

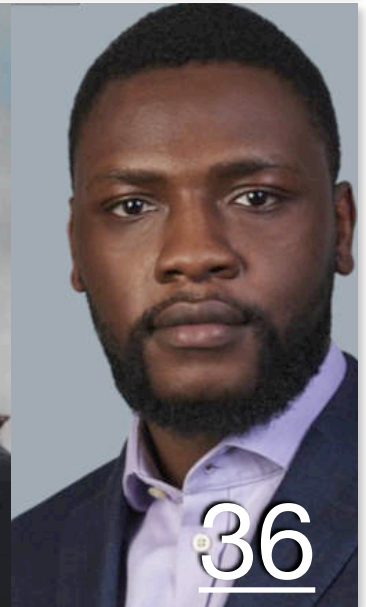
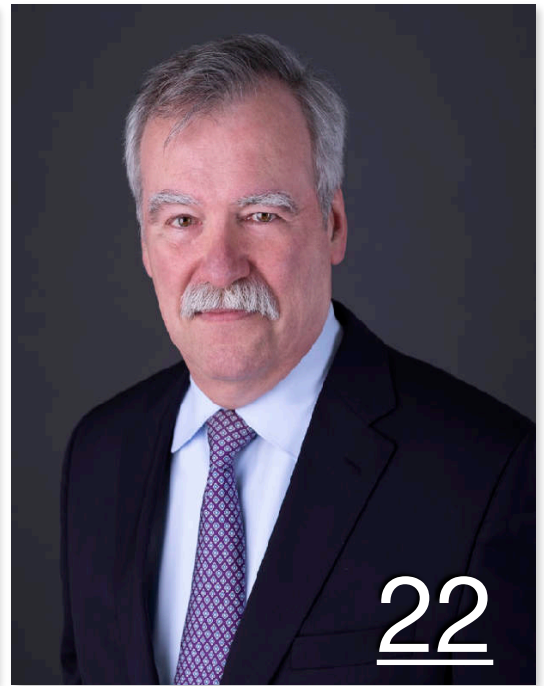
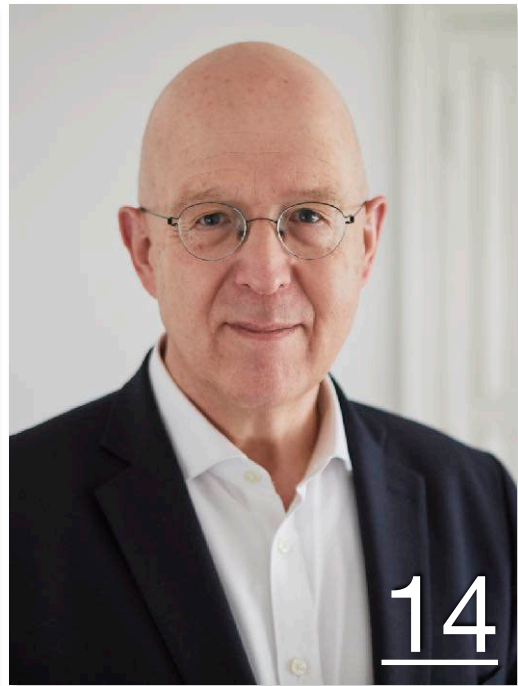
LEGAL **BUSINESS** WORLD

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AN INTERVIEW WITH: KOMAL GUPTA, CHIEF INNOVATION OFFICER AT CYRIL AMARCHAND MANGALDAS

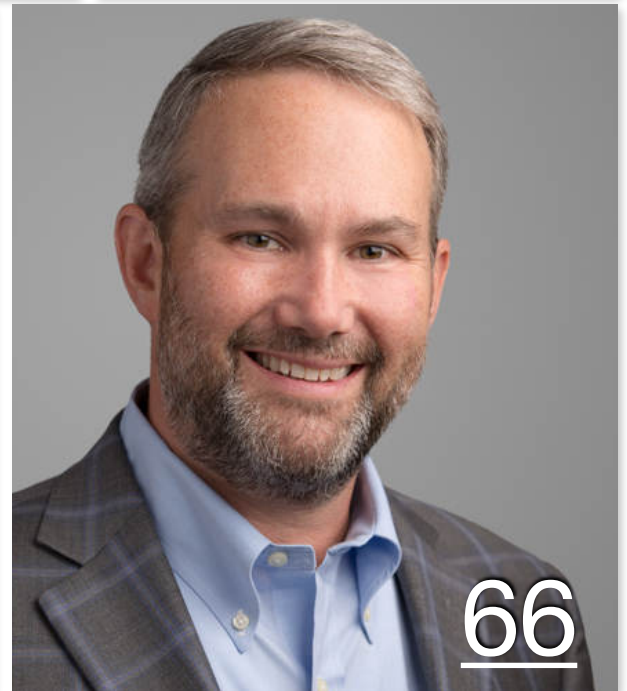
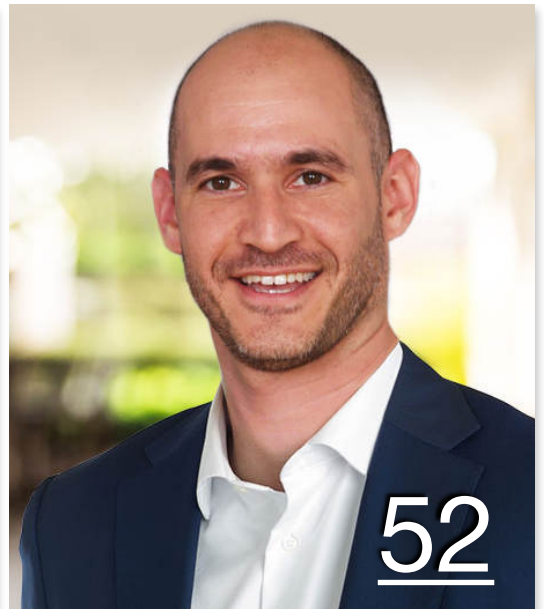
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Business of Law



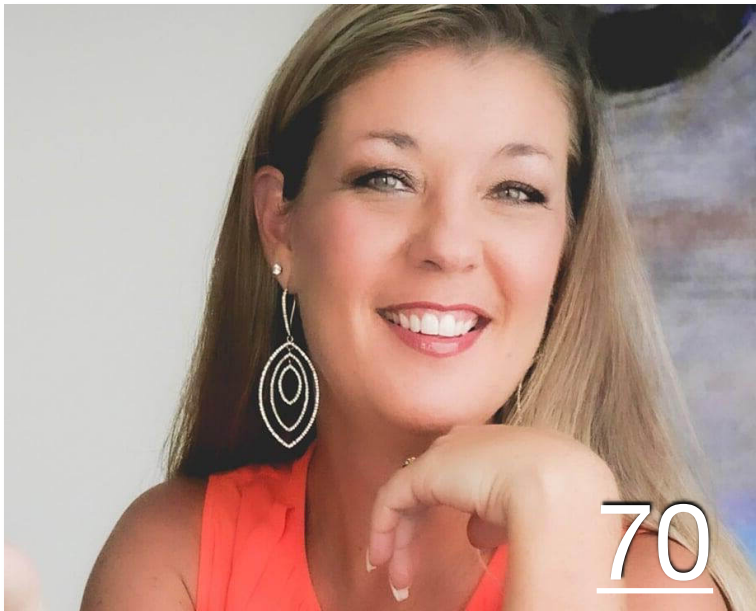
An Interview with Komal Gupta, Chief Innovation Officer at Cyril Amarchand Mangaldas	08
New company law for German and foreign law firms in Germany, Markus Hartung	14
Strategic Impact, Richard G. Stock	22
Fantastic Law Firm Reputation and Where to Find It, Tobias Heining and Ana-Maria Drăgănuță	26
Embedding a process mindset into the operations of an in-house law department, Harriet Joubert-Vaklyes and Michael Bolawole	36

Click on the page number in the photo to jump to the article



It depends – How to deal with everything is life, Chiara Lamacchia	40
The rise of environment, social, and governance strategy. How firms can gain a competitive edge by driving business decisions with ESG, Pamela Cone	46
Why Legal Ops & Cyber Security are (and should always be) inseparable? Edo Bar-Gil	52
New Work. A Gamechanger for the Legal Profession, Dr. Anita Lamprecht and Karla Schlaepfer	56
During Tough Times, Focus on the Low-Hanging Fruit, Your Best Clients!, Steve Fretzin	66

Click on the page number in the photo to jump to the article



Law Firm Marketing – Post Pandemic. Evolve or Die, Melissa “Rogo” Rogozinski	70
Special Contribution: Tech Knowledge & Insights	
Elliptic Curve Cryptography in Blockchain Technology, Elif Hilal Umucu	76
Special Contribution: Thought Leadership	
Democratic Degradation Is Law’s Ultimate Disruptor, Mark A. Cohen	90
7 Key Considerations To Keep In Mind When Evaluating Your Business Security Options	100
Online Readers Functionalities for LBW eBooks and eMagazines	102

Click on the page number in the photo to jump to the article

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An Interview with:

Komal Gupta, Chief Innovation Officer at Cyril Amarchand Mangaldas

By Editorial Board LBW



1. Komal, you're the Chief Innovation Officer at Cyril Amarchand Mangaldas (CAM), India's leading law firm. Could you elaborate a bit more on your role? What inspires you about this role? In what way does CAM differ from other firms? And what do clients notice from all of this?

Broadly, my role at CAM is to promote a culture of innovation internally to ensure we continue to provide innovative solutions to our clients. The role is a combination of a lawyer, technologist, strategist, consultant, facilitator, listener, solution provider and an advocate.



I am responsible for the strategic planning and delivery of the firm's innovation agenda. This includes the development and implementation of ground breaking new projects; driving a culture of innovation and creating curiosity; identifying, testing and rolling out new legal technology and the delivery of Legal Services leveraging technology; and designing best practice processes and alternative resourcing models.

I am not restricted by boundaries or limited to certain tasks - this is what I love the most about my role. I can make the role as interesting and challenging as I want by collaborating with other members of the firm and our clients.

CAM is a courageous firm and is not afraid of doing things the first time; be it using Artificial Intelligence for a due diligence exercise or running the country's first legaltech incubator - Prarambh. For a changemaker, it is very important to receive the support of the leadership and I am lucky to have a Managing Partner who not only has a deep understanding of the area but also provides unwavering support. If you have an impactful idea, it is promoted and supported through to execution. This is one of the key elements for success in this role. CAM has always challenged the status quo and has been recognised for its leadership, expertise, creativity and courage to ensure the firm and our clients remain ahead of the curve.

2. If you have to choose 3 unique selling points which 3 should you choose to describe your business and why?

Ever changing best-in-class legal technology, coupled with best practice processes and India's leading legal-tech professionals. The toughest challenge in this space is finding the right talent. CAM's Innovation Team comprises of six qualified lawyers who are experts in working with people, process, technology and data. My team has a vast experience of working with foreign law firms and MNCs across multiple practice areas, industries and jurisdictions.

This experience helps us in performing our current role effectively.

Investment and commitment to legal tech in India and the evolution of the legal sector through Prarambh, India's first legaltech incubator.

Prarambh aims to work with young entrepreneurs developing new technology-based solutions for the legal industry. We provide the appropriate infrastructure, subject matter expertise and mentorship to help place India on the map as a world leader in legaltech design and development. Prarambh has completed two cohorts with six startups so far. The third cohort is planned for next year.

Grass roots fostering of culture of innovation amongst every lawyer and business service professional. It is worth mentioning 'Vichaar' here which is an annual

ideation week at CAM and has been running successfully since 2018. I think this is one of the most powerful programs that I have led to drive a culture of innovation within the firm. This program empowers all members of the firm to share their problem statements and ideas on how those could be solved. The ideators then collaborate with the innovation team and relevant stakeholders to execute their ideas. Vichaar has led to many impactful projects and we have enjoyed the journey of working with the ideators to implement their solutions and also continuously improving those solutions, year after year. Vichaar goes to prove that innovation / change / improvement is not a one person or one team's job. This is a journey where we all have to come together to make a positive and significant difference.

3. What's overall your opinion on the current process in the Legal sector when you think about development, planning and implementation of (innovative) tech strategies? Do you see differences between Indian, American and European firms in their daily operation and how they develop, plan and implement (innovative) tech strategies?

In all markets, there are law firms who demonstrate clarity of thought and are making good progress by improving their internal processes and also developing smart solutions for their clients. There are also some in the state of confusion - waiting for others to set an example to follow when they deem fit. Then

there are those who are willing to take a risk. There is some disparity right now in how firms are reacting to 'legaltech' and 'innovation' - for some these are merely buzz words; others have a solid list of smart initiatives that have improved the business of law and have benefited both lawyers and clients in many ways.

From the outside, it appears that foreign firms are ahead in using and building technology. However, when I speak to my counterparts across the world, I understand from them that the journey is similar for all of us and we experience pretty much the same challenges. After all, it is hard to change or even influence the way law is practised, across the world. Legaltech is just one component of innovation in which we are all at par.

4. Can you share some of the tech companies you follow closely?

I actually follow many tech companies which fall under categories of products and services that are relevant to us. One of my responsibilities is to ensure we are using the most appropriate and relevant legaltech for which it is important to keep a track of what's happening in the legaltech market. I also follow closely all the startups that have been incubated at CAM's *Prarambh* and also startups in many other areas such as smart contracting; advanced AI; litigation prediction; etc

5. As said, the legal profession is changing and professionals need to be more business and tech savvy. What do

you see as the biggest challenge for the legal professional in let's say five years from now?

I think we are set up for a big change in the coming times, if not five years, perhaps it will be ten years for India. We are beginning to see the judiciary adopt technology and discuss use of AI to speed up access to justice. The pandemic also has accelerated the change movement. All stakeholders – judiciary, lawyers, clients, tech companies will need to work hand-in-hand to bring in a significant change. This will demand a change in mind-set with initial baby steps, followed by gradual advancements into solving complex problems. I do not see a problem for new lawyers since they have already started receiving training in their law schools to improve or change the traditional ways of practicing law. It will however pose a problem to traditional practitioners who are slow or reluctant to adapt their practice. Tech companies will also play a big role in creating awareness and proving with examples of how they enable as opposed to replace lawyers.

6. 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?

I have certainly experienced issues with managing expectations. For example, rejection of technology upfront or an expectation that technology should do everything, including replacing a lawyer's intellect. It can be a challenge to convey that legaltech is an aid – it is an enabler but does not replace the professional (the human). Technology is made for a purpose but invariably comes with limitations. We also have to carefully choose the right technology that solves our problems. Previously I thought that showing how the product works i.e. focusing on the result is best. But with experience, I have learned that to manage expectations, it is important to go deeper and to demonstrate how machine learning works for example. This includes how many examples it takes to train for an auto extraction of a particular clause and how a tool learns and unlearns. Similarly, in the case of document automation, we now demonstrate not only the outcome, but how the automation is done. By broadening our approach to technology training, we find that expectations are more realistic and instructions are more focused.

In relation to different levels of knowledge, this is likely to be the case for some time as there are many factors at play here; including the importance of legaltech in different practice areas depending on volume, complexity etc. These external factors drive interest, adoption and knowledge at different times. Our role in nurturing innovation and awareness also requires us to meet col-

leagues and clients where they are (as opposed to where legaltech is) and to be vigilant and on hand when an opportunity presents itself. Ultimately, it is about the best outcome for our clients – there is consensus at CAM in that respect.

7. 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?

Yes, they do. Many law schools have an elective subject which is an additional, optional and short-term course on aspects of the business of law. Law colleges have been welcoming experts in the business of law to educate and develop essential skills in a new age and turn out well-rounded lawyers by not only focusing on the practice of law but extending the curriculum to areas like Business Development, Budgeting and Planning, Project Management, Design Thinking etc.

CAM is also working with a few law colleges on an exciting new initiative named CLIC – The CAM LegalTech and Innovation Certificate. This program focuses on educating law students about legaltech, innovation, design thinking methodologies and new law. The aim really is to make a gradual change by nurturing and encouraging an innovative mindset in law students and empowering them to challenge the status quo.

8. As Law Schools are the breeding ground for lawyers, how far –in your

ground for lawyers, how far –in your opinion can we solve the problem of change acceptance by changing the curriculum

- To a great extent – students are there to learn, so it is of paramount importance what they are taught.
- The legal profession must lead by example here – this includes practitioners and the judiciary. It must also recognise and reward a progressive approach.

About Komal Gupta

Komal is the Chief Innovation Officer at Cyril Amarchand Mangaldas. She is responsible for the firm’s transformation, using appropriate legal technologies, processes and con-

tinuous innovation. Focused around Legal-Tech, Legal Service Delivery and Innovation Culture, Komal works at the intersection of people, process and technology to find working solutions to pain points.

She also manages a LegalTech Incubator, overseeing a 6-month programme for each cohort from crowdsourcing ideas and screening pitches, through to the emergence of market-ready products for the legal industry.

Komal is a member of the Advisory Board for the Asia-Pacific Legal Innovation & Technology Association and is a guest speaker at NMIMS Kirit P. Mehta School of Law for the elective subject – Law and Technology.

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Legal Leaders Europe 2022

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From company lawyer to strategic business advisor



New company law for German and foreign law firms in Germany

By Markus Hartung, Managing Partner at Chevalier Rechtsanwälte




Introduction

For law firms operating in Germany, a completely new world has started since August 1st, 2022. The Federal Lawyers' Act (Bundesrechtsanwaltsordnung, or BRAO for short), the legal basis for the activities of lawyers and law firms, has been fundamentally reformed. Along with the BRAO, the Tax Advisors Act and the Patent Attorneys Act have also been amended.

This article briefly describes the changes that have been made, particularly in lawyers' company law, and what significance this has for the activities of foreign (understood as outside the EU) law firms in Germany.

Since foreign law firms have to undergo a registration and admittance procedure in Germany, a lot of paperwork has to be done by these law



firms. There is not much time left for planning, preparing and carrying out the individual steps.

OVERVIEW OF THE MAIN REGULATIONS

Neutrality of legal form

The new company law for lawyers is neutral in terms of legal form. The BRAO contains only those provisions that are intended to ensure the core values of lawyers as set out in Section 43a BRAO. These are, in particular, the principle of independence, confidentiality and the prohibition of representing conflicting interests. The rules are "neutral" insofar as no legal form-specific requirements are imposed. Firstly, Section 59b only regulates that lawyers may join forces in professional practice companies for the joint practice of their profession. They may also establish a professional practice association that has

only one partner, which ensures that the *Rechtswaltsgesellschaft mit beschränkter Haftung* (RA-GmbH, like a German Limited) with only one partner continues to be permissible.

These professional practice companies may adopt the corporate forms existing in Germany, including the corporate forms of commercial companies, i.e. also the GmbH & Co. KG. Although the changes to partnership law will not come into force until 1 January 2024, Section 59b BRAO nF is a special provision to Sections 105, 161 HGB, according to which a commercial business ("Handelsgewerbe") is a prerequisite for OHG and KG. Pursuant to Section 59b(2)(2) and (3), the European Company (*Societas Europaea*) as well as such forms of company that are permissible either under the law of a Member State of the European Union or under the

law of a State party to the Agreement on the European Economic Area are still possible. Section 59b does not apply directly to foreign law firms – only Section 207a is applicable, which in turn refers to many, but not all, of the provisions of Sections 59b et seq. BRAO.

No German UK LLP (any more)

The admissibility of the so-called "German LLP" (LLP under English law with administrative seat in Germany) had already ceased with Brexit. The legislator did not want to accommodate the vociferous wishes of many small and large commercial law firms to retain this legal form. However, the legal situation is different for US LLPs: According to the German-US Friendship Agreement, US-LLPs may practise in Germany as LLP even if their administrative seat is in Germany.

However, it is still permissible for UK LLPs with their administrative seat in the UK to practice in Germany through a branch office of the LLP. If it were to move its administrative seat to Germany, this would be permissible under English law, but would be regarded under German law as a civil law partnership with joint, personal and unlimited liability of the partners.

Multidisciplinary partnerships (inter-professional cooperation)

The options for multidisciplinary partnerships (interprofessional cooperation, i.e. cooperation with members of other professions) have been significantly expanded by Section 59c. Lawyers have always been able to join forces with tax

advisors, patent attorneys and accountants to jointly practise their profession.

Now, according to Section 59c (1) no 4, it is allowed to associate with members of the professions ("Freie Berufe"). This enables partnerships between lawyers and management consultants, doctors, pharmacists, computer scientists, architects, experts or engineers.

Professional duties of the professional practice company

The new BRAO introduces professional duties for professional practice companies in Section 59e, in addition to the professional duties that have always existed for lawyers. Important is Section 59e (2), according to which professional practice companies are obliged to take appropriate measures to ensure that breaches of professional law are recognised and remedied at an early stage. Thus, if professional practice companies violate their professional duties, the partners are liable for violating their individual duties, but also for violating their duties under company law.

The sanctioning of such breaches of duty is regulated in Section 113. According to this, a lawyer's court measure can be imposed on an admitted professional practice company if either a management person of the professional practice company has culpably committed a breach of duties or such a person who is not a management person has breached duties, if this breach of duties could have been prevented or made significantly more difficult by appropriate organisational, personnel or technical measures. This has not existed in law firms so far, and there are therefore no experiences or role models in law firms as to what appropriate

organisational, personnel or technical measures have to look like in order to avoid sanctions by the lawyers' court. However, this will not be a headache for the large and especially the international commercial law firms, because they already work with compliance systems.

Admission to the Bar

According to Section 59f (1) professional practice companies have to be admitted by the bar. Only law firms without limitation of personal liability, in which only professional groups according to Section 59c (1) no. 1 BRAO new version (i.e. PartG or GbR with lawyers, patent attorneys, tax advisors, tax agents, sworn accountants and auditors) are involved, are exempt from this.

With the admission, law firms also receive a special E-Mailbox (“besonderes elektronisches Anwaltspostfach” or “beA” for short) allowing them to comply with the regulatory requirements of electronic communication with the courts since 1 January 2022.

Admission procedure and admission requirements

The admission procedure is regulated in Section 59g with requirements as to which information has to be provided for admission in the admission procedure. The bar may require appropriate evidence, including the articles of association or bylaws, to verify the admission requirements. Whether this means that law firms will actually have to submit their complete articles of association is still unclear. There will certainly be many discussions with bars here until a uniform handling will then eventually emerge.

Shareholder structure, Groups of Law Firms, Trusts

While professional practice companies are in general partnerships whose partners are natural persons, according to Section 59i it is now allowed that admitted professional practice companies may in turn be shareholders of another professional practice company. In addition, company shares may not only be held by individual partners, but by a holding company.

It is also allowed that a professional practice association establishes a subsidiary law firm for certain work and then takes over the company shares of these subsidiaries. This was not permissible until now.

However, this does not apply to foreign law firms. The legislator only wanted to allow foreign activity through a German branch office, but not a holding in German companies.

Management, supervisory bodies

Section 59j provides details on the requirements for management and supervisory bodies. In general, only lawyers or members of certain other professions may be members of the management body or the supervisory body. In inter-professional companies, persons who are not lawyers may not give instructions to other lawyers on professional matters. In order to ensure the independence of lawyers, it is expressly provided that influence by the partners is inadmissible.

Authority to provide legal services (“Rechtsdienstleistungsbefugnis”)

Section 59k stipulates the authority to provide legal services. Professional practice companies are as such authorised to provide legal services.

Milva Finnegan

User-centered design

A key to contract simplification



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In the case of interprofessional companies providing legal services, the professional practice companies act through their partners, who in turn have to be lawyers. This ensures that inter-professional practice companies can conclude mandates for legal services, but that the provision of these legal services is only permitted by lawyers.

Right of being heard in court (“Postulationsfähigkeit”)

Section 59l regulates the right of all professional practice companies (not only PartG and RA-GmbH as before) to appear before courts and authorities and to have the rights and duties of a lawyer there (postulation capacity). A law firm can therefore be an authorised representative in court, so that the exemption from liability under the mandate also applies to those persons who appear in court.

Law office (“Kanzlei”)

According to Section 59m, professional practice companies have to maintain an office at their seat in which at least one managing lawyer works. Mere virtual law firms are not permitted. It is also inadmissible to assign the management of an office to a salaried lawyer. It always has to be a partner.

Professional liability insurance

The provisions on professional liability insurance as well as the minimum insurance sums are regulated in Sections 59n and 59o. Now professional practice companies as such and irrespective of their admission are obliged to take out professional liability insurance. According to the previous law, such an insurance obligation only existed for RA GmbH

and PartGmbH. However, the personal insurance obligation of lawyers in a law firm remains.

For foreign law firms, changes follow insofar as the insurance of the German branch has to comply with the stricter requirements of German law. This concerns minimum sums insured, maximisation of benefits and the limitation of the so-called deductible (own contribution in the event of a claim).

Branding as a “Rechtsanwalts-gesellschaft”

According to Section 59p, professional practice companies may only call themselves "Rechtsanwalts-gesellschaft" if lawyers hold the majority of voting rights and if the majority of the members of the management body are lawyers. This means that large tax consultancy firms or auditing firms, where lawyers are regularly in the minority, have no chance of appearing on the market with the title Rechtsanwalts-gesellschaft.

Foreign law firms

The central provision for foreign professional practice companies is Section 207a. According to this provision, foreign law firms may provide legal services through a branch office in Germany if the purpose of the English law firm is to provide advice and representation in legal matters and they are authorised to provide legal services according to the law of the state of their seat. Section 207a BRAO essentially refers to the regulations for German law firms outlined above, but provides some special features.

For example, the question of who may be a partner is restricted. Foreign law firms are also

not allowed to participate in German law firms, as Section 59i BRAO new version is excluded in this respect. Furthermore, the German branch office needs its own management, which can represent the company and has sufficient rights to ensure that professional law is upheld. In addition, foreign law firms have to apply for admission to the bar at the location of their German branch office.

Some questions are still unresolved for foreign law firms - for example, the question of whether all partners worldwide have to be registered in Germany, even if they are neither admitted nor established here. Also, the question of the number of partners according to which the maximisation for the professional liability insurance is calculated is still open (but should be clarified in time).

The foreign law firms are authorised to provide legal services in Germany for public international law and the law of the respective lawyers' home state.

These foreign law firms are only entitled to provide legal services for German law and EU Community law as well as the ability to postulate before German courts if they also have German lawyers as partners (this also applies to those partners who are admitted to the bar in another EU member state and are allowed to practise here through the Act on the Work of European Lawyers in Germany (EuRAG)).

Transitional periods

Applications for admission can be submitted since Aug 1st, 2022. German and foreign law firms existing at that time have a transitional

period until Nov 1st, 2022. Until the decision on admission, they are deemed to be authorised to provide legal services and can act in court. If they have not submitted an application for admission by then, they lose the right to provide legal services and also commit a breach of professional law. However, such law firms that are not subject to admission (PartG and GbR) have to take care of an insurance for their law firm if they do not want to expose themselves to supervisory proceedings by the bar and personal liability risks. Only RA-GmbHs, RA-UGs and RA-Aktiengesellschaften that are already admitted according to today's law and have liability insurance for the law firm do not need to do anything.

Note

The issues related to professional indemnity insurance are dealt with in detail in Zimmermann/Hartung, NJW 2022, 1792. The numerous legal questions regarding the admission of foreign law firms according to Section 207a BRAO nF and what has to be considered in the application procedure are outlined in Hauptmann/Hartung, AnwBl Online 2022, 376.

This article was published at The Law Society on 15 May 2022. You can find it [here](#).

About the Author

Markus Hartung, lawyer and mediator, was the first German Managing Partner of Linklaters and has been the founding director of the Bucerius Center on the Legal Profession at Bucerius Law School since 2010. His areas

legal expertise include legal professional and liability law. He is a member of the Professional Law Committee and the Committee on Legal Professional Ethics of the German Bar Association. With his consultancy The Law Firm Companion, founded in 2009, he advises law firms on strategy and management issues and regularly lectures and publishes on these topics.

Other publication by Markus Hartung

[Managing lawyers is like herding cats – or is it?](#)

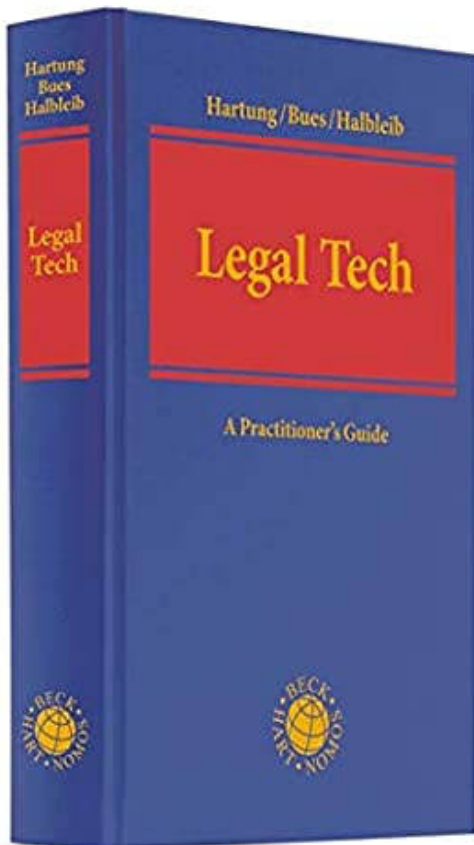
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[Ok, Boomer! Intergenerational Conflict in Law Firms](#)

Legal Tech: How Technology is Changing the Legal World (

Hardcover – 2018)

This handbook, illustrates the current state as well as future developments of the digital transformation on the legal market. It thereby gives an overview of the legal tech field worldwide as well as examples of its application in order to show how and to which extent automatized workflows, artificial intelligence (AI), automatized generation of documents and contract management in law firms and companies are in use even today. This book, in its first part originally written for Germany and German speaking countries, now also exemplifies the development of legal tech in numerous jurisdictions, including the USA, Europe, Russia, China and Australia. A third section is devoted to future developments, including smart contracts, block chain, AI, and publishers as legal service providers. More than 50 authors from all over the globe have contributed to this unique book. Particularly helpful: up-to-date examples show how legal tech is already in use in various fields of application in the context of jurisprudence.



Strategic Impact

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

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



These are two words that one does not readily associate with corporate or government law departments. An experienced General Counsel recently asked me how, after 30 years of serving a company, does a law department add value? How does one change service delivery to do this when demand already exceeds resources and clients are quite satisfied?

I suggested the adoption of a key performance indicator called “strategic impact”. Fewer than half of law departments have KPIs. Naturally, this led to further questions. Could specific examples be provided of how an established law department can make this kind of contribution?

By comparison to operating and customer-facing departments, legal is always very small in size. On the non-government side, 50% of law departments have fewer than 4 lawyers and



80 % have fewer than 10 lawyers. Strategic impact means that they have to “punch above their weight.” Most have moved beyond becoming the business prevention police. But very few provide more than operational legal support to business units.

The General Counsel’s reporting relationship does matter. Access is less and perceptions are affected when the GC does not report to the CEO. Such reporting is possible when combined with corporate secretarial responsibilities or with oversight of other portfolios such as environmental health and safety, public affairs, compliance or even human resources. Executive turnover and corporate reorganizations are opportunities to improve the positioning of the law department. It is a place to start, but rarely affects the day-to-day work of the remainder of the law department. On top of all this, the GC has to have the experience and skill to be a corporate executive.

In-sourcing or co-counselling complex legal matters, otherwise referred to as external counsel, are other ways to add value. There are many examples of this with transactional work, but very few with litigation or labour and employment work. This is to be expected when 70 % of in-house counsel practice commercial law.

A separate initiative is to involve inside counsel with special projects that the company believes are important. At times, legal counsel are members of the project team and at other times, they can lead the project team. While somewhat arbitrary, I would propose that at least 25 % of the law department’s time be allocated to special projects or to high visibility and sometimes insourced or co-counselled legal matters.

This requires freeing up 25 % of the department’s time to re-deploy counsel for strategic

activity. Clients must become more self-sufficient for routine work, and lawyers must become more efficient if they are to find 10 hours each week to take on something different. Strategic activity is not a spare-time endeavor or something that only happens after 6 pm every day.

If work re-allocation is not enough, there is the matter of competencies for counsel. What are the non-legal, core competencies and attributes that in-house counsel must have to add measurable value and for the law department to have a strategic impact?

Competencies are the specific knowledge and skills needed for critical tasks. Attributes are the personal characteristics and aptitudes a person must have to produce superior performance. Technical excellence, in this case legal excellence, has not been the sole determinant of success for more than 20 years.

Lawyers possess many of the attributes essential to strategic impact. They are committed, thorough and often good communicators. But they must now become creative thinkers who develop imaginative solutions and new ways of thinking about situations, problems and opportunities. They must approach problems and situations in a non-linear fashion, and develop ideas and make decisions based on intuition more than logic. Basically, they must demonstrate ideas or solutions that seem to come from someplace outside of the immediate problem or situation.

There are also skills that allow a person to gain leverage and to assume a position of leadership in an organization. Leadership is the ability to take a role as leader of a team or other group. A leader takes ownership, demonstrates leadership on important business and operational issues and is willing to take risks and demonstrate creativity by championing new and innovative approaches leading to business success.

Another competency is impact and influence. This is the ability to influence others through the use of persuasive techniques, presentations, and persisting against resistance or obstacles. The lawyer demonstrating this competency is capable of developing and implementing various influence strategies which successfully impact multiple customers both inside and outside of the organization. Many counsel manage or influence others to reach a goal or have a specific impact.

There are also business and client competencies. Taken together, these are the body of knowledge and skills that include an understanding of the organization, its industry, management practices and their applicability to the organization. To have strategic impact as a law department, a number of the lawyers other than the General Counsel will need to have a strategic business sense. This is the ability to understand the business implications of decisions and the ability to improve organizational performance. Such counsel understand the business and bottom-line impact of decisions, establish or recommend

a course of action to accomplish short-term and long-term goals or vision and share with others their own view of the desirable future state of the business, function, company or industry.

The right structures, projects, complex work and competencies are essential to have strategic impact.

About the Author

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Richard's latest book (read or download it by clicking the cover)

This book by Richard G. Stock shares valuable insights and analyses on how corporate and government law departments can improve their performance and add measurable value to their organization.

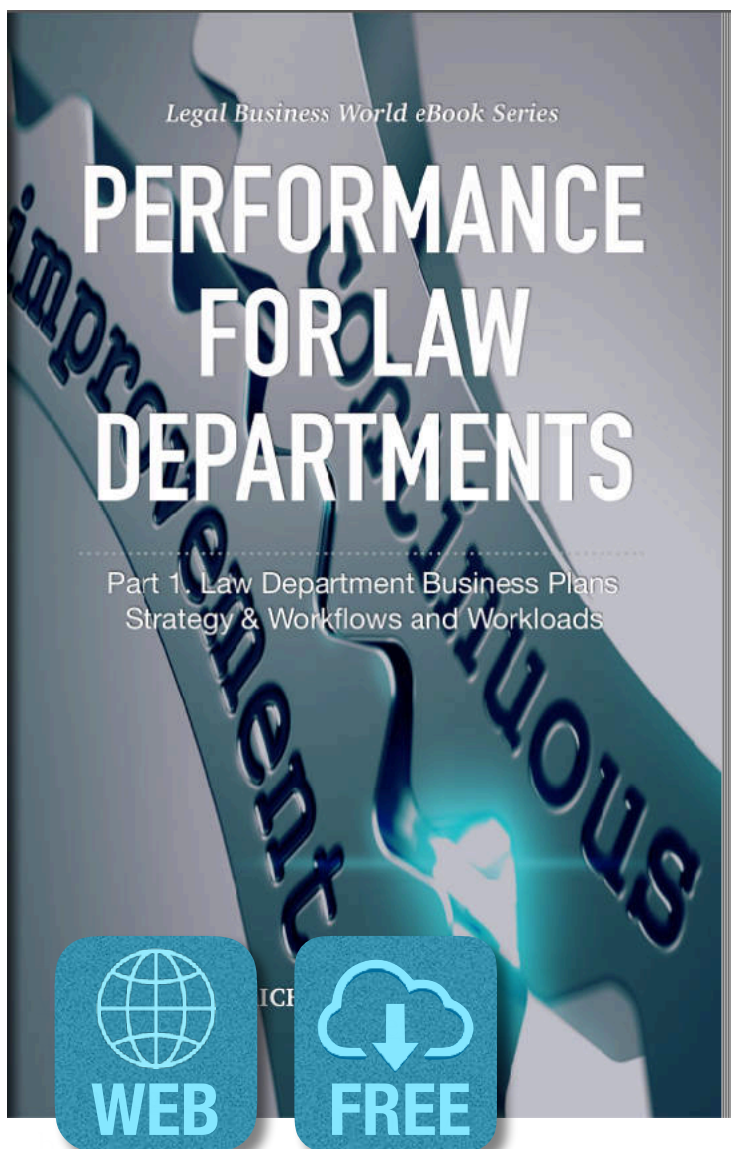


Table of Contents

§ Business Plans Strategy

- An Innovation Audit for the Law Department
- Law Department Condition - Getting by or Critical?
- UK Expert Perspectives
- Adaptable and Resilient Law Departments Add Value
- The Effective Law Department
- Getting Traction for Innovation in the Legal Department

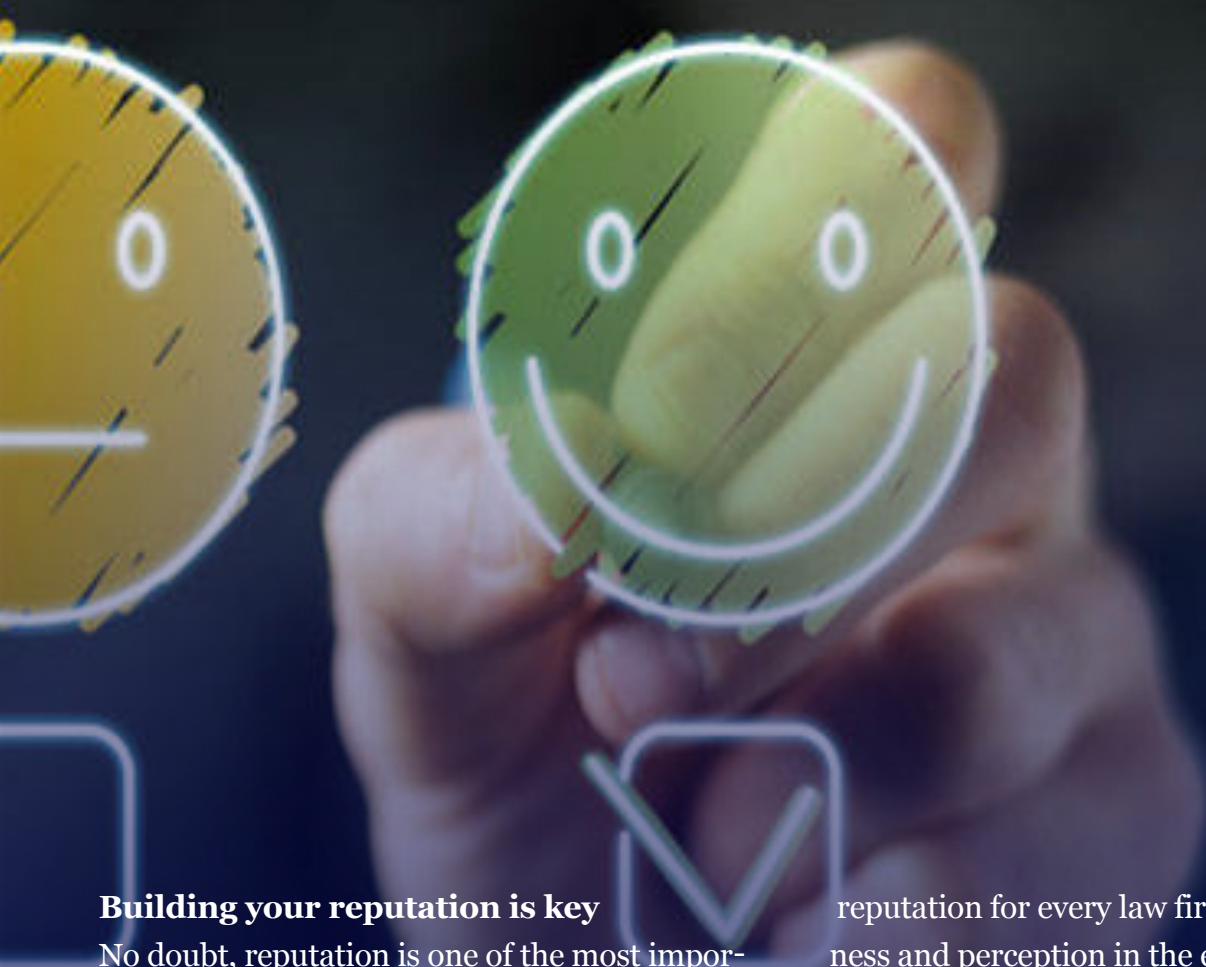
§ Workflows and Workloads

- Priorities and Backlogs?
- Allocate Time Strategically in 2021
- Three Principles for Work Intake Post Covid-19
- Influencing the Demand for Legal Services
- The Hummingbird Lawyer

Fantastic Law Firm Reputation and Where to Find It

By Tobias Heining, Director Business, Clients & Strategy at Osborne Clarke and Ana-Maria Drăgănuță Briard, digital lawyer, founder of Legally Remote and CEO of Avoteca





Building your reputation is key

No doubt, reputation is one of the most important criteria when it comes to assigning outside legal counsel with a strategic project or even making them a trusted legal advisor for a greater variety of matters.

Now obviously, as a law firm you won't get anywhere near consideration to potentially being selected as legal service provider, if you are lacking reputation as a basis of credibility and trust. As such, reputation is the benchmark for clarity and sharpness of the (self-) portrait a law firm projects into its respective market environment.

The two most important dimensions of a solid

reputation for every law firm brand are awareness and perception in the eyes of the buying center and beyond. The buying center comprises the closer circle of people involved in assigning projects or work to outside counsel (mostly in-house lawyers or executive level division managers) but can also tangent other potential reference groups and decision makers in companies, who might have a say in the matter depending on scope, strategic importance and dimensions of a project (e.g. board level).

Awareness in this respect means the level of recognition the law firm's name has in the market or the target segment defined as relevant: e.g. Is it unknown, well known or even famous? Perception on the other hand refers to

the level of understanding what kind of experience, sectors, topics or services a firm particularly represents or stands for: e.g. If a (potential) client thinks of that particular firm, do they picture a crystal clear firm profile or is the vision rather veiled or somewhat blurred?

Paving the way on the ‘Path-to-Purchase’ with the ‘Law Firm Reputation Matrix’


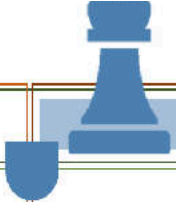


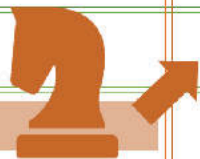
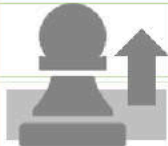
The ‘Law Firm Reputation Matrix’ divides both dimensions, awareness and perception, into six different grades allowing a solid self-assessment to define the location at firm, practice group or sector group level.

While many larger full-service law firms – some partly due to sheer size – might already be quite well positioned on the awareness axis, most are not performing overly well on the

perception axis. Many companies might have heard of them but have no idea what they stand for (“I know they are kind of large...”). Even most of their existing clients wouldn’t have a clear understanding of their full portfolio or particular strengths and focus areas (“We use them for IP matters, but else...”).

Some smaller or boutique firms on the other hand might project a very clear service profile in the market (e.g. Digital Transformation experts, Venture Capital power house) but lack market penetration on the awareness axis beyond a very focused, maybe even regionally limited, market segment (“Haven’t seen them around here...”).

Finally, there are very few firms – usually the top dogs in the market and some high-end boutiques – who are able to reach supreme

AWARENESS LEVEL							
Fame – The firm has a name with reference groups and decision makers beyond the buying center in the market or the target segment defined as relevant							
Championship – The firm is considered one of the top 2 go-to advisors in the market or the target segment defined as relevant							
Popularity – The firm is seen as well established player in the market or the target segment defined as relevant							
Familiarity – The firm is more widely known in the market or the target segment defined as relevant							
Consciousness – The firm is partially visible in the market or the target segment defined as relevant							
Invisibility – The firm is practically unknown in the market or the target segment defined as relevant							
	PERCEPTION LEVEL	Under-exposed – Neither the market nor the target segment defined as relevant can recognize what the firm stands for with its range of services	Fragmented – The market or the target segment defined as relevant have a very confined idea of what the firm stands for with its service offering	Vague – The market or the target segment defined as relevant have a rough idea of what the firm stands for with its service offering	Focused – The market or the target segment defined as relevant have a (fairly) clear idea of what the firm stands for with its service offering	Tangible – The market or the target segment defined as relevant have an accurate picture of what the firm stands for with its range of services	Three-dimensional – Reference groups and decision makers beyond the buying center in the market or the target segment defined as relevant have an idea of what the firm stands for with its service offering

The ‘Law Firm Reputation Matrix’ was developed and designed by Tobias Heining allowing a two vectoral self-assessment of law firms’ market positioning as a basis of further strategic alignment.

consecrations in both dimensions, enjoying boardroom credibility and access and getting assigned with the most critical matters where cost isn't really an issue ("A-Team for bet-the-company situations...").

Needless to say there are many shades of grey between the showcase examples described above. But no matter where you locate in the 'Law Firm Reputation Matrix', your respective two vectoral positioning leaves you with a variety of strategic options to either increase your awareness level in the market, sharpen the perception of your service offering, proceed in both dimensions simultaneously or even maintain the edge and try to stay ahead of the competition.

As resources usually are limited to some extent and not all potential measures are equally effective depending on your positioning and strategic goals, these options automatically lead to some guiding questions determining further progress on the so called 'Path-to-Purchase': What do we want to achieve and which measures are the most effective at this stage?

If your main goal is to gain widespread public traction, boost awareness, generate leads and increasingly being taken into consideration, you'd better try to be all over the place with the marketing equivalent of a 'water sprinkler' by creating as much sharable content as you can and putting further emphasis on content-driven public appearances to build and establish an expert reputation.

If you already can rely on a solid market reputation and your main goal is to sharpen your profile, increase your conversion rate either

with potential clients for first-time assignments or with existing clients for cross-selling additional services or if you even want to amplify the loyalty of already converted clients, you'll have to heavily intensify your touch points and boil down the dispersion of your measures making more use of the 'waterjet cutter' rather than the 'water sprinkler'.

Also, the overall market setting potentially influences the implementation of the 'Law Firm Reputation Matrix' concept, e.g. the approach for large and medium-sized law firms in more mature legal markets should differ from the approach medium-sized and smaller law firms in less mature legal markets might take.

Strategic approach in a more mature legal market setting

For instance, the top 10 law firms in mature legal markets are now mostly faced with the challenge of remaining top performers and securing their positioning as quality leaders. To do so, they must adapt their traditional business model (e.g. optimise service delivery), as well as develop and implement new business models.

The top 11-50 firms, on the other hand, must face the task of catching up with the top group, but above all position themselves as innovation pioneers. This also usually requires an adjustment of the traditional business model, but also building alliances and developing and implementing new business models.

The top 51-100 firms however are currently struggling not to lose ground and to maintain their positioning as stability factors and reliable business partners. They too, have to adapt

their traditional business model and, in addition, specialise and develop advisory products.

For the top 101-200+ firms finally, it is essentially a matter of remaining in the game at all. In addition to the adaptation of the traditional business model and the development of a positioning as segment specialists, the conquest for new market segments and market potentials is (or should be) at the top of their agenda.

In addition, law firms in mature markets are increasingly confronted with new market realities, including digitalisation, competitive dynamics, changing client requirements and demands, decreasing profitability expectations in some areas of expertise and services, rearguard actions in the ongoing war for talent, etc.

Therefore, they are seeking support in the strategy process on many levels as well as in the conception and subsequent implementation of corresponding measures and in the operative day-to-day business. This is particularly true for the business services areas of business development, marketing and communication as well as finance, human resources, IT and knowledge management.

In all these areas the vast majority of law firms still shows a considerable need for further professionalisation, but to date usually does not provide the necessary qualifications or resources internally, does not have access to them or simply does not host an internal solution for purely business or political/cultural considerations (“fee earners vs. fee burners”).

If the prime objective is to purely raise awareness, generate leads and increasingly being tak-

en into consideration by potential clients, the weapons of choice are producing sharable content and content-driven public appearances. The motto here is: “The more, the better”, with sheer mass beating focus.

As a consequence this means keeping an eye on and regularly picking up on current topics and legal/economic trends and developments, writing smaller and more extensive contributions, providing quotes and interviews, publishing blog articles and other intelligence pieces and commenting on social media posts. But most importantly: stay tuned and follow up on these to create a constant buzz and stay on the public radar.

Content-driven public appearances can take place within the context of internal or external events and webinars. Again: the more the better, especially external events with a higher reach than law firms usually generate through their own contact base. Furthermore, at this stage, firms should consider active involvement with associations and other professional groups, as well as initiating and conducting publicity-boosting surveys and studies.

These measures are particularly valuable and effective when it comes to building an expert reputation. This is also true for contributing to articles for manuals and professional publications. Nonetheless, these measures require a slightly more focused approach to prevent from overstretching limited resources.

If – building on a solid market positioning – the objective is to increase the conversion rate with (potential) clients this primarily means converting needs into demand by positively

influencing purchase decisions of (potential) clients through clearer cut communications and creation of tangible USPs and added value. This not only requires law firms to heavily invest in and leverage from market intelligence, but also to think in terms of products and advisory solutions instead of descriptive legal compilations.

Firms should therefore concentrate on designing concrete project and module offers (product shelving), comprehensive deal sourcing, presenting at smaller, more focused target group-specific internal and external events and offering secondments, as well as highly targeted one-on-one presentations with a topical or project-related background to increase practical relevance for potential target groups.

To even amplify the loyalty of already converted clients, law firms have to leave behind the ‘water sprinkler’ and make more use of the ‘waterjet cutter’ now becoming the most effective tool to further intensify touch points and boil down dispersion. To build client loyalty and stabilize conversion means creating trust and proximity with your client. Not only by the quality of advice but by the quality of service, as ultimately the relationship orientated behaviour of an organisation and not its technical and professional prowess allows the quantum leap from experts and consultants to trusted advisors.

Starting with establishing a cultural set-up and incentive scheme that facilitates true client centricity, enabling proper client intelligence, reengineering service delivery, building key client programs and serious client listening and feedback programs, secondment pro-

grams, as well as alumni programs, delivering services in a pro-active manner and finally leveraging from client testimonials to boost credibility with target clients.

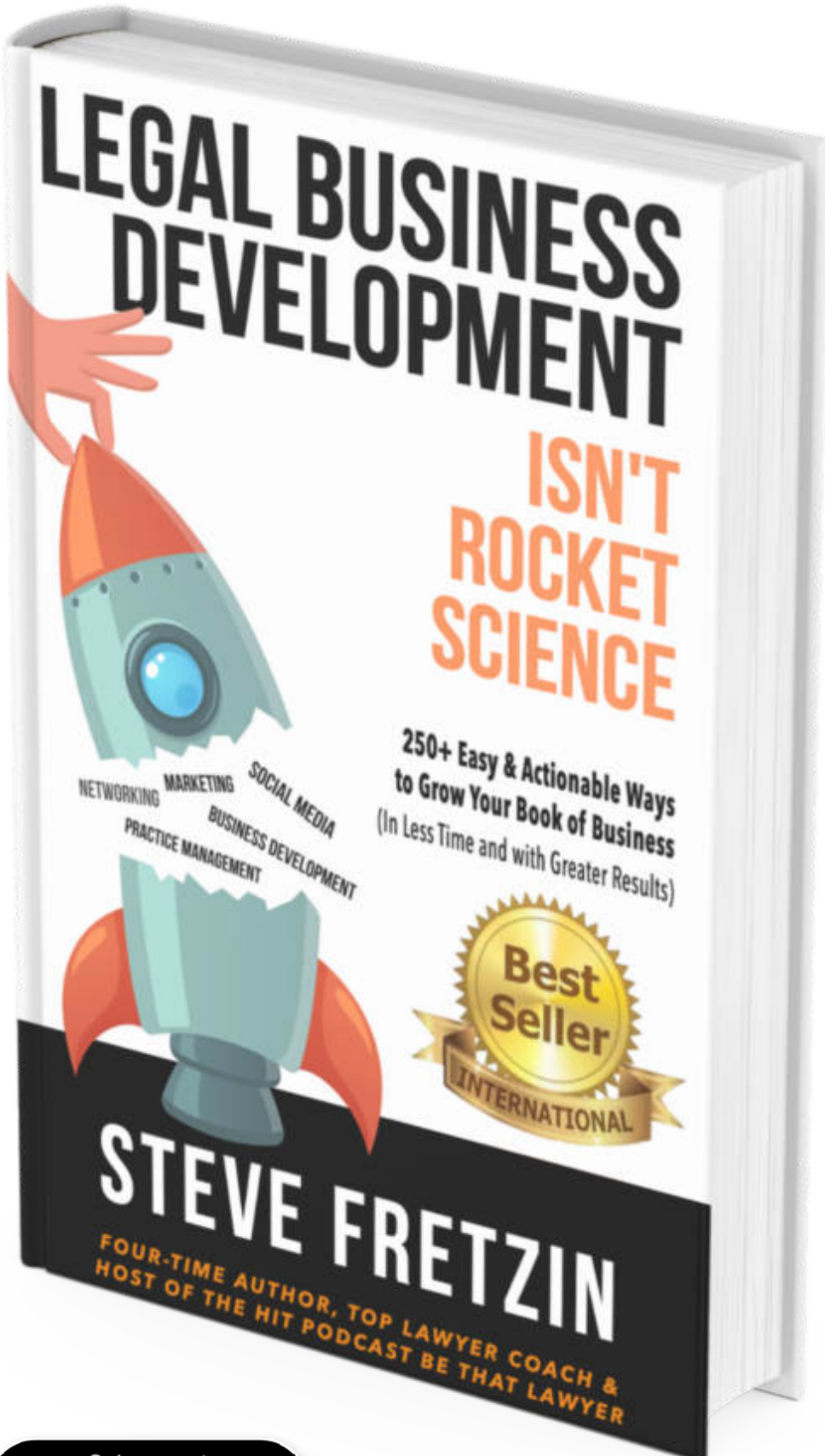
Strategic approach in a less mature legal market setting

If law firms in more mature legal markets focus on new developments affecting the overall market settings and on how to potentially leverage from them in order to generate leads or raise conversion rates, law firms in less mature legal markets face other types of challenges. While it is true that taking the Digital Transformation of the firm from zero might come as an advantage, having little case studies it all goes down to learning from different strategies, adapting to the actual reaction of the market and growing in the direction that the market leads.

Medium-sized law firms don’t always lack awareness level, as they found other means of getting to be known in the market, even with some so-called ‘old-fashioned’ means as academic papers, conferences followed by legal peers, and visiting professorships at universities. However, they not seldomly suffer from considerable confusion in the market when it comes to the perception level.

As many medium-sized law firms provide full-service legal packages, it is usually hard for the public to perceive them in any specific way. The feedback mostly – similar to law firms in more mature legal markets – sounds something like “I work with a law firm, they do everything, but not really sure what exactly...”.

Smaller law firms on the other hand often



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locate in the lower fields of the 'Law Firm Reputation Matrix' lacking awareness as well as perception. Taking a closer look, it seems necessary however to further distinguish between 'new' smaller law firms, lacking both perception and awareness, and 'established' smaller law firms, that chose to remain small in numbers and enjoy some level of awareness but lack a focus and thus, the public cannot pinpoint them for specific cases.

At this level, law firms must overcome two main challenges: The first being mainly intrinsic, dealing with how to focus on one main target group and specialty of law. The second being rather extrinsic, regarding the main activities their target group mostly receives openly.

In the phase of adolescence and coming of age of a legal market, many law firms start to learn about the advantages of having help from professionals in creating growth strategies to reach their objectives. At this stage, spending resources without a clear purpose usually results in further (potentially unnecessary) expenses, when strategic alignment needs to be adjusted later on.

Climbing the first three ladder rungs of the 'Law Firm Reputation Matrix' is not an easy task, especially for medium- and smaller-sized law firms with scarce resources. For them it is paramount to identify the one main activity that helps the firm to reach the next level within a limited budget. In the end, no clear focus results in achieving nothing. And focus starts with a thorough assessment and identification of target groups and clients, as well as of the main domain of work. Then, according to their two strengths, focus target group and focus area

of expertise, firms can start unfolding marketing activities in order to work their way up. Finding out where to meet (potential) target clients, what keeps them up at night, where they gather and consume information and who influences them, is a second essential step. Law firms must put out the feelers, look outside the mental cocoon of their organisation. Decision makers must widen their vision by getting out there networking, discussing, presenting, trying to discover where they can find those potential clients and how to address them in an appropriate manner.

For corporation-sized businesses as target group, top-tier conferences, closed networking events and exclusive dinners might be the places to be. For smaller-scale digital companies or start-ups social media channels with a professional focus (e.g. LinkedIn), accelerator events or investor meetings could be good methods to start with. Private individuals as a target group for potentially small-scale, low complexity but high market volume assignments need a broad communicational approach implementing social media channels with a high reach (e.g. Facebook) while high net worth individuals should be targeted by much more personalised approaches and usually require a deeper insight in their preferences and a sufficient level of private information about their activities.

Being located at the lower ends of the 'Law Firm Reputation Matrix', marketing strategies for medium- and smaller-sized law firms in less mature legal markets should focus on getting known, becoming an expert in a specific field and attracting leads. Strategies could centre on content-driven activities, such as blog

posts, commenting on real-life events or commenting and discussing legal trends and changes in the respective focus area of expertise, setting up newsletters, sharing information on social media and establishing press contacts to facilitate appearing in the specific media consumed by the identified target group. Those who fancy less conventional activities could produce legal explanatory videos or podcasts even with limited resources and technical equipment.

The 'Law Firm Reputation Matrix' provides firms with a broader view of where they are now and where they stand after implementing strategic activities. Even though marketing measures will not always lead to an ascending straight line, depending on the actions law firms choose to apply, they can easily assess the effectiveness of their approach and plan the next steps for growth scenarios.

As discussed, for medium- and smaller-sized law firms, the lack of resources can be a challenge. Hence, they should organise the expansion strategy according to milestones by first focusing on raising more awareness before concentrating on the perception level and then successively putting more resources on either measure with further growth.

Smaller law firms at the beginning of their activities have an advantage, if they decide to follow the 'Law Firm Reputation Matrix' rationale from the start and deploy professional support enabling them to healthily grow on both awareness and perception level proportionally and ascend in accordance with their values, long term objectives and target group.

After having passed the first three levels of the 'Law Firm Reputation Matrix', the strategy focuses more on conversions, client loyalty, and maintaining the reputation. Having reached a certain level of recognition in the respective market, client expectations tend to grow and it becomes much easier to disappoint. The creation of funnels, content-driven pieces with a more focused approach, participation in high-end events, newsletters for specific clients advising about new developments in their fields of interest and being recognised by renowned law firm directories (even in the baseline chapters), is a start to reaching fame and a three-dimensional reception level.

Endeavor to be what you desire to appear

Greek philosopher Socrates is quoted "The way to gain a good reputation is to endeavor to be what you desire to appear". And once again, this wisdom leaves us with the disenchanting insight that nothing comes without effort and that a desired reputation always is the result of a strategic approach, a thorough analysis, sophisticated planning, sufficient resources, consistent management and execution, as well as hard work. But Socrates also teaches us that gaining reputation is about being authentic which means that law firm management should not only rely on the above but also on an honest self-assessment without being distracted by an overdose of wishful thinking and a purely normative approach nor by an all too ambitious scheduling with respect to the potentially challenging realities of partnership structures and overall limited resources. "Festina lente", as Emperor Augustus allegedly used to say - proceed expeditiously but prudently. And who are we to contradict his

imperial majesty or the founder of Western philosophy himself? However, with a growing reputation and a consolidation of market positioning a decreasing use of the ‘water sprinkler’ and increasing use of the ‘waterjet cutter’ demands a higher degree of strategic alignment and a more rigid management of resources. This doesn’t necessarily mean certain measures have to be uncompromisingly excluded from the business development, marketing and communications tool box or entrepreneurial freedom of partners should be entirely sacrificed on the altar of organisational dirigisme.

But it requires a firm and transparent set of criteria for decision making, clarity about the deployment and allocation of resources focusing on the achievement of the firm’s overall objectives and – above all – true commitment from all sides. There’s no getting around this, if a law firm endeavors to become what it desires to appear and work its way up the ranks of the ‘Law Firm Reputation Matrix’.

About the authors

Tobias Heining is Director Business, Clients & Strategy at [Osborne Clarke](#) in Germany. Prior to joining Osborne Clarke, Tobias was Director Business Development & Communications at CMS in Germany, where he established Germany’s first ever law firm Legal Tech unit. Tobias started his professional career as Consultant at a PR agency advising law firms, worked as Marketing Manager at a US law firm, joining CMS at BD Manager level. Tobias also is a founding member, former

President, and current board member of the [European Legal Tech Association \(ELTA\)](#).


Ana-Maria Drăgănuță Briard is a Romanian licensed digital lawyer, founder of [Legally Remote](#) and CEO of Romanian Legal Tech start-up, [Avoteca](#), helping small and medium-sized law firms to grow their business. Since 2017, Ana-Maria has been empowering legal professionals to thrive in the digital world through mentoring sessions and online training. Ana-Maria also hosts the first legal Romanian podcast, Legal Tale, touching on sensitive subjects, such as mental health, family time, and self-appreciation. In addition, Ana-Maria is Romania’s Ambassador for the [European Legal Tech Association \(ELTA\)](#).



Embedding a process mindset into the operations of an in-house law department

By Harriet Joubert-Vaklyes, Process Innovation Senior Specialist at Shearman & Sterling, and Michael Bolawole, Legal Project Coordinator at Shearman & Sterling





In a post-pandemic world, the unprecedented disruption brought a new willingness for many industries to look at ways things could be done better. For in-house law departments in industries most affected, this forced a fundamental review of the status quo and key operational processes. In-house law departments have been spurred to look at how they perform processes and deliver legal services to the businesses they support. This is a "golden moment" for in-house law departments to embed new ways of working that support improved service delivery.

We hear that many in-house law departments are concerned about being seen as a cost center, and though there's always opportunity for optimizing costs, the point of diminishing re-

turns comes faster than expected. A more successful approach, particularly in the long run, is to have a clear idea of how your team is spending their time, and what tasks they perform on a day-to-day and month-to-month basis. No doubt, every vendor will want to tell you about their shiny new legal tech tool and how their "out of the box" solution will transform your operations.

Despite this, it is important to remember that the foundation of any successful law department transformation is a clear, consistently updated, and practical guide to both the expectations of the department's remit and its responsibilities to mitigating the institution's risk while upholding its values.

That is to say: **process is foundational to everything in your department** and focusing on it can help you transform into a true business partner within your organization.

According to the Global research from Acritas in 2021 on the state of in-house law departments, 58% of corporate law departments experienced an increase in workload and 29% experienced a decrease in legal budgets/spending. With increasing business demands and market pressures, organizations are asking General Counsels to do more with less. Awareness of internal processes is the first step in acting as a business partner, and process mapping can help with this (For the uninitiated, a process map is a tool to visualize current state and future-state business processes and workflows). Anticipating and proactively addressing tasks that don't add value, while identifying real business opportunities is how an in-house law department can solve the more-for-less challenge. Considering this, integrating process mapping sessions into a review of operational service delivery is critical for identifying improvement opportunities, misallocation of resources, and highlighting inefficiencies.

During a process mapping session, we review and critically assess the status quo. The starting point in these sessions is identifying who typically performs each task, what the proposed outcome of said task is, and the time & resources required.

A typical session will:

- 1) Assess the scope of the process review: e.g., what specific process are you interested in tackling? “In-house counsel” is not a process. “contract management for procurement” is
- 2) Outline the current state of in-house law department processes to uncover gaps or "waste" i.e., non-value adding activities
- 3) Identify pain points and areas of possible improvement: it's important to remember here that a consolidation of lots of ideas is better than trying to identify the right one on the first go
- 4) Propose the future state: validate the ideal state with internal customers to ensure you're not building a process no-one wants/would see value in

The table below provides an overview of some of the top five considerations that should inform your decisions during the mapping process:

Five Areas to Consider

Consideration	Questions to start thinking before the data gathering session
Value	How can we increase our value to the organization?
Costs	How does the value we provide to the organization compare against our departmental cost/budget?
Time	How are we allocating time?
Resource allocation	What systems are used throughout the process?
Quality	What problems are being encountered that affect performance / quality?

Once the process map is complete, your department can conduct a holistic review of ways to improve its overall function. This is where Legal Operations by Shearman can consult on best practices: through our integrated collaboration event, Shearman Acceler8, we can help you identify insights, and develop a bespoke checklist for departmental deliverables.

Behind every successful in-house law department is an awareness of its internal processes, a roster of (useful) legal tech, and the ability to scale its operations up or down as the business demands. The first of these is perhaps the hardest to invest time in, but the most crucial as market pressures and staffing levels change over time. Legal Operations by Shearman is uniquely positioned to assist in this endeavor and is dedicated to finding the best way of doing things, whether that means simplifying the overall end-to-end process, or introducing new technology and overseeing the requisite change management. From a full-spectrum vendor and contract management review to a general process mapping session, Legal Operations by

Shearman can support you in your process improvement efforts – large or small. To learn more, contact our team: legaloperations@shearman.com or visit our website at legaloperations.shearman.com

About the Authors

Harriet Joubert-Vaklyes is a Process Innovation Senior Specialist at Shearman & Sterling. She works with business development and delivery teams to document, reengineer and improve their processes, and implement a wide range of solutions. Harriet has ten years of experience in the legal field, including project management, knowledge management and automation, and process improvement.

Michael Bolawole is a Legal Project Coordinator at Shearman & Sterling. His role focuses on providing pricing, budgeting, and matter management support. Michael is also a Lean Six Sigma Green Belt and uses his varied experience to support and lead process improvement initiatives.



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It depends – How to deal with everything is life

By Chiara Lamacchia, Founder at lawrketting.com and withoutconsulting.com



To sue or not to sue? This is the problem. When deciding on what to do, it is not shocking that speaking to different lawyers will lead you to different answers: there might be as many solutions as the number of lawyers you speak with.

I cherish and appreciate it whenever I am asking for a bit of advice on what to decide. I distrust those who always have a 'yes or no' answer for everything. It is annoying to receive the '*it depends*' card in life because often we are looking for a clear, certain answer, which leaves no room for doubt. Unfortunately, a straight answer would unconsciously ignore the complexity of a given topic. When taking decisions, there is the bad habit of applying solutions that have proved prodigious for others.



This is widespread in any sector.

In business, even in large companies, there is the tendency of applying what has been successful elsewhere. A shameful example of this is the whole global logo redesign trend [1] which the vast majority of companies have fallen victim to, becoming part of that great club of non-distinctive brands and a homogeneous heap of sleek sans-serifs. "Should we rebrand, simplify our logo and preferably opt for small caps?"

In life, there is the same bad habit: looking at what others have done to measure their lives and make decisions with a high risk of being frustrated and disappointed. "*Should I quit my job to become a digital nomad?*" "*Should I get married and start a family?*" "*Should I buy a house or a car?*"

Even in politics, there is the same strange habit of proposing solutions or comparing countries that have nothing to do with each other in terms of artistic and cultural heritage, as well as mentality and problems. By changing the addends, the result will change. You cannot expect the same result.

I am a big supporter of the fact that '*it depends*' is the only possible answer to everything. However, as this is possibly the most hated answer, I would like to shed some light on the reasons why I do welcome it as an answer, with a particular connection to decision-making.

! A preliminary note. The statement '*it depends*' is by nature incomplete. It must be a justified answer and not just vague woolly thinking: this is just an introduction to a more

detailed response. It must be followed by issuing a detailed opinion, statement or argument. The natural question after an *'it depends'* would be *'on what / on whom?'* and specifics on the *whys and wherefores*. In absence of any qualifier, *'it depends'* is just a frivolous answer, an empty statement that is merely addressing the obvious fact that there are cases where we can have different outcomes.

Better decision-making for better decision-taking.

We take thousands of decisions every day, some of which we don't even notice. Decisions change inevitably the course of our life. Decisions make or break a project or even an entire business. Be it in business or our personal life, a decision might fail because we ignored or missed key factors. We tend to be very quick in fully understanding the situation and not looking beyond the obvious. In every decision that we are about to take, there are several interrelated factors to consider.

'It depends' is a sort of creative thinking approach that allows you to improve the quality of decision-making and boost your chances of successful outcomes.

1. "It depends" asks for further details.

'It depends' underlines the lack of necessary details to provide an accurate answer. It implies that the answer to a question could vary based depending on some pre-conditions or circumstances, in the absence of which the answer would just be a guessing game. This would mean that the scope of the question must be detailed to give a meaningful answer.

Of course, our mind works on shortcuts, the so-called *heuristics* [2]: if we have to reason on every possible scenario for every decision we make, we would lose too much time. Most of the time, we need to make decisions quickly and this is where our shortcuts come into our hands. However, these are the same that can stab us in the back leading to poor decision-making.

'It depends' initiates the process of analysis – and great decisions are most of the time based on great analysis.

2. "It depends" recognises that everything works in shades of grey.

In legal studies, we are often said that *'it depends'* is the best answer a lawyer can give to a client in any situation. This surely makes the conversation longer, and we know lawyers are paid by the hour. Jokes aside, the law works in shades of grey. The answer to any legal question depends on a combination of factors: from facts & evidence to the lawyer & its client and of course the judge (& the jurors, when applicable). With all these variables, it is obvious that a simple legal question can be turned into a never-ending showcase of possibilities.

The same applies to decision-making in business and life in general: everything works in shades of grey. To answer a question and take a decision we need to consider all the elements.

'It depends' puts on the table these variables and the importance to analyse them to move forward.

3. *“It depends” recognises that positions might vary and differ.*

Reality is complex and made of many clashes of ideas. An unequivocal view is fairly impossible in the world we live in. It cannot be either yes or no, it is or it is not, black or white. To insist that there is only one answer is not factual. *‘It depends’* is a deeper-than-average consideration of the complexity and abstruseness of our reality. It implies that a single-perspective question fails to address the possibility of multiple outcomes.

Many do not welcome an 'it depends' approach because it created ambiguity. When asking a question, people seek clarity, and an answer that insinuates more doubts than clarity is perceived as an enemy. However, this is the perfect excuse for discovering and clarifying the ambiguities which are already there.

‘It depends’ is *de facto* a catalyst of competent replies.

4. *“It depends” preserves your right to be wrong (if any new element would appear)*

Have you ever read a book at different stages of your life? Due to certain circumstances and surroundings, you are likely to arrive at a different understanding of the same book. Context matters. Everything depends on something. Your point of view is related to your given position and your value system is specific to your current context. Statements are based on a certain situation. Within a specific context, a statement may be absolutely true but viewed in a different context or with a dif-

ferent point of view the same statement may be disputable or even false.

We should acknowledge that our behaviour is context-sensitive. *Will you cheat? Will you steal? Will you kill someone?* We like to think our opinions and values are solemnly solid bastions which define who we are, our essence. However, opinions and values exist only within a context, in a given time. You form your opinion, but this is trumped by new occurring situations and elements. Therefore, when answering a straight *‘yes or no’*, the risk is you are basing your answer on incomplete criteria as you did not consider all dependencies.

‘It depends’ takes into account the existence of different contexts. As they say ... “never say never”.

5. *“It depends” promotes confrontation and dialogue.*

Some are arguing that *‘it depends’* is a non-confrontational answer, a sort of an *easy way out*. I don't agree: it is a very much confrontational answer and by far not the quickest way out. It might project a sense of non-commitment, nonetheless by not committing to a certain position, you are opening the door to more dialogue and arguments.

It is a valuable and contributory answer to any discussion to expand the conversation into new territory. Playing the *‘it depends’* card in a conversation will allow attempting in including more facts and pieces of information that otherwise would not be taken into consideration.

'It depends' encourages discussions – this will enrich the decision-making, above all in terms of preparedness.

Final thoughts

As much as we all would love to give & receive a definite answer to all of the questions, the truthful and answer is – it depends. When a lawyer, a consultant or a friend tells you this, that means that they are striving to consider all of the circumstances to provide you with a better answer.

'It depends' is a statement implying that further details are needed. It acknowledges the complexity of our realities and the fact that rarely things can be black on white. This brings complexity into the conversation enriching the debate and the analysis. Ultimately, this can contribute powerfully to a stronger decision that would result in more successful or secure outcomes.

Notes

[1] Sienkiewicz, Radek. Why do so many brands change their logos and look like everyone else?. Velvet Shark. Available on <https://velvetshark.com/articles/why-do-brands-change-their-logos-and-look-like-everyone-else>

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About the Author

Chiara Lamacchia is a consultant in legal, marketing & legal forecasting, working in corporate strategy for global organisations across different sectors, after an LL.M. from Bocconi University (Milan, Italy) and an MSc in Marketing from Edinburgh Napier University (UK).

Chiara is the Founder of lawrketting.com and withoutconsulting.com, promoting the adoption of ground-breaking ways of using the law for innovation and competitive advantage.

Besides, among other things, she authored and published the [book](#) "Lawrketting – What Business Never Realised About Law", introducing a new concept, lawrketting, combining law, business, marketing and innovation.

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Industry Specialization

MAKING COMPETITORS *IRRELEVANT*

PATRICK J. MCKENNA



The rise of environment, social, and governance strategy

How firms can gain a competitive edge by driving business decisions with ESG

By Pamela Cone, Founder and CEO of Amity Advisory




“I believe that ESG will eventually become part of the fabric of our firms, not something separate from the business but core to the firm’s strategy.”

ESG strategy is a journey and one that, if not taken, represents not only a missed opportunity—but a liability.

For many companies, addressing the climate crisis, creating a culture of inclusion, and considering ESG in decision making and brand have become more than a check-the-box exercise.

Research shows that building ESG into company strategy is key to long-term profitability. High purpose companies are more than twice as likely to rank in the top two quartiles of 10-year total shareholder return performance as their low-purpose peers, according to BCG Consulting Group.



Management consultant Peter Drucker said, “Every single social and global issue of our day is a business opportunity in disguise.”

And shareholders, clients, employees, and governments are increasingly expecting companies to show they have an organic, holistic ESG strategy.

It’s hard work

I have been working in the ESG space for professional services firms for more than four years now.

This is hard work in large part because so many of the topics which comprise ESG have become politicized. This is hard work because of the belief that “if something ain’t broke – don’t fix it.”

Some partners still believe that ESG is just the latest fad. But the evidence shows that our “normal” way of doing business is not viable.

Words matter

The way we talk about ESG has the power to change the dynamics of any conversation around it. The thinking and terms around ESG are changing.

Corporate social responsibility vs. environmental, social, and governance
These activities are not a side activity to compensate for harm the business does.

In their [Fortune](#) commentary published on April 14, 2022, “How business leaders can turn ESG into a competitive edge – and a calling,” Maggie Schear, Rich Hutchinson, and

Marjolein Cuellar, all of Boston Consulting Group, offered these words of wisdom:

- “ESG is not about what a company does with the money it makes. ESG is about how a company makes money and the impact on society of that quest.”
- “Many companies have hired a chief sustainability officer but haven’t yet mobilized the organization to adopt a sustainability lens. They have equity and inclusion on their score card but haven’t yet built equity and inclusion into their culture and business every day.
- “They publish disclosures but haven’t crafted a distinctive story to share. They use their ESG agenda to guide donations, when they could be using ESG to guide their biggest strategic decisions.”

Eventually, in the service of clients, ESG will evolve from a separate practice group within a law firm to a new overarching mindset, informing every area of law and every aspect of how we serve our clients.

Social impact vs. societal impact

What do most people think of when they hear “social impact?” Social impact is not about charitable giving, volunteering, or even pro bono work. Those things are largely immaterial in the overall societal impact of your business.

When professional service firms disregard the societal impact of their business and only talk

about charitable giving or volunteering days of service, it’s the equivalent of a manufacturer disregarding waste it dumps into the river, emissions coming from its smokestacks, or slave labor in its supply chain.

Ask instead, “What is the *societal* impact of your business?”

The greatest societal impact of any professional services firm is the work it does for clients. Start there and follow with your philanthropy and volunteering story.

ESG is not a side activity relegated to a committee of interested employees. It must sit with your board, management committee, executive committee, or your governing body.

I ask firms that I work with these four questions. The answers tell me everything I need to know.

1. Who directs your firm’s ESG practices, policies, and programs?
2. To whom does that position report?
3. Does this person sit on the board of directors?
4. Is ESG a standing agenda item for your board?

Sustainability vs. viability

Sustainability is not just GREEN activities such as recycling, going paperless, or using LED lighting in your offices. These are all important but largely immaterial in the grand scheme of things. By orders of magnitude, the largest carbon footprint for most professional services firms is business travel.

Everything else is simply skirting around the edges. For most professional services firms, achieving net zero will be impossible without dramatic changes to their air travel policies and practices.

When we talk about sustainability more broadly, not just in the “green” sense of the word, I ask firms if their business model is sustainable going forward. Is their business model **viable** for the long-term for all their stakeholders, not just their shareholders?

Using the word “viability” instead of “sustainability” broadens the perspective beyond the “green” sense of the word.

Global warming/climate change vs. climate crisis/climate emergency

A BBC special recently on disappearing glaciers and rising sea levels consistently used the phrase “global warming.” That was the phrase used 50 years ago when the realization first emerged that our planet was warming, and we needed to do something about it.

We are so far beyond global warming. We are even beyond calling it climate change, which is still too tame to describe our current situation.

Many global publications are now using either “climate crisis” or “climate emergency” in their editorial guidelines.

We should do the same to convey just how urgently we must act. Our world is in a climate crisis—a climate emergency—NOT just global warming or climate change. The cost of doing nothing is everything.

Values of a company vs. value of a company

Over the years, the words, corporate social responsibility (CSR) have referred to a company’s values. However, the term has been relegated to mean “giving back” through donations and volunteering to the communities where companies do business. Too often these are totally unrelated to the business, i.e., lawyers planting trees or building a Habitat for Humanity house.

The investor community began using the term ESG to refer to the value of a company. We have come to realize, however, that the **values** of a company and the **value** of a company are inextricably intertwined.

The broader, more robust ESG moniker has replaced the CSR term, covering the value of and behavior of the BUSINESS itself—NOT just what it gives back to the community.

This is our moment, our opportunity, and our obligation.

We are at a point in time that represents the greatest opportunity and the greatest obligation we will see in our lifetime.

Our world has been dealing with social, financial, and health issues that have cast a light on problems, opportunities, and a turning point.

Now, our challenge is to not rush back to that comfort zone which we used to consider normal. We do not need to commute to an office daily. We do not need to qualify for elite status on multiple airlines. We do not

need to inflict such wear and tear on our health and well-being and on the environment.

We have learned from the pandemic what we must leverage to make society stronger in the future, including reducing carbon emissions and addressing healthcare inequities.

We should use this moment to rethink, reconsider, and reimagine a better way. The overarching question is, “Which side of history will we be on?”

Wise words that matter

As we all embark on this very important work, these quotes remind us why we must succeed in transforming our society to a more viable model for all stakeholders. Much is at stake, and current models are not viable long term.

Most of us agree that the elements of ESG are certainly opportunities, but for the professions, perhaps even obligations.

Why the professions?

The professions have the education, skills, talent, access, and spheres of influence to make a difference more so than any other group of people.

Gina Passarella, global editor of American Lawyer Media, wrote this about the legal profession:

“The legal profession is a massive economic engine, employing hundreds of thousands of people and driving the business of every other industry in the world...We must hold the industry accountable to bring the community together to drive progress.”

And while she was writing about the pandemic in the following quote – her words are applicable more broadly:

“This is not a crisis without hope. It is actually an opportunity of epic proportions for law firm leaders to do what they do best—innovate, strategize, and solve complex, multilayered challenges.”

Why us? If not the professions, then who? A commenter on one of my LinkedIn posts wrote this:

“The professions must stand up or stand down. We will not be forgiven for standing by!”

Other leaders in history offer inspiration:

Barack Obama

“We are the first generation to feel the effects of climate change—and the last generation who can do something about it.”

“Change will not come if we wait for some other person or some other time. We are the ones we’ve been waiting for. We are the change that we seek!”

Margaret Mead

“Never doubt that a small group of committed citizens can change the world. Indeed, it is the only thing that ever has.”

And finally, I offer the wise words of **Amanda Gorman**, the first U.S. National Youth Poet Laureate and the youngest poet ever to speak at an inauguration. She spoke these inspiring words at President Joe Biden’s inauguration in 2021:

“For there is always light in the world.

If only we’re brave enough to see it.

If only we’re brave enough to be it.”

This article is based on a Keynote Address presented as the Chair of PSMG’s ESG Conference on 17 April 2022 in London, UK.

About the Author

Pamela Cone has more than 30 years of experience in the professional services industry in marketing communications and social impact and sustainability roles. She is founder and CEO of Amity Advisory, a consultancy that helps professional services firms strengthen their ESG, Social Impact and Sustainability programs beyond transactional to achieve strategic and transformational outcomes.

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Why Legal Ops & Cyber Security are (*and should always be*) inseparable?


By Adv. Edo Bar-Gil, CEO of LawFlex Designed Solutions



The role of GC's (General Counsels) and CLO's (Chief Legal Officers) has significantly changed in the past years and includes not only the "traditional" Legal advice and GRC (Governance, Risk and Compliance) - but also the entire aspects of Legal Operations (including budgeting, strategic planning and legal tech).

Cybersecurity and data privacy are practically everywhere. They are a growing concern for all organizations and not only that they are not going away any time soon, but they increase day by day, and many legislative efforts around the world aim to protect data privacy and security.

It is not surprising to see that in a [survey done by Bloomberg](#) CLO's named cybersecurity, regulation and compliance, and data privacy as the three most important issues.



This article suggests that it is time to make a change. GC's and CLO's can no longer take a "reactive approach" with respect to such issues. They need to be more knowledgeable about potential cyber security threats and data privacy issues, more proactive and active in designing the organization's programs and strategy with respect to such issues, and an active contributor to bringing their legal perspective and advice.

How should they do that? By applying the four Legal Operations pillars key principles, mutates mutandis:

1. **Vendor Management** - Enforcement of cyber security requirements on legal services service providers / consultants
2. **Data Management and Retention (& Legal Tech)** - Taking into consideration the

cyber security and data privacy as part of all (legal) processes

3. **Communications** - Cooperating with the organization's different stakeholders, and especially the CISO, for creation of a cyber security strategy and design
4. **Strategic and Process Planning** - Taking part of building cyber security and data privacy program / strategy, including crisis management

Enforcement of cyber security requirements on legal services service providers

It is a well-known fact that until recent time and even these days, outside legal consultants or law firms are chosen by the GC's or the CLO's "under the radar", in the sense that they are not requested to comply with the organization's

service providers “onboarding process”, including cyber security and data privacy requirements.

The reasons for that are various, however the main reason is that outside legal counsels / law firms are considered as a “legal-partner” more than a “service provider”.

On the one hand, this is the right way to see and treat them, as they deal with the most confidential and sensitive issues. However - on the other hand - they are not subject to compliance with crucial requirements necessary for the organization’s security and data privacy, even though they deal with the most sensitive issues.

Therefore, it is not surprising to see that many outside legal consultants / law firms do not even have their own cyber security program or strategy and security measurements. This routine should be changed immediately.

Taking into consideration cyber security and data privacy as part of the (legal) processes

Organizations straggle to include the legal departments in almost every process of the organization’s day to day activity. The author of this article is personally involved these days in three projects dealing with redesign of such processes, including making sure that the legal and privacy teams are aware of new products and assist in their design.

While in the past two years, the necessity of

involving the privacy team or consultants in an organization’s processes has become a well-known fact, it hasn’t been like that with respect to the cyber security team or consultants.

The reasons for that are various and include, among others, the fear of making the processes even more burdensome, creating new bottlenecks and the fact that only small part of the organizations have internal cyber security teams.

Needless to say, this routine should be changed immediately too. It is enough to see the potential damage of cyber security attacks on organizations all over the world, including the fact that in some cases it literally means “death sentence” to an organization.

Cooperating with the organization’s different stakeholders - especially the CISO

The CISO and its team are protecting the organization and performing a crucial and complex function. Not only that they prepare for (un)known threats, but they also build, maintain, and support resilient systems, technologies, policies and procedures for the entire organization.

They also need to plan ahead for resistance to and recovery from potential attacks.

The legal department serves a similar role. The legal department measures risks and threats – both internal and external – and guides the

organization. It also builds, maintains, and supports a protective and resilient risk-resistant / mitigation policies, procedures, and agreements for the entire organization. In addition, it plans ahead to avoid litigation and regulatory investigations and recovery from such events.

Accordingly, it is inevitable for these two functions to cooperate. By doing so, not only that they will benefit, but also the entire organization will benefit in how to conduct business in a dangerous and fast-changing world.

Taking part of building cyber security and data privacy program and strategy

In light of the above, there shouldn't be a doubt that there is a necessity for the GC's and the CLO's to take part in designing and building the organization's cyber security and data privacy programs and strategy.

While the cyber security and privacy teams should take the lead and make the decisions on professional issues, the legal team should pro-

vide its input on the legal aspects and potential risks. Such cooperation is also crucial in building incident / cyber-attack response program and strategy, as these issues also have legal impacts.

Summary - there is no doubt that GC's / CLO's and cyber security / privacy teams should cooperate. The entire organization and each of these teams will benefit from it. Sometimes, it is easier said than be done. However, by applying the Legal Operations key principles, such cooperation may be seamless (and even enjoying).

About the Author

Adv. Edo Bar-Gil is the founder and CEO of LawFlex Designed Solutions (<https://www.lawflexds.co.il/>), an international company specializing in the provision of Digital Transformation Services, Legal Operations, Legal Tech and Legal Innovation. Prior to this, Edo was the General Counsel of a few leading companies and worked as an associate in major Israeli law firms.

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New Work. A Gamechanger for the Legal Profession

By Dr. Anita Lamprecht, Lawyer and Karla Schlaepfer, Certified Professional Coach





In this article, we are showing the benefits of marrying digital technologies like virtual reality (VR) to a “New Legal Work” mindset shift. This shift we maintain is critical and transformational for handling the increasing number of legal challenges from a vantage point of known experience. It is an actual perceptual game-changer! The unique aspects of virtual reality and the sense of presence are discussed. Use cases are presented for using this technology to upskill in collaborative digital and hybrid working environments. When applying the advantages of VR to promote leadership skills and learning further soft skills in coaching and training. This upskilling dovetails with a multi-faceted sense of awareness only possible in VR immersion. We hope that our collabor-

ation and the merging of our two perspectives spark understanding and curiosity to experiment with this fascinating technology. Try out virtual reality for yourself!

Part 1 Digital Upskilling

Better collaboration, learning.

Transformational changes in how we work are here to stay. COVID-19 is only the trigger in a fast-changing complex digital working environment. Pushing the boundaries and driving change. Decentralized work has been developing with technological advances for the last decade. To unlock this huge potential of technology for company benefit, (legal) leaders must upskill. And upskilling means more than

using tech. It means a mindset shift. Our way of thinking about human-centered collaboration. Learning how to meet the challenge is the challenge!

New Work in a transformed world.

New Work refers to the transformation of the world of work. A world of globalization and digitalization. The development is moving away from the classic wage earners who carry out their professional activities according to the strict specifications of their employers. The development moves towards alternative and flexible approaches. The new employees enjoy more decision-making options, flexibility, and personal development opportunities. Buzzwords associated with New Work include open desk offices, agile teams, coworking, a culture of trust, and virtual reality.

Digital upskilling is vital.

Digital upskilling and learning are a necessary part of the New Work journey. The learning awareness or mindset is associated with individual self-discovery. This is a growth mindset (coined by Prof. Carol Dweck). Understanding how to use technological tools is one thing. Getting excited about human-centered collaboration is another. Successful digital leaders must offer new ways and spaces for trying out new tech like virtual reality. Demonstrating adaptability with the results of the first experiments. The move is away from perfect solutions toward adaptive prototyping. This encourages innovation and entrepreneurial culture.

Digital Collaboration is key to success.

Working or “teaming” collaboratively, dealing with complexity differently, and more adapta-

tively, are important to long-term success. Ever-faster technological change, the half-life of knowledge, i.e., the period in which knowledge is current, is rapidly decreasing. New knowledge content and updates are continual; too much for a single person to collect and apply. More effective is to teach individuals to work together. To pool and share resources. Interdisciplinary and intergeneration teams will thrive by incorporating different perspectives in their workflow and projects. If you understand this, you will emerge as one of the winners of the future. As an organization or individual.

It is a New Working world.

Virtual working standards are redefining the way corporations organize their workflow, their leadership paradigms, and interfaces with their partners. The current digital shift presents a golden opportunity. We must adopt new tech and new working methods; promoting human-centered values such as trust, accountability, and transparency are essential. These so-called soft skills are powerful. They come alive in cultures where people and teams feel safe enough to ask questions, give genuine feedback and take informed risks.

This change to a culture of collaboration is especially challenging in legal environments where competition is fierce, and changes are slow. However, there is a growing realization that this current way of working is not sustainable for the future. It is time to act.

Law is fluid.

Law is fluid. By its very nature. Regulating human interaction requires constant adaptation as evolution does not stand still. Use of

fire, automobiles, computers, and artificial intelligence. All tools which change how humans interact. Gamechangers. If the game changes, so must its rules. The legal profession needs to play on the same level to keep up and fulfill its purpose. Regulating human interaction. Safeguarding progress. Enabling humans to succeed.

Adapting is key.

The ability to adapt to the new environmental conditions is the key element of digital transformation. For everyone. LegalTech, Digital Law however you name them, are not just options to improve processes within your legal practice. They represent the way in which humans already interact. It's digital collaboration. Fast, fluid, adaptive.

Law is a laggard.

Unfortunately, law is also a laggard, by its nature. Regulation follows need. Regulations evolve from legal practice. Lawyers are the motors of legal development simply by applying, interpreting, and weighing existing rules. However, this ability requires knowledge about the topic itself. No time for this? Understandable. It takes time and effort to get familiar with new technologies and New Work. A lawyer's time is very precious. Nonetheless. There is not really a choice. The ones who survive are not the smartest, but those who are able to adapt (Charles Darwin). You surely have read that quote before.

Learning by doing.

Another established wisdom is «if life gives you lemons, make lemonade». Digital upskilling will automatically turn you into experts on the subject itself. Not only in the

mastery of new technologies but also by getting first-hand experience into the legal challenges of New Work itself. Still not sure whether you could use a cloud service? The clients are probably already doing it and they face similar legal challenges. Is Teams or Zoom a reliable platform to have confidential meetings? A very progressive client wants to meet in a virtual workroom. Are you prepared for it? Have you already done your due diligence? Are you ready to interact professionally, smart, and confident in virtual space? Clients expect you to guide them. So, you need to stay ahead and not lag behind.

Part 2 Human-Centered Work is Hybrid Work

Intentional or planned with foresight.

Did you know that 88% of leaders asked in a recent Microsoft poll plan to keep some form of remote work? And 73% of employees want this! One form of digital New Working is a mix of on-site work and digital work called hybrid work. Organizations must intentionally approach hybrid work. There are no simple answers when it comes to designing a hybrid work model. Managing direct reports in hybrid working involves a clear plan to create an inclusive culture and an overview, assessment, and coordination of roles.

Asking the right questions.

- *Which employees must be together to work on specific operational processes?*
- *And on which days in the month?*
- *When is it more advantageous to have people with certain skills work on-site together and how can synergies in this time slot best be leveraged?*

A new kind of meta-coordination.

This is a new kind of meta-coordination. Some businesses are hiring “Head of Hybrid Work” to carry out the coordination with all the involved parties and their corresponding roles. To help ensure everyone feels part of a team, managers and team leaders should focus on limiting the affinity bias so that everyone feels included. Just as important is using human-centered collaboration skills to level the playing field.

2D Video fatigue is real.

And that having been said, 2D video meeting fatigue is real and digital meetings (and learning!) are often for this reason ineffective. The best way to level the playing field is to step into a virtual one.

The duty of care and loyalty.

The state of emergency is over. No excuse for poor performance or not carrying out mutual obligations in work relationships. Covid has made the professional world change. It triggered progress before the legal world was ready. However, the situation is different now. And different when hybrid work becomes an intentional alternative form of work. Because this also means that the meta-coordination requires legal foresight. The foresight that not offering hybrid work equally to everyone will end in a lawsuit based on discrimination.

Is it just about the younger workforce?

Especially as many companies are contemplating how to attract the younger generation. By cajoling them into working at their companies with flexible working conditions. This is actually a golden opportunity for the “forgotten” current workforce. If such exciting working

conditions can be offered to new professionals and those working conditions are already possible now, is it justified not to grant hybrid work opportunities to everyone?

Experience makes the (legal) expert.

And in the legal profession, maybe even necessary? And again, experience makes the expert. If you are using a digital tool and haven’t mastered it, then you are probably facing the same problems your clients do. And when it comes to online court hearings, an absolute necessity is to appear with confidence. Sovereign. Skill and experience have an influence on the outcome. In the offline and online world.

Part 3 Enhancing our strengths with Virtual Reality Human-Centered

Upskilling your workforce.

Until recently, virtual reality work has focused on job skills simulation training: flight simulators, safety, procedures, equipment operation, and maintenance. Several large corporations began to carry out studies on how virtual reality might be used effectively for training and coaching leadership, soft skills, and other human-to-human interactions. These studies showed that virtual reality has some compelling benefits and many use cases.

Emotions enforce memories.

Virtual reality offers a unique sensory feeling of presence and enhances the emotional experience of the content. Immersive learning ensures high retention which leads to higher impact and learning effectiveness. One VR trainer puts it this way:

“Using virtual reality makes the abstract into

an emotional experience that can be repeated and improved.”

Accelerate learning.

Price Waterhouse Coopers (PwC) study and report [1] demonstrated this in one of the most comprehensive studies on virtual reality for use in corporate training and learning. The report maintains that VR training will likely be an accelerator that helps drive a new age of corporate training and education by delivering a cost-effective, immersive, and efficient experience to coach employees in soft skills.

Main takeaways.

Some of the main takeaways from the 2020 report:

- Employees using VR completed the training faster and could apply the solutions longer.
- Employees using VR were more confident about using what they had learned.
- Employees using VR had a stronger emotional connection to the content.

Ready for enterprise scale.

People connect, understand, and remember things more deeply when their emotions are involved. VR-trained learners were up to 4 times more focused during training than their e-learning peers and 1.5 times more focused than their classroom peers. When learners are immersed in a VR experience, they tend to get more out of the session and will likely have better outcomes. The PwC report makes a strong case for using VR technology widely and at an enterprise scale. The cost to deploy is also dropping, with the creation of effective VR training programs.

Defining presence in Virtual Space.

The feeling of presence is «a multifaceted term» [2]. Every person has a different perception of reality. The advantage of a virtual space is, that you can work with those different facets, and layers of presence. Because it is a controllable environment. One of the key reasons why psychologists are using virtual reality to study social behavior [3].

4 levels of presence.

You can be present on different levels

- physically, defined by the actual location of your body.
- mentally, which depends on the focus of your mind. Your mind is focused on e.g., reading a book, watching a movie, or listening to music. emotionally, referring to your ability to feel and express emotions.
- and probably some form of subconscious presence also called instinct.

When we enter a virtual space, our perception shifts. Virtual reality goggles allow us to blend out our perception of our surroundings. Mentally, emotionally, and maybe even our instincts.

Design as law of virtual nature.

How deeply you immerse depends on how you enter virtual reality as well as the design of the virtual space itself. The currently most immersive way for the average users is VR goggles or headsets with controllers. They allow you to blend out the surrounding. The experience is enhanced by an audio system close to your ears. The more (photo)realistic the surroundings,

the deeper the feeling of immersion and presence. You still know that your body remains in the real world, but your focus is somewhere else. Your attention becomes more controllable. Today, increasingly affordable technology allows us to manipulate our human perception and abilities in new ways.

Use cases for learning and coaching in Virtual Reality. The power of VR.

Enterprises are beginning to recognize the power of VR and its ability to impact the management coaching and training programs they provide. Using VR in human resources and talent development is on the rise. Tech-based coaching with virtual reality is a great enabler for important leadership capabilities and personal development.

Feedback is critical.

For example, constructive feedback is an essential leadership skill. This is the case 1:1, for motivated teams. This skill is at the core of human-centered company cultures. However, it is common to “practice” such a skill in a live environment where it is a sink-or-swim moment with potentially demotivating results. VR provides the opportunity to cultivate and practice this interpersonal skill authentically with a skilled coach in a safe space. In fact, such experiences can be designed to simulate many kinds of challenging conversations so leaders and managers can upskill, practice, and self-evaluate.

Train your soft skills.

The key is building an attractive setting that is risk-free for hard-to-replicate situations like skillfully navigating a negotiation, conflict, or empathetically dealing with difficult situa-

tions. Virtual reality has been shown to amplify emotional empathy [4]. It can be used as a lever to develop an awareness of biases and stereotypes - why not use VR for diversity and inclusion training? Avatars can easily be adapted to fit the requirements of the VR simulation.

Clients and Customers are not for practice.

Without real-world experience, people often don't get the practice to gain the confidence they need to properly handle highly stressful situations. Can you afford to wait for employees to get better at handling difficult conversations while they “practice” on actual clients, customers, and colleagues?

Get active, confident, and self-aware.

Active experience rather than just passive information.

Increase self-confidence and identify strengths and blind spots from which to develop leadership skills.

Develop self-awareness of biases and stereotypes. Increase empathy by stepping in the shoes of others. Practice with the coach new behaviors and habits outside of the office. Self-awareness is another soft skill in high demand for capable leaders

Tech-savviness is a lifestyle.

Use VR to get strong buy-in and the attention from the new generation of leaders who expect companies to be able to match their tech-savvy lifestyle. Create jobs and value-based opportunities that young people want to grow into. They expect the organizations that employ them to be as tech-savvy as they are and to provide technology options that support their

lifestyles. VR is fun, exciting, and extraordinarily useful.

Virtual Reality is more than a tool.

“A fool with a tool is still a fool”. It is about how the tool is used. For the power of virtual reality to be unleashed, new mental models are essential. As mentioned above, this mental shift is what we call, a New Legal Work growth mindset. Curiosity, adaptability, and a growth mindset mean that you thrive on challenges, and you’re self-reflective. Have you decided to see new things or even failures as a springboard for growth and the development of your abilities? New skills that are to be learned and practiced? People-centered, agile, technology-enabled leadership development can humanize and optimize multigenerational workplaces.

Upskilling legal with Virtual Reality. A use case.

Getting the full attention. This is one of the special features of immersive technologies. And this is what lawyers are trying to achieve, especially in court. The full undivided attention of the judges. Imagine not just presenting your case with words, a few pictures, and maybe a video. Imagine showing the facts in a simulation. A simulation that turns «*the abstract into an emotional experience that can be repeated and improved*». Instead of relying on the fantasy of the humans, you can show them your client’s story.

Once again. This is a skill you need to acquire well beforehand. You really need to know and master your tool. How to use it, and how it can be used and misused. Because your opponent will do. And there is much more to learn.

Feelings are data.

Body language contains a lot of information about a person’s mental state and feelings. We cannot fully suppress our body language. As lawyers, we are very much aware of this. However, in virtual space body language becomes data, when digitally captured. Feelings become data when digitally captured. Most avatars might not be advanced enough to show body language. But the body language of the humans behind the avatars is already captured. As data. Data to be processed and used.

Upskilling in legal is more than just about a confident appearance before the court or a virtual meeting. It is about awareness. It is about knowing the subject matter of law. Human interaction. In all its facets. Offline as well as online.

Notes

- [1] <https://www.pwc.com/us/en/services/consulting/technology/emerging-technology/assets/pwc-understanding-the-effectiveness-of-soft-skills-training-in-the-enterprise-a-study.pdf>
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SPECIAL EDITION

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Special edition based on the articles by serial legal tech entrepreneur and thought leader Arnaud Engelwirt

PODCAST ON WOMEN INNOVATION

LAW OF CH | NEXT GENERATION DOCUMENT DELIVERY & TWO NEW PODCASTS | JUSTICE BID IN THE PICTURE & THE LEGAL OPS DIRECTOR




During Tough Times, Focus on the Low-Hanging Fruit, Your Best Clients!

By Steve Fretzin, President Fretzin, Inc



Imagine that you're standing in front of an apple tree, which is loaded with fresh apples. Some of these apples are literally right in front of your face, while others are way up high in the tree. For the sake of efficiency, which apples do you pick? While the apples at eye level may seem like an obvious choice, many lawyers are still climbing ladders and reaching for the apples that are way out of reach. When discussing low hanging fruit with my lawyer clients, I always start with a discussion of their existing clients. Our goal is to uncover opportunities, which will produce the highest possible value for the time invested.

As we all know, before you can begin selecting apples you must first plant the seeds and water the trees. As this relates to leveraging existing clients, there is a myth that must be eradicated



first. The myth is simple; if you service your client properly, they will be loyal to you. If you believe this for even a moment, welcome back to the '80s!

Times have changed and so must you in the way you manage your client relationships. Statistically, it's six times more work and energy to find a new client rather than to keep an existing one. That being said, we all have to step up our game to insure that client loyalty is developed with intent. One of the best ways to accomplish this is to develop a client retention and loyalty plan.

Before groaning at the idea of writing a plan, I assure you this shouldn't take more than an hour to accomplish and can make the difference between success and failure in maintain-

ing and building your law practice. Here are the three important elements of a client retention and loyalty plan:

Step #1: Develop a list of your key clients and rank them as an "A, B or C" client. As I stated earlier, all clients are not created equal, so be careful in how you rate these folks. I suggest three qualifiers for determining what makes up an "A, B or C" client. Ask yourself questions about each client and BE HONEST.

- How good is my relationship?
- Is this a relationship that I can develop and expand?
- Are we friends socially or is our relationship more transactional in nature?
- Does she call me for general business advice or just about the deals?

- Have I helped my client in ways beyond providing legal advice?

Next, try to determine how much opportunity the client has to grow or how connected this client may be.

- Does she have a solid network of decision makers that she can introduce me to?
- Is her company growing and expanding?
- Are there opportunities to cross-market and share work with my partners?

The last factor in determining who to invest the most time with relates directly to the amount each client has invested with you and your like or dislike of this client.

- Does this client invest a significant amount of dollars with you or did they invest almost nothing a few years ago?
- Was this client a complete nightmare to deal with?
- Did the client cost my firm money due to poor follow-through?
- Did the client continually question and argue my rate?

Based on these three factors and any others that you believe to be important, invest 20 minutes to create a master list of your top A, B and C clients so that you can move on with step two of this plan.

Step #2: What you are going to do here is to develop a list of contact and relationship building points to help ensure that we are investing the right amount of time with the right clients. Based on their ranking, you are going to do more for the high ranked clients and less

for the lower ranked clients. To be clear, if you have a “B” that you want to make an “A” then be sure to increase the amount of touch points with that specific client. Here are a few examples of different touch points that you can use to develop stronger and stickier relationships:

- Schedule a lunch or coffee meeting with your client.
- Go out for drinks and get to know one another better.
- Send a card on her birthday and for the holidays.
- Take your client to a game or concert. (It’s important to know what she’s into.)
- Call your client to see how you can help her business.
- Email or call your client to congratulate her on something she’s accomplished (business or personally).
- Email your client with an article that is relevant to her business. (You can use RSS feeds for this. Look it up.)
- Invite your client to a firm event or another high level networking event.
- Be a resource for your client. Find her a new vendor, strategic partner or an actual new client.

Use these ideas as a guideline to create your “A” column, where a number of these type activities would be used. The “B’s” would receive less contact and the “C’s” less again. For example, you might want to have lunch with your “A” clients four times a year, call each one monthly, email each one monthly and find a solid contact for her twice a year. Again, the “B” clients would get less of your attention and time, unless you want to make that client an “A-lister.”

These are just a few of the many things you can do to stay in constant contact and help ensure longevity with your clients. The side effect of this activity will be to open up more doors for additional business and much needed referrals. The stronger the relationship becomes, the less likely it is that a client will leave over price and the more open to referrals she will become.

Step #3: Scheduling time to execute on your plan is paramount to your success. While it's great to set up a plan like this, it's not worth the paper it's written on if you don't implement it. My best suggestion here is to find 30 to 60 minutes a week and schedule time as "client loyalty and development time." Without making the time and setting it aside it will never happen for you. There will always be work and distractions keeping you from this important task. Look at your calendar and find a spot weekly where you are least likely to be distracted or busy. You can even do some of this work on the train, in the evenings or on the weekends.

Choosing between retaining and developing relationships that already exist and have high potential for growth OR attending local networking events to essentially meet groups of strangers, which is a better use of your valu-

able time? There may be value in both activities, investing time with people who already know, like and trust you will typically bear fruit much more quickly.

For more information on business planning and career growth, please visit my website at www.fretzin.com or email me directly at steve@fretzin.com.

About the Author

Driven, focused, and passionate about helping lawyers to reach their full potential, Steve Fretzin is regarded as the premier coach, skills trainer, and keynote speaker on business development for lawyers.

Over the past 18 years, Steve Fretzin has devoted his career to helping lawyers master the art of business development to achieve their business goals and the peace of mind that comes with developing a successful law practice. In addition to writing four books on legal marketing and business development, Steve has a highly-rated podcast called, "BE THAT LAWYER."

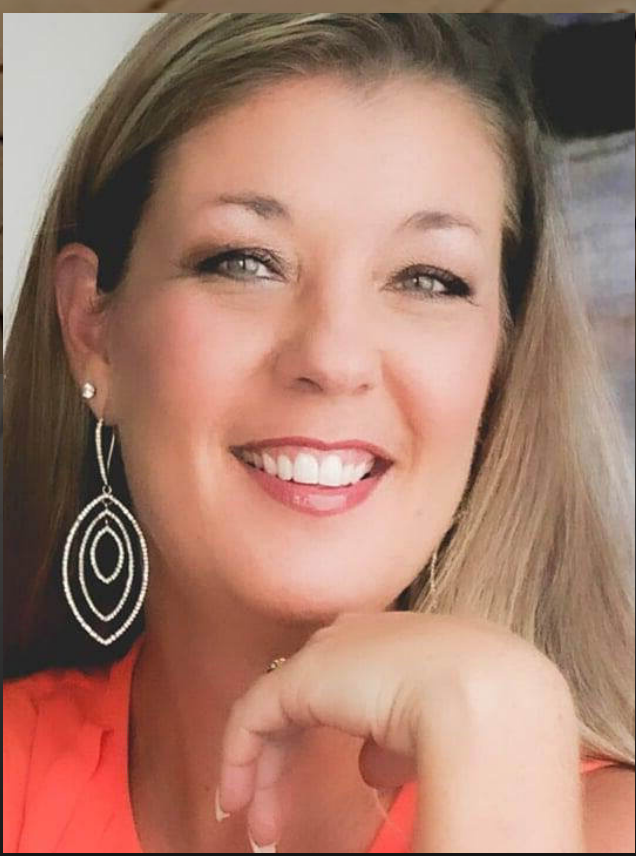
When not busy helping ambitious attorneys to grow their law practices, Steve enjoys fishing with his son, playing many racquet sports, and traveling with his wife.



**Bringing Transparency to
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Law Firm Marketing – Post Pandemic *Evolve or Die*

By Melissa “Rogo” Rogozinski, former litigation paralegal, legal technology sales executive, guest speaker, CLE presenter and trainer, and entrepreneur



The COVID-19 pandemic changed the way the world does business, including the business of running a law firm. Pre-pandemic marketing techniques no longer deliver the number of leads or the depth of interest among clients they once did. Instead of developing a firm’s brand by focusing on the firm’s attributes and using “wide net” marketing strategies with hopes of appealing to a general audience of potential customers, the post-pandemic reality offers growth opportunities only to those who adapt their marketing approach to fit the new environment in which the law firm’s customers now live.

Pre-Pandemic Marketing – The Old Game Plan

Law firm marketing has always needed a special approach because the nature of the product, quality legal services, called for a presentation



that communicated competence and solemnity without appearing to be a sales pitch. Many firms produced polished brochures highlighting their lawyers' resumes and outlining the services the firm provided. Some firms shared the names of current and former clients whose patronage would impress prospective clients.

Other firms purchased advertising in trade publications, leased billboards, or ran conventional media ads. And some of these plans were successful promotions, to an extent.

The overall pre-pandemic strategy could be described as "Product and Service Focused."

Pandemic Buying-The Evolving Game Plan

But the pandemic changed the law firm marketing landscape like a tectonic plate collision. The shift to an online-dominant business environ-

ment may have been inevitable, but its global scope and the pace at which the transition occurred surpassed even the most exuberant predictions.

A Pew Research study revealed that 90% of U.S. adults say the internet was "essential or important to them personally" during the pandemic; 81% engaged in video conversation since February 2020; and 40% used digital technology in either new or different ways during the pandemic, compared to before the outbreak. [1]

While your law firm has an internet presence, your competitors are also on the web, and their number has multiplied exponentially. Distinguishing your firm and your services from others who are only a "click" away is the new challenge that can stunt your firm's growth if an effective post-pandemic marketing strategy is not adopted.

Post-Pandemic Marketing—The New Game Plan

There's no roadmap to get from an ineffective pre-pandemic marketing strategy to the post-pandemic, client-centric, engagement-maximizing marketing system, but these are some key points to think about as you implement the changes in your law firm approach to sustained growth.

Moving from Product-Centric Marketing to a Client-Centric Strategy

Post-pandemic law firm marketing focuses on the prospective client and their needs instead of spotlighting the firm and its past accomplishments. Targeting new clients with more precision requires a deep understanding of key client characteristics that are common to your ideal clients.

Identify Your Ideal Client's Persona

Is your client a nebulous, faceless, generalized being? No! Then think about who they are. Understanding the clients in your target market means knowing what they need. Driving revenue growth in the post-pandemic environment means identifying your clients' characteristics before you meet them:

- What do they do? Think about who's running things in the new post-pandemic economy.
 - ✓ What role do they play in their business or organization?
 - ✓ Are they the decision maker or a decision influencer?
 - ✓ Are they older or younger than you?
 - ✓ What is their work-life balance? Married? Parent? Single? Driven worker?

- ✓ Where do they obtain their information?
- What are their major goals and challenges?
 - ✓ What is your client trying to accomplish?
 - ✓ What stressors are they dealing with?
 - ✓ What are the most difficult objectives for them to accomplish?
- What communication method works best for that person?
 - ✓ Does the client favor in-person meetings, phone calls, video calls, email, or texts?
 - ✓ Do they prefer frequent updates or more less frequent, more comprehensive conversations?
- What are your client's pain points?
 - ✓ What are the obstacles they confront in their operations?
 - ✓ What problems do they need help solving?
 - ✓ What will you do to address those pain points?
 - ✓ How will you get them to know you can ease those pain points?
 - ✓ What information will catch their attention or interest them?

Building a persona is an exercise in constructing a working image for your hypothetical client. Once you begin to work with the persona, you will find you are thinking of the clients as real people with whom you can build a relationship. The process will help you start to frame your messaging to those client more precisely.

Engage in Thought Leadership for Growth

Thought leadership is one of the clearest illustrations of how distinctly post-pandemic law firm marketing strategies have evolved from the old, pre-pandemic approach to growing a law practice. Thought leaders demonstrate their expertise and build their reputation as authorities within their field by creating insightful and useful content to meet the needs of prospective clients. They write authoritative pieces or lecture about solutions to problems their target client face regularly.

Instead of telling prospective clients what the law firm *can do* to help them solve their problems, thought leaders use various media to communicate relevant, useful information that clients recognize as having *immediate value*.

Reveal the solutions to the prospective clients' problem; don't promise to reveal solutions only if the client hires the firm. Proving your mastery of a legal topic in a series of op-eds or during LinkedIn video presentations encourages prospective clients to rely on your expertise as resource.

Connecting with ideal prospective clients can be achieved by publishing blog posts, articles, or whitepapers focusing on topics of special interest to your client persona. Other thought leadership opportunities include participating as a panelist or seeking opportunities to become a guest speaker at a conference of clients who fit your client persona. Find scheduled meetings and events attended by the consumers of your legal services. Discover their pain points and share your specific methods of reducing their struggle.

If you pass up opportunities to create knowledge resources for your target audience, then you are inviting your competitors to take the lead as your community's most credible authority in your practice area.

Adapt to Client-Centric Law Firm Marketing Means Post-Pandemic Growth

Leaving behind the static law firm marketing techniques of the pre-COVID era is essential to grow your law firm in the digitally dynamic marketing environment that emerged during the pandemic. No law firm or other business can afford to wait for clients to find them. The new paradigm requires law firms to actively seek connections with targeted clients whose specific needs they can meet and whose pain points can be remedied by the firm's services and expertise in a selected practice area.

NEXT MONTH'S LAW FIRM MARKETING GUIDE: Making LinkedIn Your Favorite Client Source.

Notes

[1] *The Internet and the Pandemic*, Pew Research, <https://www.pewresearch.org/internet/2021/09/01/the-internet-and-the-pandemic/> (retrieved August 17, 2022)

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Elliptic Curve Cryptography in Blockchain Technology

By Elif Hilal Umucu, Chainlink Labs



Abstract

Blockchain technology has a significant impact in many areas. With the emergence of Bitcoin, cryptography is an important concept for blockchain technology, which has made a name for itself in the world. Cryptography is the core of blockchain technology. All transaction information is encoded in blocks that are interconnected and form the structure of the blockchain.

In this study, the mathematical and cryptographic foundations on which cryptocurrencies are built are examined in detail in terms of cryptography. Especially about Elliptic Curve Cryptography, Blockchain Technology has been discussed and the encryption method of this cryptography has been examined in detail.

The general purpose of this article is to give an overview of the elliptic programming method and to analyze the cryptographic programming methods used by Blockchain, to design elliptic curve keying using Python.

I. Introduction

It is known that there was a "value record" even in the times when there was no money going back to ancient times. Transactions and swaps have always been recorded in history. However, a publicly accessible registry/registry mechanism is always a major problem in itself. How to secure a publicly accessible registry? While these data sometimes consist of economic, material and financial data, sometimes they consist of sensitive and personal data. This situation brings with it a trust problem about what to do if the recorded books are passed to unreliable third parties.

The process of listing and describing the assets and transactions in finance is called single-entry bookkeeping. In case of any distinction between liabilities and assets, if the sums of both parties are equal, this book is called double-entry bookkeeping. The issue of three-entry bookkeeping, brought with it by double-entry

bookkeeping, has become a tradition that has been going on for years.

As you know, developing technology has replaced traditional recording systems with great innovations and offered better solutions. Instead of using slow and risky systems based on trust, systems in which control and trust are given to technology are becoming widespread. Normal notebooks have started to be replaced by computer networks and nodes, and the use of paper has decreased automatically over time.

When these features are mentioned, the first technology that comes to mind will be Blockchain technology. This technology, in which digital media and data transfer are shared over the network and encrypted all over the world, has changed the concept of trust.

Network participants in the blockchain ecosystem contribute to the blockchain system and all changes are recorded throughout the ledger network. The security is cryptographically protected by miners who decipher complex hash sequences. These contributions make

distributed ledgers preferable for reliable payment networks without any middleman or center. During the use of blockchain technology, users will have access to public and private keys, and then they will need to have crypto wallets to keep these private keys safe and process transactions. The private key is the owner's identity, nickname and private password, similar to a personal signature in a distributed network. When sending money during any transfer, the record of the transaction is signed by private keys to maintain authenticity, integrity and non-repudiation verification. The receiver will use his/her private key to decrypt the message encrypted by the sender with the receiver's public key.[1] Cryptocurrency wallets enable these transactions and provide secure tools for private keys.

Cryptography, in its simplest terms, is the definition of different methods and technologies used to ensure that the communication between two parties over any communication medium is secure, especially in the presence of a third party. This technology is achieved by using different methods such as encryption, decryption, signing, pseudo-random numbers generation. Cryptography encrypts or uses a key or a code to decrypt a message that must be kept secret.

II. Blockchain Technology

Blockchain is a digital ledger that keeps track of transfers and transactions using a peer-to-peer network as described above. Blockchains can be public blockchains or closed blockchains

depending on whether being a node in the network is restricted.

The first blockchain-based protocol emerged as the cryptocurrency Bitcoin. Since its emergence, multiple uses of blockchain technology have been proposed and implemented. Understanding the working mechanism of the Bitcoin protocol greatly simplifies understanding the various alternatives that have been developed since then. Bitcoin can be defined as a digital ledger maintained via the blockchain in a decentralized peer-to-peer network, where nodes (networked devices) update the ledger and acquire block mining rights through a Proof of Work (PoW) mechanism.

Therefore, it is essential to understand the concepts mentioned above in order to properly understand Bitcoin and most blockchain applications in general. So, what does Bitcoin mean as a ledger, what a decentralized peer-to-peer network means, how cryptography is implemented in the protocol, and what Proof-of-Work (PoW) means is the answer to the question of what industries and for what industries Blockchain technology will be used in the future. In the process of explaining these concepts, besides how blockchains work, their cryptographic operations will be pointed out.

To briefly express the transactions,

- The transactions in the blockchain data register are copied and sent to all nodes in the distributed network.
- The posted ledger is the same at every node and cannot be changed retrospectively.

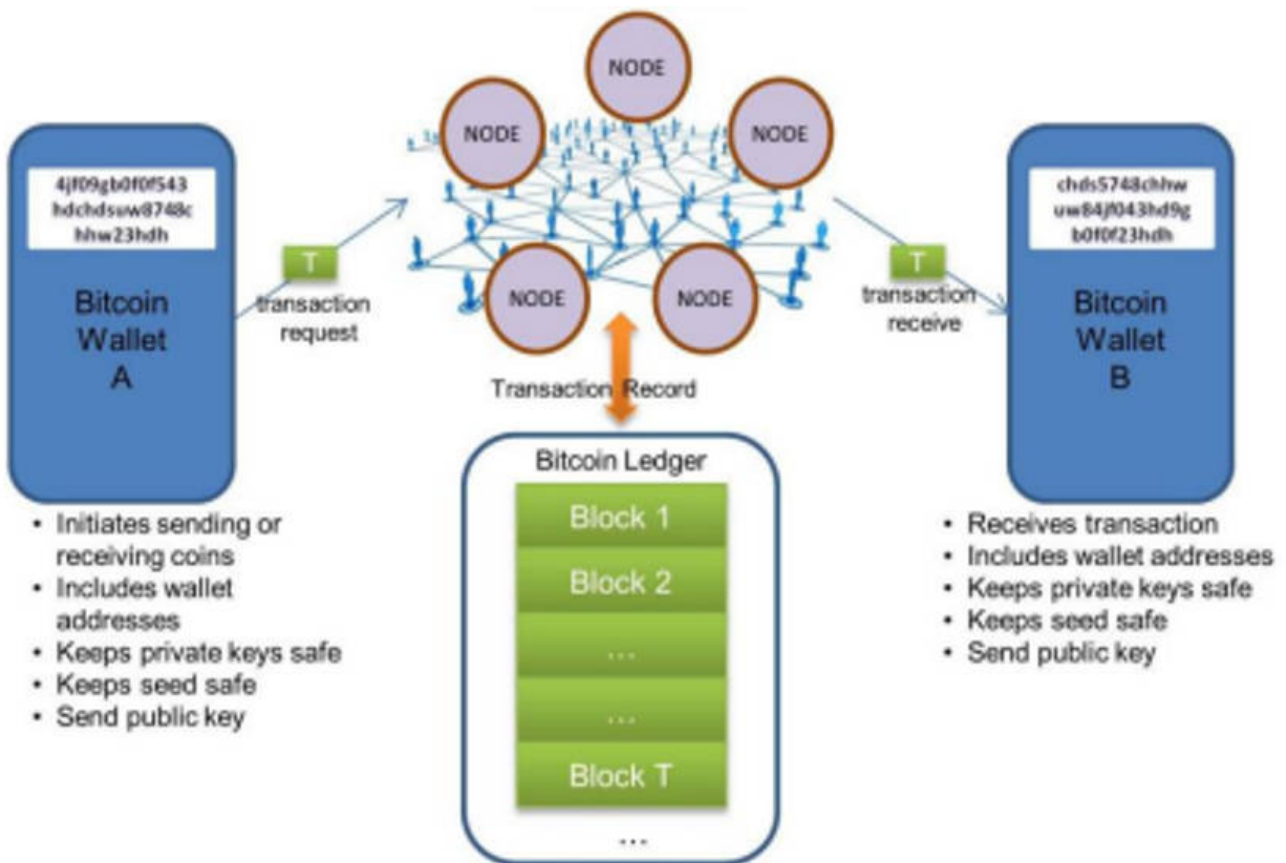
- A transaction created by a node in the blockchain is signed using a digital signing algorithm.
- It is then sent to all nodes for validation.
- At the same time, these unconfirmed transactions are held in a pool.
- In the blockchain network, nodes that both verify and create blocks are called miners. Mining nodes take transactions from this pool and verify them and add them to the block to be created.
- By using consensus methods, it is determined which node will broadcast the block to be added to the chain.
- The identified miner sends the block to other nodes for verification.
- The verified block is added to the end of the blockchain.

A. Peer-to-Peer network

“The term peer-to-peer is a generic label assigned to network architectures where all the nodes offer the same services and follow the same behavior” (Cornelli et al. 2002).

Peer-to-peer (P2P) networks are basically interconnected node systems in which each node in the network acts as a server and all nodes share a set of rules and maintain a common service.

P2P services include file sharing, bandwidth sharing, streaming and application sharin with other peers. [2] Generally, nodes in a peer-to-peer network operate as both service providers and clients. Because of this server-client duality, the nodes of a P2P network are also called servers.



- Initiates sending or receiving coins
- Includes wallet addresses
- Keeps private keys safe
- Keeps seed safe
- Send public key

- Receives transaction
- Includes wallet addresses
- Keeps private keys safe
- Keeps seed safe
- Send public key

Most blockchains use open P2P networks that record and verify transactions in a decentralized manner. In this way, protocols will be able to keep track of property rights without a central third party. When we examine Bitcoin, we can see that the P2P network consists of two types of nodes: full nodes that store a copy of the entire blockchain, and Simple Payment Verification (SPV) nodes that store only the block headers. To join the network, a client connects to some fairly randomly chosen nodes and asks them to send the missing data to it. In the case of a new full node this will be the entire blockchain.

B. Blocks

A blockchain is a collection of data blocks containing transactions and transfers. Each block is linked to the previous block, so changing one block will separate it from all subsequent blocks. This feature actually indicates that in order to make changes to any block, all subsequent blocks must be re-mined. Mining is time consuming and costly. [3] Therefore, as the number of subsequent blocks increases, it will become exponentially more expensive to replace one block and subsequent blocks.

Blocks consist of three main elements:

1. the reference number of the previous block,
2. a list of transactions,
3. a nonce number generated for that block.

These three elements are used together as inputs in a function that outputs the reference number of the block.

As explained above, the blocks are chained together as this reference number will then be used as the first element of the next block. The reference number of each block is called the hash number of the block as it is the output of a hash function.

C. Transactions

We can say that Transactions is the framework of the payment system in Bitcoin because transactions are the system itself. A bitcoin itself is nothing more than a chain of transactions that can be traced back to the coin transaction that created that value. In this technology, each transaction made consists of inputs that refer to previous transactions and outputs that indicate where this value goes. [4] Each transaction must spend all its inputs. The differences between the input values and the output values are given as a transaction fee to the miner who blocked the transaction. [5]

Output operations specify a value and a script. This script must be validated before the value can be spent. This means that the input processes also include a script of values, which will validate the output script of the process they reference. Among them are several widely accepted output scripts: P2PKH or slightly more complex (P2SH) scripts. Simpler P2PKH scripts. Simpler P2PKH scripts essentially.

D. Private Key

When you want to make a transaction, you set up a wallet and the first step you need to do when you set up a wallet is to generate your private key. Your private key is a very large

random number 256 bits long. This number is so large that you can assign a unique private key to almost every atom in the observable universe. Your private key should be as random and complex as possible. Generating random numbers may be more difficult than it may seem, but this step is essential for the security of your funds and transactions.

In cryptography, only the party exchanging secret messages knows the private or secret key, i.e. the encryption/decryption key. The biggest disadvantage of this system is actually its biggest security. In the event that someone loses or steals the key, disruption of the system entails a personal responsibility.

For example, (A) wants to send a message to (B) where both (A) and (B) share the same key for an encrypted message. If (A) has shared XORs her message with the secret key, then (B) also needs the XOR message with the (same) secret key to decrypt the message.

E. Public Key

The next step is public keys. Your public key is derived from the large random number you generate as your private key. (This is the most important part in elliptical axis cryptography, this is where we have to multiply the points on the curve).

The public key allows to receive cryptocurrency transactions and transfers. A public key is an encryption code paired with a private key. While anyone can send transactions to the public key, you need the private key to "unlock"

them and prove that you are the owner of the cryptocurrency received in the transaction. The public key that can receive transactions is usually an address, which is the abbreviation of your public key. It is possible to compare this situation to e-mail addresses and local bank account number (IBAN) information. There should be no worries when sharing public keys. In a cryptocurrency transfer in the blockchain ecosystem, accounts communicate with public keys.

F. Hash Functions

A true cryptographic multi-tool, hash functions are widely used in computer science and cryptography in a wide variety of different contexts. They can be used to check the integrity of the content of some files and also as an ID for some pieces of data. The basic idea in the concept of hash is that the function takes some long string of data and produces a short fixed-length hash or message digest corresponding to the input string. In the context of cryptography, it is common to require hash functions to meet some other properties, as outlined by Gauravam and Knudsen (2010):

1. *preimage resistance* (also known as obfuscation property or unidirectionality) means that if we are given the output of a hash function, we will not be able to find the input value that produced it.

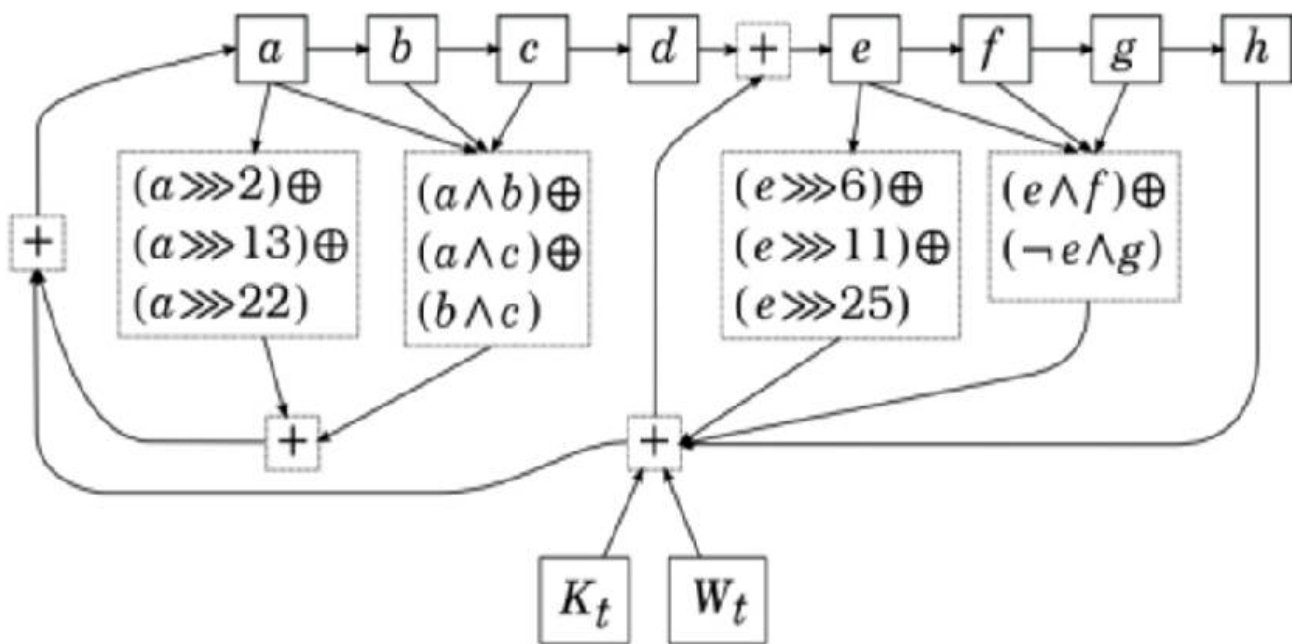
2. *second preimage resistance* means that once we know an input value m , we cannot find another input m_0 such that $H(m) = H(m_0)$.

3. *collision resistance* is a stronger requirement than the previous. It is asked that it is not possible to find any m and m_0 with the same value.

It's enough if the hash computation is such that it takes an excessive amount of computation to find one. Similarly, for the front display resistor (feature 1), one could theoretically iterate over all possible input values to find the right one. To process arbitrary-length inputs into a fixed-size output, hash functions use a system known as compression functions. One way that this result is achieved is by means of the so-called Merkle-Damgård construction.

This involves splitting the initial message into fixed length blocks, padding (adding, for instance, zeroes to achieve desired length) as necessary, and passing the message through the compression function one block at a time along

with the hash of the previous block. The figure below presents the compression function that is used in the SHA-256 algorithm (Secure Hash Algorithm) [6] specified in FIPS 180-4 .[7] Here, solid boxes represent 32-bit variables used in the calculation ($a - h$, W_t and K_t) and dashed boxes operations on those variables. Arrows depict the movement of values between variables (assignments), sometimes involving changing the variables through some operations. Variables $a - h$ hold intermediate values, K_t is a constant, one of sixty-four that are defined in a somewhat arbitrary manner, and W_t is a value that is derived from the message block being processed via some bit operations. This compression function is run sixty-four times on each 512-bit block of the message, with a different value of K_t and W_t each round. Additions are performed modulo 2^{32} , the \oplus -symbol denotes the bitwise exclusive-or (XOR) operation and \gg bitwise right rotation



III. Cryptology

The subject of communication that describes the design and use of encryption, which includes the methods and principles that transform any message into an incomprehensible form and convert the incomprehensible encrypted message back into an understandable message, is called cryptology. Cryptology is divided into two parts:

- Cryptography
- Cryptanalysis

Cryptography [8] is a science that studies information security. Studies on mathematical methods dealing with information security issues such as reliability, data integrity, and authentication are the most important subjects of cryptography. These methods also include problems that may be encountered during the transmission of information. Therefore, cryptography aims to protect the information and, together with this information, the sender and receiver of the information. The purpose of cryptanalysis is to obtain the content of an encrypted message (finding the unencrypted message). Therefore, secret keys are always used to control the encryption process.

There are some security concepts that can be expected from the communication systems used in order to be able to say that an information will be transmitted securely or that the information obtained has been obtained securely:

- *Confidentiality* (privacy): It is to keep the information confidential from everyone except those who are authorized to see it.

- *Authentication*: It is the guarantee that the sender of a transmitted message is really the sender.
- *Data Integrity*: Integrity is the guarantee that the entire connection or a single piece of data is as it was sent, and that no changes, additions or rearrangements have been made on it.
- *Non-Repudiation*: The receiver or sender cannot deny the transmitted message. Thus, when a message is sent, the receiver can prove that the sender sent the message, and similarly, the sender can prove that the receiver received the message.
- *Access Control*: It is the guarantee that unauthorized people or applications will not be able to access the resources they should not access. In the context of network security, access control is the ability to control and limit access to host systems.

A. Cryptographic Algorithms

All modern algorithms use a key to encryption and decryption; a message can be decrypted only when the key used matches the encryption key. During encryption, two different methods can be used, keyed and keyless. Hash functions [9], compression functions are examples of keyless methods. Keyed cryptosystems can be listed under two main headings:

- Symmetric-key encryption (or secret-key encryption)
- Asymmetric encryption (or public-key encryption)

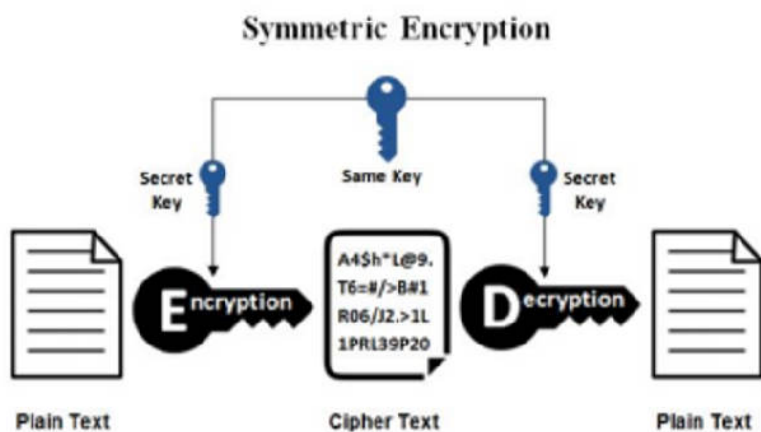
1. Symmetric-key Encryption

In symmetric encryption algorithms, a single

secret key is used to encrypt and decrypt the message. After performing the encryption operations, while sending the ciphertext to the receiver, it must securely send the secret key along with the ciphertext to the receiver. Symmetric encryption algorithms are widely used today because they can perform very fast encryption and decryption operations.

These are symmetric encryption algorithms :

- Blok-cipher Algorithms (AES, DES, IDEA, Skipjack, RC5 ...)
- Stream Encryption Algorithms(RC2, RC4...)



2. Asymmetric-key encryption

In public-key cryptosystems, or in other words, asymmetric encryption, each party uses a key pair called public (A) and secret (B). The a used as the encryption key need not be secret. The basic idea behind public-key cryptography is that the public key (A) is hard to find, even though the decryption key (B) is given. Public key

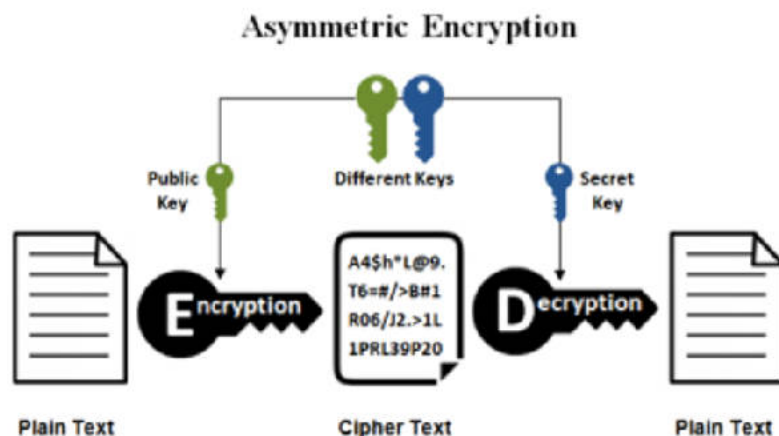
systems are used in applications such as digital signature and key exchange protocols[10].

These are asymmetric encryption algorithms:

- RSA
- El Gamal
- Elliptic Curve Systems
- Diffie-Hellman Key Determination
- Code-based Cryptosystems

IV. Elliptic Curve Cryptography

Elliptic curve ciphers were first proposed independently by Victor Miller and Neal Koblitz in the mid-1980s. At a high level, they are analogues of existing public-key cryptosystems in which modular arithmetic is replaced by operations defined on elliptic curves. As with all public-key cryptosystems, the security of elliptic curve cryptosystems relies on difficult mathematical problems at the core [11]. Given two points G and Y on an elliptic curve such that $Y = kG$ (ie, Y is G added to it k times), find the integer k. This problem is often called the elliptic curve discrete logarithm problem. Currently, general methods of calculating discrete logarithms of elliptic curves are much less efficient than traditional methods of factoring or calculating discrete logarithms [12].



Elliptic curves are not ellipses. They are named that way because they are represented by expressions similar to the cubic equations used to calculate the circle of an ellipse. If we consider a K field, it can be K, R Real numbers, Q Rational numbers, C- Complex numbers, or if we assume that p is a prime number, it can be F_q - finite field consisting of $q=pr$ elements. The characteristic of the finite field $GF(2)$ is 2, and the characteristic of real and complex numbers is infinity. [13]

As a result, shorter key sizes can be used to achieve the same security of traditional public key cryptosystems, which can lead to better memory requirements and improved performance. In general, the best attacks on elliptic curve discrete logarithm problems have been general brute force methods. The lack of more specific attacks means that shorter key sizes for elliptical cryptosystems appear to provide similar security as much larger keys that can be used in cryptosystems based on the discrete logarithm problem 5 random special values a and Bob generating a random special value b. Both a and b are integer factorizations. There are more effective attacks for certain elliptic curve options.

Uses of elliptic curve cryptography [14] :

- To generate the keys used,
- To sign messages,
- To verify the signature on a message.

Let's add itself to the number 1 in an object. If $1+1 = 0$, then the characteristic of this object is

2. If $1+1+1 = 0$, then the characteristic of this object is 3. In general, if $1+1+1+.....+1 = 0$, then the characteristic of the object is n.

If the number 1 itself can be added infinitely in the object, then the characteristic of the object is 0. For any body K, the general equation of the elliptic curve is:

$$y^2 +axy+by= x^3 +cx^2 +dx+e$$

If the characteristic of object K is , $Char(K) = 2$, the result:

$$y^2 +ay= x^3 +bx+c \text{ veya } y^2 +xy= x^3 +ax^2 +b$$

If the characteristic of object K is $Char(K) = 3$, the result:

$$y^2 = x^3 +ax^2 +bx+c$$

If the characteristic of the object K is $Char(K) \neq 2$ or 3, then $y^2 = x^3 +ax+b$. We use Affine Transforms for each equation, and the x,y,a,b,c,d and e values in this equation are also located above the K object [15]. We can call the equation E elliptic curve equation, which satisfies any of the conditions mentioned above, is located in the K field and consists of the set of (x,y) points [16].

$y^2 = x^3 +ax+b$ the numbers a and b in this equation are real numbers and $4a^3 +27b^2 \neq 0$ must be so that $x^3 +ax+b$ does not have multiple roots. If it satisfies these conditions, we say that $y^2 = x^3 +ax+b$ is an elliptic curve. There is also an O notation in the definition of the elliptic curve, called infinity or the zero point, which we will explore in more detail later.

Equations of this type are called cubic because the largest degree exponent is 3.

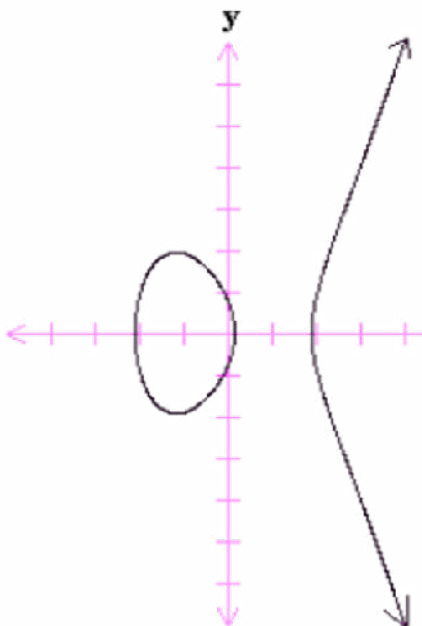
Let K be a field of characteristic $\neq 2,3$, and let $x^3 + ax + b$ (where $a, b \in K$) be a cubic polynomial with no multiple roots. An elliptic curve over K is the set of points (x, y) with x, y which satisfy the equation: $y^2 = x^3 + ax + b$

Together with a single element denoted ∞ and called the “point at infinity”;

If K is a field of characteristic 2, then an elliptic curve over K is the set of points satisfying an equation of the type either $y^2 + cy = x^3 + ax + b$ Or else $y^2 + xy = x^3 + ax^2 + b$ (here we do not care whether or not the cubic on the right has multiple roots) together with a “point at infinity” ∞ . [17]

If K is a field of characteristic 3, then an elliptic curve over K is the set of points satisfying the equation: $y^2 = x^3 + ax^2 + bx + c$

The graph of the elliptic curve equation given as $a=-4$ and $b=0.67$:



This graph is the elliptic curve of $y^2 = x^3 - 4x + 0.67$

If the 3 points of an elliptic curve lie on a straight line, they are summed up as the O infinity notation. Starting from this explanation, we can define the following rules for an elliptic curve:

1. For any point P on the elliptic curve,
2. $P+O=P$. If a vertical line intersects the elliptic curve at two points $P_1=(x,y)$ and $P_2=(x, -y)$ for the same value of x , that line is also intersecting the elliptic curve at the point of infinity. So $P_1+P_2+O=O$ and $P_1=-P_2$. So the negative of a point is a point on the x -axis with the same value, and the value of that point on the y -axis is the negative of the first point.
3. When we select points Q and R with different x coordinates and draw a straight line through these two points, we find the third point of the intersection, P_1 . There is only one point P_1 (if the line we have drawn is tangent to one of the points Q or R , then we get $P_1=Q$ or $P_2=Q$). In this case, $Q+R+P_1=O$ and hence $Q+R = -P_1$.

For example, when P is $Q \in EF(a,b)$ and $k < p$, let $Q=kP$. While it is relatively easy to calculate the value of Q given k and P , it is indeed very difficult to calculate the value of k given Q and P , and this problem summarizes the elliptic curve problem.

V. Elliptic Curve Cryptography in Python Programming Language

The ECDH protocol can be implemented in the

the Python programming language, for this case the Python programming language has the Elliptic Curve Library.

The tinyec library will be used for ECC in Python.

```
###
pip install tinyec
###
from tinyec import
import secrets
def compress(publicKey):
return hex(publicKey.x) + hex(publicKey.y % 2)
[2:]

curve = registry.get_curve('brainpoolP256r1')
Ka = secrets.randbelow(curve.field.n)
X = Ka * curve.g print("X:", compress(X))
Kb = secrets.randbelow(curve.field.n)
Y = Kb * curve.g print("Y:", compress(Y))
print("Currently exchange the publickey (e.g.
through Internet)")
#(A): represents person A
#(B): represents person B
A_SharedKey = Ka * Y
print("A shared key :",compress(A_Shared-
Key))
B_SharedKey = Kb * X
print("(B) shared
key :",compress(B_SharedKey))
print("Equal shared keys:", A_SharedKey ==
B_SharedKey)
```

VI. Example

We consider here that the secret keys KA and KB are generated randomly by sender (A) and receiver (B) using the code explained in the

previous section. Therefore, the randomly generated keys KA and KB are given by

```
KA = 1b66c808e6b5be6d6620934bc6f-
fa2b8b47f 9786c00
2bfb06d53a0c27535641a5d1 KB=
1c7d15195432d1ac7f38aeb054d07d9b2e1-
faa913b7
Do8a4d5efd4a1ee8d9a31916d53a0c27535641a
5d0d1
```

Let us assume that (A) and (B) pre-agreed with the point Q given by

```
Q=(0xd458e7d127ae671b0c330266d24676935
3a012073e97acf8,
0x3259305sfgr211f 446bddc050cf 7fb11b
5673a1645086df 3b)
```

When (A) send the point $X = KAQ$ to (B) and (B) shared the point $Y = KBQ$ with (A) then the generated secret key is shared between (A) and (B) . This secret key is common for both the users and is given by

```
KS=0x94f5a1cf2ed1dbb4322178df6bb4d-
d742c541884618b2989a3e5e66319 667a640
```

The elliptic curve which is being used for the ECDH calculations is 256-bit named curve brainpoolP256r1(uses Diophantine equation for the generation of points). The private keys are randomly 256-bit (64 hexadecimal digits) . The public keys and shared keys are 257 bits (65 hexadecimal digits , 256 bit due to key compression). Due to randomization the secret keys KA and KB are different but the calculated shared secret key between (A) and (B) will always be same.

VII. Conclusion

Encryption is defined in academic literature as the process of converting a plain text into randomly generated nonsense text called ciphertext. Decryption is defined as the conversion of ciphertext to its original form. The purpose of every encryption and decryption algorithm is to secure data and protect it from attacks.

Mathematics and cryptography appear in all areas of life, even if we do not realize it. Even when we share data on social media, use an end-to-end secure application or enter the Blockchain ecosystem by making crypto money transactions, we are actually within the domain of cryptography.

In this study, we examined elliptic curves over a finite field with cryptographic applications. We implemented the elliptic curve cryptography and key sharing algorithm in python by explaining it with computer code. The algorithm in the elliptic curve of a key shared between (A) and (B) can be explained and coded with the python programming language. We see that defining an elliptic curve over a finite area gives us more security. So, let's define an elliptic curve on Z_p (where p is a prime number). When you choose p as a large prime number, it means that the ciphertext is very difficult to crack.

Notes

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[3] D. Appelbaum and R. A. Nehmer. Designing and Auditing Accounting Systems Based on Blockchain and Distributed Ledger Principles. Presented at 40th World Continuous Auditing & Reporting Symposium - Newark, NJ, 2017.

[4] Cryptocurrency Wallet Guide: A Step-By-Step Tutorial, 2017. URL <https://blockgeeks.com/guides/cryptocurrency-wallet-guide/>

[5] C. Allen et al., "Decentralized public key infrastructure - a white paper from rebooting the web of trust," www.weboftrust.info/downloads/dpki.pdf specify a public key that is verified by its digital signature in the transaction. P2SH scripts point to another script that can be used to enforce additional conditions to spend this value, such as confirmation by multiple parties (Narayanan et al., 2016).

[6] R. McMillan. Want Cheaper Bitcoins? Hit Someone With a DDoS Attack, December 26, 2013. URL <https://www.wired.com/2013/11/ddos-bitcoin/>

[7] Full Drive Encryption international Technical Community. collaborative Protection Profile for Full Drive Encryption Authorization Acquisition, February 1, 2019. are performed modulo 2^{32} , the \oplus -symbol denotes the bitwise exclusive-or (XOR) operation and \gg bitwise right rotation.

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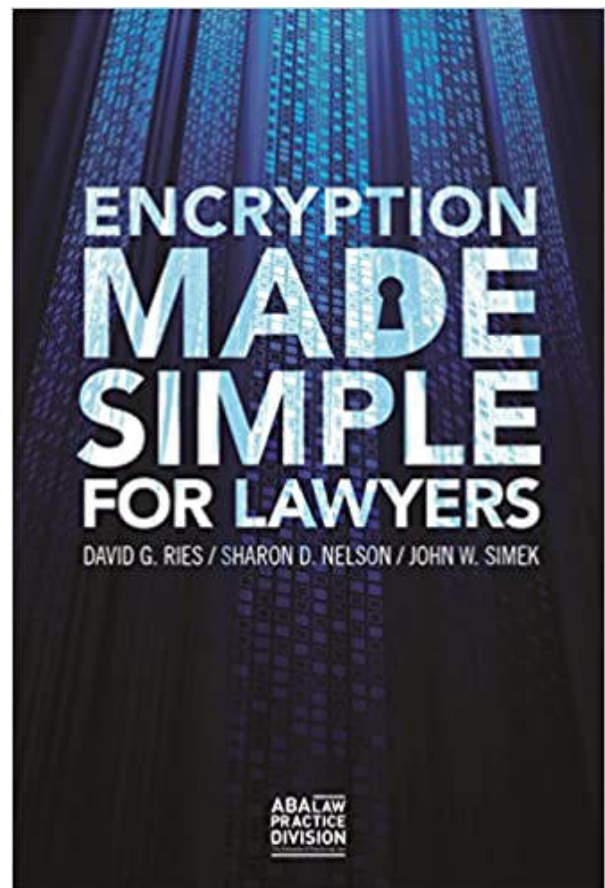
About the Author

Entering her Blockchain and Technology Law career with cryptography, Elif Hilal developed her own encryption method when she was only 10 years old. She then began to learn encryption mechanisms and the science of cryptography. She found the way to communicate with computers by learning to code, she learned to code when she was a freshman at university. While she was a university student, she had the chance to work as a blockchain researcher in

the Digital Transformation Office of the Presidency of the Republic of Turkey. In addition, she was elected as the Microsoft Turkey Student Ambassador and represented her country many times in the international arena.

Elif Hilal, who has been working on Blockchain for about 6 years, is currently working on Blockchain at Chainlink Labs.

- advertisement -



Democratic Degradation Is Law's Ultimate Disruptor

By Mark A. Cohen, Thought Leader, CEO Legal Mosaic



The legal industry has been remarkably buoyant in a tumultuous world. It has weathered 9/11, the global financial crisis, [economic downturns](#), automation, [digital transformation](#), domestic and international instability, and the [Pandemic](#). Through it all, the legal sector has prospered financially, even as its [resistance to change](#) has [misaligned it with business](#) and distanced it from [society](#).

Law's financial success has come at a steep price—the health and well-being of its workforce, an obscured purpose, and high profits but low customer satisfaction. [Public trust in lawyers](#), [legal institutions](#), and the [vitality of the rule of law](#) are historically low. Most Americans believe the legal system is accessible only to the wealthy and [the data](#) confirms this. The legal system is widely perceived as lacking accessibility impartiality,

democracy

transparency, diversity reflective of the society it purports to serve, and indifference to serving justice and equity.

The legal industry remains remarkably inward-focused. A quick review of legal trade journals reveals scant mention of geopolitical and macroeconomic forces reshaping business, the nation, the world, and the planet. Change produces risk, and law is in the risk business— detecting, remediating, mitigating, and resolving it. Yet the legal profession has been remarkably quiet about the geopolitical risks that are top-of-mind for their multinational clients.

The legal function has not marshaled a unified response to the domestic political risks that are playing out in real time. Instead, it re-

mains focused on itself, and more specifically, its financial performance. There is discussion of disruption, but that is limited to internal industry change, not a more pervasive political and social disruption that extends far beyond the legal marketplace.

Legal disruption is a popular parlor game for industry pundits— when, by whom, and how? **Technology**, new **business models**, “**outside**” **competition**, and **re-regulation** are oft-cited candidates. The predictions share a common underlying assumption: American democracy and the rule of law will maintain its resilience and vitality. That was a reasonable expectation— until a few years ago.

The degradation of American democracy has emerged as the preeminent disruptive threat

to the legal industry, the nation, and the free world. Few saw this coming even a decade ago. The cancer that is ravaging American democracy and culture has metastasized. It has spread across the body politic, institutions, and norms. The rule of law has been impacted. The legal industry has neither been quick to detect or respond. It is either in denial or suffers from a systemic myopia that may prove to be its undoing.

The Rule Of Law Is On Life Support

[The rule of law](#), democracy's oxygen, is on a ventilator. The uncertainty of its survival—at least in recognizable form—was exposed recently when a search warrant was executed on the Mar-a-Lago compound. This was no ordinary warrant, to be sure. It was the first time in the nation's history the target was a former American President.

The search resulted from legal process involving the Justice Department that sought issuance of the warrant; the Magistrate Judge that granted it; and the FBI that executed it. By all accounts, the search was conducted lawfully. That is not how many Americans saw it. They viewed it as a “political hit job.” That conclusion presumes that the various actors in the legal process each breached their duty to uphold the Constitution; to act as officers of the court; and to subvert, not enforce, the rule of law and the pursuit of justice. For a significant part of the country, the rule of law was “rigged” not carried out. This inverted view is emblematic of the two Americas and their radically different perceptions of social, political, and legal order.

The warrant (a/k/a “raid”) caused a political and social firestorm. It produced threats of

“civil war,” violence, and anarchy. [The Economist](#), reporting on the fallout, opined the nation was divided whether the rule of law had been honored or flouted. This split reaction is a grim reminder that for many Americans, their cultural outlook, social media outlets, and politics have replaced law as the arbiter of behavior, rights, obligations, interactions, truth, and democracy.

Democracy Is In A Bad Slump

The past several years have produced a marked decline in the health of American democracy. The [Economist Intelligence Unit](#) downgraded the US from “full democracy” to “flawed democracy” status in 2016. The deteriorating condition of American democracy has coincided with a wider [global decline](#). [The World Justice Project 2021 Rule of Law Survey](#) found that rule of law performance declined globally for the fourth consecutive year. Nearly three-quarters (74.2%) of surveyed countries experienced decline. Those countries account for 84.7% of the world's population—approximately 6.5 billion people.

American democracy has been tested repeatedly throughout its history. Even in times of crisis, it has survived in no small part because of the strength, resilience, and trust in the rule of law and legal institutions. Watergate and the Bush-Gore election are two notable recent examples of that resilience.

Watergate and its aftermath threw the country into a constitutional crisis. The Watergate hearings put the rule of law on public display, and it prevailed. Democracy had many guardians back then: the press, the transparency and bipartisanship of the Congressional hearings, the

courage of several public servants to put country before party, the Courts, and the legal process all held. The legal profession also rose to the occasion.

The razor-close Bush/Gore race at the turn of the Millennium was another test of the rule of law. The election produced a thirty-seven day cliffhanger with the Presidency in the balance. The election was ultimately decided by a divided Supreme Court that ruled in Bush's favor. Shortly thereafter, Al Gore acknowledged defeat and publicly recognized his opponent as the lawful President-elect. By doing so, he fortified public trust in the judiciary, the electoral process, the orderly transition of power, the general welfare, and the rule of law. But, as Lou Reed said, "Those were different times."

Contemporary America And Democracy: It's Complicated

Contemporary America has a [complicated](#) relationship with democracy. Americans, regardless of political affiliation, still overwhelmingly support democracy as the best form of government. While an overwhelming majority endorse democracy and the "rule of the people" in principle, Americans are divided on who "the people" are.

Seventy percent of Republicans believe that America's culture and way of life have gone downhill since the 1950's. In contrast, 63% of Democrats believe things have changed for the better. Race, immigration, social mobility, ethnicity, and a raft of other factors play into the differing views of which America people prefer. Americans are increasingly willing to resort to violence to insure that "their America" is defended. In February 2021, 39% of Re-

publicans, 31% of Independents, and 17% of Democrats said that "if elected leaders will not protect America, the people must do it themselves, even if it requires violent actions."

The normalization of political violence, erosion of the rule of law, proliferation of mass shootings, rash of hate crimes, growing threats of domestic terrorism, and the sunset of bipartisanship began to escalate in 2016. That was, not coincidentally, the year American democracy was downgraded from "full" to "flawed." It was also the first time in the nation's history that non-white births eclipsed whites. The cultural clash between the two Americas intensified and took on a heightened sense of urgency. Each camp believed *their* democracy—not *our* democracy—must prevail. Democracy has become a zero-sum game for competing factions.

America's polarization has been amplified by social media; exploited by political opportunists; coalesced by highly organized fringe groups; calcified by "alternative facts" and a pervasive attack on truth, the press, institutions, and established norms; and stoked by normalization of violence, liberalization of gun laws, perversion of the rule of law to subvert it; and the echo chamber that has replaced civilized debate.

Domestic Political Risk Analysis And Business

The Brookings Institution and the States United Democracy Center issued a joint 2022 [report](#) on the threat posed by the failure of American democracy. It considered three main issues: (1) whether democracy is backsliding; (2) whether democratic failure represents a systemic risk to business; and (3) what

steps the private sector should undertake as part of its fiduciary duties to prevent adverse market reaction to democratic failure. The top line conclusions were: (1) democracy is backsliding; (2) this poses a serious risk to business; and (3) business has a fiduciary duty to its shareholders and wider stakeholder group to take measures designed to support democracy and the rule of law.

Big business is well-acquainted with political risk analysis. Multinational companies have dealt with it for decades. Many have procured political risk insurance to manage overseas risks in the event of political upheaval, tariff wars, or other events that would imperil their investment. Until recently, the US was virtually exempt from the calculus of domestic political risk. That is no longer the case. Democratic degradation not only poses a grave threat to US-based companies, but it is also a substantial risk to foreign-based companies conducting business in the US. The threat to American democracy has global financial implications that impact social, political, environmental and other life-defining areas.

The Brookings report concluded that business has a fiduciary duty to shareholder and stakeholder groups to take measures that support democracy and the rule of law. This is not simply a patriotic gesture. As Professor [Rebecca Henderson](#) of the Harvard Business School opined: “the decline of democracy is a mortal threat to the legitimacy and health of capitalism.” That view is shared by a growing number of multinationals engaged in scenario planning, the corporate equivalent of military war games. They are developing strategies for mitigating risk posed by the failure of the rule of

law and the collapse of American democracy.

Business and law have long had a symbiotic economic relationship. The rule of law is good for business and capital markets, and business sustains the legal industry. If business leaders and Boards have a fiduciary duty to take action in defense of democracy, what about their lawyers?

Last Call For Lawyers To Serve Their Purpose

Ralph S. Tyler Jr., a Harvard constitutional law professor, considered the state of the legal profession in a recent [New York Times Op Ed](#). His assessment is stark and unsettling: “Something has gone badly wrong: It is unclear, in America in 2022, what the point of law is, what higher ends it should strive to attain. We have forgotten what law is *for*.” He is correct that something has gone badly wrong. The “point of law” and the “higher ends” could not be clearer, however. Nor could there be greater urgency or higher stakes. If the legal profession does not quickly find its purpose—and act on it—there will be grave consequences.

If there is a silver lining the current crisis offers the legal profession, it is the opportunity to reclaim its [humanity](#) and purpose, both for itself and, more importantly, for American democracy. Lawyers and allied legal professionals should refresh their recollections of professional purpose by reviewing the preamble to the [ABA Model Rules of Professional Conduct](#). “(1) *A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility*

for the quality of justice.” All lawyers should also recall the [oath](#) taken when they were sworn in. No matter what state Bar they were admitted into, their oath imposed an affirmative, fiduciary duty to uphold the law and support the Constitution.

The current political climate has created an all-too common ethical and financial dilemma for many lawyers. It involves some clients’ objectives and the lawyer’s oath to uphold the Constitution. Resolution of the conflict is clear-cut: a lawyer/firm cannot advocate for client objectives that would require subversion of the Constitution nor can counsel take a position and/or demand relief that would cause them to do otherwise.

The Constitution, the pursuit of justice, and the rule of law are the foundations of legal purpose. They cannot be compromised regardless of client demands, personal views, or financial gain. Lawyers have a unique role advancing justice for clients and the wider society and commit to be bound by a high standard of integrity that cannot be compromised.

The legal profession, like any other group, is comprised of individuals with divergent political and social views. Notwithstanding their personal differences and preferences, all lawyers must be unified in their unflinching defense of the rule of law, the pursuit of justice, support for the Constitution, and fiduciary duty to safeguard democracy

Conclusion

The legal profession has largely stood on the sidelines as democracy and the rule of law have been attacked with chisels, sledge ham-

mers, and wrecking balls. Lawyers have collectively failed to speak up—much less act— as a unified profession and with one voice. To do so is not a matter of personal choice; it is their sworn duty.

Time is running out. America and the world will soon learn whether law’s purpose has been lost or found.

All articles from Mark are also published at [Forbes](#)

About the Author

Mark A. Cohen is the CEO of Legal Mosaic, a legal business consultancy. I serve as Executive Chairman of the Digital Legal Exchange, a global not-for-profit organization created to teach, apply, and scale digital principles to the legal function. He also served as the Singapore Academy of Law LIFTED Catalyst-in-Residence, held Distinguished Fellow and Distinguished Lecturer appointments at Northwestern University Pritzker School of Law and Georgetown Law as well as at numerous foreign law schools including IE (Spain), Bucerius (Germany), and the College of Law (Australia).

The first thirty years of his professional career were spent as a "bet the company" civil trial lawyer--decorated Assistant U.S. Attorney, BigLaw partner, founder/managing partner of a multi-city litigation boutique, outside General Counsel, and federally-appointed Receiver of an international company conducting business across four continents. Mark pivoted from the representation of clients to 'the business of law' approximately fifteen years ago.

He cofounded and managed Clearspire, a groundbreaking 'two-company model' law firm and service company. The Clearspire model and lessons learned from it are the foundation upon which his current activities are fused with the practice portion of his career. Follow Mark on [Twitter](#) or LinkedIn. Check out his [website](#).

The Clearspire Story by Mark A. Cohen

Clearspire holds a special place in the evolution of the legal industry. It is remembered both as a transformative legal delivery company as well as “the next big thing” that went belly-up. I explore Clearspire’s intellectual triumph and financial failure from the professional and personal perspectives.

Clearspire was a bold—if not brash—attempt to reengineer the delivery of legal services. We proclaimed, “This is your revolution” to an industry known for adherence to precedent and risk aversion. We turned the labor-intensive, law firm partnership model on its head, replacing its leveraged structure with a flat one that melded “bleeding-edge” technology and process to leverage legal expertise and to deliver legal services more efficiently, transparently, and cost-effectively than ever before. We provided clients fixed-fee budgets that described deliverables, personnel, tasks, and cost—and hit budget 98% of the time. We provided clients secure, real-time access to all of their Clearspire matters—including re-

ated during the course of each engagement. We created an agile, collaborative, organically diverse workforce that was tightly aligned internally, with others in the legal supply chain, and with clients—financially, technologically, and culturally. And our technology and rigorous process enabled us to conduct operations around the globe.

Clearspire was the first “law company.” Our revolutionary two-company model—a law firm and a bundled legal services company—operated under a unified brand. We separated legal “practice” from “legal delivery.” We invested millions of dollars of our own money to create “Coral,” a web-enabled integrated, proprietary technology platform that enabled us to operate seamlessly across the globe. The name “Coral” was chosen because we wanted to evoke the image of a living ecosystem and apply it to law. Our mission was to realign the interests of the key stakeholders of the legal ecosystem: lawyers, other professionals, and paraprofessionals in our employ; Clearspire; and our clients.

The Economist, The Wall Street Journal, Fast Company, The ABA Journal and other mainstream global media sources wrote extensively about our model, our technology, and our bold ambitions. My co-Founder and I met with approximately 300 Fortune 500 General Counsel within a 16-month period. There was tremendous interest in our model and technology, but not a similar appetite for our law firm. General Counsel were leary to retain us as a law firm because we lacked scale, brand recognition, and were “too risky” a bet during the cautious days that followed the global financial crisis. We had opportunities to license

our platform, sell legal staffing services, create a legal marketplace, and engage with prospective buyers in other ways that would have produced financial success. We also had multiple opportunities to collaborate with other established providers in the legal marketplace but failed to do so. I review our mistakes in detail as there are important lessons to be learned from them. It would be too self-congratulatory to say our disappointing financial result was solely because we were too far ahead of our time. We were; but we did not give the market what it wanted from us and became slaves to the elegance of our vision. This is a cautionary tale for entrepreneurs and established businesses alike: listen to the marketplace.

My reasons for sharing the Clearspire story are professional and personal. The Clearspire vision and model is important from an historical and contemporary perspective. Clearspire's model is relevant now—ironically, perhaps more than when we launched it. The practice of law and the delivery of legal services and their integration is, in my judgment, a paradigm to be replicated.

Clearspire also had a big impact on my development as a person. Seven years of frenzied work with no pay, a loss of two million dollars of savings, and the persistent gnawing of “what could have been” is hard to deal with. I struggled with unaccustomed professional failure, even as I was not totally convinced that the seven year gauntlet I ran was a failure. That caused me to reflect upon how I define success and failure and how I measure myself as a human being. “Failure” can morph into success if one takes away lessons

that help them to evolve—professionally and personally.

Clearspire's will play a part in the legal industry's future. I'm humbled by our financial failure and buoyed by what I have learned and how that can be applied going forward. I sometimes refer to Clearspire as “my two million dollar tutorial.” I now measure my own success by a different standard than I did when I was a young, brash trial lawyer and managing partner making crazy money. The new measure is what propelled me as a boy—intellectual achievement, teamwork, and feeling good about what I'm doing and the people I'm doing it with. Clearspire has reconnected me with a value system that was shunted during my years of legal practice. I like myself better now and have returned to the “we” more than the “me.”

I'm convinced the final chapter of the Clearspire story has yet to be written, and I'm working on it. Call it “unfinished business.” As Yogi said, “It ain't over till it's over.”





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From Paralegal to Legal Ops: Learnings from Those Who've Made the Jump

Some of the most resourceful and effective legal ops professionals began their careers as paralegals, and it remains a common career journey. But while paralegals and legal ops share many characteristics, they're fundamentally different roles requiring experience and skills in different areas. In this webinar, Kevin Cohn (photo), advisor to Legal Operators and Chief Customer Officer at Brightflag, will moderate a panel discussion featuring leaders who successfully made the jump from paralegal to legal ops.



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7 Key Considerations To Keep In Mind When Evaluating Your Business Security Options

When it comes to protecting your business, there are a multitude of security measures you can take. But which ones are right for your business?

Here Are Seven Key Considerations To Keep In Mind When Evaluating Your Options.

1. Physical security

One of the most important aspects of security is physical security. This includes things like locks, alarms, a security guard trained in us-

ing an [ar15 upper receiver](#), and cameras. If you don't have proper physical security measures in place, your business is at a much higher risk for theft, vandalism, and other crimes. In addition, physical security can also help deter potential criminals from even targeting your business in the first place.

2. Cyber security

With the increasing reliance on technology, businesses are also becoming more vulnerable to cyber-attacks. These attacks can come

in the form of malware, viruses, phishing scams, and more. It is important to have proper cyber security measures in place to protect your data and prevent these attacks from happening. There are a number of steps you can take to protect your business from cyber attacks, including investing in a good firewall and antivirus [software](#) and keeping your software up to date.

3. Employee security

It is also important to consider employee security when protecting your business. Things like background checks and drug testing can help you ensure that you're hiring trustworthy employees. Additionally, providing training on things like security protocols and proper handling of sensitive information can help reduce the risk of internal threats.

4. Disaster recovery

Disasters can strike at any time, so it is important to have a plan in place for how you'll recover from them. This includes having backups of all your important data and documents, as well as a plan for how you'll keep your business running if your physical location is damaged or destroyed.

5. Security planning

It is important to have a comprehensive security plan in place. This plan should include all

of the measures you've put in place to protect your business, as well as how you'll respond in the event of an emergency. By having a plan in place, you can help ensure that your business is [prepared](#) for anything.

6. Insurance

Insurance is another important consideration when it comes to protecting your business. Having the right insurance in place can help you recover from damages caused by disasters, theft, and other [risks](#).

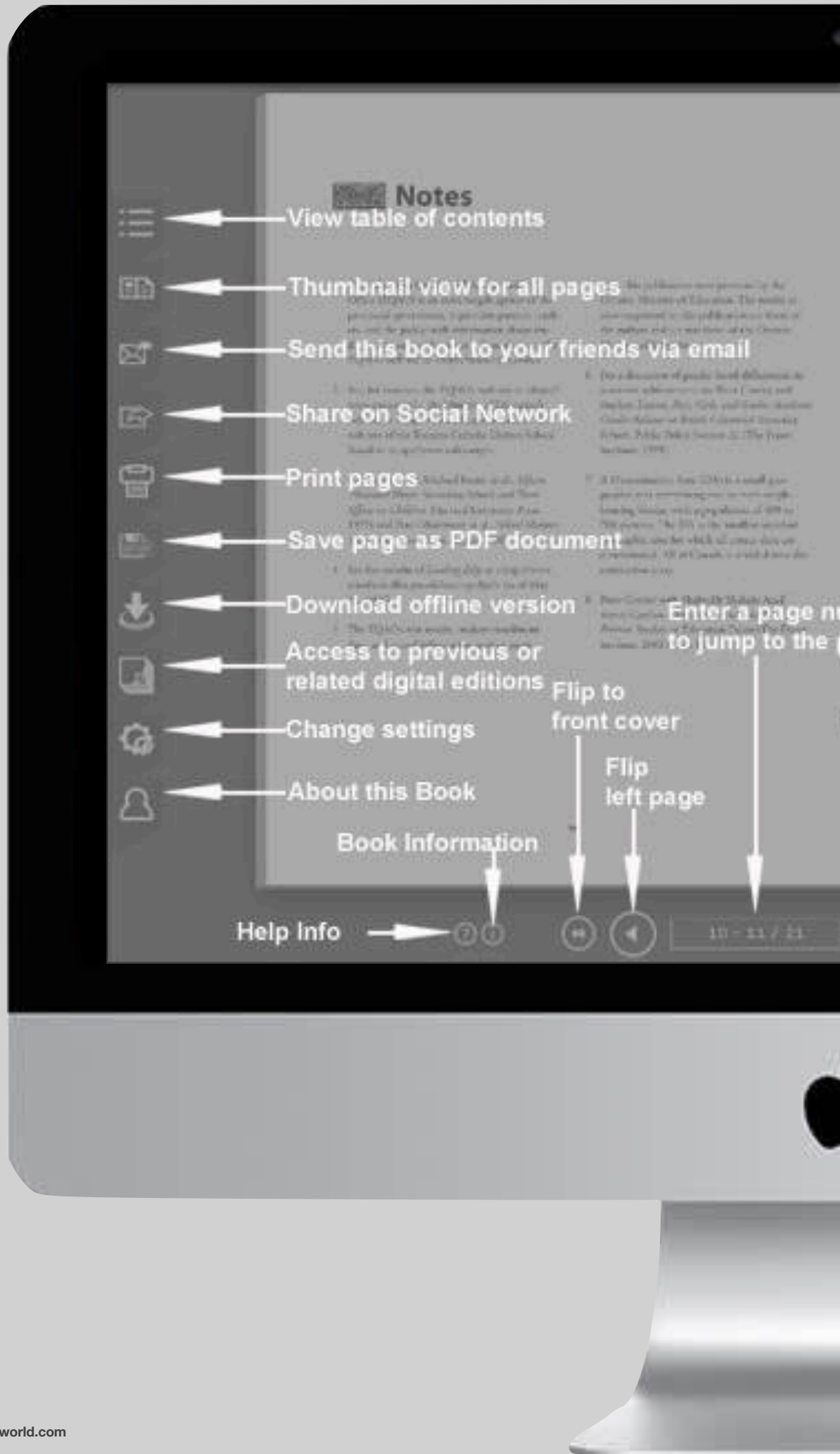
7. Security audit

Finally, it is a good idea to have a security audit performed periodically. This will help you identify any weak points in your security and make sure that all your security measures are up to date.

Final Thoughts

By considering these seven key factors, you can make sure you're taking the steps necessary to keep your business safe.

Of course, these are just a few of the key considerations to keep in mind when it comes to security. By taking the time to assess your needs and put the right measures in place, you can help keep your business safe from harm.



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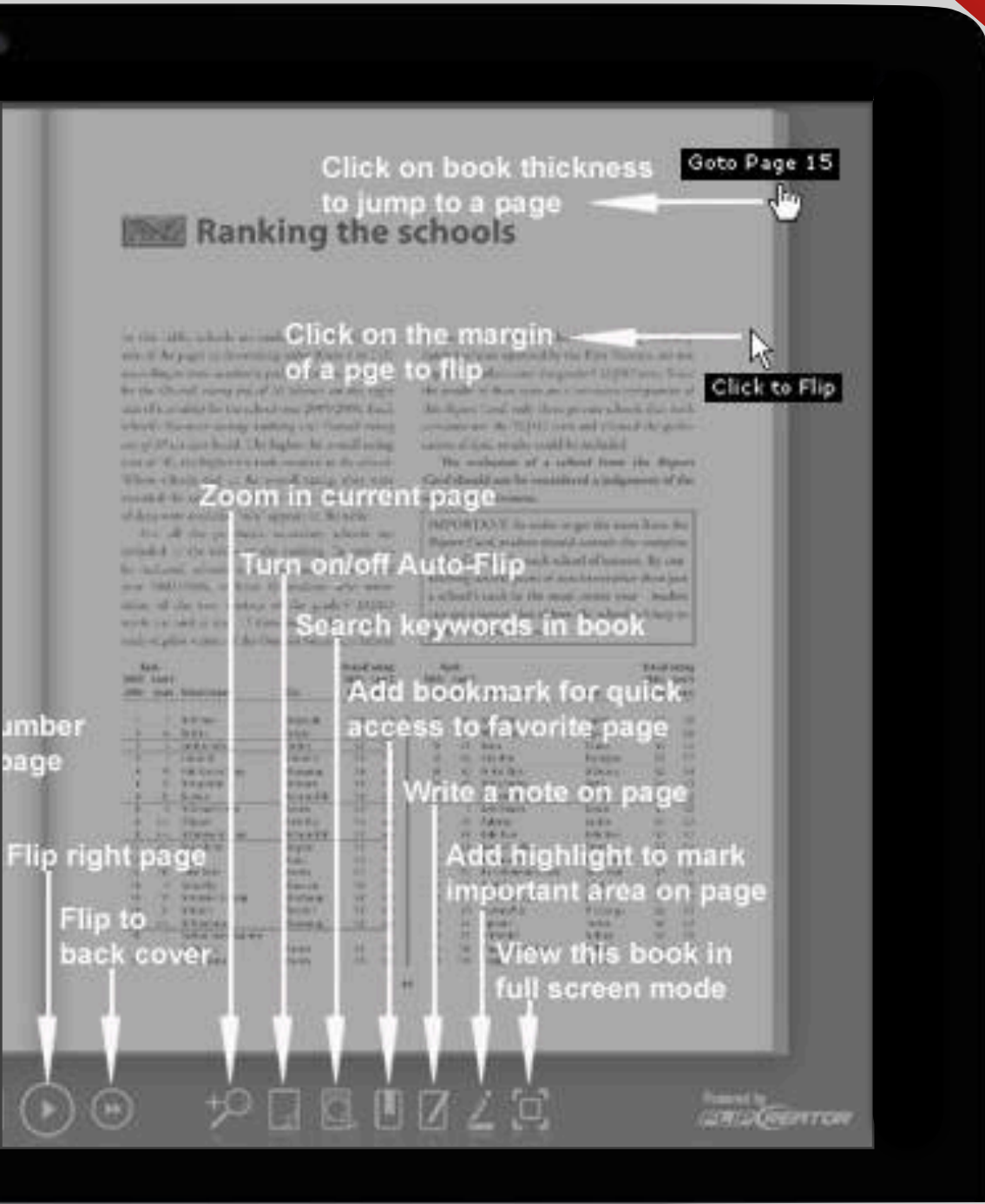
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