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Laurent Tam Nguyen on Development in the ASEAN markets

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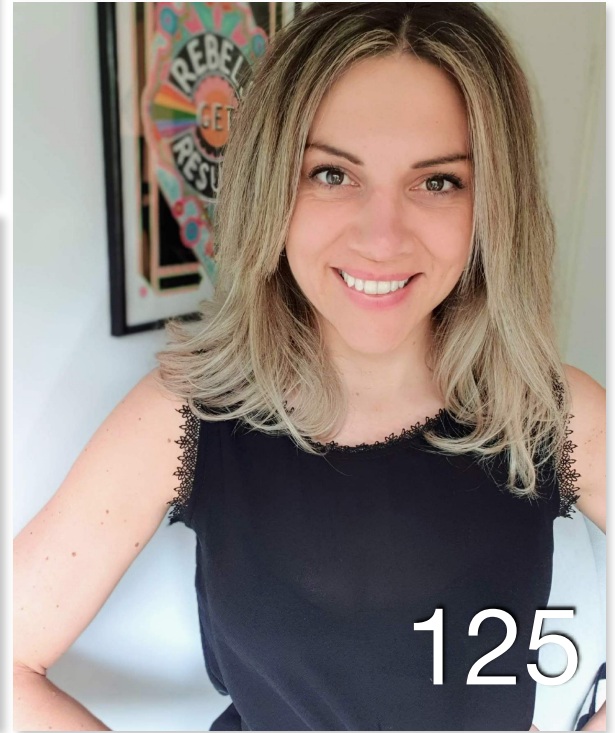
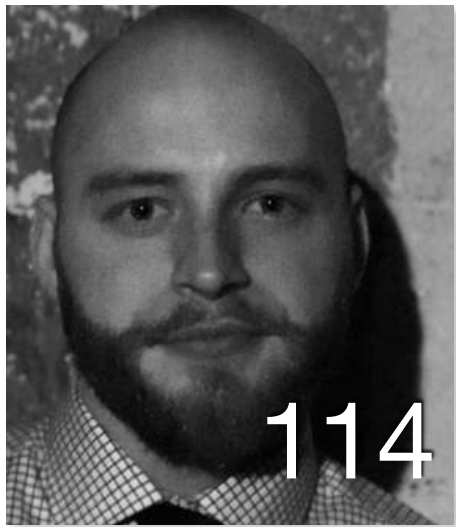
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An Interview with Laurent Tam Nguyen

Entrepreneur, Consultant, and Senior Business Development & Marketing Specialist

Laurent, as an introduction maybe you can tell us something about yourself and your profession. About the things you do on a day-by-day basis in the legal sector and so on.

I am a business development and marketing professional with a passion for building and transforming brands into sustainable businesses.

In 2007 right after WTO, we decided with my wife to live a new life and settled down in Vietnam. Realizing the needs for marketing services were growing, I founded my company and since we have been servicing companies in various industry sectors not only in Vietnam but in the

ASEAN region, and now in Europe and in the US. We help companies build their brands and improve their business development and marketing capabilities, reputation, teams. Ultimately we help them create a better impact on their markets. In terms of background, I am a former Arthur Andersen marketing manager when the firm was the global leader in advisory services (audit, legal, tax, consulting). Over there, I learned the fundamentals of successful global professional service organization: the immense power of a well structured brand, the multi-disciplinary approach, global client development programs and great execution and delivery. The only thing that has changed since is the impact of technology that can make all these critical growth components easier and faster. This experience naturally brought me to cross path with professional services firms and notably law firms.

Over the past 12 years in Southeast Asia, I have helped professional services organizations, including preeminent legal and Multi-Disciplinary Practice firms, bring their brands to the next level and develop in ASEAN.

In the legal sector, I am servicing a number of law firms from boutique law firms to ASEAN regional players. I am representing the ASEAN Legal Tech Association in Vietnam. I have recently created an informal network of BD professionals in Vietnam.

You are the Founder and General Manager of Digital Mekong. Digital Mekong is a creative marketing agency in the ASEAN region providing tailor made marketing and communication strategies to all industries, including the legal

services sector. It represents an innovative approach to legal practice. What are its key elements? How do you provide value?

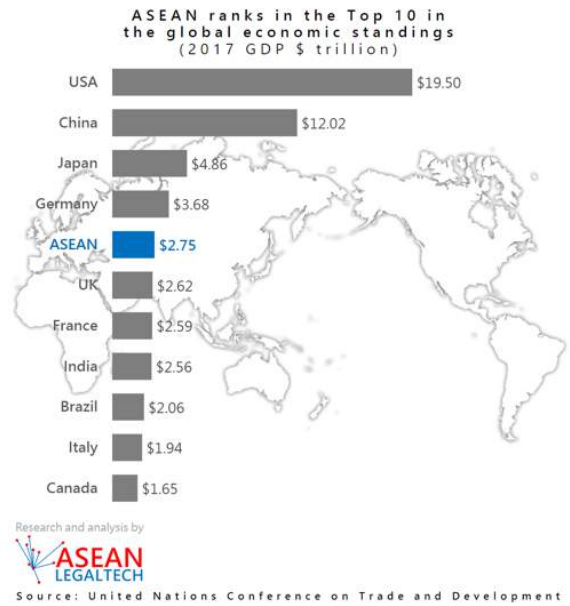
Digital Mekong is a virtual marketing agency. It is an innovative form of marketing agency as we leverage on an ecosystem of freelancing talents (designers, photographers, video producers, IT developers...). We aggregate the teams and skills depending on each clients' needs and objectives. As we operate from Vietnam without overheads costs, we are then capable to offer state of the art marketing services at local costs with agility, flexibility and price efficiency. We serve clients in all industries including B2B services, F&B, hospitality, startups and of course professional services including legal.

For law firms, we increasingly act as a CMO (Chief Marketing Officer) on demand, allowing firms to build a growth roadmap in a price efficient way.

What we do for law firms is to create growth plan that can take them from legal 1.0 to 2.0, eventually for the most advanced 3.0 and implement it. This allows the firms to benefit from our experience helping law firms get to the next level ASEAN regional development in a very cost-effective manner.

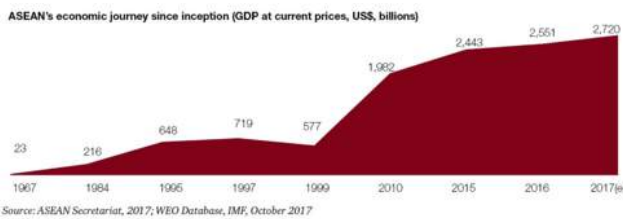
One additional aspect law firms do appreciate is that we deliver our services under a BOT (Build Operate and Transfer) mode helping firms to build at the same time their own BD teams. We can build their own BD teams, coach them, train them and bring them to autonomy.

I had the immense opportunity to help DFDL and ZICO, 2 of the most fast growing law firms in SEA establish their brands, build their BD teams as their first regional marketing director under the CMO on demand mode, leaving for each firms operational BD teams of more than 10 promising individuals across the region and helping them to significantly develop their practices across the region. I am currently helping a number of other law firms develop in the region as well with the same operating model.



What's so appealing to you about the legal services sector in the ASEAN region?

It offers many exciting opportunities.



ASEAN: the first 50 years

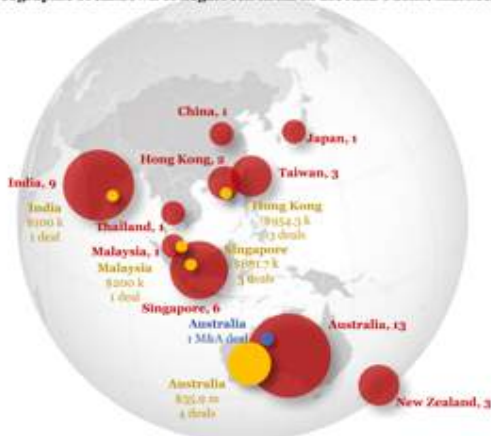
Image: PwC/ASEAN Secretariat/WEO Database/IMF

Several mega trends are impacting the ASEAN legal markets :

- ASEAN is growing fast at an unparalleled pace. By 2030, ASEAN should become the fourth-largest market (after EU, US, and China) benefiting from increased skilled workforce, abundant natural resources, and favourable geographic location for trade and commerce.
- ASEAN is undergoing a fast digital transition. The SEA internet economy will grow x3 to reach \$240 billion by 2025 according to Google's annual study on e-ASEAN. The digital economy-ready population will naturally impact the legal services industry. The huge push for digital under industry 4.0 will create opportunities for law firms.
- ASEAN local champions are expanding. M.A.C.s (Multi ASEAN Corporations) are blossoming. Regionalization is accelerating. In 2017, the largest M&A transaction in Vietnam was a Thai company acquiring a VN brewer. Indonesia has already 5 Unicorns...

The LegalTech movement is on the rise in the Asia-Pacific region...

Geographic breakdown of LegalTech firms in the Asia-Pacific markets



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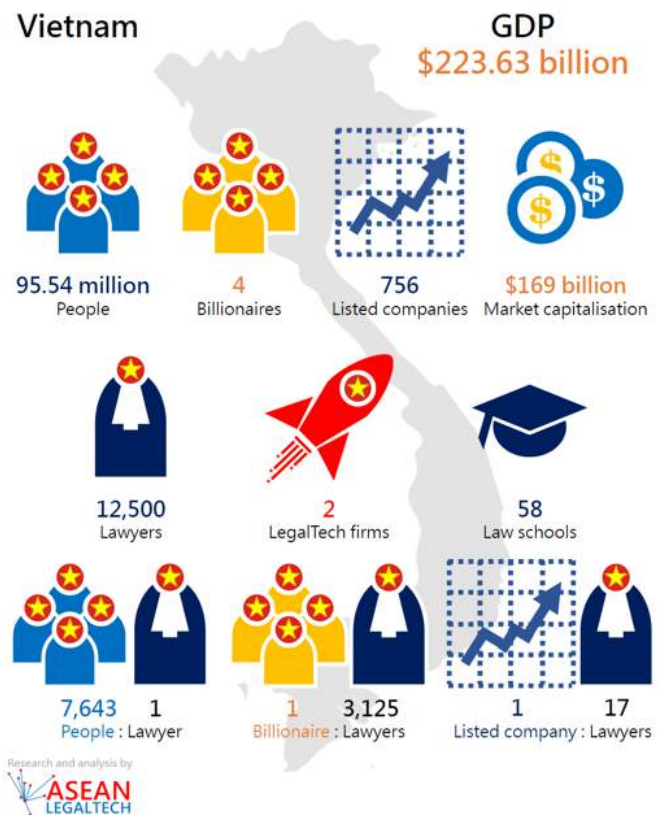
- ASEAN economies are entrepreneur and family oriented businesses: 96% businesses are SMEs. They represent a huge source of legal work, provided legal pricing is not perceived as an obstacle.
- ASEAN is more than ever part of the global economy. The situation of hyper competition that can be found in more mature economies can now be spotted in ASEAN and it forces legacy stakeholders to adapt with the convergence in the market of Big 4 legal arms, New Law, Legal Tech, and emerging new local dynamic firms, regional networks and other law firms from major FDI contributors in the region (Korea, Japan, China...).

Overall, the Asia-Pacific legal industry is a \$90.6 billion market that is growing at 5% CAGR...and projected to grow to \$111.1 billion by 2020. (Sources: MarketLine, 2016 | State of the Asia-Pacific legal market Forces shaping firms of the future by Eric Chin)

Vietnam is your home base. What would you say is the current overall climate for (foreign) law firms looking for opportunities in Vietnam? Does that differ from opportunities in the ASEAN region in general? And if so, how?

Vietnam has the status of a regional outperformer. Since 2010, Viet Nam’s GDP growth has been at least 5% per year, and in 2018 it peaked at 7.1%. Vietnam’s GDP expanded 6.98 percent in the January-September period, the highest nine-month growth rate over the past nine years according to Vietnam General Statistics Office (GSO) allowing the country to re-

main one of the fastest growing economies in Southeast Asia.



Vietnam is home to 95 million people, including four billionaires, has a \$233 billion economy, and has 756 listed companies with a market capitalisation of \$169 billion. Vietnam is also home to 12,500 lawyers. Statistically, this translates to one lawyer per 7,643 people, one billionaire for every 3,125 lawyers, and one listed company for every 17 lawyers. While the corporate market for legal services, measured by listed companies, is competitive, the consumer market for legal services –the country’s population –does not have adequate supply of legal services. (Source: State of the LegalTech market in Southeast Asia by ASEAN Legal Tech Association May 2019 ©2019 ALT LegalTech Pte Ltd)

In Vietnam, there is definitely growth dividends for law firms now. Many well established law firms in the market reported a double digit growth in 2018. They remain very optimistic for 2019.

Some market drivers are currently impacting the legal market in VN, notably:

- The US-China trade war
- The rising costs of doing business in China
- The rising number of FTAs. For example, the EVFTA (Free Trade Agreement between Vietnam and the EU), even if not ratified yet, brings a surge of interest of European companies for Vietnam. Many more French mid-sized companies are looking at settling down in industry, food processing
- The development of the economy notably to new horizons and activities : Fintech, e commerce, solar energy, startups just to name a few...
- Last but not least, a relative political stability compared to other ASEAN countries...

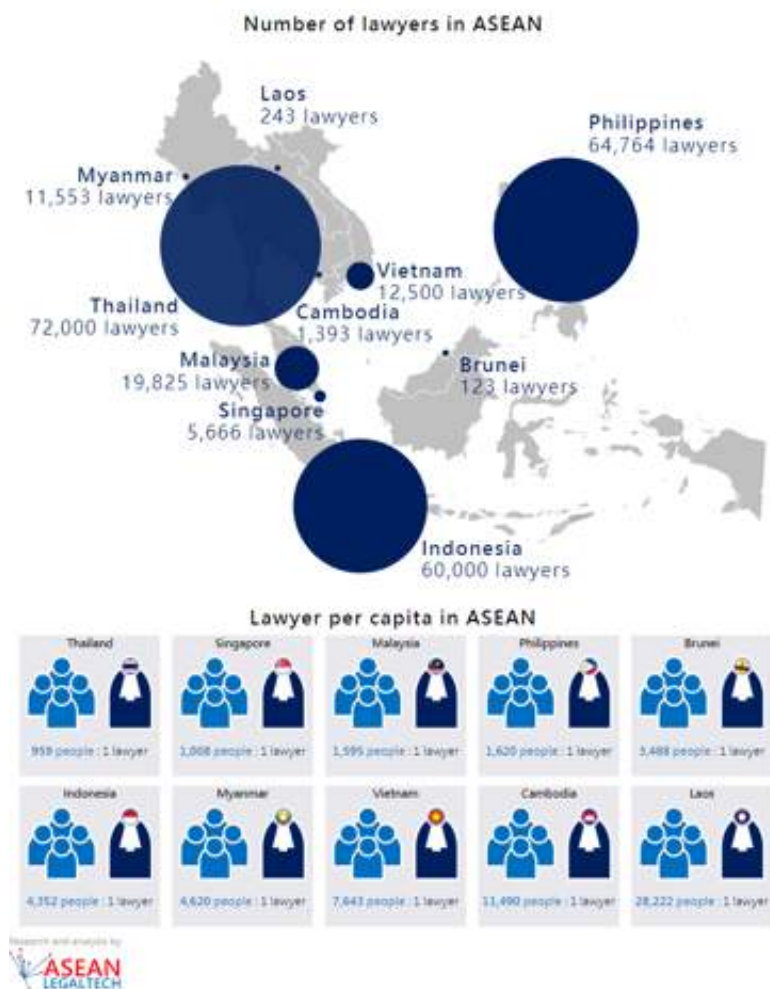
In Vietnam, the competition in the legal sector is also increasing. The local battle for clients and talents includes notably :

- International firms (with international network or only local) often founded or led by foreign lawyers since the 1990's-BakerMcKenzie, Freshfields Bruckhaus Deringer, Russin Vecchi, Frasers, Allen Overy, Mayer Brown, etc.
- Dynamic regional firms such as DFLD, Rajah Tann LCT, ZICO Law, Tilleke

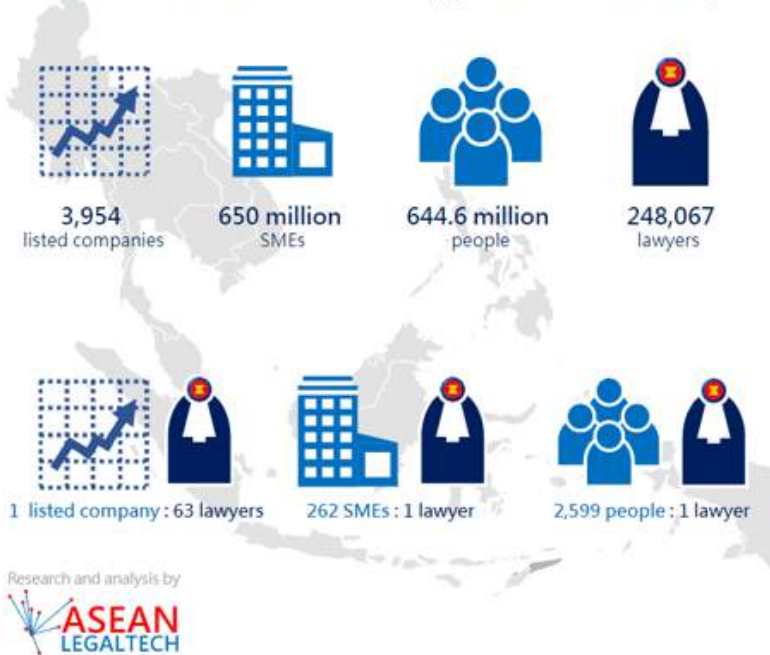
Gibbins, etc.

- Vietnamese market leaders VILAF and YKVN
- A new generation of dynamic Vietnamese law firms founded by Vietnamese lawyers with international background or coming from larger firms such as LNT, Lexcomm and this segment will increase in the future.

These firms are as many opportunities as potential local partners for foreign law firms willing to develop their cross-border activities with Vietnam.



ASEAN's B2B and B2C market opportunities for lawyers



As for the region, Acritas describes it as “incredibly diverse”. ASEAN remains a mosaic of 10 countries with very different stages of development (including education), contrasted markets and business environments, various legal systems and a wide range of local sensitivities.

Each country has its own fundamentals and own business opportunities for law firms but currently Vietnam is certainly witnessing a great momentum.

When you think about development, planning and implementation of (innovative) marketing and business development strategies, what’s overall your opinion on this current process in the Legal sector? Do you see differences between Asian, American and European firms?

“Growing a practice requires a director or partner to take risks, which by definition is, attempting something without a certain outcome. That uncertainty is quite different to the confidence with which successful lawyers otherwise approach much of their client work”. Jacob Albridge, Consultant, Business Depot | Deloitte

The legal industry is known to be quite conservative in general.

Working with firms with various sizes, geographical footprint and partnership with Western to Asian origin, I do not see not much difference between Asian, American and European firms actually. Adopting and implementing of (innovative) marketing and business development strategies is more a matter of:

- **Mindset & strategy:** does the firm have a clear growth roadmap and is it willing to invest in people, technology and processes to achieve it? is it ready to change its part of its culture and organization subsequently?
- **Resources:** technology may be perceived as expensive but it is actually less and less costly. Essentially, is the firm financially robust enough to absorb new people and teams able to implement innovative strategies, tools and very importantly to maintain them consistently over time. Can the firm find in its own jurisdiction the right human resources to simply “get these things done”?

- Market maturity and pressure: how large or sophisticated are your clients? where and how are they developing? how sophisticated are your competitors? are they growing faster than your firm?

In the developing legal markets of ASEAN, most of the firms are SME practices. Most of these I have been in contact with are progressively transitioning from Law 1.0 (basic practice management solutions, MS office, limited website, no social media...) to Law 2.0 (the adoption of cloud-based document sharing platforms, office 365, responsive websites, online marketing...). Very few have reached Law 3.0 (collaborative work and tools, software as a service tools, customer relationship management, automation, analytics...).

Amongst all websites from law firms in Vietnam ranked on Legal Directories (Legal 500, Chambers, AsiaLaw, IFLR), more than 20% are still not responsive. This is an indication of firms' sensitivity to some aspects of tech and business development critical tools.

In ASEAN, since the maturity and sophistication of the legal markets is of course very diverse, innovation can simply be achieving simple wins that could be considered mundane in other jurisdictions:

- Adopting Sharepoint and basic collaborative tools
- Publishing well written English content
- Implementing a responsive website and communicate through social medias
- Timekeeping on smartphones
- Adopting CRM systems
- etc

At the end of the day, the critical concern is very often beyond the supposedly financial burden a matter of human resources and right skills. The business development professionals community in developing ASEAN is still limited but it is a WIP and there are very promising individuals who will be tomorrow the key transforming agents for local and regional firms willing to grow.

My experience is that most of the firms that have been able to engage in (innovative) business development and marketing strategies and start to dedicate appropriate resources are local champions and some regional players or firms that are demonstrating a real commitment to get to the next level.

Many lawyers, GC and corporate counsel talk about the importance of the business of law and it looks like they easily adopt words like Brand Management, Consultative Selling, Legal Tech, A.I., workflow software etc. not knowing what it really stands for. Do you also experience this lack in knowledge and how do you cope with the difference in knowledge levels?

According to Deloitte Management Global Human Capital Trends 2018, if 90% CEOs believe their company is facing disruptive change due to technology,

- 30% believe they have the skills to cope with the changes
- 17% feel they are ready to manage a workforce with people, AI and robots
- 14% are highly confident in their ability to harness the changes associated to industry 4.0

A vast majority of lawyers and GCs are likely to be in the same situations than most CEOs.

The evolution of the legal industry into the business of law is relatively recent and most of these concepts did not exist a few years ago in the market, hence certainly a knowledge deficit in some of these areas.

There is also certainly a lot of buzz on certain concepts or technologies that today are still at very experimental phases with no real business realities behind.

There is no magic recipe to fill these gaps but there are always essential questions to focus on:

- What are the real critical pain points the company is facing today to get to the next level?
- Does it have a growth road map?
- What kind of resources are available to achieve their development plan?

These questions will drive the adoption of relevant technologies and solutions to accelerate the firms' development.

I am often surprised to see that in the business of law some fundamentals are not often enough taken care of

- Brand management is not treated as a critical asset
- Client development program do not always exist
- Interpersonal skills are not systematically developed
- Firms very rarely leverage on their data to simply know their clients better and be more efficient

Each situation may be different and depends

on the strategy and resources of each firm but helping firms to transform goes through :

- Helping the firms' management to change mindset
- Helping adopt a growth roadmap
- Focus on some of the fundamentals mentioned above with gradual implementation starting with low hanging fruits
- Assisting in the implementation notably by helping them build their own Business development and marketing human capacities and skills

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 topics like marketing, business development and strategy?

I think they do but the trend is recent and it has not impacted all the facets of the business of law and of course not all parts of the world.

Going beyond academic legal skills in lawyers curriculum is a discussion that probably started 10-12 years ago with various academics and researchers notably in the US starting to realize how the marketplace was changing.

Since quite a number of Law Schools notably in sophisticated legal markets have implemented programs, incubators that focus on all facets of the business of law. The startup Legal Tech scene is also accelerating the trend towards "beyond legal" skills. Understanding the marketplace, learning the business of getting business were the primary objectives and we see now also more and more bridges towards technology.

In the LegalTech segment, Singapore Management University (SMU) is collaborating with the Singapore Academy of Law's Future Legal Innovation Program to develop and share education resources for example.

The legal marketplace is changing extremely quickly and pure legal profession has now become a segment of a wider law industry with non-lawyers, technologists, and entrepreneurs. Legal delivery involves today legal; technological, and a set of soft skills. Understanding all three and being able to combine them are a must have for young graduates and practicing lawyers.

A very insightful 2009 study by Shultz and Zedeck identified 26 lawyer effectiveness factors grouped into 8 main categories.

<p>Intellectual & Cognitive</p> <ul style="list-style-type: none"> • Analysis and Reasoning • Creativity and Innovation • Problem Solving • Practical Judgment <p>Research & Information Gathering</p> <ul style="list-style-type: none"> • Researching the Law • Fact Finding • Questioning and Interviewing <p>Communications</p> <ul style="list-style-type: none"> • Influencing and Advocating • Writing • Speaking • Listening <p>Planning & Organization</p> <ul style="list-style-type: none"> • Strategic Planning • Organizing/Managing One's Own Work • Organizing/Managing Others (Staff/Colleagues) 	<p>Conflict Resolution</p> <ul style="list-style-type: none"> • Negotiation Skills • Able to See the World Through the Eyes of Others <p>Client/Business Relations:</p> <p>Entrepreneurship</p> <ul style="list-style-type: none"> • Networking and Business Development • Providing Advice and Counsel and Building Relationships with Clients <p>Working with Others</p> <ul style="list-style-type: none"> • Developing Relationships Within the Legal Profession • Evaluation, Development, and Mentoring <p>Character</p> <ul style="list-style-type: none"> • Passion and Engagement • Diligence • Integrity/Honesty • Stress Management • Community Involvement and Service • Self-Development
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Shultz and Zedeck Lawyer Effectiveness Factors

Key takeaway is that traditional legal academic curriculum teaches a mere subset of what enables a lawyer to be effective.

In the Asian markets I am familiar with except to some extent Singapore and in some large firms active in the region, the trend towards training of lawyers in non legal skills is still extremely limited and the study takeaway is very valid. Subject expertise is traditionally well covered when business skills and more importantly soft skills are barely addressed.

Best lawyers (Asian or Western) I have met are those who have been able to develop persuasive and interpersonal communication skills and very importantly overcome some local cultural barriers such as fear to fail and capacity to speak up in any circumstances. They have

then become extremely capable managers and problem solvers.

In most cases, these lawyers have also been educated abroad out of Asia.

As ambassador in Vietnam for the alumni of my business school, I often meet with Vietnamese alumni who did a master in France. They all have great manager roles in their companies and their key takeaway from this experience is for all : “ think out of the box”.

This attitude is the first step to acquire complex problem-solving skills that will enable tomorrow law school graduates to communicate and collaborate in a highly complex, globalized and fast changing ecosystems.

Creating of a new model of legal professional education or training that better prepares future young lawyers for the business challenges ahead goes through this. If law schools do not address these yet, firms need to bring this to their staff. It is part now of their attractiveness in the ragging battle for talents and the key for their future.

There is a lot of discussion ongoing about disruption in the legal market: a big bang against incremental change. Some say the legal market is on the verge of a disruptive force that will have a huge effect on the market. Then again, others

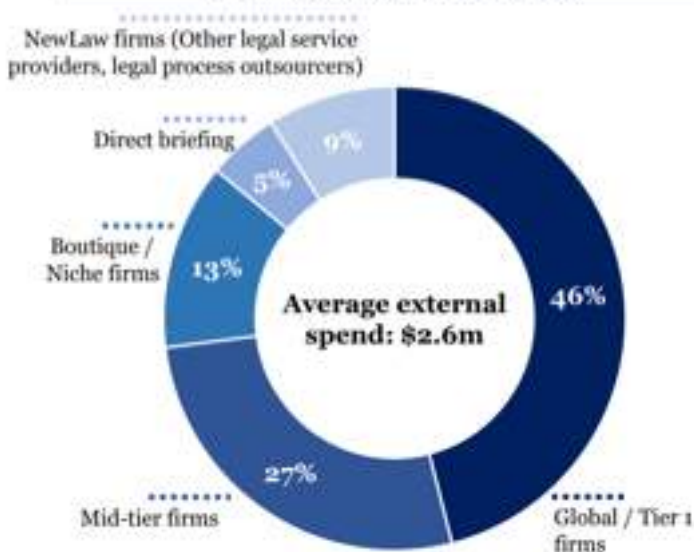
say change will be an incremental process and the market will evolve naturally. What are your thoughts on this?

“The future of legal services will be a world of virtual courts, Internet based global legal businesses, online document production, commoditized service, legal process outsourcing, and web-based simulated practice. Legal markets will be liberalized, with new jobs, and new employers for lawyers” - Richard Susskind.

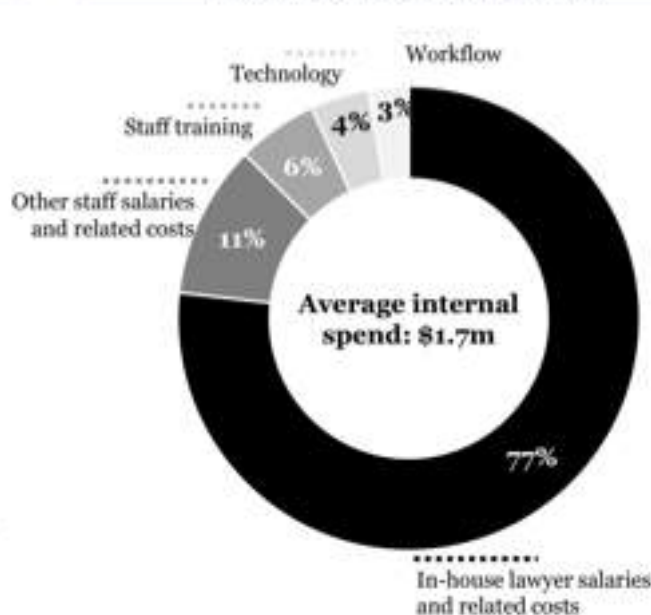
If the legal innovation movement is becoming a truly global phenomenon which is impacting South East Asia now, as of today I note :

- Legal is tech is impacting more and more all areas in the practice of law and the business of law but gradually,
- Adoption from Corporation is also incremental. Since “more for less” is driving GCs

Breakdown of ANZ's corporate legal departments' external legal expenditure in 2017



Breakdown of ANZ's corporate legal departments' internal legal expenditure in 2017



budget criteria, corporations are redistributing year by year their legal wallets arbitrating between traditional lawyering, New Law and internal resources leveraging more and more on Legal Tech and Legal ops but incrementally.

- Legal Tech for Law firms tends to be more widespread in larger organizations but smaller firms are willing to stay in the game and start to realize they need to change to survive in the long run. The tech adoption is also processed step by step. It is also strongly encouraged in certain jurisdictions with government incentives and appropriate programs such as Singapore Flip and Techcelerate initiatives. Changing mindsets is often a long process in this regard.

(ACC Australia, Leading practice report 2017, State of the Asia-Pacific legal market by Eric Chin)

Big-bang disruption happens when generally innovation due to technology or new services are becoming both low-cost and low-risk and then, once launched, enters their markets at ultra-high speed. Not sure this is has happened so far.

Rather than a big bang, a slow-motion disruption is probably more what I see has happened over the past few years with the rise of legal startups, millennials in the marketplace, investments of large firms in tech, competition and corporate pressure on costs.

But this trend is transforming into an accelerating evolution.

In Singapore for example in 2018, 47% of Singapore legal departments have increased their adoption of legal tech and 190 of 922 law firms

have accessed the government LegalTech subsidy.

South Korea's Yulchon has been investing in its own legal tech programs since 2014; Singapore's Rajah & Tann has founded Rajah & Tann Technologies by acquiring an e-discovery startup; Clifford Chance has its own global innovation lab in Singapore since December 2018. Nagashima Ohno & Tsunematsu (top 4 law firm in Japan) just formed an alliance with legal technology firm MNTSQ Ltd. That will help the firm conduct due diligence using natural language technology.

These digital waves are certainly impacting more and more all aspects of the legal industry except what it makes the profession so special: the trust between the client and his adviser, and the ability to bring sound judgement in complex (human) situations with no computerized precedents if ever this can be.

The heart of business Law practice is a human to human interaction built on trust. It is a personal-service industry and this core aspect is unlikely to change but the slow motion disruption and accelerating evolution mentioned earlier are triggering adjustments in a profession that had almost not changed since early days.

"Lawyers largely think they are selling their expertise in law. But more than that, they are selling supportive relationships. In the future, this is going to be more and more of what they are selling than just law. Because after all, a lot of law is going to be googl-ised."

- Dr Bob Murray, organizational Psychologist, Deloitte presentation @ Techcelerate Singapore May 2019

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

In general, I would say that young generations are lucky to live in a very opened world where access to information, experience, mentoring is transparent and easy.

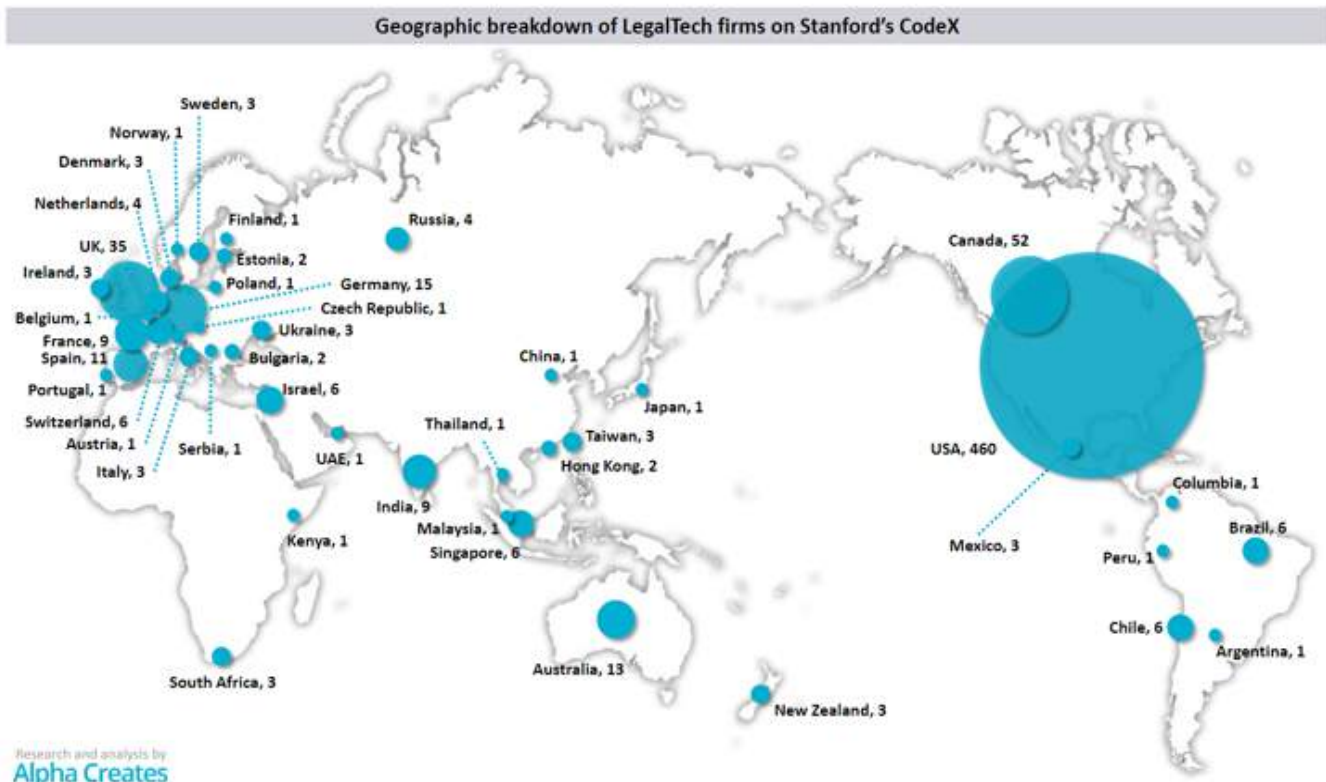
This is a huge opportunity to learn and grow faster. **So be curious.**

With globalization and influence of tech, business ecosystems are changing so fast that ability to remain opened and flexible is the norm. 100 days / year are considered now to be the volume of training necessary to ensure individuals skills stay relevant. **So learn every day.**

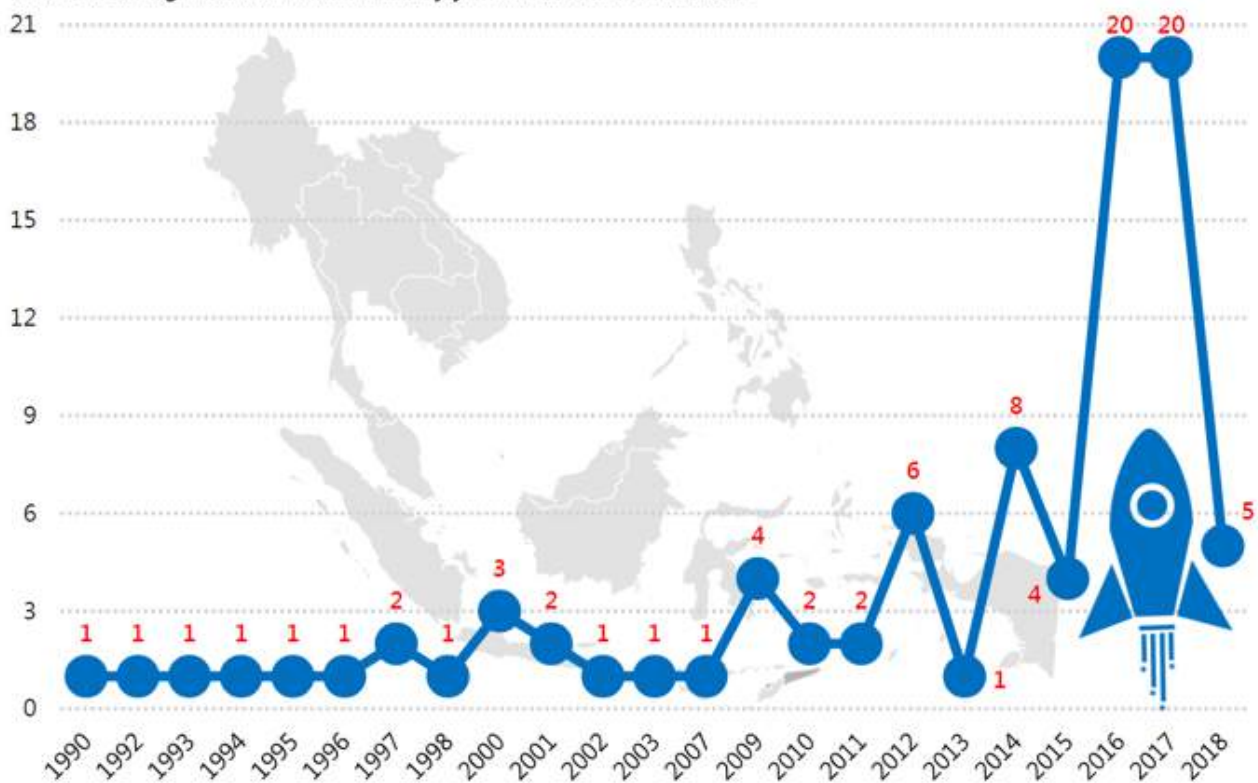
For For ASEAN young legal professionals, I would advise them to travel and discover the incredible diversity of their region and all their cultural nuances. So travel, meet and work with other peers from other countries.

For young ASEAN legal professionals who are arriving on the marketplace: “Do not fear technology, use it smartly”.

Those who are aspiring to dive into the legal (tech) startup world: Screen your marketplace well, Check how sophisticated are the markets and clients you are targeting and define as well as possible your value proposition, Be very humble on pricing and transparent on hidden costs (particularly on implementation costs and skills needed to implement new solutions) Focus on service delivery and client relationship.



Number of LegalTech firms founded by year in the ASEAN markets



Research and analysis by



*Research conducted in collaboration with Adeline Chin (MY), Andrew Stoutley (TH), Athistha Chitranukroh (TH), Cherilyn Tan (SG), Daniel Lui (MY), Ivan Rawtaer (SG), Lorybeth Baldrias-Serrano (PH), Melvin Sumapung (ID), Jeifan-Ira Dizon (PH), Jenna Beh (MY) and Suebsiri Taweepon (TH).

About the Author

Entrepreneur and consultant, [Laurent Tam Nguyen](#) is a Senior Business Development & Marketing Specialist with 25+ years experience founding-managing businesses and leading marketing-business development operations in ASEAN and France.

Based in HCMC since 2007, he has founded 2 companies including Digital Mekong, an innovative marketing agency helping companies develop branding and business development strategies leveraging on freelancing talents ([digitalmekong.com](#)). His clients include regional based companies in a wide range of industries such as B2B services, F&B, hospitality, startups...

Within Digital Mekong, he is acting as a CMO

(Chief Marketing Officer) on demand, allowing companies to build their marketing foundations and teams in an alternative and price efficient way. Under this model, Laurent acted as the 1st Regional Marketing Director for 2 preeminent legal firms (DFDL, leading law firm in the Mekong region | ZICO, 1st Multi-Disciplinary firm listed on SGX) helping develop their reputation and business in ASEAN. Currently assisting numerous law firms to transform their business development capabilities and brand.

Vietnam representative of ASEAN Growth Hack platforms such as NSCS (Malaysia) and The Maven (Singapore) Vietnam representative for the ASEAN Legal Tech Association



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Learn about the latest innovations and find out how new solutions can bring you and your firm to the next level. Find out what our legaltech startup partners are working on and how their solutions might streamline your operations. Discuss pressing issues during round table sessions and discover how other firms delivered successful projects to the business.

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20 - 21 April 2020 | Amsterdam

A professional headshot of a middle-aged man with grey hair and a mustache, wearing a dark suit, light blue shirt, and patterned tie. He is looking directly at the camera with a neutral expression.

Managing the Legal Supply Chain

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

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

It has been 27 years since the DuPont Legal Model was inaugurated. DuPont recently published its fifth version of an 85-page handbook explaining the model. The model is premised on four elements: strategic partnerships where the parties invest in each other's financial success; technology utilization to drive collaboration, improve efficiency, and eliminate duplication; alternative fee arrangements; and a commitment to diversity.

Today, the company has 40 firms across North America including Fasken, formerly Fasken Martineau DuMoulin, in Canada. I have had the opportunity over more than two decades to represent almost 100 companies and their law departments in designing and negotiating multi-year arrangements with their preferred law firms. There is a successful precedent for almost everything: multi-national firms covering 200 countries and which can serve as the general contractor and guarantor of quality for firms in regions where it has no offices, specialty firms doing the same on a national basis for asbestos litigation or automobile recalls, and full service firms managing complex transactions and regulatory files.

Everything from high volume "commodity" work, to niche practices like cybersecurity, to bet the company transactions.

So why has there not been a stampede by companies and their law departments to redesign, introduce, develop and improve their relationships with external counsel? More than 80 % of companies still retain counsel on a discounted hourly basis. For the last 25 years, in-house counsel have been saying that they "retain the lawyer, not the firm." What a

failure to leverage the innovation, the expertise, and the operating practices of law firms that are on Version 4.0 of legal services delivery. What are the obstacles and how can the law department catch up?

I have observed five impediments to modernizing the corporate law department's relationship with law firms and other service providers in the legal universe. The first is a lack of a clear statement – some call it a manifesto – over the signature of the Chief Legal Officer that sets out what the nature of the relationship with primary and preferred law firms should be. Are they merely vendors and suppliers of professional services to be priced by procurement and managed by the law department? Or are they closer to what Ben Heineman (see *The Inside Counsel Revolution*, 2016) calls Phase Five when "law departments are seeking to integrate more completely with law firms and make them strategic advisers"? Few Chief Legal Officers provide unambiguous clarity to their legal and business teams, much less to their law firms, on this question.

The second pre-requisite to effective partnering with external counsel depends on some competence in influencing the causes and sources of legal work that comes into the law department. It also depends on proficiency in categorizing and quantifying the workflow by area of law, level of complexity and number of hours. Companies equipped with world-class matter management systems ensure that their law firms interface for billing and payment purposes. But they fail to leverage the analytical and management reporting functions of the systems they have in hand. It is one thing

to carry out a retrospective statistical and financial analysis. But it is quite another to understand the data and the company well enough to predict and manage the demand for legal services for the ensuing three years. There are great examples of companies which do all this well, but the majority have no written and detailed statement of the demand for legal services.

The third obstacle to forging a viable partnering arrangement with law firms amounts to a deficiency in the organization, resources and operating practices of the law department. Here are some of the symptoms. The Chief Legal Officer / General Counsel or deputy does not spend enough time managing the resources of the law department and relationships with external counsel. The department tends to operate as a group of solo practitioners or perhaps as a captive law firm. A department of 10 or more lawyers should have a professional head of legal operations, but many do not. The lawyers in the department have no professional training in legal project management and budgeting as a way to manage their own time and that of external counsel on matters. Finally, the department under-leverages the collaboration technologies available from its most progressive law firms.

A number of law firms now own consulting firms that are designed specifically to help law departments operate “smarter, better, faster.”

The fourth barrier is a lack of proficiency with alternative fee arrangements, especially when applied to complex legal matters and to multi-year portfolios of legal work cutting across categories of law and legal jurisdictions. Being able to apply hybrid fees and fixed fees to more than

one matter at a time depends on two factors. The first is the ability of the law department to provide, but not guarantee, a scope and flow of work to its law firms as a way to secure stable legal teams and predictable pricing. The second is finding a way to stimulate the law firm to use fewer hours and to improve its delegation of tasks to get the same work done. Law firms have their Chief Pricing Officers and they are accomplished professionals. Law departments must master alternative fee arrangements to stimulate the right balance of results, innovation and cost with law firms.

Every good plan perishes on the battlefield. Overcoming the first four barriers to managing the legal supply chain for maximum value to the company will fall short unless the plan is well executed. The essence of an effective strategy – especially one that seeks to manage the legal supply chain through strategic partnering – is in its execution. The strategy and the tactics must allow for adjustments along the way. Unforeseen issues, challenges and opportunities should be incorporated along the way. The Chief Legal Officer needs to make the execution of the strategy a top priority, ensure its visibility every step of the way, and compensate members of the in-house and law firm teams for success

About the Author

[Richard G. Stock](#), M.A., FCIS, CMC is a senior 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

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**CONTRIBUTIONS BY RICHARD ON
HOW CORPORATE AND
GOVERNMENT LAW
DEPARTMENTS CAN IMPROVE
THEIR PERFORMANCE AND ADD
MEASURABLE VALUE TO THEIR
ORGANIZATIONS**



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How As A Firm Leader You Can Harness Innovation

By Patrick McKenna, Thought Leader and internationally recognized author, lecturer, strategist and seasoned advisor to the leaders of premier law firms.

Read more from Patrick J. McKenna in his series on Leadership Development and Strategy at [Legal Business World Publications](#)

Pick up the firm brochure or visit the web site of most any professional services firm and you will see somewhere in the content, “*We are acknowledged for our ability to find new, creative and **innovative solutions** to solving our client’s problems.*” And in most firms that statement is neither puffery, nor a crass exaggeration.

Your leadership challenge becomes one of redirecting some of that innovation that your colleagues just naturally display in solving client problems, to innovation in running the business side of the practice. And why might that be important? In our hyper-competitive marketplace successful strategies are quickly copied by other firms. One need only to look at the evolution of privacy and cybersecurity services with all kinds of firms jumping into the pool, to evidence a prime example. Without some attention directed toward stimulating ongoing innovations, success can be fleeting.

What that all means is that “innovation” is now being added to the long list of competencies that you as a firm leader are expected to be conversant with and to eventually master implementing within your firm. You have likely noticed that some firms are creating their own innovation departments and it would even seem that nothing says a law firm is focused on being modern, more than bringing on a C-level professional to aid your efforts – even though such an investment does not absolve the firm leader from their role in owning and championing the initiative.

When compared to the precise management science of something like finance, innovation leadership is an extremely messy affair. One need only observe how it has become fashionable everywhere to host Innovation Jams, Hack-a-thons and Shark Tank competitions; to send folks to design thinking retreats; or to use software to stimulate firm-wide crowdsourcing of ideas. Meanwhile, the explosion of catchphrases is blistering: Lean Start ups; Agile Innovation; Boxes and Whitespaces. These approaches aren’t without merit. The rub is that for many highly-disciplined law firm partners, they just don’t appeal.

Rather than enhance predictability, innovation as a process embraces uncertainty; and rather than relying on data and knowledge, it requires empathy and insight. To succeed, as the firm’s leader you must keep your feet in two places at the same time – executing today’s business priorities while also discovering tomorrows. Absent in the small print are instructions on how.

So here are some things that you as a firm leader, interested in developing your firm’s

capacity for being more innovative, need to know to take some of the mystery, and misery, out of innovation within your firm.

HELPING MAKE INNOVATION HAPPEN

Law firms can innovate successfully, have a track-record for inspiring innovation, and be rewarded handsomely in the marketplace. Not just that one breakthrough idea, but a continuous stream of innovations; and yet many firms painfully struggle. You need a culture where innovation occurs because of the culture, not in spite of that culture. So what might help your firm become more innovative? Here are 10 decisive actions, which from my experience, are worthy of your serious consideration:

1 - Define Your Innovation Efforts As Your Approach To Solving Problems

To start, “innovation” or whatever label you prefer to use, is one more tool in your Leader’s Toolkit for addressing certain types of problem – and typically, a problem for which no solution is currently available or for which an entirely new approach is warranted. When you define innovation as your approach to problem solving it directs you and your people to begin with asking yourselves a critically important question: ***“What is the problem we are trying so solve for which we believe Innovation may provide the solution?”***

From there you can be thoughtful about whether you are addressing a problem that actually matters for your firm; where you are directing your efforts; and whether innovation is actually the best approach to use.

- **Reset The Barometer For What Your People Think Is Achievable**

Innovation has been something of a side-show in many firms – nice to have and nice to talk about, but not doing much to contribute to really growing the firm’s revenues. So, how about this for a problem statement: “*In our firm, we need to have 1/3 of our total revenues, in three years (2022), come from services we do not now provide.*” That is precisely the challenges that both Deloitte & McKinsey have set out to tackle, and from what I understand from friends in both of those firms, they are progressing very well in addressing that challenge!

They know that when you have aspirations that are outlandish, it forces everyone to begin to think differently. When you subscribe to a stretch goal it provokes the energy to start searching for breakthrough ideas. No one and no firm ever outperforms its aspirations.

Whatever your partners think is possible . . . is all they think possible. Our beliefs set the upper limits for what we believe we can achieve. So how might you challenge your firm’s future performance?

2 - Invest A Portion Of Your Leadership Time Living In The Future.

All too often, I find that far too many firm leaders are driving toward the future with eyes fixed firmly on their rear-view mirrors.

Consider: the typical firm leader usually does not view his or her role as the locust of new business creation. They most often see their role as the guardian of running the firm’s existing practices to meet the firm’s budget targets and ensure that all partners are billing to their maximum potential.

Look at the issues that are currently consuming your time. I often ask of managing partners a couple of questions that painfully illuminates where they spend their time. First: “*What proportion of your management time is spent solving problems versus what proportion is spent on exploring new opportunities?*” After a rather awkward reflection period, the answer I will usually elicit is about 80% on solving problems and 20% on exploring opportunities.

I suspect that it is really more like 95% on problems and 5% on opportunities, but let’s analyze what this division of time infers. This means that as the firm leader, you are spending 80% of your time and energy looking backwards and fixing things, while only 20% looking forward and creating things. Forgive me being the bearer of some bad news: Firms operating in this mode will never lead in their marketplaces.

So why does this happen? Well, it should be obvious that most professionals are veteran problem solvers. We are trained to resolve the issues, put out the fires, correct the underperformance, and generally “fix” the problem. There is a powerful gravitational pull that unconsciously moves us toward fixing things instead of innovating, toward restoring instead of increasing, and toward reacting rather than being proactive. We need to understand that fixing things, while however noble, simply restores the prior performance or condition, which is comfortable, but limits value. However, if your focus is on improving the condition, on inspiring entrepreneurial endeavors, on being innovative; then your intent is not on restoring the status quo, but on developing a level of performance that exceeds any previous standards.

There is a follow-up question I will then pose: *“Of the time you spend on exploring opportunities, (remember it was reported to be 20% of the total) how much of that time is directed toward pursuing billable production, winning the next big transaction or responding to a competitor, (the present) versus pursuing the development of entirely new skills, new services, new technologies or new revenue streams (the future)”?*

Again, if I were generous in reporting what I have learned, the average firm leader spends about 60% of their time exploring present opportunities and 40% on future opportunities. That drives a point worth scrutiny: What kind of a future is likely to be created by a firm leader spending about 8% of his or her total management time and energy focused on that future? And this is in firms that have a firm leader who spends ALL of their available time on leadership and management matters. Those who spend less than full-time usually have next to no time for the future, except of course, during that one-day, off-site annual planning retreat. (Is it any wonder why so many of these retreat-generated “strategic plans” are dead on arrival!)

As the firm’s leader, attention is your most powerful management tool. So if you want your professionals to focus on innovation, nothing speaks louder about what is of bedrock importance than where and how you choose to spend your time. Where any firm leader spends their time is not a matter of chance. Choices are made daily about what to do and with whom.

Every firm holds numerous meetings, and every

meeting has an agenda, whether written or unwritten. The cumulative content of those agendas clearly signal executive priorities and concerns. The conscious management of your agenda, and your input into meeting agendas, is a powerful signaling device. Most meetings are mere status reports on the present. If you are serious about promoting innovation make sure that each meeting devotes 20% of the time to listening to ideas for improving systems, generating new revenues or developing new services. Also, the things that get your swift and detailed follow-up will always be perceived by your people to be of the highest importance.

Don’t burn up your precious time and waste resources looking backward. This is a time for action, not introspection.

3 - Help Your People Get Comfortable With Innovation.

One of the very natural responses that you may hear from your partners if you should suggest that your firm should focus a bit more time on innovating, a bit more attention to experimenting and being a bit more entrepreneurial, is some variation on: *“We’re not comfortable with something we don’t truly understand”*

Many of the systems that support innovation may provoke discomfort. The unfamiliar often provokes a negative reaction at first. Research shows that, independent of other factors, the more often people are exposed to something, the more positive they feel about it. So I have often instructed firm leaders that they must first seek to educate, before they seek to change. Here are a couple of things that you can begin to do almost immediately.

- Bring in a regular menu of outside speakers (predominantly from other professions, academics, thought leaders and business entrepreneurs) to attend a monthly partners luncheon (you can easily involve your various offices by way of video conferencing). Focus your efforts on individuals who are actually taking action to re-shape their own organizations through innovative means. Have them speak to your partners about what specifically they are doing; and equally important, why they are bothering to invest the time in initiating new directions; and what successes they are experiencing.
- Begin your efforts **without** great fanfare (the worst thing that you can do is announce some new program) and make it totally voluntary for partners to attend. *“I happened to be talking recently with this individual and was particularly struck by what she is doing in her firm. So I asked her to join us for lunch. I think you will find it interesting and perhaps of some value to you in your dealing with your own clients.”* What you should see after only a couple of luncheons, is some growing interest in why these companies are pursuing innovation, a greater comfort with the concept and the methodologies, and a degree of enthusiasm coming from some of your partners for perhaps trying out some new ideas in your own firm.
- After some initial success with the monthly partner’s luncheons you might then consider turning your partner’s eyes to new horizons with a “strategic forum” event designed to formally evoke some discussions of the

future issues facing your profession. Here is your agenda: *“What are the forces already at work in our profession that have the potential to profoundly transform the way we may be practicing in the next five years?”*

Now could you sustain a four-hour discussion some Thursday evening (4:00 to 8:00 p.m. over beer and pizzas) debating the various trends, how they might affect your firm, and what ideas your people might have - not to react to the trend, but to get out in front of the trend so as to capitalize on opportunities?

4 - Have Your Leadership Team Stay Alert To Global Trends

Wherever you look across the profession you will see two kinds of firms: stragglers who have fallen behind the change curve and challengers who are more in front of the change curve. The stragglers fail to see the future coming. There is no proprietary data about the future; but there are different levels of understanding of trends and factors that open up possibility. So ask yourself: ***“What are the fundamental make-or-break challenges that will determine whether our firm thrives or dives in the years ahead?”***

Innovative leaders work with the members of their executive committees and their elected boards to have those members pay specific attention to the little things, the under-appreciated external trends, that are already happening. By way of example, the 10 member elected Board of one AmLaw 100 firm meets for one-day monthly, spending half of the day focused on immediate business issues and the remainder of the day on their near term future.

In my experience there are a few important questions that are worth posing to stimulate your colleagues to zero in on potentially important trends and developments:

- what are the things that you have read, seen or experienced in the past month that have been surprising, perplexing and/or disconcerting?
- which of these trends or developments are not yet topics of conversation within our profession or legal media?
- when you observe the pattern that these trends may be taking, which do you see expanding in scope or accelerating?
- now if you were to project forward, how do you think these accelerating trends are likely to play out?
- how might we exploit any of these trends in ways that would work to our advantage?

It is not unusual to see your highly intelligent partners miss spotting disruptive trends as an outcome of three handicaps: because they can not think outside of their current context; because of cognitive biases; or because of personal anxiety – in particular, a fear of any disruption that could possibly devalue their skills. Nevertheless, as the leader of your firm, you have to be tracking trends, (hopefully those your competitors have not yet noticed) and then figuring out ways to capitalize on them.

5 - Visit The Places Where Change Happens

Consider as the firm leader: ***“How often in the past year have you invested some leadership time in putting yourself into the position where you had the oppor-***

tunity to see innovation close up?”

Rather than reading about some new development in a business magazine; hearing about a developing technology from some consultant, or getting a warmed-over report from one of your colleagues, why not take the time to experience some innovative initiatives first hand?

Have you shown enough of an interest to visit one of your corporate client’s formal innovation labs? How about doing a tour of a tech start-up business accelerator? Have you considered spending an afternoon hanging out at the University talking to some of the professors about their leading edge work in artificial intelligence and deep learning? Have you ever had a ‘what-do-you-care-about’ conversation with one of the senior researchers in your State’s Economic Development Department?

It’s easy to discount secondhand data but far harder to ignore what you have learned and experienced for yourself. As the rate of change continually increases, so must the personal energy that you as a firm leader devote to understanding those changes.

Why not set up an appointment to talk to prospective clients who are not using your firm’s services, especially those who seem to be the more progressive, demanding type. Go out for drinks with a small group of firm leaders from other professions. Establish an internal committee whose members are, on average, 20 years younger than your real executive committee and give this group the chance to review some of the firm’s various activities, decisions, and then present their views directly to your Board.

- **Observe First-Hand What Some Of Your Corporate Clients Are Doing**

Instilling innovation at one Fortune 500 company I'm familiar with has required a broad-based effort over several years. Here are a few of the changes they initiated that seemed to make a significant difference and could be emulated in some form within your own firm:

- the appointment of vice-presidents of innovation at both the global and regional levels;
- the creation of cross-functional "innovation teams" in each region engaged in the search for breakthrough ideas;
- the creation of innovation boards in each major business unit made up of senior people who met monthly to review ideas and projects; set goals, allocate resources and oversee the continuing innovation process;
- a dedicated IT platform that expedites the spread of new ideas across the company, featuring an online idea bank designed to make it easy for ANY employee to share their ideas;
- the creation of a group of "innovation champions" in every part of the company who are there to guide, mentor, and assist in the execution of ideas and projects;
- the organization of communication events called "Innovation Days" where teams can showcase their ideas to others in the company;
- an annual event devoted to recognizing and celebrating the work of innovators and the various projects that are underway;
- the creation of a comprehensive set of metrics to continually measure the company's innovation performance; and
- a dashboard that showed how many ideas

were being produced, which parts of the company they were coming from, how fast they were progressing through the pipeline, when they were likely going to be commercialized, and what the future value of each project was expected to be.

Meanwhile in our profession, signs of strategy decay become painfully obvious as we witness firm leaders all reading from the same industry publications, going to the same legal conferences, and hearing from the same consultants.

6 - Reach Out For New Voices

Perhaps the tallest hurdle your leadership must clear in pursuing innovation is to abandon the tightly controlled cliques that dominate most strategic thinking that purportedly takes place on behalf of the firm.

All too often, strategy discussions in large firms have the same 10 partners talking to the same 10 partners for the fifth year in a row. Any hint of innovative strategy died when you know that they can finish each other's sentences. Where in large firms are you going to find the least "**cognitive** diversity" - usually with people who have most of their emotional equity invested in the past. In many firms, the innovation bottleneck is all too often at the top of the bottle. Without new voices – different ages, different industry experiences, entirely different professions, newcomers, those from the far-flung edges of your firm, you won't hear new ideas.

Consider the approach taken by Deloitte Consulting who believes that you should create an internal competition for ideas and involve the collective brain of the entire firm.

Deloitte sponsors contests among all of their professionals for the wildest innovations. They propose: why not offer a cash incentive and allow our people to eagerly compete for a chance to have their personal vision impact the firm's future? One of their more recent events was reported to have stimulated over 176 ideas competing for a \$10,000 cash prize.

- **Call Upon Your Younger Voices**

There are a number of areas in any firm where you can hear from new voices. There is the younger practitioner who has grown up in a different time with different skills and seemingly different values. We need to recognize that organizational aging encumbers innovation. Your firm's response to embracing innovation changes both as the firm ages and as your senior power partners age. As any firm matures and achieves some measure of success, it unfortunately loses much of its appetite for being entrepreneurial; able to quickly respond to market opportunities, pioneer new service offerings, or initiate change.

Jeff Popova-Clark from PwC posed these questions: How old was Einstein when he revolutionized physics with his special theory of relativity? How old was Isaac Newton when he developed calculus? Darwin, when he conceived of evolution? Picasso, when he added a whole new dimension to the visual arts through cubism? What about Shakespeare when he penned Romeo and Juliet? Karl Marx, when he released his Communist Manifesto? Mozart, when he composed Don Giovanni? Maxwell, when he deduced the relationship between electricity and magnetism? Slightly more timely, how old was Henry Ford by the time he built and sold his first car, Bill Gates when he co-

founded Microsoft, Anita Roddick when she set up The Body Shop, or Jeff Bezos by the time he launched amazon.com? No one on these lists were older than 33!

Jeff's proposition (which deserves some serious attention and is painful for even me to contemplate) is how surprisingly hard it is to find any disruptive ideas and creations originating from people older than 35, and how some of the most original, icon-smashing, and valuable ideas have and are being developed by individuals still in their twenties and early thirties. So, how many professionals between the ages of 25 to 35 have you purposely asked to formally participate in the creation of your firm's strategy? And, how likely is it that your firm possess at least one Picasso, Roderick, or Gates?

In one particular client firm working on their strategic plan, the leadership initiated what they came to call their "2022-25/40 Initiative." In an effort to encourage foresight they called upon all of the lawyers in the firm between the ages of 25 and 40 years of age to volunteer for a project. They then asked the assembled volunteers if they would divide into separate task forces with each tackling the same project. The project was "to formulate a written scenario of what the legal profession might look like in the year 2022". They would then collectively examine the various scenarios and what implications they might present for the kinds of proactive actions that the firm would need to initiate to get out ahead of the future. I had the honor of participating in the meeting where the three task forces came in to each present their scenarios to the firm's leadership committee. It is no exaggeration to report that these senior partners were blown away!

We need to acknowledge great ideas, no matter where they come from – for example, last summer a young associate, practicing employment and labor law, inspired the leadership at the McNees Wallace firm to announce the launch of their esports practice group. For the uninformed, esports law is an amalgamation of multiple disciplines – labor and employment, contracts, endorsements, sponsorships, gaming, intellectual property and all the things that come with those arrangements. Potential clients are likely to include individual gamers, but also the game publishers, organizations building potential leagues, sports competition venues, media, entertainment, and advertising companies, and let's not forget potential investors and private equities.

When developing innovation, ensure that you include a healthy representation of younger, newer, and less-experienced professionals in the process. Then you need to create the environment in which these people will feel comfortable expressing and developing their ideas. Placing a token younger professional in a room full of senior partners will not, by itself, ensure that a fresh perspective has been injected into discussions.

- **Hear The Voices Of New Hires**

Some of the very best ideas can come from your newest professionals (partner or associate; new hire or lateral). One firm has a specific program called “Fresh Eyes” to tap into that insight. With this program the new hire or lateral gets to give the firm a formal performance review following the first 30 days of his or her tenure. While impressions remain fresh, the professional is called into a

meeting with the managing partner to provide a candid review of their initial experiences and ask the hard questions like “*why in the world do you do certain things the way you do; why haven't you done it this way?*”

- **Include The Voices Of Business Experts From Outside Your Firm**

When considering how an individual can add value, do not be concerned with how many years of experience they have within your particular firm. Instead, determine if they bring experience from a wide variety of backgrounds, industries, and perspectives. You are not necessarily going to benefit from having a carbon copy of your current management team. Experience can result in less flexibility, greater investment in and protection of established ways of doing things, and less reflection on and questioning of why things are done in certain ways.

In 2017, accounting and consultancy firm PriceWaterhouseCoopers (“PwC”) announced the appointment of two ‘outsiders’ to its Board. According to PwC Governance Insights Center Leader and partner Paula Loop, “*diversity and addressing the risk of 'group think' were prominent in the PwC decision.*” Meanwhile, Grant Thornton LLP, another leading accounting and advisory firm, reports that for the past 5 years, it has included two independent (external) directors on their partnership board. Grant Thornton’s external directors serve up to two, three-year terms. So are the practices evident by these leading accounting firms with respect to good governance and innovative thinking not also applicable to law firms?

When thinking of new voices there is also the partner residing in a remote or smaller office, or practicing in a fringe specialty area who sees the entire profession somewhat differently from your typical partner; and there is the occasionally disruptive partner who just sees the world from a different mind-set. All are capable of making a valuable contribution to your firm's quest for innovation – if you care to reach out to them.

7 - Take Your Cue From Your Clients.

Firms truly devoted to innovation must reach far outside the inner sanctum of their management committees – and sometimes the firm – to even call upon clients, for their fresh insights. Profound client insights come from a cocktail of unexpected problems, novel experiences, random communications and newly discovered facts.

Go into the field, interview clients and where possible, videotape those client's responses – and then find the appropriate time and venue (perhaps a retreat or town hall meeting) to show the interview to all of your attorneys. As the firm leader you can present your views, you can even call in some brain-dead consultant to address your partners . . . but when they hear directly from clients, they actually start to listen.

In one Pennsylvania-based advisory firm the impetus for the development of its fastest growing national practice didn't originate from the thinking of any of its professionals. It was actually inspired by the firm's Advisory Board composed of outside business people charged with providing a fresh perspective to helping

the firm develop and target its service offerings more effectively. The firm maintains a 12-member advisory board that meets every two months. It includes four clients, four referral sources, and four non-clients. According to their managing director, *"We want to put our resources into developing one or two new products each year that clients really want and the advisory panel has proved incredibly valuable to us, both as an idea-generator and focus group."*

How many law firms actually have Advisory Boards or some formal mechanism for directly involving clients in helping them conceptualize and develop new services that the client might value? All too often, we forgo ever bothering to actually involve clients, or to even pay attention to what their evolving needs might be. It is not efficiency that produces new wealth but insight – insight into opportunities; insight into pockets of emerging demand. A firm that gets an early start in accumulating knowledge and experience serving some micro-niche of client need, and then continues to learn faster than rivals, can build an almost insurmountable lead – irrespective of size.

- **Completely Redefine How You Serve Client's Needs**

Too many firms define themselves by what the lawyers do rather than by what the client needs. Imagine if the problem statement you were to put forward as a challenge to your colleagues stated: *"How do we redefine the services we provide our clients from simply 'solving legal problems' to offering more of a 'total turnkey solution' for their business needs?"*

One firm I know advanced just such an innovative challenge – which then stimulated some entirely different strategies and structures. While everyone is busy chasing lateral attorneys as their speculative ticket to growth, this particular West Coast law firm has been flying under the radar for some seven years, with little media attention, growing their “subsidiary” practice group to 160 professionals with \$110 million in revenues. Notice that I used the label “professionals” because their practice group is actually a multi-disciplinary collection of 90 lawyers and 70 consultants, all treated equally including the compensation system they use internally to reward performance.

There are obviously many opportunities to innovate and leapfrog competitors by simply collaborating with and being sensitive to the (often unspoken) needs of your clients.

8 - Steal The Best Ideas From Other Professions

Innovation isn't always about invention; often it is about stealing great ideas from others.

You can't buy your innovation “off-the-shelf, from the same tired old consulting companies your competitors are using. The act of employing consultants to teach you “best practices” is no more useful than providing life-support for brain-dead lateral recruitment strategies.

One of the principles that I have learned about innovation is that it is often the product of someone spotting an old idea that can be used in new places, in new ways, and in new combi-

nations. Taking an idea that is commonplace in one business or profession and moving it into a context that isn't common, can spark entirely new approaches – if you are paying attention!

Thus as the firm leader, if you want to enhance innovation within your firm, one way is to initiate an internal committee of interested professionals to monitor all new developments and trends going on throughout . . . OTHER professions. Or, have your administration staff monitor the industry and news media, and provide a summary of clippings that highlight the business activities, emerging issues, and new innovations being promoted by firms in related professions.

For example, at Ernst & Young, they hold formal and frequent brainstorming meetings with a collection of academics, clients, and researchers to identify important issues and opportunities – with a specific objective of identifying issues three to five years **before** they appear on the radar screens of most everybody else.

If a systematic emphasis on growth and innovation offers any meaningful payoff, why don't more firms try it? The overarching challenge in most firms is that no one is clearly responsible for innovation leadership. It is unlikely that any firm can initiate and maintain an innovation strategy without dedicated, well-positioned leadership. Some firms may actually need their firm leader to appoint an innovation czar with the authority to shoo off complainers and obstructionists who over-analyze and pick breakthrough projects to death.

One further consideration: In a separate study involving extensive interviews with the Fortune 1000, it was discovered that these companies are using an average of 22.8 different professional services firms of all types (lawyers, accountants, actuarial advisors, consultants, public relations strategists, financial analysts, investment bankers, etc.) The significance of that is that you likely think that clients are comparing you against some other firm in your profession – wrong! Survey Says: Your firm is being measured against all kinds of other professional firms with respect to the value-added, delivery and client servicing aspects of what you provide. Know this: Whoever you think your competitors are, they aren't.

I mention this because the subject of “innovation” is appearing in more and more RFP invitations as Corporate Clients themselves are seriously embracing the practice and are looking to see what kind of a commitment and what serious steps your firm can show evidence that you are taking.

9 - Champion Your Intrapreneurs

Innovations don't always come about because of some direction, intervention, or incentive provided by you or your management committees. They often come about as the result of what Peter Drucker, the father of modern management, first expressed as, “**having a mono-maniac with a mission!**”

There is an incredibly valuable lesson here. If you want to have rule-breaking, wealth creating new ideas come to the forefront in your firm, then you definitely need to identify, nurture and champion those professionals,

chomping-at-the-bit to try new ways of doing things. I am absolutely convinced that the maniacs exist, the innovative ideas exist. What is missing is the internal champions.

It is also the reason that I have long advocated to firm leaders that you must view your practice groups as your basic building blocks for constructing your firm's innovation strategy. It is only when you begin to explore “hidden assets” at the practice group level that these opportunities emerge.

- **Consider Fostering Angel Investors**

The year was 2014 and I was working with a major Chicago-based AmLaw 100 firm. During my engagement I came into contact with a couple of young partners who were passionate about starting a cybersecurity practice as they perceived the future unfolding. Their only problem . . . they could not get anyone on the firm's executive committee to sponsor their effort, as no one seemed to think that developing a practice in this particular micro-niche could be monetized. 20/20 hindsight really can provide valuable lessons!

Now, imagine that each of your Office Heads and/or Practice Group Leaders could occasionally play the role of angel investor in providing seed funding for ideas aimed at producing new revenue for a particular office or practice group. What if each of those unit leaders, who managed a unit budget were allowed to invest 1% or 3% or 5% of that budget on innovative strategy experiments? Perhaps an Office Head and a particular Practice Leader could form a syndicate to take on a slightly bigger opportunity.

Then to the extent that a portfolio produced a positive return in terms of new revenues or even a significant costs savings, a small bonus could go back to those who had provided the investment and served as sponsors. Thus liberated capital could flow to the most intriguing possibilities unfetter by some Senior Partner's protectionist proclivities.

Is there any possibility that such an unorthodox initiative would result in a return on investment for your firm?

- **Rethink Some Of The Assumptions About How You Operate.**

Every partner carries around in his or her head a set of built-in assumptions, biases, and presuppositions about what clients want or don't want, who the competition is or isn't, and what services we should offer or not, and how he or she should conduct their individual practice. We are all, to some degree or another, prisoners of our past experiences. Nowhere is that more pronounced than in our professional's individual quests to maximize billable production.

In countless sessions that I have conducted with the members of various practice groups in various firms around the country, I have often had the occasion to pose to partners this question for them to brainstorm their innovative answers for: *"How might we find ways of doing our kinds of work, that would incur less cost to us?"*

Now, notice we are separating this from how you bill your client. That is not the issue. The issue is, that with the type of work, deals and transactions that we do, is there a bit of this

that's could in fact be done at a lower cost to us. Now the reason for posing this question should be fairly obvious in that if you can find ways to do something at a lower cost to you, you can either pass the savings on to clients and get hired more often, or you could use the money to increase partner profits.

Unfortunately the very worst reaction is the one that I so often see. After going through this discussion and even after having identified some very viable options for doing some part of the transaction at a lower cost, a number of the partners will immediately conclude that there is absolutely no incentive for any of them to take action.

"Why would we want to do that?" they'll say. "That's just going to reduce the number of hours that I'll be able to bill the client." We tend not to explore 'more cost effective ways of getting any particular task done' because we tend to think only of today.

Look at what Wilson Sonsini has just done to portray themselves as the premier privacy firm in the country. Wilson Sonsini made more than \$100,000 in sales during its first week offering subscriptions to an app that helps companies comply with California's new privacy law. While the firm's lawyers, on average, generated \$1.1 million in revenue last year, Kimball Parker from the firm, said he expects the app will generate millions in revenue as companies scramble to comply with the CCPA by a January 2020 deadline.

The cloud-based app, sold by a Wilson Sonsini software development subsidiary, is an example of this law firms' nascent interest in selling



“How do we redefine the services we provide our clients from simply ‘solving legal problems’ to offering more of a ‘total turnkey solution’ for their business needs?”

subscription-style legal services via an online platform – thereby delivering documents and legal advice straight to clients without a lawyer directly involved. So while competitors were saying, "why would we want to invest non-billable hours developing a resource that then only serves to decrease our billable hours?" And asking, "who's going to compensate me for the lost hours that I spend developing this resource?" Wilson Sonsini has disrupted these firms and is now making money while they sleep.

To explore innovation we need to get on the path of asking questions that challenge the way in which we have been operating - regularly - as part of the way we run our business.

- **Consider Packaging Your Intellectual Knowledge**

Building on the Wilson Sonsini example, perhaps you might pose this question to your partners as your innovation challenge: *"Some firms have packaged their intellectual knowledge into a viable commercial product, while others have created subsidiary operations to provide and market services ancillary to their basic legal services. Do you have any ideas on what we could do in either of these areas?"*

If you were to pose this question, I'm betting that you will likely elicit a pleasant surprise. From my experience, in most cases somewhere between 14 to 22% of your partners have a potentially viable idea in this regard that they have been pondering. Now, is it likely that any of the ideas that these partners have in mind, are of any commercial significance, with the slightest potential for being

revenue generating and of value to clients? Absolutely.

Have any of these partners been among those chosen in the past to sit on your firm's core strategy committee? Not usually. Have any of these ideas been mentioned to you as the firm leader, or indeed to anyone on the management committee for serious consideration? Not Likely.

Does anyone see a problem with this picture? One wonders . . . any opportunities possibly exist in your firm for professionals to package what they do for clients, thereby developing an entirely different and profitable redefinition of leverage?

10 - De-risk The Act Of Exploring Unfamiliar Opportunities

I'm told that an average-sized Silicon Valley Venture Capital firm receives as many as 5000 unsolicited business plans a year. So as a firm leader, how many unsolicited business plans did your Executive Committee get this past year? We need to find the means to let our lawyers imagine entirely new services / industries that do not yet exist; give them birth – then test and tweak their ideas at a speed that leaves competitors in the dust. In order to accomplish that we need to begin with **limited-risk experiments**.

In grade school they teach you that the word experiment and the word experience are derived from the same Latin verb, *experiri* - to try. You try out your ideas in the hope of success, and whether they succeed or not, what happens next creates your experience.

Your best hope of success lies in having numerous projects percolating at once. This ups the odds of one of them boiling over. As Linus Pauling, the Nobel winning chemist once said, “the way to have lots of good ideas is to have lots of ideas and throw away the bad ones.” Early successes breed optimism, the enthusiasm to do more and the commitment to try again.

Set up small, relatively inexpensive, minimal-risk, and short-term experiments. Anything beyond six months takes you into the realm of pipe dreaming. Too many things can go wrong. If you have an action plan pushing beyond the six-month limit, break it down into smaller tasks that fit into shorter time frames. This way your firm is continuously knocking down fresh goals and objectives, experiencing success, staying on track, moving quickly, and raising overall motivation to continue.

Small wins breed success and compel us down the path. Field tests, pilot projects, trial balloons, trying something new in a contained environment, and selecting one site or program to experiment with, are all ways to facilitate the innovation process.

- **Celebrate the individual or team that leads an expedition into the unknown.**

Many firms have created innovation ghettos – incubators, business development initiatives and skunk works to pursue ideas. These efforts, often cut off from enabling resources, produce little in the way of new revenue streams and many simply wither away. To

institutionalize your innovation efforts you need to establish a set of measures – an innovation dashboard – from which your Board or executive committee can track the number of ideas moving through the pipeline; the percentage of those ideas that are truly new; and the potential financial impact of each one.

You want to have a transparent process for continually generating, launching and tracking novel strategy experiments in the areas of new services, service delivery, improved efficiencies, and enhanced client service. And then MOST IMPORTANTLY, making the time to celebrate your achievements, no matter how small they may initially seem to be.

WHY NOW?

The world around us has changed. You'll need to find new ways to extract value. New ways to build markets. New ways to organize and execute. You have to be smarter. More agile; more inventive. That's what strategic innovation is all about. You need to help your partners see their practice in ways that can reveal new opportunities. You need to help them see and uncover the hidden costs of standing still. You need to hone your understanding of the real risks and rewards of your current strategy. In a climate like this one, the most important step you can take to ensure your prosperity is to reenergize your thinking.

As firm leader, harnessing Innovation isn't merely a set of tools or techniques; it's about creating a firm-wide mindset. As the firm's leader, you need to become a “venture catalyst”.

Understand that Innovation isn't about putting out fires or fixing yesterday's shortcomings; it's about blazing new trails and preparing for a new tomorrow. Albert Einstein once noted, "You cannot solve the problem with the same kind of thinking that created the problem."

Innovation isn't about developing detailed and inflexible planning documents; it's about creating a compelling challenge capable of inspiring people. Most plans are a little bit too much like quicksand, eliciting a degree of rigidity that impedes a firm's ability to explore an ever-changing world. Few things capture people's excitement more than being part of a vibrant entity and exploring new revenue producing possibilities.

Innovation isn't about improving incrementally; it's about daring to pursue strategic breakthroughs.

In a competitive marketplace where there are no time-outs and no commercial breaks, if you are content with being a follower, you will always be eating someone else's dust. The pace of change will suck the air right out of your lungs. The classic saying "Lead, follow, or get out of the way" is being replaced with the reality that you either lead or get blown out of the way. In these highly competitive times, there is little room for firms that simply follow.

Ultimately, we need an approach to innovation that causes us to reach for the highest and best in ourselves, our leadership and our 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).

A close-up portrait of a woman with long, wavy blonde hair, smiling warmly at the camera. She is wearing a dark-colored top with a subtle pattern. The background is a soft, out-of-focus light grey.

How New Workflow Efficiency Platforms are Poised to Change the Legal Industry

By Monica Zent, Entrepreneur, investor, businesswoman and trusted legal advisor to leading global brands

During the course of my nearly 25 years in the legal industry, a large portion of which has been spent innovating via leading alternative legal services provider, [ZentLaw](#), I've always been drawn to change and innovation within the industry. This is why I created [ZentLaw Labs](#), a division of the company focused on building and incubating legal tech solutions. Over the years a specific focus of mine has been the use of legal technology to improve collaboration and knowledge sharing in firms both internally and with outside stakeholders.

That is why it was exciting to have recently launched [LawDesk360](#), a cloud-based, artificial intelligence (AI) powered platform that gives a comprehensive, 360-degree view of what is relevant to the work on team members' desks at that point in time. Specifically designed to facilitate the nature of the legal workflow cycle, the platform provides tools and functions that support work at various stages of a matter – from initial assessment to creation and collaboration to resolution and closure.

You may be asking yourself, “Why the need for such a product now?”

Challenges

As many of us know all too well, true collaboration in law has long been stifled, thanks to a deeply rooted, career-long indoctrination process.

“Law schools teach students to avoid mistakes rather than to search for creative solutions,” says Mark A. Cohen, CEO of Legal Mosaic and Distinguished Fellow at Northwestern University Pritzker School of Law. In a recent [Forbes blog](#), Cohen writes that the process continues in

private practice where measures for success are hours billed and revenue generated as opposed to offering creative solutions for clients. “Collaboration with other firms and legal service providers is widely resisted and regarded as lost revenue,” continues Cohen. “As a result, lawyers are trained to be insular and inward-facing, not multidisciplinary and collaborative.”

Real-life observations, however, have shown me that in order for legal work to get done accurately and efficiently, lawyers need to have a steady stream of information exchange and knowledge sharing. Having operated multiple businesses over many years in industries outside of law, I have experienced firsthand how productive a collaborative team can be and the benefits of facilitating collaboration as a leader. In order to shape decisions, colleagues need to share information about a transactional matter and be able to access best practices of what was done on a prior, similar matter. Even something mundane, like when a person goes on vacation and someone has to step in and cover their matter, can upset the information flow. It's challenging to have that person to take over another's work seamlessly.

Such exchanges and collaborations in the legal universe are happening all the time, but are ad hoc in-person or one-to-one email exchanges are most common. With the advent of email as the primary information-sharing method of choice, people's inboxes have become inundated and often unmanageable and inefficient. In fact, more than 60% of legal professionals [said](#) administrative tasks like organizing emails were their biggest source of frustration at work.

What's more, achieving proper context, communicating concisely and efficiently collaborating on complex legal matters with colleagues and clients in email strings is at the very least inefficient and "Perhaps" or, at the most, will cause serious issues.

While email may be here to stay, how can we explore, search, find and use the information we need from colleagues quickly and efficiently to get work done?

Solving the Contract Conundrum

As an example, take the important task of contracting (if you're in-house) or transactions (if you're at a firm). Every in-house legal department is trying to wrangle the contracting beast that is all of the company's in-bound and out-bound contracts for everything every bought or sold. Similarly, every law firm is trying to deal with how they can manage transactions for clients efficiently to avoid burning out their personnel and running up a client's bill.

Collaboration is inherent to the contracting and transacting process with multiple stakeholders, including attorneys, outside counsel, accountants and other legal professionals, weighing in, escalating requests, and answering questions. The time spent on a typical contract averages about 40 hours [according](#) to the International Association for Contract and Commercial Management, with work divided amongst legal, procurement, operations, project management, finance and compliance professionals. Furthermore, businesses lose an estimated 9% of annual revenue from ineffective contract management.

Whether in-house or at a firm, the vast

majority of this effort takes place over email requiring attorneys to spend precious time sifting through their inbox, shuffling tabs and searching folders. These tasks add up to a lot of churn when multiplied across the many contracts that an in-house legal department or their law firm services, which, collectively, create drag on the contracting process.

New collaboration technologies like [Law-Desk360](#) enable what I call "collaborative contract management" or "CCM," which solves the problem by taking a disjointed and disorganized process and integrating it into one platform. The ability of CCMs to improve productivity and workflow can help cut unnecessary time and cost in this area.

I introduced the term CCM in a recent piece for Corporate Counsel and the response was overwhelming. Legal industry thought leaders such as Bernadette Bulcan Starin exclaimed "Collaboration is key to CLM success. CLM Tech optimizes and strengthens relationships (with both external business partners and internal stakeholders). And, when deployed collaboratively and enterprise-wide, truly unlocks the hidden data and insights across business units and divisions, geographies."

Bottom line: email is not an effective, efficient collaboration tool, and the contracting process or transaction handling are prime examples. When people are not collaborating and sharing information, it can result in costly delays and mistakes.

New Advancements

The trend towards the creation of a more

efficient means of collaboration and knowledge sharing has been driven by two developments: the continued rise of remote work and the advent of social communications platforms.

In 2018 nearly 4 million U.S. employees [worked remotely](#) at least half the time, an astounding increase of 115% since 2005. It has become clear early on that whether workers are toiling at home, at a shared workspace or even a coffee shop, this new, remote and flexible workforce would require access to new platforms to make on-the-go communications easier.

This new level of demand has given rise to collaboration platforms powered by new technologies. There's no doubt that people have become more comfortable with alternative ways of connecting with friends and colleagues. The corporate world has steadily implemented the use of collaborative platforms to communicate, and it appears to work.

In a 2017 [McKinsey study](#), corporate executives reported that social tools had increased employees' ability to communicate more freely and to self organize with members of their teams.

For enterprise, these social tools have evolved into workflow platforms. While the use of such tools across industries is growing, the legal industry has lagged behind. I see a couple of reasons for this. First, legal professionals often don't have time to invest in becoming tech savvy. They're busy helping clients and just don't have the time to learn how to use new platforms. Second, many of the platforms that exist in the industry today are clunky, counter-intuitive and require much training.

Clauses in the Cloud

In recent years, though, legal tech has moved towards agile and easy-to-use applications, with no training required.

An important driver of this is the adoption of cloud computing. Although McKinsey [finds that](#) enterprise cloud adoption is only about 20% at present, it's expected to accelerate rapidly. Most organizations will be in the cloud sooner rather than later.

Meanwhile, the use of cloud-based encryption and cutting-edge authentication security controls is alleviating data security concerns related to the cloud. The benefits of the cloud for legal organizations are many. Besides the cost savings advantages, there's improved mobility – applications and data are available to people no matter where they are in the world – and increased collaboration, as dispersed groups of people can meet and share information in real time, via shared storage.

Advent of AI

Perhaps the most intriguing and promising feature in these new platforms is AI-powered search. In order to work at an optimal level, AI requires massive amounts of data, which makes the legal industry a natural for AI adoption.

In LawDesk360, for example, AI is built into the clause and search engines. Through machine learning, for example, certain sole remedy language can be linked with related indemnity or warranty clauses. Making these connections is important in law. As one section of a contract is touched, there's a ripple effect to other parts of the contract. This type

of learning doesn't happen overnight. It will take lots of data and time to make these links. But the payoff will be massive: legal professionals will be able to refocus their time spent on mundane tasks like search and making updates and instead invest their time in higher value tasks.

Technology is Transforming the Legal Industry

Together, these cutting-edge technologies have resulted in secure and sophisticated, yet easy-to-use, workflow efficiency platforms that facilitate communication, knowledge sharing, and negotiation of a wide variety of legal matters.

Such platforms help to avoid unnecessary churn, waste and inefficiency in and across organizations. This can also benefit legal specialties where matters must be tracked and handled from start to finish, as in the aforementioned contracts.

“The ultimate goal of legal technologies is to streamline operational and administrative activities as much as possible,” says Stephanie Corey, cofounder of legal strategy and operations consulting firm [UpLevel Ops](#).

“Collaboration tools can play a large part in reaching this goal.”

So while I stated early on that I'm excited about the launch of LawDesk360, I'm just as excited about the future of legal tech, its positive effect on collaboration and workflow, and its adoption across the industry. There's much to look forward to including further advances in AI, blockchain technology and quantum computing that will continue to exceed what is possible today.

About the Author

[Monica Zent](#) is an experienced entrepreneur, investor, businesswoman and trusted legal advisor to leading global brands, over a period that spans decades. She is the founder of leading legal services company, [ZentLaw](#) and its innovative [ZentLaw Labs](#). She is also the founder of [LawDesk360](#), the workflow efficiency platform for legal departments and law firms. Zent is an investor in real estate and start-ups. She dedicates much of her time and talent to various charitable causes. She is a diversity and inclusion advocate, [inspiring all people](#) to pursue their dreams. When she's not running companies, Zent runs distance as an endurance athlete. [@monicazent](#)

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Series on Corporate Social Responsibility and Sustainability for Law Firms

What does a transformational social impact program look like?

Case studies of holistic, strategic, social impact programs in the legal industry

By Pamela Cone, Founder & CEO Amity Advisory

Legal firms and their clients are banding together to create transformational social impact programs. Lawyers and community organizations in Washington D.C. joined forces on a solar power project that benefits low-income tenants. And 11 law firms are delivering pro bono legal services to clients that drive sustainability transformation. These are just two examples of how lawyers are taking social impact programs to the next level and raising their visibility in the industry.

In the previous article of this series, I described the maturity stages of a firm's social impact program. And I invited you to assess your firm's programs to rate your place on this maturity continuum.

- **Transactional:** The firm works on activities and initiatives, but it doesn't have an overall strategy. These activities are stand-alone, random, and not strategic to the business. This is considered a "transactional" program—offering time, but not talent or treasure.
- **Transitional:** In this phase, efforts are more focused. Perhaps the firm has identified specific themes or specific partner organizations or causes. In this phase, firms are likely offering time and treasure—and perhaps even a bit of talent, such as pro bono work.
- **Transformational:** For true transformation, the firm sets specific themes and objectives aligned with its specific talents and skills. It collaborates with organizations, including clients, to achieve more than it could alone. The firm provides, time, trea-

sure and talent to achieve greater outcomes and social impact.

So, what does a transformational strategy look like?

Truly transformational programs are still few and far between in the legal industry. If you elevate your program, you'll stand out. Here are a few examples of firms working on transformational social impact outcomes:

DLA Piper, a firm which has signed the United Nations Global Compact, is truly embracing Goal #17, Partnerships for the Goals to **improve global access to employment opportunities** across professions beyond the legal sector. As a global business law firm, they're using the strength of their networks and convening power to help raise awareness of this issue and facilitate change. They're making a greater collective impact by working alongside their clients, academic institutions, charities and NGOs. Through this collaboration, they're demonstrating shared values to build relationships, and most importantly, leverage the different aspects of the solution that each participating organization can provide.

Similarly, **Nixon Peabody's innovative project around solar power** is brilliant. Nixon Peabody lawyers, the District Department of Energy & Environment, Brookfield Properties, National Housing Trust Community Development Fund, Enterprise Community Partners, and Sol Systems formed a nonprofit entity called **New Partners Community Solar Corporation**. It deployed the first community solar installation on Washington D.C. commercial property. The generated

energy benefits low-income tenants in the District of Columbia. Truly transformational.

In another example that illustrates collaboration within the industry, **11 of the most respected law firms in the United States have created a groundbreaking collaborative project called Lawyers for a Sustainable Economy**, which will deliver pro bono legal services to clients who are driving sustainability transformation. Is your firm a member? If not, why?

What does holistic look like? Beyond pro bono and diversity and inclusion programs

In assessing our societal impact, it is not enough to think only of our pro bono work. We should not overlook that law firms can make a difference in the fee-earning work they do for and with clients as well. For example, take **Freshfields**, a signator of the UN Global Compact.

Its annual Global Business Forum gathers senior executives, thought leaders, and academics to discuss the existing and emerging issues that matter most to global businesses: Climate change and sustainable and equitable growth, resource scarcity, and corporate strategies on environmental, social and governance policy.

In early June 2019, Freshfields created a Chief Client Sustainability Officer role, and filled it with one of the firm's partners. In a press release, the firm explained that they created the role because "Our clients want to be on the right side of history." Freshfields is broaden-

ing the scope of its social responsibility efforts by listening to its clients and including them in the firm's CSR strategy.

Linklaters, another signator of the UN Global Compact, beautifully captures the comprehensive, holistic view of CSR and sustainability with the following description of its program and efforts on the firm's website:

For many years, we have been advising clients on **undertaking business responsibly across climate change, sustainable real estate, risk and governance, anti-bribery and corruption, whistleblowing, and crisis management.** The UN Global Compact and the UN Sustainable Development Goals now challenge us to consider how much more of our activity, whether fee-earning, pro bono or direct operations, influence these global priorities. ... Not only does this include the more traditional themes of Pro Bono and community investment, Diversity and Environment, it also captures issues of human rights and modern slavery, working with suppliers, and fair dealings and ethics."

Moving beyond what is "nice to do"

While "doing good" has been part of the ethos and DNA of the legal industry forever, most see it as a "nice-to-do"—something apart and separate from the firm's strategic management decisions. Today, all businesses must act with social impact and sustainability in mind, including the professional services industry. These topics must be considered at the firm leadership level and shared transparently—internally and externally. Celebrate where the firm is doing well. Acknowledge where improvements can be made. And set out to work

toward a more sustainable, socially responsible future. Collaborate with others for greater impact. Your employees, your clients, your vendors, and your business partners expect it. It's not only a business imperative—it is now a global imperative.

Coming up

In next edition's article, I'll share a profile of a firm in Lisbon, Portugal that lives and breathes the essence of what it truly means to be a transformational social impact firm.

For more information, read [last month's article](#) about the maturity stages of a firm's CSR program and how to assess your firm's programs to determine how to best move toward a transformational social impact strategy.

If you'd like to measure your current program and create a transformational strategy, contact me at pamelacone@amityadvisory.com

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.

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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The Industrialization of Law

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

"Competitive markets are not much fun for sellers" –

[Richard Posner](#)

It's common knowledge that the billable hour skews lawyers' incentive structures. Additionally, it's clear that professional conduct rules insulate lawyers, prevent other professionals from getting involved, and stifle innovation. Yet, despite the billable hour still going strong and no changes in professional conduct rules, we are seeing an unprecedented boom in innovative legal services. Something bigger must be going on.



Market cycles

While the literal number of lawyers remains a [significant factor](#), more important is its *ratio* to finance, insurance, and real estate ("FIRE") employment. When banks and insurance companies lend more money, when businesses and individuals insure against more risk, and when real estate transactions grow, lawyers have

plenty of work. As you can see in the [chart on the next page](#), for a long time the growth in lawyer numbers didn't stray far from the ratio of about 9.43 FIRE employees (or the purchasers of legal services they represent) for every lawyer:

Even though people often complain about lawyers being insulated from competition the above chart shows that, for quite a while, lawyers did not stray too far from the rest of the economy. The supply and demand [cycle](#) functioned how one would expect: “As more legal work became available, more people decided to go to law school. As more lawyers became available, the value of their services declined”.

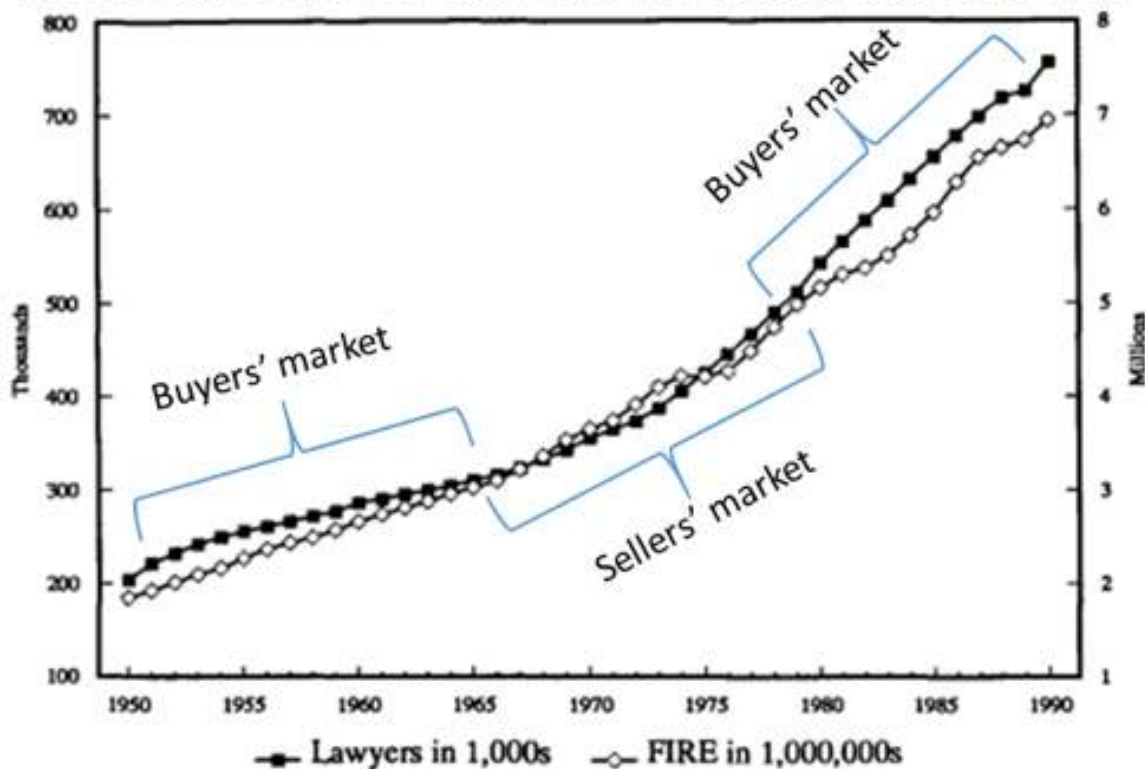
If this cycle were all that happened, we should expect the growing flurry of innovation to eventually go away. As the market corrected itself, things would eventually shift back into a sellers' market. However, the sea change that

actually appears to be happening seems outside the bounds of these typical market cycles.

Industrialization

A large increase in the supply of lawyers should lead to the market correcting by supplying fewer lawyers. But what happens when law schools keep growing and new ones pop up while we're already in a buyers' market, and the demand for legal services [slows down](#)? The ensuing lawyer logjam has led to extreme oversupply. The market value of lawyers has diminished, yet [we haven't seen](#) a corresponding reduction in the number of lawyers. Even though the legal job market began to stagnate [before the 2008 recession](#), new lawyers kept

FIG. 2: EMPLOYMENT IN FINANCE, INSURANCE AND REAL ESTATE (FIRE) COMPARED WITH TOTAL LAWYER POPULATION: 1950-1990



Source: Campbell University IS-POL-SED.

getting licenses. Eventually, the ratio became so different for so long that the market started to adjust to a new normal.

The number of legal jobs always fluctuates, but now the very nature of legal jobs is changing. The term "lawyer" continues to balkanize. And even if rules around self-regulation had used to keep access to legal services a scarce resource, there are now too many lawyers doing too many different things for such rules to be effective. As we move from a "profession" to an "industry", we have entered "the industrialization of law."

Loss of market power

Lawyers who were not in firms moved into three areas that have each driven this industrialization: in-house legal departments, legal out-sourcing companies (and ALSPs), and legal tech.

First, in-house lawyers propelled the industrialization of law by massively lowering the cost and risk of switching firms. Companies used to rely on law firms to (1) diagnose what legal services they need, and (2) ensure the quality (both pre- and post-purchase) of the legal services they received. Because of these information asymmetries, shopping around for a better price was not worth the risk of losing a reliable law firm (sort of like finding a good mechanic)

Full service firms evolved as a way to accommodate their clients' concerns about finding new firms by efficiently monitoring referrals to specialized lawyers.

Yet when companies began to bring more

lawyers in-house, they internalized these diagnosis and quality control functions. Long-term relationships became less important - they were now more of a nice to have than a primary method of managing one's legal needs. Companies had acquired [the ability to monitor the work of outside counsel](#), which enabled them to bargain over price.

That ability not only drove prices down, it massively changed the market's dynamics. In-house counsels began to select their own specialists. The rule became to hire lawyers, not firms. Some large companies have used as many as [700 law firms](#) at one time. Take a minute to think about that stat. Now think about the power such a company must have to then cut ties with [680](#) of those firms in just six months. That requires cancelling relationships with 113 firms every month. That is the extreme power of just one (very large) company. It gets even worse for private practice when you consider that the number of in-house lawyers has [tripled](#) since 1997. It's not an exaggeration to describe the current in-house revolution as tantamount to the "[elimination](#)" of lawyers' market power.

Second, even after the expansion of in-house legal departments there are still just so many lawyers. This lawyer glut fueled the first wave of legal outsourcing (e.g. doc reviewers for eDiscovery). It also supplies lawyers to ALSPs. As buyers get even more options, it further dilutes the market power of law firms.

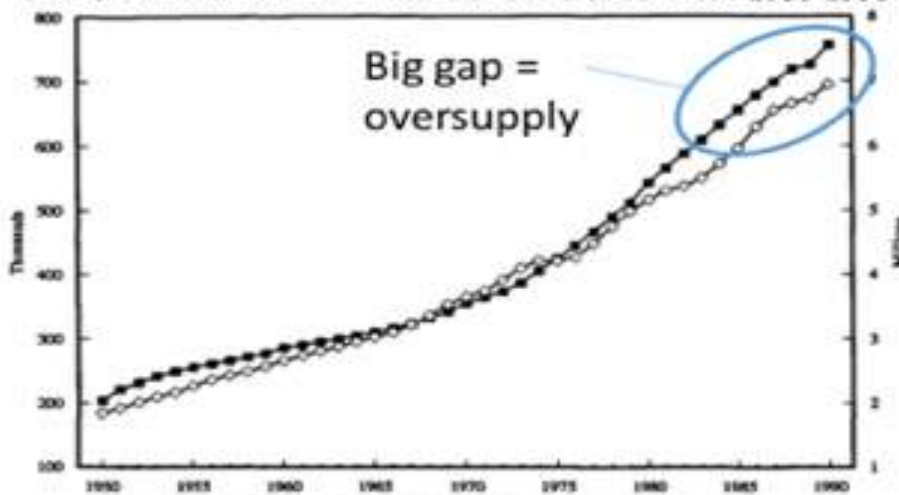
Lastly, many former lawyers have decided that, if they've already resigned to working lawyer-esque long hours, they might as well

have a stake in the overall success of what they're working toward from the start. As more people join legal tech companies, they bring with them the necessary expertise to train AI systems, further complicating life for law firms.

The necessary ingredients for lawyers to maintain their identity as autonomous craftsmen

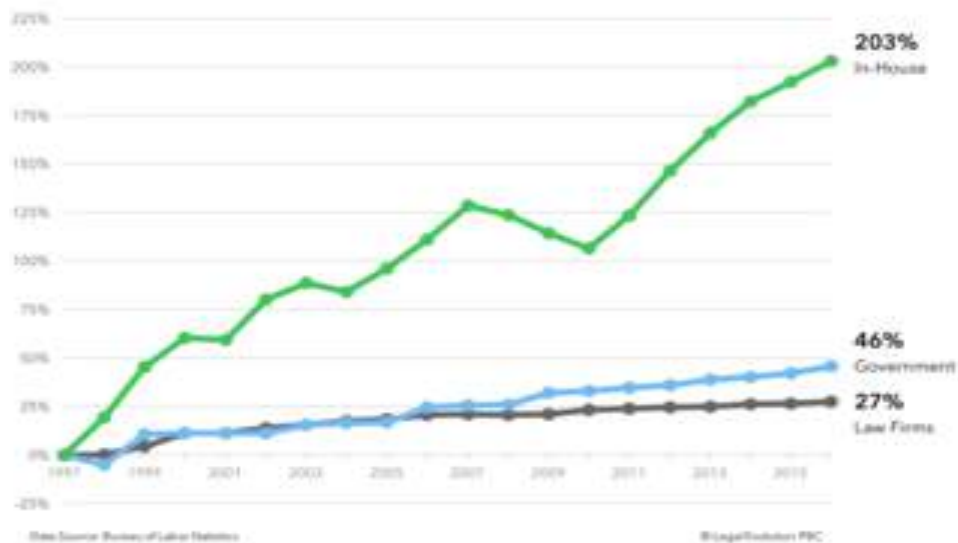
have gone away. Though the below two graphs don't cover the same time span, they do reinforce the importance that the supply/demand ratio has on the legal profession. I suspect that the gap between lawyers and FIRE employees has continued to widen. And I'm confident that the more the population of in-house lawyers grows, the less market power law firms will have.

FIG. 2: EMPLOYMENT IN FINANCE, INSURANCE AND REAL ESTATE (FIRE) COMPARED WITH TOTAL LAWYER POPULATION: 1950-1990



THE NUMBER OF IN-HOUSE LAWYERS HAS TRIPLED.

% Change in Number of Employed Lawyers by Practice Setting, 1997 to 2016.



A structural shift

The number of lawyers kept growing far beyond what a typical market cycle could sustain. There's no one reason in particular: perhaps because of a tragedy of the commons (law schools and law societies are both incentivized to grow the number of lawyers), or the supply/demand feedback loop became too delayed. Regardless, extreme oversupply forced lawyers to find jobs outside of law firms, taking salaries that legal departments or legal companies were willing to pay. By internalizing diagnostic and quality control functions, companies lowered the cost of switching enough to drive the industrialization of law. The current changes in the legal profession are not simply another buyers' market. Law firms appear to be caught flat-footed. But it's hard to blame them, given we're witnessing an unprecedented [structural shift](#).

Of course, lowered switching costs for companies has made law more transactional, but what else?

As businesses gain more market power, they will continue to demand more from their legal providers. Instead solving legal problems, businesses will want lawyers to solve "[business challenges that raise legal issues](#)." While this might feel like semantics, it's worth thinking of the growing number of companies creating [strategic partner programs](#) to do just that. It's also worth thinking about how much market power clients must now have to be able to pull competing law firms into a room and have them cooperate.

Not only will the legal services market change,

but the legal job market will change as well. The [historical continuum](#) from lawyers as generalists, to specialists, to project managers will continue to splinter into new titles such as legal knowledge engineer, legal technologist, legal risk manager, *etc.* The identity of what it means to be a lawyer will become more amorphous, making it harder to regulate. Without the market power to resist it, legal work will become more [multi-disciplinary](#). This shift toward multi-disciplinarily already shows up in "lawyers who code" debates and the fact that more people than ever are going to law school not to become lawyers, but to "[acquire transferable skills](#)".

Lastly, legal regulators will struggle to stay relevant. Rules intended to protect buyers of legal services don't seem to matter as much when the biggest buyers have already dropped any concerns over non-lawyer ownership in favour of ALSs. Law firms themselves seem to be less concerned over maintaining a traditional partnership model as they add on roles such as VP and CTO. Lawyers who feel constrained by the rules have already found ways around them, just ask one [Atrium co-founder](#): "[deregulation] has no impact on anything I think about." And what do you do about people like Josh Browder who, despite having no legal training, is getting people out of parking tickets with his [app](#)? Legal regulatory bodies are already being forced to evolve and are exploring ways to deal with their changing role through [regulatory sandboxes](#), [commissioning reports](#), or [trying to expand their scope](#).

What to do about it?

For starters, I wouldn't put much confidence

in professionalism rules protecting your practice. As one investor [put it](#), “the market will continue to chip away at every part of a law firm that is not the pure provision of legal advice.” Because of extreme oversupply, any competition that had been dammed up by “non-lawyer” rules will now flow right over top of it.

According to Clayton Christensen, there are [three potential strategies](#) that law firms could use. Strategy #1 probably won't work, which is to use marketing so that customers' demand the performance improvements that you can provide. GC clients are sophisticated buyers and they have constant pressure to lower their legal spend, so I would be surprised if a law firm could convince them that they need more legal services. Either of the remaining two, “consciously pursued, can be successful,” though both require tough decisions.

Strategy #2 would retain the features of a typical law firm. Christensen's advice is to “ascend sustaining tech into even higher tiers”. For law firms this means finding new areas of business or technology that will bring new legal problems with them. We see this strategy in the growing popularity of [niches](#). The challenge with this strategy is that the firm must “ultimately [abandon] lower-tier customers” as those practice areas mature.

Strategy #3 is for those who want to march in lock-step with the given needs of their current customers. Christensen warns that “historically, this appears to have been difficult to do.” Indeed, [David Maister](#) also warns that following a practice area down its life cycle

requires “transforming the fundamental nature of [the] firm.” The resources required for building greater expertise and for building greater efficiency do not align; and doing both under one roof will make it difficult to maintain a consistent company image. To address these difficulties, some firms have created off-shoots such as Osler Works or Seyfarth Lean.

Conclusion

From the 1930s to 50s, law was a buyers' market and nearly all billing methods were [value based](#). As the economy began to expand in the 1960s, much more legal work became available and we entered a sellers' market. When the economy slowed down, the number of lawyers did not slow down with it. Over-supply was compounded by shrinking demand for legal services and still-growing law schools. Eventually, the value of lawyers dropped enough to entice lawyers into in-house roles, out-sourcing companies, and starting companies. These reactions to over-supply have precipitated a structural shift in the market for legal services, changing it from a profession to an industry – what I call the “industrialization” of law.

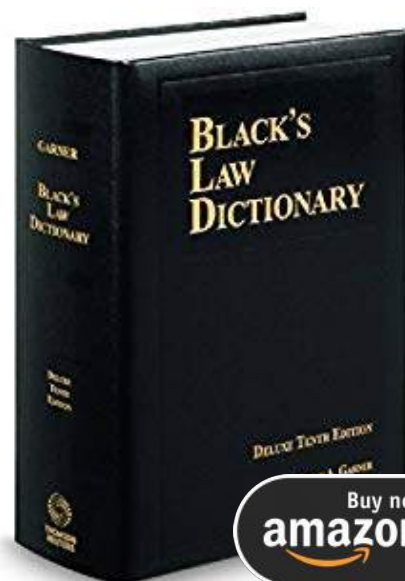
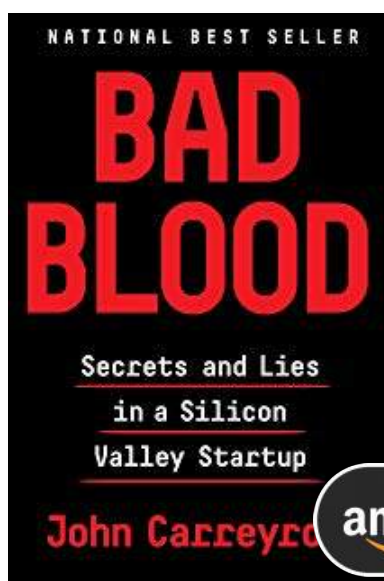
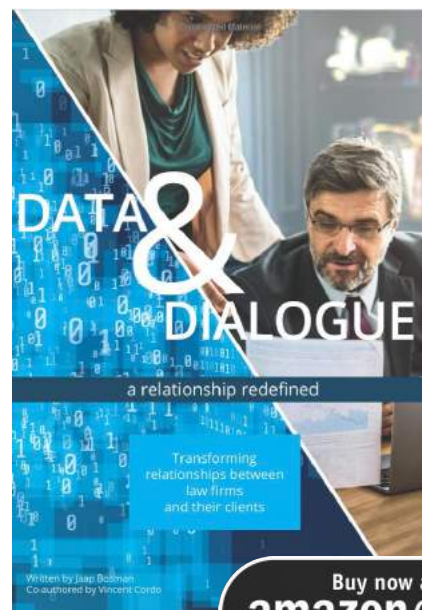
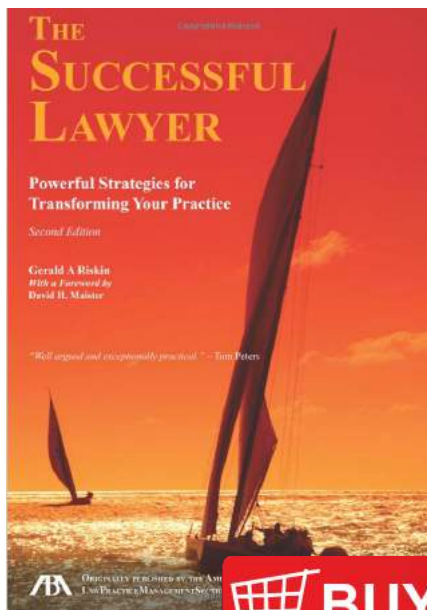
The billable hour, the partnership model, and regulations over non-lawyer ownership certainly have effects, but there is clearly something bigger going on. The fact that past practices are less viable than they once were is not as interesting as asking why that is the case. The most immediate challenge is understanding why these changes are happening and adapting one's mental models to fit that new reality.

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 land-

scape. Before law, he worked as a journalist, entrepreneur, engineer, and farmer.

Views and opinions expressed in my articles are my own.



The NewLaw Wave: Who's Staying Afloat & Who's Drowning

By Shany Raitsin, Marketing Director at LawFlex

Synopsis: The future of NewLaw is hinged on the ALSP (Alternative Legal Service Providers) market homogenizing to provide a variety of legal services, ranging in expertise - but often standardized in efficiency, transparency and reduced costs. In the future – and actually in the near one - the only factor that will differentiate ALSPs are their use of Artificial Intelligence (AI) - but even now,

we're seeing tech and law merge in a cyborg-esque fashion.

Traditional law has paved a trail of stagnation, but now that AI and ALSPs have broken into the industry, suddenly nothing is certain. My research on the NewLaw industry unraveled the two biggest sectors of Alternative Legal Service Providers; LPOs and Alternative Staffing Providers.

Together, the two sectors cater perfectly to the legal market; one arm focuses on completing menial legal labour with cost effective outsourcing, and the other arm focuses on insourcing experienced legal talent for projects that necessitate expertise in a certain area. Soon though, these two arms will become one fully functioning limb, homogenizing the industry to achieve versatility and supersede the benefits of turning to a traditional law firm.

It seems masochistic to abide by TradLaw standards when law firms and in-house counsels finally have the option to automate tasks or outsource/insource various legal work. We are seeing the tide of the legal-sphere turn, and I've made certain predictions as to who will stay afloat, and who won't.

Firstly, my research asserted what NewLaw really was; a divergence from traditional legal operations. NewLaw is every law firm, startup, company, or in house counsel that is challenging the status quo of billable hours, overheads, and unmanageable workloads. A trend repeating itself throughout the category of NewLaw was the burgeoning field of Alternative Legal Service Providers (ALSPs). Thomson Reuters defines an ALSP as a legal entity that provides services traditionally done by law firms (i.e. Litigation and Investigation Support, Legal Research, Document Review, eDiscovery and Regulatory Risk and Compliance). ALSPs do not pretend to be law firms, instead they are legal service businesses that take a facet of a law firm's work and complete it with efficiency, flexibility, expertise and often at a lower cost too.

To Transform Your Law Firm's Trad-Law Infrastructure Just Apply Pressure

Reading up on ALSPs, you start to realize that law businesses, or law companies, have a fundamentally different DNA than law firms, one that is directly linked to its compatibility with the digital and modern age. Various ALSPs now use automated systems to assist with document review, such as Special Counsel and Elevate's Cael.

It's also important to note that ALSPs are resource driven, committed to optimizing legal operations by finding the right person for the job. This is precisely why recruitment/staffing is such an important quality of an ALSP, because it plays a large role in ensuring the efficiency of whatever legal service the ALSP offers.

Mark Cohen lists a few distinctions between a law firm and a law company, the most prominent ones being: a closer alignment with the financial and enterprise objectives of the consumer, a corporate structure that takes a client-centric view over profit per partner, a continuous quest to use technology and process to automate tasks and gather 'big data' for benchmarking, compressed delivery time and reduced cost.

It might be this difference in genetic makeup that has enticed the legal industry to ALSPs; an ALSP's ability to make matters more efficient and cost effective are hugely attractive to overworked lawyers and firms looking to have competitive prices.

Large US law firms with 175 lawyers or more

were surveyed in 2016 and 2018. The study revealed that a staggering 52% of large US law firms use ALSPs for litigation and investigation support, as opposed to a 2016 statistic which only reported 33% (Reuters). Not only are ALSPs transforming the legal industry, they are becoming the industry standard. Two years ago in 2016, small firms, with 29 lawyers or less, were included in the same survey.

The small firms were asked if their clients were increasingly pressuring them to use ALSPs, and in 2016 the survey reported crickets chirping, with 0% of small firms reporting mounting pressures (Reuters). Just two years later in 2016, 24% of small law firms reported they were facing increasing pressure from corporate clients. And it's not just the little guys facing heat from their clients, it's the BigLaw firms too; 39% of large law firms report they have been facing mounting pressures from clients to use ALSPs (Reuters).

Unnecessary Pigeon-Holes That Are Hiding Blurred Industry Lines

Right now, the scope of the ALSP market is fractured, but the lines are slowly blurring. The 2018 Reuters study included a chart of the different factions; Big Four, Captive LPOs, Independent LPOs, Managed Services, and Contracting/Staffing Services.

There was a small asterisk beneath the chart that said, “*Halebury was acquired by Elevate in January 2019”. Elevate was categorized as a Managed Services company, while Halebury was an Alternative Staffing company.

Here's the new reality though; in a few years,

these various categories will disappear, leaving a homogenized ALSP market. The Thomson Reuters report defined Managed Services Providers as contracting for in-house legal teams, but it already seems unrealistic to pigeon-hole companies like Elevate or United-Lex in Managed Services.

Apart from contracting solutions, Elevate offers marketing and business development services, HR support, finance and accounting services--and that's just for law firms. Following in Elevate's footsteps, UK based staffing ALSP Lawyers on Demand acquired Lexvoco on April 30th, 2019, effectively ballooning their company's population growth by at least 100 employees and 10 offices and merging their staffing company with a managed services provider. Lexvoco, founded in 2014 by Anthony Wright, had a focus on providing alternative legal services to in house counsels in the Australasian market with the use of legal technology and innovative legal operations.

If we back track even further, we see that Axiom, arguably Elevate's largest competitor (aside from the Big Four), acquired Toronto based law firm Cognition LLP in January, 2016 (BusinessWire). And so, Axiom Cognition was born, a General Counsel business that serves corporate clients with in-house legal departments, seemingly setting a trend in the ALSP market that, as we now know, LOD picked up on. One competitor, aside from Elevate, stood out to me. They were a shape shifter, fitting each new mold created for them by the gig economy. To reveal them, I need to launch into a small anecdote.

On the 2019 Reuters report, I noticed the absence of Pangea3--warning, new acronym ahead--one of the world's leading Independent LPO companies (Legal Process Outsourcing). According to Reuters, an Independent LPO provides legal work on behalf of corporate legal departments and law firms, often via project based matters.

I soon discovered that Pangea3 was acquired by Thomson Reuters in 2010, the publisher of the report I had just been scouring for information. Sure enough, after reading the list of competitors over again in the report, I found Thomson Reuters listed under Managed Services.

It didn't take very long to stumble over another jarring headline; *'EY acquires Thomson Reuters Pangea 3 Legal Services'*. In a client/competitor update email, I said the following, "Like watching a big fish eat a little fish, then having a shark come in and eat them both in one fell swoop".

In CLOC's State of the Industry report in 2017, participants were asked what ALSP or Managed Services Providers they used, and 1.9% responded with Pangea3. The only other Big Four company mentioned was PwC, with 1.3%. EY was nowhere to be found on the list in 2017, and now, suddenly, they had one hell of a chunk of the industry pie.

Legal Shapeshifting & Industry Fortune Telling

EY has a history of legal shapeshifting, morphing from an accounting firm to an ALSP with their alternative business structure license,

granted to them in 2014 by the Solicitors Regulation Authority in the UK.

In 2018, EY acquired Riverview Law, an innovative UK based ALSP, marking the start to their journey into the field of Alternative Legal Service Providers. In an article detailing EY's acquisition of Pangea3, I read something that put the Big Four's presence in the industry into perspective, "Calling EY an accounting firm is like calling Amazon a bookseller." (Ambrogi).

And yet, the legal-shapeshifting had a story of hope to it, despite their obvious growing monopoly on the ALSP market. Cohen, the author of an article regarding why EY's acquisition of Riverview was so monumental, posited that "the 'legal profession' is becoming subsumed by the legal industry". Meaning law firms are no longer the only entity to perform 'legal work', now legal consumers have the agency to make the call regarding what legal work they want done by which legal service provider; they could very well turn to a traditional BigLaw firm, but they could also utilize an ALSP--like EY, Elevate or Axiom.

More to the point, the staffing/recruiting ALSPs like LawFlex or Lawyers on Demand (LOD) could soon merge with other managed service companies or LPOs, in order to deliver a wider variety of services with a wider variety of expertise. Staffing companies are vital to the industry as they provide a smart way to insource expert services, cut overhead fees and allow the company/firm to focus on other projects--however there's no reason why staffing companies couldn't merge with LPOs to provide a different set of services, less focused on providing expertise, and more focused on providing efficient

resources to complete menial legal jobs for a fraction of the cost.

As I look at the future of the legal industry with my trained third eye, my prediction is that these ALSP hybrids of LPOs and Alternative Staffing companies will become so common, that they eventually become the industry standard for ALSP infrastructure; contrasted only by what technology/AI they use.

In a future that has the ALSP market coalescing, the one thing that will set these NewLaw companies apart is their link to legal-tech. As mentioned before, Elevate is a goliath in the industry, as proven in CLOC's 2017 report in which Elevate Services was mentioned by 9% of respondents.

But it's hard to keep up with the burgeoning ALSP market--the information in the report was already inaccurate. Sumati, the only service provider whose sole focus was contract management, was taking up 1.9% of the ALSP pie according to CLOC's report, and in 2018 Elevate acquired the company. Elevate was now ahold of 11% of the industry, enough to position them as having a monopoly over the alternative legal services market, especially considering nearly 2 out of 3 survey respondents (64.7%) did not have an alternative service provider (CLOC).

The acquisition of Sumati adds proprietary software for contract review and analysis to Elevate's repository of legal-technology, which was also expanded by Elevate's acquisition of the legal AI tech and consulting firm LexPredict in November of 2018. It's hard to say

which market is growing faster; ALSPs or Legal Tech.

Companies like LegalUp and LawGeex are pioneering legal tech, having automated the customization of legal documents and document review. Law necessitates accuracy and precision, so the use of AI would aid in making sure these two attributes are fulfilled constantly. But can a computer truly replace a lawyer, even for menial legal tasks? The question hasn't just been asked by me, but countless professionals in the industry.

AIs Become Reverse Polyglots & Overcome Language Barrier

Consultancy firm Mckinsey estimated that 22% of a lawyer's job can be automated, while 35% of a paralegal's job can be automated (LawGeex). In fact, there was a 2018 LawGeex study conducted in which 20 US lawyers, with decades of legal experience, were asked to spot legal issues in five standard NDAs.

The review of simple contracts remains an integral part of a lawyer's job, but the possibility of automation could relieve a significant amount of burden, both time wise and financially--seeing as paying a computer is cheaper than paying a person.

To raise the stakes even further, the decision to test the AI in comparison to its human counterparts by having it review an NDA of all documents was strategic, as an NDA protects a company's trade secrets and proprietary information, making accuracy all the more imperative in the document's review. The lawyers competed against a LawGeex AI system which

had been in the development process for 3 years prior, trained on thousands of different contracts.

Ultimately, the LawGeex AI received an average score of 94% accuracy rate, above the lawyers who had achieved an average rate of 85%.

What's almost even more interesting are the conditions under which the AI was tested against; the deduction of points not only applied if the AI or lawyer missed an exemption that pertained to the contract, but were also penalized if they mistakenly identified an exemption where it was not relevant to the contract.

The AI had to overcome the barrier of legalese, as no existing computational language model could process legalese coherently. Natural Language Processing (NLP), or Sentiment Analysis simply could not work on legal jargon, especially considering the high standard of accuracy required. To achieve their AI's impressive accuracy, LawGeex created Proprietary Legal Language Processing (LLP) and Legal Language Understanding (LLU)--systems that would allow the AI to decipher complex legalese.

LawGeex wasn't the only one to teach its AI the complex language of Legalese, in fact, LegalUp cultivated an NLP called Latent Semantic Analysis (LSA). LSA proved to be useful in cases of Due Diligence, when a lawyer is expected to scan possible red flags in a transaction. Though LSA does have a blind spot, a limitation of not being able to see the usage of

the word in a wider context, not just context inferable from surrounding words or phrases. Special Counsel provides an array of AI options, including the likes of Predictive coding / Technology Assisted Review (TAR), Content Clustering, Deduplication, and DepoAnalytics. AIs across the NewLaw industry are deciphering legalese through a variety of their own language processing systems, like LLP, LLU, LSA, and TAR. I think of it like a polyglot in reverse; understanding one language using 5 different parts of your brain.

Stagnation vs. Innovation / BigLaw vs. NewLaw

After delving into the legal-sphere, I determined that the antithesis to NewLaw was in fact BigLaw. NewLaw is teeming innovation, seeing companies like Ravel offer free access to computer assisted legal research, or Judicata offer research and analytics tools, turning unstructured case law into structured data.

Where NewLaw is embracing the flexible hours made available by the gig economy, seeing the emergence of companies like LawFlex, BigLaw is remaining stagnant, stuck in the void of billable hours and remaining lawyer-centric in providing legal services.

BigLaw firms have a fundamentally different DNA, Rebecca Lim describes the structure of BigLaw as having a "high-overhead pyramid with a core number of partners supported by a larger cohort of associates and lawyers, all charging clients at hourly rates. The more hours spent on a matter, the greater the charge".

NewLaw differs from BigLaw in its ability to provide its clients with the agency to choose which services they think they need, rather than paying for a lawyer's full set of services over a case's lifespan (Lim, 2016).

But here's the thing, technology is not something you can run from forever, especially not when it makes so much logistical sense to use it for efficiency and accuracy purposes--and what would a lawyer be without logic?

NewLaw provides space for different species of legal companies, even legal-tech/biglaw hybrids like Atrium; a company that operates under two separate entities, Atrium LTS, the software services provider that handles all business processes for the firm, and builds software to improve the firm's operations, and Atrium LLP, the tech-enabled law firm. NewLaw also has the added benefit of not being particular to a specific demographic, catering both to consumers and businesses. While companies like Axiom are certainly useful to businesses, a plethora of B to C AL-SPs exist, including the likes of LegalZoom and RocketLawyer, companies that handle filing trademarks, copyright protections, wills, etc, all for a flat rate fee (LegalZoom's is \$300 a year).

Companies like Atrium have already received 75 million in funding, so it's safe to say people are at least hopeful about the merger of tech with traditional BigLaw structures. But that begs a different question, are Big Law firms ready themselves for such a change?

There's nothing wrong with BigLaw or

TraditionalLaw entities, but is there anything new or innovative about them? Are they still benefiting clients or even bothering to keep up with the ebb and flow of the wave of NewLaw that's hit the legal industry? It's important to note that BigLaw is no longer synonymous with TradLaw as some BigLaw firms have made the change to NewLaw, some out of peer pressure and others out of a genuine willingness to innovate.

In my first sea-life analogy, I had perceived the little fish to be an LPO, and the shark a Big Four firm. However, having now seen the monumental shift that the legal industry is making towards innovative legal solutions, it seems to me that the little fish will soon be BigLaw. Whether it will be swallowed by a larger entity is all up to how it reacts to the impending wave of NewLaw.

About the Author

Shany Raitsin lives in Toronto, Canada.

She is Marketing Director at [LawFlex](#) - a leading Alternative Legal Staffing company that offers efficient legal outsourcing for companies and law firms, and brings flexible positions to freelance lawyers.

Shany is in charge of researching the legal industry and extrapolating information/predictions about the future of law. She can be contacted via [email](#).

**EVER THOUGHT ABOUT
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Is France becoming the vanguard of civil law LegalTech?

By Pierre-Michel Motteau, lawyer and Legal Project Manager

Since the middle of the 2010s, France has witnessed a boom in startups addressing legal issues. According to a recent study, they now account for almost 30% of the total number of LegalTechs globally. [1] Although a large portion of this number is composed of small-sized initiatives and service innovations, several “champions” have raised significant amounts in recent years. Most notably, these figures reflect the liberalization of the legal sector and the adoption of the technology by legal professionals themselves.

What civil law owes to the French and could their LegalTechs benefit

Law, the unsuspected weapon of imperialism

In 1804, Napoleon imposed the Civil Code on France and its dominions, a bold attempt to compile every single rule applicable to citizens, from family, contracts, tort or business law.

Originally a tool to regulate and centralize a patchwork of local customs, it then translated into a soft power instrument of a growing empire, first being applied in continental Europe and later in western Africa and Indo-China. It was also a major source of inspiration in modernizing countries such as Japan or Mexico. [2] Today, the French legal system is still regarded as an influence in several jurisdictions, due to this shared history and bilateral relations maintained since then, e.g. by the Paris Bar. [3]

Peculiarities of the civil law markets

As opposed to common law jurisdictions, which have known a semi-centralized legal system until recently (and still do for some of them [4]), civil law countries have each followed their own path, influenced by wars, history and politics. Even though similarities can be found, the organization of courts, the precedence system, the rules applicable to legal professions, their training and career paths all differ, which leads to hyper fragmentation of civil law markets. As a natural result, few countries have witnessed the emergence of a domestic LegalTech market, and most of them see a negligible penetration of US-based giants, often ill-suited to their peculiar needs. France, together with other western European nations has, however, experienced a real boom in the sector lately, due to several factors: a sufficiently large domestic market [5], a tradition of rule of law and of state intervention [6], and a fertile tech ecosystem.

Hurdles to profitability and the bait of international development

Although the wide range of services covered and the high number of actors may make it resemble a gold rush fed by technology and

the global push towards digitalization, French startups in the legal sector face multiple challenges. Despite a mostly favorable legal framework [7] and active support for digital transformation by the current government [8], France still suffers from weaknesses which make startups' job harder. First is the well-known administrative burden and high cost of skilled labor [9], which makes it hard to attract and keep talents. The financing of innovative solutions is also a major issue, due to modest volumes of venture capital investment (although this seems to have improved lately [10]). There are important efforts to mitigate these factors, notably through the government-backed French Tech initiative [11], but these cannot compensate for the difficulties inherent in the market: corporate clients without favorable innovation policies, SMEs lacking clear digital strategy, or lawyers who perceive LegalTech as a threat to their jobs. As a result, many LegalTechs are looking beyond national borders to feed their growth and attract investors' attention. Legal Publisher Lexbase [12] and startup Call a Lawyer [13] are active in West Africa, while online documents platform Wonder.Legal is proposing its services in 23 countries [14]. In July 2019, Entrepreneur's association France Digitale even created a "French LegalTech" task force to help structure the industry, interact with public authorities, and foster the international development of French startups. [15]

How big exactly is the market and where it is heading

LegalTech Market size and recent growth

The French LegalTech market has witnessed high growth in recent years. From only 7 firms

in 2012 [16], it jumped to more than 300 [17] startups in 2019, while the legal market expanded over 30% by value over the same period. Myriad needs are addressed by these newcomers, from intermediation services, digitalization of legal information, contract automation, chatbots, online court proceedings, etc. [18] Fundraising in the industry has skyrocketed (by more than 92% in 2018, and the trend is expected to intensify in 2019), reflecting investors' optimism as well as the international ambitions of several startups such as Dotrine [19], LegalPlace [20] or Hyperlex. [21]

A plurality of actors and a still expanding market

As a result of the relative impermeability to foreign solutions (mostly confined to few international law firms and corporations headquarters), the domestic sector has flourished to meet the demand, resulting in a kaleidoscope of actors. Over a quarter of start-ups consist of Legal Professionals and/or law students, whereas a significant number of startups (which amount to almost 70%) were cofounded by former lawyers. [22] Powered by easy access to technology and a broad-based transformation of consumer habits and expectations, innovations are growing by the day. The trend is not without challenges, as a large portion of these newcomers are neither serial entrepreneurs nor digital experts, but it nonetheless translates into a fertile and vibrant innovation ecosystem.

The inevitable path towards contraction

The current hype surrounding the phenomenon can however not conceal the need of market restructuring. Most LegalTech initiatives are struggling to reach profitability, as several solu-

tions address niche markets which can not necessarily cover development costs. The state's aggressive financing policy, notably through public loans and subsidies, enables a slew of startups to survive through their first years. Some of them make it to the seed round with the blessing of favorable fiscal policy, but only those reaching series A can seriously be considered as potential long-term players. Half a dozen startups have made it so far, mostly independent firms led by core founding teams with a technical, legal or business expertise, whereas both the legal publishing and software industry seem to be struggling to propose convincing products. The looming threat of a major international player entering the market and dampening competition remains, but the more local startups develop their technology, expertise, market penetration, and data acquisition, the harder international firms will find it to dominate the market.

Role and future of legal professions

Legal professions' efforts to enter the ecosystem

The reaction of the legal professions to this global push towards the digitalization of their services is noteworthy, as regulated professions (i.e. attorneys, notaries, bailiffs or chartered accountants) are centralized and organized enough to respond to external threats to their monopolies. Some are developing digital solutions for their members [23], while others bet on a convergence with the startup ecosystem. Attorneys provide a meaningful illustration through the emergence of bar incubators [24] aiming at fostering the creation of LegalTechs by lawyers themselves, helping them grow, meet their markets, and address regulatory issues.

The initiative is taking ground as some bar incubators partner [25] with business schools or incubation experts [26] and are able to support their startups through innovation prizes, financial support or commercial partnerships.

Will regulation wildcard be enough?

The remaining question is, will regulated professions adapt fast enough? They have so far been relatively unscathed by competition owing to their regulatory monopolies (e.g. only public notaries can draft real property documents; attorneys have a partial monopoly over representation in courts or provision of legal advice). However, the walls have long been cracking, as consulting firms started providing legal advice since the early 1990's and courts interpretation of these reserved areas grew more liberal. [27] Since neither the pace nor the direction of innovation can clearly be anticipated, one can only presume that in the future the main selection criterion for legal services will be customer satisfaction. This might sound obvious to any entrepreneur, but it is something of a cultural revolution for legal professions, which always lived with the assumption that the ideal of Justice was greater than the mere consumer's interest.

Innovation culture as a core asset of tomorrow's lawyers

Due to this tangible paradigm shift, lawyers will need to adapt swiftly to keep on demonstrating added value to their clients. As machine learning and high-end algorithms progress, lawyers cannot solely rely on the system's complexity to justify their existence. The usual short-term responses to this transformation include more specialization, concentration of firms, integration of technology, or the development of soft skills. Several universities,

law schools and private training programs have launched "augmented lawyers" training programs in the last few years [28] to diversify lawyers' skills and prepare them for the coming changes. At the confluence of these endeavors is one essential skill: innovation culture. More than ever, it will become crucial for lawyers to understand and anticipate their clients' needs, offer solutions in a more creative and pro-active way, and integrate, assemble or develop hybrid technical and legal services.

Notes

[1] According to a Day One international study from April 2019, 28,97% of the overall number of LegalTech companies are based in France

<https://www.dayone-consulting.com/insights/LegalTech-data-base-free-access/>

[2] Halpérin, J. (2005). *Deux cents ans de rayonnement du Code civil des Français ?* Les Cahiers de droit, 46 (1-2), 229–251. <https://doi.org/10.7202/043837ar>

[3] 2017 Activity report of international actions of the Paris Bar : http://www.avocat-paris.org/system/files/publications/20170701_rapport_action_internationale.pdf

[4] United Kingdom's Judicial Committee of the Privy Council still serves as a final appeal jurisdiction for several Commonwealth countries, such as New Zealand, Mauritius or Brunei.

[5] According to an EY study from October 2017, the French Legal Market overall value would amount to 31,1 billion euros <http://web.lexisnexis.fr/LexisActu/EY-ObservatoiredesActeursEconomiquesduMarch%C3%A9%20du%20Droit.pdf>

[6] e.g. Impact of the Villers-Cotterêts Ordinances of 1539 or the influence of Louis XIV's

Finance Minister Jean-Baptiste Colbert of the economic doctrine and state interventionism.

[7] On the recent controversy of the possibility for LegalTechs to predict court decisions in France, see <https://gsell.tech/predicting-courts-decisions-is-lawful-in-france-and-will-remain-so/>

[8] The 2015 « Macron Law » offers new opportunities for lawyers to provide commercial services, structure their capital with more flexibility and partner with other professions.

[9] According to an April 2019 DESTATIS study, France rank in 5th in the European Union in terms of labour costs https://www.destatis.de/EN/Press/2019/04/PE19_164_624.html;jsessionid=A50D-FEC2BDCCDB31FE2B22DB72819CB4.internet711

[10] La France, principal investisseur européen (en volume) des startups early stage, Madyness, 12 novembre 2018 <https://www.maddyness.com/2018/11/12/france-investissements-early-stage-stripe-techstars/>

[11] Que fait vraiment la French Tech et avec quels résultats, La Tribune, 25 mai 2018 <https://www.latribune.fr/technos-medias/que-fait-vraiment-la-french-tech-779274.html>

[12] <https://www.lexbase-afrique.com/>

[13] https://www.linkedin.com/posts/callalawyer_LegalTech-callalawyer-ohada-activity-6557605988118130688-tvXm

[14] <https://www.lemondedudroit.fr/professions/337-LegalTech/60276-wonder-legal-poursuit-expansion-international-service-5-nouveaux-pays.html>

[15] <https://www.usine-digitale.fr/article/pour-structurer-la-LegalTech-france-digitale-cree-un-groupe-dedie.N865280>

[16] <https://www.village-justice.com/articles/infographie-les-chiffres-cles-2018-LegalTech-france,30171.html>

[17] <https://www.lemondedudroit.fr/professions/337-LegalTech/63465-LegalTech-2019-annee-charniere-pour-marche.html>

[18] For regularly updated information, see <https://www.village-justice.com/articles/Les-start-up-droit,18224.html>

[19] Legal research engine Doctrine raised €10M in 2018 <https://business.lesechos.fr/entrepreneurs/financer-sa-creation/0301893746505-doctrine-en-passe-d-imposer-son-moteur-de-recherche-dans-l-univers-juridique-321990.php>

[20] SME's legal platform LegalPlace raised €6M in 2019 <https://www.maddyness.com/2019/07/09/legalplace-leve-6-millions-euros/>

[21] AI-powered contract management and analysis Hyperlex raised €4M in 2019 <https://www.frenchweb.fr/LegalTech-hyperlex-leve-4-millions-deuros-pour-simplifier-la-gestion-des-contrats-dans-les-entreprises/362346>

[22] <https://www.village-justice.com/articles/infographie-les-chiffres-cles-2018-LegalTech-france,30171.html>

[23] E.g. see initiatives of the Order of Notaries : <https://www.notaires.fr/fr/profession-notaire/linstitution/le-notariat-et-le-num%C3%A9rique>

[24] 14 Bar Incubators at the time of writing, gathered in a national association <http://www.avocatparis.org/naissance-officielle-du-reseau-national-des-incubateurs-de-barreaux>

[25] see the Paris (<https://incubateur-ibp.com/>) or Lyon (<https://www.incubateurbarreaulyon.com/>) Bar initiatives

[26] For an example of a joint bar and business school incubation : <http://accelerator.em-lyon.com/2019/04/09/legal-pilot/>

[27] In a recent decision, the French Supreme

Court (Cour de Cassation) ruled that limitations imposed on lawyers as a regulated professions were not applicable to other services providers, who can freely develop comparison and lawyers rating services <https://www.legalis.net/jurisprudences/cour-de-cassation-1ere-ch-civile-arret-du-11-mai-2017/> [28] See the initiatives of Paris II, Lyon III or UCLY Universities, EFB or EDARA Law schools, Seraphin Legal or Hercule private training programs

About the Author

[Pierre-Michel Motteau](#) is a lawyer and Legal Project Manager. After training in France and

the U.K. he started his career as country representative for a leading independent firm in Asia.

Going back to a traditional French practice later, he realized the coming impact of the digital transformation on legal professions. In 2017 he partnered with two independent law firms to form [Legal Pilot](#), a French leading legal automation startup.

As a registered lawyer, he contributes to the legal transformation of the profession via the Lyon Bar Incubator and the development of digital-related training programs in several Law Universities in France.

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The Value Series

A ClariLegal interview with Martin Tully, Founding partner of Actuate Law, LLC

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

ClariLegal recently had the privilege of speaking with Martin Tully, a founding partner of Actuate Law, LLC a boutique law firm located in Chicago that utilizes an innovative business model that incorporates legal technology to create a hybrid virtual/brick-and-mortar model of law firm. A graduate of the University of Illinois at Chicago and the DePaul University College of Law, Martin's professional background includes extensive trial experience in both class action and commercial litigation matters. Martin is also active in The Sedona Conference, Working Groups 1 and 11, the Chicago chapter of ACEDS, and also serves on the 7th Circuit Council for E-Discovery & Digital information. In addition to his legal career, Martin also served two terms as Mayor of Downers Grove, Illinois. Martin's legal practice and public service both contribute to a diverse background and understanding regarding value and the value exchange.



Actuate Law, in Martin's words, "uses big law to disrupt big law" – all of the firm's partners come from AmLaw 100 firms with decades of experience in sophisticated litigation, transactional, and regulatory matters. At Actuate Law, powered by his litigation experience, Martin focuses his practice on data security & privacy, e-discovery, information governance, artificial intelligence, and internet-of-things. According to Martin, Actuate Law leverages technology, innovation and appropriate business models to create bespoke solutions for clients. This includes designing creative and flexible alternative fee arrangements that best fit with client needs. The firm also has a legal technology subsidiary, Quointec, LLC, that is focused on building tools and systems to automate the delivery of legal services and to provide better, faster, and more cost-effective delivery of legal advice to clients.

We began by asking Martin what value means to him, to which he replied that value usually starts with the end result. To Martin, delivering value means to "accomplish some task, to solve some problem, or to create some opportunity... and so long as you achieve your objective, the whole process has tremendous value." Of course, he says that value in his line of work often means striving to deliver those solutions to his clients in a cost-effective manner – "value should be positively disproportionate to the cost". Martin notes that the billable hour has become disconnected from value, since that model centers around how much the service provider can charge the client for an hour of work.

We also asked Martin how his clients and customers define value to him and his firm. Mar-

tin says that his clients are primarily looking for solutions that stem from legal advice and services delivered better, faster, and more cost-effectively. Martin notes that his firm's legal tech subsidiary, Quointec, has built several tools arising from ideas and problems brought to the firm by clients. "Quointec architects bespoke solutions for existing challenges, not tools in search of a use case." Martin says that they identify opportunities by determining what value can be delivered to the client by automating a legal or compliance process as opposed to continuing to address it manually. They proceed if the cost of automation is significantly less than the manual alternative, or if automation allows the client to achieve an outcome they couldn't before. As Martin says, "if we can build a tool...at a cost that is lower than the internal resources or external resources that are being used to address the issue, or the cost of not addressing the issue in the first place...then it makes perfect sense to proceed". That's the value proposition.

Aside from automation, Martin also notes that leveraging relationships with non-legal service providers can also generate tremendous value for clients in the form of more comprehensive solutions. He says that this is driven "not only by what we can do as a firm...but [also] with tools we can leverage, and what collaborative relationships we can engage in" to provide more value to the client.

We next asked Martin for his views on how those in the legal industry and the business of law understand and communicate about the concept of value. Martin believes that although some parties understand the concept of value and the importance of starting with "what is

the value of the deliverable to the recipient, and starting to work backward from that”, he also notes that there is sometimes a disconnect between parties in a business relationship over the perception of value. Martin says that, in his experience, expectations and definitions of value are not discussed enough at the outset of a business relationship or collaborative project. Instead, Martin typically sees parties still conversing on the basis of the billable hour. Martin still sees resistance to having more meaningful conversations about value, which he argues need to begin by focusing on trying new tools, processes, and business methods and making adjustments along the way. The fear of things not working out as planned should not be an obstacle to creativity and innovation. Attorneys, he says, need to understand the value of advancing innovation through “productive failure”.

We asked Martin for his perspective on how vendor and project management tools can facilitate conversations about value. Martin believes that project and vendor management platforms should help law firms and legal service providers understand what they need to do to achieve effective solutions for a client. But Martin also argues that law firms should not necessarily try to deliver all the pieces of legal services puzzle to a client. “Like a menu at a restaurant”, Martin says, “[firms] should be providing options to customers sourced from different places”. Martin believes that law firms should be collaborating with other service providers to deliver more seamless and global solutions for clients; doing so allows law firms to do what they do best and be more effective lawyers for clients.

As for what he looks for in collaborative part-

ners, Martin says that he looks to work with service providers who understand the collaborative model and more importantly who understand how their specific expertise can contribute to optimal outcomes for their clients. Martin also notes that he strives to work with partners who are appropriate to the client – Martin notes that some service providers may be appropriate for a Fortune 500 client, while other service providers are more appropriate for a middle-market or start-up client.

We ended by asking Martin for some final thoughts on value. Recalling his years in public elected office, Martin noted that serving as mayor of a sizeable municipality taught him about “forcible innovation” and always having to do more and more with less and less. Harkening back to his comments about “advancing through ‘productive failure’”, Martin noted that he appreciated the value of learning what doesn’t work through unsuccessful attempts at solving a problem and using that knowledge to pivot to a new, successful solution. Martin pointed out that he also learned the value of challenging his team of problem solvers not to simply settle for an “either/or” outcome. Instead, Martin pressed them to be creative and successfully identify “and” solutions. These and other valuable lessons from his serving as an elected official have translated well to Martin’s legal career. It inspired him to bring and apply new processes and approaches to his boutique law firm and legal tech subsidiary.

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 the Authors

[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](#)



Read more interviews by Cash Butler and James Johnson in the Value Series at [Legal Business World Publications](#).



The European Union and the principle of judicial independence

By Marie-José Garot, Associate Professor and Vice Dean of Faculty at IE Law School

The European Union is beginning to take the principle of judicial independence seriously. Even though the Charter of Fundamental Rights of the European Union and the European Treaties mention this principle, it is only recently that the European institutions have started to consider it as a principle for which Member States are accountable.

It is well known that Article 47 of the Charter of Fundamental Rights of the European Union on the “Right to an effective remedy and to a fair trial” echoes Article 2 of the Treaty on the European Union (TEU), which considers “the rule of law and respect for

human rights” as being among the values of the European Union. For its part, the new second paragraph of Article 19.1 of the TEU, introduced by the Treaty of Lisbon (2007), states that “Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.”

European institutions, and in particular the European Commission, are of course also aware of the importance of respect for the rule of law both in the European Union and in Member States themselves.

Since the first publication in 2013 of the EU Justice Scoreboard, the European Commission has defended the idea that "respect for the rule of law, including the independence of justice systems, has a significant impact on investment decisions and on attracting businesses." [1]

More generally, over the last few years the European Commission, as guardian of the Treaties, has deployed a new strategy to strengthen the rule of law in the European Union under the leadership of its first Vice-President, Frans Timmermans. In April 2019, it adopted a communication entitled *Further strengthening the Rule of Law within the Union-State of play and possible next steps*, which refers to judicial independence as an essential element of the rule of law. It states: "The rule of law includes, among others, principles such as legality, implying a transparent, accountable, democratic and pluralistic process for enacting laws; legal certainty; prohibiting the arbitrary exercise of executive power; effective judicial protection by independent and impartial courts, effective judicial review including respect for fundamental rights; separation of powers; and equality before the law." [2] The Commission then described the existing tools, both political (art. 7 TEU) and jurisdictional (art. 267 and Article 258 TFEU) that may be used to strengthen the rule of law in Member States. In the same vein, on 17 July 2019, the Commission published a document entitled *Strengthening the rule of law within the Union- A blueprint for action*, in which it repeated that "the guarantee for judicial independence is a legal obligation at the core of the rule of law" [3].

In addition, the EU Justice Scoreboard has included for the first time in its 2019 edition a chapter entitled *Guaranteeing judicial independence*. While it is true that in all its reports the Commission refers to judicial independence as a criterion for measuring the quality of justice in the various Member States, this is the first time that the Commission has mentioned actions taken at European level to ensure it as a key element of justice reforms carried out in 2018. [4]

It is also appropriate to mention, in the same context, the European Commission's 2018 proposal for a *Regulation of the European Parliament and of the Council on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States*, which seeks to make access to European funds conditional on compliance with the basic rule of law. In its proposal, the Commission recounts the components of the rule of law, including "effective judicial protection by independent courts." [5]

Finally, as part of the European Commission's strategy, we cannot fail to mention its proposal in December 2017 for a *Council decision on the determination of a clear risk of a serious breach by the Republic of Poland of the rule of law* [6], based on Article 7.1 TEU.

In September 2018, for its part, the European Parliament adopted a proposal *calling on the Council to determine, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded*. [7]

As regards the Court of Justice of the European Union (CJEU), it is well known that it relies on the criterion of independence to determine whether an organ can be regarded as “a court of a tribunal” for the purposes of Article 267 TFEU, that is to say, in the case of a preliminary ruling, qualified as the “cornerstone of the judicial system” of the European Union by the Court of Justice. This remedy is conceived as a mechanism for cooperation between national judges and the Court of Justice that allows national courts to refer to the CJEU where they have doubts about the application of European Law in order to ensure its uniform application in all Member States. However, some recent cases, such as *Associação Sindical dos Juizes Portugueses* [8] of February 2018, *LM* [9] or the cases *European Commission v. Republic of Poland* [10] of June and November 2019 revealed the growing interest of the Court of Justice of the European Union about the principle of judicial independence (as a key element of the rule of law), beyond its application in the context of Article 267 TFEU.

Although it is true that Member States themselves determine how they organize their legal systems (principle of procedural autonomy), they must comply with the obligations imposed by EU law. It is therefore an exclusive competence but so far framed by the principles of equivalence and effectiveness. [11] However, according to the most recent judgments mentioned before, the Court of Justice adds a further obligation for Member States, based on Article 19 TEU and directly related to the right to effective judicial protection and judicial independence.

In order to be able to assess whether a Member

State's judicial system conforms to the principle of judicial independence, the Court relies on the second paragraph of Article 19.1 TEU and gives it a new potential. The Luxembourg Court qualifies that article as giving “concrete expression to the value of the rule of law stated in Article 2 TEU” and in particular the value of the rule of law that all Member States must share. Therefore, under the principles of mutual trust and of sincere cooperation set out in Article 4.3 of the TEU, which also apply to national courts, Member States must ensure that respect is given to the principle of effective judicial protection and judicial independence in all “areas covered by EU law” simply because national courts are part of the European judicial system through, in particular, the preliminary ruling procedure.

On that basis, the Court of Justice of the European Union has decided that a reduction in the remuneration of the Portuguese judges of the Court of Auditors applied temporarily and equally to the entire public sector does not infringe the principle of independence. The Association of Portuguese judges considered that a reduction of their remuneration could threaten judicial independence in the knowledge that the Court considered previously that a level of remuneration in line with the importance of the roles judges constituted an inherent guarantee of judicial independence. On the contrary, the Court recognized that the reduction in the retirement age of the judges on the Polish Supreme Court (without transitional measures) violated the principles of judicial independence and irremovability of judges. Therefore, it constitutes a breach of the rule of law, knowing further that the measure actually relates to one third of the judges of that court.

The new approach adopted by the European Union in order to ensure the rule of law in Member States is undoubtedly good news, for the benefit of the Union as a whole, of its economy and citizens, who must continue to be the beneficiaries of the European project. Let us hope that the new European Commission keeps following this path.

Notes

[1] Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions – *The 2019 EU Justice Scoreboard*, COM (2019) 198 final of 26 April 2019.

[2] Communication from the Commission to the European Parliament, the European Council and the Council, *Further strengthening the Rule of Law within the Union-State of play and possible next steps*, COM (163) final of 3 April 2019, p 2.

[3] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, *Strengthening the rule of law within the Union- A blueprint for action*, COM (2019) 343 final, 17 July 2019, p 5.

[4] Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions *The 2019 EU Justice Scoreboard*, COM (2019) 198 final of 26 April 2019

[5] *Proposal for a Regulation of the European Parliament and of the Council on the protection of the Union's budget in case of*

generalised deficiencies as regards the rule of law in the Member States, COM (2018) 324 final.

[6] Proposal for a Council Decision on the determination of a clear risk of a serious breach by the Republic of Poland of the rule of law, COM (2017) 835 final on 20 December 2017.

[7] European Parliament resolution of 12 September 2018 on a proposal *calling on the Council to determine, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded*. (2017/2131(INL))

[8] Judgement of 27 February 2018 (Grand Chamber), *Associação Sindical dos Juizes Portugueses*, C-64/16, EU:C:2018:117.

[9] Judgement of 25 July 2018 (Grand Chamber), *LM*, C-216/18 PPU, EU:C:2018:586.

[10] Judgement 24 June 2019 (Grand Chamber), *European Commission v. Republic of Poland*, C-619/18, EU:C:2019:531 and Judgement of 5 November 2019 (Grand Chamber), *European Commission v. Republic of Poland*, C-192/18, EU: C:2019:924.

[11] According to the Court, the principles of equivalence and effectiveness postulate that "the detailed procedural rules governing actions for safeguarding an individual's rights under Community law must be no less favourably than those governing similar domestic actions (principle of equivalence) and must not render practically impossible or excessively difficult the exercise of rights conferred by Community law (principle of effectiveness)" Judgment of the Court (Grand Chamber) of 13 March 2007, *Unibet (London) Ltd And Unibet (International) Ltd Against Justitiekanslern*, C-432/05, EU:C:2007:163, paragraph 43.

About the Author

[Marie-José Garot](#) is an Associate Professor and Vice Dean of Faculty at [IE Law School](#). Marie-José is an expert in European Law; she has taught and carried out intense research projects at prestigious universities like the European University Institute of Florence, the European Centre for Public Law (Athens) and the Carlos III University in Madrid, amongst others. She has published books and articles on the European integration. Professor Garot is director of the Center of European Studies of IE University, whose focus and goal is to promote the European idealism inside and outside of IE.



Theme announcements

Cyber Security - the human factor

Last year cybersecurity was one of the Lexpo themes and we highlighted ways to improve security while keeping everyone happy. This year we will deep dive into the weakest link of the security chain: you! The human factor is a key concern for law firms trying to keep their networks and clients' data secure. Most cyberattacks are designed to take advantage of normal human behavior rather than flaws in software. Lexpo'20 will feature eye-opening sessions explaining the modus operandi of social engineers.






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TECHNOBREW

A Series about Emerging Technologies & Global Systems

Technological Innovation and Law: How to Reconcile?

By Aileen Schultz, Senior Manager, Labs Programs at Thomson Reuters; Founder & President, World Legal Summit.; Fmr. Co Founder & Global Organizer, Global Legal Hackathon.



The dialogue around the relationship between law and technology is thickening. This is within the landscape of regulatory bodies trying to reconcile with the pace at which technology is transforming, while technology companies are continuing to grapple with the demands of regulation and also maintaining rapid development. Globally we have a lot to gain from the marriage of these seemingly incompatible scenarios, and fortunately there are possible avenues forward.

Legal Constraints Both Inhibit and Enable

I've discussed this elsewhere, and it's not exactly a bold statement to suggest that technological innovation is inhibited by regulatory demands. One of the most readily available examples of this is the implementation of the GDPR.

Since its introduction in 2018 there have been at least 12 major fines placed against violating companies, for a total of over \$390 million USD, with some companies withstanding fines of over \$100 million alone. While it's evident the GDPR has had very positive impact on the way in which companies store and use the information of their users, it's also clear that compliancy requires privacy-by-design and many companies have an incredibly long way to go before their systems are at this level.

A related problem is what is referenced by some as the “[pacing problem](#)”, where businesses scale too quickly for regulatory bodies to keep up. The same problem applies to technology, whereby many technologies, particularly emerging technologies that are largely unknown, are developing too quickly for legal systems to keep up. When legislation and related regulations are introduced, these companies are often in a situation where rearchitecting their infrastructure for sake of compliance can be hard, if not altogether impossible.

The solution is not necessarily to regulate less, as legal systems are very much needed for technology to operate in real world scenarios. For example, smart contract-based organizations are having a difficult time gaining traction as there are very few jurisdictions that yet properly account for them in their systems of jurisprudence. Furthermore, while regulatory structures are needed to protect and propel innovation, they are also needed to protect the users of these technologies.

How to Reconcile?

There is an absolute need to protect society from the possible downfalls of new technologies, yet there is also great need to ensure technological innovation isn't inhibited. There are many possible frameworks for creating this needed balance between law and technology.

Consortia and Volunteer Based Proposals: we see this quite a bit in the fields of blockchain and artificial intelligence, where a collective of organizations working on these technologies will come together in a collaborative understanding. This collaborative will often look at proposed regulations and assess

their impact, often making recommendations for improvements. These consortia act as a shared space in which member organizations can have input that both reflects their private interest, while progressing the aims and needs of operating in a society that must be governed for the sake of protecting its citizens. For example, the IBM Maersk Blockchain is a supply chain governing platform with over 94 member organizations that participate in [pilot programs with governments](#) and other efforts for growing regulatory compatibility and frameworks.

Law making bodies have a lot to learn too from methods used in rapidly scaling technology systems. For example, the creation of regulatory sandbox environments or building adaptive laws.

Regulatory Sandboxes: In software production there is a testing method in which the software is developed and tested in an isolated environment in such a way that it doesn't affect the system, platform, or application in which the software is meant to run.

Similarly, bodies of regulation can be tested in an isolated jurisdiction, and with limited effect, in order to better understand how it might play out in a real-world environment. For example, some jurisdictions are considering seriously what it might look like to introduce a Universal Base Income (UBI) and are testing it in smaller controlled populations to see whether or not it might be a viable solution.

Adaptive Legislation: legal systems are certainly not recognized as fast changing. For example, Deloitte conducted an analysis of the

2017 US code of Federal Regulation, and discovered that [68% of federal regulations have never been updated](#). One solution that has been proposed for battling this issue is the creation of adaptive legislation. This does not mean simply updating or amending a particular body of regulation, but rather creating it to be adaptive by design. For example, there is some proposed legislation for what it means to be a Decentralized Autonomous Organization (DAO) in Malta. This proposal looks at a scaled definition of a DAO to account for the evolution of a business from traditional infrastructures through to being completely operationally autonomous. In this sense, the regulatory requirements scale along with how much the business does or does not fall in line with the definition of a DAO.

Whether or not any one or a combination of these solutions are the right way forward it is

clear some progression is being made, and it is also very clear much more progress is yet to come. We do now live at such a stage of innovation that it's quite possible that computational law might be realized in open source environments, doing away with quite a lot of the issues in how laws are currently made and enacted. Until then though, these existing solutions could offer methods for reconciling the gap between law making and technology adoption.

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.



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Law Firms and People Seeking Legal Advice Plagued By Fake Google Listings

A short interview with Conrad Saam, founder and president of Mockingbird Marketing

In this interview, Conrad Saam, founder and president of Mockingbird Marketing, discusses the issue of fake Google listings affecting provider's legitimate legal services (and those seeking them out) and what law firms can do to ensure their services are easily accessible through a local online search.

1. Explain Local SEO, Google's guide-

lines (and why Google has those guidelines).

To understand Google's policies around Local Spam, you must first understand why Google has those policies. Fundamentally, Google doesn't want people utilizing their services to locate a business, then drive to that business only to find out that the person (in our case, a lawyer) who they are looking for, isn't there.

That user isn't likely to blame the law firm, but instead Google and very well may utilize a different tool for locating business in the future. Google's guidelines around what constitutes a "real office" are built around ensuring that there is a real law firm in that location and that it is staffed during business hours. And "staffed" doesn't mean your law school buddy's receptionist, or a shared office location like Regus. Contrary to common misperception, Google does NOT take into account different Suite #s in order to differentiate "offices". Google also wants to ensure that people are going to the right business and therefore insists that the business name in Google My Business reflect the actual name of the Business.... not "San Diego Best Car Accident Law Firm."

In addition, Google likes to provide users with geographic options.... in concrete terms, this means that in the local pack, only one attorney in any given location will be displayed in the Local Pack. Thus, for a group of competing criminal defense lawyers located in the same building one of them will show up for any given query. This puts firms with their own building at a distinct competitive advantage.

2. Who is engaging in Local Spam?

There are four primary flavors in the legal world engaging in Local Spam:

1. Same state law firms expanding their footprint outside of their actual city: The Olympia law firm pretending to be in Seattle for example.
2. In City law firms faking their names or hours in order to compete in the local pack more effectively.... i.e. the Chicago Law

firm Smith and Smith, renaming themselves DUI Lawyers of Chicago

3. Out of state law firms pretending to be in a new state: The Georgia law firm "opening" an office in Nebraska - only to sell those leads they generate back to the Georgia law firms through pay per lead or fee sharing where possible.
4. Non law firms pretending to be law firms, capturing leads (as if they are a law firm) and then selling those leads back to law firms. Anecdotally this is frequently done by foreign companies who then sell those leads back through a domestic lead-selling intermediary.

3. What can attorneys do about it?

The most important thing here is to stay on top of your local market - understand who is showing up in the local pack and investigate new listings with a high level of skepticism. While Google does have a public feedback loop to investigate false listings, the mass proliferation of spam within the legal market means this simple reporting rarely has an impact. Noting that this is a self-serving comment - it's wise to engage with a professional who has experience and influence in removing these listings - there are just a handful of those professionals who can make a difference. Ask your agency to demonstrate previous success in local spam fighting through definitive Google Analytics reports, screenshots or testimonials. In addition, working through a professional can maintain a firm's anonymity in reporting nefarious competitors and sometimes these fights get very ugly, so it's the best way to keep a firm out of the unwanted local spam finger pointing limelight.

4. How/Are the State Bar's involved in this

Note that Google Guidelines and State Bar guidelines rarely overlap. In addition many State Bars simply lack the know-how and resources to think about these quickly evolving technical changes. While some have a requirements around what constitutes a "bona fide" office, most do not. Few that do, (with Florida as a noted exception) have ever taken action against fake offices. I'd encourage law firms falling victim to local spam to raise the issue with their local Bar... awareness is a first step in handling this.

About Conrad Saam

[Conrad Saam](#) is the founder and president of [Mockingbird Marketing](#), an agency delivering online marketing exclusively for the legal industry. He graduated with an MBA from the University of Michigan in 2000 and oversaw marketing efforts for a number of companies before branching out on his own to focus solely on legal marketing through the creation of Mockingbird. He writes the In-House column for Search Engine Land and has been featured in USA Today, The New York Times and Huff-Post.



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Start with WHY and Start with Women (also) in Law Firms

By Andrea Miskolczi, Chief Innovation & Business Development Officer at Wolf Theiss

Does your firm have gender diversity and female leadership on its strategic agenda? Probably yes. Most progressive firms formulate their responses to societal and commercial pressure in similar ways: they introduce special mentoring programs, help women to balance work and family responsibilities, reconsider their brands and routines to attract talent and develop client relationships, and so on.



Does your firm have an answer to its WHY? Are you a purpose-driven law firm? Probably not. Most law firms don't have an explicit 'WHY-response'. In general, the concept of putting purpose (or WHY) at the heart of

your company is new for many across all markets and sectors.

Just a few weeks ago the preeminent business circle in the US, the American Business Roundtable (BR) issued an open letter titled 'Statement on the Purpose of a Corporation'. The BR, which includes the CEOs of leading companies from Apple to Walmart, stated that purpose comes before profit. They wrote: 'Each of our stakeholders is essential.

We commit to deliver value to all of them, for the future success of our companies, our communities and country'.

Is this only a PR-step that managing partners of leading law firms should simply copy?

I believe not. Is this a result of the current wave of activism around climate change, data privacy and the future of our democracies? Well, 'the times they are a-changin'" and probably many of us, whether CEO of a blue chip in the US or Chief Innovation Officer of a Central and Eastern European law firm do reflect on responsibility, sustainability and success. But there is more to it than this. There is hard evidence that purpose-driven companies outperform others, grow faster and have higher profitability.

Why you should care about 'WHY'

People don't just buy what you do, they buy why you do it.' says Simon Sinek, a popular leadership consultant and author. In his 'golden circle theory', he states that all companies know WHAT they do, some know HOW, but very few know WHY they do it. And those who do know, succeed over others who don't; even if they have the same or even slightly less favourable conditions. In this age of abundance having a higher purpose behind your product or service is a differentiator: customers who identify with your 'WHY' will also identify with your product or service, and ultimately decide for it. Suppliers, business partners who share your value are also likely to be more loyal.

But formulating and living your purpose is even more important from an internal, organizational point of view. Research shows that if a company has a strong corporate purpose, its employees will feel greater meaning and impact in their jobs. And the aggregate sense of meaning and impact, i.e. purpose, tends to go hand-in-hand with profit. Why could that be? Daniel Pink, another best-selling author and

speaker, argues that human motivation, especially for complex tasks is largely intrinsic, and is driven by having mastery, autonomy, and purpose. Although we in the legal industry also face commoditization and standardization, lawyers' tasks as such are still complex. And ask a legal business professional these days whether she or he does routine work... So, Pink's theory, also referred to as Motivation 3.0, is highly relevant for us. Do we provide mastery, autonomy and purpose?

Law firms by nature are built on a high level of autonomy, the partnership model favours an individual entrepreneur approach. Also, successful law firms still largely manage to hire the right people for the right job, so in general, 'having' mastery in connection with solving the given problem is probably common for most law firm employees. If autonomy and mastery are achievable, we 'only' have to work on purpose in law firms.

Last, but not least, academic research shows that putting purpose at the heart of your organization helps you with strategy. It helps to redefine the playing field, and to reshape the value proposition. You might be sceptical about law firms redefining their playing field. Well, one of the silver circle law firms, Pinsent Masons sees and describes itself as a 'global professional services business with law at its core'. Certainly, different that just competing on the legal services field. Why do I mention them? They have just received an award for being one of the first purpose-driven law firms...

So, starting with WHY, living a clearly defined purpose in your law firm makes sense from a

strategic, organizational and marketing point of view. But what does it have to do with women? Why are purpose and women combined in the title of this article?

You need more women to find and live your WHY

Actively supporting gender diversity and female leadership might be one of the core missions of your organization. The importance and rationale of this have been discussed intensely in many studies and articles – in legal journals and elsewhere.

However, one aspect perhaps has not yet been examined in enough detail: the relationship between female leaders and purpose-driven organizations. Recent studies in behavioural psychology have found that women tend to be more purposeful and relational in their leadership. Of the nine leadership behaviours McKinsey research identified as most important for organizational performance in the future, several relate to a proactive, purpose-driven and people-focused leadership style. The style, which McKinsey argues, is essential in our VUCA environment. The behaviour, in which women score higher than men.

The future is female, the purpose-driven approach is even more so. Maybe also in the legal sector?

Reading list

I was inspired among others by ‘Start with Why’ by Simon Sinek; ‘Drive’ by Daniel Pink; ‘Finding the balance in leadership styles’ by Ellen Feehan, Johanne Lavoie, and Emily Taylor (McKinsey); ‘Put Purpose at the Core of

Your Strategy’ by Thomas W. Malnight, Ivy Buche, and Charles Dhanarai, Harvard Business Review, September-October 2019; ‘181 Top CEOs Have Realized Companies Need a Purpose Beyond Profit’ by Claudine Gartenberg and George Serafeim

About the Author

[Andrea Miskolczi](#) is the Chief Innovation & Business Development Officer at [Wolf Theiss](#). She has over 20 years of experience in the legal business, both as a transactional lawyer and as a business manager. As the leader of a multicultural department with more than 20 people, she is responsible for Wolf Theiss' business development and innovation activities, including digital transformation of service delivery (LegalTech). Furthermore, Andrea leads marketing and communication, training and development, as well as certain organisational development projects regarding collaboration, innovation and knowledge management. She also participates in forming the strategy for Wolf Theiss. Before joining the firm as a counsel, Andrea has worked at leading international law firms in Budapest, London and Berlin.





“STAND OUT”

“FREQUENCY ILLUSION” YOUR AUTHORITY BOOSTER

Series on building your personal brand, becoming the go-to expert and authority in your field
by Itzik Amiel

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.

Have you ever experienced this: When you see something for the first time and you start seeing it or hearing it everywhere?

For example when someone mentions something to you, or you read it in a book, and suddenly everywhere you go you see it.

Isn't it odd when you're thinking about an old friend from elementary school you haven't connected with in years, and then you see him suddenly in an event?

It's weird, right?

I'm sure it has happened to you and if it hasn't perhaps you just haven't noticed.

In any case, I found this phenomenon has a name. It's called "[The Baader-Meinhof Phenomenon](#)", also more commonly known as "Frequency illusion". [source: [Zwicky](#)]

We've all had these occurrences—most of us have experienced this phenomenon a few times in their lives, while others encounter them with greater regularity.

Is there some hidden cause or meaning behind these events? Would you call it a coincidence, synchronicity, or just a blip in the matrix?

Chances are what you've learned is no more ubiquitous than it was before, but because you are now paying more attention, you notice it more often.

Here's why you're suddenly seeing this new thing everywhere. According to the [Pacific Standard Magazine](#), this phenomenon is caused by two processes:

Process #1: Selective Attention

Selective attention kicks in when you're struck by a new word, thing, idea or a person; after that, you unconsciously keep an eye out for it, and as a result find it surprisingly often.

Your brain seems to be excited by the fact that you've learned something new, and selective attention occurs.

Your brain subconsciously thinks, "Hey, that's awesome! I'm going to look for that thing without actually thinking about it."

So now that you're looking for it, you find it.

To make it all the more powerful, the second process occurs:

Process #2: Confirmation Bias

This process reassures you that each sighting is further proof of your impression that the thing has gained overnight omnipresence, after seeing it even once or twice.

In other words, you start agreeing with yourself that, indeed, you're definitely seeing it more.

So you probably asking – what between the Baader-Meinhof Phenomenon and boosting your Authority & standing out?

Let me explain.

Our brains' prejudice towards patterns.

Our brains are fantastic pattern recognition engines, a characteristic that is highly useful for learning and also connecting to other people.

Frequency illusion obviously has great applications for lawyers building their authority. If their message can break through the noise surrounding in the legal market, even just once, odds are good there will be a nice multiplier effect, thanks to the Baader-Meinhof phenomenon.

Boost your Authority

For building your Authority and Standing Out as a lawyer, this phenomenon is precisely why nurturing is incredibly important.

Once someone starts noticing your authority, you'll want to help them start seeing you "everywhere."

The Baader-Meinhof phenomenon links directly to smart and effective way of building your authority.

Repetition, consistency, and frequency are all critical in supporting a strong authority, and therefore hold extreme value to the success of your brand recognition and attracting more and new clients to you.

There is an automatic imprint of your authority story in the mind of your relations and connections.

What makes you so memorable that you stick in people's minds long after you've left the meeting with them?

What are you known for? OR what do you want to be known for?

What makes you stand out?

What gives you the competitive advantage over your peers?

The Exposure Effect

Repeated exposures to things that we have neutral or positive feelings about increases the likability of those things. This is also true when we are dealing with people.

This is "[the exposure effect](#)", also called

["the mere exposure effect"](#).

Also when we are dealing with people and building relations, we tend to favor the familiar and mistrust the new and different.

Thus, repetition breeds familiarity. We develop preferences for people simply because they are more familiar [not to be mistaken with "famous"].

I am sure you are familiar with this effect when it is concerning products. It is one of the basic concepts behind advertising.

You see an ad in a magazine or a commercial on TV over and over again and after a time become more likely to buy the product being advertised.

Repeated exposure to works better than a single exposure.

But it's important that the perception of the stimuli being repeated is neutral or positive. Repeated exposure to negative stimuli will more likely amplify the negative perception.

Make people become familiar with your Authority

Let's think standing out.

Building your authority and standing out of the crowd as a legal professional, makes great use of the exposure effect.

The more exposures to you and your authority (assuming your authority is initially seen in a neutral or positive light) eventually leads to a more positive perception of you.

Familiarity with your personal brand is a hugely important facet in when developing your authority in your field.

This is where standing out consistency comes in and the use of the Baader-Meinhof phenomenon to help boost your authority building.

Keeping a consistent message across all mediums – offline and online – will help you more easily build that familiarity.

Seeing the same message over and over again, whether it's on your website, in printed material, over social media, or in face-to-face interactions, will help reinforce in your connections minds what your authority image is.

Why is Authority consistency important to you?

Consistency with the messages that you send out to the public is a big part of building your authority.

And of course, the opposite is also true.

Sending conflicting messages out can confuse your connections and damage your relations with them and the trust that you have build until that point with them.

Your Connections want to know you

Interacting with your connections should be done through a consistent authority voice.

When your connections hear about you from somebody else, and when they read it also in a book, and suddenly everywhere they go they see you...they will be experiencing the

Baader-Meinhof phenomenon.

Authority consistency is part of building trust.

Part of engaging the right emotions with your connections is making them feel like they know your brand and that your brand can be trusted.

When your connections get to know you, they will identify with you and your purpose. And when your connections feel like they know you and can trust you, they will be more likely to consume your services or buy products from you and more likely to recommend you to others and send referrals to you.

Your authority consistency takes you to the next level in standing out yourself and with your services.

You're no longer need to convince your relations and connections to buy your product from you and consume your service.

Your authority is so consistent, so synonymous with your name and level of services that when your connection sees your name again they are already thinking about you again and making their next interaction with (or purchase from) you without you even having to ask.

So now a question to you: what do you want to be known for? What makes you stand out? What gives you the competitive advantage over your peers?

Please share what do you do on a regular basis to build your genuine Authority.

Want to discover more on how to develop your EQ to build your authority in your field and attract the right clients – 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](#).

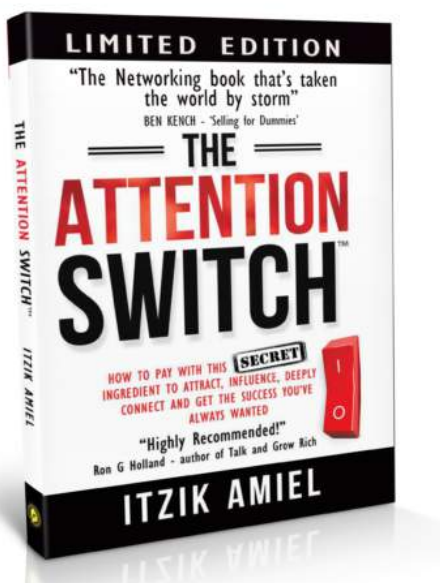
If you have any specific questions with regards to building your authority position and your personal brand or need our help in building your authority position and attract more of the right clients consistently, [please send us an e-mail](#) and share it with us. We definitely can help!

Your time to STAND OUT is NOW!

About the Author

[Itzik Amiel](#) is considered the global leading authority on Business Development, Business Networking & Personal 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



According to power networker Itzik Amiel, giving 'Authentic Attention' to other people is the secret ingredient to reaching out to and connecting with other people. What distinguishes highly successful people from everyone else is the way they use the 'Power of Attention' to build relationships, both in business and in their personal lives, so that everyone wins. Learn new strategies to help you reach out and deeply connect with colleagues, friends, and prospects - the people who will help you reach amazing success. [Order here](#)

Successful Litigation Strategies of the Future Will be Supported by Data Analysis

By Rick Merrill, founder and CEO of Gavelytics

Modern litigation tools are far more advanced than ever before and they are continuing to evolve at a rapid pace. Developments in legal technology such as trial court data analytics are helping attorneys make better, more accurate and pragmatic legal strategic and tactical decisions on the proper course of representation for their clients. These tools offer the ability to synthesize vast amounts of data that previously were unstructured or siloed in applications that did not talk to one another.

This ability to connect, process and analyze



data has created an environment where the litigator and corporate legal department of the near future will easily be able to use a single platform to determine a judge's tendencies and preferred arguments, the likelihood of cases settling, the billing rates and litigation client rosters of competing firms, the litigation history of any party, lawyer and law firm, and much more.

The data revolution is coming to litigation, so

get ready to bear witness to tools and capabilities - never even imagined just a few years ago - to become the industry standard.

Indeed, legal technology has now become so pervasive and has improved so rapidly that the American Bar Association (ABA) and 36 states have adopted technology competency requirements in their ethical rules, reflecting clients' expectations that their attorneys will use the best possible technology. Soon it will be an industry-wide expectation that litigators use artificial intelligence-powered analytics technology to evaluate judges, jurisdictions, opposing counsel and parties to gather as much actionable intelligence as possible before filing a complaint, motion or settling the case.

The client of the near future will expect lawyers to accurately advise them on industry and jurisdictional data like billing rates, jury and arbitration awards, and judicial caseloads (i.e., how fast the judge is expected to be). Current legal technology aims to make the attorney's job slightly easier, but near-future technology based on trial court data analytics will provide litigators with a massive competitive advantage in these and other areas. Of course, there will always be parties, lawyers and a judge applying law to facts, but the new tools will enable a level of analysis, efficiency, speed and quality never before possible in the business of litigation.

The Expanding Use of Analytics

Speaking in practical terms, law firms will use AI-powered analytics to:

- Assess potential venue options by analyzing dockets and the results in prior cases.
- Evaluate the effectiveness of opposing counsel and their propensity to engage in motion practice or actually take cases to trial.

- Analyze prior case law and the decisions of specific judges to target more effective strategies and arguments.
- Target specific language that proved successful and persuasive in prior cases.
- Challenge opposing counsel's expert witnesses.

Specifically, the data revolution in litigation will manifest itself in three primary ways over the next few years: (1) judicial and trial court analytics, (2) business intelligence, and (3) litigation portfolio management.

While these tools currently exist, they still have significant limitations. These shortcomings, such as limited data sets, unreliable results, poor or non-existent integration, and difficulty of use will soon be overcome, however, setting the stage for a paradigmatic shift in how attorneys practice and prepare for trial.

Judicial and Trial Court Analytics

In the near future, it will be malpractice not to employ the use of a judicial and/or trial court analytics platforms. Attorneys will consider a problem or question, do research, develop an argument on how the problem should be solved, and use data analytics to qualitatively test the argument. Based on the results, the attorney may be able to pinpoint where their experiment failed.

This new litigation technology creates the ability to employ analytics-based strategies that are more empirical and "evidence-based," in the sense that they more clearly informed and predicated on supportable precedent.

For instance, if an attorney has information about how often a judge grants a type of motion based on a specific argument, the attorney can decide whether it is necessary to make that argument or use a different litigation strategy and can, at a minimum, keep their client better informed.

It should already be unthinkable for a litigator not to analyze their judge's tendencies and preferences given the availability of tools enabling such analysis at both the state trial court level (like Gavelytics) and federal district court level (like Lex Machina). Litigators can quickly find information on a judge's background and rulings through online databases. Newer technologies can turn that information into useful analysis for lawyers and their clients.

For example, a defense attorney may want to assure a client of their decision to file a motion for summary judgment by showing that this particular judge has a better than average propensity to grant this type of motion. Of course, a different conversation would take place if the judge were less favorable to such defense motions. In this case, the attorney may utilize a database of rulings to better understand whether the motion measures up to the types of motions that the judge has granted in similar cases.

In the near future, litigators and appellate attorneys will be able to see how often a judge's rulings are reversed on appeal. Such information is useful because it may reveal a judge's propensity to make errors, which then allows the litigator to pinpoint those errors and bolster their case. Further, this information

would expand the user base of litigation technology into the appellate sphere.

Competitive Intelligence

There is currently a gap in the legal technology market for competitive intelligence (CI) products that can provide useful and strategic information on opposing counsel, insurance companies and business entities with a stake in the litigation. The few available products are limited and have shown significant flaws in the data they generate. The first product to figure out how to provide accurate and reliable intelligence on a broad array of companies and firms will be very successful.

Once this occurs, attorneys will have vast amounts of competitor data at their fingertips. They will have instant access to any firm's clients, how much they charge, which law firms are hired by a company, and much more. By knowing the particulars of your competitors' rate structure for legal services, law firms will be in a better competitive position to develop strategies to bring in more clients and secure more business from current clients.

Litigation Portfolio Management

Major companies and insurers often handle vast numbers of litigation matters at any given time. Case management software has enabled litigation firms to handle a large number of individual matters at a time with relative ease by using case management suites, which use analytics to give managers useful information about law firm performance. Firms can track billing rates, jury and arbitration awards, case length, and numerous other metrics. Moreover, firms may be able to analyze their market position by comparing

their client base, fees, and revenue to other firms. These advances are made possible through the use of AI in legal technology to process and structure very complex legal data into meaningful reports based on statistical analysis. AI capability in tools such as online research and e-discovery have greatly streamlined attorney workflow. Moreover, some discovery tasks have been practically automated through optical character recognition (OCR), technology-assisted review (TAR), and predictive coding.

Newer technologies have even used AI to help attorneys decide whether to take a case. One product takes information about a cause of action and some important facts, searches through client documents, and pulls out more important information for the attorney to consider. Such products can help in-house counsel and litigation firms save money by identifying problems in the case at the earliest stage.

Summary

It will be soon be unthinkable to litigate without leveraging legal technology that provides judicial and trial court analytics and competitive intelligence. While some of these future tools are available right now, many are not quite at the stage where they will provide the desired results on a consistent basis. We are not far from this stage, however, and once we reach this point these products will be ubiqui-

tous in the practice of law. Attorneys will see better outcomes and clients will be more satisfied working with technologically informed attorneys.

The future of legal technology is bright. Brilliant data scientists and entrepreneurial attorneys are joining forces to change the entire legal industry. Although large law firms have always been the first to adopt such new technology, it will not be long before the marketplaces scales legaltech tools for use by the entire industry. By preparing and accepting this reality, firms of every size and structure can remain competitive into the future.

About the Author

Before founding [Gavelytics](#), Rick spent the better part of a decade as a "big law" litigator, working primarily on large real estate and other commercial disputes. Rick received his law degree from the UCLA School of Law, where he was the Senior Articles Editor of the Journal of Law and Technology and also a judicial extern for the California Superior Courts. Rick completed the Executive Program at the UCLA Anderson School of Business and received his undergraduate degree from the University of Southern California. When he's not designing cutting edge litigation solutions, Rick loves spending time with his wife and children, playing golf, and skiing.

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The Rise and Rise of Managed Legal Services

By Danh Nguyen, General Manager EMEA & Management Consultant at KorumLegal

Today, clients are spoiled for choice for legal solutions. It is a buyers' market and they're shopping around to ensure that they find the best possible quality solution at the right price. Until recently, clients with a legal issue or matter could either send it to a traditional law firm or handle it in-house.

Different players are emerging - offering a wide range of legal solutions (e.g. contract lawyers, legal consultants, document review services, LegalTech platforms, managed legal services, and hybrids of any of these). In-house departments have grown, are becoming more sophisticated and have higher expectations and demands from their external legal solutions providers. The rise of managed legal services or the contracting out of a part or whole of a legal function to an independent legal service provider is very much a part of this growing trend. This trend will

only continue to rise in popularity among General Counsels (GCs) and will drive significant changes in how the legal services industry structures and provides solutions to clients.

Globalisation, rapid advancements in technology, and economic pressures (internal and external) are driving GCs to expect more from their external advisors. This has created opportunities for new entrants - such as NewLaw providers, the Big 4 and others - to enter the fray and act as a disruptive force in an environment that has traditionally been dominated by law firms (big, medium and small).

In recent times, managed legal services has emerged as a popular service model for GCs being asked to do 'more with less'. Managed services have been widely used in technology companies and projects; it is now impacting the legal sector. You can see why – it enables clients to quickly and more cost-effectively tap into rich technical expertise or additional capacity by focusing on deploying the right resources to the right project at the right price.

What's driving this change?

GCs, at least those that are more receptive to change, innovation and of a better way of doing things, are frustrated with the traditional law firm model. Increasingly, they are turning to alternative providers as a way of extracting maximum value and impact from ever-shrinking legal budgets. And they will reward those that can provide better solutions by engaging them on various projects, including strategic ones.

GCs have a lot on their desks in terms of the types of legal matters and complex issues

they're asked to advise on by their own internal clients. These don't fit into neat categories of commercial, employment, tax, IT, IP, etc. They're also increasingly involved in overall strategy considerations of the business, often working closely with the Board. GCs are under enormous internal pressure from their own CEOs and CFOs to find more time and cost-effective ways to process legal tasks, manage risk and demonstrate they can add value to the business. That's where managed legal services come into the picture.

Even if some GCs might prefer to stay with their traditional notions of quality – top law firm brands – they're also willing to experiment with alternatives. This is particularly common in areas where GCs and in-house teams simply don't have the bandwidth or expertise, where they have a higher risk appetite (e.g. document review and drafting of standardised contracts, repeatable high-volume work, etc.) or in areas where the law firms either don't have the relevant experience or expertise. Or they have simply elected to not advise in that area because it doesn't give them the cache or volume, they need to make the offering commercially viable.

A managed legal services provider, using its real-world, practical experience can fill this gap, quickly add value to the business of the client and provide services which are complementary to those provided by the law firms, at a more competitive price point.

Different models of managed legal services

So, you might be wondering 'what are the key differences between managed services and typical outsourcing'? Some of the key differences are outlined on the next page.

Typical Traditional Outsourcing	Managed Legal Services
Inconsistent quality and lack of visibility as service providers typically do not commit to KPIs/metrics	Ensures consistency in quality and effectiveness and visibility in terms of KPIs/metrics
Solution is typically 'imposed' on client	Solution co-designed by client and service provider
Low or non-existent adoption of LegalTech and lean management systems and processes	High adoption of LegalTech and lean management systems and processes
Poor or lack of robust project governance and oversight	Robust project governance and oversight
Lack of predictability – pricing is typically not fixed	Predictability – in terms of fee structures and pricing
No end-to-end project management	End-to-end project management

In the current market, there are a variety of different service models for providing managed legal services to different classes of clients, depending on their unique needs.

These can generally be classified into the following key categories:

1. **Regional / geographic coverage** - provide support for clients who don't have a substantive legal presence, team or capabilities in a particular geographic region;
2. **Expertise** - provide technical expertise or experience in certain specialised areas of the law (e.g. employment, technology/IT contracting, IP, payments/remittances and other financial services regulatory, financial crimes compliance, risk management, etc);
3. **Volume work** - high-volume, lower risk legal, regulatory or contractual projects (e.g. response to request for proposal (RFP) processes, review of high-volume transaction due diligence documents, etc); and

4. **Repetitive work** – where repetitive contracts and standardised playbooks, can provide support to allow legal team to focus on more high-value strategic legal matters.

How do these service models work in practice?

The key to these solutions is collaboration, as well as the effective use of project management, technology integration and the adoption of lean management systems and processes, to drive greater efficiency and accountability in the execution of projects. In the first category noted above, the managed legal services provider acts as an extension to the client's in-house capabilities in a geographic region by supplementing their home-based team by making available consultants on the ground in the region. These consultants not only provide the hands-on, same-time zone support needed by the local business and operations teams, but also provide local jurisdiction expertise, know-how and counsel that the HQ teams either do

not have, or don't have the capacity to service effectively. This can be in the form of providing support on RFP review and documentation, contracts review, drafting and negotiation, to specialist advice on employment law or IP matters. It's this ability to tap into the regional capacity, coupled with knowledge of the local market and regulatory environment, that can help a client gain quicker access to new markets.

In the second category, the managed legal services provider works closely with established clients, as well as new entrants in different sectors to assist them to come up to speed on the legal and regulatory frameworks that may potentially impact the business and operations of the client, or that may be exposed to new risks that they have not previously faced. An example of this is where a managed legal services provider helps clients to build and execute on their compliance and risk management strategy by helping them to develop robust frameworks that address business needs and enhance decision making and compliance.

In the third category, through the adoption of technology, disciplined and streamlined processes, and by using standardised practices, templates, market playbooks and toolkits, managed legal services can help clients to handle large volume, lower risk projects and activities without compromising on quality and accuracy. This enables additional capacity to be added at relatively low cost and risk.

Why you should consider managed legal services?

The outsourcing of legal services is not new. But, managed legal services as it's developed

over the last few years is a new solution, structured very differently from previous "outsourcing" services.

As a service model, it's more considered and effective – and gives clients more bang for their buck – because it's driven centrally from the clients' own business objectives and needs. A managed legal services provider invests time and effort into understanding those objectives and needs and assembles a cross-functional team that works collaboratively (sometimes, cross-regionally) to co-design and deliver tech-enabled solutions. These solutions integrate technical expertise in specified areas of the law, regulatory affairs and government relations, project management, and change and stakeholder management. Together, they help businesses to solve some of their most challenging and pressing problems. And, in turn, giving them valuable access to new customer segments and markets.

About the Author:

Danh is currently General Manager for EMEA at the Asia-centric NewLaw legal consultancy, KorumLegal. He is focused on providing innovative legal solutions to businesses entering into and branching out of Asia. He is also an experienced senior commercial and corporate lawyer with over 20 years of global commercial practice experience across payments, financial services and IT/technology sectors. He has worked in global listed companies and in private practice on a wide range of matters including general corporate and commercial, financial services, regulatory and strategic risk and compliance. He also has extensive general management, leadership and business development experience.

A portrait of Louise Ferris, a woman with short dark hair, smiling. She is wearing a blue and white patterned jacket over a black top. The background is a blurred blue and white pattern.

Striving for firm wide flexibility

By Louise Ferris, Director Human Resources, McCullough Robertson

Flexible working. Far from a new phenomenon, but one that is becoming increasingly important for businesses to manage as employees seek out their ideal work-life balance.

Historically seen as a women's problem [1], flexible working is something that impacts all workers. With some staff in the office between contracted hours of 9am – 5pm; some working flexi-hours to go to a sports training session; and some working remotely several days a week, it is clear that all employees have their own lives, and organisations must be open to working around these.

So how do organisations implement these policies? And how do they empower their senior management to lead by example and ensure the right support is available?

Benefitting the business

While statistics show that 73% of professional services firms had a flexible working arrangement policy [2], businesses are still struggling with their implementation. Indeed, 41% of respondents to a UK Law Society study indicated that their workplaces are currently resisting flexible working practices [3].

It is challenging to put a finger on what exactly the cause of this resistance is, however it is likely that an aversion to change comes into play. Businesses have successfully functioned for many years without flexible working practices, so there is understandably reluctance to change business practices.

Nevertheless, successfully implementing flexible working practices has shown to improve business outcomes with some organisations reporting at least a 13% increase in productivity [4]. Not only that, but flexible working arrangements can lead to significant employee attraction and retention figures [5], and in an increasingly competitive field where employers are all seeking the best talent, having embedded flexible working options could be crucial.

Leading by example

A lack of senior leaders in flexible working arrangements in law firms – and indeed exhibiting behaviours to show their support for flexible working – is a roadblock to the embedding of policies [6].

To successfully implement a new policy, leaders must demonstrate behaviour that signals their belief in it and not just talk about it. The adoption of a flexible working policy in partic-

ular relies upon leadership teams' openness to change and trust in their employees to continue to deliver the high quality work that is expected of them. This obvious interaction with, and indeed belief in, the policy can go a long way to set an example to employees, and show that the organisation really backs the flexible working policy that they are implementing.

Role redesign

To better support flexible working policies for all employees, organisations should also look to redesign roles so that they can be adaptable to fit in with flexible work patterns. It is no longer enough to simply tell an employee that they can work flexibly when their role – in its current form - does not easily enable it.

One step that can be taken to tackle this can be to provide teams with laptops so they can work remotely when required. These measures could also comprise providing home office set up assistance for those who want to work from home and ensuring that senior leaders have a full executive suite of technology including laptops, iPads and iWatches enables them to be mobile and efficient, while also working to the high standard expected of their role.

Flexible working is a business issue that must be addressed and implemented at all levels of an organisation. It takes time and commitment to build up trust in both the policy itself, and the individuals that choose to take up an arrangement. Equipping teams with the right technology and infrastructure to allow flexible working is a good way to start, while taking a more holistic look at roles to see how they can be adapted to better suit flexible arrangements.

It is also important to recognise that flexibility may not suit all individuals, and this is of course perfectly okay. Businesses however need to ensure that all staff – whether or not they want to work flexibly – feel supported in whatever they do.

Notes

- [1] <https://www.theguardian.com/women-in-leadership/2014/oct/01/flexible-working-women-only-issue-companies>
- [2] https://data.wgea.gov.au/industries/41#work_flex_content
- [3] <https://www.lawsociety.org.uk/news/press-releases/largest-ever-survey-on-gender-equality-in-legal-profession/>
- [4] <https://www.wgea.gov.au/sites/default/files/documents/Business%20Case%20February%202019%20Final.pdf>
- [5] <https://www.wgea.gov.au/sites/default/files/documents/Business%20Case%20February%202019%20Final.pdf>
- [6] <https://www.employeebenefits.co.uk/lack-leadership-buyin-flexible-working/>

About the Author

Louise is an expert in the area of human resources management and provides strategic advice across a broad range of people and culture activities including attraction and retention, culture and the development of leadership capability at all levels of organisations.

Louise has worked in the legal industry for over 25 years and has built a reputation for understanding the business of law and balancing a high performance environment with a supportive and growth mindset. She has a strong interest in dealing with issues through a practical lens and has implemented a number of effective initiatives across the business to drive a sustainable and engaged workforce.

Louise has a particular passion in the area of mental health and wellness and was recognised for her work in 2016 as the winner of the Open Minds Mental Health Week for large employers. More recently Louise was awarded the HR Professional of the Year through Lawyers Weekly.



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How 'Sticky' is Your Area of Practice: Effects on Marketing & Firm Management

By Jared Kimball, Owner and lead strategist at Zahavian Legal Marketing

Attorneys and law firms make up one of the most competitive industries globally, regardless if their firm is consumer-facing, serves businesses or both. Therefore promoting a law firm with marketing strategies and advertising campaigns usually requires thorough investment and careful planning in order to compete effectively.

Some areas of law are more competitive than others, marshaling a higher, average cost per acquisition to sign up new clients. Each firm will have different marketing strategies and expenses depending on its business model and areas of law it serves. Having a deeper understanding of the marketing effects based on your firm's model and areas of law can make significant differences in terms of cutting costs and yielding more predictable channels for leads and intakes.

One critical business and marketing concept to understand is the 'stickiness' of your prac-

tice. This can have a profound impact on your firm's earning and, in some cases, flip the way you think about promoting your practice on its head.



What is Stickiness in terms of Business?

Stickiness is the amount of repeat, continued business or organic referrals (i.e. word of mouth) that a business has based on the nature of its products or services. Stickiness can be applied at different levels in business and industry. Before we look at how it applies to a law firm, let's get a better understanding of stickiness.

Stickiness in Branding & Advertising

In order to know how stickiness works, marketers and advertisers position brands as the go-to for a specific product or service. So much so, that it becomes part of our culture and vocabulary rather than merely one of many products or services in a category. This occurs when we use brand names in language, rather than the descriptive name of the product.

Examples include:

- Kleenex
- Band-Aid
- Q-Tip
- Clorox
- Coke / Coca-Cola

Stickiness in Products & Services

Stickiness also exists at the product level as well. Apple is a great example of a business model that relies on stickiness. If you have an Apple Watch, for instance, you certainly have an iPhone, since it doesn't function without it. People who have an iPhone are more likely to have other products by them as well, such as a computer or iPad. Their products are designed to talk and connect with each other. Furthermore, once you're accustomed to the Apple ecosystem, you're less likely to switch away. Therefore, when it comes time to upgrade a

device or computer, it's easier to just stick with what's already familiar to us.

There are many examples of stickiness, but hopefully, the concept is clear to you by now. The question is, how does this apply to a law firm?

Applying Stickiness to Law Firms

There are several angles where stickiness can apply to law firms and solo practitioners. Without much additional effort on your firm's part, the most powerful source of stickiness for your law firm is the area of practice.

Stickiness & Areas of Law

Depending on your area of law or multiple areas, you may have already experienced stickiness through word of mouth and referral business. In North America, probably the stickiest areas of law are family law and corporate law. There are common and unique reasons why for these two areas.

With divorce and separation being so common in today's culture and society, family law is a thriving area in terms of stickiness. For lawyers and firms practicing family law, you can expect a major source for new clients coming from word of mouth referrals. Past clients happy with their results are more likely to recommend your services to their friends and family in the event that they too need your services.

Due to such a high number of people separating from their spouses, word of mouth is a primary channel as many past clients are likely to know multiple people who have divorced (or separated) or are currently going through

one. The same applies to child support, alimony and other areas of family law.

Business and Corporate law benefit significantly from stickiness as well. Many firms specializing in corporate law receive an abundance - if not the majority - of their clients through referrals and their reputation. Furthermore, businesses that require ongoing legal services are likely to retain their legal counsel long-term. Repeat and continuous business from clients can yield a large amount of a firm's revenue streams. For instance, firms focusing on insurance defense, also experience these effects, where they handle the litigation and settlements on behalf of insurance companies.

How to Improve Stickiness

Regardless of your firm's areas of practice and their respective, natural stickiness, there are different components that will help improve your firm's stickiness qualities within your market. These include:

- Referability
- Quality of Work
- Customer Service
- Networking
- Staying Top of Mind
- Cross-Promoting Your Services
- Momentum

Referability, Quality and Customer Service

These three properties really deserve to be grouped. Referability is the quality of how referable your firm is for its legal services. This, in large part, is interchangeable with your reputation, both within the legal community and your local market in general. The bet-

ter your firm's reputation, the more word of mouth and referrals you're likely to receive.

Your reputation and hence referability will transcend from the quality of work your firm produces as well as your approach to customer service. The difference between these two - quality of work and customer service - may seem like a subtle difference to some, but it's critical to understand. Your quality of work is within your work product. Customer service is your consistency, communications, and the perceived level of quality of your client's experience.

Ultimately, your referability - whether from past clients, other lawyers, professionals in other industries or a combination of them - depends on these two critical qualities. Keep in mind that any time someone refers or recommends a company to a friend or family member, they are in turn, putting their own reputation on the line through their endorsement of that good or service.

If your past clients, colleagues and others who know you aren't certain that you'll be able to take care of their referrals, they're far less likely to risk their reputation and refer new business your way.

Networking

Networking and Business Development are important for opening up your referral sources. This can include lawyers outside your firm that practice areas of law your firm doesn't. It's important to understand that other attorneys aren't likely to refer clients to you if they consider you (or your firm) as a competitor.

Other sources of referrals you can build through business development include professional service providers in your local market. If you're an estate planning lawyer, then financial planners could be a strong channel for referrals. Real estate lawyers can look at networking with realtors. A personal injury lawyer, for instance, should consider networking with physiotherapists. Consider not just connecting with these professionals, but providing value to them.

Staying Top of Mind

Top of mind advertising is a commonly used term in conjunction with mass-media advertising, such as billboards, tv commercials, and other forms. However, in the context of stickiness, staying top of mind is key. Once your firm has built a good reputation and is worthy of referrals through quality work and customer service, you'll want to stay top of mind with as many referral sources as possible.

This means finding ways to keep in touch with your referral network. You need to ensure they remember you when they have a friend, connection or someone they know that requires your legal services.

Having a strong brand presence will maximize your brand's impressions on your clients, business partners and other referral sources throughout their engagement with your firm. You can start with small things such as investing in the signage of your brand inside and outside your office and personalizing your email signatures with your firm's logo.

Consider the following.

How long does each client sit in the waiting area before seeing an attorney at your firm? You should have a large, prominent sign of your firm's brand and logo on the wall across from them to make sure your brand stays top of mind with them.

As your referral network and sources grow with your practice, you'll have less time to have in-person interactions with lawyers and past clients that help stay top of mind with them. While there are many tactics for staying top of mind, one of the cheapest and most scalable mediums can be through a newsletter; whether physical or via email.

Cross-Promote Your Areas of Practice

Let's suppose your firm focuses on several areas of law. For this example, we'll use personal injury and family law. Family law does well simply from referrals, such as past clients. However, your firm is investing a lot of money and effort into growing their personal injury practice.

How many of your family law clients know that your firm also handles personal injury cases? The odds are that your clients only know that you're able to help them with the problem they're having. Furthermore, you can't expect your lawyers and staff to educate your clients on your range of service offerings either. Instead, bake it into your brand by positioning your firm such that you're making it clear what areas of law you focus on. Write your areas of law, such as "Personal Injury & Family Lawyers" under your logo and make sure it shows up wherever your logo does. Again, this includes your interior and exterior signage, your business card, email signature,

letterhead, etc.

Why are we doing this?

Here, we're trying to take a page out of Apple Computer's books. Like we discussed at the outset if a consumer is happy with their first Apple-made product, why wouldn't they return when they want a smartwatch or a laptop? The same goes for your firm. Unlike technology and gadgets, very few people take the time to educate themselves about the law or different areas of practice you may or may not handle. If you have a practice that experiences asymmetry in stickiness, cross-promoting can help level the effects in your favor. Use your sticky audience to promote the areas of practice you want to increase business in.

Building Momentum

As your practice, the number of cases and reputation grows, so will the effects of stickiness. More clients may retain your services again in the future (e.g. a second divorce, separation, custody agreement, etc.). With more closed files, you'll also have more clients referring more new business to you. Word will get around further and the effects will snowball at an increasing rate.

Managing Your Practice from Effects of Stickiness

Above, we mentioned that the momentum of stickiness would build over time and may start snowballing quickly. As these effects multiply, your firm will experience new challenges and growing pains.

Several consequences from this include having one or several star players at the firm. These

are the people generating a significant number of referrals. In fact, they may become so busy that they're billable hours have peaked and may not be able to handle more work or take on new clients.

While this is a good problem to have, your firm should be prepared to handle this surplus of work. In some cases, the problem doesn't seem easily solvable because the lawyers getting the bulk of the referrals either don't:

- Know how to transfer new referrals to associates or partners
- Trust that another associate will handle the new business

Learn to Share the Referrals

This really boils down to sales skills. Many lawyers don't like the idea that any part of their practice involves sales. However, a critical component of most businesses involves sales or at least a sales process. In law firms, this is between the time a new lead emails or calls your firm up to the point where they sign a retainer agreement or letter of engagement. Like it or not, those two events define the bookends of a law firm's sales process.

Part of that sales process may require the lawyer referred the work to take the initial consultation and still refer the prospective client to an associate. This requires reassuring the prospect that their colleague is up to the task.

Trust that Your Colleagues Can Handle the Work

You may notice the characteristic of referability in that latter point. Referability exists outside the firm as well as inside, among

colleagues. In the situation where other lawyers at the firm lack the customer service or quality components, these are serious issues that need to be addressed. Firms can benefit greatly and experience serious growth when stickiness is channeled correctly. However, a chain is only as strong as its weakest link.

Operations, procedures, and training should be organized and executed ahead of the growth wave in order to bring all attorneys' and staff members' customer service skills and work product quality up to a minimum set of standards. Once the top performers' plates are full, it's a little late in the game. They're too busy to help organize the other troops then. The other thing to keep in mind is the incentive structure. If there's no benefit for the top performers to pass on their expertise and train other associates, partners, paralegals, and case managers, then how can firm managers expect them to invest the time necessary?

If these issues aren't handled correctly, then the effects of stickiness could end up negatively impacting a practice. Consider because you only have one or several top performers, the asymmetric quality of your firm's work product or customer service starts hurting your practice's reputation, referability and hence stickiness. Firms that benefit from sticky areas of law should pay special attention to their operations, performance in quality and service, far more than their marketing, to maintain or propel growth.

Conclusion

Stickiness can be a very powerful component

of your law firm's growth and success. In this article, we went over three things:

- Understanding Stickiness: examples in other industries
- How to Identify sticky areas of law and sticky referral tactics to grow your practice
- Managing growth pains resulting from referrals and sticky Areas of Law

Understanding stickiness is great. Using it as a framework for growing your firm can be powerful whether your area of practice is sticky or you make your firm sticky through business development as well as building and maintaining referral sources. Finally, as the effects of stickiness snowball, make sure your practice can manage the growth and minimize negative effects. Implementing proper procedures and operations is critical to maintaining the standard of quality and service. It's imperative for safeguarding your firm's reputation, representing and serving your clients to the best of your abilities.


[Jared Kimball](#) is the owner and lead strategist at [Zahavian Legal Marketing](#), a marketing agency focusing on lawyers and law firms. The agency handles everything from SEO, Web and PPC Ad needs to blogging solutions and support for law firm's local advertising and marketing campaigns. As a long time marketer, IT consultant and programmer, he also supports law firms in their decision making for operational business functions including IT and security. He can be reached at jared@zhvn.org

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3 Ways to Set Your Law Firm Up for Online Marketing Success

By Victoria Blute, Director of Education at LawLytics

How you approach your online marketing strategy can either set your firm up for long-term success or cause you to fall behind. The good news is that there are lots of easy ways to do successful web marketing.

Here are three things to think about when it comes to your law firm's online marketing in the new year.

#1: Put yourself in control of your law firm's online marketing.

Being in control doesn't necessarily mean you have to do everything yourself, and it doesn't require you to be an expert in technology, marketing, or search engine optimization.

But attorneys who are in control of their web presence know several key things:

- They know that their marketing is transparent. They have full access to their marketing assets, they know where their assets are located, what role these assets play in marketing the law firm, and they have an ability to exert influence over them. Attorneys who are in control can independently measure results and refine their marketing strategy as a result.
- They know that their marketing is affordable. Instead of becoming dependent on wasteful forms of advertising with high price tags, attorneys in control are able to cost-effectively grow their businesses through sustainable marketing.

When you're in control of your online marketing, you'll have an easier time [getting new clients](#) without wasting time or money.

#2: Start with a high-performance law firm website.

Whether you're starting a brand new law firm website or you want to improve the one you already have, a high-performance law firm website is essential to online success.

A high-performance law firm website should have content-rich pages that are optimized to convert web visitors into potential clients for your firm, as well as compelling calls to action, smart forms, and an easy to use management system that you have access to and control over.

If you're [starting a brand new website](#), it's important to make deliberate, educated choices when you build and launch a new website.

This includes decisions about website design and choosing the right website platform for your firm's needs. When you build a law firm website that's cost-effective, engaging, and also scalable, you'll be able to set yourself up for both short and long-term success.

If you already have a website and it doesn't work as well as you'd like it to, it's time to take control and [understand why it's not performing well](#) so that you can fix what doesn't work and safely build on what is working. At Law-Lytics, we've helped many attorneys fix their underperforming websites so that they can get the most out of their web presence without having to become tech experts -- and without breaking the bank.

#3: Be prepared to collect more client reviews.

Online reviews are becoming more important in recent years, and client reviews are persuasive to potential clients.

Many potential clients look to online reviews (positive, negative, or the lack of reviews altogether) as part of their decision-making process when it comes time to hire a law firm.

A potential client's confidence in your law firm can change when they see good reviews, bad reviews, or no reviews at all. And that can affect your business. You can't control what a client will say about their experience with your law firm. But you can [be proactive about collecting reviews, as well as monitoring and managing your online reputation](#).

When you can translate the experiences of

happy clients into reviews for your law firm, you'll likely see a positive effect on your firm's business. Reviews generally show up in two places: Your law firm's website, and third-party review sites.

Your website is a great place to add reviews from happy clients. It's free from distractions and you have control over what gets seen. When you have control over your website and you're using the right technology, you can decide how many reviews are listed, which reviews get published and in what order they appear.

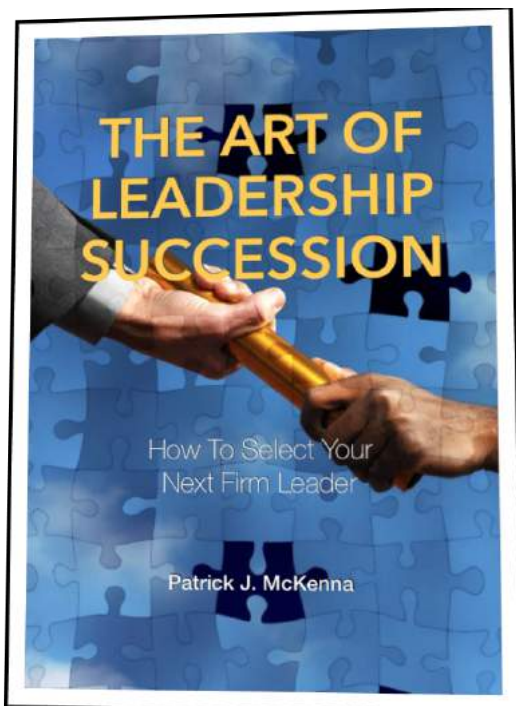
But reviews don't exist on your law firm's website alone. There are many third-party web-

sites that feature law firm reviews, and potential clients are likely to see several of these sites.

Collecting, monitoring, and managing your reviews is important, but it doesn't have to be time-consuming. Technology is making this process easier, and much of it can be baked right into the work you do on an everyday basis.

About the Author

[Victoria Blute](#) is the Director of Education at [LawLytics](#). She is passionate about legal marketing and helping attorneys learn what works for law firms on the web.



GET YOUR COPY NOW

A MANDATORY PUBLICATION FOR HRM DIRECTORS, MANAGING DIRECTORS AND AMBITIOUS LEGAL PROFESSIONALS



Contract Design Canvas:

How to plan and deliver a contract design project without losing your way (or mind)

By Verity White, Legal Counsel and Automation Coach, Telstra Corporation Limited

Verity White introduces the Contract Design Canvas, a tool to develop a clear plan for your contract re-design project.

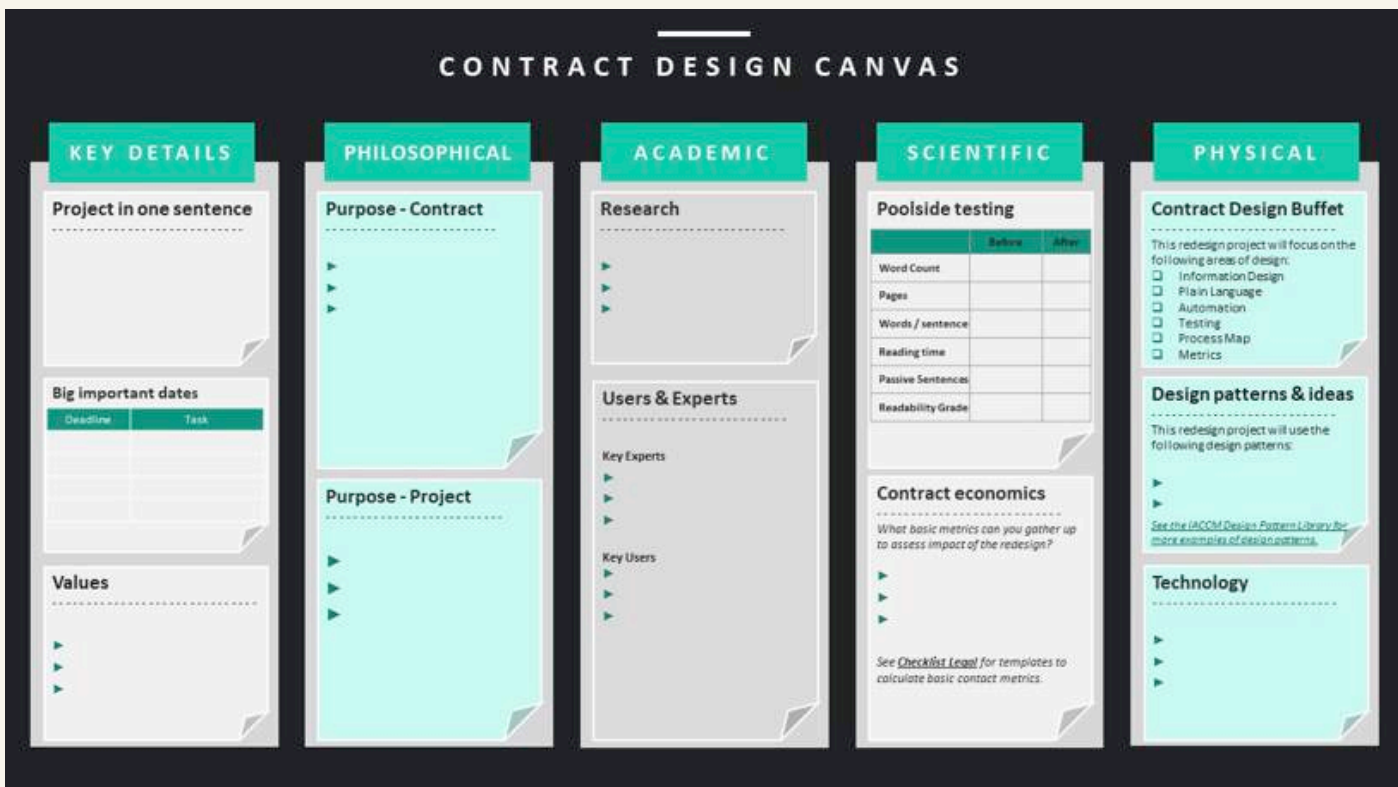
The law has a rich tradition of writing, meaning, and interpretation. And it is time to add to that tradition with re-designed, user-focused, visual based contracting elements.

If you aren't happy with the contracts

at your organisation, change them!

You need tenacity, a clear purpose and a well-defined plan to carry you and your project team through the difficult and often circular process of contract design.

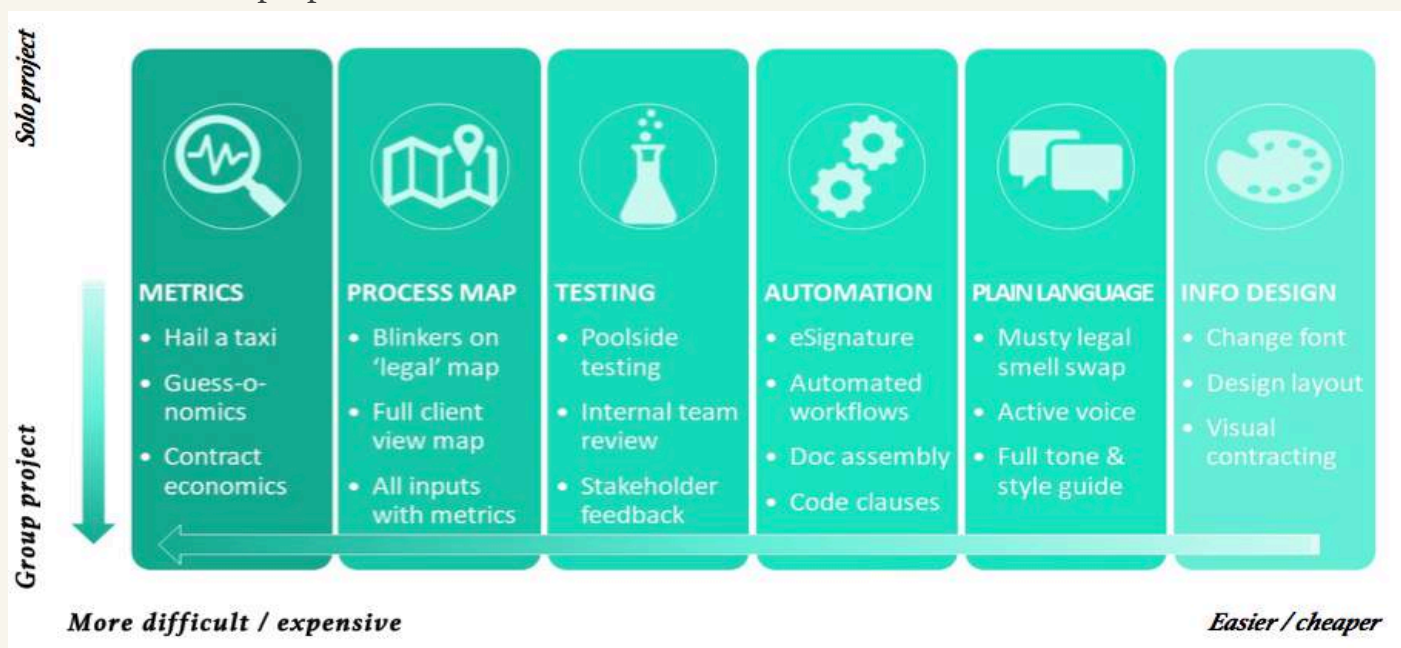
I am excited to introduce you to the Contract Design Canvas I created for an easy to follow process to guide your contract design journey – keeping those contract design projects on track!



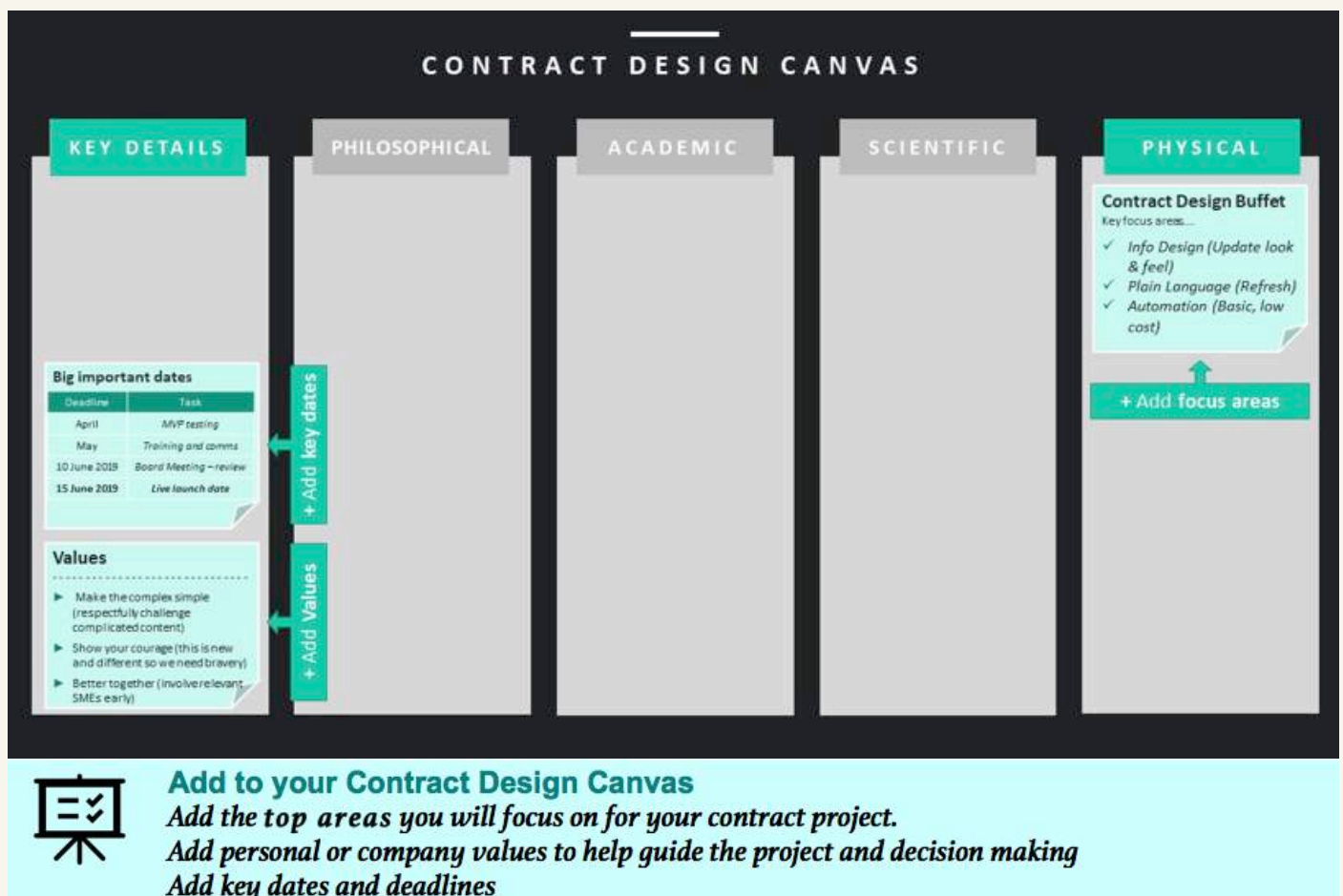
The Contract Design ‘Buffet’

When I am lucky enough to stay at a hotel, one of my favourite parts is the buffet breakfast in the morning. All those options laid out for you, each looking tastier than the last. If you are like me, sometimes you overdo it.

When you begin the contract design journey, think about contract design like a breakfast buffet of many different and not always complimentary choices. Each different element of contract design serves a different purpose. And there are lots of elements to choose from.



The way I've structured this **Contract Design Buffet** diagram is to give a general representation of the **ease** and **expense**. I suggest starting simple and working your way through the Contract Design Buffet. The basic elements of contract design can have a large impact at a low cost. There are lots of ways to go about contract design... don't let anyone make you feel small because you choose to try your own kind of design work.



PHILOSOPHICAL MINDSET

What is the purpose of your contract?

Not all contracts have the same purpose. Why does your contract wake up in the morning? If you need a contract to quickly capture small, low-risk transactions, then a large, cumbersome agreement is not going to achieve that purpose.

The purpose of a contract is such an intriguing question, the clever team at IACCM did a global study on this question with their membership base. [1]


What is the purpose of a contract?

1. A record of rights, responsibilities and obligation

2. Providing protection and remedies in the event of a dispute A framework for a mutually successful business outcome
3. A tool for risk apportionment
4. Support for a business relationship
5. Governance and performance management
6. A tool for risk management
7. An effective communication tool for those with a need to know
8. Providing operation guidance
9. An instrument for generating financial benefit
10. Demonstrating brand and corporate values

If the key purpose of a specific contract is to allocate and manage risk, it's a bit troubling to find out this contract isn't fulfilling that purpose.

If your contracts aren't performing to their intended purpose, that is a **red flag** for re-design. A clear signal it's time to re-design your contracts so they do live up to their mission in life. And that can lead you to the purpose of your re-design project.



Add to your Contract Design Canvas

Add the top 2 or 3 purposes of your contract to the Contract Design Canvas

CONTRACT DESIGN CANVAS

KEY DETAILS

Big important dates

Description	Date
April	MVP testing
May	Training and comms
10 June 2019	Board Meeting – review
15 June 2019	Live launch date

Values

- ▶ Make the complex simple (respectfully challenge complicated content)
- ▶ Show your courage (this is new and different so we need bravery)
- ▶ Better together (involve relevant SMEs early)

PHILOSOPHICAL

Purpose - Contract

- ▶ Support for a business relationship
- ▶ Tool for operational guidance
- ▶ Demonstrating brand and corporate values

+ Add Contract Purpose

ACADEMIC

SCIENTIFIC

PHYSICAL

Contract Design Buffet

Key focus areas...

- ✓ Info Design (Update look & feel)
- ✓ Plain Language (Refresh)
- ✓ Automation (Basic, low cost)

What is the purpose of your **contract re-design project**?

This is where we start to examine the intended **purpose** of the contract with our **reasons for re-design**. When we **link** these two critical purposes, you have the makings of a robust re-design project.

How do you pick a project purpose?

The best contract design project purposes link back to what your business wants to achieve. This means developing an understanding the strategy of your firm or the business unit you support. You will need to talk to the key users of your contract and try to think from different angles. One way to focus your efforts is to think about how you want to report back to your manager or team or clients or CEO. If you were standing up at the end of this contract redesign project in front of the key contract users, what are the outcomes you will talk about? What kind of impacts will matter to your organisation?

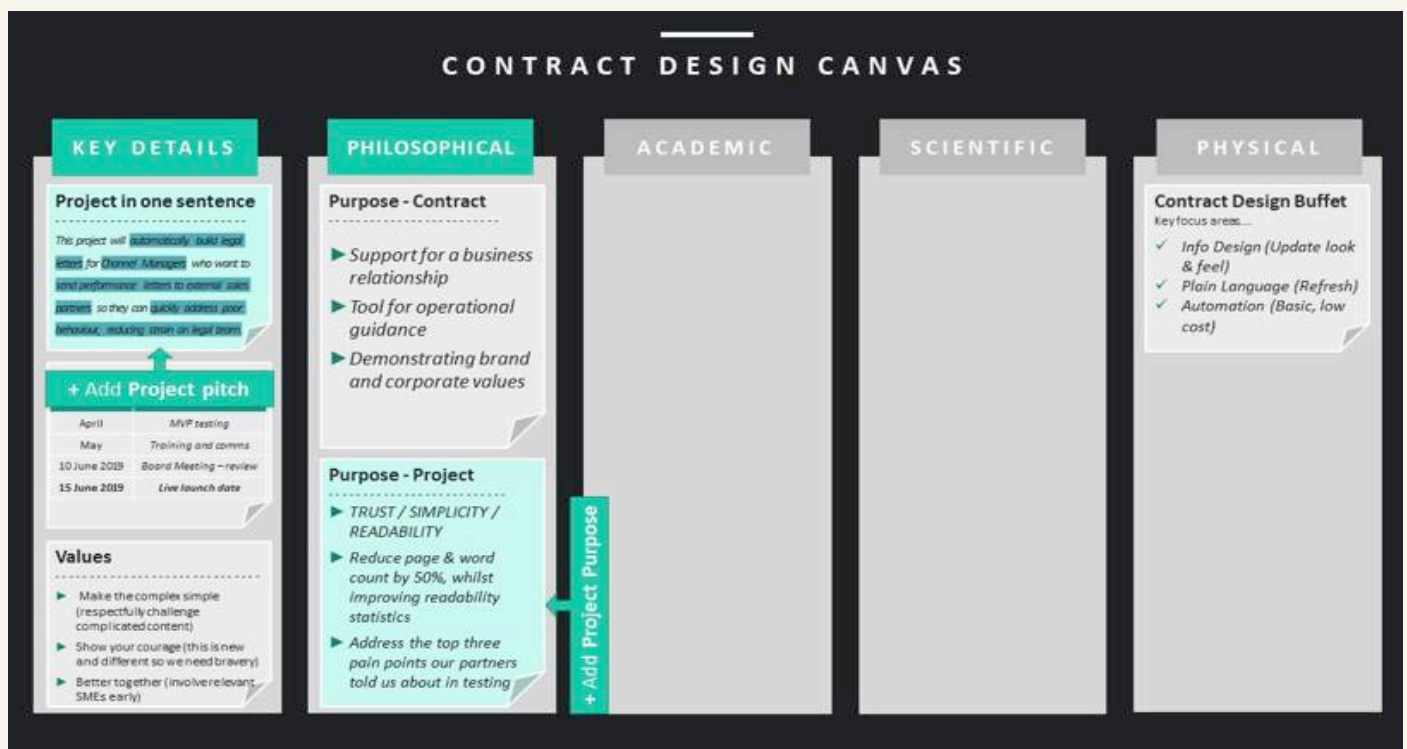


Add to your Contract Design Canvas

Add the top Project Purposes of your contract redesign project to the Contract Design Canvas. Consider including the top pain points you are hoping to fix and where those pain points came from.

Example Purposes for Contract Redesign Projects

- ◆ *Reduce legal handling time to 1 hour for each agreement*
- ◆ *Ensure our agreements are compliant with [new law or regulation]*
- ◆ *Cut 're-work' between sales and contract management by 50% (currently 4 re-works required per contract on average)*
- ◆ *Create a contract with content and aesthetics in line with our brand voice and tone*



SCIENTIFIC MINDSET

The idea of a Scientist conjures up images of people in white lab coats with exotic potions and machines. For our Contract Design mission, we need to do some careful planning and testing too. This is where we need to get scientific about our contract design plan and decide on how we want to test the results of our contract design work.

“In most areas of business, usability and user-experience are considered important dimensions of quality. Not so in contract drafting.”

Helena Haapio [2]

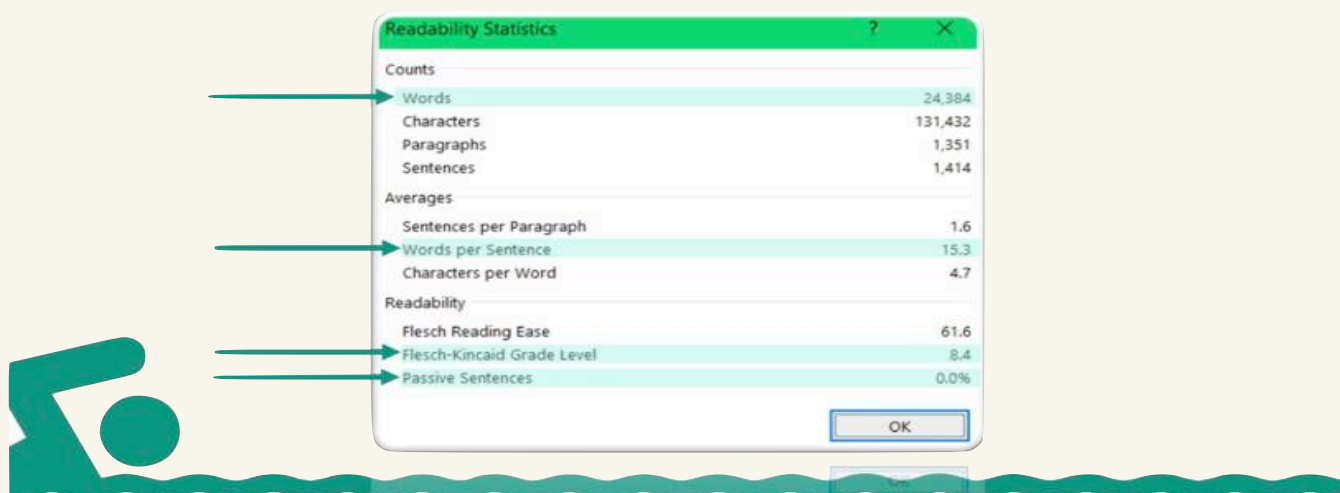
Poolside testing for contract design

These are ‘poolside’ methods because you can do them by the side of the pool with just your contract, the internet, and your laptop (extra points if you have a cocktail). Poolside Testing is by no means where you should stop. It is merely a flag which can help tell you which way the readability wind is blowing. These basic statistics can’t tell you whether users understand and act on the content. You will need to move away from the pool at some point (or invite users to visit you at the pool)

This is just a low-effort, inexpensive way to communicate changes in the document over time, using skills and tools you already have.

What to measure and why

Readability statistics are easy to set up in [Microsoft Word](#). The below is an example if you have your [settings](#) on correctly. [3]



Here are the key areas I like to track and **why** I track them.

What to measure	Aim for...	Why?
Reading time	What you think is a reasonable amount of time for your readers to need to spend with this document.	Thinking about reading time puts you in the shoes of your users.
Words	Think about how long you want readers to spend reading your agreement front start to finish... then multiply the time in minutes by 200 (approximate average reading time, feel free to use your own figures).	As a rule, shorter is better, but understanding is best.
Words per sentence	Generally around 15 words per sentence, remembering that even contracts and legal writing needs light and shade, long and short sentences.	Short sentences help with reading and writing shorter, simpler sentences means you sound smarter
Reading level	Grade level 9 is considered as universally readable but you may need to run several rounds of testing to check.	Again, simplicity helps with processing fluency and length of contracts.
Passive Sentences	4%	Passive sentences are confusing for readers and makes it unclear who has obligations under the contract.



Add to the Contract Design Canvas

Complete basic Poolside Testing on your contract and think about your ideal metrics for this contract...? What users do you need to test this contract with to gather feedback or try results?

CONTRACT DESIGN CANVAS

KEY DETAILS

Project in one sentence

This project will automatically build legal letters for Channel Managers who want to send performance letters to external sales partners so they can quickly address poor behaviour, reducing strain on legal team.

Big important dates

Deadline	Task
April	MVP testing
May	Training and comms
10 June 2018	Board Meeting – review
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Values

- ▶ Make the complex simple (respectfully challenge complicated content)
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PHILOSOPHICAL

Purpose - Contract

- ▶ Support for a business relationship
- ▶ Tool for operational guidance
- ▶ Demonstrating brand and corporate values

Purpose - Project

- ▶ TRUST / SIMPLICITY / READABILITY
- ▶ Reduce page & word count by 50%, whilst improving readability statistics
- ▶ Address the top three pain points our partners told us about in testing

ACADEMIC

SCIENTIFIC

Poolside testing

	Before	After
Word Count	20,124	
Pages	46	
Words / sentence	25.9	
Reading time	1 hr 40 mins	
Passive Sentences	18%	
Readability Grade	14.6	

Contract economics

What basic metrics can you gather up to assess impact of the redesign?

- ▶ Processing Time: Approx 14 days (aim to reduce to 3 days)
- ▶ Lawyer time: 780 hours (reduce to 100 hours)
- ▶ Current NP: -42

See [Checklist Legal](#) for templates to calculate basic contract metrics.

PHYSICAL

Contract Design Buffet

Key focus areas...

- ✓ Info Design (Update look & feel)
- ✓ Plain Language (Refresh)
- ✓ Automation (Basic, low cost)

+ Add Poolside Testing

+ Add Contract metrics

ACADEMIC MINDSET

Academics are impressive creatures. Able to focus in on a narrow subject for a long time. Read through seemingly endless source material. What I love most about academics is their curiosity and tenacity.

Fluency in contracts

A key area of academic research for all contract designers to understand is the concept of **processing fluency**. Processing fluency is the ‘*subjective experience of ease with which people process information*’. [7] When we try to harness different types of fluency for our contract design, we are trying to increase the ease of processing and understanding contractual information.



Ever heard of
processing fluency?

***HAVE YOU EVER
PREVIOUSLY
READ, OR
LEARNED
AND/OR HEARD
ABOUT THE
CONCEPT OF
“PROCESSING
FLUENCY”***

48

Here are just a few of the headline outcomes from some intriguing research into processing fluency:

- If it's hard to read, it's hard to do. [8]
- Repetition helps make songs hits. [9]
- Easy = True ... easy to read statements seem more truthful. [10]
- You sound smarter if you use plain language. [11]
- People work better together with clear & simple information. [12]
- Responding to a regulator? Make your response readable! [13]

Lose the legalese

People don't like legalese. [14] This is hopefully old news to most lawyers.

40% of clients stopped reading legal advice or information out of frustration.

What stopped me in my tracks was a study showing **40% of clients** stopped reading legal advice or information out of frustration. Is a lawyer actually giving legal advice if they write it in a way that clients can't understand?

Prediction: Clear legal writing will become an ethical issue.

I see clear legal writing as an **ethical issue**. Lawyers in Australia have clear ethical guidelines which are governed on a state by state basis but largely similar across the country. Across the globe, lawyers from all jurisdictions tend to have set of ethical obligations to the court and to their clients. We have a clear obligation to act in a **client's best interests**. [17] I believe these best interests include providing advice in a format and in such a way that the advice is **understandable**, and this is echoed in the Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015 at Rule 7.1, where advice must be 'clear and timely' to help clients 'understand relevant legal issues.' [18]

Time for you to get academic

What basic academic research or reading do you need to do for your project? What is 'best practice' in the area you are trying to develop?



Add to your Contract Design Canvas

Add at least 2 key areas you'd like to investigate further – feel free to use the above research insights that strike a chord with your Contract Purpose and Project Purpose. I encourage you to add 'visual contracting' to your list of investigations!

CONTRACT DESIGN CANVAS

KEY DETAILS

Project in one sentence
This project will automatically build legal letters for Channel Managers who want to send performance letters to external sales partners so they can quickly address poor behaviour, reducing strain on legal team.

Big important dates

Check date	Event
April	MVP testing
May	Training and comms
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15 June 2019	Live launch date

Values

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ACADEMIC

Research

- Learn key plain language word swaps
- Read up on impacts of Visual Contracts on readers with English as a second language

Users & Experts

Key Experts

- Shara from Sales can help with customer feedback on contracts
- Bonnie from marketing can help with current branding & icons

Key Users

- Sales: I want contracts signed quickly so customers are happy & we can start building the solution (& I get commission!).
- Customers: I want to get a good deal & not feel tricked so I can confidently order products.
- Lawyers: I want to help the sales team with legal questions (not waste time on admin).

SCIENTIFIC

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PHYSICAL

Contract Design Buffet
Key focus areas...

- Info Design (Update look & feel)
- Plain Language (Refresh)
- Automation (Basic, low cost)

PHYSICAL MINDSET

Our **Contract Design Canvas** is looking great and it's time to get onto the tools to do the design work... just like each of our other mindsets, there are straightforward ways to kick-start our **physical** approach to redesign.

Use tables to simplify contracts

An easy way to start redesigning your contract is to use tables! Get into the habit of putting definitions into tables. This makes definitions easy to scan, easy to sort alphabetically, and easy to update by inserting new rows. This kind of formatting is useful for metatagging in future if you have a definition that might change as you move to automate your documents.

27.1 What do capitalised terms mean?

Capitalised words in this agreement have the meaning provided in the main Dictionary **below** or, if they are not defined there, the meaning given in the [Key Details](#).

The term	Means
Australian Consumer Law	the law set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth).
Authorised Location	each address specified as such in the Key Details or otherwise approved by us in writing as a place where you are authorised to conduct the Business.
Brand Guidelines	our guidelines in relation to your use of relevant Telstra Rights and corporate identity as linked from any applicable Operations Manual or otherwise provided to you.
Business	the business of operating a dealership in the manner authorised by this agreement.
Business Day	any day other than a Saturday or Sunday, or a public holiday in the location specified in the Governing Law section of the Key Details .
Confidential Information	all information disclosed or developed under or in connection with or otherwise disclosed under this agreement including: <ul style="list-style-type: none"> all information about customers including Customer Data and any other Personal Information, applications, contracts, and customer lists in any format; these agreement terms, and all other information in components of this agreement such as in any applicable Operations Manual and any notices and directions we issue under this agreement; and any of our business processes or know-how, but does not include any information that: <ul style="list-style-type: none"> is in the public domain other than as a result of a breach of this agreement;

- ✓ Easy alphabetical sorting
- ✓ Easy to scan
- ✓ Easy to update
- ✓ Automation friendly
- ✓ Meta tag friendly
- ✓ Conditional logic

Give your agreement a facelift....

Your contract front page is a great place to start a quick facelift. Here is a basic example of a contract front page facelift.

Telstra Deal Execution Pack

ISSUED by: Forty Five
45 Southern Crossways
Cooperatives Limited (ABN 596)

EXECUTED BY: [Signature]
ABN 21 24
In authority of the Director or
another CTO of the Co-operative

Direct Dealer
Signature of Dealer

Date Dealer:
Name of Dealer

20 Mar 2018
Date



Telstra Dealership Agreement ("TOA")

Between

Telstra Corporation Limited ("Telstra")
ABN 33 051 775 556

And

Director's Dealership Pty Ltd
ABN 28 048 100 000
("Dealer")

Telstra Corporation Limited



Telstra Dealership Agreement

Background:
Welcome to your new agreement with Telstra. We have used our best and easy to understand Agreement, but please get legal advice before signing, ask us questions if things aren't clear, and make your own assessment of the merits of being our dealer.

QUICK FIND INDEX

 Producting Order <small>See Section 1.2 of the Key Details</small>	 Product's Website & Take-off Order <small>See Sections 2.1 & 2.2 of the Key Details</small>	 Operations Manual <small>See Section 3.1 of the Key Details</small>	 General Conditions Log & Other Information <small>See Section 4.1 of the Key Details</small>
---	--	--	---

Click on any of the Producting Order

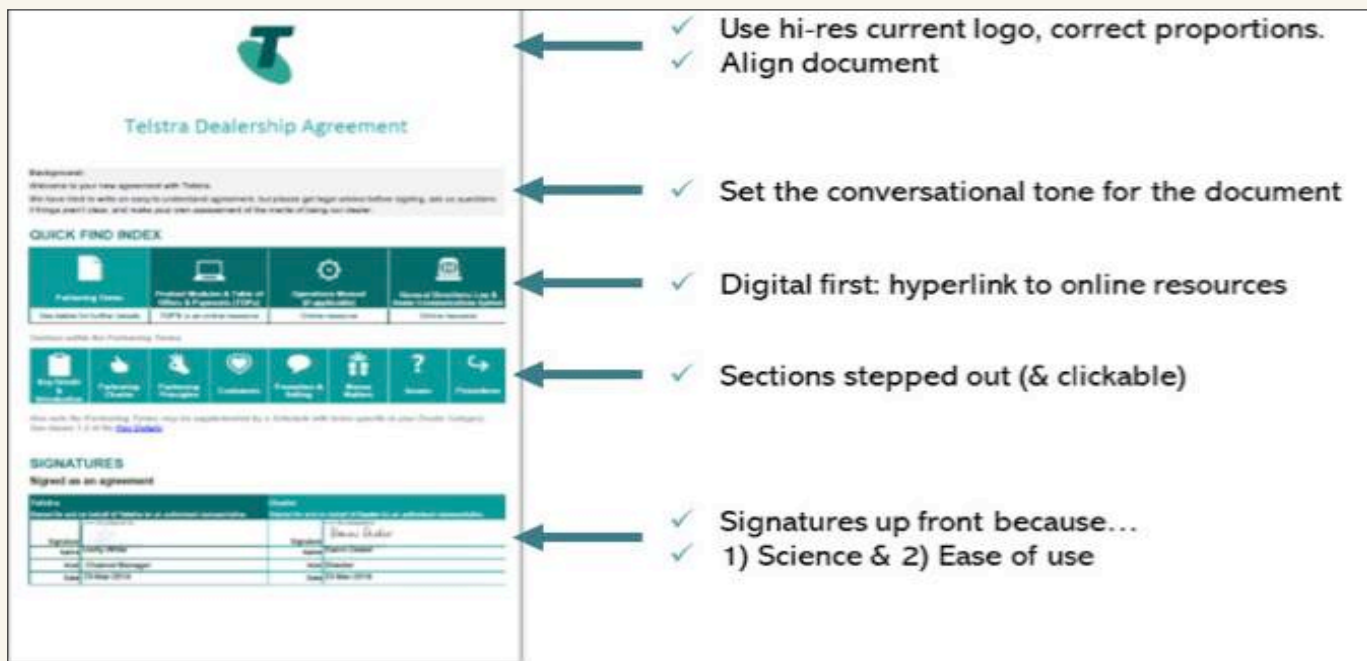
 Key Details	 Producting	 Producting	 Conditions	 Producting	 Producting	 Producting	 Producting
---	--	--	--	--	--	--	--

Also visit the Producting Order for requirements by a Dealer, with terms specific to your Dealer Category. See Section 1.2 of the [Key Details](#).

SIGNATURES
Signed as an agreement

Telstra		Dealer	
Signature	[Signature]	Signature	[Signature]
Name	John Smith	Name	John Smith
Job Title	General Manager	Job Title	Dealer
Date	20 Mar 2018	Date	20 Mar 2018

The new front page was created with contract users in mind. We wanted it to look and feel different than before. We also it to offer greater functionality – highlighting where resources are as well as setting the tone for the agreement. We wanted to make it clear when the document was signed – so we put it on the front page.



Focus on making sure the document is clear and lines up neatly. Put information that is useful for users on the front. Welcome people into your agreement. For some teams, putting company values up front might feel right. For others, a document map might be most useful. Think about what will work best for your contract purpose.

The ‘Canary in the Mine’ of contract design

I love notice clauses! Is that weird? Notice clauses are the ‘**canaries in the mine**’ of contract design. [19]

Before	After								
<p>Notices</p> <p>A party's address for service is the address listed in the party details at the front of this document unless the party has notified the other parties of a new address. Notices under this Agreement must be given in writing and sent by facsimile, or post, or delivered to the address of the recipient or sent by email to the email address listed in the party details at the front of this document. A notice is deemed to be received:</p> <ol style="list-style-type: none"> 1. if hand delivered, on delivery; and 2. if sent by prepaid post, three Business Days after the date of posting; and 3. if sent by facsimile when the sender's facsimile machine prints confirmation that the number of pages in the notice have been successfully transmitted; and 4. if sent by email when the sender's computer system generates a delivery receipt that the notice in full has been successfully transmitted to the recipient. 	<p>Notices</p> <p>A party giving notice under this Agreement must do so in writing to the address in the Agreement Details, or such other address notified.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #008080; color: white;">Method of Notice</th> <th style="background-color: #008080; color: white;">When is Notice received?</th> </tr> </thead> <tbody> <tr> <td> MAIL (HAND DELIVERY) Left at recipient's address </td> <td>Date of delivery.</td> </tr> <tr> <td> MAIL (POST) Sent by post to recipient's address </td> <td>2 business days after date of posting if sent by registered post, 4 days if sent otherwise.</td> </tr> <tr> <td> EMAIL Sent to recipient's email address </td> <td>If sender's email system does not receive a delivery failure notification, the date the email is sent.</td> </tr> </tbody> </table>	Method of Notice	When is Notice received?	MAIL (HAND DELIVERY) Left at recipient's address	Date of delivery.	MAIL (POST) Sent by post to recipient's address	2 business days after date of posting if sent by registered post, 4 days if sent otherwise.	EMAIL Sent to recipient's email address	If sender's email system does not receive a delivery failure notification, the date the email is sent.
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EMAIL Sent to recipient's email address	If sender's email system does not receive a delivery failure notification, the date the email is sent.								

- **Fax or Facsimile**

In Australia, it is very rare to use fax machines in most businesses. This is no longer an acceptable way to receive and send notices under an agreement. If your contract is still referencing this 90s tool, time for a modern update!

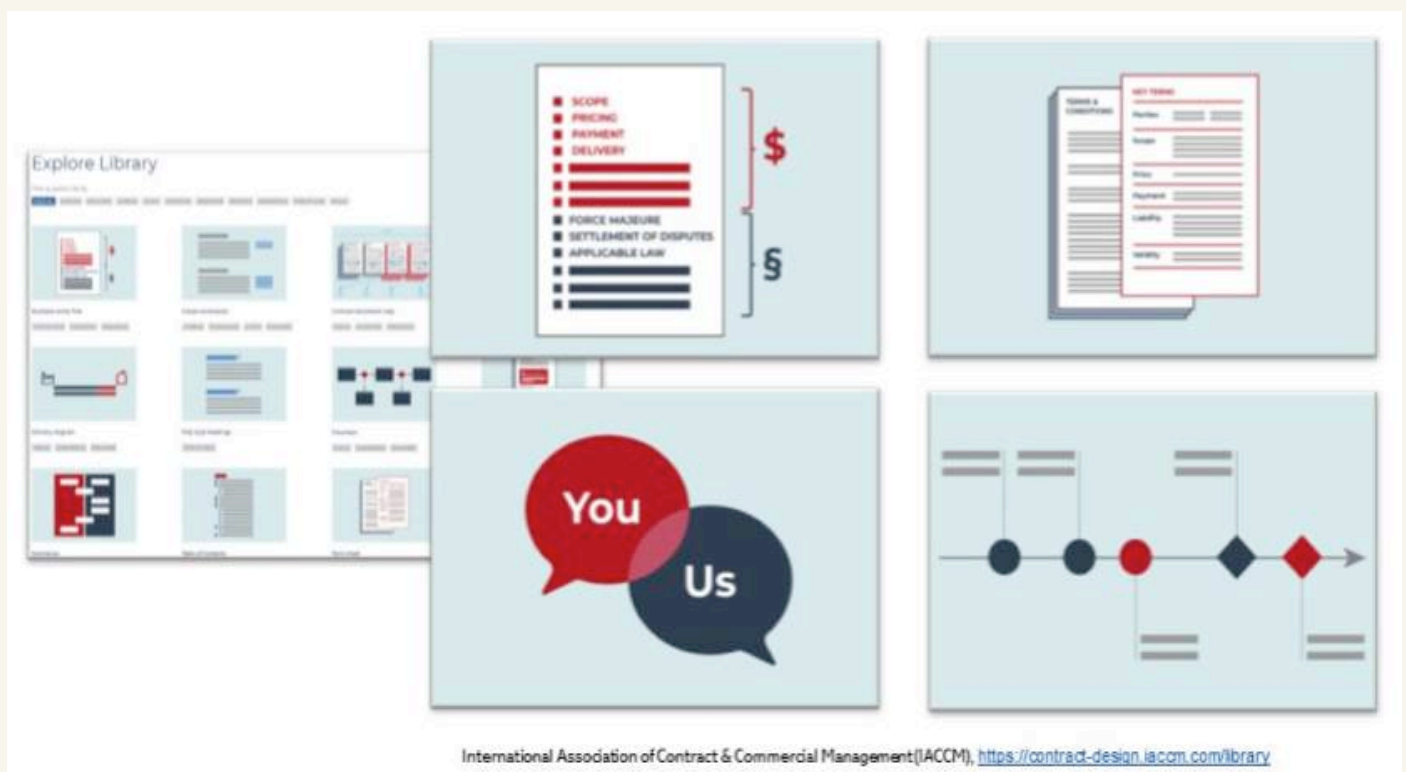
- **Email**

If your contract doesn't mention notices by email (or worse, claims this form of communication is not valid form of notice) this is another sign the rest of the contract might need an overhaul to modernise terms.

The back end of a contract filled with boilerplate clauses is generally pretty boring. Adding some visual interest with careful design helps to break up text, helping with processing fluency.

Tried and tested methods: Design Pattern Library

The amazing team of [Helena Haapio](#) and [Stefania Passera](#) have worked with [IACCM](#) to create a [contract design pattern library](#).



The design patterns library makes it easy to pick a few key elements from the **Contract Design Buffet** and nibble away contentedly. When you project requires more people than just you (which, let's face it, is every single project), design patterns can also help to explain abstract ideas you might have for re-design in a concrete way.



Add to your Contract Design Canvas

Which of these redesign dimensions will you try out for your agreement? Put those details into the Contract Design Canvas.

CONTRACT DESIGN CANVAS

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ACADEMIC

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SCIENTIFIC

Poolside testing

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Contract economics

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PHYSICAL

Contract Design Buffet

Key focus areas...

- Info Design (Update look & feel)
- Plain Language (Refresh)
- Automation (Basic, low cost)

Design patterns & ideas

- Business Terms first
- Conversational tone

See the [IACCM Design Pattern Library](#) for more examples of design patterns.

Technology

- Zingtree
- DocuSign

Now go start your contract design project!

To help you prepare for your contract redesign project, you can follow along with the purpose-built Contract Design Canvas [download the canvas from XXX] to help flesh out and execute on a Contract Design plan. I can't wait to see what you create!

Notes

[1] International Association of Contract & Commercial Management (IACCM), *The Purpose of a Contract* (2017)

[2] Helena Haapio, 'Designing Readable Contracts: Goodbye to Legal Writing—Welcome to Information Design and Visualization,' (2013), IRIS 2013 at p. 447.

[3] For setting up MS Word settings, check out Microsoft, *Get your document's readability and level statistics*, <https://support.office.com/en-us/article/get-your-document-s-readability-and-level-statistics-85b4969e-e80a-4777-8dd3-f7fc3c8b3fd2>, accessed 13 Oct 2019. Or you could also try the Hemingway App, <http://www.hemingwayapp.com/>, accessed 13 Oct 2019.

[4] And years of research shows this: Ann Wylie, 'Short sentences boost readability', <https://www.wyliecomm.com/2018/08/short-sentences-boost-readability/>, accessed 13 Oct 2019.

[5] Daniel Oppenheimer, *Consequences of Erudite Vernacular Utilized Irrespective of Necessity: Problems with Using Long Words Needlessly* (2005).

[6] William Dubay, (2004) *The Principles of Readability*. CA. 92627949. 631-3309, <http://www.impact-information.com/impactinfo/readability02.pdf>, accessed 13 Oct 2019.

- [7] Alter, A. L., & Oppenheimer, D. M. (2009). Uniting the Tribes of Fluency to Form a Metacognitive Nation. *Personality and Social Psychology Review*, 13(3), 219–235. <https://doi.org/10.1177/1088868309341564>
- [8] Hyunjin Song & Norbert Schwarz, 'If it's hard to read, it's hard to do: Processing fluency affects effort prediction and motivation' (2008)
- [9] Nunes, Joseph and Ordanini, Andrea and Valsesia, Francesca, The Power of Repetition - Repetitive Lyrics in a Song Increase Processing Fluency and Drives Market Success (December 10, 2014). Available at SSRN: <https://ssrn.com/abstract=2938838> or <http://dx.doi.org/10.2139/ssrn.2938838>
- [10] Christian Unkelbach, '[Reversing the Truth Effect: Learning the Interpretation of Processing Fluency in Judgments of Truth](#)' (2007) [11] Daniel Oppenheimer, Consequences of Erudite Vernacular Utilized Irrespective of Necessity: Problems with Using Long Words Needlessly' (2005).
- [12] NA Merola 'We like people who are easy to read: The influence of processing fluency in impression formation' (2014)
- [13] Cassell, Cory A. and Cunningham, Lauren M. and Lisic, Ling Lei, The readability of company responses to SEC comment letters and SEC 10-K filing review outcomes (February 2019). *Review of Accounting Studies* (Forthcoming). Available at SSRN: <https://ssrn.com/abstract=2595661> or <http://dx.doi.org/10.2139/ssrn.2595661>
- [14] Christopher R. Trudeau, "The Public Speaks: An Empirical Study of Legal Communication" (2012).
- [15] Christopher R. Trudeau, "The Public Speaks: An Empirical Study of Legal Communication" (2012).
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About the Author

Verity is a Legal Counsel and Automation Coach at Telstra, Australia's largest telecommunications and technology company. With 30,000 employees around the world and 150 lawyers in the legal team, Telstra is a vibrant, customer-focused company. As a part of the Enterprise Customer Contracting legal team, Verity helps support the company's largest customers. In 2019, she was named an In House Leader by Australasian Lawyer and a Rising Star by The Legal 500. Her work simplifying contracts was a Finalist in the Legal category of the 2019 Clear Communication Awards. Verity has a keen interest in the way legal information is designed and helping simplify legal issues to strengthen positive relationships with customers, clients, and the community. She is Secretary of Melbourne hospitality social enterprise STREAT dedicated to helping young people who really need a hand. When she's not working, Verity is cycling (slowly) or writing on her blog Checklist Legal

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How to Tackle Gender Inequality in Your Firm

By Katherine Jones



Tackling gender inequality has been a war that women have fought for generations in the workplace, at school, and sometimes, even at home. We've faced stereotypes, been discriminated against, and have just been downright disrespected — and although we've made significant progress in the last 100 years, women in courtrooms and law firms across the country still face unacceptable amounts of sexism.

In fact, a survey by the Defense Research Institute found that 70% of female attorneys experience bias in the courtroom, receiving inappropriate comments on their appearance from male judges and attorneys alike. This behavior should have no place in society, and fortunately,

the American Bar Association has taken steps to address inappropriate and sexist comments in court by amending their professional code of conduct in 2016. Although this is a good step, the centuries-old problem of sexism continues to prevail in all aspects of the legal workplace, from inequality in terms of pay to the opportunities available, and there remains much and more to be done.

If you and your firm want to take on a more active role in dismantling patriarchal structures of power in the workplace (and you should), we've outlined a few ways you can tackle gender inequality head-on at your firm.

Remove bias from the hiring process

Researchers from the Harvard Business Review point out that the hiring process is biased and unfair - and they're not wrong. A lot of sexism and gender-based discrimination happens whether the recruiter is aware of it or not. Seek to eliminate this by using strategies

that places all applicants on an equal pedestal in terms of demographics. For instance, try out blind hiring. Names carry connotations, whether we like it or not, and blind hiring removes them from the process. You can even seek to exclude or blank out gender and age.

Another way is to have a pre-defined and structured interviewing process. Creating a structured process ensures that everyone gets an equal chance to present themselves, and helps them showcase key skills that are required for the job.

Eliminate the gender pay gap

Not limited to just the legal industry, one serious problem women face is the gender pay gap. At mid-career, the United States Census Bureau reports that female lawyers in the top 10% earn \$300,000 annually, while male lawyers in the same positions earn \$500,000 annually. To close this 40% gap, 'Seeing the Way to Equal Pay' published by Special Counsel recommends conducting internal audits to pinpoint how pay should be awarded. Consider bonuses based on employee skills and business development instead of billable hours, and conduct a comprehensive analysis of pay and bonuses to see gaps that aren't highlighted by easily seen factors. Encourage women to be powerful advocates of their compensation, and let starting positions have equal pay regardless of gender and other demographic factors.

Set clear policies on discrimination

In fact, a Unilever study on 'Gender Stereotypes Keep Gender Inequality Alive in the Workplace' reports that both men and women struggle to recognize and report such behaviours, but it's a necessary step for getting rid of inequality. Create clear policies that show you do not tolerate any form of discrimination, and actively let your employees know about it through an assembly. Moreover, allow your employees to submit comments to HR reporting discrimination anonymously to encourage more people to speak up.

All in all, our writer Mark E. Cohen argues that diversity and inequality will prevail once the traditional law firm model dissolves — and while this may be true, you can take a stand today with the steps above and encourage inclusivity for women. With these foundations underway, women can and will be more empowered to take on roles that men typically dominate, until bias and inequality is eradicated completely.

About the Author

Katherine Jones is a former attorney turned freelance legal consultant. When she's not working, you can often find her perusing through the aisles of her local library or sitting on the porch of her home in Ohio with her cat, Gracie.

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A RECIPE FOR LEGAL DESIGN

INGREDIENTS

- **1 ripe Multi-Skilled Team** - gather a diverse team with a range of skills and viewpoints.
- **A large dollop of Visualisation** - make your Legal Design process and solution as visual as possible.
- **Lots of Plain Language (jargon removed!)** - use 'human' language – get rid of complex legalese and jargon.
- **A pinch of Technology (add more too taste!)** - incorporate technology, if it makes sense for your solution.

TIME TO PREPARE

Take the time to fully **understand your users'** needs and pain points

TIME TO COOK

Take the time to **develop ideas and prototype** solutions

NUMBER OF SERVINGS

Unlimited!

INSTRUCTIONS

STEP 1: Preheat your empathy oven!

Use empathy to put yourself in the shoes of the user and work to understand their perspective.

STEP 2: Add the ingredients to your users' taste

Make sure your user remains at the very centre of your design – always think about their needs when designing your solution.

STEP 3: Mix design thinking with legal expertise

Mix legal knowledge with design thinking principles to creatively solve problems.

STEP 4: Combine divergent and convergent thinking

Use divergent thinking to generate lots of information and ideas; then use convergent thinking to make sense of those ideas, focus your thoughts and make decisions.

STEP 5: Get your hands dirty!

Do stuff! Get your thinking down onto post-it notes, cluster thoughts visually on a wall, sketch your amazing ideas and build usable prototypes.

RESULTS

Remove from the oven and let everyone have a taste! It doesn't need to be perfect - listen to what people liked or disliked, learn from your mistakes and improve it for your next batch.

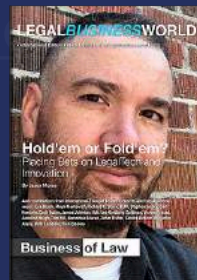
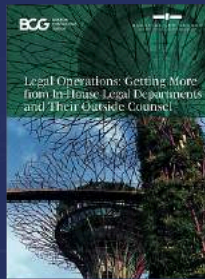
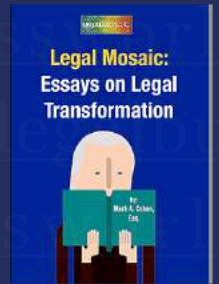
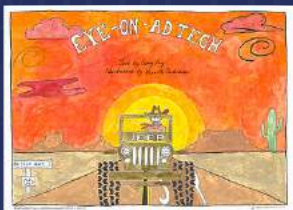
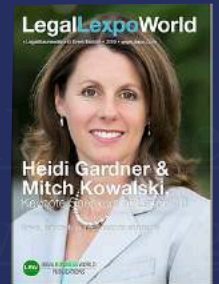
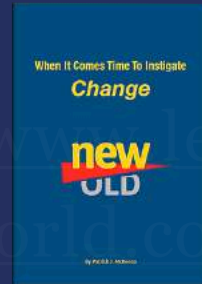
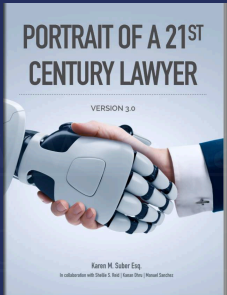
The results can be fantastic:

- **Innovation** - innovative new legal products, services, systems and environments
- **Satisfied users** - happier clients and stronger relationships
- **Improved legal understanding and compliance** - communities that are more informed and engaged with the legal system, who understand and comply with their legal obligations

[Read the related article by Charlotte Baker here](#)

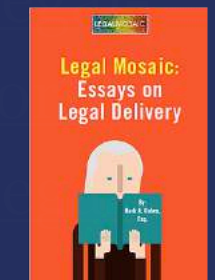
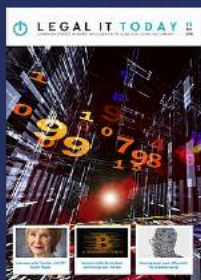
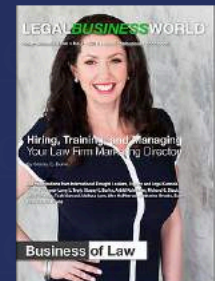
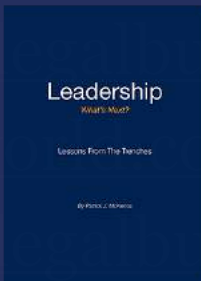
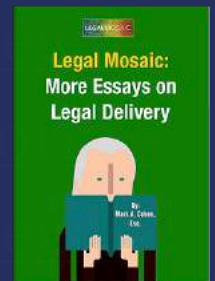
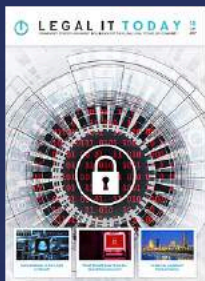
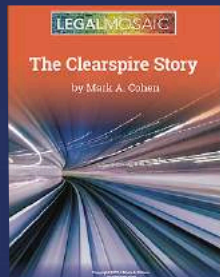
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