

Contents

Foreword

*by Oz Benamram, chief knowledge and innovation officer
at Simpson Thacher and Bartlett LLP*

Introduction

Part 1: Establishing an Innovation Function

1. The Impetus for Change
2. Establishing a Vision
3. Innovation Strategies for Culture Change
4. Planning for the Future
5. Building a Portfolio of Initiatives
6. Determining Priorities
7. Creating and Growing an Innovation Function

Part 2: Methodologies for Change

8. Supercharging Your Strategy
9. Change Management
10. Storytelling and Communications
11. Creative Problem-Solving
12. Ways of Working
13. Product Management
14. Incentives and Adoption

Conclusion

Chapter 1:

The Impetus for Change

Why change, why now?

Although change in the legal industry has been heralded with great fanfare for a number of years, it is only now that we are reaching a tipping point. As recent surveys have indicated, use of innovative technology has become one of the most important reasons clients continue to retain law firms, and the absence thereof is one of the reasons clients cite for switching outside counsel. The Wolters Kluwer Future Ready Lawyer Survey, released in September 2022, revealed that clients were not only interested in using advanced technology themselves to improve the operation of their legal departments, but that they also expected their law firms to be able to support them in this work.¹ And yet, few law firms are really equipped to support clients in their digital transformation efforts. The survey also showed that clients are increasingly willing to review their panel law firms if they feel those firms are not delivering efficient and effective services.²

To put it succinctly: clients will walk away from law firms that are not modernizing their services in line with market demand. The law firms that want to survive in the future must be making these changes now.

When I started working in legal innovation in 2013, it was widely assumed that AI technology would transform the industry within the following five years. ROSS Intelligence was launched the same year, the first legal start-up entitled (after a competition at the University of Toronto) to use IBM Watson as its AI backbone.³ For the first time, lawyers were confronted with the prospect that they, or at least some percentage of lawyers, might be rendered obsolete by technology. The fear that “we may all be replaced by robots” started to feel real, and many change efforts had to begin with reassurances that process optimization or automation would merely improve the way that lawyers work, rather than eliminate the work altogether.

Here we are now in 2022, and although AI is being used widely in law firms and law departments, not a lot about the fundamental business model of legal practice has been transformed. The billable hour has endured in spite of a push towards flat fees and alternative fee arrangements. Law

firm hierarchies are alive and well. The lawyer / non-lawyer divide remains entrenched, and continues to be expressed through pay inequity, inconsistent benefit entitlements, and relative status. Incremental changes have occurred in the way that lawyers work and the way legal services are delivered to clients, but the traditional structures around legal practice remain mostly stagnant.

And yet, clients are clamoring for change. Upon choosing new panel firms, clients have in the past focused first on the representative work and past experience of a firm, the types of matters it has successfully run, and the expertise of its lawyers. It used to be that a few RFPs or tenders a year would ask questions about the actual service delivery model for legal services, the diversity of a firm's legal teams, and the technology used by a firm to conduct its legal work. Now, almost all RFPs include questions of this nature (the Wolters Kluwer Future Ready Lawyers survey revealed that 91 percent of clients already were or intended to ask these questions of their panel law firms in the next year).⁴ The legal expertise of a firm and its lawyers is considered a given – it's assumed that the legal work itself will be high quality, particularly among the top echelon of firms within any given market. The differentiators now are instead related to the way the work is conducted, the processes used to deliver it, and the people who conduct it. Questions about diversity are near-ubiquitous, with the Mansfield Certification⁵ initiative run by American general counsels having refocused conversations about legal spend to put diversity and inclusion front and center. Over the past three years, RFP questions about innovation and technology have also become commonplace. In most cases, these questions are relatively general, asking for lists or examples of the technologies a firm uses to advance legal practice. Increasingly, however, the questions are specific and require the firm to outline, for example, instances where the firm has been able to help client in-house teams solve internal problems and streamline work.

During the time I have worked in legal innovation, I've attended conferences all over the world. The best conferences are those that include corporate legal departments as well as law firms, and potentially law schools and other verticals in legal, all coming together to discuss or workshop topics of change from multiple perspectives. At these conferences, I have frequently heard in-house lawyers complain about the lack of initiative displayed by their panel law firms.

"My bank sends me marketing materials and surveys all the time," said one corporate lawyer at a large accounting firm. *"Why doesn't my law firm ever pick up the phone to ask me if their customer service is up to scratch?"*

Another said they would love it if their law firms took the initiative and informed them about some of the innovation initiatives they were running in-house – but this had never happened. Yet another commented that they would like to meet some of the business professionals who worked alongside lawyers at their panel firms, but they rarely had the opportunity to do so.

I started bringing these client voices back to the firm, letting partners know when it was their clients who were saying these things. Actually writing down these quotes verbatim and emailing them to relevant decision-makers at the firm was one of the ways I could gradually influence culture. Another was developing and cultivating relationships with in-house lawyers and legal operations professionals and learning more about what our clients were doing on the innovation side. I learned that one financial client had undertaken a year-long global project to bring consistency to loan documents and the processes around generating those documents, and had then automated all loan documents using cutting-edge technology. The message I was able to bring back to the firm is that our clients are actively undertaking large-scale process optimization and document automation exercises. How can we sell our services to these clients if we aren't at least as sophisticated as they are in the execution of our services?

The reason innovation teams and titles are proliferating at law firms is that most firms recognize the need for change. Although change has been incremental and seems slow, it is happening, and firms will have to continue to change if they want to stay in the game. Investment in a team of people whose job it is to understand what technologies and methodologies are available to accelerate and implement change is an indication that firm leadership understands the need for future-proofing. Any firm wishing to succeed into the future must be investing now in innovation, taking a hard look at their internal processes and at the way that they deliver services to clients. Firms that have already invested in change professionals are in a position to offer new services to clients, or to offer legal services in new ways that work better for clients. They have teams of outstanding multi-disciplinary professionals serving clients holistically. This team-oriented client work will become the norm in law,⁶ and firms who are only just now starting out on this journey have some catching up to do.

Nevertheless, it's imperative that firms take the leap and start the hard work of instilling modern methodologies both internally and with their clients. Investing in these teams is the first step towards future-proofing a firm, but it is not the only step that must be taken. In too many firms,

money is devoted to building innovation, KM, or technology teams but they are expected to work within the traditional structure and business model of the firm – making their work almost impossible. The mere existence of a multidisciplinary change team doesn't mean that internal barriers or hurdles to change have been alleviated. Instead, the team is commonly tasked with pushing change across the organization in spite of the traditional structures that remain in place. Firms should be investing in more than personnel – they should be re-evaluating the business model of law and shifting the structures that make change so difficult. Without altering the way that legal matters and client work is defined, without accepting that professionals without law degrees have value to offer, without being willing to entertain new ways of billing and working with clients, firms will have a difficult time truly ingraining the new practices developed by any innovation team. Until these structural hurdles are addressed, leading change or working in innovation in any firm is an uphill battle, and one for which you need stamina, resilience, vision, and a strategy.

References

- 1 Wolters Kluwer 2022 *Future Ready Lawyer Survey*: www.wolterskluwer.com/en/news/new-future-ready-lawyer-survey-finds-increasing-pressures-on-legal-professionals
- 2 *Ibid.*
- 3 www.rossintelligence.com/about-us
- 4 Wolters Kluwer 2022 *Future Ready Lawyer Survey*.
- 5 In 2017, general counsel across the US collectively drafted a document called the Mansfield Rule, requiring law firms to use a minimum of 30 percent women and attorneys of color in leadership roles and in hiring practices and promotions to partner. Firms who were able to prove this level of diversity could become “Mansfield Certified”. The rule has now evolved, with version 5.0 launched in July 2021, requiring diversity across a greater spectrum of areas. www.diversitylab.com/pilot-projects/mansfield-rule-legal-department-3-0-edition/
- 6 See Adam Curphey's excellent book on this subject: Curphey, Adam (2022). *The Legal Team of the Future: Law+ Skills*. London: London Publishing Partnership.

This chapter ‘The Impetus for Change’ by Nicola Shaver is from the title *The Handbook for Legal Innovation*, published by Globe Law and Business.