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THE FUTURE OF THE
LEGAL INDUSTRY

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«Incorporation of legal technologies into legal systems and operations is a gradual, learning process, so early adopters will have a major advantage over those that lag in adopting the technology.»

— Juan Carlos Luna



INTRODUCTION

JUAN CARLOS LUNA | Founder of Lawgistic and CEO of Lawit Group | [Juan Carlos @ LinkedIn](#)

The legal ecosystem exists in a rapidly changing environment. Due to the acceleration of digital transformation of businesses over the past few years, there has been a major push towards the need for cultural change and leadership.

So much has changed in one decade. In celebration of Lawgistic's tenth anniversary, we have invited a very select group of leading minds in the field of legal transformation to join us with this e-book publication.

Our experts come from every corner of the world. They have been an inspiration in our journey. They are our friends with whom we have experienced the wholesale disruption of the legal industry.

We hope that the valuable content they have provided give you a fresh and innovate perspective of the legal market trends, challenges, and opportunities ahead.

We believe that we have a responsibility to change the world around us. We envision a world in which our legal and judicial systems promote justice in the truest sense of the

word—a world in which it is easy for anyone who needs legal services to access them; for lawyers to have the freedom to practice the way they want; and for underrepresented groups in our society to get the advocacy they deserve.

We have an added responsibility to set the tone for the next generation—and to help ensure that the technology shaping legal experiences is also serving the greater good.

The COVID-19 pandemic rattled the economy. The result of how well prepare we are to respond to the new challenging realities will reflect on those two key elements mentioned above, culture and leadership. Some are already capitalizing on the new normal, while others are not adapting fast enough.

Incorporation of legal technologies into legal systems and operations is a gradual, learning process, so early adopters will have a major advantage over those that lag in adopting the technology.


The challenge for our profession is not simple embracing some technology tool to improve efficiencies, it is about harnessing digital


progress to re-invent our profession and to remain relevant as we respond to the questions that matter most to societies and to the world.

The legal disruption train is leaving the station

—it is time to jump on board and revolutionize the legal profession.

The question is...

Will you lead, or will you be led? 



«[...] the days of the spreadsheet
are numbered. As mass adoption
of LegalTech looms, the potential
is thrilling: a rising tide can
indeed lift all boats.»

— Jodie Baker



BEYOND THE SPREADSHEET: THE DEMOCRATIZATION OF LEGALTECH

JODIE BAKER | Founder and CEO at Xakia Technologies | [Jodie @ LinkedIn](#)

Historically, a Legal Department's access to Legal Technology has been directly proportional to its number of lawyers and the size of its organization: the largest and most sophisticated groups have had the flashiest tools, while the smallest teams have made do with spreadsheets and rudimentary workarounds.

Consider the disparity of legal technology use reported by in-house teams in Xakia Technologies' *Legal Operations Health Check*, a survey of hundreds of Legal Departments worldwide:

- Legal Departments of more than 100 lawyers are more than twice as likely as those of 2 to 5 to use matter management tools and workflow automation.
- Legal Departments of more than 100 lawyers are more than three times likely as those of 2 to 5 to have a technology road

map that governs the tech budget, tools, and strategy.

- Overall, when it comes to the maturity of LegalTech adoption, Legal Departments of more than 100 lawyers score 51% higher than teams of 51 to 100, and a whopping 120% higher than teams of 2 to 5.

Indeed, for years, legal technology was inaccessible or unaffordable for all but the largest corporate teams. It took a big budget to not only pay for the technology itself, but also:

- the consulting costs for deployment;
- custom buildouts to integrate with internal systems; and
- hosting, updates and maintenance costs.

In the early days of LegalTech when software was far from intuitive, it also took a sustained change management program and a high level of resilience.

The arrival of cloud-based software is changing all of that: we are on the cusp of a true “democratization” of LegalTech that will expand access to even one-lawyer Legal Departments.

For the majority of in-house teams that are managing workloads and reporting through spreadsheets, Word documents, or worse, their own memories, this will present a fundamental change and an evolution toward increased efficiency and effectiveness.

How the Cloud Is Democratizing LegalTech

In 1999, the first “software as a service,” or SaaS solution, through which software is licensed on a subscription basis and centrally hosted was launched. Within 15 years, all software stalwarts – Microsoft, SAP, Oracle and IBM among them – had migrated to SaaS. Because SaaS products were hosted on the cloud, not on premises, they did not have to be enterprise-level, one-size-fits-all solutions. Software could be developed not for the IT Department, but for the line-of-business user – inspiring innovation for Marketing, Finance, Logistics... and Legal.

For Legal Departments, this marked a huge shift – one that can make LegalTech a viable option for all. Behind this shift are four fundamental changes:

Cost. Indeed, cloud-based software removes the cost barrier for small teams. On the supplier side, having just one system to manage fractionalizes the cost to develop and deploy software. Implementation can be automated;

the configuration process can be managed by the customers; and integrations (increasingly cloud-to-cloud) can be standardized rather than custom-built. If passed on properly, these savings can fractionalize the cost for customers.

Indeed, the effects of the move to cloud-based software on cost can be illustrated with implementation alone. Traditional implementation costs include process design to fit with existing processes; configuration to fit these processes; training and change management; and migration costs. For a static, on-premises software product, these could run up to six or seven figures. To justify this expense, a solution would require hundreds of users.

But because SaaS is hosted online and is available on-demand, implementation and adoption costs drop to negligible amounts...in some cases zero. This means well-built cloud software is scalable, both up and down – and a possibility for the smallest team. (Or the two-thirds of all Legal Departments who do not have a technology budget, according to KPMG’s [*Global Legal Department Benchmarking Survey*](#).)

Ease of Use. While change management will always be necessary, the burden gets lighter with intuitive, user-friendly software. Because software “lives” on the cloud, updates are delivered seamlessly; all users benefit as the product matures. No on-site overhaul necessary.

While guidance and training are available, control lies with the customers – they can perfect

their process independently or benefit from the community of peer users.

Removal of the Language Barrier. Cloud-based LegalTech can be multi-lingual, accommodating users in multiple languages. Colleagues in multiple jurisdictions can collaborate on matters in real time, in their native language.

Remote Access. According to the [World Economic Forum](#), the number of employees working remotely globally more than doubled in 2021, from 16.4% to 34.4%; inside many Legal Departments, the changes made in response to the COVID-19 pandemic are becoming permanent. It's impractical to install enterprise-level, on-site solutions when the enterprise has no central "site."

The cloud makes LegalTech available to geographically dispersed and remote teams; with an Internet connection, all team members can access and use the software.

What This Means for In-House Teams: Life After Spreadsheets

This democratization of LegalTech will bring practical benefits to Legal Departments who have been working in more analog modes:

Matter Management. There are a number of challenges inherent in tracking matters by spreadsheet. When matters are not captured as a part of the standard workflow, the potential for human error grows exponentially; in a spreadsheet system, lawyers and staff must remember to open a new application and catch

up. Understandably, people may forget to keep it updated, forget to capture all projects, forget some details, or run out of time to enter their information.

Moreover, this carries risks of version control, and, if sporadically updated, is of limited use if members of the Legal Department go on vacation, unexpected leave or quit.

Newly accessible technology solves these challenges. By capturing critical information about each project as it is originated, every matter is logged, and every team member can have critical visibility into the Legal Department's deadlines and workload.

Legal Intake and Triage. While spreadsheets can log basic information for a matter, it remains a purely reactive tool that does not help a Legal Department process incoming work in a way that helps both the lawyers and the business clients. It's a conveyor belt in document form.

LegalTech can help both sides: For business clients, a smart intake system can provide visibility into the status of their work and the people handling it. For lawyers, it can automate information for frequently occurring matters and eliminate back-and-forth by setting up a document exchange with the requesting business unit.

Legal Spend and External Counsel Management. Tracking spend by spreadsheet is by definition a lagging indicator: Legal Departments

enter invoices after they arrive – when it’s far too late to curb a spending issue.

Additionally, a static document makes it very challenging to meaningfully review external counsel. Only the most elaborate spreadsheet would carry sufficient context to answer important questions about law firm assignments: Which firms are handling the most routine, lowest-risk matters, and are they being over-paid? Which firms are handling the highest-risk or most strategic work, and are they the best resources? Which firms may be performing exactly the same work – and potentially costing the company in double-work?

LegalTech can provide real-time looks at the Legal Department’s spend, while also collecting and collating the metrics that can drive proactive resource analysis.

Data Analytics and Reporting. While spreadsheets provide – in theory – the ability to sort matters by type, business unit, lawyer and so forth, this functionality relies on every member of the Legal Department using a consistent methodology to describe their work. If Jane describes a matter as “contract negotiation,” and John categorizes a similar matter as a “sales agreement,” a sort will not group them together – despite being nearly identical projects. This makes it very difficult to share knowledge and work product – and to spot trends that can affect the company’s business and risk.


Similarly, any reports using spreadsheet data must be manually assembled – and, as stated,


they are working from possibly incomplete data that is probably inconsistently classified. Even if everything is accurate, most spreadsheets do not capture enough information to prompt meaningful discussion with business units or the C-suite. A chart of matters is just a to-do list; it does not show legal team performance or convey the Legal Department’s value managing risk and advancing strategy.

Again, LegalTech collects and collates metrics – but it also can automate reports for a variety of stakeholders, from the business units to the board. This can save in-house lawyers significant time, while providing a new level of insight into the legal function.

The Big Picture

Now that all in-house lawyers can afford and access technology tools, the days of the spreadsheet are numbered. As mass adoption of LegalTech looms, the potential is thrilling: a rising tide can indeed lift all boats.

We are approaching a new era of connectivity, greater understanding between lawyers and the clients they serve, and greater speed of legal resolution. Within the Legal Department, this can lead to better outcomes, better relationships with business clients and the board, and a better working life. Within the legal profession as a whole, this can lead to much-needed systemic change and access to justice. 



«Los despachos de abogados afirman, casi universalmente, que valoran y fomentan los comportamientos positivos en áreas como la colegialidad, el trabajo en equipo, la colaboración y el empoderamiento, pero a menudo en la práctica recompensan a sus socios por [...] la construcción de un imperio personal.»

— Mari Cruz Taboada



LA EVALUACIÓN DE SOCIOS, LA TENSION DEL INTERÉS PROPIO FRENTE AL PROPÓSITO DE GRUPO

MARICRUZ TABOADA | Socia de Lexington Consultants | [Maricruz @ LinkedIn](#)

La carrera profesional a socio de una firma de abogados es dura y las expectativas son altas, pero ¿cómo se evalúa el desempeño en los abogados? ¿Están bien alineados los valores que se transmiten y los incentivos que influyen en su comportamiento?

La premisa en la que la mayoría de las firmas se basa, es en la de que los abogados más motivados compiten con sus compañeros, por lo que elegirán firmas en las que su alto nivel de desempeño se traduzca en bonus sustanciosos o alta retribución. En paralelo, los abogados menos capacitados buscarán firmas más cómodas donde se tolere su inferior nivel de desempeño.

En el año 2020, hubo un debate interesante entre la comunidad jurídica internacional sobre el rendimiento y las métricas basadas en valores o propósitos de firma. La cuestión es cómo evaluar ese tipo de indicadores.

La firma internacional Pinsent Masons se postuló como “purpose-led firm” – enfocada en el propósito de grupo - y para conseguirlo establecía unas métricas de desempeño estratégicas para sus abogados que incluían: indicadores relativos a la relación y apoyo entre compañeros, el fomento de la confianza, el nivel de satisfacción de los clientes, el análisis del índice de marca, incluyendo como elemento novedoso, indicadores de sostenibilidad como la reducción del nivel de emisiones de carbono e indicadores de crecimiento orientado a un propósito, como el modelo de internacionalización o el desarrollo de proyectos sociales. Todo ello vinculado a la remuneración

de sus abogados, y por qué no decirlo, de sus “no-abogados” o profesionales de apoyo.

¿Puede ser esta una ventaja competitiva o se está “maquillando” la realidad?

La mayoría de los socios son reacios a evaluar, calificar o puntuar a otros socios. Esa es la razón por la cual consultores externos como Lexington Consultants participamos tan a menudo en los comités de evaluación de los bufetes de abogados: para brindar objetividad y neutralidad al proceso de evaluación, para ser consistentes con los valores de la firma y las expectativas presentadas a los abogados por categoría, pero lo más importante para que los socios rindan cuentas (accountability) de forma transparente.

El problema al evaluar a compañeros es que, cuando obtienen una evaluación baja, suele provocar una discusión tensa, y si se les califica muy positivamente, puede hacer que el socio se vuelva complaciente o arrogante. Por eso la mayoría de “los evaluadores” tienden a ir a lo seguro y califican con puntuaciones medias o neutrales, lo que hace que todo el proceso de evaluación sea bastante inútil. Según la experiencia de Lexington Consultants, la mayoría de los socios que evalúan tienden a evitar conflictos, por lo que se convierte en un proceso baldío.

¿Qué importancia tiene el desempeño individual de los socios si la rentabilidad de la firma es alta?

Hay una creciente exigencia de la nueva generación de abogados y socios más jóvenes a que los socios sénior “practiquen lo que predicán”.

Las nuevas generaciones ya no quieren esperar diez años para ser socios, sino que quieren saber que en cinco años, si consiguen los objetivos claramente establecidos pueden convertirse en socios. Después del esfuerzo inicial exigen que el resto de los socios cumpla con su deber y aporte tanto o más que ellos. Buscan referencias de profesionales que les enseñen y ayuden a ser mejores (role models).

En términos generales, a medida que las firmas de abogados crecen, los criterios objetivos y los KPI (indicadores de desempeño) financieros se han convertido en un nivelador para proporcionar lo que se considera un sistema meritocrático; sin embargo, los legados de las firmas de abogados no se mantienen solo en objetivos de horas facturables o ingresos puros, por lo que las métricas financieras son importantes, pero no pueden aislarse de otras formas de contribución no-financiera, ¿y cómo medir las habilidades o contribución como la gestión o el liderazgo de forma objetiva o el buen comportamiento con los compañeros y con los clientes?

El desempeño está evolucionando a métricas que van más allá de las horas facturables hacia indicadores que aportan valor añadido a la empresa y coinciden con los valores, el propósito y la estrategia de la firma. Casi todos los aspectos operativos de los despachos de abogados pueden monitorizarse hoy en día, aunque para empezar hay métricas que son primordiales para el éxito.

Lo primero es la satisfacción del cliente, un elemento crucial para mantener y retener no solo el

nivel de facturación sino la reputación y la marca. En los numerosos procesos de satisfacción de clientes que hemos realizado, hay una crítica habitual que es la falta de calidad técnica homogénea entre los socios o áreas de práctica —lo cual se consigue con supervisión y evaluación continua— además los clientes demandan recibir una atención personalizada. Finalmente lo que se reclama persistentemente es el conocimiento sectorial adaptado a la nueva economía.

Lo segundo es el liderazgo para alinear a los socios en ese propósito y conseguir los objetivos y la rentabilidad necesaria, además de contar con buenos sistemas operativos para garantizar liquidez. Un seguimiento y buena comunicación interna con los socios es crucial para que se cumplan los objetivos mínimos, lo que contribuirá, en gran medida, al éxito de la firma.

Según un estudio de TR (ver gráfico 1) solo un 2% de los socios acepta o desea asumir, lo que deberían ser sus responsabilidades.

Es descorazonador, ver cómo un número elevado de socios no desea asumir las responsabilidades propias de su puesto e invertir en el legado y el valor a largo plazo de la firma.

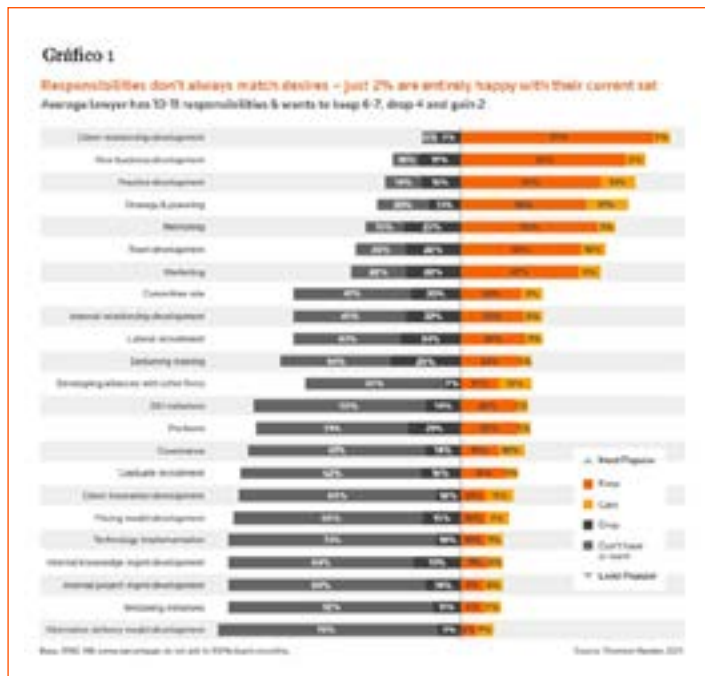
Aún con lo dicho anteriormente, hay que ser consciente de lo extendida que está la creencia de que un sistema estricto de desempeño enfocado a resultados financieros, atrae y recompensa a los “buenos”, y penaliza a los “malos” de forma muy objetiva. De hecho, bajo este tipo de sistemas de desempeño las firmas pueden eliminar y expulsar a la capa inferior de sus socios, lo que teóricamente eleva el rendimiento y resultados económicos.

El principal desafío es que, dado que los sistemas de evaluación no están bien gestionados, a

menudo no hay forma de rendir cuentas “accountability” y de responsabilizar a los socios de bajo rendimiento cuando no están alcanzando sus objetivos, por lo que no funciona. Además ahora se plantea la duda de si el comportamiento individualista y competitivo es el adecuado para atraer a las nuevas generaciones de abogados y a los clientes más sofisticados.

El talento, es un recurso cada vez más escaso

Como afirmaba uno de nuestros clientes, su política de contratación



en la firma se basa en no seleccionar a profesionales tóxicos (literal y vulgarmente llamados “assholes”), ya que cada vez más se busca un perfil de abogados respetuosos y profesionales.

La realidad es que la nueva era de la abogacía exige procesos de evaluación y métricas más personalizados basados en las fortalezas del abogado y no enfocándolos tanto a penalizar sus debilidades. La responsabilidad de ofrecer formación u oportunidades de carrera que se adapten a los distintos perfiles de abogado y equilibren las necesidades del equipo.

Es fundamental entender la interrelación de elementos vinculados al crecimiento individual de los abogados, cuyo eje y soporte central es la claridad del propósito y valores como grupo o firma. (ver gráfico 2)

Nuestra experiencia trabajando con firmas de abogados en distintas geografías del mundo, nos demuestra que los enfoques de evaluación

estricta suele resultar en una menor productividad, escepticismo, colaboración reducida, moral dañada y desconfianza en el liderazgo. Esto no significa que todos los socios deban ser tratados por igual. Pero, en cualquier enfoque en el que los socios estén clasificados comparativamente, hay que vigilar que no crezca la percepción en la firma de que hay estrellas en la parte superior y que todos los demás son de alguna manera inferiores.

En Lexington Consultants abogamos por unos pilares clave que se deben tener en cuenta al evaluar a socios en su desempeño:

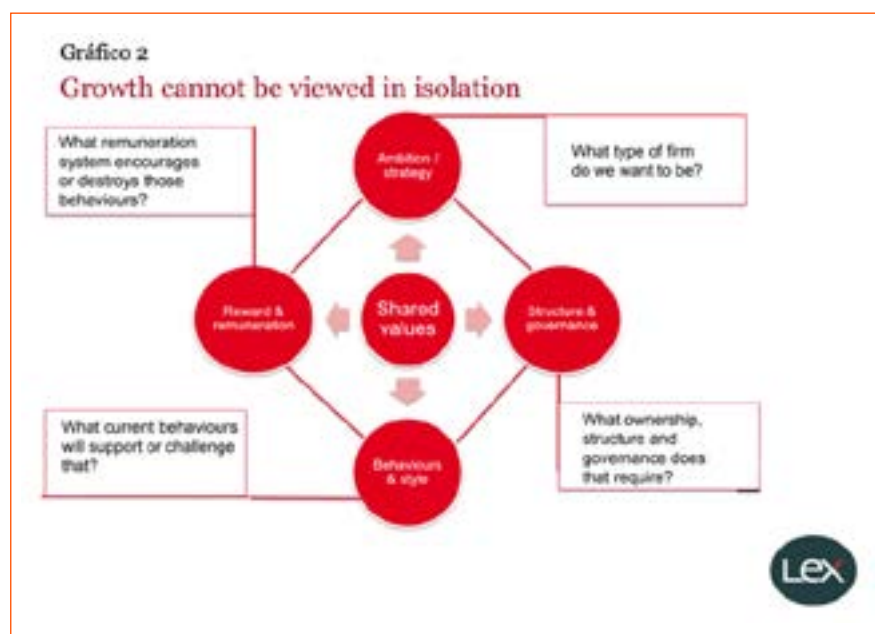
1. Capacidad de liderazgo y enfoque en las personas

El liderazgo se enfoca en la evaluación del equipo, lo que se vuelve más motivador que la evaluación individual, ya que existe evidencia de que la unión de fuerzas multiplica los resultados y desarrolla la productividad de la empresa. Eso no

quita a que no haya un seguimiento de las acciones y el compromiso individual, pero con el objetivo de reforzar las debilidades y aprovechar las fortalezas.

2. Desarrollo y retención de clientes

La gestión del rendimiento basada en la satisfacción del



cliente y los objetivos comunes genera culturas más positivas que, por ejemplo, la comisión por “originación” de clientes o la de “cross-selling” o referencia entre departamentos ampliamente utilizada, las cuales tienden a dañar el sentido de equipo a medio y largo plazo.

3. Gestión y finanzas desde una perspectiva operativa

Las evaluaciones basadas en competencias se concentran en las habilidades y comportamientos individuales para lograr altos niveles de desempeño y el valor que la mejora de esas habilidades debería eventualmente aportar a la firma. Hay que asegurarse que el foco no es teórico sino que refleja la realidad práctica del individuo y se traduce en resultados tangibles.

Del mismo modo, un sistema basado en competencias, aunque extremadamente útil para fines de desarrollo y capacitación y para la evaluación de socios, a veces puede volverse demasiado elaborado y burocrático si se usa para establecer sistemas de remuneración.

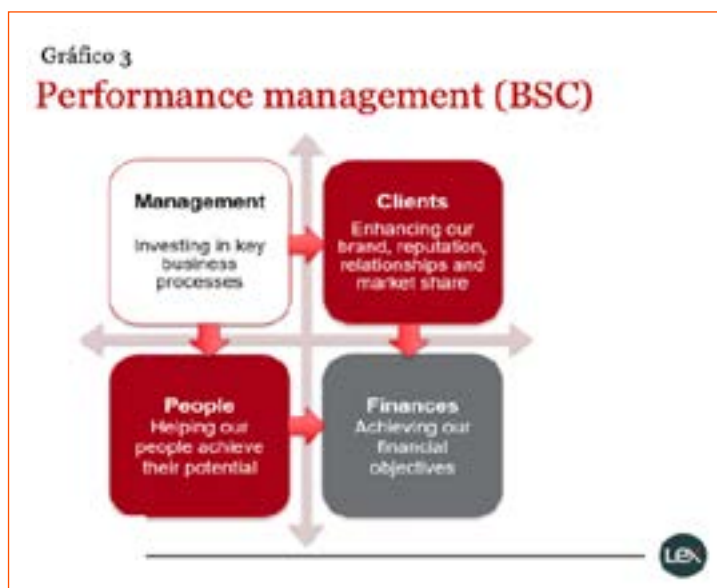
¿Cuál es el enfoque de un despacho de abogados moderno?

Las firmas de abogados modernas se dan cuenta de lo críticamente importante que es mantener y desarrollar los recursos humanos, es decir su talento. Es algo evidente para la mayoría de

firmas, tanto a nivel de socio como de asociado, por lo que en muchos mercados legales se ha entrado en una batalla de remuneración con sueldos para recién licenciados de, por ejemplo £150,000 en el Reino Unido.

Lo curioso es que cuando se explora el alto nivel de rotación de talento y lo que consideran que realmente importa en su lugar de trabajo, la cultura, el propósito y el sentirse realizado, son clave para el bienestar de estos profesionales. Por eso son muchas las firmas que están centrando su foco en comunicar sus “valores”, y desarrollar mecanismos de evaluación del desempeño y remuneración alineados a lo que realmente importa.

En Lexington Consultants, trabajamos con un sistema que identifica cuidadosa y metódicamente las áreas clave donde se espera que los socios se desempeñen, en función de su experiencia a través de un Cuadro de Mando Integral (BSC) que cuenta con cuatro áreas interrelacionadas (ver gráfico 3). Esta metodología es





la más eficiente y simplificada para alinear las acciones diarias y la contribución de los abogados a su estrategia a medio y largo plazo, y de ahí a sus sistemas de incentivos y remuneración.

Los despachos de abogados afirman, casi universalmente, que valoran y fomentan los comportamientos positivos en áreas como la colegialidad, el trabajo en equipo, la colaboración y el empoderamiento, pero a menudo en la práctica recompensan a sus socios por

acaparamiento de trabajo egoísta, facturación individualista y construcción de un imperio personal.

Nuestro trabajo en Lexington Consultants es apoyar a los socios a ser congruentes con lo que abogan y convertir su energía y capacidad interna en ventaja competitiva.

Como dijo el actor Sidney Poitier “Elegí usar mi trabajo como un reflejo de mis valores”. 



«Talent and talent management processes play a critical role in any long-term strategic plan. Assess if you have the skills necessary on your current team to achieve your identified priorities and initiatives.»

— Gabriel Buigas & Javier Fernández Samaniego



IMPORTANCE OF LEGAL FUNCTION STRATEGIC PLAN

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JAVIER FERNÁNDEZ-SAMANIEGO | IT & Dispute Resolution Lawyer | [Javier @ LinkedIn](#)

The role of the General Counsel continues to evolve. More and more they are viewed as a full C-Suite executive and often tasked to contribute in areas that go beyond providing legal advice. They are tasked to solve broader business problems that may or may not have a genesis in legal/regulatory issues. The increased importance and focus on environmental, sustainability and governance (“ESG”) concerns for Boards and Senior Executives also has helped expand the role and expectations of the General Counsel. To successfully navigate the increased responsibilities of the legal function and optimize its performance, every legal function needs to implement a legal function strategic plan.

A legal functional strategic plan is a three-to-five-year plan that details the vision and path forward for optimizing the performance and value contribution of the legal function of a company. It is critical because a fully

formulated plan accomplishes the following: (i) aligns the legal function and how it deploys its resources with the key strategic company objectives; (ii) it aligns the overall legal team on both understanding the function’s key priorities and initiatives and how each member contributes to supporting these priorities and initiatives; and (iii) it forces the legal function to be “pro-active” in how it is managed and achieves its longer term goals, including the strategic investments that need to be made, whether people or technology, to optimize its performance and contributions to the company.

Having a legal function strategy does not only apply to large in-house legal teams. While having size and scale can drive a different set of priorities, it is equally important for smaller legal functions. When you are smaller and overwhelmed with issues driven by growth, it is even more important in understanding the types of resources you will require to manage

growth and the key investments needed now to avoid some of the mistakes inherent in just adding resources to catch-up with growth (e.g. too much low value work being performed, misalignment of staffing model, failure to automate, etc.). A legal function strategic plan will provide greater clarity and consistency to your decision-making process for ongoing staffing and investment decisions. It will also allow the members of the legal function to understand why certain investments were prioritized over other requests.

The first step in creating a legal function strategic plan is to understand the company's strategic plan and how legal can enable/impact key priorities. This alignment has the benefit of ensuring resources are prioritized appropriately across the legal department. It further ensures that every member of the legal department understands the company's strategic objectives and how they can contribute toward their success. Being a successful in-house practitioner requires you to deeply understand the underlying business you support, and this alignment helps reinforce this across the department. Finally, it enhances the legal function's credibility with executive management when it can demonstrate it is focused on helping achieve the company's key strategic objectives.

Once you understand and are aligned with the company's strategic objectives, you need to conduct a thorough assessment as to the current state of the legal function. It is in conducting this assessment that you will identify key gaps in optimizing the legal function's performance

and ensuring you can dedicate resources to supporting the company's strategic objectives.

To conduct a thorough assessment, you will need good data. This may be an easier task in a legal function that has good foundational tools that tracks detailed spend (both internal and outside spend), has visibility into all legal services requests, and has good transparency into the workloads of all members of the legal function. Most legal functions will have gaps in the transparency and visibility of all work being performed by the function. There are however tools and processes available to help close these gaps. This can include interviews of key stakeholders (both legal department members and key clients), department surveys on workload, and time tracking tools (can be deployed for limited periods of time).

An important caveat to remember before you begin a workload assessment. Please make sure you over communicate the reason you are conducting the assessment. There is often a fear that the purpose of an assessment is related to a staffing reduction exercise. The purpose of the assessment needs to be made clear to avoid creating needless fear and uncertainty. You will also obtain better transparency in your data without this fear, particularly if you are relying on interviews or surveys.

Given that each legal function will have its own set of priorities and objectives to focus on post the assessment, we will focus in this article on the key foundational pillars that should accompany whatever priorities your legal function

selected. These four key pillars relate to: (i) organizational structure; (ii) talent management; (iii) workload/staffing model; and (iv) technology and content enablement.

As with any corporate strategic planning process, once you create the strategy you need to understand whether the current organizational structure enables the strategy or is an obstacle in achieving the objective. This will be true for your legal function strategic plan as well. This may not lead to a formal reporting structure change, but it may require some changes to overcome potential obstacles with your current structure. For example, you may need to create practice groups across teams and geographies to ensure consistent implementation of an initiative. You can also use the performance management process and related rewards (such as bonus) to ensure teams work well together in achieving your strategic aims.

Talent and talent management processes play a critical role in any long-term strategic plan. Assess if you have the skills necessary on your current team to achieve your identified priorities and initiatives. For example, you may want to reduce outside counsel spend and in-source critical legal knowledge. This however requires the internal talent to do so. You will also want to assess whether you can “upskill” current talent via specific and time-bound development plans. Ensure that in your talent management process you are also looking broadly at the skill sets required to achieve your strategic plan. A modern legal function needs more than lawyers. It also requires ex-

cellent operations resources, program managers and technology experts.

Your legal function strategic plan will also require for you to drive to an optimal staffing model. If you want your team to spend more of their time on key strategic imperatives or drive key initiatives, you need to create capacity for them to do so. All legal work in your portfolio needs to be performed via one of the following options: (i) in-house team; (ii) outside counsel; (iii) lower-cost alternative legal services provider; (iv) client self-help; or (v) automation. You need to understand all the work in your portfolio and be deliberate on how you want it being handled in the future. This will require key initiatives as part of your legal function strategic plan to ensure work can be performed via most appropriate option.

Next you need to understand what are the key technology tools and content enablers that allow the legal function to successfully implement its strategic plan. Technology tools need to include the minimum basic tools that provide you with sufficient data and transparency to run a legal function, such as matter management, e-Billing, and workflow automation. Content enablers can include contracting playbooks or self-help guidance to minimize legal function involvement in certain tasks.


Once you have created your legal function strategic plan you need to carefully consider how to optimize your team’s ability to execute on the plan. First, you need to select resources needed for plan execution. Ideally you will

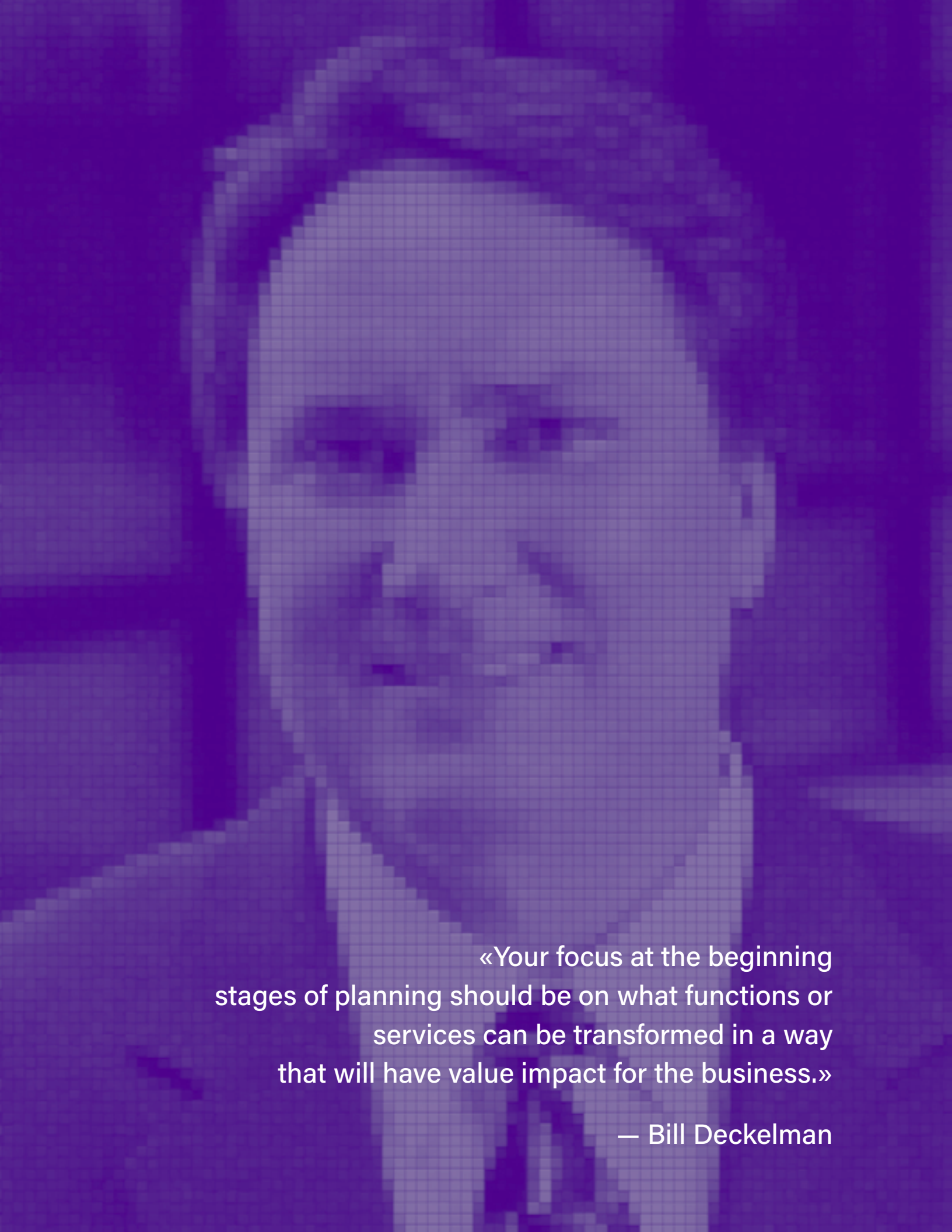
have a dedicated lead and the participation of key legal function members. The execution of any of the identified priorities or initiatives can be something you only focus on when you have spare time. This is a recipe for failure. Be honest upfront as to whether you have the internal skill sets and bandwidth internally to execute on the plan. If you lack confidence in your team's ability to execute on the plan or on specific initiatives, there are external resources available to help.

To ensure successful execution with your legal function strategic plan, you must focus on metrics, reporting and overall governance. Metrics need to be things you can track and report on in a timely manner. Avoid metrics that are not quantifiable and subjective in nature. Remember the corporate adage of "what gets measured gets done".

Metrics needs to be frequently reported on. Ideally you are producing at least a monthly report and sharing that report with senior legal management. The report should not only track your progress on any individual initiative, it should also provide visibility on any known obstacles and identify what needs to be accomplished by next reporting period. In this way, you ensure the necessary momentum to execute on each initiative on a timely basis.

Finally, the governance model needs to include frequent reporting to the General Counsel and, as necessary, to members of direct staff. If applicable, there can be check-ins with executive management, particularly for those initiatives that are a critical part of the company's strategic plan. Also make sure that regular updates are being provided to the entire legal function. They both need to understand progress being made and that the plan is a key component on how the function is being run. This will ensure timely cooperation from everyone that can make an impact to the success of any of the plan's objectives and initiatives.

Let me close this article by sharing a few best practices. As you develop your first legal function strategic plan, it is better to focus on fewer initiatives that you can dedicate resources and time to ensure successful execution. I have seen plans fail from trying to accomplish too many things at the same time and all you do is make small, incremental improvements on each initiative. Better to taste success with a few initiatives and drive credibility across the legal function and your clients with your ability to successfully execute. Also, be sure to revisit the plan on a yearly basis. Companies are not static and priorities can change from year to year and your plan should be dynamic and shift as needed to reflect these changes. 



«Your focus at the beginning stages of planning should be on what functions or services can be transformed in a way that will have value impact for the business.»

— Bill Deckelman



TRANSFORMATION OF AN INHOUSE LEGAL ORGANIZATION: REAL-LIFE LESSONS FROM ONE GENERAL COUNSEL'S JOURNEY

BILL DECKELMAN | Executive Vice President and General Counsel at DXC Technology | [Bill @ LinkedIn](#)

As a General Counsel who began planning a Digital Transformation journey in 2016 for a global inhouse legal function and began implementing that journey in 2017, I have learned a great deal about this subject. I am often asked ‘where should I go to learn about Legal Digital Transformation?’ Although more is being written today about digital transformation of legal, it is still the case that the best sources for learnings on this topic are business or technology sources. One of the most important things I learned is how important it is to be clear from the beginning about the purpose of your transformation. Let me share a few thoughts on this aspect, the beginning point, of digital transformation.

It's about the business

Because change is the essence of transformation it's not hard to understand why humans

struggle to accomplish effective transformation and so many such ‘projects’ fail. We can start with that. Now consider that corporate legal transformations will involve, perhaps not all, but a substantial number of lawyers who are well-trained and practiced in protecting the status quo. Lawyers who want to transform must come to clearly understand that this is not about them, the lawyers, it's all about your client, the business.

This is the fundamental starting point for a successful transformation. Your focus at the beginning stages of planning should be on what functions or services can be transformed in a way that will have value impact for the business. This is where so often lawyers can get it wrong in the first step. The tendency is to think first about ourselves as lawyers and the

‘what’ and ‘how’ of what we do. We think of transformation in terms of how it might enable us to work more efficiently internally or improve the quality of our substantive legal work, whether that is negotiating a contract or litigating a dispute. Nothing wrong with targeting these improvements. These are part of transformation, but they need to be put in the proper context to get your transformation journey off on the right foot.

The business client wants lawyers and professionals who can impact the business in a meaningful and valuable way—think revenue, cost and risk. Quality and efficient lawyering are implicit in what the client wants. These are table stakes. What the client really wants are business-impacting results the client can see. That’s what matters in today’s competitive global environment.

Of course, it is correct to point out that impactful value can be delivered by an inhouse corporate function in both direct and indirect ways. In the context of transformation, I see this as ‘Level One’ organizational maturity and ‘Level Two’ maturity. Level One maturity comprises all the fundamental things that must be done to operate the inhouse function efficiently and effectively.

Today many refer to this as ‘legal operations’ and, by and large, this is predominantly where inhouse legal organizations have focused their improvement efforts in the last couple of decades as ‘legal tech’ matured and enabled the automation of many of the inhouse functions.

This allows the legal function to operate in a disciplined and cost-effective manner as most C-suites expect and it certainly delivers indirect value to the business.

However, most inhouse legal organizations struggle to meet the full expectations of a Level One organization. Why? A modern imperative for all G&A functions is that they achieve so-called ‘year-over-year’ cost improvement. The General Counsel will no doubt struggle for funding to acquire and implement the technology, people and know-how needed to perform at this level. Level One maturity is often pursued through one-off acquisition of the latest ‘legal tech’ shiny objects which are rarely integrated with other systems or reimagined workflows or processes.

Approached in this manner no transformation will occur and there will be no capability to simultaneously reduce operating costs while improving quality and providing meaningful business value. Furthermore, a properly implemented Level One transformation is the foundation for Level Two transformation maturity. Level One earns the General Counsel the right to join his or her peers at the executive management table because it demonstrates the General Counsel can run a function as a business. That is what the C-suite expects of the General Counsel. The General Counsel begins to stand out, however, when the legal function begins delivering results that have meaningful impact for the business. This can occur only through Level Two transformational maturity.

Let me go a little deeper on this aspect of Digital Transformation for Legal—what real transformation means and requires.

What real transformation means and requires

Digital transformation for the inhouse legal function must be customer-centric and passionately focused on delivering value to the business. As discussed, it requires a foundation built on a certain level of legal-tech and automation, but it must go beyond this foundational level to become a data-driven organization. This is a key ingredient to delivering recognizable, always-improving, measurable and sustainable business value.

What is required to get to this capability level as an organization? It requires a vision for how you can change the way your organization thinks and works—a profound recognition that the old and current ways of thinking and working will not get you there and a profound commitment to undertake the arduous journey to get there.

For the sceptics, imagine yourself as General Counsel conversing with your CEO about your objectives for the next three years. The CEO asks you: what are the key objectives for the legal function in that period? Suppose the General Counsel's answer is 'well, we're going to keep working at hiring the smartest lawyers who can write the best legal briefs for you and becoming more and more efficient with our matter management and internal time-keeping systems.' 'We'll try to hold costs down but just

expect that I will be asking for budget increases every year because, as you know, it always costs us more every year to run our function.' A likely response from the CEO in today's world would be: 'We're seeing our other G&A functions beginning to take a holistic view of their people, technology and processes to determine if they can change and update these in a way that adds speed and quality to the function while capturing data which for the first time can be used to give valuable insights to the business for planning and risk avoidance actions. Will you be able to do this with our legal function, while actually lowering, not increasing, your costs?'

If there is a failure of vision on the part of legal leaders today, it is the failure to recognize and appreciate the current significance of digital and data on the legal profession and practice. The world of business has already changed profoundly and there are many examples of change in legal being led by leaders who do understand what true digital transformation means, its purpose, and what it takes to accomplish it. Many have learned or are learning the hard way, however, why it is called a journey—transformational change of a sizeable organization takes years, not weeks or months, to complete. Actually, it's never complete—let's say more accurately it takes years to begin realizing the full benefits of transformation. Ever advancing changes in technology and methods, not to mention in business itself, will ensure the need for continuous transformation.

Let me briefly give an example by collapsing into a few paragraphs over five years of

planning and execution of a digital transformation journey undertaken by the inhouse legal function of DXC Technology, a global IT services provider.

We began our transformation planning in the context of integration planning for a merger that had been announced in 2016 and would close in 2017. This merger would require us to combine two large, global legal and contracting functions that had steadily grown over many decades. These were, in many ways, quality organizations as traditional inhouse functions and included many high-quality and well-meaning professionals. The organizations struggled to obtain internal funding for modernization and, as many such functions do, they worked harder and harder to keep up and support their business clients, streamlining and attempting to automate haphazardly when opportunities were presented. Costs steadily crept up over the years despite the vocal objections and criticism from the CFO. Lawyers became increasingly siloed as business units protected ‘their’ lawyers who they had grown familiar with and could rely on and lawyers hoarded their ‘valuable institutional knowledge’ to protect their jobs. In general, the functions were becoming complacent and were in dire need of being refreshed.

This description would fit the vast majority of legal functions for large ‘legacy’ global enterprises in recent years. Our particular challenge in 2016 was that we had been told our combined function would be required to reduce our costs by over 30% in our first year of the

merger. That alone was an ominous challenge. Our leadership, however, determined that we would not just cost-cut our organization into the ground until it could no longer perform. We envisioned a digital transformation knowing that only a digitally-enhanced, data-driven and innovative organization could lower costs significantly, not just once but year-over-year, and yet thrive as a high-performing function providing real business value to our company and a healthy, professionally fulfilling environment for our people.

Where are we today and what has it taken in over five years of planning and execution to get here?

To execute on our vision we knew we needed technology and process transformation and we knew we needed to reset our culture (more on culture below). These all require resources and investment. We knew our internal funding opportunities would be limited. We knew for the level of transformation we wanted to implement, and on the accelerated basis we demanded of ourselves, we could not accomplish this with a few ad hoc projects and pushing our existing people to work harder to squeeze in ‘special project support’ around their existing workloads. We needed a partner. We entered into a long-term managed-services arrangement with a third-party provider of legal transformation technology and services, UnitedLex.

We focused our transformation efforts first and primarily on our contracting and contract management functions. Why focus here? Two


reasons—first, this is where a significant part of our function's cost was to be found and it was most susceptible to a scaled technology-enabled transformation which would deliver continuous quality and cost improvement, and second this is where by digitally transforming we could have the most immediate and long-term value impact for our business.


After almost five years of execution against our goal of transformation we have seen a transformative change in the way our people work and support the business of DXC. Through a highly-integrated joint collaboration with UnitLex we developed a transformation and technology roadmap which on a number of parallel tracks ensured we were moving toward new technologies which would function in highly connected and integrated ways to support global workstreams, work disaggregation and re-aggregation, communications and collaboration, individual empowerment through technology and process improvements utilizing and relying gradually but increasingly on data that had never before been captured, analyzed or reported.

Through all of this 'Level One' activity we always kept our focus on the end goal of bringing value to the business. The business began seeing the value -- they experienced faster response

time through automated service request allocation and a direct 'business portal' eliminating unnecessary steps in service delivery and we began to transform and simplify our complex contracting approaches.

Yes, we wanted to establish a strong foundation at Level One so that we could work efficiently and proficiently and begin to demonstrate value to the business, but all while knowing this was only the foundational step on our transformation journey.

As we progressed through the fourth and fifth years of our transformation we began to realize the benefits of our efforts. We found ourselves moving into Level Two maturity. We now have our technology well integrated and supporting the data-gathering, analysis and reporting we need in real-time to intelligently provide our services and support to the business. Designing and aligning our processes and technology to accomplish this has been hard work and certainly some trial-and-error, some re-doing of work, and a number of twists and turns. In the end, however, the journey has been well worth the struggle. We are continuing forward in partnership with our client, the business, to continually improve and deliver impactful value. 



«The organization's leadership must be committed and indicate a clear digital transformation strategy that is *ad-hoc* to the needs of the legal industry, which must be accompanied by strong messages and a budget that demonstrates such commitment.»

— Rosa Rascón



LEGAL AUTOMATION: RELIEVING THE LEGAL TEAM OVERLOAD

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Countless are the occasions in which lawyers have been mocked in conversations with our clients, due to our lack of technological savviness, our archaic ways, and our traditional language. Those of us who have been corporate lawyers know well that the famous phrase “unfortunately we need them” refers to our presence in business processes. Although everybody recognizes the relevance of our role, the suffering of the internal client when having to review a matter with the legal team is also evident, an experience that is not different in the case of entrepreneurs and their law firms.

However, that feeling of discomfort that our clients experience when dealing with a matter with us is not due to our ability as lawyers, nor to our legal knowledge, but to the experience they have when using our legal service. I remember hearing complaints from our internal clients focused on the one hand, on response times that make us “bottlenecks” and,

on the other hand, on our risk aversion and on our bureaucratic processes to resolve their requests.

Clients do not always recognize that the reason for such delays is due to the strict care we put in analyzing each of the matters, while risk aversion is in accordance with our prevention task, which requires extreme prudence in decision making, which does not mean that we cannot recommend taking some risks if they are in line with the legal strategy.

Now let’s imagine a different scenario for us and our clients, where it is possible to be nimbler in responses and more accurate in decision-making, allowing us to take risks with greater probabilities of success. This scenario is closer than we think, thanks to technology. Today, computer programs enable us to organize our work better, automate low-complexity tasks, and plot our content and risks to facilitate decision-making.

Suppose we are in 2025, so now all Latin American lawyers know what **“legal operations”** means. They elaborate their contracts with **clarity** and take advantage of the different types of **legaltech** to manage the operations of their legal team within a company, or to manage their law firms. Furthermore, they rely on specialized legal software to manage their practice areas. They have a **Contract Lifecycle Management software** for contracts, Virtual Data Rooms for Mergers and Acquisitions, **Case Management tools** for litigation, etc.

In this sense, we can imagine the day-to-day life of a corporate lawyer and a solicitor. The first has undergone a huge change regarding his activities in 2019, before she had to dedicate 4 hours of her day to tasks that seemed boring due to the lack of intellectual challenge, such as reviewing hundreds of scanned documents that included acts of incorporations, powers of attorney and others. This process currently takes a quarter of the time, thanks to OCR technology and automated information analysis. Furthermore, she does not have to spend time checking whether her intern has made mistakes when filling out NDAs (Non-Disclosure Agreements), now the document automation tool generates them practically by itself, allowing her to focus on the most challenging cases.

As for the solicitor, he spent too much time gathering information, not only externally, but also on his own documents, which in theory he already had on his computer. In addition, he received constant interruptions from the client

asking about the status of his matter, which took away a lot of valuable time that now, thanks to the structured information search services, and the **“Client Portals”** that solve those challenges, respectively, he can dedicate his time to the analysis of the case and the development of the legal strategy.

If all these technologies described already exist by 2022, why am I talking about the future? The answer is, in some cases, the lack of knowledge of their existence and, in others, our mindset, keeps us from reaping the benefits of using them. Thus, I will start by describing the benefits of automation. For lawyers, it represents timesaving and an increase in motivation, because while the software takes care of the simple, repetitive and low-value tasks, it allows us to focus on those that not only have a greater impact, but are also more interesting because of the intellectual challenge they implied.

Likewise, for clients, legal automation allows greater agility in responses, as well as greater transparency, and therefore, a more pleasant experience when receiving a better service. For society, it represents the opportunity for greater access to justice and law, since it is not a secret that access to legal documents or prevention services depends on the client's budget. However, by making simple processes such as the drafting of lease agreements more efficient, it is possible to make them affordable to a greater number of individuals. The same thing happens when courts use technology, trying to have a system that allows a true “prompt and expeditious” justice.

But let us clarify something: what is automation and how does it apply to the legal industry?

Automation is a process that consists of incorporating action rules to previously defined situations through technology, ensuring **consistent quality**, cost reduction and reduction of repetitive tasks that tend to be boring for employees, as they do not represent an intellectual challenge (García, 1999). In addition to reducing human errors due to fatigue, automation helps organizations be more competitive in a changing environment, with increasingly demanding clients and employees.

According to the International Society of Automation, automation is “the creation and application of technology to monitor and control the production and delivery of products and services.” If we complement it with some of the definitions of “automatic”, we have that it could be: a mechanism that works in whole or in part by itself; something that is produced without the need for the direct intervention of the interested party, and that is a “science that tries to replace the human operator by mechanical or electronic devices in a process.

Therefore, in the context of the legal industry, we can define automation as **the process where technology is used to replace human intervention in the production of a legal document or in the provision of legal service, totally or partially, in accordance with the complexity of the matter.**

Although there are different levels of automation, an example of how to take advantage of

it in very simple way and with a quick return is the following: Let us suppose that our organization requires its staff to answer an email whenever it is received from a client making a request, to confirm that it has been received and processed. Even though it is a simple task, receiving the email, registering it, assigning it a request number, and writing the email to the client, it can take us about 10 minutes. Suppose now that we receive 5 requests a day. This would give us a total of 4 hours a week spent on small easily automatable tasks. However, the benefits are not only quantitative (4 hours of time saving), but also qualitative, such as the positive perception of the client regarding the level of service by having an immediate response.

Other examples are based on the ability to answer simple questions that we give many times to clients by using chatbots, or the creation of standardized documents such as NDAs or lease agreements by using **document automation tools**.

At this point, it is worth clarifying another term linked to automation to avoid confusion, which is Artificial Intelligence. **Artificial Intelligence (AI)** is “the science that deals with the theory and development of software solutions that are capable of performing tasks that normally require human intelligence, such as visual perception, speech recognition, decision-making, and translation between languages” (González Espejo, María de Jesús, 2021).

While AI is a trendy concept, it is important to be clear about when we really need it and when

marketing plays its role. Hence, many organizations spend large sums of money on artificial intelligence solutions and are disappointed by the results, for not having considered that the solution was focused on a different legal system, or a different use case. For example, an excellent legal AI tool can analyze contracts. However, we must consider that AI tools go through a training process, so it would be a mistake to adopt an analysis tool from the United States leases to credit agreements in Mexico, without being trained in the proper jurisdiction and the corresponding matter. Another common point of disappointment is when they discover later on that what they needed was simple automation to develop standard contracts, a tool of which would have been cheaper and faster to deploy.

To avoid failure upon implementing automation projects in the legal industry, I would like to propose the following recommendations:

1. **Start with a need's assessment:** The LegalTech offer is wide, and as the famous phrase says "for those who do not know what they are looking for, everything they find on their way will be good." Therefore, the needs of lawyers and the rest of the team that make up the legal department or the law firm must be understood first.
2. **Carry out a legal digital maturity diagnosis:** This second topic refers to the knowledge and digital skills of the staff, as well as the processes and specialized technology to support the several practice areas. In other

words, some organizations only have videoconferencing software and email, so the natural step would be to acquire a Document Management System and not an AI tool. Moreover, there are also companies that want the legal department to use the same tools as the accounting or sales team, resulting in more complexities for lawyers, since these tools are not designed for their needs, or their routine and processes.

3. **Establish a clear strategy:** The organization's leadership must be committed and indicate a clear digital transformation strategy that is ad-hoc to the needs of the legal industry, which must be accompanied by strong messages and a budget that demonstrates such commitment.
4. **Make a business case or a Return on Investment (ROI) strategy:** This is especially the case for lawyers from corporate legal departments. It is well known that the legal department is not at the forefront of the budget needs of the company, so it is difficult to defend a budget for the acquisition of software. To do this, they can ask their vendor to support them with the creation of a business case or with a document that addresses the return on investment, since thus it is possible to demonstrate that the efficiency of the legal team will translate into greater agility for the company, and, consequently, in higher profitability.
5. **Expert support in the project implementation:** This is a highly recommended item, especially when it is the first time that an


ambitious technological project has been implemented entirely focused on the legal department or the firm. This support can be provided by a consulting firm specialized in legal digital transformation or by the same technology provider.

Conclusions

Legal automation is not intended to replace the lawyer, but to make our lives easier, saving the time we spent on repetitive, low-value and low-risk tasks, to give space on the agenda to the most complex or important tasks, such as legal analysis, strategy design, client meetings or more complex documents.


Aiming to implement automation, and later artificial intelligence or big data, we need to

meet the basic aspects of digital transformation; that is, the standardization of processes, electronic document management, the use of electronic signatures, among others, as well as being accompanied by experts in the digital transformation of the industry and not only by general experts from any industry who may not understand the nature of our specific challenges as legal professionals.

The implementation of technology in the legal routine is no longer optional, since whoever does not have it will be seen as a professional without a smartphone, something so basic in our days that it is difficult to assimilate that someone does not have one. 

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«The view of end-to-end business processes
is not present in most implementations of legal
services, with or without technology.»

— José S. Moscati



BUSINESS PROCESS MANAGEMENT AND THE IMPLEMENTATION OF LEGAL SOLUTIONS

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The Latin proverb: *nanos gigantium humeris insidentes*, in english known as: *standing on the shoulders of giants*, expresses the meaning of “discovering truth by building on previous discoveries” and was used by Isaac Newton when he credited his scientific advances to the scientists that preceded him. In the book *Guns, Germs, and Steel. The Fates of Human Societies* by Jared Diamond, he describes several conditions that need to exist in order to create fertile grounds for inventions. Diamond (2017, 20th Edition) ranges from the famous proverb: “necessity is the mother of inventions”, to the fact that inventions are built based on previously developed know-how. Know-how developed by one inventor is made available to another and in so doing, adds improvements, discoveries, and new uses to the previous invention. This ongoing improvement of inventions is only possible when the environment fosters el-

ements such as sharing, testing, and adoption of new technologies. These conditions exist in abundance nowadays, as we have unprecedented conditions, on a global scale, for the creation of inventions and the advance of software technologies. According to Jared, more innovation equals a higher number of opportunities for even more innovations, accelerating the number of novelties as time passes by (p. 247).

Advances in technology are re-shaping the market at lighting speed. After each breakthrough a new set of technologies is created, leveraging the previous ones. An example would be Cloud Computing, which enabled thousands of software engineers to collaborate and create accessible, low to zero cost, open-sourced tools and processing capabilities that had not been available before. This also led to enabling the creation of new tools and business models, such

as Infrastructure as a Service (IaaS), Platform as a Service (PaaS), and Software as a Service and Artificial Intelligence (AI and its broad list of meanings).

With so many resources available, new Software and solutions experienced exponential growth. Every day, dozens of extraordinary solutions are launched and offered. Many of these solutions and Software are designed to help legal professionals with different aspects such as Contract Management Tools, AI to help find precedents and laws, Bots that can search and screen information, legal metrics, as well as automatic productions of documents, among other uses.

However, when these solutions are implemented, regardless of their quality and/or sophistication, they do not significantly improve the lives and businesses of our clients, nor of the people providing the legal services.

Professionals and consumers of legal services fall short of obtaining the full benefits of the technological advances available today due to the lack of integration of the legal services in the chain of solutions they aim to support. The view of end-to-end business processes is not present in most implementations of legal services, with or without technology.

On the other hand, when adopting technological solutions alongside the re-design of processes and the implementation of a Business Process Management (BPM) culture, the adoption of the technology is smoother, has less friction, allows for measurable results, and has benefi-

cial impacts that last and evolve through time.

There are different degrees of adoption of BPM in organizations, but they are not widely used, especially in Latin America and in legal services. When new technologies appear, most companies tend to adapt only to a superficial degree, using the new technology without changing the process around it. If companies were to modify the process surrounding the new technology they are using, they would be able to significantly enhance the quality and delivery of their products.

BPM is an integrated system of managing the performance of a business while focusing on the end-to-end management of the process, transposing companies' internal divisions, departments, and silos. These processes are represented by a design or a drawing of the activities that will be performed, by whom, when, where they should be performed, and the metrics that they will be subjected to. For this drawing to be understood by others, there are common standards, norms, and symbols detailed by the Business Process Model and Notation (BPMN), maintained by the organization **Object Management Group**. There are software solutions, mainly on SaaS, that facilitate the design of the process under different degrees of detail that range from a macro level draft to a fully automated model. These tools are named Business Process Model Software (BPMS).

Some activities in the BPMS, subject to specific rules, can be fully automated. These activities include identifying what to do with a docu-

ment, sending an email, checking a website, triggering any activity, and/or taking any actions based on the pre-defined parameters. For instance, a contract is a part of a more extensive process such as the procurement one. Having tools to automate the drafting of an agreement by itself may not generate a meaningful impact on the end-to-end process of procuring goods.

The fact is that very few organizations have their business processes designed. In this group of businesses, only a handful have a process that is end-to-end involving a legal team. There is no blame in the technology involved. The fault lies in speeding up a phase of the process, while not addressing the bottlenecks of the other phases, which leads to slowing down the entire process and possibly draining the company financially and emotionally. It is like having a 400 meters sprint in the middle of a 42.195 marathon.

There is no question that today's technological solutions are helpful and are an excellent investment to companies aiming to deliver better outcomes. Nevertheless, some pre-work is necessary to identify how the solution fits in the process. If the process is not known, some efforts need to be dedicated to map out its current stage, i.e., the *As Is*; how it should evolve to deliver the desirable outcomes, i.e. the *To Be*; finally, to which indicators will be designed to make sure that the process can continue to evolve.

Consulting companies and internal resources have an essential role as the activity to map the *As Is* and to evolve it to the *To Be* stage. This role

requires hours of human interactions, workshops, interviews, and dedication of the people involved. The team should follow a methodology to avoid getting lost within the process that can vary from industry to industry.


In the post-pandemic world where remote work has been normalized, the value of mapping and constantly assessing the processes involved in a business activity is even more important. As the human interactions and watchful eyes of the most senior resources, the ones that hold the know-how of how things are done, are no longer there. Unless captured in a business process design, this know-how is lost, as it is no longer available in the office space next door, nor in the physical corridors of the company.

When implementing a new software, adding a layer of human interactions, such as interviews in order to map out processes, may look counterintuitive and costly. However, this new layer for the process can be very impactful through time for these software solutions and guarantees its results. This can be a key advantage in a competitive and fast changing world. Not obtaining the desirable gains after such an investment can be worse than a bad investment; it can be fate changing.

Due to technology's current abundance and quality, it is no longer the most sensitive or even the most expensive part of the process of obtaining excellence in delivering legal services. The most sensitive parts are: the process itself as well as the know-how for getting things done, the engagement, and the streamlining of

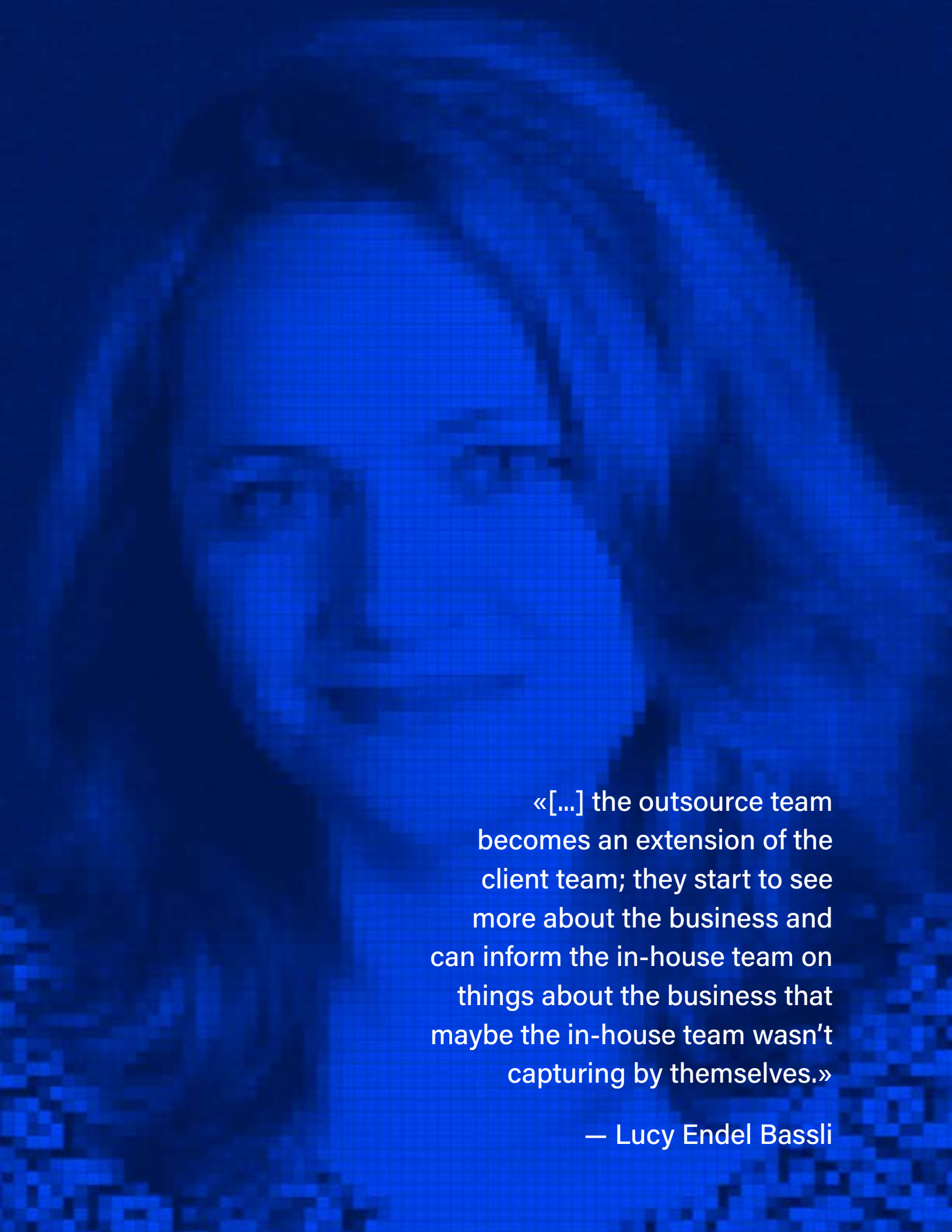
the end-to-end process. Unfortunately, this is often forgotten when procuring a solution and is not budgeted during the implementation.

With the increase of home-office during the pandemic, understanding, documenting, and mapping business processes guarantees that companies won't lose important know-how and oversight. If companies neglect this important step, they will be unable to implement technological solutions, such as Bots, software designed to accomplish tasks that humans do not do well. These tasks include repetitive op-

erations and judgment subject to rules that require full attention to details. The coalition of Bots and Software solutions generates an experience of transformation for the industry of services in general. The conjunction of BPMS, Software Designed for Legal Services and the Bots, are three factors that will dramatically change how legal services are delivered. These factors will catch many legal departments and law firms that haven't mapped out their processes off-guard while others will take full advantage of the unprecedented benefits these aforementioned factors add to services. 

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«[...] the outsource team becomes an extension of the client team; they start to see more about the business and can inform the in-house team on things about the business that maybe the in-house team wasn't capturing by themselves.»

— Lucy Endel Bassli



OUTSOURCING

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Outsourcing as a Mega Trend

Throughout my career which has included working as a commercial transactions lawyer, both at a big law firm and inside a global legal department, I've been fortunate enough to have had a front row seat and countless hands-on opportunities to shape, engage in and advise on a wide variety of legal trends which have emerged to address the growing and changing needs of the legal industry.

It has been both my mission and my passion over the years to modernize, demystify and simplify commercial contracting by helping attorneys and corporate legal teams strike the right balance between **people**, **processes** and (where needs and expectations are correctly aligned) **technology** to address the contract lifecycle management (**CLM**) issues that they face. When engaging in the all-important “people” and “processes” evaluation when embarking on process improvement exercises with clients, one of the pervasive considerations in almost every engagement I've had over the last decade (if not longer) has been the value of outsourcing certain types of legal work.

So, while I cannot say that the notion and practice of outsourcing legal work is a new idea or even a new trend, my cumulative experiences, supported by collections of industry data¹, have shown the significant growth of legal service providers (**LSPs**) as key players in the global legal services market. The rapidly growing awareness across the legal industry regarding the efficiencies to be gained by disaggregating legal work, coupled with the evolution of alternative approaches to delivering legal services, have seen outsourcing emerge as a mega trend; one worthy of serious consideration by law firms and corporate legal teams alike.

Just How Mega is This Trend?

Industry data suggests that the LSP market has now reached a point of maturity. There is a clear decline in negative perceptions relating to the use of LSPs, as well as significant growth in both the volume of customers being served

¹ In February 2021, the Thomson Reuters Institute, in partnership with the Center on Ethics and the Legal Profession at Georgetown Law and the Saïd Business School at the University of Oxford, issued its third biennial survey report on the ALSP sector. You can download a copy of the report here <https://www.thomsonreuters.com/en-us/posts/legal/alsp-report-2021/> (the **Alternative Legal Service Providers Report 2021**)

and the breadth of services being offered by LSPs. The LSP market is currently valued at nearly \$14 billion and counting². LSPs have also achieved increased market penetration, with a majority of law firms and corporate legal teams now using LSPs in some form³.

Even the terminology has matured. Formerly referred to as “alternative legal service providers”, LSPs have taken umbrage with the continued inclusion of the word “alternative” in relation to a service offering that has matured so significantly. Independent LSPs have even taken to referring to themselves as “new law companies”. What is clear, is that regardless of how LSPs are labelled, they are no longer in the “alternative” realm. It’s worth clarifying that the outsourcing of legal work includes a variety of possible service providers, including law firms, but for the sake of clarity and consistency, I will refer to all legal service providers, other than law firms, as “LSPs”.

Despite their significant growth, LSPs are yet to make a serious dent in the market share held by law firms. Nevertheless, law firms have not failed to take note of the rise in popularity of LSPs, particularly the independent ones, and some have responded by leveraging the LSP model to create their own competitive offerings. Smart law firms also use LSPs to help reduce their own costs for certain functions that

don’t need legal expertise or licenses. These include back-office functions, like word processing, but even for some of the legal work in document review, certain steps in the eDiscovery process, litigation matters, and even some of their more reputable contracting work.

As LSPs have moved up the value chain law firms are realizing it is better for them to play with them and use them than it is to lose revenue to them. Law firms’ revenues are by no means declining. Through this innovation, however, law firms are giving up potential revenue to LSPs because the work assigned to them is below the quality or the type of legal work they want to do. When integrated with their own offerings law firms can offer clients more holistic solutions and improve clients legal buying experience, leading to higher retention.

The pandemic has also had something of a validating effect on the LSP model. While LSPs did not escape unscathed from the shifting dynamics brought about by the pandemic, we did see a steep rise in flexible, remote, technology-enabled working (including major growth in the CLM technology solutions space). Remote work, enabled by technology, fostered broader acceptance and increased levels of comfort across industries with the possibilities and benefits relating to sending work off premises. This shift has resulted in an exploration and acceptance of new ways of working on a scale previously unseen and has paved the path for future growth in the LSP space.

² See the *Alternative Legal Service Providers Report 2021*, page 4.

³ At the time of publication of the *Alternative Legal Service Providers Report 2021* (see page 6) 79% of US law firms reported using LSPs, while 71% of US corporations reported using LSPs.

While comfort levels around using LSPs have undoubtedly increased, outsourcing of legal functions is still a concept that is in transition. Many recognize that there is a definite value proposition to using alternative legal services to scale and gain efficiencies, but old ways die hard. What is clear is that outsourcing is on the rise and even the most recalcitrant attorneys will be hard-pressed not to at least consider the value proposition of outsourcing in the near future.

Staying on Trend: Outsourcing and CLM

“Do what you do best and outsource the rest!”⁴. Just because outsourcing is a mega trend, does that mean it’s always the right move? The short answer is no. I prefer to rephrase this popular adage to “Do what is worth your time and outsource the rest!”

Within the scenario of managing commercial contracting within corporate legal teams, before considering what work to outsource and to whom, legal departments should regularly assess if any legal involvement is necessary at all. Sometimes legal becomes sort of a crutch for the business and finds itself overloaded. Determining how work might be allocated and resourced between in-house employees and external resources should be based on the complexity of the transaction. For example, if there is work that in-house legal professionals, either

junior attorneys or paralegals are currently doing, but which is predictable and not challenging – they should stop doing it. That work is conducive to documenting in a playbook and is rather easily outsourced to a an LSP whose low-cost, experienced legal professionals across a variety of skill levels can handle the same work with relative ease.

LSPs can pretty much do anything a law firm does except practice law. But this means, that once legal services are unbundled or disaggregated based on the process components of the work, there are many parts of the lawyer’s job that somebody else can do and that don’t involve the actual practice of law. LSPs have stepped in to take some of these functions off the desk of lawyers and corporate legal departments are turning to them to provide different staffing models, different staffing solutions, and to lighten the load of their lawyers. They are also turning to LSPs, in some cases, to pull back work from the law firms that do repeatable, recurring work.

On the other hand, there are those transactions that require the subject matter expertise of legal experts and the unique business insight that only the in-house legal team can bring. Regardless of changes in the legal services delivery models, there will always be a need for experts at legal departments and those closest to the business, to handle the most complex transactions.

Outsourcing is not something to jump into. It is not a bunch of work tossed over the transom to an LSP with the hope of a neat and tidy out-

⁴ This expression is attributed to Peter Drucker. See also “Sell the Mailroom,” Peter F. Drucker (July 25, 1989, updated November 25, 2005) *Wall Street Journal*. Available at www.wsj.com/articles/SB113202230063197204

come. In fact, it takes a lot of work to prepare for outsourcing and then a significant amount of work to manage the relationship. That work is very different from actually doing a substantive legal analysis. The work to be done by the client after outsourcing is all about managing expectations and reviewing the results together with the service provider. It requires project management skills and business operations experience. With that in mind let's examine some of the more practical aspects of outsourcing legal services because it can be overwhelming. Some basic steps will set a good foundation for any attorney planning to outsource or planning to deliver services as an outsourced service provider.

First and foremost, it is crucial to **develop a business case** for outsourcing. This must include the clearly understood and explained reasons for outsourcing. It is where the benefits and goals are described.

In order to outsource contracting work effectively and efficiently, lawyers need to be very deliberate in **picking the right work to outsource**. Some of the fundamental features of contracting work that can be successfully outsourced include that -

- It is repeatable
- it can be documented as a process
- it has a defined and somewhat narrow scope
- it requires minimal individual decision-making
- if it is not handled perfectly, it will still be acceptable
- currently the work is being done by paralegals and admins
- it is amendable to tracking metrics (how many, what type, how long)

Generally, *high volume, lower risk* work is best for outsourcing.

Deciding on the outcome is the next essential step. It is important to determine exactly what is intended from the outsourcing process. These outcomes will be unique to the client and firm, depending on what the goals are for outsourcing. Most importantly the desired outcomes must be reasonable and within the scope of capabilities sought from the LSP. It is easy to come up with a grandiose wish list of goals, but care should be taken if the goals are actually achievable.

There needs to be a clear alignment of needs, capabilities and expectations before **selecting the right outsourced service provider**. Consider the following -

- **Clients must understand what they are outsourcing** - there is no faster way to fail in outsourcing than to expect the LSP to take on processes the client team can't understand or explain internally. It is critical for the client team to spend a significant amount of time learning their own process.
- **Document the current process in detail** - in order to outsource effectively the current process must be clearly documented with some detail. Once the current state is defined, it is the perfect time to identify inefficiencies and process gaps.

- **Learn about the LSP's culture and abilities**
- clients should spend time with the LSP's and learn about their capabilities and innovative solutions to deliver legal services, but also spend time getting a sense of their culture and whether there is a match with their own.
- **Establish a joint governance framework**
- a governance model plays an important role in figuring out if things are going well, whether the LSP is delivering what it should, and thinking through what the engagement could and should look like because it's very different from the traditional way of engaging with law firm. The importance of knowing how a relationship will be governed once it goes live cannot be overstated. There should always be a clear emphasis on transparency in each direction.

Simply put, **there can never be too much planning** - take the time and bring in the right resources that will help determine the right LSP for the work.

Done well, outsourcing legal work should yield inevitable **benefits** including -

- *Scalability* – LSPs can deal with fluctuating demands, which are difficult to staff internally
- *Efficiencies* – LSPs are built to optimize efficiency, including expert use of technology
- *Potential Saving* - particularly when switching from law firms to LSPs.


In a good relationship, the outsource team becomes an extension of the client team; they start to see more about the business and can inform the in-house team on things about the business that maybe the in-house team wasn't capturing by themselves. There is now a real opportunity to expand the relationship, which is a great carrot for the LSP, and a huge value for the in-house team that is constantly going to handle more and more work.


Outsourcing and the Future of Legal Services

It's clear that the LSP business models are now a permanent fixture in the legal industry. The increasing awareness by attorneys who provide differing legal services that they belong to a broader ecosystem encompassing LSPs, regulatory influencers, customers with greater buying power, and other players who are forcing changes in the legal industry will continue to drive greater collaboration and symbiosis amongst all players in the industry.

For the foreseeable future, LSPs will continue to fill the gap in the market, yet unfilled by law firms, by delivering value through the provision of cost effective, specialist, smart legal services and successfully leveraging technology to drive efficiencies. Whether LSPs will ultimately eclipse law firms in leading client engagements, bringing in attorneys when niche expertise is required, remains to be seen. I remain skeptical. While confidence in the quality of the work being provided by LSPs is growing, corporations are still likely to rely on experienced attorneys to monitor and ensure quality.

What is certain is that corporations will continue to demand greater value and more cost effective and efficient solutions which will continue to drive industry wide transformation and modernization. This bodes well for the continued growth of LSPs. LSPs have firmly established their place as a key player in the legal ecosystem and a necessary part of the

corporate legal department resource model. Outsourcing is an easily accessible, pressure release and efficiency optimization option, which is available to all legal teams, regardless of size. If approached practically, pragmatically and most of all properly prepared, outsourcing can return time and restore sanity to overburdened lawyers. 



«The way we price our services
places all the risk on clients, the
purchasers of legal services.»

— Ed Walters



PRODUCT-MARKET FIT 101: LOBSTER LAW

ED WALTERS | CEO of Fastcase | [Ed @ LinkedIn](#)

Law firms struggle to gain find clients. They buy expensive advertising in profile directories, invest in branded merchandise, sponsor events, and more. Few law firms have enough clients, and they are always looking for more. Do the ads work? No firm knows. But few firms have enough paying clients to fill their days. This is an excess of supply of legal services.

On the other hand, the vast majority of people who need legal services go without them. Recent studies show: 77% of legal problems don't receive legal help, and 86% of civil legal problems faced by low-income individuals receive either inadequate or no legal help at all.¹ This is an excess of demand for legal services.

In efficient markets, supply and demand will meet. If there is an excess of supply, providers will lower prices or find other markets. If there is an excess of demand, new entrants will come into a market to meet the demand, and existing providers will lower prices or offer different

services. Efficient markets do not feature excess of supply **and** excess demand.

There are a number of reasons for inefficiencies in the market for legal services, but at least one of them is product-market fit. The term “product-market fit” was coined by famed Andreessen Horowitz founder Mark Andreessen, who said that it means “being in a good market with a product that can satisfy that market.” The supply and demand problem in legal services suggests that there is a product-fit mismatch between lawyers, the providers of legal services, and clients, their consumers.

To understand the product-market-fit problem from the perspective of a client, imagine going to a restaurant to buy a lobster dinner. The menu is full of options, but the lobster is listed at market price. When the server comes to take your order, and you ask what the market price for lobster is, the server says, “It depends.”

Your server elaborates: “It depends on the temperature of the water the lobster is pulled from. It depends on the route the truck driver took

¹ World Justice Project, *Global Insights on Access to Justice* (2018), <https://perma.cc/XRW4-SFFR>, Legal Services Corporation, 2017 *Justice Gap Report* <https://perma.cc/9P8W-K9HJ>.

from the lobster pound. It depends on the spot price of natural gas tonight. And it depends on who cooks it. We have a master chef in the back who specializes in preparing lobster, who studied at the Culinary Institute of America. But if you want to save some money, we have a very promising sous chef who could cook it for you for less. But don't worry: the price of the lobster will be on your final bill."

If the market price for lobster were calculated like this, nobody would ever order lobster. All of the risk is on the diner, who is obliged to pay whatever price is on the final bill. The diner would order a dish they wanted less, or pay a higher fixed price for something else, than to order lobster at an indeterminate market price.

If all of the prices at a restaurant were "market price" in this way — variable and unknown to the diner until the final bill (which they are obliged to pay in full), nobody would ever eat at that restaurant — they would eat somewhere else.

If all restaurants charged these kinds of opaque market prices, nobody except the wealthiest, most risk-averse diners would eat out. More people would cook for themselves at home.

As a profession, we work at this restaurant.

So it is no wonder that the vast majority of our clients are eating at home — coping with their legal problems without the help of lawyers or the legal services market. The way we price our

services places all the risk on clients, the purchasers of legal services.

Many people talk about the access to justice gap as if it is an exogenous problem to the legal services market. They reason that legal services are inherently expensive and that persistent poverty is a terrible problem that lawyers cannot fix. It's not the legal profession's fault, some say, that more people cannot afford to pay for expensive legal services.

The product-market fit problem is not uncontrollable, and the access to justice problem is as much about risk as it is about price. People aren't asking the market price of legal services, then leaving law offices because the cost is too high. Clients aren't consulting law firms because they bear all of the risk of high costs.


Starbucks founder Howard Schultz did not lament the "access to coffee gap." He made coffee that people wanted to drink, put it in places that were convenient for consumers, and made it easy for them to buy it. He relentlessly pursued product-market fit for coffee drinkers.


Uber didn't suggest better SEO and profiles for cab drivers, it took the risk out of paid intercity travel by posting how far away drivers were, how much rides would cost, and how long they would take. Even when Lyft or Uber cost more than taxis, people prefer them because knowing these things makes travel less risky for consumers.

Services like these vastly expand the size of their markets because product-market fit helps them reach consumers that traditional services cannot.

The Thomson Reuters Legal Executive Institute recently estimated the size of the legal services market in the United States as \$437 billion. And that is only the 15–20 percent of people who are availing themselves of law firm legal services. The other 80 percent — the latent market for legal services — probably isn't 4 times the size of the \$437 billion market. But it's estimated to be comparable in size, which means the true

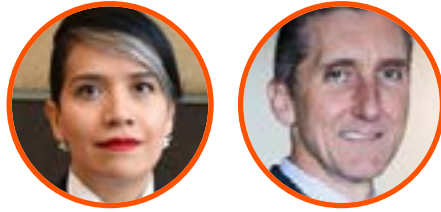
size of the legal services market in the U.S. is likely closer to \$1 billion.

Half of that market is eating at home — fending for themselves to deal with legal problems. This is simultaneously a tragedy of global proportions, and a giant opportunity for lawyers to address a latent market that needs their help. As we look to build a more resilient and equitable system for the future, we need to reimagine legal services in a client-centered way, to meet consumers where they live and satisfy the demand for legal services. 



«Technology must always be a tool at the service of human beings. Artificial intelligence and the extensive use of social media platforms are generating a great tension.»

— Ana Paula Romualdo
& Francisco Javier Torres-Landa



SOCIAL MEDIA REGULATION: BETWEEN A ROCK AND A HARD PLACE

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Although Meta's metaverse drew much attention since its announcement in October 2021 and was the buzziest tech term during that last trimester, social media regulation is still among the biggest technology trends in 2022 because of the wide array of topics that it represents. In fact, this regulation could have an impact in certain aspects of the metaverse.

During 2021 there were numerous attempts and concrete laws to regulate at least one of the many faces presented in the use of social media around the world (e.g., The UK's Online Safety Bill, the EU's Digital Services Act, Poland's Bill on the Protection of Freedom of Speech on Social Media, and the Amendments to the Australian Association of National Advertising Code of

Ethics¹). In Mexico an unfortunate proposal was presented by Senator Ricardo Monreal to regulate social media, bill that was not even discussed.

Efforts to improve the current state of social media are to be seen this year. One of the most recent efforts is the creation of the Institute for Rebooting Social Media, a research initiative by the University of Harvard's Berkman Klein Center for Internet and Society launched to "*accelerate progress towards addressing social media's most urgent problems, including misinformation, privacy breaches, harassment, and content governance.*"² The Institute will be fully launched in the Spring of 2022.

¹ Germany's Network Enforcement Act came in force before the trend, in 2018.

² [The Institute for Rebooting Social Media | Berkman Klein Center \(harvard.edu\)](#)

Social media is defined as media (websites, applications, etc.) that allow people to communicate, create their own content and share said content and other information over the internet. This technology provides an unparalleled opportunity for expression and communication, without geographical boundaries. Never before has an individual been so easily broadcast. Never before content was so easily produced and consumed. Never before knowledge, information (and disinformation) was so within reach.

Despite all the perks of social media, there are other tricky issues that have proven difficult to tackle using traditional regulatory processes and approaches, as in social media online interaction converges with a variety of information that covers from innocuous content to political content, as well as various types of online harms (e.g., bullying, intimidation, extremism, sexual exploitation, disinformation). Social media is also related to the datafication of the self and a new representation of the individual's identity.

Disinformation and other types of online harms have been studied to demonstrate that users are more engaged with negative or polemic content, regardless if said content has a solid foundation based on facts. Moderating this type of content is not a minor challenge, as there is a significant risk of censorship and micro-othering. Micro-othering is referred as using thinner slices of identity to define, de-platform and limit freedom of expression,³ while

the danger of censorship arises in the present of obligations to moderate content.

The other side of moderating content is avoiding the spread of misinformation and misleading advertisements. Although the history of disinformation and political propaganda goes back in time, it was mostly used during times of crisis.⁴ Currently, disinformation is strategically used to threaten public interests in several ways, as public space has turned into an arena of irreconcilable differences where impunity and, in many cases, anonymity fuels online aggression.

Additionally, social media is not limited to the public or private arena, as platforms provide users with privacy control over intended audiences, such content may still find their way into the public domain.⁵ For example, if an individual publishes a tweet, one of their followers may take a screenshot of the content and share it with a larger, unintended audience.

The law's relation with freedom of expression points out at one of the remarkable tensions posed by social media. Free speech is considered of high value in a democratic society. In contrast, defamation illustrates the power of speech as a vehicle for harm, and user-generated content on the internet may represent a danger reputation. The law has adapted

3 Basar, Shumon; Coupland, Douglas; and Obrist, Hans. *The Extreme Self*. Kolh Walther König, 2021.

4 Howard, Philip. *Lie Machines*. Yale University Press, 2020.

5 Giovanella, Federica (comp.). *The Legal Challenges of Social Media*. E. Elgar, 2017.


slowly and not without difficulties to this double edge principle.⁶

In this context, how to moderate content to avoid misinformation and, at the same time, not to put an excessive burden on online platforms for assessing content and close accounts that could end up in censorship activities? Working on an unbiased, non-politically motivated law would be the first step and most likely a very difficult one. Moreover, how to regulate content moderation at this stage before social networks evolve to different platforms (like Meta's metaverse⁷) or different ways of interaction? In other words: we need to set the foundations of content moderation.

On a different note, the new self refers to parts that have been extracted from the individual that exists everywhere and nowhere, voluntary, and involuntary, independently of the individual and that will continue after their death. It is “[a] dematerialized you already exists in the cloud, but instead of being good or evil it's mostly just machines telling other machines what your recent purchases were.”⁸ The new self is datafied by definition. The datafied individual is only protected by the privacy regulations that are not usually up to date with the data processing state-of-the-art technologies.

So, the datafied individual is an open field for research and targeting: do their shopping contradicts the social causes that they claim they support? Are they subscribed to any magazine? Which online news resources do they spend the most time reading? Political information may be retrieved from all this data. In this regard Phillip Howard emphasizes that even when sometimes we are aware of the data trail we leave behind, we almost never see how it is aggregated and merged with other data, as that sets how it is related with data from our family, friends, and neighbors.⁹

This 2022 we should see additional efforts fostered by public and private institutions aimed at tackling this complex legal challenge without sacrificing our democracy, nor our freedom of expression. As with other issues in life, striking the right balance is the ultimate and desirable goal. Technology must always be a tool at the service of human beings. Artificial intelligence and the extensive use of social media platforms are generating a great tension.

As much as we believe that we are entering an era of great developments and progress, we can never lose the human touch and the core values of a viable society. We should never forget that, and neither should users of social media everywhere. It is that self-regulation and awareness that should limit the risks of invasive regulations and overwhelming government actions. The jury is out on where we end up in this sea of questions and challenges. May common sense and human liberties prevail. 

⁶ Giovanella, Federica (n 5)

⁷ Meta's metaverse refers to Meta's approach, as there are other metaverses currently in place, for example: Second Life and Fortnite.

⁸ Basar, Shumon, et al (n 3)

⁹ Howard, Philip. (n 4)



«[...] capitalism and market forces
should drive prices; lawyers should not be
protected at the expense of clients.»

— Mary Juetten



LAWYERS ARE NOT THE ONLY FIRM LEADERS: ALTERNATIVE BUSINESS STRUCTURE LIVE IN THE US

MARY JUETTEN | Managing Partner & Compliance Lawyer at Singular Law Group | [Mary @ LinkedIn](#)

As I researched a talk for Clio that centered on the lessons learned from founding the Singular Law Group in Phoenix, Arizona in 2021, it was evident that real change in the legal profession still moves at a glacial pace. This megatrend is to have people who aren't lawyers involved in the ownership and business of legal. The alternative business structure, or ABS, has existed for law firms in the UK and Australia for years. In the United States, Utah enacted an experimental or sandbox approach in 2020 but to date, only Arizona has licensed firms and organizations, both small and large, with owners who are not lawyers.

Simply put, the law and many lawyers have it wrong – stating that their objections to ABS are all about control in the name of the client when really it's more like control to preserve a monopoly. Heresy for a lawyer but not for this lawyer who is not just interested in access

to justice but willing to put in the time and money to start Singular Law Group (SLG) as an ABS with a business partner who is both a legal marketing genius and a professional who is not a lawyer (PAL). The notion of PALs also stemmed from my preparation for the Clio conference because I have embargoed the use of the term non-lawyer; it's simple too arrogant and elitist for our SLG culture.

Let's be real, delivering legal services is not rocket science, brain surgery, nor structural engineering – professions where lives are often in jeopardy. We have built up the Unauthorized Practice of Law (UPL) to be a sword and a shield across the US, with some southern states taking UPL to a new level. My own home, Washington State, has canceled its family law paraprofessional program (LLTs) and other states struggle with the concept of allowing anyone other than fully licensed at-

torneys serve the public's needs. And those needs are massive across our country with low-income Americans receiving little or no help for 86% of civil legal problems. That figure is not new but the misinformation around the unmet needs of all income levels continues to mask an access to justice gap of 74% for households with incomes between \$125,000 to \$155,000. This is not surprising given the high cost of legal advice and the Federal Reserve data that reports only about half of Americans have cash on hand for \$500 of unexpected expenses.

Lawyers on our October 2021 Clio Conference Zoom chat were predicting the end of days as a result of the Arizona ABS. At the same time last fall California lawmakers rattled swords in preparation for a proposed regulatory sandbox and paraprofessional program and issued the usual rhetoric about PALs practicing law, going rogue, and ignoring ethics. Some representative sample quotes from the chat during our Clio session are below:

So, if lawyers are bad businesspeople, does it mean it makes sense to turn the reins over to amoral MBA's whose only focus is profit?

Sorry. I'm not buying this. This is the camel's nose under the tent. My concern: lawyers have rules/obligations that non lawyers don't have and this will be a way to pay low wages to lawyers, then you'll see people leaving/not entering the profession. Just like GPs leaving the medical profession.

Raison D'Etre

As lawyers, we have to champion the cause to improve access to legal services for our clients. Without clients, there is no need for lawyers. Not sure that lawyers understand this principle of demand driving the profession. Because, given the choice of expensive legal fees, most clients will go it alone. Pro se clients are clogging the courts and that is solely the legal profession's fault.

The pandemic forced the legal profession to change but many providers are reverting back to demanding in person meetings and abandoning progress with respect to technology. We must continue to evolve and adapt to a public that is demanding reasonably priced legal services.

The comment above about medical profession just shows that certain lawyers have blinders on. The medical profession was forced to change because people could not access services. My own physician operates on a hybrid subscription model where I can access her services at any time, without a limitation. My health insurance pays for tests and procedures, and I pay a monthly fee for 24/7 access to medical help. My annual physical is a 2-hour process followed up by a virtual meeting and as many questions as I wish. Our SLG business plan will mirror this approach.

Continuing to unpack the comments above, the notion that lawyers are not motivated by money or profits is not grounded in reality. Nor is the idea that allowing PALs to join the management team will suddenly imperil the general public.

Newsflash – PALs have their own expertise; my SLG business partner has no interest trying to provide the actual legal service!

Again, lawyers are not the only profession with ethical rules and regulations. Not everyone wants to practice law and if competition drives down the price of legal services and the amount that lawyers can earn, so be it. That is capitalism and market forces should drive prices; lawyers should not be protected at the expense of clients.

To that end, Arizona's Supreme Court laid out regulatory objectives for all ABS applicants as follows:

- Protecting and promoting the public interest.
- Promoting access to legal services.
- Encouraging an independent, strong, diverse and effective legal profession.
- Advancing the administration of justice and rule of law; and
- Promoting and maintaining adherence to professional principles.

The last objective is supported by the requirement for each ABS to include a compliance lawyer as either an owner or employee. In addition, the SLG ABS license requires that we perform a semi-annual audit to ensure that we are complying with all the ethical and legal regulations.

Why ABS for SLG

Setting all the above aside, the benefits of joining forces with businesspeople when providing legal services are illustrated in SLG's rationale

for becoming an ABS law firm to improve access to justice for the underserved in Arizona, including the Latino population, as outlined below:

- Two CEOs are better than one lawyer as a managing partner.
- Enhanced marketing expertise and technology talent from PALs.
- Opportunity for outside funding and leadership talent from PALs,
- Expand services to satisfy clients' needs.

In my experience, the comment above about lawyers being bad at business is unfortunately often correct. Therefore, having two business-minded CEOs involved in SLG improves the chance for success but it also flips our focus from protecting lawyers to serving our clients by meeting them where they need us to be. That means offering virtual services and predictable pricing in a client-centric fashion, which should not be unique to an ABS law firm. In addition, we are more open to experimenting with technology and approaches because we are entrepreneurs and businesspeople.

Outside funding is critical for the growth of a virtual firm because the technology for calendaring, practice management, billing and more administrative or lawyers' tasks is now commonplace, and those costs can add up. In Arizona, there is a new category of legal service provider called a Licensed Paraprofessional (LP) that launched this year. It appears to be met with a similar suspicion by lawyers as was the now defunct LLLT program in Washington State. At SLG we plan to hire some of the first


family law graduates from the new LP program because it will be more affordable for our clients who have simple legal needs.

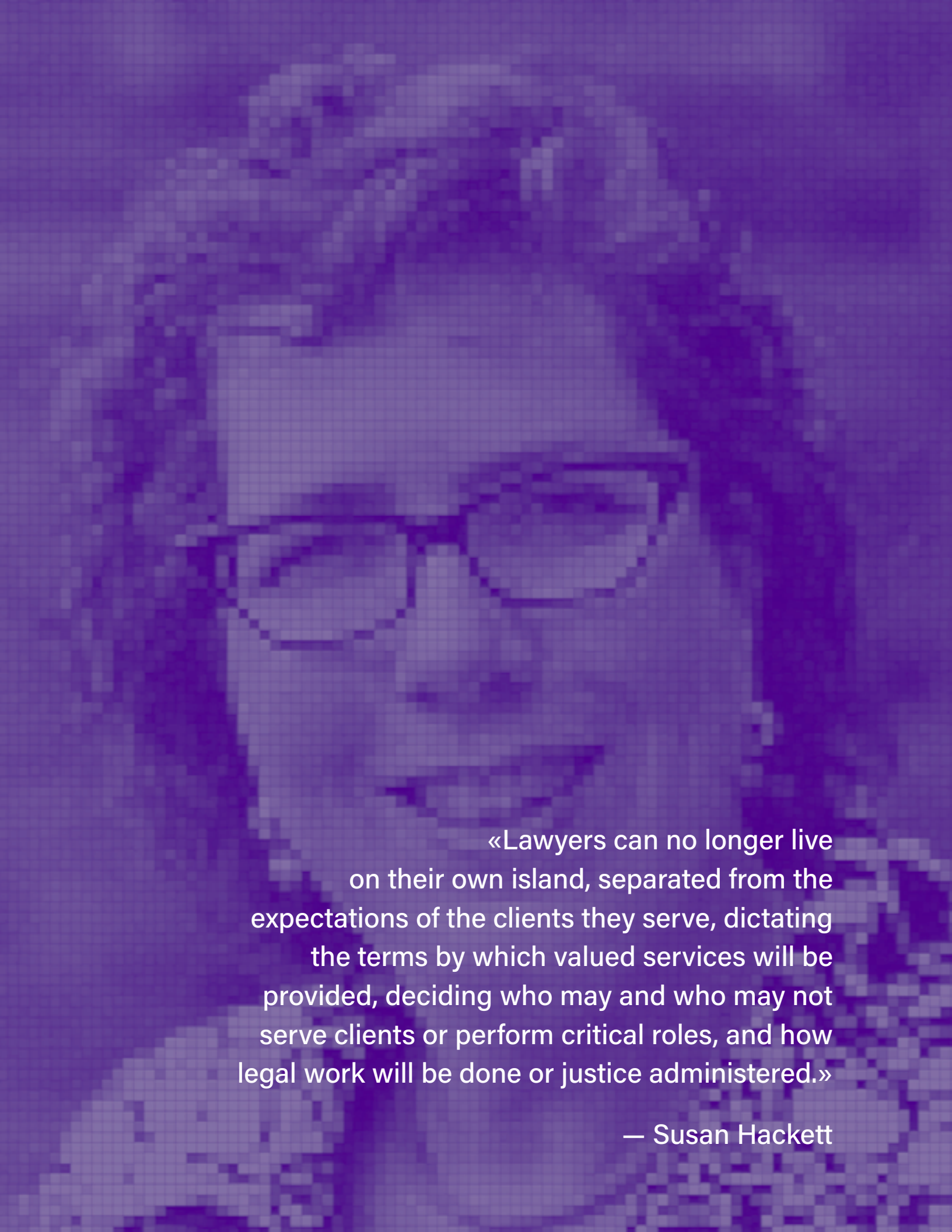
Although our ABS license requires an annual renewal, the permanency of SLG allows us to invest significant time and money in our approach becoming a game changer for clients. We are not afraid to compete with PALs and believe that all competition will benefit our clients, who are the entire reason that SLG exists.

A final note on culture, something often overlooked in small business and particularly

professional services firms. By way of example, the SLG team will embrace the following firm values:

- Integrity and honesty.
- Client-centric delivery.
- Transparency.
- Diversity and inclusion.
- Teamwork.

Our focus may be a bit different from traditional law firms as we launch one of Arizona's first ABS entities, but we remain steadfast in our commitment to making this approach mainstream in service to clients. #onwards. 



«Lawyers can no longer live
on their own island, separated from the
expectations of the clients they serve, dictating
the terms by which valued services will be
provided, deciding who may and who may not
serve clients or perform critical roles, and how
legal work will be done or justice administered.»

— Susan Hackett



THOUGHTS ON WHERE WE'VE COME FROM AND WHERE WE'RE GOING NEXT...

... AS LAWYERS, AS A PROFESSION,
AS SERVANTS TO THE RULE OF LAW AND THE
ADMINISTRATION OF JUSTICE, AS INFLUENCERS,
AND –HOPEFULLY– AS LEADERS

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Mega-trends are changing everything about the way we work as lawyers. Indeed, it's probably not right to call them "trends", since they are not passing fads, or exceptions to the rules, or interesting concepts racing by our enduring everyday lives ... they are our new norms and cannot be ignored – except at our peril. Unlike many trends from the past, today's megatrends derive from and are embedded in every aspect of our daily lives and in the lives of those we serve and the institutions that influence and regulate markets and societies.

When lawyers talk about law and technology and the future of legal services as trends, it often sounds like they're describing an alternate reality which is completely divorced from how

they currently or will in the future engage in day-to-day legal work. What they describe is something they have little intention of ever experiencing, nonetheless voluntarily adopting. Since they look at these issues as "mere trends" rather than new realities, they often address them by dallying in what [Nikki Shaver](#), a brilliant legal innovator, calls "innovation theater" – a made-up, slick veneer that they plaster on their webpages, with references to shiny objects and management catch-words that they hope will signal that their firm or practice has adopted and adapted "new law" thinking and systems. In reality, that veneer is just a show for clients: there's nothing below the surface that has changed – not their culture, work process, expertise, or service delivery.

The mega-trends we experience today, however, represent an inflection point that we can no longer ignore, and that – in order to continue to lead – we must embrace and drive into every aspect of our work (since they already pervade our daily lives outside of the office).

Maybe you picked up this collection of writings looking for thoughts about mega-trends impacting the future of legal practice, anticipating that the content would focus pretty much solely on technology, or data and information or knowledge practices. There is a lot to say that's extremely important and relevant about those topics and I hope you will study closely the ideas shared by experts in each. I recommend them all to you.

But my goal is to offer something else that help you set a frame for your thinking – to examine why we're talking about these issues with such urgency, and to place them in the larger context of mega-trends that affect so much more than whether you have adopted an excellent document management system or are using systems that allow you to automate contracts or invoice review.

Lawyers can no longer live on their own island, separated from the expectations of the clients they serve, dictating the terms by which valued services will be provided, deciding who may and who may not serve clients or perform critical roles, and how legal work will be done or justice administered. While that may be what we're used to and fond of, we are no longer in charge. And we can no longer hold off the

impact of larger, societal trends that have changed the game, its players, the rules, and the inevitable outcomes.

Which Mega-Trends Must Legal Address?

What are these larger mega-trends? While there are many, I'd ask you to consider at least the following:

ESG – the movement toward increased awareness of (and intolerance for avoiding) everyone's responsibility and accountability for Environmental (or Employee), Social, and Governance impacts in every aspect of our lives: from how companies engage with their customers and stakeholders, to how governments regulate their citizens and markets, to how individuals with influence spend their capital and treat the people whose lives they impact.

DEI – a long-overdue and large-scale focus on the importance of Diversity, Equity and Inclusion: not just diversity by race or gender or abilities, etc., but also diversity of thought and experience and perspective; not just equity as a focus on fairness, but also a focus on eradicating inequities; and inclusion that transforms our cultures from places designed to exclude those who aren't exactly like us, to become places that welcome multi-disciplinary, multi-national, multi-visionary thinking and people into everything we do. And,

Digital transformation, or what we might call 4IR thinking – 4IR being an acronym for the 4th Industrial Revolution.

I'd like to focus especially on this last concept, since it is not only most closely related to the focus of this Mega-Trends / Futures project, but also because it – more than all the other topics, recognizes that data and technology are tools in the world of digital transformation: the larger challenge of all three of these mega-trends, but particularly digital transformation, is change.

Change is really hard to navigate and usually offers those affected a variety of directions to consider, each with consequences we may not understand or be able to accurately control or predict. But change is what is required if we wish to leverage 4IR / digital transformation; we can't just tweak a bit here and there in the way we work and call our practices transformed.

And change is really hard, especially for lawyers (and you all know exactly what I mean without my explaining it further!). In fact, to change in ways that allow us to fully engage in a digitized world, we're going to have to re-think and then re-engineer both lawyers' future roles and skillsets, as well as what it is that lawyers offer that delivers value to our stakeholders in the future and how we will provide that service. We'll also have to learn to better team with those we already work with, and collaborate with others who bring different disciplines and experiences, something most lawyers fundamentally eschew, much to our detriment. Those who divide their work community into groups labelled "Lawyers" and "Non-Lawyers" (such a horrible term!) are going to fail a world where clients don't have legal problems, but business

problems, or privacy concerns, or family issues, or innovation and expansion opportunities. The world's problems are more complex, layered, nuanced and multi-disciplinary than lawyers alone can solve.

Setting the Frame Before Consideration and Action

As the daughter of a historian, I process issues like ESG, DEI, and 4IR in the context of historical movements and social interactions. Since I'm focusing hardest in this conversation on digital transformation brought on by 4IR, we need to not only look forward to see what may be coming next, but understand how we got to where we are, and why 4IR is distinguishable from previous "revolutions" that have created the foundations for today.

The first industrial revolution – most would peg it between the 1760s and the 1840s or 50s – began with people moving from making their living via painstaking hand production methods in small, often remote, interdependent communities, to production that was powered by water and steam to re-invent the way that they worked and the kind of work they did. This first revolution also drastically increased the time and amount of interaction between previously isolated people – beyond their homes, through markets and economies.

The second industrial revolution, from the 1870s to the early 1900s, saw many workers and society fundamentally shift toward cities and factory-style work, where large-scale production, and relatively bounteous lifestyles were

facilitated by the advent of transportation and telegraphed communication networks, as well as electricity. This facilitated not only larger and more interconnected or shared economies via increased production and consumption, but also the increased exchange of ideas and inter-mingling of diverse peoples, experiences, skills, and cultures. Some would also note that while industry got stronger and life got better for those who adapted, others experienced a first-time surge in unemployment or alienation from their historical communities, as many workers were replaced by machines or markets that excluded them or displaced from communities which no longer afforded them with the means to thrive. For many, the realization that they might thrive, rather than just survive or subside, was a revolution in and of itself.

On to the third industrial revolution, otherwise known as the digital revolution, which is — of course — a product of the 20th century. The digital revolution brought us not only the first computers and networks, but huge advances in communication, infrastructure and transportation, accompanied by greatly increased global economic and cultural interactions. As a part of these advances, we all felt more closely connected and impacted by each other's actions — for better or worse — as a part of an increasingly global community.

Which brings us to my focus here: The fourth industrial revolution — a phrase coined by Klaus Schwab of the World Economic Forum—. 4IR is distinguished from the third or digital revolution by its concentration on automation

— in our work, our homes and our interactions; and also by the explosion of data and cloud computing, cognitive technologies and artificial intelligence, social media, and the possibilities and challenges brought by connectivity to everyone and everything, all the time ... it also creates giant disruptions and displacements in labor markets and brings us closer to what many of us think of as a 24/7 work cycle.

And so in our time, we live and interact in a metaverse or the Internet of Things, a world in which we can create our own realities, and in which some can now both create and control entire systems used by hundreds of millions of people. It is at the same time liberating for some, but fundamentally limiting to others. One of the most notable aspects of 4IR is the extremely accelerated pace of change — it's exponential. As well as the radical transformations 4IR brings to our daily lives: both the scope of change and its impact are even more extreme than in previous times of change. In a world of 4IR, babies learn to swipe before they learn to speak or read.

For many of us, it's almost like there's no time to think about or absorb these changes. For others, they can't happen fast enough. Often these divisions form on generational lines.

And since many lawyers and legal institutions are tortoises in responding to change, this isn't a happy or productive set of challenges for many in our profession. As we examine the impact, challenges and opportunities created by the fourth industrial revolution, we realize that

we're facing a topic full of contradictions and without clear direction or clearly understood values about what it means to adapt. For instance:

- Everything is both connected and transparent, creating both the ability to operate independently of others while making it seem impossible to believe that we're not being watched, monitored, and data-tracked in everything we do.
- Biotechnology promises the eradication of that which would both age or impede us physically, at the same time that the majority of people can't afford or don't have access to basic healthcare.
- We rely on digital advances that control every facet of our lives from the phones in our hands to the GPS in our cars to the on-line retail shopping we've become addicted to, and yet many feel that what makes all that digitization possible – data, tech, big companies, complex infrastructure and information systems – are suspect: facts are no longer facts and science is not to be trusted.
- Daily tasks that previously burdened us are “solved” by inventions of every kind, but we can't figure out how to live our best lives without killing the planet which makes our lives possible.
- So many new and better jobs are created by new industries founded on digital advances, but at the same time, more and more peo-

ple are pushed out of jobs they had due to automation, or into jobs they don't want as markets shift, or labelled “non-essential” or “unskilled” because they aren't positioned or trained to take advantage of new work in the digital world.

- Billionaires abound while the poor get poorer, and – well, you get my drift.

It can be both invigorating and exhausting to try to manage change and adopt a digital focus: we can be optimistic about our abilities to solve every problem at the same time that we're alarmed by how few really important problems we seem interested in solving.

Is this all because of transformations brought on by 4IR – and heightened by our focus on ESG and DEI?

If you ask my Mom, it is. She's almost 90, and she thinks that “all that technology” has created pretty much every problem we suffer. And that it makes people less civil, less humane, and more self-absorbed. After living through most of the last century and the first 20 of this one, she laments that the world of the previous revolutions that she lived through and even cheered on is gone, and the one she faces both frightens and confuses her: she feels there is no place for her in this strange universe in which we now live.

The move toward a digitized world should not be viewed as my Mother views it. But I would dare say that we all know of lawyers, law firms,

legal departments, legal service providers, law schools, courts, governments, and all kinds of legal institutions that are still firmly entrenched in the worlds of the first and second revolutions, nonetheless adapting to or preparing for the third or fourth.

While many lawyers may not be as extreme as my Mom in her view of digitization, but they, too, feel very uncomfortable, out of place, and resistant about this strange universe in which they find themselves.

The Path Forward – What Will We Choose?

The legal profession cannot afford to view the digital transformations of 4IR as something interesting that impacts others, but not us or our “guild.” We can’t ignore the impact and urgency of DEI and ESG as something that affects other professions, companies, workers and industries, but not us. We can’t look at these mega-trends and think: “none of that will change the way I do things, how lawyers define our competencies or talents, or how we make money or provide services.” We must not continue to repeat the mantra we’ve relied on when previous revolutions or innovations tried to storm our professional island: “That may affect you, but Law Is Different. Lawyers are Different. We decide, not others, how law will be practiced and how legal services will be delivered.”

If there’s one lesson that 4IR / digital transformation, as well as ESG and DEI, teach us as we view the world today, it’s that **law is not different**.

Indeed, the disaggregation and re-engineering of so many tasks previously performed ONLY by lawyers within the legal system has made it possible for a whole lot of other people and systems to prove the opposite: law is no longer a black box owned by the legal profession operating an exclusionary guild that answers only to its own values and culture. While it may have been designed that way hundreds of years ago, it was wrong then and it’s simply untrue now.

Clients and other stakeholders today seek solutions from whomever will provide them better, faster, and cheaper; they’re not interested in paying for piles of hours, or people who are really smart but not helpful or practical; they want a solution they value at a price consistent with what the solution is worth on the market or to them. And society needs large scale system reforms that are nimble, flexible, customer-focused and designed, innovative, empathetic, and equitable. Lawyers are failing to deliver any of those things consistently or well.

Digital transformation is both our present and future reality, and we can’t avoid it, stop it, or pretend that it’s not overtaking every aspect of what we do, who will do it, how we do it, what it costs, and the result it delivers. To borrow a favorite analogy, those who refuse to dine at the digital transformation table may find that they are on the menu instead, and they risk being devoured by others who came to the table with an appetite, a knife and a fork.

4IR is not about whether you deploy some basic technologies in your office. It’s about the

increasing or decreasing relevance of workers, customers, regulators, industries and professions in a rapidly changing and increasingly digitized world. Hear that: it's about relevance. Tick tock.

For lawyers, the combined trends of 4IR, ESG, and DEI require us to change everything we do and how we do it, re-thinking our roles and our value, re-defining the talents that make us uniquely valuable to clients and society, finding new ways to leverage transformations to enable to us better tackle the major issues confronting lawyers, clients, consumers, citizens and the justice system.

It is only by stepping up to the table of such important transformations and digging in that we'll be able to address the giant issues that confront all of us and respond with solutions: issues such as open and affordable (or free) access to justice, the preservation and promotion of the rule of law, DEI and ESG accountability, changing client or customer needs and expectations, and new ways that society will or won't be governed.


For the legal profession, our transformation to either address these issues or our decision to dig our heads deeper into the sand are decisions that will determine our relevance as a profession, our relevance to clients, and our


relevance to society. One of my favorite sayings is attributed to a former general: If you don't like change, you may find you'll like irrelevance even less.

I believe that lawyers' and the profession's highest roles in the future are to lead in 4IR and digital transformation, lead in DEI and ESG, and lead as influencers in our societies by example and with vision. And so I hope we'll host the dinner at the table, take part in planning the menu and cooking the meal, and learn to value and collaborate with those who join us as guests and co-hosts at the transformation table.

But our role as leaders is about doing more than making sure our profession isn't devoured by change; it's also about assuring that those we serve aren't devoured either. And then helping them to leverage it to drive a better future that we've helped to build.

Conclusion

Fundamentally, the "futures" challenge for our profession isn't adopting some piece of technology to improve our workflow or better mining and deploying data; it's about harnessing digital progress to promote solutions to re-invent our profession and equip us to address the questions that matter most to societies and to the world. That's what legal leadership means in 2022 and beyond. 



«The key to LegalTech is to offer legal services to clients who feel that everything is extremely easy. In other words, the user experience is of vital importance in the lawyer-client relationship.»

— Martí Manent



WHAT'S NEXT AFTER LEGALTECH?

MARTÍ MANENT | founder & CEO of Derecho.com | [Martí @ LinkedIn](#)

1. What is legaltech in 2022?

In 2022 there is no shortage of references, with greater or lesser rigor, to “LegalTech” and all that this concept encompasses. And this is normal, given that we are fully immersed in digital acceleration, an issue that generates nervousness in some legal professionals but which in others provokes the need to know more (let’s not forget that this is an underlying business opportunity).

However, the concept of LegalTech does not have a *strictu sensu* definition, which means that operators in the legal sector are constantly asking themselves what it is and what it encompasses.

In this sense, it is clear that LegalTech goes beyond the use of digital communication tools with clients or having a website for our law firm. In fact, many would agree when defining the concept as the use of technology and software in the legal environment, whether at the support, procedural or marketing level. **The key to know whether or not we are dealing with “LegalTech” lies in the creation of value for the client generated from the use of technology.**

Since March 2020 the concept of LegalTech has grown exponentially in such a way that, depending on the case and the context, its definition becomes more or less broad. In any case, if we want to have a more or less approximate definition of LegalTech it would be the use of technology to market or provide legal services.

Let us now look at some key points to address what’s next behind the emergence of “LegalTech”.

2. Improve the client experience

Management in law firms is no longer what it used to be. While until relatively recently decisions were made with a focus on the needs of the business, today the user is in the driver’s seat. Today’s generations are constantly evolving at a dizzying pace, which necessarily means a change in the way law firms make decisions regarding the use of technology.

The key to LegalTech is to offer legal services to clients who feel that everything is extremely easy. In other words, the user experience is of vital importance in the lawyer-client

relationship. If our services consist, for example, of offering a SaaS that allows the receipt of legal documents in the shortest possible time, it should be as client-friendly as possible, with easy interfaces that do not bog down the client. Gone are the days of software where the “home” looked more like a configuration panel on a spaceship rather than a product designed for the average consumer.

All this leads us to the idea that in LegalTech the figure of programmers and computer scientists is essential, even more so than the figure of the lawyer, on the understanding that the provision of a quality legal service is taken for granted and that it is therefore necessary to give more thought to the technical approach to the detriment of the legal one.

3. Metrics

Closely linked to the above, to know if the client experience is optimal, it is necessary to look at the core numbers (KPI) or statistics of our service.

The concept of “metrics” now appears, understood as those indicators that, in numerical form, allow us to know the evolution of the business and detect both the strong points and those that need improvement. The massive use of data collected through metrics (Big Data), analyzed by qualified professionals (e.g., data analyst profiles) will allow business strategies to be developed based on the results. These strategies will be what separates successful and efficient law firms from the rest and give them an advantage over their competition.

LegalTech has a deep understanding about using data to get numbers to make decisions.

Together with metrics, it is also necessary to bear in mind the concept of Key Performance Indicator or KPI, which represents the effectiveness of a process or action of a company to achieve a specific objective. In this way, KPIs are used to monitor and find out if the objectives set are being met, and to be able to make corrective decisions quickly in the event of deviations from the objectives set, while metrics focus on knowing the entire process as a whole to interpret the value they offer.

If you work in a law firm, legal department, public service or a LegalTech project in 2022 dashboards with metrics is part of your day-to-day work. Those who do not know what I’m talking about, have a problem.

4. LegalTech for all

Historically, there has been an idea that having a lawyer was reserved for the upper classes of society and that the middle and lower classes could not access one because it was out of their reach, especially financially. Leaving aside the evolution of society in general terms, technology has bridged this gap and brought lawyers and citizens closer together.

On the one hand, LegalTech helps everyone to have access to quality legal services (usually only a device with an internet connection is required) and on the other hand, for lawyers, it opens up a very large and as yet untapped market segment.

Technology platforms such as elAbogado allow users to find a lawyer in an average time of 15 minutes, with a choice of two lawyers near their location. Such services help introduce middle-class consumers to the legal market and help lawyers find new paying clients to grow their firms.

5. Customer service

New generations do not talk on the phone but use Whatsapp 24/7. This means that text-based communications are an increasingly preferred option for potential clients seeking legal help.

Writing instead of talking on the phone gives the client the possibility to communicate discreetly about sensitive and private matters that he/she does not want to be known to others. In addition, telephone conversations can only take place during the lawyer's working hours, which means that the client has to put aside his or her duties to solve his or her problems.

On the other hand, and perhaps most importantly, written communications allow for instantaneous responses, thanks to the proliferation of automated chatbots. Likewise, lawyers can also screen the potential client within the chat conversation and sift through qualified leads to the next step of "consultation" without direct involvement.

This is why customer service is essential to provide a good LegalTech service, which is also a way to improve the user experience pre, mid and post service provision.

6. Operations

Clients always have high expectations when contracting a service, whatever it may be, so legal services offered thanks to LegalTech can be no exception.

Clients have higher expectations of the technical competence of law firms, so law firms will have to adjust to these expectations. Immediate gratification and responsiveness is something we all expect in our daily lives (we live in the "now" society) and this is extending to the legal industry; clients want to experience the same fast quality of service from their law firms, just like when they order a parcel with express delivery. Optimization is a must and chief legal operations is a growing position in law firms, law departments and public organizations.


Here it is very important to understand the key role that some LegalTech companies have in daily operations in a growing number of law firms and private companies.

7. Legaltech & Web3

From the mid-2000s to the present, large companies have been building layers of closed protocols on top of the open protocols of the Internet. This has led to centralization as for-profit technology companies—specially Google, Apple, Facebook, and Amazon—have built services that have rapidly outpaced the capabilities of open protocols. However, in many cases, these closed protocols are not the core business of the tech companies: individuals do not pay Google to use Gmail; rather, Gmail feeds Google's core business of collecting data and selling

ads. This is the world of Web 2.0. As the saying goes: “If you don’t pay for it, you’re not the customer; you are the product”.

We are now in the early stages of Web3 development, where communities are incentivized and rewarded for maintaining and developing the core infrastructure. In other words,

decentralized Web3 networks offer an alternative to current closed protocols. In my opinion if we talk about what’s next in LegalTech, Web3 will impact in a way that is still unknown. There are two aspects to watch out for: on the one hand, the legal side *stricto sensu* and on the other hand, the legal implications for LegalTech. 



«At the *societal* level, legal innovation can reduce inefficiencies, and improve the competitiveness of the economy as a whole. [...] can also help improve access to justice.»

— Josh Lee Kok Thong



STRATEGIZING THE FUTURE OF LEGAL INDUSTRIES IN ASIA-PACIFIC

JOSH LEE KOK THONG | Director, Asia-Pacific Legal Innovation and Technology Association (ALITA)
Co-Founder, LawTech.Asia | [Josh Lee @ LinkedIn](#)

A famous saying goes, “without strategy, execution is aimless. Without execution, strategy is useless.”

In the Asia-Pacific, execution is not the execution. Not a week goes by without a new development on legal technology in the region. Strategy, however, especially at a jurisdictional level, remains sorely needed.

This article seeks to fulfil the first arm of this oft-heard, but little-heeded piece of wisdom. Drawing from the Asia-Pacific Legal Innovation and Technology Association’s (ALITA) Legal Technology Strategy Toolkit, the paragraphs below outline the broad strokes on how jurisdictions can come together to build a cohesive and pragmatic legal innovation strategy.

The Asia-Pacific occupies an immense region. It covers everything from Russia to Australia, and from Brazil to Canada. In this huge region, legal innovation is thriving, but under-represented. Today, news about legal innovation tends to emanate largely from leading jurisdictions like the UK and US. It is thus

sometimes easy to forget that legal technology and innovation is well and alive in jurisdictions like Russia, Brazil, Hong Kong, Indonesia, and Singapore.

In September 2019, we celebrated the launch of the **Asia-Pacific Legal Innovation and**

Technology Association (ALITA). ALITA is a regional body that promotes legal innovation, encourages collaboration, and provides a unified voice for the Asia-Pacific legal innovation ecosystem.¹ It also produces thought leadership, such as the **State of Legal Innovation in the Asia-Pacific (SOLIA) 2020 Report** on the state of legal innovation in the region.²

ALITA has also launched the **Legal Innovation Strategy Toolkit** and the accompanying **Legal Technology White Paper**.³ The paragraphs below examine what purposes these documents serve, what they cover, and how they can help the reader.

The idea for a Legal Innovation Strategy Toolkit came about when ALITA analysed the state at legal innovation around the Asia-Pacific. It became apparent that save for a few jurisdictions (such as Hong Kong and Singapore), there has been little in the form of a unified jurisdictional-level strategy, roadmap, or vision for legal technology in legal industry. Hence, we decided to create a toolkit – not one that sets out a guide for *individual organisations* to implement legal technology, but instead one that guides *jurisdictions* with a starting framework to build a legal innovation strategy at a coordinated *national level*.

¹ Asia-Pacific Legal Innovation and Technology Association <<https://alita.legal>> (accessed 2 February 2022).

² ALITA, “State of Legal Innovation in the Asia-Pacific Report 2020” (September 2020) <<https://bit.ly/solia2020>> (accessed 2 February 2022).

³ ALITA, “Legal Technology White Paper and Legal Innovation Strategy Toolkit” (September 2020) <<https://bit.ly/alitacoolkit>> (accessed 2 February 2022).

However, as we could not assume that all jurisdictions are convinced that legal innovation is a priority (even though it is our belief that it should be – for fundamental reasons like access to justice and keeping law and justice up to speed with the business and societal needs of today), we also published a Legal Technology White Paper. The White Paper sounds a clarion call for the benefits of legal innovation and mobilise communities to build a coordinated legal innovation effort.

Legal Technology White Paper

The White Paper defines legal innovation broadly as “formulating new ideas or creative thoughts and materialising them in the form of a device or method, most frequently in the areas of technological innovation, regulatory innovation, innovations in dispute resolution, business innovation, and innovation in legal education.”⁴ With this definition, the White Paper then looks at the benefits of legal innovation at three levels. They are described briefly below.

At the societal level, legal innovation can reduce inefficiencies, and improve the competitiveness of the economy as a whole. It is no surprise that in the IMD World Competitiveness Rankings, the top three most competitive economies – Singapore, Hong Kong and the US – saw an effective legal environment being one of the top attractiveness indicators.

Legal innovation can also help improve access to justice. This is a key priority as much as it is a

⁴ Id, at 5.



worthy pursuit – around the world, it serves as a wake-up call to lawyers that more people have access to the Internet than access to justice. Legal innovation can help address four key barriers to access to justice – costs, communication gaps, physical inaccessibility, and culture. These benefits can be maximised through a whole-of-society approach to legal innovation.

At the organisational level, legal innovation can help organisations remain competitive whilst the external environment is disruptive. These pressures will increase, and legal innovation poses an potential answer to many of them, while also allowing clients to benefit from better quality legal services at lower cost.

At the individual level, legal innovation also benefits users of the legal system. Besides greater access to justice, there is even greater value in deriving access to justice, which will engender trust in our legal systems and societies.

Legal Innovation Strategy Toolkit

The paragraphs above provide a backdrop for the value of the Legal Innovation Strategy Toolkit. As Morris Chang once said: “**Without strategy, execution is aimless. Without execution, strategy is useless.**” This is the starting point of the Toolkit. It is intended to serve as an actionable User’s Guide: a high-level but easy to use document that can be simply picked up and thought through. What it is *not* that

it is not dictatorial. For instance, it does not say that an innovation strategy is necessary, or what are the necessary elements in such a strategy. It simply proposes considerations that can be considered.

The Toolkit is aimed at leaders of legal innovation

While it is our hope that all readers will see value in the Toolkit, it is fundamentally intended for leaders of legal innovation (LLIs): influential players in the industry that can influence its present and future direction. This is a broad definition that include courts, policymakers, think tanks, bar associations, law firms, technology players, or even individual thought leaders.

In most jurisdictions, there will be multiple LLIs with various priorities and perspectives. For example, there are courts, the justice ministry, significant law firms, the bar associations, and more. This is natural, given the multi-faceted nature of innovation at a jurisdictional level. Each of these priorities and perspectives will jostle for its rightful place under the sun. Therefore, we advocate that the process of strategizing must itself be multi-stakeholder in nature: various LLIs must come together and formulate a strategy that is truly inclusive, sophisticated, and meaningful for all stakeholders.

The nub of the Toolkit: Systems to catalyse innovation along an innovation journey

The Toolkit is framed along the process of a typical innovation journey. While innovation may appear to most like a randomised process,

where innovation is seen at a jurisdictional level, systems can be put in place so that innovative ideas are generated and harnessed at the right place and time. The journey to unlocking innovation can thus be seen in four parts: articulating a clear vision, developing and trialling innovations, scaling up, and then evaluation. While innovation in practice is rarely a fixed or uni-directional journey, these four parts act as a useful frame to see where a jurisdiction is in its progress.

First, when starting on this journey, a jurisdiction should articulate a clear vision for innovation, to set out the intended aims and objectives. Such a vision should be specific, easy to understand, ambitious but achievable, and consistent across generations of leaders. One example is the Millennium Development Goals, and we stress that it is preferable that the vision should also reflect broader visions for the legal industry, such as enhancing access to justice, or building a more competitive legal industry. This will ensure that innovation works for – not against – the priorities of the legal system.

Second, the Toolkit stresses the need for the jurisdiction to appreciate its starting point. In other words, its fundamental realities. This does not require a consultant and complex surveys. We posit that a better understanding of the needs of the legal industry can be gained simply by doing a basic SWOT analysis – strengths, weaknesses, opportunities and threats. To that end, the Toolkit provides a useful analysis table with guiding questions that you can use to

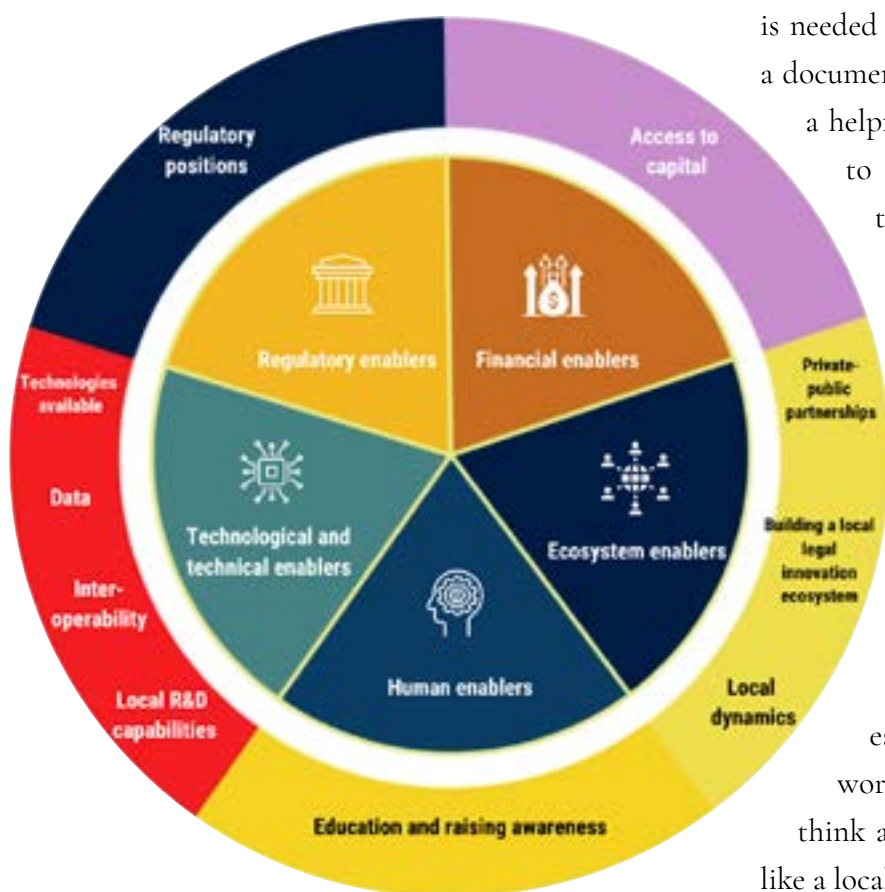
better understand the strengths and weaknesses of your legal innovation sector, and what are the opportunities and threats it faces.

Third, the Toolkit assesses the key elements that will enable the jurisdiction's legal innovation strategy. In our view, there are five key enablers: technical/technological enablers, ecosystem enablers, financial enablers, regulatory enablers, and human enablers. Within each of these enablers, there are factors that we think jurisdictions should consider where they are presently at, and how these can be used to address the opportunities and threats that your jurisdiction faces.

For example, in a jurisdiction with a huge domestic legal industry with many clients and


law firms, the threat is that as clients' expectations shift, many of these law firms may not be sufficiently prepared to provide the service levels that clients seek. In such a scenario, the enablers in the Toolkit that might be identified most relevant are the technological and technical enablers (the state of technology, the use of data to empower capabilities, and research and development), financial enablers (access to funding), and human enablers (education and awareness of the legal profession). These factors then demonstrate what ingredients and strengths that jurisdiction would not to build and foster to catalyse a culture of innovation. That is how jurisdictions can use the Toolkit to prioritise and see which factors they need to consider. The Toolkit does not go so far to say how these should be implement or what exactly is needed – that would be out of the scope of a document like the Toolkit – but it does give a helpful indication of the priority factors to address particular opportunities or threats.


Fourth, the Toolkit sets out the roles of six core stakeholders that would typically exist in a legal industry. While their strengths, capabilities and roles may vary between jurisdictions, the list in the Toolkit provides a guide on how their comparative strengths can be leveraged. To build the bridges needed for these stakeholders to work together, jurisdictions may want to think about forming an ecosystem builder, like a local legal tech institution, which has the



convening power to engage local stakeholders and encourage them to collaborate and find common ground.

The paragraphs above are insufficient to cover all aspects of a wide-ranging document like the Toolkit. Nevertheless, it is hoped that it captures the gist of the Toolkit's spirit and its potential usefulness. We end our summary with these closing thoughts: The potential for legal technology to transform the legal industry has seen great strides since the onset of the

COVID-19 pandemic. Around the world, as stakeholders bear witness to the criticality of technology to ensure the survival and relevance of the legal industry, it is hoped that jurisdictions and their leaders of legal innovation can seize the moment to collaborate together, and with the help of the Toolkit, develop a cogent roadmap to transform the legal industries of various countries to finally meet the needs of the 21st century. In other words, *strategy*, and *execution*. After the last few tumultuous years, our societies do deserve that much. 

A portrait of Astrid Kohlmeier, a woman with short dark hair, wearing a dark blazer over a light-colored top. The background is a solid dark blue. The text is overlaid on the lower right portion of the image.

«The Legal Industry is almost drifting from a pull to a push market where individuals and businesses demand cheaper legal advice and want to benefit from digital developments that make legal tasks faster and easier to answer and fulfill.»

— Astrid Kohlmeier



THE TRANSFORMATIONAL IMPACT OF LEGAL DESIGN

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The legal market is in motion. This is due to digitalization with its new possibilities for legal organizations and the changing expectations of consumers and business. The need for innovative solutions therefore is ever increasing. Legal Design as an instrument to tackle those challenges has moved from being a niche to recently creating a buzz. Nevertheless there seems still a widespread lack of understanding about the value of Legal Design. It is a new concept to master developing systems and solutions for legal content, contract, workflow and process optimization tasks that are easy to access, less complex and understandable. The idea behind the method is mainly to embed design and especially design thinking into the field of law and transfer the mindset of designers to legal issues. The goal is to drive legal innovation by building user-centric and helpful solutions.

Legal Design offers the legal market a new mindset with valuable tools and instruments to work out concepts that meet relevant user needs. It is built on an ecosystemic approach that puts the user of a service, a product or a technical solution at the center of all considerations. Besides it contains the approach of ‘creative problem solving’ that leads to fresh and innovative ideas to make navigation in complex legal issues easy.

It leads legal and cross-disciplinary teams through different stages of analysis, defining a problem, ideation, prototyping, testing and implementation.

Why do we need Legal Design?

There are three major reasons why Legal Design as a method is on the rise and should play a major role in future legal businesses and private practices.

1. Cost pressure

The Legal Industry is almost drifting from a pull to a push market where individuals and businesses demand cheaper legal advice and want to benefit from digital developments that make legal tasks faster and easier to answer and fulfill. Legal market players such as Law Firms have therefore to re-think their service approach and need to develop better solutions to make their clients happy and satisfied.

The tendency of legal inhouse departments to do “more inhouse” is just another phenomenon of our times. Instead of automatically outsourcing legal tasks to external law firms, inhouse departments are on the way to become business savvy service entities. The demand of the Business Management is clear: conduct more (work) with less (money). A circumstance that leads directly to the second reason why legal design could be a big help in this changing process.

2. Digitalization

New technical developments are constantly evolving and have a deep impact on the legal industry: Many legal tasks will be automatized and in best case standardized. Machine only based legal advice, where legal tasks are supported by a machine (for example by legal chatbots) with users going all mandatory steps in a legal process by the help of coded solutions, without any human involvement, is on the uprise. The demand for quick and easy workflows that enables users to get from A to Z in a safe legal net is therefore getting higher. Legal

technology has already produced a variety of solutions to make legal tasks easy and fast, such as no code builders for lawyers (eg. BRYTER) or platforms where consumers can get automated legal aid eg. through a chatbot within seconds (see eg. flightright.de or other platforms revolving around compensation for delayed flights).

But what about the development of such technical solutions itself? Here especially the need of a method that focuses on user needs and leads to useful and usable tech solutions is increasing day by day. To build the right tool that supports individuals getting legal advice or quick legal help needs not only a strong idea about the legal needs and options to solve it, but also a good design that helps users to intuitively navigate through. Legal Design is combining the legal needs with the possibilities in tech and the requirements from a design perspective – the ultimate combination to create not only user-friendly environments, but rather to lead to real legal user experiences (LUX).

3. Regulations

More and more regulations are leading to more and more complexity. The legal ecosystem in our globally connected business world demands a system that simplifies legal content and workflows in legal organizations. Only by supporting simplification and the accessibility of the high amount of increasing legal requirements, individuals and businesses are capable to oversee what they have to do in order to fulfill the existing and upcoming regulations.

Legal Design is helping to reduce the complexity of legal content and processes by emphasizing the human factor that is part of the method: It helps to identify painpoints, hurdles and complex issues and supports the way to de-complex and break down complexity into small modules that are easier to understand and create a solution for.


Who needs Legal Design?

- **The users and addressees of law like ordinary citizens and all stakeholders of businesses**, because they are the ones who benefit most from the simplification of legal tasks and transparency. They are the ones who need to understand which rights apply to them in which way and what the consequences are in case of non-compliance or, what to do or not to do based on the design of contracts. Legal Design can especially support the way how fast people understand legal content. In the business context it supports the way contracts and business issues are being structured and solved.
- **Authorities** and Administration (executive branch) to simplify processes and administrative procedures and make them user-friendly.
- **Legislators**, by adopting the 360 view immanent in the method, to better understand relevant needs/circumstances in the legislative process, in order to pass understandable and clear legislation. This can also prevent exorbitant lobbying and allows ALL affected parties and thus stakeholders of a given regulation to be considered early and properly. The process leading to the passing of a law can thus be designed in a user-centered way. Based on the user needs of all stakeholders, ideas and prototypes could be designed, which then could be tested in a real life setting (i.e., norm addressees). A way to do this may be through recently built instruments called ‘regulatory sandboxes’.
- As a new skill set for especially **Lawyers** (whether in law firms or companies):
 - to change their perspective towards their clients,
 - understand clients’ needs better and
 - offer them exactly the products and services that really are solving their problem.
 - Last but not least to make internal workflows, legal tech environments / tools and processes user-centric and focused on people, not processes.
- **Providers of innovations in law**, such as legal tech companies, who should tailor new services and products based on their customer needs. Only those who truly understand the needs of their customers will develop tools that are also useful, intuitive, and purposeful. Clients of legal tech providers often complain that their real needs are not recognized. This can be addressed with the customer-centric approach that is part of the Legal Design Method.

What are the challenges before starting with Legal Design?

The basic prerequisite to start with legal design is to be open-minded, curious and flexible. Since innovation has not been particularly prominent in the legal industry so far, lawyers often have to develop an innovative mindset first. There is still a lot of potential in the legal market, regardless of whether we are looking at law firms or legal in-house departments. Although we have been seeing an increasing willingness to innovate recently, an innovation strategy is often missing. Most lawyers in law firms and legal departments have yet to learn what innovation even means in their field and why innovation leads not only to better offerings, but also to competitive advantages. It is therefore first necessary to understand what it takes to perform as a proactive business

player, instead of remaining rather reactive and passive in the majority of cases. This is a challenge for most players in the legal market at the moment.

The ones who have already entered into a new system of innovation and are already applying tools such as Legal Design are currently at the forefront of development. Such companies have already clear innovation concepts and are implementing them consistently. They remain flexible and have adapted to permanent change. These are precisely the companies and law firms that are already at the top of their competition and can truly satisfy their clients. There are still far too few of them, but developing the awareness of 'change the new normal' will help to successfully tread the path of innovation. 

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