zealot" (which is also akin to an extreme faction). It may not be so crazy to deduce that a lawyer, being a ***zealous*** advocate on behalf of her client, who has an ***adversary***, might just lend itself to inherently not wanting to cooperate!

Retired Judge David Waxse reminds us in his excellent article, "[Cooperation: What it is and why do it](#)" that the phrase "zealous advocate" actually an archaic phrase.

Judge Waxse said, in part: “Lawyers and judges should consider that the ABA Model Rules of Professional Conduct removed the former ethical obligation for zealous advocacy from the ABA Model Code of Professional Responsibility when the ABA Model Rules of Professional Conduct replaced the Code in 1983.”

It is notable that the phrase “zealous advocacy” only appears in the Preamble to the ABA Model Rules, and is very specific in how it is referenced. The Preamble states that as advocates, we are supposed to “zealously assert the client's position under the rules of the **adversary** system” (emphasis added). Later in the preamble it states that while being a zealous advocate, we must also maintain “a professional, courteous and civil attitude toward all persons involved in the legal system.”

Ten years ago, the Sedona Conference handed down what I thought to be one of the most common sense publications I ever read: “The Cooperation Proclamation”. In just three pages, it reiterated what our parents taught us as toddlers: be courteous to others and always try to work out conflict through cooperation. More specifically, the Sedona writers showed that there is a distinction between zealous advocacy and adversarialism. ***Being a zealous advocate and being adversarial is a distinction with a difference.***

The [Cooperation Proclamation](#) said, in part, that while attorneys are “retained to be zealous advocates for their clients, they bear a professional obligation to conduct discovery in a diligent and candid manner.” Further, “it is not in anyone’s interest to waste resources on unnecessary disputes, and the legal system is

strained by ‘gamesmanship’ or ‘hiding the ball,’ to no practical effect”.

Furthermore, the Proclamation goes on to say that a lawyer's “combined duty is to strive in the best interests of their clients to achieve the best results at a reasonable cost, with integrity and candor as officers of the court. ***Cooperation does not conflict with the advancement of their clients’ interests - it enhances it. Only when lawyers confuse advocacy with adversarial conduct are these twin duties in conflict***”

But there’s inherently a problem with the theory of cooperating with opposing counsel at a discovery conference if that lawyer doesn’t understand e-discovery. How can lawyers come “prepared” to a discovery conference and expect to cooperate — especially in the face of dramatically increasing data volumes, changing privacy regulations, ever growing unstructured data and ephemeral data, and rapidly changing technology that collects, processes, culls, searches, reviews and produces ESI — without having knowledge of, or retaining an expert with the appropriate knowledge to discuss e-discovery?

Let's Apply Neuroscience and 'Cooperative Adversarialism' to E-Discovery

For purposes of this article, I’ll skip past all of the trends reports that tell us how much data we are creating every day and how scary it is to capture various data types — especially ephemeral messaging. I’ll fly past how costly e-discovery is making litigation. I’ll also gloss over all of the scary case law that talks about how judges continually lambast and sanction attorneys for their intentional and unintentional e-discovery misgivings.

I'll also resist talking about how some lawyers still don't fully understand what the R. 502(d) clawback provision is and why it is so important. I also won't dive into the revisions in the Federal Rules that hones in on e-discovery.

But, wait, isn't that the point?

I travel all over the country giving education presentations. I'll never forget one trip to New York where I had just quoted the Cooperation Proclamation when a senior partner interjected and said that it appears that eDiscovery is being treated as more of a sword than a shield. In other words, it was his view that there are more motions being filed by tech savvy lawyers alleging eDiscovery violations just to drive up costs so as to prevent the other side from arguing the actual merits.

Yet, contrast that with another partner at a law firm in South Carolina who told me that if he cooperates with opposing counsel, his client would think he was a "weak attorney". Not cooperating allows him to appear as if he's a zealous advocate — and allows him to make his billing quota by arguing e-discovery. True story!

All of this reminds me of a great quote in the [Metropolitan Corporate Counsel magazine](#) by Doc Schneider, a partner at King & Spalding law firm: "The legal system ought not to make e-discovery so burdensome that people with a meritorious claim are deprived of their ability to win." There are a lot of arguments by judges and lawyers alike that cooperating is akin to being "weak" or "showing all their cards". I've even heard some lawyers say that "hiding the ball" helps to increase their billable hour quota for the year! **However, cooperating with**

opposing counsel to ensure a speedy and efficient process in litigation and being a "zealous advocate" are not mutually exclusive.

To prove this point, let's review some crucial rules that apply here. First, Rule 1 of the [Federal Rules of Civil Procedure](#) starts out with the basic principle that every Rule contained therein should be "construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding." In order to comply, attorneys must have a modicum of knowledge relative to e-discovery, or at a minimum, retain experts who are knowledgeable.

The need to have this knowledge comes right out of Rule 1.1 of the ABA Model Rules of Professional Responsibility, which discusses lawyer competency. [I have said it before](#) that in order to to maintain competency, one must understand e-discovery in order to more effectively secure a just and speedy proceeding. In fact, when you read Rules 3.1 through 3.9 of the Model Rules, it speaks generally to the idea that being an ethical advocate on behalf of the client, working with opposing counsel, telling the truth, and not willingly hiding the ball from opposing counsel or the courts is part of being a professional advocate. ***Essentially, expeditious litigation should not come at the expense of gamesmanship.***

There are so many critical questions early on in every matter that must be answered in both a [Rule 16](#) Pretrial Conference and a [Rule 26\(f\)](#) Discovery Conference such as:

- How is the data stored?
- Where is the data stored?

- What are the file types?
- How was the data stored?
- Is there ephemeral messaging involved?
- Are custodians creating, storing, and editing corporate data on consumer-grade apps such as Dropbox?
- Is there a data retention and destruction policy in place and is it being adhered to appropriately?
- How much will it cost and how many vendors will it take?
- Is the search proportional to the total value of the case?
- Am I subject to sanctions if I don't get this right?

And, the list can go on!

If we apply what we have learned thus far, if an attorney walks in to a conference unprepared and unknowledgeable to answer the voluminous questions that must be answered, cooperating becomes an unfathomable task! The mere task of having to talk about e-discovery [for some lawyers](#) can throw the limbic brain right into overtime!

It is unquestionable that without having the right education, having an intellectual and analytical debate over e-discovery may cause some lawyers to make unfortunate "irrational" or "illogical" decisions when the fear gets funneled down to the neocortex. It's not wonder why there may be issues cooperating with opposing counsel!

One reason why we see combative behavior as opposed to collaborative behavior is because of the sword and shield metaphor noted above. In other words, tech savvy lawyers using discovery motion proactive alleging e-discovery

violations simply to drive up costs so as to prevent the other side from arguing the actual merits is both what I would consider combative adversarialism and proves my argument for attaining more education.

Here's the good news. Becoming more well versed in e-discovery does not require you to be an expert. Organizations like the [Association of Certified E-Discovery Specialists \(ACEDS\)](#) is a perfect example of an organization committed to educating legal professionals. Their certification exam is the "Gold Standard" (pun intended) in e-discovery knowledge. Chapters are forming all across the country to bring the legal community together to teach valuable concepts on e-discovery to others. I should know, as I recently started the [Kansas City chapter](#).

Plus, there is never a shortage of service provider sponsored webinars to learn various different points of view on important and emerging trends in e-discovery. Other organizations such as Consero, ACC, ILTA, Legal-Tech, ALA, CLOC, and many others are giving out education. Even if you don't plan on taking the ACEDS exam, attaining a modicum amount of knowledge and/or working with someone who already has the knowledge such as in-house Litigation Support Directors or trusted and vetted service providers is the way of maintaining competence in a highly complex digital world. What's more, it will absolutely prevent your limbic brain from going into "fight or flight" response at a discovery conference.

Conclusion

Technology changed how we perform discovery, which changed how we solve problems,

which also changed how we cooperate. The age of paper discovery dumps has been replaced by digital data dumps in the terabytes and new competency is required to have effective discourse in cooperation and proportionality.

Stated succinctly in [a report on trends in e-discovery](#), just because "the justice system is adversarial by design does not mean litigants and their counsel should approach every issue in an adversarial way ... [as] clients and counsel who refuse to cooperate in discovery may increasingly find themselves facing sanctions".

Cooperation is not the antithesis of being a zealous advocate, but rather, part of the genetic makeup of what it means to be a litigator. Cooperative Adversarialism doesn't mean that you cannot play nice with opposing counsel in the discovery process.

Walking into a discovery conference without having the requisite amount of knowledge on e-discovery is doing both your client and injustice and further clogs the court docket. Trying to create a strategic discovery plan when either side doesn't have the requisite knowledge is like having a battle of wits with someone unarmed. Of course, this can be cured with a spoonful of education.

Hutchens, in her book "Brain Brilliant, said it

best:" "By understanding how your emotions influence your thought processes you increase your ability to make better decisions for yourself and you increase your ability to positively influence the decision making process of others. (Known as the art of persuasion and not to be misconstrued as manipulation.)"

About the Author

[Daniel Gold](#) is a veteran e-discovery and technology leader with 16 years experience. During his tenure, Gold has consulted with some of the largest law firms and corporations in the country on how to be more productive in and efficient when it comes to e-discovery. A graduate of Syracuse University College of Law,

Gold served as a judicial law clerk in the Superior Court of New Jersey and then went on to work as a litigator. He then transitioned from the practice of law to consultative sales. Gold has held held senior level sales positions, served as a Solution Architect, and also the Vice President of an IT serve provider firm. Gold is currently the President of the Kansas City ACEDS chapter, frequently educates legal professionals through CLEs, and is an avid writer on the advancements in legal technology



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In-House lawyers and Transformation

By Britton Guerrina, Senior Managing Director and Associate General Counsel at Deloitte Touche Tohmatsu Limited

In today's digital age, organizational transformation is the norm. To compete and remain relevant, companies are digitizing their operations and offerings, entering into new businesses, leveraging new technologies, and revising their internal ways of working. For in-house lawyers, supporting transformation can be a challenge. New products and services, emerging technologies, and revised business processes introduce new risks to be managed, throw risk/reward calibrations off-kilter, and require new or different supporting legal processes. Even small changes — such as the introduction of a new collaboration technology — can challenge legal departments.

Organizations need lawyers who can support them as they undergo transformations, big and small. They need lawyers who can not only identify issues but also help the transformation succeed. To do this, the lawyer must bridge the gap between business and law and even become a change agent herself. Doing so boils down to attitude and communication.

After spending many years supporting organizational change efforts, I offer some advice for lawyers supporting their clients through transformation.

Get in the weeds. Clients often complain lawyers focus on the weeds, but that's because lawyers are in the legal weeds as opposed to the business weeds. To provide cogent legal advice about a transformational change, you need to understand in depth both the business and organizational reasons for the change and how it will occur; only then can you figure out what you can do to support the change and spot the potential legal and risk issues that need to be avoided, minimized, or accepted.

Curiosity about the business is key. What will the future look like? How will we get there? What are the benefits and rewards and who will receive them? How will the change occur? Who will the change affect? When asking questions, focus on the business and the positive; don't start with the negative, where lawyers as professionally trained skeptics naturally tend to go. Likewise, don't start with questions about how the business will address the various risk issues you see. At some point, you will need to raise the issues you see; but before then, take the time to learn and understand why the business is seeking this change and the benefits it is trying to capture.

With these questions, you get yourself in the weeds of the change, giving you a detailed and holistic view of the change and its benefits and risks. With that perspective you can see not only how the change may increase certain risks but also how it may decrease others or how you can mitigate potential risks by taking a different path to the same destination. By asking questions, listening to the answers,

showing excitement, seeing the possibilities, and getting into the business details, you show your clients you are interested in and understand (or are trying to understand) what they want to do and why. With that perspective, they will be more willing to come to you, work with you, and listen to you. And that makes you able to protect the organization. If your client thinks you or the rest of legal "don't get it" -or worse- don't care if they succeed, then you have little hope of knowing what they are doing until it's done and will be relegated to being a bystander waving a red flag of warning.

Join the team. Lawyering is often done from afar, at a comfortable reserve. Asking leaders of the transformation to come to you early and often (and being frustrated if, and when, they don't) is not enough. To support transformational change, you need to be on the team – not a passive observer. That means you need to commit to the project. By joining the team, you signal that you – like they – are accountable not only for success but for failure if things go wrong. People are more likely to open up to you, listen to you, and trust you and your advice when you are part of their "we."

Because change efforts generally evolve rapidly, being on the team is also the best way for you to understand and shape the project's evolution in real time. That may mean sitting on calls without an obvious legal topic or angle, but by being there you demonstrate your commitment, learn various aspects of the project, and understand how they fit together. By being there, you are also able to provide proactive legal advice in areas where the project team otherwise may not have thought legal would be implicated.

Most importantly, by being in the room you can raise potential challenges as the project progresses; as a result, challenges can be addressed early on, rather than when the project is so far gone that it's hard, time-consuming, or expensive to change course.

Some may say this advice is inconsistent with a lawyer's duty of independence. But you can maintain your lawyerly independence even as a team member. To function well, every team needs someone who challenges them and helps avoid groupthink. Your lawyerly training, skill set, and skepticism can help the project team avoid blind spots. And your ethical duty of independence gives you permission to be the foil and to challenge the group, without it being personal. By doing so, you make the team stronger, increase its chance of success, and protect your client — the organization.

Don't be co-opted. Although you are on the team, you cannot become co-opted. It can be a delicate and at times uncomfortable dance, but you must remember your client is the organization, not the team of which you are a member. That means you must speak up and dissent when necessary and help ensure the team's progress and challenges are characterized accurately. Governance processes and updates provide a mechanism to make sure that challenges the project is facing are raised to leadership's attention; your legal updates can help make sure that they are complete and accurate.

While you cannot let yourself be co-opted by the team, you should also avoid being co-opted by the naysayers in the organization. Resistance to change is a given and occurs for many reasons. Changes in power dynamics are often

a source of resistance, and not surprisingly, those who foresee a decrease in their absolute or relative power following a transformation will seek ways to stop it. And legal can become an easy way to do that.

People trying to fight change may try to hide behind legal. (It's much easier and more palatable for a business leader to say "the lawyers say I can't" than "I don't want to do this.") Sometimes it will be true that the proposed course of action is illegal, and as a lawyer it is important to advise your client of their legal responsibilities. But reality — and the law — is often less clear. This is especially true with emerging technologies and new businesses that are out in front of the law and regulation.

In those situations, putting a premium on clarity can often mean no. Instead of allowing yourself to be co-opted or pushed into clarity that may not exist, you should acknowledge the law is not clear cut if that is the case (as often it will be). Help your business colleagues understand the ambiguity, the pros and cons of the proposed actions, and the choices they need to make. By avoiding false clarity, you can help your business colleagues address the business and organizational dynamics head on, even if that requires some difficult discussions and hard decisions.

Prioritize. To most lawyers, the many obstacles and downsides of change will be readily apparent. Good at issue spotting, many lawyers will readily generate a list of the many and sundry reasons why the change won't work, will create risk, and will upset stakeholders. Generating and documenting the list is important — but in its raw form it is best to keep it just for you.

To both achieve change and manage risks, you need to prioritize the risks. Put out a list of all risks at once, and you risk overwhelming people and implicitly sending the message that it's not even worth trying. Treat all risks the same, and neither you nor the team will know where to focus. Not all risks are equal and there will never be enough resources to address them all. You need to categorize the risks and focus your and the team's time and attention on the big ones. Some risks are determinative: if they materialize they will defeat the whole purpose of the change. Address them first. Others are so important they must be managed. Those come next and must be addressed as part of the project's design and rollout. Others may need to be documented and watched or addressed over time.

Finally, some risks may simply need to be understood and accepted. This includes risks that are so bound up in the change that there is no alternative but for the business to understand and accept them.

For example, when email systems were first implemented, they were transformational. And lawyers would have had understandable concerns about how both the volume and casual nature of email communication would create lots of new evidence for litigation. But that downside is so bound up in the benefits and nature of email that it would have been hard to do anything but accept that risk when organizations sought to speed communication through its use.

Stretch beyond the law. It is often unclear how existing legal frameworks apply to new businesses, new ways of working, and new technologies. Existing legal frameworks may be clear but inadequate to address the societal, reputational, and other risks that new busi-

nesses, ways of working, and technologies create. By focusing narrowly on the law, you do a disservice to your organization. Push your business colleagues and the larger organization to consider and address the ethical, reputational and other "softer" risks that change presents. What will customers think about it? How are regulators likely to react (even if the change is "legal")? What kind of backlash will the change create if not managed well? Ironically, if you focus only on the law – and permit the internal debate to be framed in terms of only what is legal – then you may inadvertently let your organization leave unaddressed the reputational, ethical and market risks that may be the biggest risks of all.

Frame the objective, not the process.

When advising the project, set out the objective(s) of the law or regulation and ask the team how they can meet it. Don't short circuit the process by prescribing how each objective must be met, unless the process is mandated in law or regulation. Just as there are often many ways of achieving a business objective, there are often many ways of achieving a legal one. Don't assume that the way the objective has traditionally been met or the way you as a lawyer would prefer it be met is the only one. Allow your business teammates the opportunity to own the legal problem and figure out how to address it. They very well may have solutions that have not been identified before but comply with the law and fit better within their business processes and objectives.

Be a guide. To manage change safely, considering all the angles is important, and rare is the lawyer who can cover all of them.

To support change, you will want and need to understand the perspectives of legal, compliance and risks management colleagues with

expertise and experience other than your own. Many consultations with many groups will be required. But it's important to manage them. Don't send the project team alone on what can seem like a winding and endless journey among the various legal, compliance, and internal risk groups. Guide and support them through what can seem like (or even be) a maze. Think through which consultations are likely to be necessary, so there are no surprises. Map out the most efficient and effective order for them to occur. Talk to your legal and risk colleagues in advance so you can anticipate questions and concerns to help your colleagues frame their questions and provide the information that is needed. Help lay the groundwork with your colleagues by providing the background to the initiative and the advice you have provided. As someone with knowledge on how the legal and risk management functions within your organization work, you can provide invaluable insights to your business colleagues on how to engage with risk, legal and compliance in a productive and successful manner.

Explain, Listen, Facilitate. No organization can succeed in changing itself in the face of internal resistance. Helping the people of the organization understand the change, why it is needed and its benefits reduces resistance. So does listening to their concerns and addressing them as possible or helping them understand why the change is still needed even in light of their concerns. This process of "change management" is critical to a transformation's success.

Often legal and compliance are left out of the "change management" process. That is a mistake. It is just as important to bring the lawyers, risk managers and compliance staff

along on the journey as it is everyone else. If the legal, risk and compliance departments do not understand why the business wants to change and the benefits it will bring, and if their concerns are not heard or taken into account, they can and often will resist.

One of the key roles you can play to support successful change is to make sure that your colleagues across the legal, risk and compliance departments are not forgotten in the outreach and change management process. Help the business team craft communications and messages tailored to the likely concerns and needs of risk, legal and compliance. Proactively help your legal, risk and compliance colleagues understand the business and legal analysis underlying the change and how the risks are being managed. You should also help your colleagues focus not only on the downsides but also the opportunities, including the ways that the change may decrease certain risks that existed before. Finally, it's important to also help your colleagues understand that missed opportunity can be equally as detrimental to the organization as the risks that come with embracing that opportunity.

About the Author

[Britton Guerrina](#) is a Senior Managing Director and Associate General Counsel at Deloitte Touche Tohmatsu Limited. Britt's practice focuses on technology and innovation in the context of professional services. She has extensive experience supporting teams driving change and transformation across multiple jurisdictions. Britt is a graduate of the University of Chicago Law School.

Legal Tech Adoption: A principled approach

By James Côté, Legal Technology and Innovation Specialist, Bennett Jones SLP

“Ironically, the popular business press, focused on hot, emerging industries, is prone to presenting these special cases as proof that we have entered a new era of competition in which none of the old rules are valid. In fact, the opposite is true” [Michael Porter, 1996](#)

In a world of legal innovation where we hear things like “the way we do things are changing”, it might feel counterproductive to reemphasize the importance of looking at what is *not* changing. Even though something feels new on the surface, it doesn’t take much digging to uncover a pattern. There are certain laws of nature that, like gravity, exert their force whether or not you find them convenient. Still, it is more productive to accept them and find ways to work with them than it is to work against them.

We can gain a lot from trying to create a principled approach to adoption of new legal tech products, both within the market generally and within organizations. Aligning with principles makes efforts much more effective. For example, the legal industry, just like every other new thing introduced anywhere, will assuredly move from the left to the right



on the graph (next page) *without skipping any steps*. So you can save your breath on the Late Majority and Laggards if a product is not ready for prime time. (In fact, you can pretty much always save your breath on the Laggards.)

Even though today's technological changes feel new to many in legal, the principles governing them are not. The quickest way to maximize your impact is to: (1) understand the laws that define the way the world works and (2) have the discipline to align yourself in harmony with those laws, no matter how inconvenient it feels.

Principles are rarely convenient but they do help you better understand how the world works. Uncovering and aligning with how the world works makes you more effective than wishing it could be some other way. Being more effective – seeing your actions have your expected results – is more fulfilling in the long term, even if it means letting your ego take a few beatings in the short term.

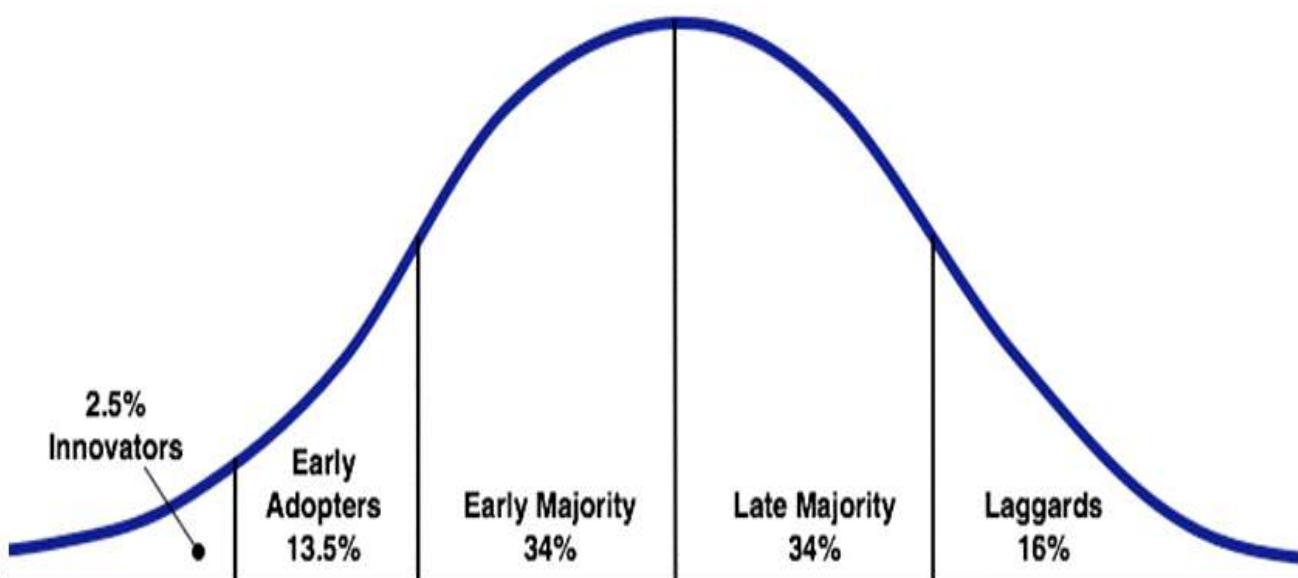
“What the pupil must learn, if he learns anything at all, is that the world will do most of the work for you, provided you co-

operate with it by identifying how it really works and aligning with those realities. If we do not let the world teach us, it teaches us a lesson.” Joseph Tussman (H/T to [Farnam Street](#))

Principle #1: Put relationships first

If you build long-term relationships, you will have more influence than any amount of short-term relevance will get you. Bill Henderson, a very influential legal innovator himself, has modelled this rule exceptionally well. One of the foundational articles on his website reminds us that “[the change agent is a marginal figure](#)”. While this may sound demoralizing (especially if, like myself, legal technology is in your job description), it doesn't have to be.

Figure: [Diffusion of Innovations by Everett M. Rogers](#)



Instead, it takes some of the pressure off. Nobody is expecting you to start blasting your way upstream; and trying to force changes will probably lead to disengagement, or worse. [1] It is far more effective over the long term to focus on building relationships before trying to change things.

Establishing yourself as a trusted advisor gives you the best chance at long term influence. Just take a look at the list of factors affecting change agent success:

- Frequent contact with clients
- Try to solve client's problems instead of advancing your own agenda
- See the world through the eyes of the client
- Act like the client would act
- Gain credibility in the clients' eyes
- Work through others
- Improving technical competence of clients

Given that six of the seven factors include the word "client" it's safe to say that the most effective action a change agent can make is to become more client-centric. If you're working in a firm, this means being lawyer- and staff-centric. [All gaps between market segments are credibility gaps.](#) Jumping into improving technical competence probably feels most natural, given you probably know more about legal tech than others. But if you are committed to being most effective, then I suggest starting with the six other factors.

Henderson exemplifies this relationship-based approach through his blog and (from what I can tell) his limitless capacity for speaking to lawyers of all kinds and trying to see the world

through their eyes. His website and articles are full of anecdotes of listening to lawyers. And instead of pushing an agenda, his articles more often feel [like exercises in empathy](#). For example, [Post 68](#) ("Can Microsoft hit 'refresh' on client-law firm relations?") commends those for their efforts, outlines some potential challenges, and ties it into Everett Roger's framework. It does not, for example, say anything about how far ahead Microsoft is, how behind other GCs or law firms are, or how new technology needs to lead the way.

In acknowledging the challenges faced by these lawyers he strengthens those relationships. By proving to lawyers that he thoroughly understands and cares about their problems, he gains credibility and support for his own endeavours like the Institute for the Future of Law Practice.

Relationships are fundamental to successfully introducing new products. You are asking people to try something new. You are probably making them uncomfortable, no matter how small the change. [Relationship bears the shock of change.](#) People don't like to feel like they have a lack of choice or freedom – as if they're being forced to change. But they do like to have someone take ongoing responsibility for the success over a new joint endeavour.

Principle #2: Pair the right products with the right users

Your adoption efforts are most effective when you pair the maturity of a technology with the right demographic. You can either bring a product to the relevant group; or pick a group and see what products would be the best fit.

Either way, the viewpoint of the segment on the Figure 1 and the product experience must fit together. Each segment has its own distinct reasons to buy something. Changing someone's reasons is trying to change their worldview. People's worldviews are out of your control. Moreover, people get defensive if their worldview feels challenged. Instead, try to get their views to work for you by catering technology that fits.

You can't control either a users' expectations or their experience with a product. Instead, try mapping out which products you have to see who they match up with. When the product's maturity is paired with these users' stance on learning new technology, it's less stressful for everybody. Even if the underlying technology isn't exciting to you, it might still add some convenience to them.

If a product is simply not ready for a certain group, and you do not have the resources to build out everything they would need to feel open, then it is probably best to leave it for now. Spending time on something where there is a better chance of success is better for everybody. If you are an innovator, it might feel uninspiring to simply follow the trends in certain areas; but it is better to follow the trend and stay abreast of your competition than it is to fail at implementing the state-of-the-art and fall behind.

Principle #3: Focus your efforts on the immediate change

You must move linearly through the market segments of innovators, then early adopters, then pragmatists, and finally conservatives

(see below). If there is new technology involved, "[Do not go straight to mass deployment: if you try, you will not pass Go, and you will not collect \\$200.](#)" Mainstream users (pragmatists and conservatives) make up nearly 70% of any market. And they expect a product to work right away with little to no training. If you try to deploy a new technology too quickly, you will get off on the wrong foot with a huge portion of your target market. It is similar to growing a garden: you must first survey and dig your plot, then fill it with the proper soil, and then you can focus on the "real" gardening (or in our case, the mainstream users).

The reasons to buy something evolve from functionality to reliability to convenience to price. These attributes nest within one another: for people to buy something for its improved convenience, that product must already reliably perform the functions it promises to perform. In other words, a product doesn't offer convenience – and thus doesn't appear to pragmatists – until it can function reliably.

Getting reliable results in a convenient way is a challenge for much of the nascent legal tech, which explains why many trying to push it encounter resistance. Whatever resistance you encounter is not necessarily disapproval of the product, but signals what about the product you need to improve before that person will adopt it.

"The impediment to action advances action. What stands in the way becomes the way." Marcus Aurelius

Even if you can't do anything about improving the product itself, you can still nudge it along toward greater adoption by improving your servicing of the product – educating, adapting it to specific pains of your target group, generally owning your customers' successes.

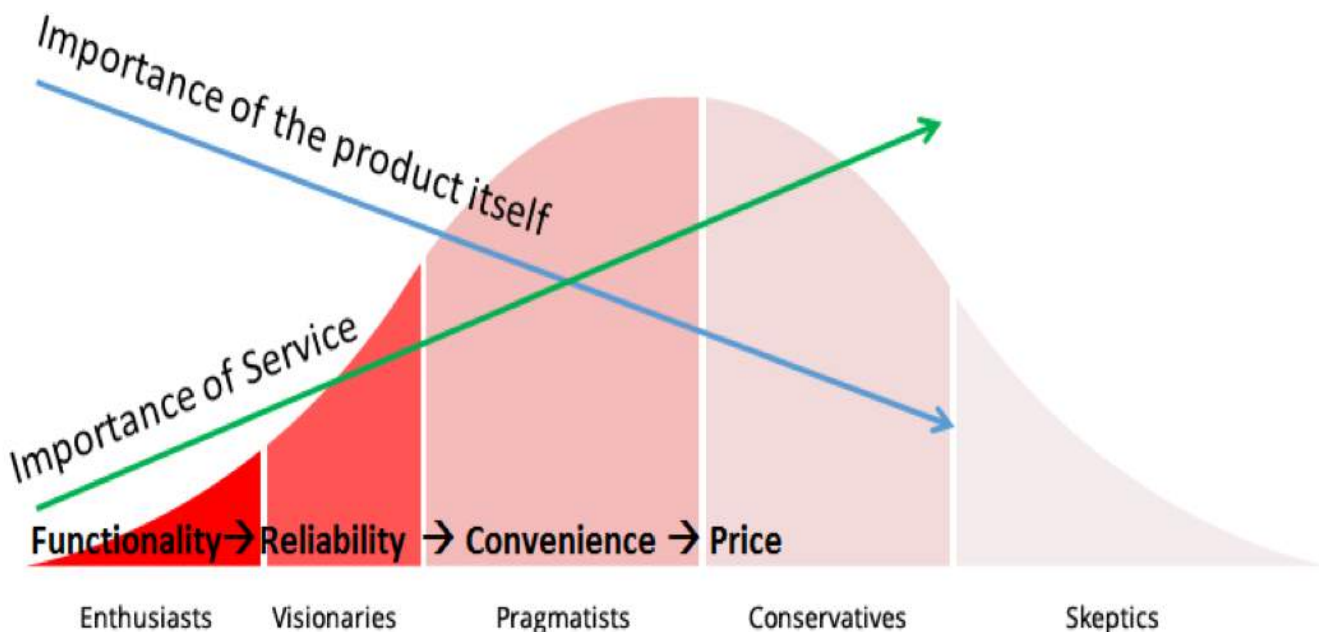
Ironically, while mass deployment can be especially tempting in an organisation (because you have such a captive market), it is in fact especially problematic. Because the faces in these target markets change so little, one needs to be extra cautious about getting off on the right foot. Understandably, if you are sitting at 15% adoption you might feel pressure to get more usage. Your need to focus will be tested. But do not go after everybody right away. Especially, do not bother going after anybody conservative at this stage. Follow principle #4 and focus even more.

Principle #4: Until you break into the mainstream, focus your efforts on a single group

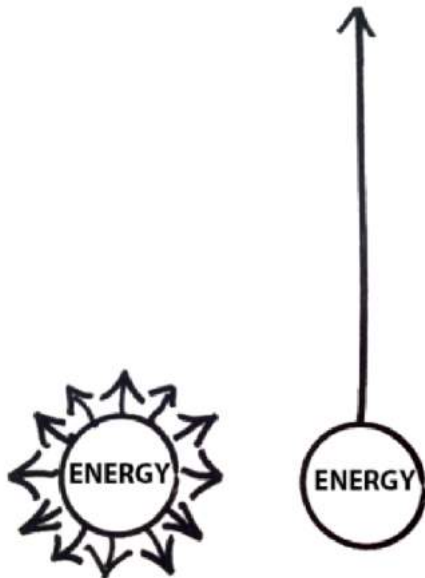
Despite the number of times he repeats the importance of focus in his materials, the number one question Geoffrey Moore gets about [crossing the chasm](#) is *Can't we go after more than one target?* His answer is unequivocal:

Just as you cannot hit two balls with one bat swing, hit two birds with one stone, or brush your teeth and your hair at the same time, so you cannot cross the chasm in two places. We've already discussed this, of course, but trust me, one cannot make this point too often.

It is fatal to attempt diversifying your efforts before having first developed a successful, fully implemented model with a small group of users.



From *Essentialism: The Disciplined Pursuit of Less* by Gregg McKeown:



The more opportunities that present themselves the more disciplined and focused you will need to become. There simply is not enough time or other resources to pursue several breakthroughs at once. The temptation to lose focus is very sneaky. It won't come from laziness, as you might expect. Laziness may actually be a positive attribute since it discourages you from picking up new goals. The discipline to focus comes from resisting the enthusiasm to try new projects. Yes, this is an exciting time! There are new legal innovations every day. And that is a big distraction if you want your firm to implement something new.

Many companies and adoption initiatives fail because they spread themselves too thin instead of establishing a beachhead in one group. Crossing into mass adoption is similar to D-Day: you must muster all your resources toward a single, clearly-defined target. It takes

courage to say “No” when other options seem equally attractive. But if you don't take Normandy, you don't have to worry about how you're going to take Paris. Drawing on principle #3, you must actually cross into the mainstream before you can focus on developing mainstream usage.

The only way to cross this chasm is to make a product #1 with a certain group. Being #4 in five markets is deceptive. If you're in a law firm, this the equivalent of getting a few people in disparate practice groups to use a product. The mainstream does not want to try something new if it is #4. A practice group that is kicking serious ass through a new technology is an exponentially more influential story than a few scattered lawyers who see a tool's potential – even if the total number of users is the same. You don't even have to be #1 by much. Just being a little bit better than the other options can lead to huge results.

Remember principle #1: the change agent is a marginal figure. The mainstream wants to hear about the product from others in the mainstream, from someone clearly biased toward new things. Even people who understand that an innovator's primary goal is to improve the company will regard him or her with suspicion simply by virtue the discomfort-inducing nature of new ideas. The only way to get in a position where people are compelled to try the product is through word-of-mouth from their peers. And the only way for people to actually talk about a product is to have it be the #1 choice for a certain group. And the only time a product gets to #1 in a niche is when the backers “commit to one – and only one – beachhead target.” (emphasis in original)

Principle #5: Own your customer's success

Recall [Principle #1](#): people do not like to feel “owned” or told what to do. But they do like to be “owned” if what that means is a vendor (or change agent) taking ongoing responsibility for the success of their joint ventures. Especially with newer products, there is always a gap between marketing promises made and the ability of the shipped product to fulfil these promises. Mainstream users have neither the desire, nor the capacity to cross this gap alone. Thus, we should not expect or demand that they do so. Ease-of-use might not be a contract requirement, but it is a requirement for maintaining a positive customer relationship.

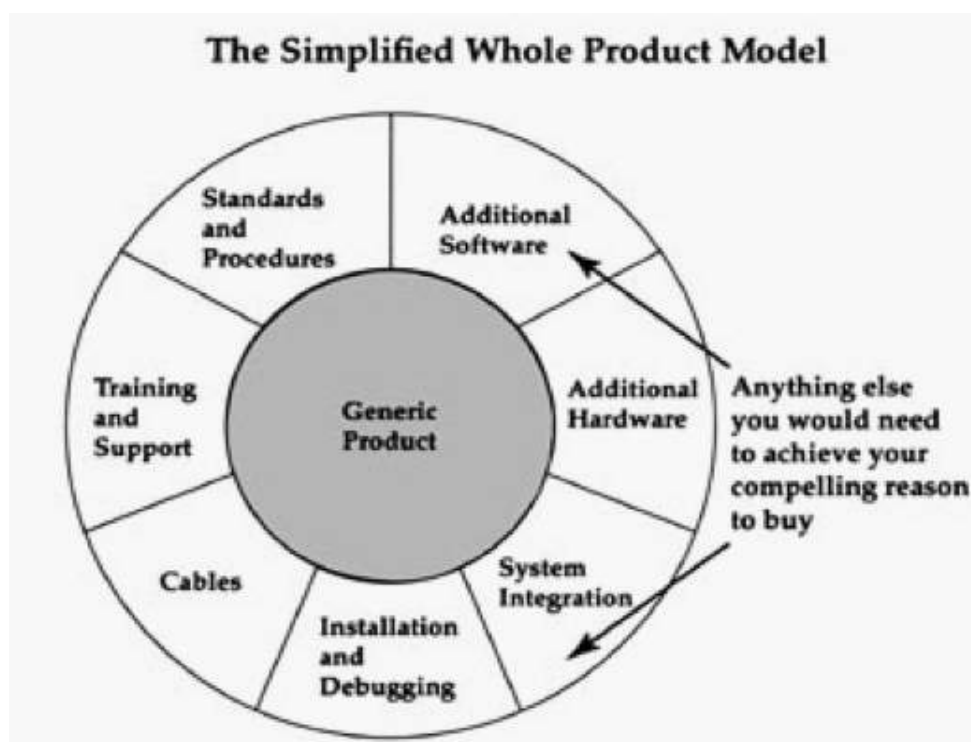
Mainstream users evaluate and buy “[whole products](#)” – that is, not just the new tech but the peripheral software, standards, and support that make this new product an easy tran-

sition. It's not even about the technology at this point (as shown in the graph): any endeavour that competently executes on the whole product strategy has a high probability of mainstream success. [A good core product is a great asset, but it is neither necessary nor sufficient for breaking into the mainstream.](#)

As you can see in the figure below, many variables influence a product's success beyond the generic product itself. We see examples of whole products all the time: from Amazon creating one-click buying to moving companies providing free storage. Any single change brings with it many smaller changes. And the more the product can handle all of those smaller changes, the easier it will be for people to adopt it.

If you leave your customers' success (or law firm's adoption) to chance, you are giving up

A whole product consists of the following:



control over your own success. If your job involves introducing new products to your organization, owning the whole product is even more important. Everybody at the firm associates you with that product: when users have a problem, they think of who recommended the software to them, not some external trainer they met for an hour or a co-founder they've never met. Because it is a closed environment, if you fail to execute on whole products enough times, your reputation will suffer. Companies and intrapreneurs need to work together because there is a lot each can do to help the other in building an effective whole product.

Gaining momentum for adoption of something is only sustainable if it becomes self-reinforcing – as in, real people must genuinely enjoy the product. Developing a market is like developing a garden: you put in a lot of work in during the early stages, but over time, if you created the proper circumstances, things continue to grow mostly on their own. Like a plot of land, a market is a real thing, independent of anyone's actions. Marketing's purpose, therefore, is to develop and shape something that is real, and not, as people sometimes want to believe, to create illusions.^[7] While there is no guaranteed formula for creating a self-reinforcing market, it is guaranteed that people who do not have positive experiences will not come back. In fact, all of the above principles focus on either increasing the likelihood of a positive experience or maintaining engagement through negative experiences.

Conclusion

An overarching benefit of a principled approach is that, even when things don't work out, you have a robust framework for understanding why. If you're having trouble getting

people's attention, try to better understand what they care about (principle #1). Depending on the maturity of the product, you might need to focus on building a whole product, or on later stages of implementation (principle #2). Whatever you focus on, focus exclusively on that; don't chase several groups, run yourself too thin, and not have any sense of what actually worked (principles #3 & #4). Lastly, take care to ensure that clients have absolutely everything they need to succeed (principle #5).

In many cases, the battle is not in convincing but in implementation. If a technology is any good and fairly mature, most people you show it to will agree that it is better. From that point, success is in your hands. Victory yours to lose.

Applying these principles to the legal market, I highly doubt that lawyers are "finally coming around to legal innovation" because they now "see the light" in some way. Recall that each segment on the bell curve in Figure 1 represents a worldview. It is highly unlikely that people *en masse* are radically changing their relationship to technology. (Have you?)

Technology is merely the current easiest-to-adopt method of meeting current challenges. Market pressures are one thing, but there are more ways to improve operations than new technology. As technology enters the mainstream it must be made increasingly easier to adopt in order to continue being successful. Though it is tempting to look at legal innovation as a new world where the rules of the game are changing, remember that law is not the first industry to undergo technological change. Innovations will not diffuse in any uniquely lawyeresque fashion. Not aligning yourself with the right principles is

“the difference between attempting to fly by strapping feathers to one’s arm and flapping versus designing systems that harness the power of Bernoulli’s principle and the concepts of lift, drag, and resistance.” If we are to have any success in changing law firms we must be disciplined.

“This isn’t rocket science, but it does represent a kind of discipline. And it is here that most high-tech management shows itself most lacking.” Geoffrey Moore

Note

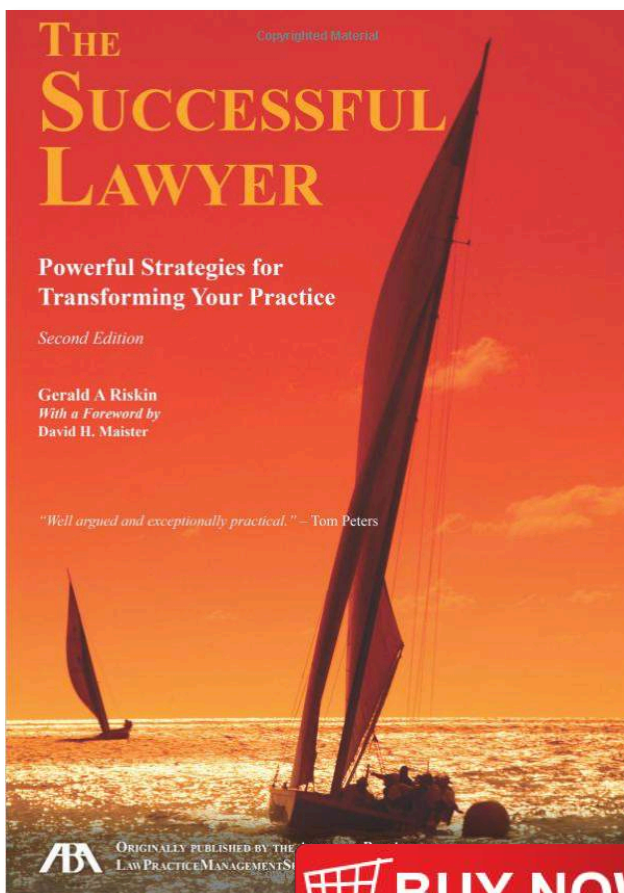
[1] “There is nothing more difficult to plan, more doubtful of success, nor more dangerous to manage than the creation of a new order of things... Whenever his enemies have the abili-

ty to attack the innovator, they do so with the passion of partisans, while others defend him sluggishly, so that the innovator and his party alike are vulnerable” – Niccolò Machiavelli. The Prince, as quoted in Rogers, Everett. Dif- fusion of Innovations pg 1.

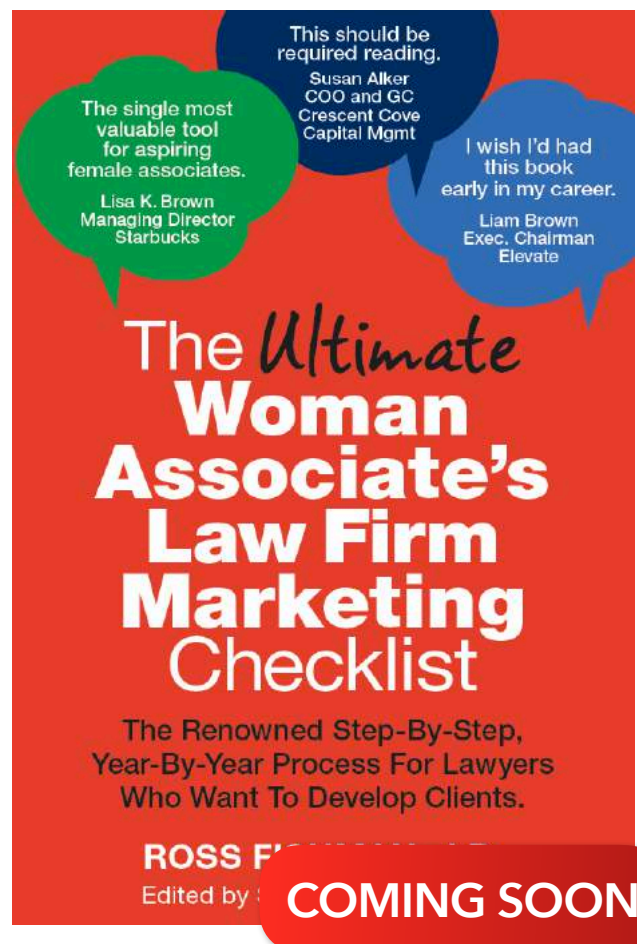
About the Author

James Côté is a Legal Technology and Innovation Specialist at Bennett Jones LLP. He combines technology and innovation with business strategy to navigate the changing legal landscape. Before law, he worked as a journalist, entrepreneur, engineer, and farmer.

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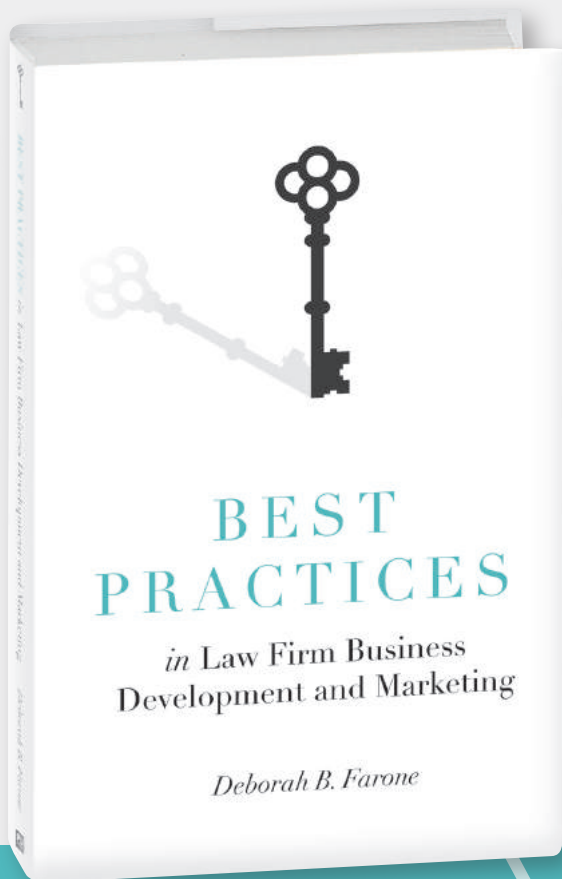
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TABLE OF CHAPTERS

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- 2 Technology and Marketing: The Impact of Procurement, Proposals, Outsourcing, and AI
- 3 Client Relations
- 4 Culture and Pursuing New Business
- 5 Building a Marketing Department and Hiring the Right CMO
- 6 Rewarding Business Development, Coaching, and Training
- 7 Personal Positioning, Visibility, and Tactics
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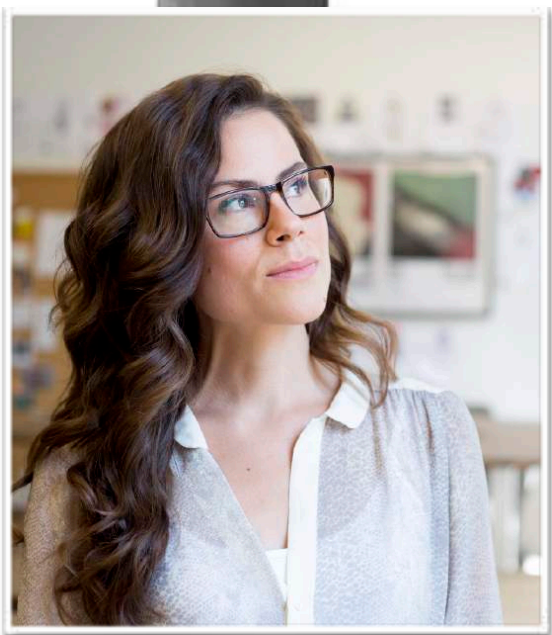
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Man vs. Machine, It's a Complimentary Relationship

By Aileen Schultz, Founder & President World
Legal Summit, Principle, Fractal Scale Inc.,
Co-Founder, Global Legal Hackathon

There's no use denying it any longer, yes, machines are taking over traditionally human held jobs across all sectors, including legal. However, this is not by any means news to the 21st century. Technological advancements have been replacing humans in the workforce since the dawn of civilization; starting with tools as rudimentary as stone grinders, pulley's, and the process and tools involved in starting a fire.

So, why does the evolution of technology feel so imminently threatening right now? Most would argue that it is due to the accelerated pace and the types of emerging technologies that we're now developing in this century. Most predominantly the recent developments in AI and automation (which by the way isn't new technology, it's development and implications have simply rapidly accelerated), are creating seemingly categorical threats to the very relevance of human beings altogether.

As human beings we have become defined by our outputs, both as collective populations, and as individual labourers. We find purpose and fulfillment in these contributions, and we support ourselves and our families by getting paid for conceiving them. These outputs are at the very base of what drives our socio-economic systems minute by minute, and of how we define and identify ourselves in a social context.

Whereas previously technology has *created* and *enabled* outputs, we now live in a world where these outputs are going to be widely *replaced* by technology. With the generally accepted suggestion that by 2030 [800 million jobs](#) could be replaced by technology (specifically automation), it's clear the ability to continue "outputting" (as we have been) is greatly at risk. Naturally, this then puts our very identity and definition at risk, while also threatening our perceived dependencies on these outputs for basic survival. Will we still be relevant?

The short answer is, "yes", and in fact it seems we could be more relevant than we ever have been. I will now explore the areas where machines are best suited, as they should be, and how moving machines into these roles is opening up truly human opportunities like never before.

Let the Robots do us a Favor

What exactly are the hundreds of millions of jobs that "robots" are taking over? In the legal industry in particular we are seeing a handful of core areas where machines are particularly better than us: automation, data processing and analysis, and research.

Automation:

It's no secret any longer, everything that can be automated, will be. It is to the point where jurisdictions worldwide are working to define what a fully automated organization even looks like in a legal context. For example, the DAO (decentralized autonomous organization) is a blockchain enabled organization which has completely automated processes of operation. Everything from HR hiring processes, to the billing and finances of the organization, to the onboarding of new clients, is a complex system of algorithms weaved throughout the operations of the organization.

With cases like [JP Morgan's software taking seconds](#) to parse financial deals that used to take their legal and financial teams hundreds of thousands of hours, it's not difficult to see how machines are far superior to humans at these tasks.

Data Processing and Analysis:

Again, not a surprise here, but data processing and analysis is what computers were meant to do, and the mechanisms for data management are only going to improve. In the legal industry in particular there's been a mass increase in the ability to effectively use large amounts of data. This better data management allows firms to make clearer and more strategic decisions through improved business intelligence, while improving client relationships and knowledge management processes.

Research:

Similar to data processing and analysis, computers are evidently far superior than us at sifting through mass amounts of information;

online search engines are regular proof of this. In the legal industry and well beyond there are hundreds of thousands of petabytes (1 petabyte = 1000 terabytes) of data (or information) available to us. This availability has completely transformed our abilities to conduct research effectively.

On the one hand this “age of Big Data” has created complexities above and beyond what our more traditional tools are equipped to handle. Though, on the other hand as our tools are further developed for better processing of this information, we can perform research related tasks in a far more efficient way, and with a far greater scope than ever before.

With the continued “Cambrian Explosion of Data” (see estimates below), we will need increasingly complex tools and computing capabilities to analyse it effectively, tools and capa-

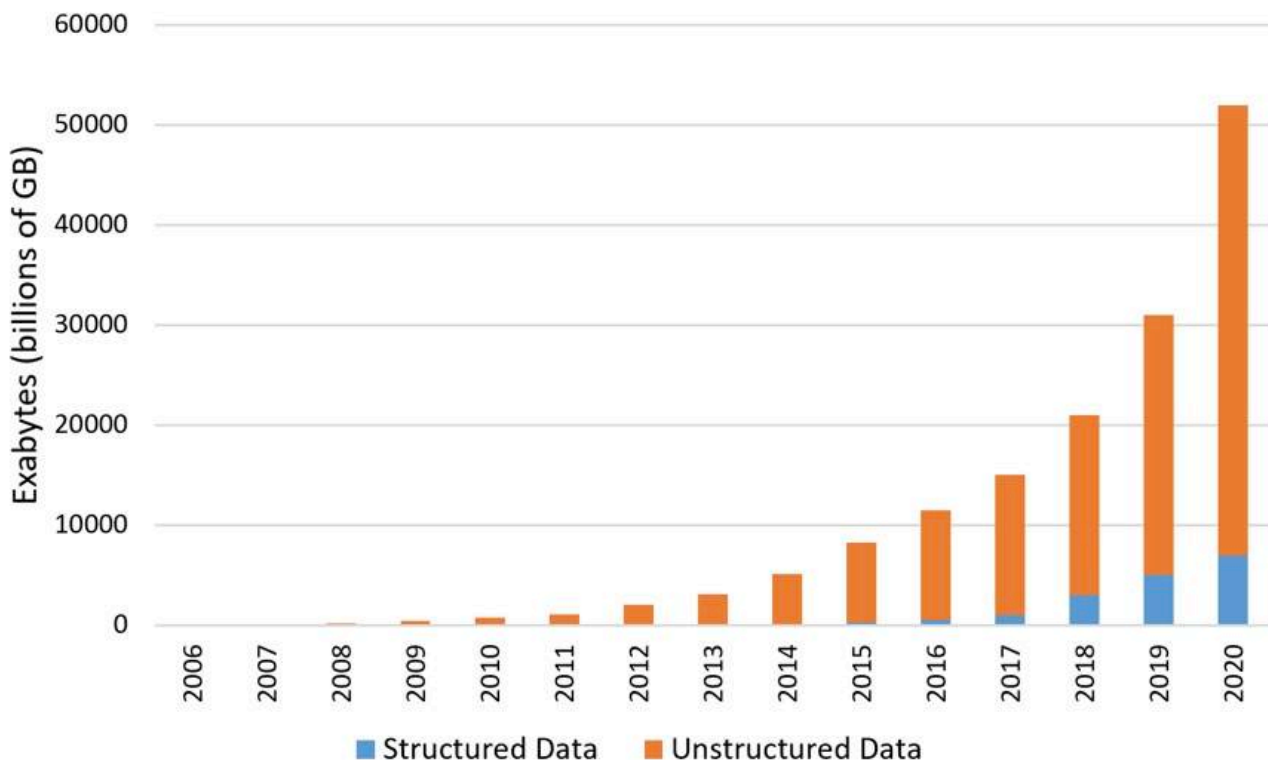
bilities that go far beyond what our current human brains are equipped to handle.

But, Wait ... Humans have Unique Skills Too

We often dwell on the ways in which machines are taking over certain jobs, rather than focusing on how machines are actually creating an environment in which uniquely human skills will be in increasing demand. A great illustration of this is the 2019 “most in-demand skills” analysis that LinkedIn published. A quote from Paul Petrone, editor of LinkedIn Learning, [stated the](#) following:

“Interestingly, the newcomers to our list were uniquely human traits: among soft skills, creativity and adaptability joined the list for the first time, and among hard skills, people management was a new addition.”

The Cambrian Explosion...of Data



Source: P. Cheesman, “Powering your Business by Leveraging your Data. How MDM and Big Data can Transform your Business”

Increasingly emotional intelligence is an in demand skill set, and certainly uniquely human. Our ability to understand social contexts, to have self awareness, and to manage relationships effectively are among a few of the core skills involved in our emotional intelligence capabilities. These are also abilities that machines are simply not well equipped to handle, and for which humans will be able to stand out against their robot counterparts. In a [2011 employer survey, for example](#), 71% of those surveyed indicated they hold emotional intelligence (EQ) above IQ, and 75% indicated they were more likely to promote employees with high EQ.

In the legal industry particularly these “human” skill sets are going to become imperative to maintaining a successful practice. We are

already seeing the demand for a sophistication of legal practice that is more human, focusing on skills like better communication and customer service.

When discussing this with David Cowan, creator of [The Dialogue Box](#) (strategic methodology for communication in business), he summed it up quite nicely:

“Communication has to be a core competency for lawyers today, and there is a direct correlation with the advance of technology. Areas of legal practice are being commoditized, which means the premium on human skills is rising. Technology is good at handling rules and big data. Clients, however, are sentient beings, they have emotion, and predicting behaviour and choices in specific circumstances is not

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1. Complex Problem Solving
2. Critical Thinking
3. Creativity
4. People Management
5. Coordinating with Others
6. Emotional Intelligence
7. Judgment and Decision Making
8. Service Orientation
9. Negotiation
10. Cognitive Flexibility

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3. People Management
4. Critical Thinking
5. Negotiation
6. Quality Control
7. Service Orientation
8. Judgment and Decision Making
9. Active Listening
10. Creativity



Source: World Economic Forum | The Future of Jobs Report

quite so easy...the difference between “relationship” and “transaction” is becoming starker by the day, and this is the lens through which we can perhaps best understand the human vs machine dynamic: It is about relationship versus transaction.”

Complimenting rather than Displacing Demand for Humans

“The biggest effect of intelligent technologies in the workplace isn’t automation of jobs; it’s the reconfiguration of all positions, as tasks evolve and worker capabilities are augmented by machines.” - [Accenture](#)

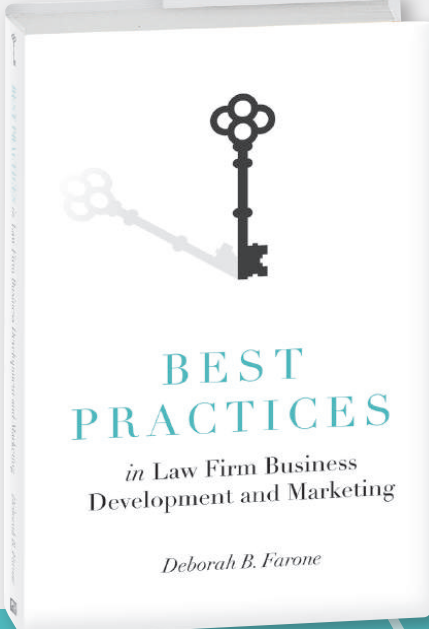
This particular quote is incredibly compelling, as it highlights the exact distinction that is so important here. It is not that technology is displacing the demand for human beings, rather technology is restructuring the workforce and creating new demand that is more uniquely human than ever before. Advance-

ments in technology are pushing us toward acquiring new skills, and favoring those of us that already have them. Skills that previously were not sought after. Skills that define us as human beings rather than as labourers.

In this sense then technology is incredibly complimentary to our human capabilities. It is driving us toward a more human future, where we will increasingly find ourselves in roles that allow us to access and thrive off that which makes us uniquely, and happily, human.

About the Author:

[Aileen Schultz](#) is a Toronto based award winning growth and innovation strategist with a global footprint, and a passion for creating better exponential systems. She works with SME's across several sectors with a focus in legal and blockchain technology.



BEST PRACTICES
in Law Firm Business Development and Marketing
Deborah B. Farone

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TABLE OF CHAPTERS


- 1 Opening the Boxes of Best Practices
- 2 Technology and Marketing: The Impact of Procurement, Proposals, Outsourcing, and AI
- 3 Client Relations
- 4 Culture and Pursuing New Business
- 5 Building a Marketing Department and Hiring the Right CMO
- 6 Rewarding Business Development, Coaching, and Training
- 7 Personal Positioning, Visibility, and Tactics
- 8 Traditional and Social Media
- 9 Women and Marketing
- 10 The Future of Business Development and Legal Marketing

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The Five Pillars of Performance for the Legal Department

By Richard G. Stock, M.A., FCIS, CMC, Partner with Catalyst Consulting

This is the twelfth in a series of articles about how corporate and government law departments can improve their performance and add measurable value to the organizations.

After absorbing years of trade literature and attending inside counsel conferences discussing value, doing more with less, scorecards, metrics and key performance indicators, the time has come to distill the ingredients into five basic elements. I term these the pillars of performance for the legal department because they will support an array of paradigms, programs and operating practices.

Over the years, I have relied on 17 critical success factors and 52 indicators for law departments, the 29-point check-up for legal departments, and endless variations of balanced scorecards with 12 key performance indicators. So what works best, is practical and resonates with Chief Legal Officers in the quest for performance?

Years ago, the legal department was viewed as part of the necessary overhead. In the worst cases, it was regarded as the business prevention police and over-enthusiastic gatekeeper to manage risk. Times have changed and most departments work hard and are highly service-oriented – perhaps to such an extent that they discover they have become all things to all people.

This makes it difficult to answer the question “What difference do the lawyers make?” Part of the answer must be the extent of “strategic impact” of the legal department.

Lawyers can add value to the extent that they help business get done. While that requires daily operational support of business units, some analyses reveal that the amount of strategic legal and project work typically consumes less than 30% of department resources. The first pillar of performance for a legal department must be its contribution to

the strategic priorities of the organization. These can be transactions, regulatory hurdles, or high-profile litigation. The CLO must find a way for allocate enough legal resources to such priorities by allocating at least 20 % less time for operational support and upwards of 50% for work of strategic value. It follows that these priorities must planned and featured as the top priorities in the legal department’s business plan.

The second pillar of performance is intellectual capital. Surveys consistently find that a CLO’s biggest worry and challenge is to keep the lawyers engaged. This may not be much of an issue for counsel in their first 5 years as lawyers , but after a while the novelty wears off. Legal specialization and gaining an intimate knowledge about the business will take another few years. And then perhaps a few experienced counsel can secure a transfer to another part of the company or are able to lead a business unit or special project. Talent management should not be a matter of survival of the fittest. Too many legal departments fail to live up to their full potential. The stamina needed to work 50 hours per week is not a substitute for leveraging the intellectual capital that is legal services, especially the capabilities of senior counsel. The CLO must insure that the initiatives making up this pillar are at the forefront of the department business plan and embedded in lawyers’ personal development plans.

Professional associations and trade publications alike have been recognizing legal departments for innovation for the last 7 years. Many awards feature improvements in how counsel work with their clients, while others highlight collaboration with external counsel.

Every balanced scorecard addresses business process improvement, LEAN initiatives, and productivity in some form. Productivity measures are a tough sell with counsel used to working as solo practitioners with their clients. However, considered through the lens of innovation for efficiency, the possibilities become interesting. Efficiency improvements have to be measurable. They can be designed to reduce client dependency on legal for operational support, or they can take the form of technology literacy such that counsel can function without significant assistance from law clerks and paralegals. Measures to improve turnaround time for client work are always welcome. Without innovation as the third pillar of performance, lawyers will always find themselves behind the demand curve and will grow frustrated because of their unavailability for strategic work.

It is inevitable that costs be the fourth pillar of performance for the legal department. CLOs and their companies want predictability of their legal spend for individual matters referred to external counsel and for the fixed costs of the department. Studies show that inside counsel lose up to 20 % of their available time on administrative matters, non-productive meetings and interruptions.

Quovant's Other studies show that they underleverage available technology and are overly dependent on support staff. Setting targets to lower unit costs, that is to say the effective hourly rate for legal and advisory work, is a viable approach to strengthening the fourth pillar. Equally important is the use of alternative

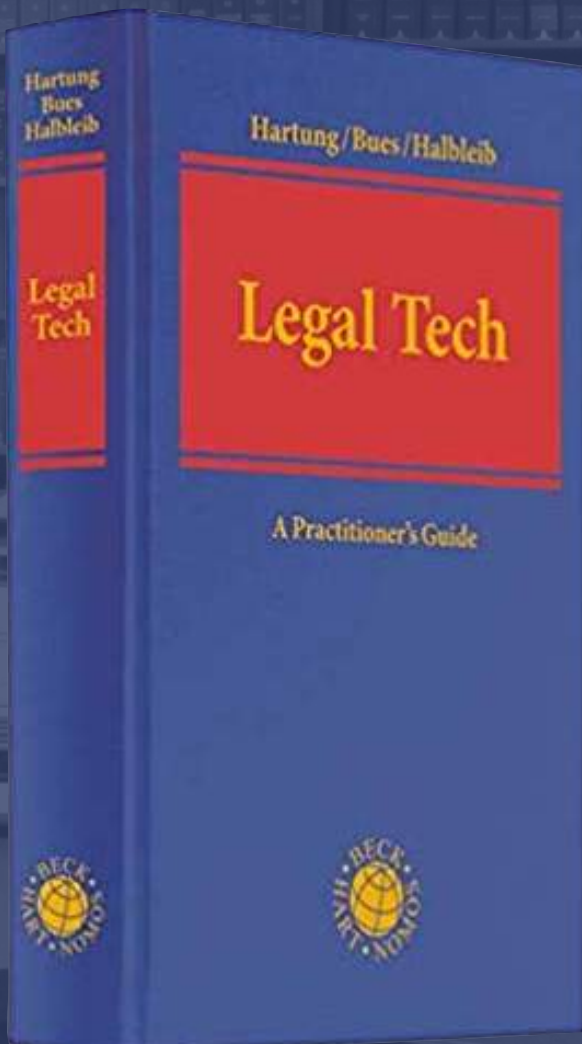
fee arrangements with external counsel that will motivate law firms to better delegate tasks and minimize the number of hours needed to get the job done. Too few legal departments master law firm economics and non-hourly fee arrangements. The pillar of cost performance has been weak for decades. There is always a way to reduce total legal spend.

Management and administration are not synonyms for leadership in legal services. Ensuring that a legal department performs to its full potential is the responsibility of everyone in the department. It is the reason that some companies extend formal leadership training to all lawyers as a matter of course and not as an elective. Leadership relies on a broad range of attributes, skills and knowledge. Analytical skills, oral and written communications, negotiating skills, team building, and adaptability are just a few. Without sufficient leadership as the fifth pillar of performance, there will be very little strategic contribution, innovation, cost-effectiveness and growth in intellectual capital

About the Author

[Richard G. Stock](#), M.A., FCIS, CMC is a partner with [Catalyst Consulting](#). The firm has advised more than 150 corporate and government law departments across North America and abroad over the last 25 years. For legal department management advice and RFPs that work, Richard can be contacted at (416) 367-4447 or at rstock@catalystlegal.com. See www.catalystlegal.com

Read the other articles about how corporate and government law departments can improve their performance and add measurable value to the organizations, by Richard G. Stock | [Click Here](#)



MUST READ

Markus Hartung, Micha-Manuel Bues,
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This new handbook comprehensively analyzes the current and future states of digital transformation in the legal market and its implications from a global perspective. It provides a multi-faceted overview of the use of Legal Tech in law firms and legal departments in different parts of the world (including Africa, Australia, Brazil, Canada, China, Europe, Russia, and the United States) and formulates clearcut strategic advice for a successful digital transformation. With

concrete examples, best practices and first hand experience reports, more than 50 renowned international experts explain how and to what extent Legal Tech - through automation and technology - will change the way legal services are delivered. The reader learns what strategic decisions and steps are necessary to equip the legal industry for the changes to come. Future developments (e.g. Smart Contracts, Blockchain, Artificial Intelligence) are also explained and analysed in this unique book.

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The Value Series

A ClariLegal interview with Priya Keshav,
founder and CEO of Meru Data

By Cash Butler, founder of ClariLegal and James Johnson, principal attorney of First Venture Legal.

ClariLegal had the privilege of speaking with Priya Keshav, founder and CEO of Meru Data, an information governance solutions company. Priya comes from a background of having worked for KPMG for nine years, with approximately 17 years of experience in legal services. In that time, Priya has provided a number of services to the legal industry, including eDiscovery, computer forensics, investigations, and information governance.

What does value mean to you?

The meaning of value is different for everybody – it depends on the context very much. To me, value at a high level is understanding what my clients need and delivering that consistently. On the other hand, my clients perceive value based on how I enable them to succeed in meeting their business objectives and goals. My clients also place value on the quality, the collaborative approach and the trust built into the relationship.

What's the value or value proposition your firm delivers?

We want to help companies understand and manage information as one of their most important assets. The idea of value is front and center in information governance. One of the biggest things we hear from everybody is that is it important to maximize the value of the data that gets created and stored. But, actually doing this is complex and that is the other thing you hear from everybody. In fact at the most fundamental level, it starts with ascribing value to information – there is no standardized way to value information. This value does not show up in a balance sheet but it is not that people unaware there is an inherent value to information.

The value of data and information at a high

level can be binned into:

1. The negative impacts and risks if information is not managed correctly. Many recent events have highlighted privacy and security risks and this has elevated the importance of information governance both internally and externally. More value is now associated with identifying and managing these risks.
2. The positive impacts and benefits that include better decision making, better compliance with regulations and cost savings.

We have focused our efforts at Meru on both these aspects. It is very important for us to enable our clients to fully understand the value of their data. We have developed tools that help our users articulate how data within their organizations is being stewarded. We help our clients to develop meaningful metrics against which they can track and report how they are managing their data, the risks and the value that is being generated by their data.

Do you see trends or common themes among your clients in how they perceive value?

As I mentioned before, there is a growing understanding across companies in almost all sectors on the value of managing information. I also see some common theme developing around the challenges to be able to do this effectively. These include how this value can be tracked in a practical and consistent manner and in getting buy-in from all the stakeholders on how this should be done.

Companies that take focused and deliberate steps towards this generally have more successful information governance programs. These companies typically have looked closely at their entire data footprint and they better

understand both their internal and external data flows. They have clear ideas about where the most value and the most risks reside.

We also see focus around governance especially after companies have been in a reactive mode, typically due to external pressures or initiatives around cost reductions. These eventually either evolve into more sustained programs focused on value. Sometimes, customers find their programs not progressing as they would like – this happens especially if there is no clear focus or stakeholder buy-in. We have helped our customers to ensure that their programs continue to grow building on the initial momentum. For us at Meru, it is important to understand our customer's immediate and longer-term objectives around information governance and help them to achieve these in a sustainable manner. We often help our customers develop objective and actionable metrics for our customers to track progress.

How does your firm measure your delivery of value to your clients? How you measure your vendors' delivery of your sought value to you?

As I mentioned before, we value understanding what our clients need and delivering that consistently. We also value making it easier for our clients to achieve their objective. To do that that we have to a very clear idea of their goals and what success means to them. It is very important to understand the client's current state, where they are trying to go, and why. Understanding the ultimate objectives driving the client needs help us to prioritize our actions to do the right thing for our clients.

We expect the same level and quality of service from our vendors. We value responsiveness

and taking ownership. Sometimes it is not possible to define or anticipate the full scope of a project at the outset. Our best vendors are able to recognize these situations and we value how they plan ahead for that and manage the process in an efficient manner.

What are some of the metrics you use to measure the delivery of value?

Many of the metrics I use to track delivery of value come from my years of consulting. Are key project goals and objectives being met? Are we tracking on budget and time? It is also important to have metrics that ensure the quality of delivery.

Often there are elements critical for ensuring value that are not easy to track with metrics. An example of this would be ensuring good communication, especially in situations with multiple stakeholders or complex workflows. We have handled these in the past by incorporating communication and feedback into the delivery planning. This might mean including regularly scheduled check-in meetings, meetings to ensure stakeholder alignment at critical points etc and agreeing on a communication plan.

Sometimes when new workflows that deliver value are being developed it would be good to focus on ease of use and other aspects that would ensure the workflows get utilized as intended.

Do you think parties in the legal industry understand the concept of value and the value exchange?

Yes, the concept of value is understood well in most situations. But I am not sure if we always ensure value gets delivered. Especially around information governance, like I have

mentioned before, there is a high level of understanding of what needs to be achieved and the value but the actual nuts and bolts of realizing the value are still unclear. To fully realize the value, it is important to set these efforts up with the right objectives, the right execution plans and the right metrics to track them. and so that the full value of the effort is realized.

How well do you see parties communicate about value? Are there sides of the industry driving the conversation?

It depends. Communication is an important aspect of ensuring value gets delivered. Often both companies and vendors need to have a frank discussion about gaps between problems trying to be solved and the solutions available. It is important to take a step back and understand the objectives, the culture, and the maturity level of the organizations involved.

How do you feel RFPs and project management platforms help facilitate discussions on value and its delivery and measurement?

RFPs are supposed to help with getting a better understanding of different solutions, their capabilities and fit so that a better solution might be selected without significant investment of time and effort into the wrong solution. But many times, people start with templates to put together an RFP and some of the questions in these templates might not match what you want. Sometimes, if there is a limited understanding of what is needed and the current market landscape, people might not even know what they want. Then you get responses from different companies that are not easily comparable and there is going to be a range in the responses. I've seen clients influenced by the marketing that goes along with responses where the 'coolest' thing is selected as opposed

to what is really needed. I have been in situations where we help customers to make what was selected to work for a year or so before they end up going back to the drawing board. The effort involved with RFPs, especially if you want to have a good outcome, also limits how often these can be done. So you may end up getting locked into a pricing and delivery model in a fast evolving industry. In my opinion, there might be some alternate models that might be more efficient to buy or select services.

Are there any ways to improve the RFP/vendor selection process and/or facilitate communication?

A key aspect is to spend the time to understand what you need. If helpful, use somebody who can help you through that process. The clearer you are, the better your vendors are in supplying their services. Make sure you end up selecting a vendor who can deliver what you need as opposed to selling you the next cool technology. They can also use platforms like ClariLegal that can facilitate this process as well. But the critical step is to understand what is needed before.

Disclaimer: The statements of the interviewees in the Value Article Series are opinions and observations of a personal nature and do not necessarily reflect the opinions and policies of their respective employers.

About:

[James Johnson](#) is principal attorney of [First Venture Legal](#), a Cambridge, Massachusetts-based law practice focused on corporate and transactional law for very-early-stage startups. James assists entrepreneurs and small business owners with corporate formation and

structuring, contracts, commercial law, employment matters, and early-stage fundraising. His practice utilizes alternative fee structures to deliver value-based service to early-stage ventures. In addition to practicing law, James works with ClariLegal, focusing on building out its innovative platform and spreading the word of ClariLegal's mission to reduce cost and complexity in legal vendor selection and management for law firms and corporations.

[Cash Butler](#) is the founder of ClariLegal. A seasoned legal technology innovator, Cash has over 18 years of experience in the legal vertical market, primarily working in eDiscovery, litigation & compliance. Cash is an expert in legal vendor, pricing and project management.

[ClariLegal](#) is a preferred vendor management platform for legal services that improves business outcomes. Made for legal by legal experts. We match corporations and law firms with preferred vendors to manage the work through a fast and complete RFP and bidding process. ClariLegal's platform allows all internal client segments to improve business outcomes across the board – predictability, time and money. [Learn more](#)



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Thank u, next

Design Thinking – When the craze ends

By Sara Rayment, Founder of Inkling Legal Design

Everyone loves a fad. Fads make leaders look effective during times of crises; they're platforms for younger generations to advance their careers; and a convenient PR response to market uncertainty. Fads are a strategic sleight of hand. They trade on novelty. Despite being overhyped, fads usually originate from credible ideas, the impacts of which linger long after the mania has fizzled out.

In the age of artificial intelligence, we're seeing this play out with the rise of legal technology and the maturity of legal services market. Design-thinking is a way of signalling to the market that lawyers are prepared for the fourth industrial revolution. Nothing to see here folks. We've got it under control. Lawyers will not be replaced by technology. Cue social media photos of smiling teams

making the world a better place, one Post-It note at a time because #innovation.

You know the drill. It's the fad effect. But when the façade dissolves, and we're left grappling with the impacts of technological upheaval, what will be design-thinking's legacy in the legal industry?

As one of only a handful of legal practitioners working at the intersection of law and design, I've been lucky enough to observe just how design-thinking is leaving its mark on the profession. While lawyers acknowledge the potential benefits of human centred design, it remains deeply sceptical and has been putting its own spin on the fabled methodology. What happens when the hype ends is anybody's guess - but I'm willing to try.

Here are my 5 of predictions:

1. We'll be able to spot the pretenders

Faced with the prospect of 'software eating the world', lawyers everywhere jumped quickly onto the legal innovation bandwagon hosting hackathons and design-thinking workshops. But as digital transformation entered the lawyers' lexicon, many legal teams began actively building innovation muscle. Others, continued to engage in highly publicised but cosmetic activities now known as "Innovation Theatre".

The difficulty with the digital age is that transparency in marketing goes both ways. After 3 or 4 years of posting social media updates about design-thinking workshops clients will inevitably ask the question: *what have you created?* If there are no pilots, betas, launches,

releases, partnerships or in production posts this question will be entirely rhetorical.

But the impact is more significant than a marketing stumble. Organisations who have invested successfully in innovation strategies are beginning to establish a distinct competitive advantage and new sources of revenue. The Australian legal market has already begun experiencing this recalibration with premium law firms losing market share to alternate legal services providers with more elastic structures.

Clients are also placing greater pressure on legal providers to verify the efficiency of their systems to ensure they aren't just planning to bill into an abyss.

Prediction: In the next 18 months, the pretenders and innovators will become apparent.

2. Lawyers will demand greater competency in design-thinking

The underlying philosophy of design-thinking places great value on psychological safety which is developed through mantras such as 'embrace ambiguity' and 'learn from failure'. Speak to someone after a design-thinking workshop and you'll see them positively beaming with confidence. But the inquiring minds of lawyers soon realise that a 1-day workshop in design-thinking doesn't prepare them for running an innovation project.

For those delving deeper, we're seeing confidence diminish sharply as lawyers realise just how complex design-thinking can be. The interdisciplinary approach means lawyers are being exposed to everything from scientific methodologies to colour theory. The blending

of creative and analytical thinking, which is the essence of design-thinking, is tremendously difficult if legal teams aren't supported properly. Clients are again driving the demand for collaborative problem solving on end-to-end solutions from internal client to external lawyers. But this 'warts and all' approach is somewhat risky for lawyers based in organisations only engaging in innovation-theatre. Legal service design is complex and requires the right environment for innovative ideas to move from workshop to workflow. Collaboration is a litmus test for clients to discern whether the firm has real innovation capacity.

With immense pressure on lawyers to deliver successful innovation projects, building competence is critical. Lawyers need appropriate tools and training to take design-thinking from fad to foundational tool. But they also need the right culture that permits creation to support the application of those skills. The legal profession is only beginning to understand the importance of innovative culture as fundamental to the development of successful innovation projects. There is very good reason companies like Google, Amazon and IDEO focus on culture; they recognise its pivotal role in successful innovation. Concepts like work rituals, play culture and pet projects are not part of the law firm model. But they should be.

Prediction: In the next 12 months, lawyers will demand more specific resources from their organisations to assist with collaborative problem solving as well as culture change.

3. We'll recognise legal innovation as a complex role and make someone responsible for it

The decentralised approach to innovation favoured by the legal profession is misconceived. While lawyers might need an understanding of design-thinking, that doesn't mean every lawyer should be responsible for innovation. Imagine how well it would work if we made everyone responsible for payroll? Or strategy? Or marketing?

Secondly, the definition of innovation in the legal services industry is a misnomer encompassing any activity of improving the delivery of legal services, regardless of whether technology is used. Most other industries simply call this research and development (**R&D**) with 'innovation' reserved for solutions which are truly disruptive. In these organisations, R&D is usually a core function of the business which brings us to the third issue.

R&D departments typically develop new products and services, shape the business strategy, drive efficiency and continuously develops and the protects the organisation's competitive advantage. There are devoted resources responsible for this task.

By contrast, the dominant approach in law firms is to use lawyers to drive innovation projects because of their legal expertise. But most lawyer led projects tend to stall because client work will always be prioritised (as it should be). Asking lawyers to step off the billing treadmill is counterproductive. Asking lawyers to be responsible for innovation while still on the treadmill is potentially destructive; the reality for many lawyers is that innovation represents an unwelcome increase in unbillable time for which there is no direct tangible benefit to them. There's simply no time to

experiment, to learn from failure or to embrace ambiguity. In this context innovation isn't considered an investment, it's an opportunity cost which makes success more critical, hampers the establishment of psychological safety and undermines the success of the project team. There is no space to be creative.

It is common in industries that rely on professional knowledge such as biotechnology, medicine and pharmacy to employ professional scientists, doctors and pharmacists in product development roles. Yet law firms have been slow to hire lawyers specifically for legal innovation projects. Law firms will also experiment with other ways of taking lawyers off the billing treadmill such as internal secondment and establishing short term project teams.

Prediction: Legal organisations will invest in centralised R&D teams comprised of specialist interdisciplinary teams.

4. We'll realise good business design is the basis of legal innovation

Legal technology is the star of legal innovation but many organisations are still struggling to deliver projects. Capacity issues aside, organisations are failing to consider how technology will change their practice and are simply digitising the manual process. There are two insights that are beginning to crystallise:

I. Technology won't fix a system – but it sure can scale one. Most lawyers assume digital transformation is just automating existing business processes. But if the underlying system isn't reviewed carefully, tiny errors are scaled to such magnitude the integrity of the organisation could be

put at stake. The Australian Government experienced this in the widely publicised [Centrelink Robodebt crises](#) in which the Government was forced to wipe, reduce or write off 70,000 Robodebts generated by its automated system. This insight has seen a sharp increase in demand for legal process mapping and workflow analysis.

II. Simply automating existing systems fails to harness the opportunity to develop new and different business models. Business design should be the first step towards developing a solution as legal technology has the potential to allow lawyers to access new markets and enter into new billing arrangements. These opportunities mean that internal metrics such as utilisation and revenue targets need to be recalibrated to recognise automated contributions. It also means that isolated innovation projects are beginning to influence broader decision making around business design as projects spin off into separate entities or service lines.

Prediction: Over the next 2 years, legal organisations will move from being tech oriented to become more focused on good business design and how to use legal technology to create new business models.

5. Law will reshape design-thinking for mass market problems

Law is an industry of analytical minds valued for their ability to process huge amounts of information, gaze into the future and predict all manner of risk. They're evidence oriented, details focused, voracious learners who are happy to ask the really tough questions.

This convergent superpower is a significant advantage when developing innovation projects. In the face of innovation evangelism, it is often lawyers who identify the assumptions that need testing to validate whether an idea should proceed; a core part of experimentation. It also means that lawyers are well suited to the task of adapting the design-thinking methodology for systemic problems in the mass market.

Design-thinking originates in product design, focusing on identifying a need for a niche market. This means solutions are rarely marketable to the masses. While legal services can be segmented into different categories, many remain mass market services. This is particularly so for Government lawyers charged with policy development.

What the design-thinking philosophy teaches us is that there is opportunity in uncertainty. Lawyers possess the innate ability to identify patterns or trends in voluminous amounts of unstructured information. With the adaptation of design-thinking tools to ensure empathetic practices are prioritised, lawyers are well suited to the task of developing the methodology for human centred law and policy design.

Prediction: Lawyers will actively adapt the design-thinking methodology for mass markets.

About the Author:

Sara Rayment is the founder of Inkling Legal Design, a consultancy with a global footprint that reimagines legal services through design, law and emerging technology. Having worked as a lawyer for 10 years in top tier firms, Sara blends legal expertise with human centred design principles to deliver innovative solutions. Her clients include government agencies, regulators, law firms and corporate counsel. She has served twice as delegate to the United Nations Commission on International Trade Law to advise on the design of an online cross-border dispute process to provide access to justice for consumers.

She is also an alumni of Stanford University's Hasso Plattner Institute of Design Teaching and Learning Studio where she developed strategies for helping lawyers adopt design-thinking.

You can find out more about Inkling at www.inkling.how or contact Sara directly on Sara.Rayment@inkling.how



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“STAND OUT”

EXPERTISES: ACCELERATION MODEL FOR BECOMING AN EXPERT

Series on building your personal brand, becoming the go-to expert and authority in your field by Itzik Amiel, Attorney-at-law, International Speaker & Bestselling author; Founder & CEO, THE SWITCH®

Ready to become the sought-after expert your clients will want to work with and be willing to pay a premium to do so? Do you want to know how you are unique to your clients & how you can stand out in the sea of competitors? Are you the "best kept secret in your market?" If you want to know the shortcuts to build your personal brand and become the go-to expert and the authority in your field, DO NOT MISS this series by advocate Itzik Amiel, bestselling author and international speaker and the global authority on personal branding for professionals.

In my [previous parts of this special series](#) I assumed that each one of us, as lawyer is already an EXPERT.

An assumption that not even one single lawyer (or other professionals) ever doubt. And rightly.

Some of the critical components of expertise are knowledge, skill, and achievement. People who become experts tend to acquire a body of knowledge that makes them very informed individuals in their field.

Each one of us, as a lawyer, also possess the skills that you need to determine when and how to utilize your knowledge.

Such skills you often learned, but you also gain them in your practice and maybe even got influenced by natural talent and ability.

So, I agree, each one of us as a lawyer should be considered an expert in your field.

So, the obvious next question is:
as an expert, what makes you stand out?

In many of my international training and speaking at events for professionals I ask this question to the participants.

If I asked you this question – what make you stand out as a legal expert? What will be your answer?

[Stop a second, and answer this question before continue reading any further...]

I think you will not be surprised to know, that most professionals give the same answer.

The answer is almost always about their number of years of experience in the industry, their unique services of their firm or other function they held as lawyers.

I definitely agree that all these points are important to gain an expert position and build

your authority in your field. But none of these make you **stand out** in the crowded legal market.

In fact, if you are differentiating yourself based on your years of experience in your legal field or your unique services etc., chances are that most probably you are not differentiating yourself at all!

I assume that if you think long enough about it, you will come to the same sad conclusion.

So what make you, as a lawyer, stand out, you are asking?

As an attorney myself (for over 23 years in practice) and as an international speaker and legal mentor, I meet and mentor many lawyers on a regular basis from all over the world.

After following many of them and I have noticed that only a very small group of them actually stand out.

They stand out because they all have something else...something that I call “Expert Unique Perspective” or “Distinct-point-of-view”.

For the good order, let me define it for you.

Your “Expert Unique Perspective” is your way of expressing your unique expertise (in a specific area) so that helps and provides your connections (or your prospects) to see something from a new and unique perspective.

This special and unique perspective helps you to accelerate the process of building your authority and make you stand out.

UNIQUE EXPERTISE – HOW?

*If you want to learn how to find your unique perspective, I warmly recommend you to download [my workbook](#) [for free] [here](#) and answer all the relevant questions.

But in short, we can think about 3 possible parts to help you define your unique expert perspective:

PART #1. WHAT

The first part focuses on WHAT need or problem your prospects have and they didn't know they have. And you have to make them aware of it.

PART #2. HOW MUCH

The second part focuses more on answering the question HOW MUCH cost created to your audience by having the problem and not solving it.

PART #3. WHY

The last part of your expert unique perspective is focused on answering the question – WHY they have the problem and on exposing the cause of the problem they have.

Important! - You need to fulfill all of the three parts, so your expert unique perspective will be relevant to your audience.

Let's explore the three-model system in more details, to help you find your expert unique perspective.

PART #1: WHAT

David Epstein, the author of the New York Times bestseller *The Sports Gene* put it simply: *“The hallmark of expertise is figuring out what information is important.”*

The first part of the expert unique perspective model is what I call “The WHAT Model”. Fo-

cus on answering the WHAT is important question.

As I mentioned, this is where you create your audience's (your prospect's) awareness for a need or a problem they never knew they had.

You can do it by creating your own framework on the different stages, categories or positions that your audience might find themselves in as they relate to your practice and services.

So, for example, for my business I use a model that I created called “The Practice Growth Formula™” which identifies the five stages of growing a professional practice.

This framework should:

1. Provide my relevant audience to get a fast glimpse to different stages they will find themselves while growing their practice.
2. To allow each prospect to self-identify on which stage they are in, with reference to their practice.
3. To give them clearance if they are on the stage they want to be or not (yet). [and most probably not].

Once they self-identify as being in the wrong stage, you have just brought to their attention a problem they didn't know they had.

Now, it is the time for the second part of the model:

PART #2: HOW MUCH

The second part of your expert unique perspective model supposes to help your prospects to realize that there is a cost for the problem or their need.

To accomplish this, you need to use the right measurement that's important to your prospects.

In other words, not all of the prospects of law firms are driven by money in every situation. There are other measurements that can be important to your prospects - e.g. relationships capital, influence, reputation, freedom, time etc.

So select carefully based on your prospects wishes and needs.

Once you know the relevant measurement that motivates your prospects, you then demonstrate the costs associated with each stage [as you identified in your framework in part 1].

The interesting point is, that once your prospect understands how much it costs them to be in a specific stage (and not to grow) they become more motivated to do what needs to be done to move past those stages and into higher stage (or to a bigger success).

Now, you are ready for the last part:

PART #3: WHY

People will always try to copy WHAT you do, but they cannot copy your unique 'flavour' of standing out. They cannot copy WHY or HOW you do it.

So, once your prospects are aware of their need or problem, they also got to know how much it cost them (if they will not solve it). Now, it is the time to let them know that the reason that it cost them is because there is a solution (your solution) and they are not using it.

And the opposite is also true.

Once you demonstrate that the cause of their need or problem is because they are not using your solution, they all want to learn how to do that so they can solve the problem they didn't know they had.

I trust you understand by now – your law firm and it's services is **NOT what your prospect want**. However, through your law practice and your efforts, some prospects will either believe you have the solution they want, or go elsewhere. They will either buy from you, or from someone else.

Standing out doesn't discriminate. You either stand out in the legal marketplace or someone else will. Full stop!

YOUR TASK

Many lawyers feel uncomfortable with the idea of calling themselves an expert, but if you have an area of expertise that you can use to help others, it makes sense to tell people about it.

To stand out and be the expert, you do not need to show off with your years of experience or your credentials nor with your unique services.

Not at all.

Your task is to do the following three things:

1. Create awareness – make your prospects aware of a problem they didn't know they had.
2. Share the costs – let your prospects know the costs associated with having the problem
3. Expose the problem's cause – make sure they know about the solution and the cause of the problem is not due to not applying the solution.

When you do this 3 steps, in that order (!) you will stand out in the crowded market place.

Moreover, your services and solutions will become more relevant to your prospects than those of your competitors.

Isn't it what you wanted to achieve?

Want to discover more on how to find your Expert Unique Perspective build your authority in your field – and the steps you need to take?

Download [my workbook](#) [for free] [here](#) and answer all the relevant questions or [schedule a strategy call here](#).

As a side remark, I want to emphasize again that hard work and talent are no longer enough to be considered as an expert. What counts is how you position yourself as a trusted expert to set yourself apart—even if you don't quite feel like an “expert” in your field.

If you have any specific questions with regards to building your authority position and your personal brand, please send us an e-mail and share it with us. I may include it in one of the upcoming articles.

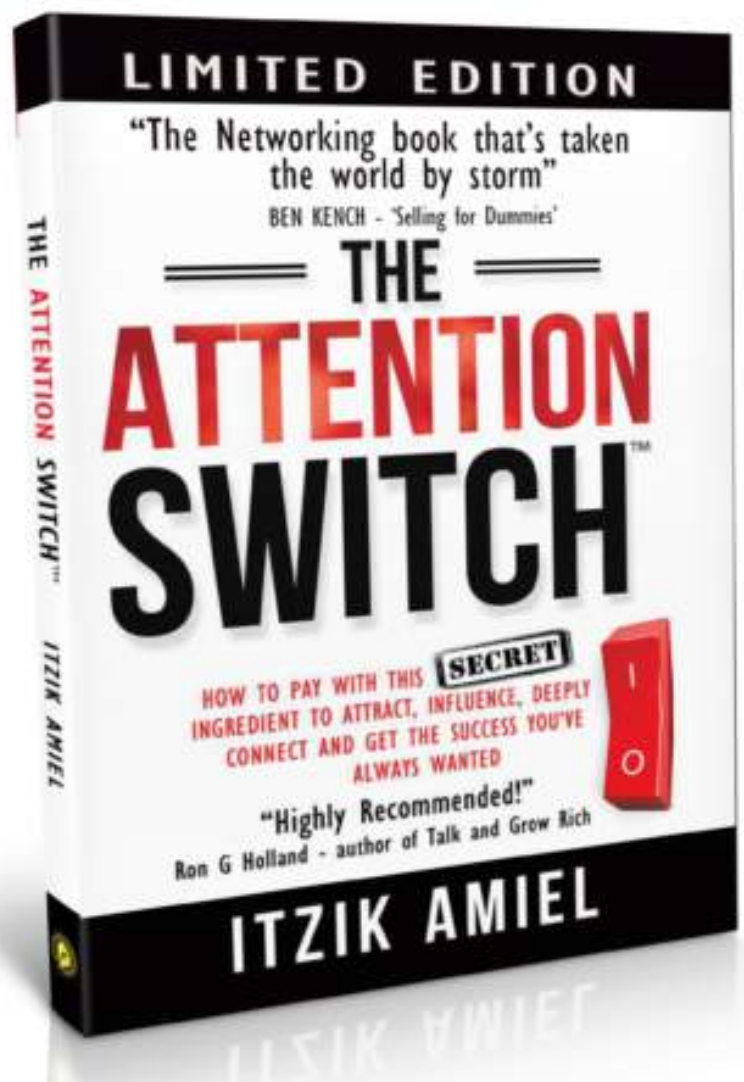
Until next month, believe your are an EXPERT & STAND OUT!

About the Author

[Itzik Amiel](#) is considered the global leading authority on Business Development, Business Networking & Per-

sonal Branding. He is a sought-after international speaker, trainer, business mentor, & attorney-at-law. He is also the bestselling author of “[The Attention Switch](#)” & Founder of [THE SWITCH®](#), the global community for professionals to grow their practice. Itzik teaches Lawyers and other professionals to attract and win their ideal clients by becoming seen as authorities in their field and to SWITCH their relations to Referrals+Revenue+Results.

See more information: itzikamiel.com or connect with Itzik via: info@itzikamiel.com



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Promoting Access to Justice Through Tentative Rulings in California

I spoke with Crawford Appleby, a Los Angeles-based transportation accident and qui tam attorney with Baum, Hedlund, Aristei & Goldman, PC by day and legal tech entrepreneur by night. He recently launched [Rulings.law](#), a free, online database of tentative rulings written by California state court judges. We discussed his background, the genesis of [Rulings.law](#), how attorneys can use the site, what the creation of [Rulings.law](#) indicates about the trends associated with predicting case outcomes, and advice for practicing lawyers interested in becoming legal tech innovators.

How the Growth of Legal Operations is Changing Corporate

I spoke with Jodie Baker, the founder & CEO of Xakia Technologies, a matter management and legal data analytics software company for in-house legal teams. She is also the deputy chair of the Australian Legal Technology Association and co-chair of the Advisory Board to the Centre for Legal Innovation at The College of Law. We discussed the genesis of Xakia, how the use of tools like Xakia differ between small and large legal departments, ways that the growth of legal operations is changing corporate legal teams, and the trends driving the expansion of Australian legal tech.

Coding Legal Apps With No Code

I spoke with Kim Massana, the president and CEO for Neota Logic, a low-code application development platform used by a variety of organizations throughout the legal community. We discussed his new role at Neota Logic, the advantages of low-code application development, and key use cases for this technology.





My name is Isabella Galeano. I release new podcast episodes in English y en castellano I'm a lawyer focused on legal innovation, legaltech and legal design, a law professor at Esade Law School, and host of The Quirky Lawyer Podcast. I share groundbreaking content on legal innovation, legaltech, and legal design to inspire lawyers and contribute to the transformation of the legal sector. (Click on the podcast to listen)

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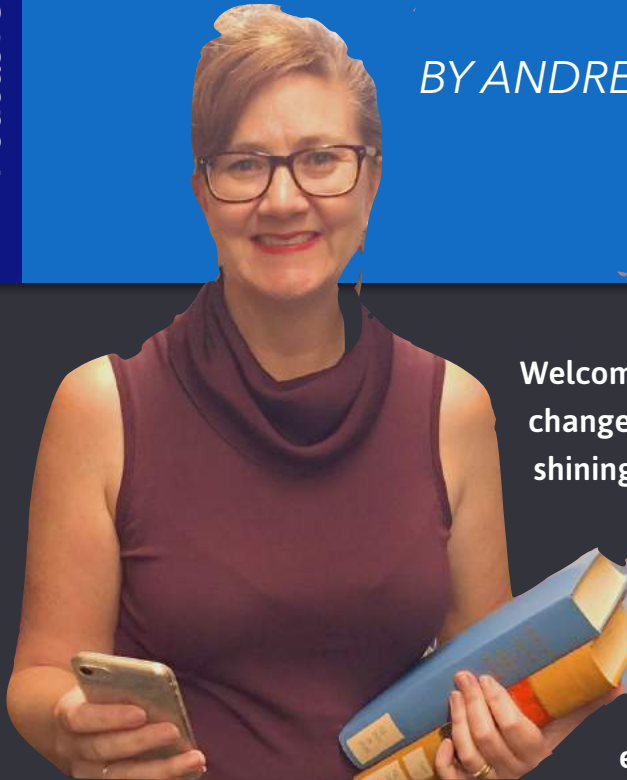
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Reimagining Justice

BY ANDREA PERRY-PETERSEN



Welcome to Reimagining Justice - a global podcast for the change makers in law and the first Australian-based podcast shining a light on issues at the intersection of law, social justice and innovation. Join Andrea Perry-Petersen, an Australian lawyer and social justice advocate, as she interviews guests from around the world who have discovered and implemented innovative ways to update the legal profession while improving people's experience of the law.

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BY QUDDUS POURSHAFIE AND TESSA MANUELLO



Exploring what it means to be a lawyer/law firm of the future. Join Tessa and Quddus, two entrepreneurs working on each edge of the planet, bringing you the innovators that are pushing the needle and working on the avant garde across the globe.

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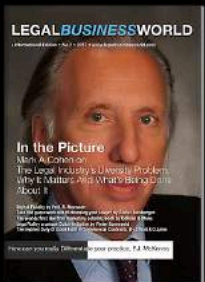
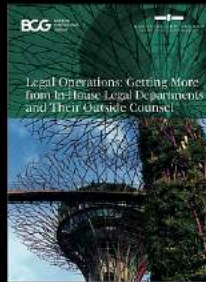
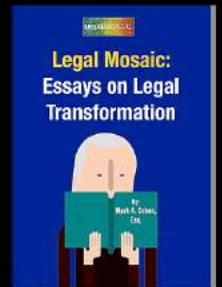
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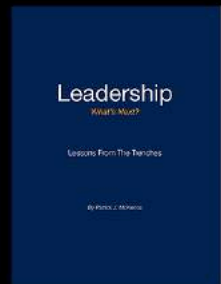
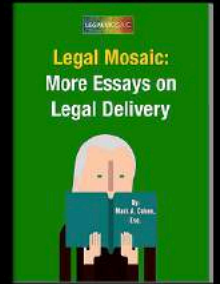
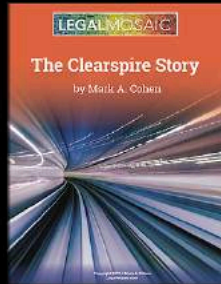
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