How Agile Design Thinking Helps Lawyers Surf the Digital Waves

Improve your Teams, Culture and Profit from Happier Legal Stakeholders

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The following article outlines how to utilize the problem-solving framework of human-centered design to create meaningful new interventions that increase collaboration and help lawyers integrate a human-centered approach effectively into their legal work.

A big challenge in the legal environment right now is how to increase employee buy-in for digital tooling. Digital offerings can propel huge shifts in how work is done and call the familiar working mode into question. Legal Tech tools can help. They improve workflow and reduce the number of mind-numbing routine tasks, like wading through documents to find the necessary clauses in an M&A due diligence transaction, to a minimum. Providing a "safe" forum, to establish understanding of change processes and new opportunities that accompany digital offerings is critical. Setting up best practice frameworks with change management, agile methods like Design Thinking allow trial and error to be experienced and assessed in a different way. A way that challenges the *status quo*, boosts curiosity, and invites innovative thinking. To increase real buy-in for change the human-centered conversation should be genuine, purpose-linked, and practiced throughout the organization. This conversation will focus not only on driving beneficial outcomes but also on the necessary upskilling, mindset, and structural approach required to successfully implement innovative practices made possible with digitalization.

1.   How the legal industry is surfing the digitalization wave

There are so many great legal tech products on the market.

But how do you know which is the right tool or software to solve your particular problem?

Legal tech products promise efficiency and rightly so. Can these tools do more? Do partners and legal stakeholders use them for the purpose they were bought for? Have people had the

opportunity to understand and embrace how and why these digital tools help improve their work?

In all life and business sectors, we have been propelled into digital and some form of remote working. The legal sector is experiencing waves of change and the waves are carrying us all along too. Legal delivery professionals, legal firms, and institutions are moving on the digital wave with good reason. Digital solutions can spurn new business models, save time and increase efficiency as well as dramatically reducing misspend and waste. This makes good business sense as there is increasing economic pressure to act lean and save costs. Learning how to handle new technological offerings to increase efficiency is critical in the legal sector to keep the present and gain new clients.

It is enticing to believe that when you buy a digital tool, you get your perfect answer. New digital processes and the purchase of shiny, new legal tech software is just the beginning of the venture to more efficiency. It is the utilization of technology by people and the data mining which are the actual key enablers. These enablers must be developed within the container of the company. Advanced IT based operations come more often into play. There are new digital processes for handling documents amongst other legal procedures and continuous delivery plays an ever-increasing role. This means learning how to use data, like detailed analytics, to iteratively refine processes and improve legal service delivery. While not all legal professionals must learn how to code, nowadays a basic understanding of digital and IT processes is truly beneficial.

Beneficial for those legal professionals unfamiliar with IT is to provide them with the means to "get their hands dirty" and try out different digital options without worry of making mistakes or losing face. New and unfamiliar content can be practiced, adapted and learned with the perspective of a so-called "growth" mindset. The challenges and fears of working with new software can be approached together using a Design Thinking framework where legal stakeholders take on new roles in teaming, applying lateral thinking and shaping the future of a product or service or process that they themselves may later use.

"You can't stop the waves but you can learn to surf"

Jon Kabat-Zinn

2.   Why you and your firm need new mental models for the perfect wave

For digitalization projects and other changes to the legal workflow to succeed, legal professionals are invited to cultivate a growth or open mindset to learn to approach issues from a different angle. To mentally reset problems into challenges. An individual with a "growth mindset" (coined by Dr. Carol Dweck) thrives on challenge, learning new things and uses feedback and setbacks as an opportunity for self-improvement.   Innovating calls for a meaningful shift in an individual mindset; from knowing all the answers to asking good questions, and, if it is to be sustainable, across the entire organization. Organizations that embody or "live" a growth mindset encourage informed risk-taking, even though some risks won't work out and might incur costs. Forward-thinking legal firms reward employees for important and useful lessons learned, even if a project does not meet its original goals. With management and partners as allies, legal professionals will be encouraged to collaborate across silos and create valuable data from small experiments. Managers and legal leaders are called on to show a genuine commitment to supporting these change processes and bottom-up innovation initiatives. Putting implementation in the hands of a dedicated change management team with a structural change tools and experienced coaches, championed by management, are critical factors for the company's cultural change process. When partners and management take the time to tend to the culture of the organization with concrete policies and a clear value-based mission statement, the journey can begin. New behaviors are adapted when legal stakeholders feel motivated, less stressed and enabled to try new things. A

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promising way to cultivate a growth mindset and empower change is by tacking challenges with human-centered Design Thinking.

3. If you and your organisation want to stay on the (surf)board, you have to think in a more human-centered way

Empowering your people and partners both in-house and externally is seismic. There is little doubt, in the 21st century, practicing law is increasingly defined by the people it serves. A more pronounced client-centered focus is an integral aspect of the "new normal", New Legal Work and a main focus in agility. Legal organizations should consider the human and the technological aspects together, not separately. Now is an opportune time for all legal professionals to upskill and adopt human-centered practices in virtual or remote decentralized working.[1] Today's remote legal work environment is an opportunity to re-imagine how and when work will be done and to develop new and necessary soft skills that facilitate successful New Legal Work. These include a practical understanding of technical collaboration tools for virtual working like video conferencing as well as an awareness of how appreciative communication improves boss/employee relationships and increases team performance. Further useful people skills include strengthening active listening abilities and cultivating empathy, building trust, and showing the willingness to learn from others, especially in a collaborative team setting. These are the same abilities and values that are practiced by design thinkers!

According to Dr. Alexander Börsch, chief economist at Deloitte, the jobs of the future will be characterized by interpersonal communication and the ability to work in a team.

"Wherever interaction with others, empathy and creativity are important, people skills will continue to be needed in the future".[2]

4. Why design thinking is like a professional surfboard for lawyers?

Design thinking is a systematic, 6-phase agile framework to solve problems, drive innovation and interdisciplinary collaboration. Contrary to many approaches in science and business which tackle tasks primarily from the technical feasibility side, Design Thinking integrates technical feasibility as one component of three, into a holistic and human-centered focus. This established framework is value-based and used world-wide with success by large and small enterprises, B2B, B2C and in legal innovation labs. The method, principles and practice invite stakeholders who are not trained as designers to gain confidence and use creative tools to

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[1] https://legaldesignchange.com/efficiency-in-remote-legal-working-is-an-important-topic/
[2] https://www2.deloitte.com/de/de/pages/presse/contents/datenland-deutschland.html

address real challenges, break down complexity and create actionable ways forward with clear business value.

This approach calls for continuous feedback between the developer of a solution and the target users. Design Thinking practitioners step mentally "into the end users or stakeholders' shoes" – not only interviewing them, but also observing when possible their behaviors. Solutions and ideas are concretized and communicated in the form of prototypes or models as early as possible, so that potential users can test them and provide feedback – long before the completion or launch. In this way, Design Thinking generates practical results fast.

a) Because of the range of challenges that can be tackled using best practices

It depends on your pain, problem, or challenge. With a Design Thinking "how might we" challenge or a 5-day Google Design Sprint, an interdisciplinary or in- house legal team can tackle a wide variety of questions, ranging from, "How might we increase client value by using the know-how of our employees?", to, "How might we innovate and still fulfill IT security and data privacy aspects?" to "How might we improve our new workflow structure so that our stakeholders are more engaged?" to "How might we avoid over-tooling yet still think big and scope out?"

There are many examples of innovative products and services designed by companies, organization and governments world-wide with the game plan of Design Thinking.[3] Here are few actual examples of uses in the legal sector:

•   Lawyers at Atos, a French technology company, used the approach to improve its contracting to make it better for clients. [4]

•   The digital legal department at HSBC applied design thinking to re-design the bank's retail terms and conditions and make them more accessible to individual groups of customers.[5]

•   Linklaters has conducted a series of legal design projects using Design Thinking that have reimagined prime client documents and processes. From redesigning an M&A document for clients to signing and closing a transaction, to transforming the due diligence process by tailoring data to meet clients' specific needs.[6]

Special mention: As an innovator of the Law for the next generation, human centered design is used extensively in product and service design by Stanford University Legal Design Lab. Law

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[3] https://www2.deloitte.com/de/de/pages/presse/contents/datenland-deutschland.html
[4] https://www.ft.com/content/25480beb-0e15-41e9-b2f4-1fa84302308c
[5] https://www.ft.com/content/25480beb-0e15-41e9-b2f4-1fa84302308c
[6] https://www.linklaters.com/en/about-us/news-and-deals/news/2020/october/linklaters-advances-legal-design-agenda-by-reimagining-key-client-documents-and-processes

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faculty employ legal design thinking to advocate better access to justice and design improvements to the state justice system. They tackle big questions like, "how do we make the internet a better place for people searching for legal help." The lab created a national Legal Help FAQ platform, with 50-state coverage, of renters' rights and protections during the COVID-19 emergency.

b) Because of the "exemplary" transformation journey and unblocking potential

Design Thinking or human centered design offer a clear framework for turning big challenges into new opportunities. Especially so-called wicked problems with many layers and dimensions can be the driver for surprising and inspiring solutions. Design Thinking challenges routine thinking and drives transformation by inviting people to imagine the impossible as possible. Using what some call, "out-of-the-box" thinking. Or it may be as simple as a "what if" question – to open the door to the previously unforeseen. Human-centered design for legal stakeholders is a discipline that helps create a common language for change practices and opens the mental space for novel problem-solving approaches. This manner of creative problem solving can catapult lawyers from being part of the "blockers" in a company, to the league of innovative problem solvers proposing valuable cross-departmental answers which integrate the focus of different departments. Imagine when Legal, IT, and business strategy units get together to solve problems!

c) Because of its adaptability to the concrete problem

In Design Thinking (and in other agile innovation processes), discovery tools like prototyping are an integral part of the validation process and serve to mitigate risk. Mistakes are easily corrected and feedback factored back into the developmental cycle before much time or money has been spent. Let alone before time as been invested in long and costly roll-out procedures. The method lends itself well to using a so-called "customer journey" map to understand the path the client (or legal stakeholder) goes through when engaging with a new service, software or legal tech product. With Design Thinking, teams can design more individual, more emotionally satisfying and more seamless client experiences. This methodology is robust and can be adapted and varied according to the problem at hand. The framework and principles remain the same.

"There is not one right way to ride a wave."

Jamie O'Brien

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d) Because of the built-in team culture

Design Thinking projects and workshops are set up with interdisciplinary teams of between five to seven people. The team is deliberately put together in a cross-functional way to invite the pooling of multi-perspectivity and resources that go beyond the individual expertise and might later be useful to solve the team's design challenge. Diversity and inclusive behaviors are prized. Instead of competition, the design thinking facilitator or coach promotes shared "team rules", and a "we" culture of inclusion and eye-level respect. Research has shown that a group of people or team can only become smarter than its smartest member by merging and prioritizing divergent ideas. Cognitive diversity makes teams and groups smarter. Two heads are better than one, and many heads working together and sharing their knowledge are better still.

Here some examples of "team rules" for healthy team engagement

• There are no winners or losers. The team wins if they make progress

• There is a spirit of inquiry, as comrades, not opponents

• Be curious. Even bad ideas can be the springboard to useful solutions.

• Give people the benefit of the doubt. Assume that everyone's intention is good.

• Live your optimistic potential

Working with Design Thinking in teams can help create a safe trusting space or psychological safety where members can opt-in and try things out. Teammates are encouraged to speak up and choose ideas to explore that others won't because they have learned; differences strengthen the process. The methods and values of the process tap into this team power, spark individual super-powers and strengthen the cohesiveness of interdisciplinary legal workforce. A colorful human-centered skillset evolves which the entire firm can learn and profit from. This learned skillset challenges preconceptions and highlights opportunities for a collaborative working and will resonate outwards. When young talented legal "Millennials" catch wind of the "vibe", they will be drawn in by the current and attracted to the attractive New Legal Working culture.

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5. So when will you jump on to catch the wave?

The Design Thinking method is a proven way forward. It is a modern, agile process based on continual improvement. In a world where change is constant, using an adaptable framework like Design Thinking, will help you take the guesswork out of your innovation strategy. This framework will enable leaders and teams to uncover and grasp valuable insights and transform this data to design and test user-friendly solutions. The team experience helps solidify professional and personal bonds and reinforces a commitment to a company cultural shift that is open to change and innovation. Leadership can contribute decisively to new organizational change and improve company culture by strengthening in-departmental collaboration to drive digital transformation.

There are many strong arguments indicating that the personalized client experience – notably concerning digital processes - has shifted to the heart of legal delivery in the early 21st century.

And, to be honest, who knows better about the particular needs and requirements for a new solution, legal service or digital process than the folks who are actually meant to use it?

Legal organizations and professionals can benefit from fresh approaches and agile tools in order to solve current problems, anticipate future ones and forge future business value for their firms. Using Design Thinking, legal professionals will increase their resilience and start to navigate the digital disruptive waves of change that have become the norm in New Legal Work.