

LEGAL **BUSINESS** WORLD

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Crisis Management, Artificial Intelligence, and the United Fiasco

by Suffolk Law's Jeff Lipshaw

The Romans Understood Pricing Better Than We Do by Richard Burcher

Becoming a Visionary Law Firm by Patrick J. McKenna and Vincent A. Cino

The Art Of Pricing Your Service by Tim Williams

Knowledge Management and the Legaltech Scene in Israel, Interview Esther Dediashvili

Understanding the Legal Project Management Trend by Todd Hutchison

Legal Tech and Law Firms: Navigating Strategic Options, by Daniel Biene

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Jeff Lipshaw, Professor at the renowned Suffolk Law School in Boston, contributes with a great piece 'and a nod to Immanuel Kant' and Pricing guru Richard Burcher (UK) goes back to the Romans in order to explain pricing, values and more. Thought Leader Patrick McKenna (CAN) and Vincent A. Cino (US), Managing Partner at Jackson Lewis, wrote a great article on the visionary Law Firm; a must read for all senior lawyers, partners and board executives. Tim Williams (US) takes you with him thru the 'Art of Pricing' and Todd Hutchinson (AUS/UK) helps you to understand the Legal Project Management trend.

Daniel Biene (GER), Serial Entrepreneur from Germany, who already sold two ventures (to LegalZoom and to Legal Publisher Wolters Kluwer), Navigates thru the Strategic Option of LegalTech and Law Firms and our 'In the Picture' takes you to Israel. This time we've interviewed the charming Esther Dediashvili from Israel's leading Law Firm FBC & Co. She talks about the current state of the Legal Knowledge Management and the Legaltech Scene in Israel.

And last, but not least, I'd like to thank all visitors, speakers and sponsors for a very successful Lexpo'17. With visitors from over 30 countries it was great to learn more about legal business challenges and solutions from a global perspective. As Strategy and Media Partner we were proud to be part of this International Legal Innovation Event. (More on Lexpo see page 52, Prism Legal by Ron Friedmann - US)

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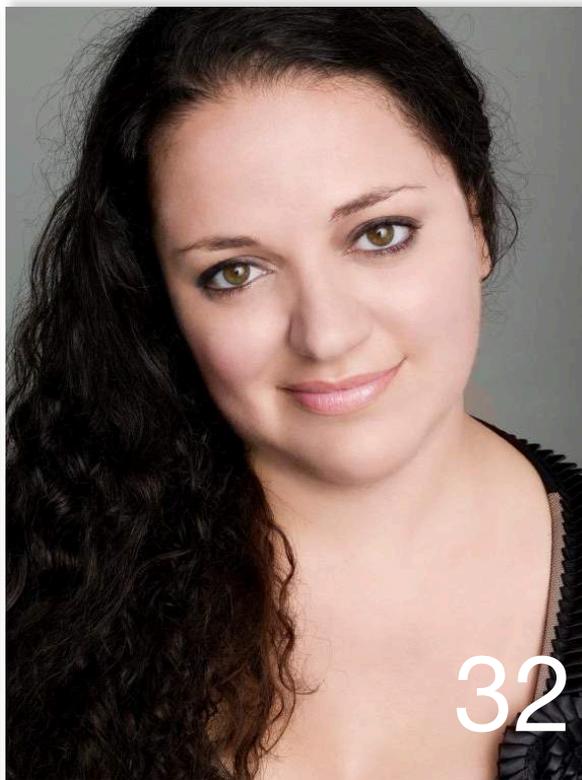
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A close-up, profile view of Immanuel Kant's face, looking downwards and to the right. He has white hair and is wearing a dark coat with a white cravat.

Crisis Management, AI and the United Fiasco

‘With a Nod to Immanuel Kant’

By Professor Jeff Lipshaw, Suffolk University
Law School Boston

When you publish an academic book about lawyering that invokes Immanuel Kant, you hardly expect it to be topical on the subject of crisis management within a month after its appearance.

On March 17, 2017, my publisher released *Beyond Legal Reasoning: A Critique of Pure Lawyering*. The book was the culmination of my many years of experience at the intersection of law and business. Yes, there is most decidedly something to “thinking like a lawyer.” But, as any lawyer who has ever interacted with a CEO knows, how business people and lawyers respond to risk and uncertainty can be decidedly different.

Sometimes lawyers need to acknowledge the limits to thinking like a lawyer, and get beyond mere legal reasoning. Nothing tests that observation like a corporate crisis in which concerns about legal exposure conflict with reputation, goodwill, and, frankly, common sense.

On April 9, 2017, United Airlines and the police at Chicago's O'Hare Airport combined to create one. The police forcibly removed Dr. David Dao from the United Airlines' seat for which he had duly paid, triggering what the *Wall Street Journal* editorial page called a corporate public relations fiasco "for the ages."

United's CEO, Oscar Munoz, did not comment publicly for two days after the incident, and when he did, it was an unapologetic defense of United's employees and the "re-accommodation" of overbooked passengers (a phrase the *Journal* noted was sure to find a place in the "Euphemism Hall of Fame"). A day later, as the share price of United's common stock dipped significantly and the company became a foil for the late-night talk show comedians, Mr. Munoz and United began the process of trying to put the publicity toothpaste back in the tube.

What piqued my interest particularly was a paragraph in the *Wall Street Journal* article about Mr. Munoz's initial decision-making process:

Mr. Munoz "bent over too far to support his employees," said a person close to discussions this week among United executives. "I think he got bad advice. He probably listened to lawyers too much," this person said.

That didn't surprise me. The theme of my book is that there is a deceptively deductive

aspect to legal reasoning. Once a lawyer sets a particular problem into a particular legal theory, the logic of the law, the inference from antecedent conditions to legal consequence, takes over and dictates the result. The real game therefore is in the far more mysterious thinking process of setting the problem. How does one come to see that a particular hypothesis might work to explain things either descriptive or normatively about a particular set of facts?

I have no doubt that one of the first hypotheses that sprang to mind was United's potential tort liability to Dr. Dao. And when the facts and circumstances are in flux, lawyerly logic immediately turns to the process under which legal theory will play out in litigation. Hence, the quicker you get control of the channels of communication, and stem the creation of any additional evidence, or worse, a public admission of the very liability it's your job to avoid, the better. In short, circle the wagons. Millions for defense but not a penny for tribute!

It now seems obvious in retrospect that listening to the lawyers, if they did indeed advise circling the wagons, was a mistake.

In the days that followed, Mr. Munoz began to do what he likely should have done from the very first moment the crisis surfaced – apologize abjectly and profusely to Dr. Dao and everybody else, perhaps even personally and publicly. If the idea was to limit United's legal liability to Dr. Dao, the loss in United's market capitalization due to the drop in its stock price over the next few days far exceed by many times anything United might have had to pay Dr. Dao (and it will likely pay him anyway!) My point is that these crises are the defining moments of what still passes for human

judgment. Judgment and wisdom are so hard to define, study, and capture precisely because the leap from a set of circumstances to a professional theory, whether of legal liability, public relations, accounting treatment, or human resources, is irreducible to any rule or set of rules, except rules of thumb. I'm sure Lanny Davis, the lawyer-PR guru who has counseled the Clintons, Martha Stewart, and others in a host of high-profile crises, would agree that United violated his rule of thumb "tell it all, tell it early, tell it yourself." But the reason it's a rule of thumb and not an algorithm is that the crisis manager still has to make a judgment about whether the rule of thumb applies here.

I juxtapose this against something of great concern to the legal profession. The foremost critic of its paradigm, Richard Susskind, warns of the "increasingly capable" machines that will do the work that has heretofore fed lawyers and their families. To give credit to Mr. Susskind, I agree that machines are likely to replace humans everywhere they can. But it begs the question: "where can they replace humans?" I think humans being replaced by machines making complex judgments under conditions of great uncertainty is a bogey man, at least for a long, long time.

Why? I like Douglas Hofstadter's thesis that consciousness arises when a thinking machine, like our brain, evolves to develop algorithms so complex they permit the subject to refer to itself and consider its own thinking. In the world of living things, the magic threshold of representational universality is crossed whenever a system's repertoire of symbols, as in language, becomes extensible without any obvious limit. Hofstadter's view is that algorithmic recursion is the key element that distin-

guishes the human mind and language precisely because that level of computational ability generates an open-ended and limitless system of communication.

For all I know machines can develop that kind of computational ability, and will someday. But if machine-lawyers replace human-lawyers, I would have exactly the same concern about them I have about the limits of human-lawyers' legal reasoning! What the United incident and the observation about listening to lawyers reminded me was that it is not just lawyers I need to be worried about. That is, if it is possible for a seasoned executive in a consumer-centric business to rely so badly on advice that has come from a human being "thinking like a lawyer," it seems equally likely that I need to worry about one who relies on advice from an "increasingly capable" machine that also thinks like a lawyer.

A lawyer-machine *could* process the United situation as follows with a simple algorithm containing the symbol ">":

- *The lawsuit from Dr. Dao will cost us \$X.*
- *The value of the lost goodwill and market capitalization will cost us \$Y.*
- *$\$Y > \X* (NB: by a factor in the thousands).

Therefore, concentrate on lost good will and market cap even if it means doing things that might weaken your position in the lawsuit with Dr. Dao.

But if the machine-lawyer does so, it isn't really thinking like a lawyer. It's thinking like an algorithmic, albeit inter-disciplinary, crisis manager. At a book talk recently, somebody asked me what I would do in the law school

curriculum to facilitate “unlearning how to think like a lawyer” (my coinage). That’s where I want to go from here.

I confess to being something of a radical. Leave it to me and I would tear down many existing pedagogical and disciplinary silos. As a starter, I would scrap the current “law student only” introduction to business entity law in favor of a co-taught, interdisciplinary course for law *and* business students called “The Law and Finance of Business Organizations.” It is not going to happen soon, however. I have taught at two law schools, each of which shares a building with the university’s business school. Interactions between the two disciplines are rare. Indeed, at one of the schools, the hallways between the law wing and the business wing were referred to as the “DMZ.”

At least one reason for the lack of interaction between the schools is the reality that, on most law faculties, the professors who teach business-related topics are a small minority. And the ones who actually have business world experience are a minority within that minority. At the other end of the academic spectrum are the law professors who teach and write in the areas least susceptible to professional inroads. No doubt issues of psychology, sociology, urban planning, and the like inform criminal law and procedure, for example.

But I don’t believe the futurists among prosecutors and defense lawyers are having the same existential concerns about artificial intelligence taking over.

To get where we think we ought to be, we few radicals need to work very hard at overcoming the institutional hurdles and barriers for which silos are an apt metaphor.

So where might we also teach “unlearning how to think like a lawyer,” at least in the intersection of law and business? The United crisis triggered my own flash of inspiration about crisis management, artificial intelligence, listening to the lawyers too much, and our curriculum.

Some forward-thinking law educators, like Dean Andy Perlman at our law school, are creating practical programs embracing the intersection of law and technology. Machines are going to replace human beings when the primary factor of production is little more than processing power. Why employ hundreds of lawyers and paralegals to review documents when machines can do it so much better? Hence, Suffolk’s Legal Technology and Innovation concentration offers students courses and experiences that will make them attractive to firms and law departments who take advantage of cloud computing, knowledge management systems, social media, electronic discovery, project management, and the like.

That is all goodness, but it focuses on what the technology does best. I want to focus programmatically instead on what humans still do better than computers: dealing with multiple inputs in vague or ambiguous situations with significant gaps in information. In other words, crises. There is plenty of opportunity to be a first mover here. One only need do a quick search on the internet to find dozens of books from former crisis managers about their experiences, myriad research papers on crisis management in aviation, medicine, terror response, and companies offering simulation training. In contrast, when I did a Google search for “crisis management simulation law school,” the only course that popped up from any of the almost 200 U.S. law schools was

one at the Yale Law School called “Corporate Crisis Management,” taught by a visiting clinical professor whose day job is being a corporate partner at Sullivan & Cromwell in New York City.

The link between *Beyond Legal Reasoning* and AI is this: what I call “pure lawyering” is, in its own way, as algorithmic as AI. If a lawyer can set the problem into the list of elements that are the “if” clause of an “if-then” rule of law, deduction takes over, and the legal consequence flows necessarily. The lawyer gets to argue it’s game over. The trick, of course, is the setting of the problem, something that isn’t deductive at all. That’s the non-algorithmic leap of insight or intuition that is still uniquely human. I’m agnostic on the question whether it will always be (see above), but I suspect it’s going to be a long time before silicon-based neural networks can replicate the complexity of a human brain.

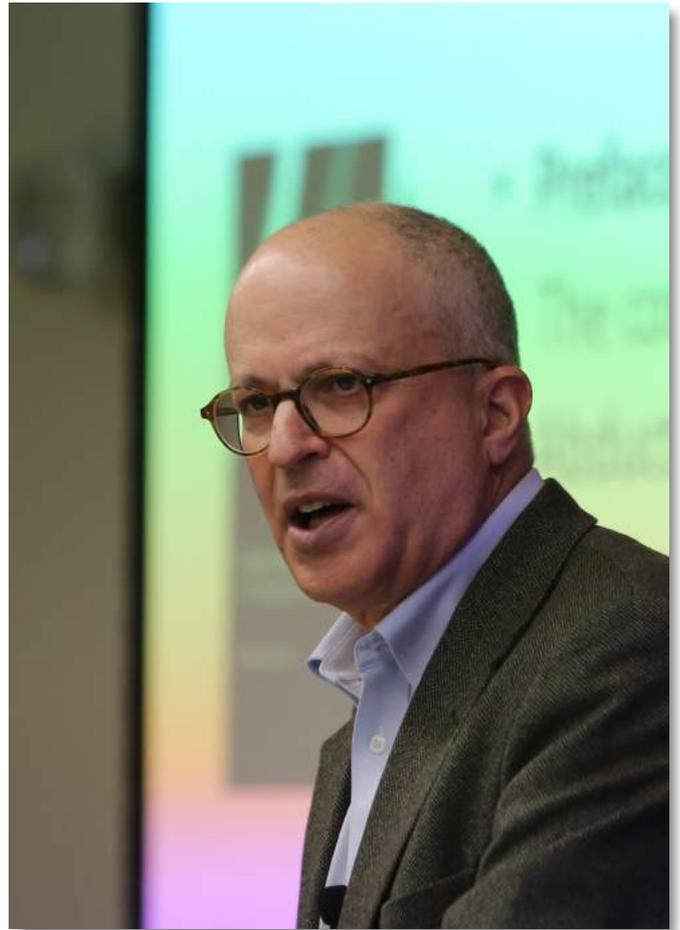
To be sure, human brains encountering crises still need to account for their heuristics and biases that push them toward wrong answers. I am underwhelmed, however, by the AI argument that anything in the foreseeable future will have *all* those unique capacities of human thinking, but cleansed of the heuristic and bias errors so ably catalogued by Daniel Kahneman and the other behavioral scientists.

I have been thinking recently about the intersection of artificial intelligence, simulation training, and human judgment in training pilots. I don’t care how good the pilots are, there are technologies that have made flying infinitely safer because they have taken the decision making out of the pilot’s hands. TCAS (Traffic and Collision Avoidance Systems) and ground proximity warnings are two examples.

The literature is replete with speculation, prediction, reaction, and likely over-reaction about pilot-less flying. I’ve heard from experienced commercial pilots who doubt the ability of the pilot-less plane, for example, to abort a take-off after a tire explosion and evacuate hundreds of passengers, or to troubleshoot a system problem that requires an emergency diversion over dangerous terrain. I simply don’t know, other than to say that not having a human pilot on the plane would make me nervous! But flying is still a physical activity, and its automation has to do primarily with accommodation to the laws of physics and the evolution (as with driverless cars) of our human attitudes toward technology’s capabilities. Nevertheless, an entire field of something called “human factors” has developed involving psychological, social, physical, and biological research to assess human abilities, limitations, and characteristics, and to apply that knowledge to human interaction with tools, machines, tasks, and systems. Agencies and institutions like NASA, the Federal Aviation Administration, the Transportation Research Board, the U.S. General Accounting Office, the Food and Drug Administration tap into it.

Corporate crises like the United situation or the Tylenol product tampering situation years ago seem to me to be the natural focus of “human factors” research as applied to lawyers. They are the places where thinking like a lawyer (and listening too much to the lawyers, as Mr. Munoz is reported to have done) can turn out to be so wrong. There is much to be done here, but a simulation course on crisis management, where law students would have to face off with aspiring business managers to resolve something like the United situation, strikes me as a wonderful first step.

Jeffrey Lipshaw is Professor of Law at Suffolk University Law School in Boston, where he teaches contracts and courses in the business curriculum. Before becoming a full-time academic in 2007, Professor Lipshaw spent twenty-six years as a lawyer and business executive, most recently serving as Senior Vice-President, General Counsel, and Secretary for Great Lakes Chemical Corporation. He began his career with the law firm of Dykema Gossett in Detroit, where he was a partner in the litigation and corporate groups, and served as the Vice President & General Counsel of Allied-Signal Automotive, a large auto parts manufacturer. Before coming to Suffolk, he was a visiting professor at the Wake Forest and Tulane law schools. He is a graduate of the University of Michigan, and a graduate of the Stanford Law School. [More on Jeff Lipshaw](#)
More on his Book 'Beyond Legal Reasoning: A Critique of Pure Lawyering' See page 21



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Pretium facere: The Romans Understood Pricing Better Than We Do

By Richard Burcher, Managing Director Validatum (UK)

The Latin term for price is *pretium*. However, closer investigation reveals that *pretium* also means 'value'. In other words, the Romans had the same word for price and value: *pretium* = value = price; something that is at the core of every economic transaction.

Value is the most important aspect of price, price management and pricing policy. Or, to put it more precisely, the value perceived by the client. The willingness of clients to pay and

therefore the price targeted by the firm are always just a reflection of the perceived value or benefits of the advice and service being provided – nothing more and nothing less.

Giving two sides of a transaction the same word, the Romans understood the fundamental connection between price and value. Interestingly, Latin gives us a second linguistic meaning that goes in the same direction. *Pretium facere* (literally, ‘set the price’) also means, ask for a price (from the buyer) and offer a price (from the seller).

A transaction takes place only if the law firm and the client can agree on a common price. Many law firms are unhappy about the prices they are achieving. The lowest price offering always seems to come out on top (that is not the reality but it is certainly the perception). Many law firms providing a high standard of advice and service feel defeated amidst the apparent low-price craze. When law firms raise the issue of permanently discounted headline rates, poor realisation and recovery rates and the like, I have three questions; first, what part of the market are you targeting or is your natural habitat?

Second, what added value and benefits do they offer that your competitors don’t? And third, do the firms pricing policies and strategies reinforce or undermine the first two answers? In response to the value/benefits differential as perceived by clients, the usual response is silence. However, businesses and private clients are willing to pay full or even premium prices in return for higher value. While this concept applies equally to goods

and services, the concept is sometimes easier to grasp within a product framework. Enercon’s wind turbines are approximately 20 percent more expensive than those of their competitors. Still, Enercon has a market share of 60 percent in Germany. Why? Because of the economic advantages they offer, which also leads to higher returns.

Miele is also able to charge about 20 percent more than its competitors due to better quality, higher reliability and durability – in one word: higher value.

When Gillette launched its three blade Mach3 razor, it charged 50 percent more than its most expensive product at the time, the Sensor Excel. Since then, they have brought further new products to market with even higher prices. Throughout it all, Gillette has gained the largest market share in its 50-year history. The reason is clear: higher client value!

Of course, to communicate the advantages of the new blades, Gillette did invest significantly in advertising.

Apple for that matter didn’t become the highest valued company on the stock exchange with a reputation of selling products for low prices, but with a reputation for selling high value. Innovation, design, brand, system-integration – these are the value creators that Apple has employed with enormous success. They are also the value creators that technically more advanced companies such as Sony have failed to utilize.

And what about luxury goods that were literally being grabbed from the hands of manufac



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turers during the worst economic conditions since the Great Depression? In 2012 the London financial media reported on the iconic British luxury brand Burberry in the following terms; “Burberry shares soared on Thursday after it reported 3% sales growth in its first quarter report. The company topped the FTSE 100 as its’ share price rose by 13.26%”.

Why, because although expensive in comparison with competitors, their products still represent good value in the customers’ mind and those customers are voting with their wallets and purses.

Price is not an abstract concept.

Price only has meaning when viewed against a backdrop of value. Something can be cheap

but poor value or expensive and poor value. Equally, it can be very costly but good value. Here’s the thing; there are still plenty of clients who understand the distinction. For them, if you represent poor value, you will get the axe, even if you are the cheapest. Equally, many are willing and able to pay well, so long as they feel that they are getting good value.

Law firms that have problems asking for profitable prices should first ask themselves what is wrong with their value proposition and their pricing strategies. The chances are that this is the root of their problems.

Pretium = price = value. A simple but indispensable insight; one for which we should still be thanking the ancient Romans. →

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Richard Burcher is a former New Zealand practicing lawyer and managing partner with over 35 years experience.

Following post-graduate study in pricing-related disciplines, Richard has been based in London since 2012 as the Managing Director of **Validatum** (UK) Limited.

Legal commentators regularly describe him as the leading law firm pricing consultant in the world.

His pricing consultancy services and speaking engagements take him throughout the UK, Asia, India, Europe, Australasia and North America.

A regular speaker at national and international conferences his legal services

pricing research and commentary have been widely published or cited in Commonwealth Law Journal, Global Legal Post, Managing Partner, Harvard Business Review and the Pricing Journal amongst others.

Richard is a member of the Brussels-based European Pricing Platform and a member of the Professional Pricing Society (USA). He is also an Advisory Panel member of the United States True Value Partnership Institute and a consultant in India's foremost legal profession consultancy, Legal League Consulting.

He has worked with a broad cross section of law firms in 13 countries with turnovers of £10 million (\$US15m) to £900 million (\$US1.5b).

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Becoming A Visionary Law Firm: Developing Board Foresight

By Patrick J. McKenna and Vincent A. Cino

Nearly every law firm of any significant size will have a Board of Directors or Executive Committee comprised of partners elected by their peers, for some predefined term. Some Boards are primarily concerned with providing oversight on the activities and actions of their management team (managing partner, management committee and administrative professionals) and some are actually charged with developing the firm's formal strategic plan or direction such that the management team can then focus primarily on implementation. In either scenario, your elected Board is a valuable resource . . . if used properly. According to the most recent report from Citi Private Bank's Law Firm Group, law firm leaders "struggle to see the market," are not very good at making predictions about what is likely to transpire in the near future and are often victims of a "positive bias" which doesn't then translate into reality.

Meanwhile if we were to examine what happens in many law firms' Board meetings, the vast majority, if not most all, of the Board's time is spent on internal versus external, and operational versus strategic discussions. With the accelerated pace of change currently going on within the legal profession we believe that law firm Board meetings need to find the means of engaging Board members in more external and strategic discussions. Many will likely remember Jack Welch, the former CEO of General Electric, saying, "If the rate of change on the outside exceeds the rate of change on the inside, the end is near."

The role of your board should be directed to help guide the firm successfully into the future while also governing for the present. Boards move toward the visionary when they excel at not only providing oversight and insight, but, even more importantly—foresight. This is a challenge, and future focus and expansive thinking can and will make all the difference. Building and maintaining a visionary board is a journey and every board starts in a different place; some are highly effective and looking to become more future-focused in their perspective, while others have a long way to go

Leading firms know their future will not be an echo of the present. In fact, we believe any firm's elected Board members need to regularly engage in deep strategic thinking about trends currently shaping the profession. Have your partners thought about how the advent of online legal services, artificial intelligence, big data or predictive analytics will impact their personal practices?

Getting to the future first requires firms to be deliberately farsighted. Why is this important?

By investing serious time in examining trends, it will enable you to see what competitors may not, thereby allowing you to be a leader in exploiting new opportunities or preparing contingency plans for the possibility of any disruptive events.

We are not talking about navel gazing or trying to predict the future. Rather, tomorrow's potential threats and explosive opportunities are already being hinted-at today. If one looks closely enough, one can see the beginning of trends, often years before they become common knowledge. Seeing the future requires that you understand the potential of what is already happening. The essence of winning in a competitive marketplace is to be at the right place **before** the right time.

SCANNING THE FUTURE

Our central premise is that there is no proprietary data about the future. Whatever you need to know about tomorrow is to some extent, already visible. The data is there for everybody to see, but there is an enormous difference in firm's abilities to construct new opportunities out of that understanding.

Interestingly, the sophistication of professional service firms varies considerably in the discipline with which they direct consideration to their external environment. The largest and most sophisticated of the accounting and consulting firms have long devoted serious attention to what is happening outside their doors. Many even have special Advisory Boards comprised of various industry leaders, who meet regularly with the firm's leadership to help them see what is evolving in their different client industries. Most law firms, however, are populated with professionals who are so pre-

occupied with their particular area of specialty, that they are remarkably out of touch with the wider world.

Not all partners are equally up to date on what is happening. Many will be fully aware of issues that affect their particular practice area, but it is not at all uncommon for an entire practice group to lack a coherent concept of those macro-trends affecting some of the client industries they serve.

By way of illustration, here are examples of “what is going on out there”:

- Every minute we send 204 million emails and send 278 thousand tweets.
- Google alone processes an average of 40,000 search queries per second – 3.5 billion per day.
- The total amount of data being captured and stored by industry DOUBLES every 1.2 years.
- The BigData industry is expected to grow from \$10.2 Billion (2013) to \$54.3 Billion this year.
- There are some 7000 peer-reviewed medical journal articles published every day.
- The first 3D printed drug is expected to be approved by the FDA in . . . 2015 (it has already happened) and 3D human tissue is now being implanted.
- There are currently over 1400 LegalTech start-ups on AngelList with an average \$3.9 million valuation - - and many of them are looking to eat your lunch!

Realistically, can anyone who devotes time to exploring “What’s going on out there,” ever fully understand all of the dimensions and interpret all of the signals? Not likely! With that pace of change and a business environment that becomes ever more complex and fluid, it

becomes critical that members of your elected Board maintain a running dialogue on the meaning of significant events and trends – and that they use their understanding of those trends to develop consensus on refining the direction and strategy of the firm.

THE PROCESS OF ANALYZING TRENDS

Consider this: if we knew in 2015 what we will know in 2020, (only three foreseeable years into the future) how would we change our attitudes, actions and the way in which we practice law – the services we offered, the clients we targeted, and the ways in which we chose to deliver our services? That is what this process is really all about – observing the present trends to determine how we might intercept the future.

There are a number of different steps involved in going through a process of identifying and interpreting external trends. At Jackson Lewis this has become a regular review item on the agenda of every Board meeting.

Step 1: Identify The Relevant Trends

Your first step is simply to scan the external environment for early warning signs and for areas of new opportunity. At Jackson Lewis we started by identifying a number of different environmental components. The importance of each may be quite different depending upon the practice composition of your firm. We then had the individual members of the Board voluntarily select one specific component they would be willing to invest time into monitoring between meetings. By studying the goings-on in these areas and connecting the trends in all of them, you can begin to build a reasonable basis of fact (and speculation)

about what will happen over the foreseeable future.

The process of identifying these trends, transforming the data into valuable insights about the future of your markets / practices is an inseparable part of the intellectual leadership that your Board can provide the overall partnership. While consultants might help, they should not supplant the Board's work. If the members of your Board create it, they will own it. It will form a key part of their thinking process and will guide the decisions they make.

What the Jackson Lewis Board has done is have each member voluntarily devote time to doing research, through various publications (both within the profession as well as across related professions), the internet, speaking with consultants, clients and so forth. The challenge for each Board member is: "In your opinion, what would be the most important trends capable of impacting both positively and negatively, the overall profession and our firm's operations over the next few years?"

In general, it helps to keep each identified trend reasonably concise; otherwise reading and reviewing it becomes a chore. Drowning your colleagues in facts, figures, charts, graphs, and detailed analysis makes it difficult for busy practitioners to find the critical insights that can help them shape their direction. Therefore, document and distill each trend in a carefully prepared, thoughtfully written, one-page statement of "what's going on out there." Also, the act of distilling the information can often lead to valuable insights. Explaining something in concise terms forces you to focus on the core concept.

SOME EXTERNAL STRATEGIC COMPONENTS

1. How Technology Is Reshaping the Practice of Law

Study Group:

As the natural evolution in legal services pushes more of what lawyers do from being highly specialized to being highly commoditized, it opens the door for innovators to creatively package and offer clients internet-based legal services that allow the client to do for themselves that which previously they had to hire a lawyer to do for them. The implications are profound (see LegalZoom.com).

Many of the tasks currently undertaken by lawyers, often in costly buildings, in downtown financial centers, may soon be more cost efficiently done elsewhere or differently. Concurrently, we see firms sharing their most cherished templates on common web sites that competitors or any prospective client can access, while other firms market themselves to prospective clients on Twitter, and still others are beginning to explore how bigdata, artificial intelligence and predictive analytics might be utilized in litigation matters.

What does this all mean for how we should embrace or utilize technology going into the future?

Example: The Legal Technology Core Competencies Certification Coalition, or LTC4, has created a certification program around lawyers' use of technology.



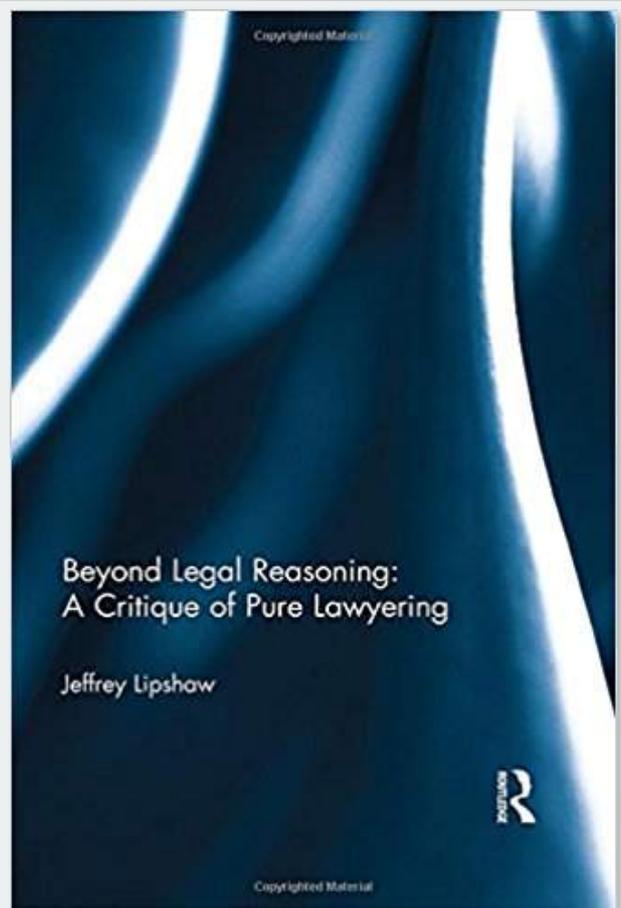
Beyond Legal Reasoning; A Critique of Pure Lawyering.

The concept of learning to 'think like a lawyer' is one of the cornerstones of legal education in the United States and beyond. In this book, Jeffrey Lipshaw provides a critique of the traditional views of 'thinking like a lawyer' or 'pure lawyering' aimed at lawyers, law professors, and students who want to understand lawyering beyond the traditional warrior metaphor. Drawing on his extensive experience at the intersection of real world law and business issues, Professor Lipshaw presents a sophisticated philosophical argument that the "pure lawyering" of traditional legal education is agnostic to either truth or moral value of outcomes. He demonstrates pure lawyering's potential both for illusions of certainty and cynical instrumentalism, and the consequences of both when lawyers are called on as dealmakers, policymakers, and counsellors.

'Jeffrey Lipshaw combines acute legal and philosophical analysis with prodigious legal experience to explain to us both how lawyers do think and how they should think. He makes clear why lawyering needs a fundamental transformation, and starts us down the path to achieving it. Anyone perplexed or angered by the role of lawyers and lawyering in modern society should read this book.'

Professor Barry Schwartz, author of "Why We Work" and co-author of "Practical Wisdom".

-Click on the cover to order-



The organization argues that rapid technological changes, alternative fee models and increasing scrutiny from clients are putting pressure on attorneys to prove their worth.

2. New and Emerging Areas of Practice

Study Group:

Entire industries from automotives and financial services to the newspaper business are being swept by fundamental, ‘transformational’ change. Meanwhile numerous State governments have identified selective industry clusters for long-term strategic job creation. New advances in the science behind energy, infrastructure, connectivity and health care drive fascinating new areas of growth. Success going into the future may very well depend upon identifying where the best opportunities are to gain a “first mover advantage” and develop knowledge in specialized areas of the law in advance of our competition.

Where are the best opportunities going to be in the coming years and what opportunities should we be proactively investing in?

Example: There may be a bright future for Micro Colleges. The systems used to create colleges centuries ago seem justifiably primitive by today’s standards. Learning formulas for nearly every degree are based on hours, one of the least important considerations when it comes to assessing talent.

Colleges today cost far too much, and they take far too long. For this reason, a new wave of full-immersion skill training centers, or Micro Colleges, have begun to emerge. Look for Micro Colleges to crop up around every hot new industry including VR, 3d printing, Inter-

net of Things, flying drones, crowd funding, cybersecurity, cryptocurrency, and many more.

3. Competitive Threats and Our Evolving Marketplace

Study Group:

Law firms are continuing to expand across a broader geography than ever before and with aggressive geographic growth and merger plans. Many of these competitive firms are leveraging their strengths in specific practices or industries as the catalyst for either setting up offices in new locations or acquiring selected firms. Meanwhile, corporate legal departments are bringing increasing amounts of legal work in-house rather than sending it to their outside law firms.

How will our marketplaces likely evolve over the coming years and what do we need to do to capture a greater share of the better business?

Example: The Corporate Legal Operations Consortium (CLOC) is gaining traction as a go-to organization that can help legal entities optimized their service delivery models. CLOC has worked to establish standard measurements and metrics for law firms and corporate legal departments to get a better sense of the value of the services they are charging for... and paying for.

While this list of three components is not meant to be comprehensive it should serve as a starting point for us to examine some of the myriad different trends and developments now emerging.

BEWARE OF INCOMPLETE OR DEFECTIVE DATA.

In one of those classic “Pink Panther” films, Peter Sellers, is seen checking into a quaint hotel. In a corner of the lobby, he notices a small dog. Thinking he might go over and pet this cute little animal, he inquires of the innkeeper, “Does your dog bite?” Hearing the elderly gentleman say no, Sellers reaches down only to have the dog snap ferociously at him. Sellers turns to the innkeeper and says, “You said your dog didn’t bite!” To which the gentleman calmly responds, “That’s not my dog.”

In identifying relevant trends you must remain keenly aware of the problem of incomplete or defective data. What you ask, whom you ask, and how you ask can be critical to getting valid and useful information. Here are a few guidelines to consider:

- Censor incoming bits of information at their source. Be constantly vigilant to the impartiality and agendas of reporters, journalists, commentators and anyone supposedly in-the-know, reporting their take on some new development.
- Get as many different perspectives as possible. If you are hearing the very same predictions from a number of sources, try to find a contrarian view.
- Distrust your own biases. If you are hoping to find the research to support a strategic decision you have already made, it is very likely that you will find the support you are looking for.
- Be willing to contradict prevailing beliefs. The majority is not always right, the conventional wisdom not always wise, and the ac-

cepted doctrine could very well be flawed. Breakthrough thinking depends on it.

- Be careful of jumping to conclusions. Are you betting your future on the assumption—that a particular market will materialize, grow or disappear? Do you have enough real evidence to support your conclusions?

Step 2: Discuss and Evaluate Each Trend

Having this as a consistent agenda item at every Board meeting should provide the means for focusing attention on the business environment, sharing observations and building consensus about what the signals are telling us.

An effective way to tackle this is for your Board to divide into small working groups. These participants share their thinking about the issues and thereby can uncover important differences in the ways each might perceive the impact of any given trend. Each group selects one of the trend categories (i.e., technological changes, etc.) and prepares its interpretation of the data. During the process debates or differences will emerge about various aspects of these trends. Although these discussions can become rather animated, they are useful. To see the future first, you may need to deconstruct old notions and ideas. It is important, during this step, to keep a watchful eye on a few natural tendencies that may occur:

- **Denial.** When a trend suggests a potentially negative consequence, some suffer from the ostrich syndrome. They prefer to bury their heads, deny the validity of the trend, and ignore danger signals. For example, in the

billing arena, some firms do not (want to) see the trend for providing clients with complete “transparency” as it relates to whom is working on what matter, when, and at what internal billing rate.

- **Blindness.** What we know (or think we know) determines what we see. Unfortunately, the more experienced and the smarter we are in our particular area, the more myopic we may become. Often trends present themselves, but busy professionals don’t see them. Not knowing how to look for them, or simply missing them is the primary factor. What we see determines our destination.
- **Arrogance.** The late management theorist, Peter Drucker, once commented dryly, “Whom the gods would destroy, they first grant forty years of business success.” Drucker believed that sooner or later, time will turn your most precious assets into liabilities and that the most powerful competitive advantage may eventually be neutralized by the shifting sands of the external environment. Intel’s past-Chairman, Andy Grove agreed, with his now famous remark, “Only the paranoid survive.” Ironically, one of the reasons why we may tend to miss trends is from what we call, “success arrogance.” The firm is doing so well that we fail to see the danger signals.

The key point is to make sure that all members of your Board engage in a personal and intellectual level in forming a consensus about what’s going on. One of the critically important by-products of this process is, that through active participation they will also be much better equipped to communicate any particular trend’s meaning to other partners in

the firm. This is an ongoing educational process within the larger firms and takes time.

Step 3: Determine The Impact Potential of Each Trend

Each of the trends that have been identified can be evaluated within the context of the PROBABILITY of occurrence and IMPACT (negative and positive) on your firm of such occurrence. The Diagram presented below is designed to help with your analytical efforts. You can use this graph (below) to assess the overall pattern of the trends identified. Obviously, those trends judged to have a very high probability of occurrence and a very harmful impact or portend huge opportunities should they occur, become your top priority. Clusters of trends falling into the top right-hand corner of this diagram are the ones we tend to label “Mission Critical” and are the ones that require your **urgent attention**. In those instances this Assessment Diagram can serve as a tool to help explain to partners the need for urgency.

Trends Analysis Assessment Diagram, Impact On Firm

Significant Positive/ Negative		Trend 3 (-)	Trend 2 (-)		
	Moderate			Trend 1 (+)	
	Imperceptible				
	None				
	0%	25%	50%	75%	100%

-Probability that the trend, event or condition will occur-

The secondary band, running diagonally through the graph, represents those trends that are not imminent time wise, but nevertheless should be considered *important* and needing attention through ongoing monitoring.

Finally, the cluster of trends that will tend to occupy the bottom left-hand corner of the graph fall into the area best labeled as *post-ponable*. These trends should also be periodically monitored for changes which could cause them to shift to a higher priority. In spite of the graph presented here to help with your analysis, let us not create the impression that this process is scientific, systematic, or precise. If anything, seeing the future is guess-work at best. The events, trends, issues and opportunities in the external environment are ultimately whatever we interpret them to be. Intelligent professionals may disagree completely about what a particular trends impact may suggest. The most valuable aspect of this process is how it can enable members of your Board to discuss, debate, interpret and assimilate the lessons the external trends have to teach us. From this understanding, which must be continually updated and refreshed, they can commit energy, attention, talent and resources for the greatest strategic value. This Assessment Diagram is merely intended as a practical tool that can be used to help make sense out of and prioritize those eternal issues deserving of some attention, in your efforts to determine the best strategic direction.

Step 4: Develop Your Action Plans

Finally, it is necessary to transform the discoveries that come from your discussions into actions. There is little point in knowing that you are heading for an iceberg if you don't determine how to course-correct and steer around

it. In order to be effective, some portion of your firm's strategy must concern itself with what we must be doing right now in order to be well positioned to capitalize on our future. Among other considerations, your strategic plan therefore should identify:

- what skills your firm should be developing (or hiring) *right now*;
- what you must do to anticipate and better serve unmet client needs *right now*;
- what new practices you should be pursuing *right now*; and
- what new experiments and field tests your firm should be engaging in *right now* in order to intercept the future.

A Necessary Part Of Your Strategy Process – And An Ongoing Exercise.

It is said that in far northern regions there is an old tradition whereby hunters construct blankets made of animal skins. These blankets are not for shelter, but intended as a crudely improvised form of trampoline. The blanket is spread across the ground and one of the hunters steps into the middle. The remaining members of the group grab the edges, heave the blanket upward, and eject the hunter high into the air. The purpose of physically hurling the hunter into the sky is to have him see if any caribou are in the area. While we have evolved from those humble techniques there remains a need to look to the horizon to see how the future will unfold. Behind every new trend and its ensuing ramifications is either a potential marketplace threat or a window of opportunity. Those keen enough to perceive the trends early are in a prime position to pilot their firms into a more promising future. The obvious challenge therefore, is to be the first to see the future and then devise appropriate action plans to take full advantage.

Patrick J. McKenna is an internationally recognized author, lecturer, strategist and sea-



soned advisor to the leaders of premier law firms; having had the honor of working with at least one of the largest firms in over a dozen different countries.

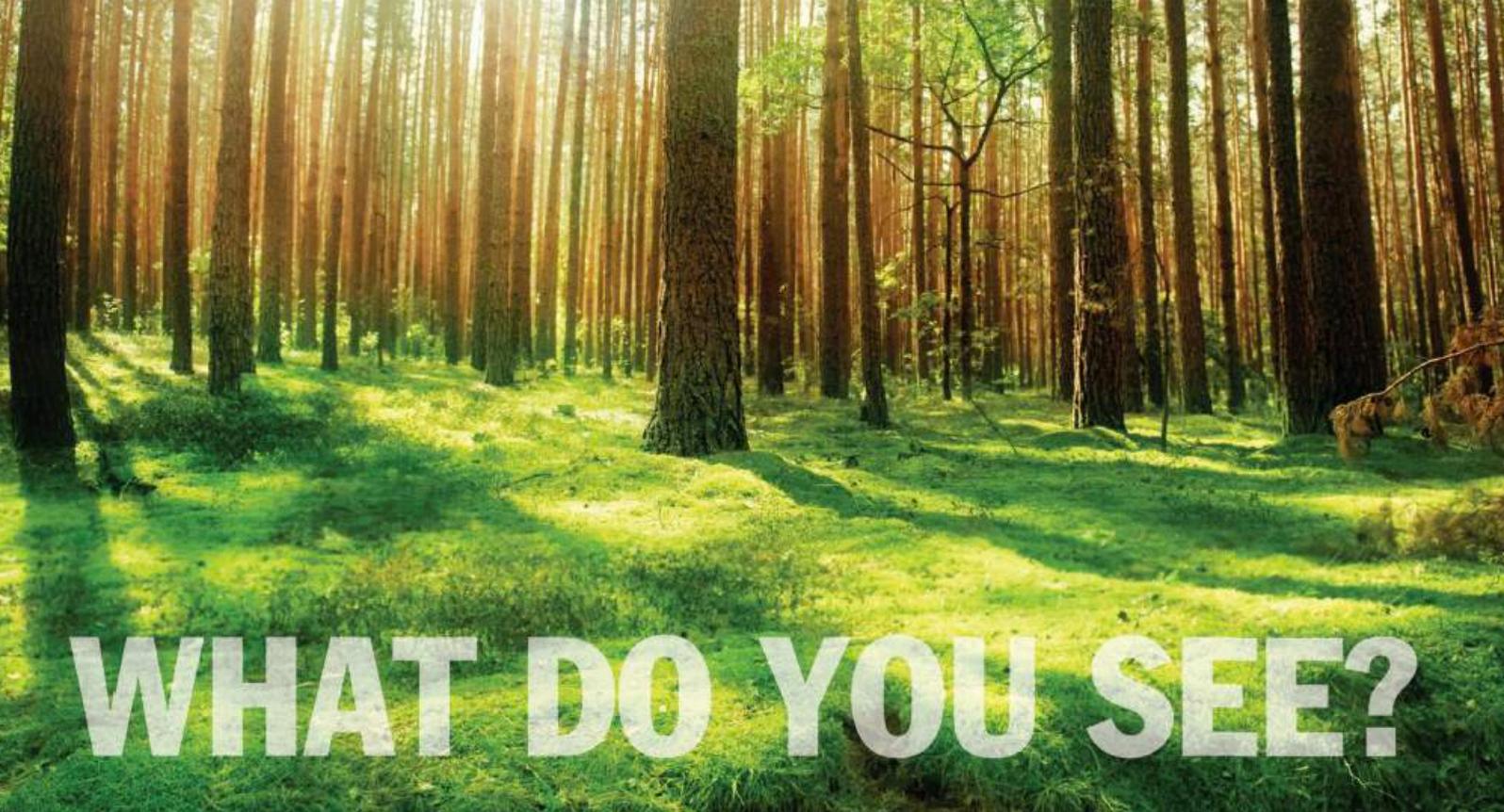
He is the author of eight books most notably his international business best seller, *First Among Equals*, currently in its sixth printing and translated into nine languages. His most recent work, *The Changing of the Guard, Second Edition* (Ark Group, 2017), provides in-depth guidance on the leadership selection process in professional firms.

Patrick's three decades of experience led to his being the subject of a Harvard Law School Case Study entitled: *Innovations In Legal Consulting* and he is the recipient of an honorary fellowship from Leaders Excellence of Harvard Square. Patrick may be reached at: patrick@patrickmckenna.com.

Vincent A. Cino is the Chairman of **Jackson Lewis P.C.** and is responsible for the entire firm's day-to-day administration and management. Prior to assuming the role of Chairman, he served as the firm's National Director of Litigation. He has vast trial experience, having litigated every conceivable type of employment action in many jurisdictions throughout the United States. In one of his more well-known trials, he represented WNEW-TV, Golden West Television productions, Peter Falk and Arnold Shapiro, the Oscar-winning producer of the movie "Scared Straight." This was a libel and invasion of privacy case brought by several high school students. The trial lasted four weeks and resulted in a no-cause. Vincent has lectured extensively



on trial advocacy. He has been awarded the highest accolade in Martindale-Hubbell, an AV rating, a testament to the fact that his peers rank him at the highest level of professional excellence. Vincent may be reached at: cinov@jacksonlewis.com



WHAT DO YOU SEE?

Major law firms today operate in an increasingly complex, competitive and uncertain global environment. Building 'winning positions' in lucrative markets, now more than ever requires clear and sustained focus that is appropriately and realistically resourced. We understand that making these high risk decisions about direction, focus and priorities within the required time-frames can be challenging.

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The Art of Pricing Your Services

By Tim Williams, Ignition Consulting Group

Knowing the costs of serving your clients is important, but it's not the same thing as knowing how to price your services. Costing is objective and tactical; pricing is subjective and strategic. Costing uses formulas; pricing requires judgment.

When it comes to compensation, the misstep professional firms make is mistaking costing for pricing. They are not at all the same thing. One discipline requires scrutiny and analysis; the other requires creativity and innovation. Just because your firm has an outstanding competency in accounting, it doesn't mean you have a competency in pricing. You may have a Chief Financial Officer, but to maximize your profitability you also need someone that plays the role of Chief Pricing Officer.

Professional Selling for Professional Services

Professional firms leave money on the table because they pay very little attention to the discipline of pricing. When's the last time anyone on your management team read a book on pricing? Attended a pricing conference? Participated in a pricing webinar? For most firms, the answer is "never." It's little wonder new business teams struggle to match wits with the professional buyers at client organizations. In compensation discussions, we put amateur sellers across the table from professional buyers. It's an unfair fight.

But it doesn't have to be this way. It's not too late to catch up to the pricing revolution that has been sweeping the business world for the past several decades. What it takes is not just a change in practices, but a change in paradigm. Professional firms like advertising agencies, law firms, and accounting firms are trapped in a model first developed in 1919: hourly billing. As we approach the 100th anniversary of this misguided model, you can either remain in the ranks of the organizations that missed the pricing innovations of the last

20 years, or decide you want to be as progressive — and effective — in this area as your clients are.

The revenue models of most 21st century client organizations have evolved with advancements in pricing methodologies away from cost-based, past competitor-based, all the way to customer value-based.

By definition, pricing based on customer value is subjective and contextual, which reflects the true nature of value. While cost remains constant, value is always variable. The cost of a 12-ounce can of Coca-Cola is constant and calculable, but the value can range from less than \$1 dollar in a grocery store to 12 Euros at a Paris bistro. Studies have shown the range to be as much as 400%.

Both Quantitative and Qualitative

Many pricing professionals would argue that there's plenty of science even in pricing, citing examples the complex "adaptive capacity" pricing systems used by airlines and hotels, which offer upwards of 10,000 ever-changing prices per day to customers. But even here the

COST BASED	COMPETITOR BASED	CUSTOMER VALUE BASED
Cost-Plus Pricing Marginal Cost Pricing Hourly Rate Pricing Etc.	Penetration Pricing Skim Pricing Loss Leader Pricing Etc.	Customer-Based Pricing Solution-Based Pricing Variable Pricing Etc.



underlying approach is based on perceived value to the customer. The different prices offered by a single Marriott hotel on a given day are all variations of a price determined by customer value, not hotel cost.

If you want to understand the demand curve and the price elasticity in your particular industry and market, there's no question you'll need to employ some math. And there's certainly some solid science behind Van Westendorp's useful Price Sensitivity Meter — the four questions that help assess what the Dutch economist calls an “acceptable range of prices.”

But the essence of pricing is appraising, not counting. The artful objective of the pricing professional is to set a price somewhere between cost and value where both parties — the buyer and seller — earn a profit. While the concept of the seller's profit is well-understood, the “buyer's profit” is equally important. In other words, while firms must make certain that their price is set above their cost, they must also ensure that the value (to the

customer) is higher than the price. It's always under these conditions that a sale is made.

Tim Williams leads Ignition Consulting Group (www.ignitiongroup.com), a consultancy devoted to helping professional firms create and capture more value



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Living in Interesting Times

The Current State of the Legal Knowledge Management and the Legaltech Scene in Israel

An interview with Ms. Esther Dediashvili, Adv., Legal Knowledge Manager at Fischer Behar Chen Well Orion & Co (FBC & Co), Israel's leading law firm

Esther, you are a Legal Knowledge Manager at FBC & Co. What is the current state of legal knowledge management in Israeli law firms in general, and more specifically, can you tell us about your law firm and its legal knowledge management initiative?

Legal knowledge management as a concrete discipline is hardly existent in Israel. FBC & Co is one of the pioneers of Israeli law firms that emphasizes the significance of structuring the

professional and organizational knowledge with the aim of promoting a culture of innovation in the organization along with embracing innovative legal technology. FBC & Co is one of Israel's premier full service law firms, offering its clients professional excellence across the spectrum of multidisciplinary business legal services, spanning multiple practice areas, with main areas of expertise in real estate, litigation, commercial law and antitrust law. Our firm is involved in a wide range of representations at the forefront of Israel's legal-economic agenda.

Since 2000, FBC & Co has been Israel's fastest growing law firm, and is repeatedly ranked by international and domestic indices among Israel's leading law firms. It is Israel's 4th largest law firm, with over 300 employees, including almost 190 attorneys and 40 interns, and it has been voted Israel's Employer of Choice by attorneys.

When hockey legend Wayne Gretzky was asked how he managed to be so successful in his career he replied: "I skate to where the puck is going to be, not where it has been." This is precisely what our firm strives to achieve in the quality of the legal services provided to its clients, as well as in its knowledge management and innovation initiatives. In fact, the mere existence of a Legal Knowledge Manager's position in a major Israeli law firm, combining both legal and technological aspects, embodies innovation in and of itself in the local legal market.

Can you tell us about your professional background and how you became involved in legal knowledge management?

I'm a lawyer. I received my Bachelor of Laws degree from the Tel Aviv University School of Law and the Master of Commercial Law degree (Magna Cum Laude) in the Executive International Masters Program of the Tel Aviv University School of Law in collaboration with University of California Berkeley Boalt School of Law. Prior to my role as a Legal Knowledge Manager at FBC & Co, I practiced securities and corporate law for seven years in two leading law firms in Israel.

My practice concentrated on representing privately-held and publicly traded companies in a broad range of industries and financial institu-

tions in all major aspects of securities regulation, corporate law, and a wide variety of international and domestic business transactions. Within this framework, I also served as an external legal advisor to Israel's Oil Refinery corporation, as well as to an Israeli branch of a major international banking institution, and I regularly counseled one of the largest index linked note (ETN) issuers in Israel.

I started my professional career in 2008 at FBC & Co, first as a legal intern and thereafter as an associate with the firm's corporate department, where I was also involved in knowledge management related initiatives and often served as a source of professional knowledge within the areas of my expertise, so the connection to the field of legal knowledge management was very natural for me.

Intellectual curiosity is a characteristic that accompanies me through life and I enjoy learning about new subjects of interest. A year ago I was formally introduced to the field of legal knowledge management, completed an extensive knowledge management qualification course in a leading knowledge management consultancy in Israel, and returned to FBC & Co where it all started, but this time as the firm's Legal Knowledge Manager. My extensive legal experience as a lawyer together with technological orientation and knowledge management training are without a doubt helping me in my current role as the firm's Legal Knowledge Manager.

Knowledge management is deployed by many organizations from various industries worldwide. I am sure many people know what knowledge management is about, but for those who don't,

can you tell us what is knowledge management and what are its benefits?

In an information era that we live and work in, organizational knowledge is one of the most important resources in the organization, if not the most important one. "Knowledge is power", said philosopher Francis Bacon. I would add that collective knowledge is power. Let's compare knowledge to public goods, such as the legal system and the national defense, whose use by one individual does not reduce availability to others. After all, knowledge does not deplete by the mere act of it being shared with the public, and the amount of available knowledge does not depend on the number of its potential beneficiaries.

In this context, the role of the knowledge manager is, on the one hand, to preserve collective knowledge of the organization, so that its employees would be able to know today what they knew yesterday, and on the other hand, to develop new knowledge, so that employees of the organization would be able to know tomorrow what they know today, derive insights from the past activities and originate innovative work. In general, it can be stated that the purpose of knowledge management is to cause the knowledge to be in the hands of the right people, at the right time and place, in order to allow them to conduct the highest level of work possible.

Law firms are by definition engaged in providing services the focal point of which is knowledge and professional expertise, whereas the knowledge manager serves as the "transmitting channel" of the cumulative organizational knowledge and experience, making them accessible to organization's employees. This in turn contributes to the improvement of the

quality of professional outcomes and streamlines business processes, thereby allowing attorneys to provide a better service to their clients. The importance of knowledge management is further emphasized in large organizations such as big law firms structured as a so-called "one-stop shop". A law firm that is unable to efficiently transfer knowledge among employees in its various departments, may find it difficult to capitalize on economies of scale and gain optimal advantages from its size.

Here's some statistical data illustrating the increased involvement in the field of knowledge management by organizations around the world: the scope of the professional knowledge management departments in organizations employing between 10 to 300,000 employees ranges between 3 to 25 knowledge management workers, and in organizations employing 300 employees, which resemble in size most large law firms in Israel, there is one knowledge management worker per each 60 employees in the organization. In addition, the annual budgets invested by these organizations in knowledge management projects may vary from 100,000 dollars to 1.5 million dollars. It's no coincidence that Benjamin Franklin coined the expression "An investment in knowledge pays the best interest". I respectfully concur.

Can you explain what the role of the Legal Knowledge Manager entails and give an example from your experience?

A knowledge manager is entrusted with setting the entire organizational apparatus in motion and the incorporation of knowledge management principles in supporting the core organizational processes. Knowledge manager's role

in the organization entails building trust in knowledge collaboration, streamlining work processes, serving as the "knowledge junction" in the organization and as a professional authority responsible together with the main knowledge carriers for the quality control process of the contents included in the organizational knowledge base, driving the adoption and the subsequent implementation of new technological tools in the organization, and establishing a culture of learning and innovation.

A knowledge manager in a law firm has intersecting points with virtually all functions in the organization, including partners, lawyers, interns, administrative staff, IT, finance, marketing and business development, human resources and etc. Sometimes the process of structuring organizational knowledge entails driving enterprise-wide changes whose implementation naturally requires the involvement of all these functions in such change management processes.

To give a "real life" example of inducing such an organizational change process - during the last few months I was involved in a major enterprise-wide project of implementing a new document management system in the firm that is designed to gather and concentrate the organizational knowledge upon a single common platform. Any change may naturally be accompanied by a certain degree of apprehension or even opposition, and certainly such a significant organizational change that is replacing the entire working infrastructure of the organization. A change of this magnitude needs to be managed, and a knowledge manager plays a key role in this context. I approached this challenge in a methodological and organized manner, understanding that

engaging employees throughout the entire process is a necessary condition for the success of the project.

After conducting a system trial and gathering initial feedback from the firm's employees, I prepared a comprehensive series of online training tutorials on using the system, so that everyone in the firm could watch the training videos on-line and at the same time practice working with the system. This approach streamlined the launching of the new document management system in the firm.

Naturally, the knowledge manager's work does not end here, and it requires ongoing implementation of the system in the organization in order to maintain its efficiency. After several months following the system launch date, I recently conducted a comprehensive survey to monitor organizational satisfaction with the new system, and conducted training sessions to dozens of employees in the firm to continue strengthening the systems' user skills within the organization. I'm currently working with the IT team to implement the feedback gathered following the survey to ensure that the system is optimally user-friendly and easy to use. As you can see, implementing an organizational change is an ongoing process, and the significance of involving the organization's employees along the various stages of the process cannot be overstated.

How does technology contribute to legal knowledge management?

Knowledge management is a combination of several aspects – in order to succeed in the organization, knowledge management initiatives require an organizational culture that supports knowledge sharing and learning, in addition to

core business processes of the organization and a supporting technological infrastructure. Together these factors constitute the basis of effective knowledge management. Technology is an integral part of knowledge management in an organization. In fact, technological solutions serve as knowledge management enablers in general, and in the context of legal knowledge management in particular, technology can allow lawyers to concentrate more on what is important to the clients and to deliver better service.

Looking at the current state of the legal knowledge management and the legal-tech scene in Israel, what are the main hurdles that in your opinion are precluding Israeli law firms from involving more actively in the field of legal knowledge management and embracing innovative technology as their peers in other countries worldwide?

This is a multi-faceted issue, so I'll try to provide a comprehensive overview of the main factors affecting the local legal market.

Israel is well known for its vibrant startup activity. However, currently this does not sufficiently translate into the local legal market.

Despite Israel's reputation as a "Startup Nation" in fields such as cybertech, fintech and biotech, unfortunately we are still behind our peers in other countries in terms of the local legaltech market, adoption of technology in the legal practice and involvement in legal knowledge management.

Next story illustrates this well – during a local knowledge management conference that I attended recently, where the latest technological solutions in the field of knowledge management were displayed, I was presented with a questionnaire which included a question on

the type of organization I represented. There was an option to choose among different areas, such as communication, banking, insurance, health, infrastructure, etc., but there was no relevant category for the legal profession. The only remaining category was "other". But if we think about it, we are not the "other", after all, who if not lawyers is engaged in provision of services the focal point of which is knowledge? Ironically, this sector that primarily deals with information, is relatively behind other industries in the ways that it handles information.

One possible explanation for this phenomenon could be the conservative nature of the legal profession that is not traditionally associated with technological innovation. In addition, one should take into account that incorporating new technology into a law firm is quite a difficult task. Not every day technological infrastructure is being replaced. This involves a long-term investment and law firms are not necessarily built for frequent investments of this type. These constraints are certainly not exclusively identified with the local legal market. Nevertheless, legal knowledge management and legaltech tools are being increasingly adopted worldwide, in particular by the large US and UK law firms. Expressions such as legal KM (knowledge management), artificial intelligence, machine learning and data analytics have already become common knowledge within the legal communities in these countries.

So what does ultimately drive law firms worldwide to move towards the expansion of involvement in legal knowledge management and the adoption of technological innovations at a faster pace than their peers in Israel?

One of the main factors that accelerated the development of the legal knowledge management and the adoption of technology which affected the legal market worldwide was the economy. The traditional model of law firms which is based on the method of compensation against billable hours has not changed for years, until the turning point which took place in 2008, with the occurrence of the world financial crisis that had an immense negative impact on the legal markets worldwide, especially in the US and UK, which are still in a recession. In a new reality that emerged, the bargaining power has shifted to clients who were no longer willing to pay their attorneys according to the hours billed, and started demanding more legal services for less cost. As a result, law firms worldwide were faced with the necessity to explore new methods of efficient legal service delivery, including legal knowledge management and the adoption of legal technology.

In addition, the emergence of alternative legal service providers has become a significant competitive force in the global legal arena. For example, LegalZoom is a US-based online service provider that makes legal documents available to citizens and businesses who cannot afford lawyers or wish to spend less on their legal issues. LegalZoom has now served over 3.5 million customers and its brand is claimed to be better known in the US than that of any law firm. Another example is Lawyers on Demand that provides outsourcing services for some of the legal work based on tailoring the assistance to the specific needs of each client. These types of new market players are disrupting the traditional model of legal service delivery by law firms. The economic factor and the increasing competition from new legal

service providers have certainly served as the driving force behind the increased involvement of the law firms worldwide in the legal knowledge management and the incorporation of technological solutions in the legal practice. In contrast, the global financial crisis of 2008 had a relatively moderate impact on the legal market in Israel, so the incentive to change and adopt more efficient methods for legal service delivery was significantly smaller in Israeli law firms than for their peers in the US or UK for example. Moreover, alternative legal service providers in Israel that offer online legal services or legal practice outsourcing have yet to take over a significant share of legal work in the local market. Therefore, it is understandable why the field of legal knowledge management and the legaltech market in Israel have not developed at the same pace as they have worldwide.

I believe that another reason that drives the legal markets worldwide towards the increased adoption of technological innovations is that the realization, that in the current reality – and certainly in the near future – being a talented and a professional lawyer will no longer suffice, and that lawyers will be required to demonstrate breadth of knowledge that also covers business and technological aspects, is slowly beginning to permeate the legal markets worldwide. Let's compare this to a traditional "I-shaped" model of a legal professional, whereby the lawyer has a deep legal expertise in the field of the law. Nonetheless, recent trends show a shift towards a "T-shaped" model borrowed from the technological sphere, whereby the vertical stroke of the T represents depth of knowledge in one main discipline, whereas the horizontal stroke of the T represents breadth of knowledge, skills and

A close-up photograph of a person's hand holding a dark-colored book. The hand is positioned on the left side of the book, with the thumb resting on the top edge. The book is held vertically, and its white pages are visible on the right side. The background is dark and out of focus.

“Israel is an *ultra competitive market* with 636.9 lawyers per 100,000 population, and still growing.”

qualifications across multiple disciplines, an integral part of which is technology.

In fact, the effect of technology on the legal profession is so profound that in 2012 the American Bar Association has modified the Model Rules of Professional Conduct, stating that part of lawyer's ethical duties is to keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology when handling client matters. This rule of competency in the technological developments has already been adopted by nearly half of the US states. In addition, leading law schools worldwide are beginning to integrate technological courses in their curricula. This kind of awareness has not significantly penetrated the Israeli legal market. Additional training beyond the legal knowledge is an advantage in Israel which is a "nice to have", but still not a "must have".

Another factor that may explain the relatively slow involvement of the Israeli legal community in the local legaltech market is the limited number of available ready-to-use local technological solutions. To give a simple example, according to recent data, there are only 10 legaltech startups in Israel with total investments of approximately 10 million dollars, in comparison to 400 legaltech startups in the UK with total investments of over 500 million dollars. This gap is understandable, since many legaltech solutions are language specific, and most legaltech products mainly support the English language, which is the international language of the business world. In contrast, Hebrew is only spoken by 9 million people around the world, a fact that can make the development of Israeli legaltech solutions less financial-worthy.

The size of the local legal market also has a restraining effect on the pace of adoption of legal technology. To illustrate, the number of lawyers in the US as of 2016 was approximately 1.3 million lawyers, while the number of lawyers in Israel was approximately 60,000 lawyers. As one of my acquaintances who is active in the legaltech scene once said: "There are more lawyers on one street in Manhattan than in all Israel". Combined with the fact that local large law firms are barely considered medium-sized firms in the US, it is not surprising that the resources the foreign firms invest in technological solutions are correspondingly higher.

At first glance, the combination of these factors may lead us to a not so encouraging conclusion regarding the future of legal knowledge management in Israel and the adoption of the legal technology by Israeli law firms. Nonetheless, I believe that precisely the opposite is true. Although the Israeli market has not been significantly affected by the global financial crisis of 2008, unlike its peer in the US and UK, Israel is also no stranger to an increasing client demand of gaining more for less, resulting in the gradual decline of the traditional compensation model against billable hours, which in turn will increase the need for more efficient methods of legal service delivery, including legal knowledge management and use of technology assistance. In addition, Israel is known for its ultra-competitive legal market. Israel is a world leader in the number of lawyers per-capita, with a total of 636.9 lawyers per 100,000 population. To compare, the average in Europe is 161.4. In England, for example, this figure amounts to 308 lawyers per 100,000 population, and in Germany – 200.5 lawyers per 100,000 population.

Moreover, Israeli big law firms are constantly growing, and in order to take advantage of their size they will need to manage their knowledge more effectively. Therefore, the growth in the number of lawyers employed by law firms, together with the increasing competition among Israeli law firms, are expected to accelerate the necessity of legal knowledge management and of the integration of technological solutions within the local legal market. I think that the Israeli legal market is making slow but definite progress, and there's a rising awareness of the benefits of legal knowledge management and legaltech in general. I also believe it is simply a matter of time until the local legaltech market catches up. Usually, tech trends in the US take some time to arrive to Israel. As the Fairy Godmother told Cinderella: "Even miracles take a little time!" There could also be numerous opportunities for international legaltech vendors who are interested in exploring and cooperating with the Israeli legal market in a variety of fields – from document automation, contract review and e-Discovery, advance legal research, data analytics, to project and process management. At the end of the day, what is important in my opinion is the fact that we are beginning to discuss these questions and giving them serious consideration, which in and of itself may accelerate the development of the legal knowledge management in Israel and the adoption of legaltech solutions by the local legal market. I believe that the message that knowledge is the key to success is beginning to penetrate the legal scene in Israel as well and I envision positive prospects for the further development in this area in the future. As Robert Kennedy declared towards the launch of Apollo 11 mission after which the first human landed on the moon: "We live in interesting times!" Then we

certainly have something to look forward to.

Looking from a long term perspective, where do you envision your firm in the future in terms of legal practice and technology integration?

I would like to see our firm incorporating advanced technology in the structuring of organizational knowledge, in information retrieval, in the processes related to conducting legal work, in communication both internally and towards clients, and in the professional training of lawyers – the sky is the limit and that's the best part of the knowledge management profession!

I will conclude with a scene from a movie "Under the Tuscan Sun" that was ingrained in my memory and I always picture it whenever I think about the combination of the legal world with advanced technology and the countless options that the future holds in store: *"Between Austria and Italy, there is a section of the Alps called the Semmering. It is an impossibly steep, very high part of the mountains. They built a train track over these Alps to connect Vienna and Venice. They built these tracks even before there was a train in existence that could make the trip. They built it because they knew some day, the train would come."* I too, as a legal knowledge manager, build the organizational knowledge infrastructure even before having at my disposal the entire ensemble of advanced technological tools that can maximize the value of knowledge for the benefit of the organization. I do this, because I know some day, my "train" will also come, and in a dynamic world we live in, this day seems closer than ever.

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Understanding the Legal Project Management Trend

By Todd Hutchison, CEO of the Peopleistic Group, Associate Professor Business Education Institute, CQ University i.a.

The need for more standardised and streamlined processes, with an ability to calculate fixed prices is seeing a surge of interest in law firms taking a more 'legal project management' approach, particularly with the integration of project management methods in legal software.

Across the world, the interest in legal project management is becoming evident. The *Law Council of Australia* established a *Future of the Law Committee* late in 2016¹ who acknowledged that heading into 2017, "...some key disruptive technologies will likely include...project management and workflow systems".

Legal project management (LPM) is defined as the application of project management principles and practices to enhance the delivery of legal services. The reality is that legal matters have always met the criteria of being a project, and those leading legal matters are arguably

The change that is driving more project rigor is the client demand for fixed prices, and the associated need to deliver legal matters within those boundaries to achieve profit margins, as well as the impacts that new technology is having on how legal work is done.

The impact of not being able to offer or deliver fixed priced legal services may make the legal practice less competitive, but worse case, may result in a loss of profit. Delays are costly, and overruns in client fixed price legal matters can be downright risky to the sustainability of the legal practice. Enabling fixed fee legal services requires getting clear on the scope of the work, identifying the resources required, developing a budget with execution risks in mind, and then having the processes to execute, monitor and control the work. This calls for using the wider project toolbox, including risk management, issues management and change management.

It is not only for legal practices, as in-house counsel may arguably need the skills even more themselves. In addition to leading legal matters, they are often called upon for more general advice on the business' strategy, operations and projects, as well as managing the engagement of external lawyers, and being involved in project managing improvements to their own business unit within the organisation.

Based on a survey of LPM practitioners across 9 countries, the International Institute of Legal Project Management found that 'legal project management' as a phrase is being used as an umbrella term. It extends from not just focused on project methods, but includes technology enablement, process improvement techniques and an emphasized focus on people leadership and stakeholder engagement. It

strives for more efficient systems and processes, team accountability and greater communications.

This combination makes sense when you compare the pressures on legal practices. The Australian College of Law (2016)² noted, "*The introduction of fixed fees, outsourcing of legal work, intelligent systems and the internationalisation of Australian legal practice are beginning to impact on the legal market and how lawyers practice, and the skills lawyers will need in the future*". This is becoming more of a worldwide trend.

Similar to how traditional project management practices are applied, the rigour used in legal projects must be comparative to the size and complexity of the legal matter. The scale operates from where common sense suggests a 'just do it' approach, through to minor legal matters that may need a limited level of rigor, and through to major (complex) legal matters that require more stringent and detailed processes to manage the level of risk involved. The complexity may also be contributable to the size of the legal team involved, calling for the ability to know who is working on what, when and how much it is costing the firm. Approaching even potential litigation matters can benefit from a staged approach to planning. At the end of each phase, the level of clarity would better enable future planning and accuracy in the budget, leading to a more accurate quotation at each step. This is evident when you break up the stages of mediation, arbitration and litigation. The litigation process often has identifiable triggers that can be used to change the scope, which when communicated upfront with the client, can better manage their expectations.

The International Institute of Legal Project Management has accredited independent legal training providers in the regions of the USA, UK, Spain and Australia. Research is being gathered through these entities as to the over-all world trend in law practices taking up legal project management. The UK are seemingly leading the implementation of LPM where project skills for lawyers are now being included as mandatory skill requirements by the Solicitors Regulation Authority³. The Law Society of England and Wales (2016)⁴ in envisaging the future for lawyers noted, *“There is a need for all types of lawyer to expand their skills base beyond technical legal knowledge, to encompass business and project management skills and a better understanding of complex risk...”*.

Universities are now starting to train students in LPM. An example is the Vanderbilt Law School in the United States, who are offering both a Legal Project Management unit⁵ for second and third year Juris Doctorate students, as well as a 2-day intensive industry-based Executive Education program⁶ in a joint venture with the Owen Graduate School of Management. Private providers in the USA are also now offering legal project management specific diploma level courses⁷, with the International Institute of Legal Project Management providing Government backed internationally-recognised diploma qualifications⁸. The Boston Consulting Group and the Bucerious Law School joined forces recently (Veith *et al.*, 2016)⁹ and even suggested, *“To more sharply differentiate their service offerings, big law practices will have to offer more than just advice on litigation and transactional cases. They may also have to offer legal project management”*.

Across the world legal project management training is starting to be embedded in law schools, including the prestigious IE Law School in Madrid¹⁰. Veith *et al.*, (2016)¹¹ noted, *“In the future, the business of law will require fewer general support staff members, junior lawyers, and generalists – and more legal technicians and project managers”*.

US Law Professor Mark Cohen (2015)¹² in his reflection of the trending project management in law concluded, *“law schools should mandate that all students take at least an entry-level course in project management.”*

More generally, the application of traditional project management and agile methodologies is still new to the law profession at large, and the transition to an LPM approach has been relatively slow. LexisNexis (2017)¹³ notes, *“There is an acknowledgement that law firms are trying to implement better project management systems and practices, but the over-all perception is that they remain far behind where they need to be.”* The likely challenge is a lack of project management know-how, technology and process to make it happen.

Back in 2014, legal management consulting firm, Altman Weil, reported that law firms were in transition, *“41.3% of the [USA-based] law firms surveyed (including 42% of the 350 largest US law firms) reported that training in Project Management (“PM”) is key to increased efficiency in legal service delivery”*.¹⁴

Whether the law firm is delivering legal services, installing technology or running process improvement projects, legal project management principles apply to progressing all new initiatives.

It goes beyond an application in legal service delivery, it offers the means to improve the law firm through their own internal project planning and execution.

Technology and the introduction of artificial intelligence is a growing area of interest for revolutionising law practice¹⁵ and is being implemented using a project approach. This focus on technology, work flow and intelligent systems is also driving new innovation in legal software design, with many providers already specifically embedding legal project management processes directly into or based around their products, such as Exterro¹⁶, LegalTrek¹⁷, CAEL¹⁸ and Dash¹⁹ that promote legal project management functionality.

Even the role of 'Legal Project Manager' is becoming an increasingly popular position found predominantly in England, America and Australian law firms, evident by both the jobs being advertised and the titles appearing on individual profiles in professional social media platforms like LinkedIn.

One solution towards lowering operating costs for complex matters involving a legal team is a shift from relying on the lead solicitor to attracting professional project managers moving into the law sector. In this way, the legal project manager takes on the coordination of the more mundane tasks, leaving the lawyers to concentrate on the legal issues. The driver is to reduce the internal spend of guiding the legal matter process by using a non-lawyer legal project manager who can deal with the process, technology, communications and ensuring key stakeholders are adequately engaged.

What is clear is that traditional project management is providing a new paradigm of thinking, and gives insight to the way legal matters are planned and managed. It also provides the

benefit to better lead any required transformation changes within the legal practice or in-house counsel portfolio, now being driven by client demands, the need to improve internal culture, and as a means to embrace technology advances. Legal project management is being embedded in teaching, technology, and practice management approaches, and lawyers are encouraged to consider how LPM can enable them to become more agile and adaptive to the progressive legal profession changes that lay ahead.

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Legal Tech and Law Firms: Navigating Strategic Options

By Daniel Biene, Serial Entrepreneur, former lawyer and founder Smartlaw (now WK) and LegalBase (now LegalZoom)

Technology companies catering to the legal industry have been around for many years, but "legal tech" only became a recognized term roughly a year ago. With an astoundingly fast pace, the topic rose from complete obscurity to the #1 subject of industry conferences and publications worldwide. For an industry known to be conservative and thriving for centuries on maintaining the status quo, this is a landslide expected by few. But how to turn the talk of the town into tangible business?

Conference talks and academic discourse are one thing, of course. More practically speaking, making use of the opportunities presented by legal tech can be extremely difficult. Even with the best of intentions and an entrepreneurial mindset focused on innovation, the landscape of opportunities and potential partners to help leverage such opportunities is confusing.

Essential skills, as well as ways of working and communicating, are not going to change overnight. This applies to both lawyers and IT experts, two professions with inherently different cultures. Consequentially, grabbing the much talked about opportunities by the horns is not as easy as it may seem at first glance.

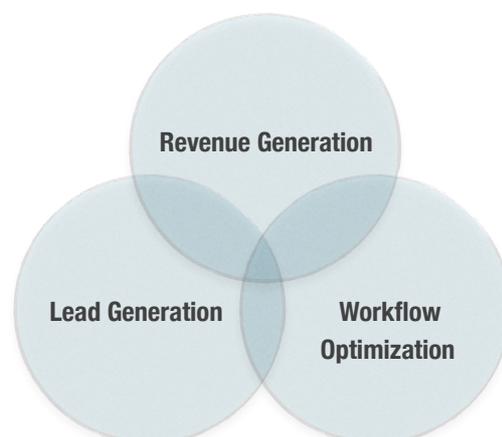
Legal departments and law firms are fundamentally different

For corporate legal departments, identifying technology-driven opportunities and implementing solutions is relatively easy. Cost and efficiency pressures, the diverse skill set and investment strength found within a larger corporate structure, and a clear hierarchy of expectations, roles, and decision makers tend to be conducive to innovation. Needless to say, the legal department setting doesn't come without its challenges. But they are pale in comparison with what law firms are experiencing. Law firms -even the most forward thinking and entrepreneurially minded ones- tend to struggle amidst all the buzz about legal tech. Since virtually all law firms are organized as some form of partnership, and in most jurisdictions cannot have outside investors, the basic framework is challenging already. Rarely do all stakeholders share the same vision and determination to execute on it. This is exacerbated by the still prevailing business model based on hourly fees, which by definition is a strong deterrent against making things faster or more transparent through the use of technology. As a result of the internal and external incentivization, certain know-how, processes, and staffing resources are typically viewed as the de facto property of individual partners. This opposes the economies of scale required for making technology-enabled approaches feasible, and often results in difficult internal discussions rather than the brisk pursuit of

opportunities. To make matters worse, there is a confusingly wide range of legal tech solutions on offer. Because the industry by and large has only very recently started to discuss legal tech, industry discourse still is in a state of excited chatter, and has not yet reached the maturity of solid strategic segmentation. The following observations focus on challenges and opportunities specifically for law firms. Legal departments, companies in closely related fields (such as insurances and banks), and legal tech start-ups operate within different frameworks.

Law Firms need to decide on basic strategic options first, then execute rigorously

For law firms set on making sustainable use of the opportunities presented by legal tech, it is crucial to cut through the clutter of buzzwords and futurology. Instead they need to identify and decide on a basic strategy, then focus on its razor-sharp execution. Academic discourse over artificial intelligence, blockchain, smart contracts, or automated dispute resolution tends to obscure the actual strategic options law firms have today. Essentially, current technology provides law firms with the tools to pursue three very different -but combinable- strategies:



1.(Immediate) Revenue Generation

For centuries and up to today, most law firms did not have the opportunity to generate immediate revenues. Their business model typically is built on a lengthy sales funnel, generating leads and then slowly converting them into customers. In some cases (e.g. word-of-mouth / referrals), this approach is reasonably cost efficient, though still built on many years of networking and experience. In other cases (e.g. publishing articles, event marketing, or purchasing advertising), acquisition costs can be questionably high, or opaque at best.

In the digital age, lawyers finally have direct access to customers, going well beyond advertising through yellow pages and firm websites. With basic, commodity type of work, firms can now generate immediate revenues by circumventing the traditional sales funnel, instead taking a direct route to the customer that essentially is e-commerce. Other industries selling goods and services to consumers and corporations alike have done this for years. Digital platforms run the gamut in virtually every industry, some of the more prominent being Amazon, AirBnb, Uber, TaskRabbit, or Upwork.

So why not lawyers? Regulatory restrictions frequently serve as a defence mechanism in attempting to protect the status quo, but rarely actually are an obstacle, at least upon closer inspection. Some firms worry about tainting their premium reputation by offering their services with a low price tag and through outlets with mass market appeal. But other industries have found an answer to this conundrum decades ago, and called it two-brand strategy. Another frequent challenge for law firms is that they tend to have a preference for pursu-

ing a limited number of high-ticket assignments, as opposed to a high number of small tickets. However, particularly the big-ticket firms find it hard to balance staffing against workload, and as a result find themselves with unused resources ideally suited to generating revenues. Coincidentally, commodity work such as trademark services, incorporations, document reviews, and administrative filings lend themselves perfectly to a high degree of process automation, which decreases production costs to next to nothing and increases margins far beyond current legal industry standards.

Building a sustainable digital sales channel of course requires domain expertise and skills few lawyers have. Lawyers work in the legal industry, not in the digital industry, and convergence does not mean having to become a Jack-of-all-trades. Because of the mechanics of platforms and e-commerce, a law firm trying to build their own platform would be ill advised (with some rare exceptions). Smart participation in a professionally run digital platform is the by far more effective and therefore preferable avenue. For law firms, this approach combines low investment and low risk with a steep learning curve and potentially significant mid- to long-term upsides.

Platforms such as LegalZoom, Rocket Lawyer, and Avvo in the United States, Legalbase in Germany, or NextLaw in Switzerland are leading the way when it comes to giving law firms the opportunity to generate revenues from customers entirely digitally. Some of those platforms work with dozens of law firms and generate multi-million revenues for those firms already today. Looking at the digital evolution of virtually every other industry, this is

without any doubt just the early stages of what will become the new normal for commodity legal services. Just like in any other industry, digital platforms will add plenty of formerly untapped customers to the demand side of the market, and platforms will gobble up the majority of transactions. For law firms with a solid strategy behind it, being an early part of this development will pay off manifold.

2. (Mid-Term) Lead Generation

For non-commodity work, the traditional lead generation approach to business development in the legal industry will of course continue to be around for many years. But how can technology help to make it more efficient? More precisely, how can the sales funnel be filled with more leads, and how can more of those leads be converted into customers, all at a lower cost?

Technology-driven strategic options to this end are abundant. Some approaches, such as digital content marketing, search engine optimization, or consistent branding throughout all channels have been around for many years, and by now are being embraced by more than just a few law firms. However, in this changing landscape, generating relevant leads and converting them profitably requires more creative ideas and implementations.

Lead generation mechanics are heavily dependent on individual law firms, their practice areas, customer bases, market positioning, and size. But despite all intricacies, sales ultimately is a numbers game. As any experienced salesperson knows, more leads at the top of the funnel are the most valuable prerequisite to more conversions at the bottom end of the funnel. Generating leads requires reach. And if

done properly, the internet is the by far most cost efficient place to generate reach, which is why marketing budgets in every industry have massively gone digital in recent years.

In practice, one potential strategy for generating reach off the beaten path is to participate in platform approaches, even when the type of work and ticket sizes to be generated there in the short term are not on strategy. Every small-ticket transaction scored on a platform is also a lead for more substantial work. Even though this first transaction does not immediately bring in much revenue, the firm now has an attorney-client relationship it did not have before. The small transaction not only represents a prospective customer, but an existing relationship and a qualified lead towards more financially rewarding work. If for example a platform customer registers a trademark through a certain firm, chances are the same firm will be sought out when complex trademark disputes arise later on, especially if until then the firm manages the funnel smartly. Customers mature, and then tend to be loyal to service providers that were with them from the beginning.

Obviously there needs to be a vetting system in place, to separate promising leads from free-loaders, and firms need to rank leads accordingly. But again, this is an essential step of any sales process in any industry. Being afraid of wasting time on not-so-promising leads won't help. Working with long established best practices from other industries is the much more sustainable path.

There are plenty of other strategies to pursue innovative and highly efficient lead generation digitally. They range from off-the-rack services

offered by providers such as for example Avvo in the U.S. and Anwalt.de in Germany, to low-threshold self-service offerings provided for example by Cooley LLP under the "Cooley Go" brand, to -- at the lower end of the market -- participation in Q&A services such as for example Freeadvice.com in the U.S. or 123recht.net in Germany. Again, many established firms will view this as a poor match in terms of brand and resources. However, re-thinking the status quo is the key to leveraging opportunities and remaining competitive. Firms that do not shy away from finding creative solutions now, while still being in a comfortable position, will be the winners in the new order of the legal industry.

3. Workflow Optimization

Optimizing and automating internal firm workflows and customer collaboration probably is the most obvious tech-enabled strategic option. Especially for law firms, it can also be one of the more difficult areas. This is mostly because many law firms still operate on hourly fee models. Charging by the attorney hour just does not encourage doing things faster, and it creates little incentive to let machines do the work instead of racking up attorney hours. The only way to address this is to take a very close look at what exactly can be done, then decide on what and how to implement. Software and digital services offering workflow optimization for law firms currently fall into four categories:

- a. Practice Management (*e.g. Clio, Kleos, RA Micro*)
- b. Customer Collaboration (*e.g. Busylamp, Synergist*)
- c. Document Assembly (*e.g. Hotdocs, Exari*)
- d. Analytics and LPO Software (*e.g. Leverton, Pangea3, Edicted*)

Categories a) and b) are easy. Law Firms do not make any money with their internal administrative processes, because unlike customer-facing work, they cannot charge for it. There is a strong incentive and not too many practical hurdles to engage software that does as much of the job as possible. Not surprisingly, almost all law firms have for years automated at least some areas of their practice management, despite the often outdated and unfortunate user experience provided by some of the established software on the market. Customer collaboration tools are a newer subcategory and essentially serve to improve customer satisfaction and retention. They tend to be adapted opportunistically as market demands change. Categories c) and d) however directly compete with the traditional revenue and incentivization model of most firms. Such software solutions and software-driven external services essentially eliminate the ability to charge customers for work that previously was done by scores of law firm associates. It is very clear that in today's market environment, customers are simply no longer willing to continue paying the steep fees of the past. Trying to change this reality is a lost cause. Law firms are much better served by finding smart revenue models specifically for those services. Options are plentiful and heavily depend on individual circumstances. For example, due diligence services or basic drafting services can be sold as low-priced flat fee entry level services, creating leads for high revenue work, or improving customer loyalty. Through automated interfaces, they can even be given into the hands of customers to a certain extent, enabling customers to do preparatory work, thereby streamlining processes (and improving margins) on the law firm end. Inspiration can be drawn from several other industries,

where customers are made to do more and more of the work themselves. Customers tend to perceive their active participation as a benefit, giving them a sense of empowerment, while in effect they help service providers' bottom lines. The accounting industry has done this for many years. The same can be observed with airlines, where customers willingly do all the clerical work leading up to being flown from A to B, and with e-commerce, where based on customers' own entries and without any human interference, products are recommended for purchase with striking accuracy. In essence, all software-based legal workflow optimization options offer business opportunities that far outweigh any perceived threats to a model that is on a rapid and irreversible decline anyway. There is a historic opportunity for the legal profession to "re-boot" and build businesses that are much more rewarding than they have ever been before, because of better scalability, less sitting over gruesome tasks holding little value, and greater financial upsides. Leveraging those opportunities does however require a very careful look at one's specific work and customer base, and a good dose of creativity and courage.

Speedy and consistent execution is key

In deciding which strategic path to pursue, there is no use in waiting. While the majority of the industry currently is still hanging on to time-tested models -- and often still doing very well --, much of the opportunity lies in being a leader rather than a follower. Holding out for other law firms to test and scale successful models, and then trying to copy them, may work in some individual cases but is unlikely to really create a lot of winners.

Any law firm that truly listens to their customers' needs, while improving their own ser-

vice model economics, will build a massive advantage over firms not actually executing change quickly. The perfect piggybacking solution will most likely never come, because of the increasingly complex legal industry landscape. Succeeding in the new environment is an iterative process of individual analysis, trial, error, and improvement, which needs to be completed by each firm:

1. Define your strategy
2. Experiment with what is available
3. Refine your strategy based on learning's
4. Get your processes and workflows aligned
5. Make smart use of what is to come

Lean and agile methodologies borrowed from the startup world can be excellent tools in making this happen. Because those methodologies are highly adaptable, cost efficient, and accessible, they work for global law firms and single practitioners alike. The drastic ecosystem changes essential put the legal industry is essentially in startup mode. And just like with any other startup company, using tested and established tools will be the most reliable path to success.

Daniel Biene is a Berlin based serial entrepreneur. Among the ventures founded by him are Smartlaw, a digital legal document service which was acquired by Wolters Kluwer in 2014, and Legalbase, a platform for commodity attorney services which was taken over by LegalZoom in 2017. Before becoming an entrepreneur, he held senior management positions in the media industry with Axel Springer and Ganske Publishing Group in New York, Berlin, and Hamburg. He was trained as a lawyer in Europe, the United States, and Asia, worked for Freshfields Bruckhaus Deringer, and holds a Ph.D. in media law & economics from the Max Planck Institute for Innovation and Competition

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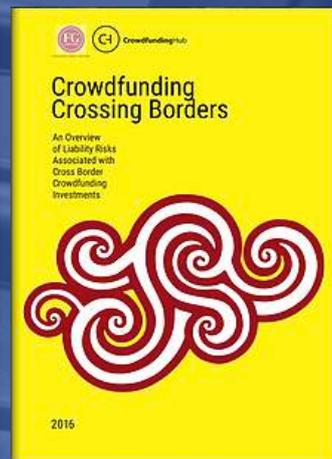
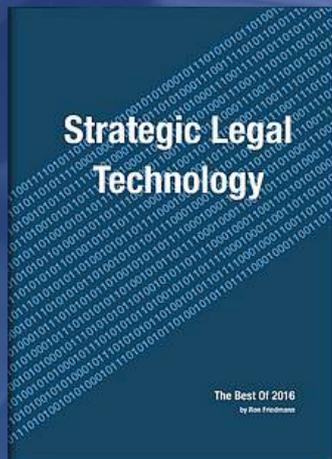
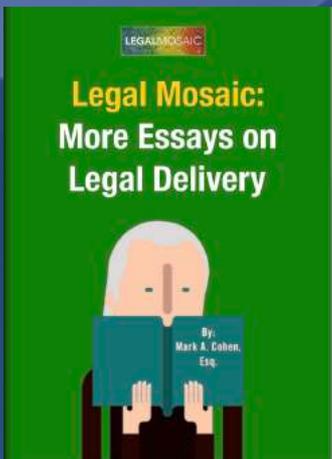
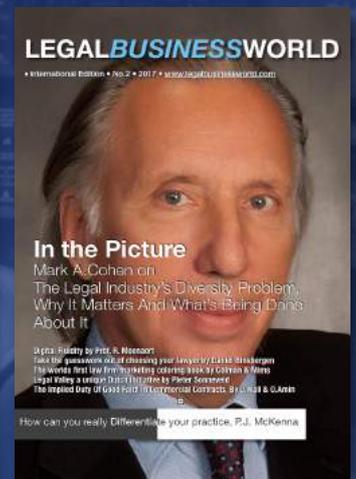
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