

The Digital Associate of Law Firms and the Benefits for In-house Counsel

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Summary

The legal services market is at the verge of some momentous changes, with pressure from clients (especially the stronger in-house counsel) and new technological surroundings and demands for efficient use of IT. Technological developments resembling the computer Watson who could win the TV show “Jeopardy” based on a new kind of intelligent capabilities to understand complex information, will provide new groundbreaking opportunities to make efficient use of computers also in legal work. In this article you will find out how law firms can explore these new possibilities by the use of sophisticated IT tools and how they need to analyze and understand their core business in order to decide what parts of it that could be outsourced, standardized or even automated by the use of IT.

You will also learn how law firms can see the possibility of changing their business model by the use of new technology, how a new business model will change the pyramid structure of the traditional law firm and how new business opportunities will emerge when building this new business model.

But most importantly, you will learn how you will benefit from the changes in the legal services market, what new services you will be offered, what demands for efficiency you can put on law firms and how work performed by expensive lawyers may be replaced by the “digital associate” – a new concept that pinpoints the coming winds of change for the legal service market.

Changing prerequisites for the legal profession

The legal profession is at the verge of some momentous changes, not merely the aftermath of the economic downturn and the shift in balance of power from law firms to clients (especially the stronger in-house counsel), with greater demands and pressure on prices, but also the ongoing technological developments, with higher user skills and demands for efficient solutions from both lawyers and clients.

There have already been some major developments on the use of IT in legal work, with a more widespread understanding of the benefits of using technology and an interest in social media, client extranet solutions and business intelligence etc. Then there is the general development of highly intelligent and complex technological solutions. Earlier this year we also received news about the computer Watson, who participated as a contestant on the American TV show "Jeopardy". This is a show where you compete by formulating the right question to a given answer, which is a very complex task and demands a high degree of intelligence and analytical skills. Based on this kind of intelligent capabilities to analyze, structure and “understand” complex information, new groundbreaking opportunities to make efficient use of computers will emerge.

With this technological development, computers could be used for much more advanced work also in the legal industry, which could have an immense impact on the legal profession. Already, this development has happened with regards to e-discovery. Today, a law firm can use sophisticated search engines to analyze and sort hundreds of thousands of documents in just a couple of days when preparing a court case. The shift from use of manpower to the use of e-discovery solutions could reduce the number of lawyers by hundreds for these types of tasks. In reality, the use of these sophisticated search engines means that the law firms gets a “digital associate” that performs the basic legal research and the gathering of the information and relevant facts in a legal matter.¹

Just think of the possibilities and the impact this could have on the legal profession. Maybe soon this "digital associate" could also be able to build legal arguments and support the lawyer in a negotiation. Would it then be possible for most lawyers to still argue about only doing high-level work which cannot be done more efficient by the use of IT? Considering the development of the computer Watson now is the time for law firms to reevaluate their business and explore the possibilities of how the use of IT can change the way work is done in the law firm of the future. Thus, all law firms should start thinking about all areas of their practice where a “digital associate” could be used as a help to provide efficient legal service to the clients.

Spectrum of legal work

In order to apply the metaphor of the “digital associate” to legal work it is important to understand the whole spectrum of legal services and the different kinds of matters handled at law firms. Legal services within a firm can, if we generalize, be divided into a) standardized work, b) individualized work and c) innovative work.

a) Standardized work

Some of the matters handled at law firms are of a more generic and repeating character, like for example matters concerning demands for payment, change of corporate representatives and similar basic corporate registration matters. This kind of more standardized work is usually performed by junior associates both in order to support senior lawyers and to make that kind of work as part of their training.

Since these matters are done by a standardized proceeding within set frames, there is not much added value that can be provided to clients here. Instead, efficiency and quality are the most important aspects. The key for this standardized work is to perform it as efficiently and coherent as possible in order not to lose money by having spent too many hours handling them. However, while still maintaining a high quality. In Sweden, all company formalities matters have to be registered with the Swedish Companies Registration Office (*Sw. Bolagsverket*). Such a corporate registration matter regarding for example new representatives of a company, is something that the client expects to be handled swiftly, but does not provide any “wow-factor” what so ever. For a law firm, these matters have to be performed, but has no real benefits in the opportunity to provide any client differentiator facts for clients choosing between law firms. Instead, these matters have the disadvantage in the set frame work of registration, which means that any minor mistake will immediately render the matter not being accepted for registration by the authorities. Thus, there is a great need for focus on quality and coherent processes for this kind of standardized work.

¹ The idea of the "digital associate" has also been conceived by others, for example by IBM General Counsel Robert Weber in *The National Law Journal*, 18 February 2011.

b) Individualized work

More individualized work has to be applied to most matters handled at a law firm. These are matters that pertain to relatively complex issues, where clients turn to law firms because of their experience in dealing with these demanding questions. Here law firms have to focus on making good use of the skills and experience within the firm. Being a client, you expect to take advantage of the knowledge of the whole firm and of the accumulated expertise.

However, most matters at law firm have a part that is more generic, where standardized documents could be used as a basis to apply the individual adaptations on. An example hereof is a complex M&A transaction, where the documentation could be based on standardized document for share purchase agreement, shareholders agreement, confidentiality agreements etc. These documents ought to be accessible and easy adaptable to have a good starting point for applying them to the specific situation. Today, usually a junior associate prepares such documents, but this type of initial document production work ought to be replaced by an intelligent IT solution.

c) Innovative work

Innovative work is the high-end work performed at law firms, which requires both extensive legal skills and vast practical experience. This work can be done by lawyers with great experience and ability to use their knowledge together with new information and apply it on relevant matters to really assist the clients. Here it is about acting as a trusted advisor in really complex and demanding issues, where the lawyers can give state of the art advice finding new ways of solving a business issue.

What is really the core business?

When applying the spectrum of legal work to the business it is crucial to first understand what the core business really is for each law firm. “What should we focus on?” “What kind of firm are we?”

Much has been written and discussed about law firms understanding what kind of firms they should be from a strategic marketing perspective, like “boutique firm”, “niche firm”, “top tier firm” etc, but here we will take the aspect of the core business not mainly from a marketing perspective but from the internal processes and technological development possibilities perspective, via two example law firms – XX and YY.

The example law firm XX focusing on business law might want to be considered as the trusted advisor to their clients supporting them by the use of their great experience and thereby becoming an invaluable partner. If this is the key aspect for the firm XX their business should focus mainly on innovative work. The consequences of this ought to be less focus on standardized work, since this could be better handled by other firms. However, these trusted advisers do need to have quick access to standardized documents that can be applied to the actual business case, but in addition thereto they also need to have quick access to information about how lawyers within the firm have handled similar matters earlier.

Another example firm, legal firm YY, might instead focus on handling company registration matters like changes of representatives, shareholders meetings, simple mergers and amendments of articles of associations etc. These kinds of matters are generally standardized. When applying the spectrum of legal work to this business, most matters would be considered to be standardized work but also some individualized work.

The consequences of this ought to be a greater focus on standardizing the procedures and documents to support the standardized work.

Since focus for the law firm XX ought to be on innovative work, the firm should not make any great efforts into producing and updating standardized documents. These could be provided from external trustworthy sources and thereby supporting the business of the law firm XX. Most lawyers within the firm ought to be experienced lawyers with an ability to apply their knowledge on situations for the client to the basic standard documents retrieved externally.

Matters that contain standardized work could either be outsourced or solved by good IT support, or maybe a combination of both. Instead of having associates doing the standardized work and making the first draft of different kind of documentation, this could be supported by a “digital associate” – a combination of external sources and IT.

On the other hand, the legal firm YY which is focusing on the standardized work, should put a lot of effort into producing standard documents and implement routines for the production and updating by efficient IT tools to support the process to retrieve a profitable business case. One way to make the business case for standardized documents stronger is to use IT solutions such as document assembly and workflow tools. These kinds of tools take the efficiency aspect to a higher level and offer a significant time reduction, quality assurance and retained profit margins. When using a document assembly solution it is possible for the lawyer to submit information about the specific matter and receive a document package which is quality assured with recurring information pre-stated in the documents without typing error and with the right kind of alternative clauses or documents. A document assembly tool implemented in the best way has many resemblances with the “digital associate” in e-discovery, which will be further elaborated below.

The digital associate and new legal profession roles

Looking at the standardization approach from a business case perspective the most efficiency, value and basis for increased profitability will be rendered by the right combination of internal processes and technology, together with the right combination of external basic documents and internal high-quality or unique parts. This means in essence, that a law firm should first analyze what is the core business of the firm and then consider the concept of the “digital associate”, to analyze which parts could be replaced or improved by the use of technology and processes.

With an increased focus on efficiency and the combination of technology and business processes time spent on common services matters by junior associates will decrease significantly, i.e. they will be replaced by a “digital associate”-solution, such as a sophisticated search engine in e-discovery or a document assembly tool implemented in an efficient way. By adapting this new approach law firms can focus on providing added value and more sophisticated and client-focused advice, which will provide long-time gains.

However, in light hereof also new roles for the lawyers will evolve. With an increased focus on efficiency, processes and IT, a new legal profession for lawyers with capabilities of combining technology with business processes must be implemented at law firms. Already today these kinds of skills are required in the development and implementation of business support tools at law firms, but there is often an underestimation of the kind of competence and skills required to understand and implement such tools, especially IT

solutions, in a way that really enables a law practice to benefit and leverage the practice and knowledge resources.

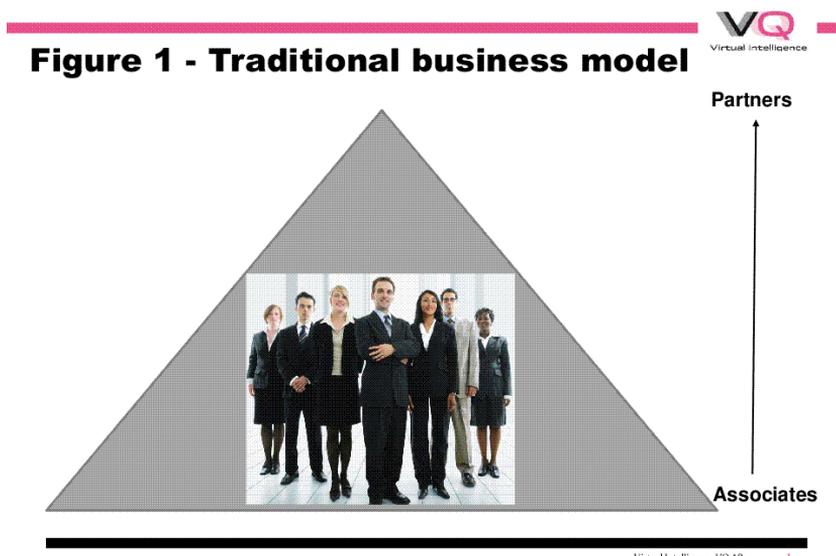
An example hereof concerns the “digital associate”-metaphor of document assembly tools. When implementing such a tool, the legal documents have to be converted and connected in the right way to get the really efficient use of the tool. This is not possible for someone from the IT department without the legal knowledge and could also be difficult for a lawyer who does not really understand the complexity and the possibility of the tool. This observation has also been made by Professor Richard Susskind in his book “The end of lawyers?”, where he has identified a new career within the legal market that he calls legal knowledge engineers. "It is entirely misconceived to think, as many lawyers do, that work on standards and systems can be delegated to junior research or support lawyers. If a legal business is going to trade on the strength of outstanding standards and systems, then it will need outstanding lawyers involved in their design and development. These legal knowledge engineers will also be needed to undertake another central task - the basic analysis and decomposition of legal work that I claim will be required if legal work is to be multi-sourced effectively and responsibly."

Thus, it is important for law firms not only to adapt to the concept of the “digital associate” but also to better acknowledge the unique competence required to combine legal knowledge and IT skills into a business differentiator.

Changing law firm business model

The changing technological prerequisites, the concept of the “digital associate” and the new legal professional roles will also affect the business models of law firms.

The traditional business model of a law firm is based on the hourly billing rate with a structure that can be described as a pyramid, with a large base of junior associates and with few partners on top, i.e. a very high associate-to-partner ratio (figure 1).



But when efficiency is the key, rather than number of hours spent, the traditional business model with many associates and fewer partners will have to be reevaluated. When lawyers are no longer evaluated solely by the time spent on a matter, it will become increasingly more interesting to focus on the management of the business. If law firms have to reflect

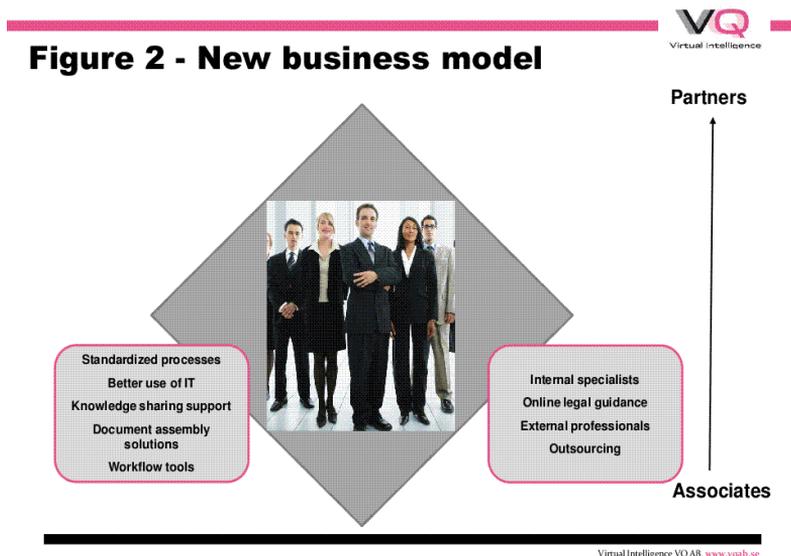
on how to spend time and resources more efficient, they will have to look closer at how to better share knowledge from experiences made, better re-use documents developed and standardize more routine work by better use of IT.

Some of the tasks carried out today inefficiently by junior associates can be replaced merely by better processes, increased knowledge sharing support and improved access to online legal resources – i.e. a “digital associate”-approach. Other tasks can be overtaken by specialists that are more experienced and can deliver a much more valuable result. For example, there will most likely be an increased use of internal experts such as analysts, business development officers and information specialists, as well as a wider use of external professionals for tasks involving human due diligences, risk analysis and business evaluations. Furthermore, some matters will be completely outsourced to external parties (i.e. LPO) delivering results to a lower price and with maintained profitability.

The factor that probably will affect the business model the most and really provide leverage and increased efficiency is a better use of technology in the “digital associate” meaning. By using IT in the right way the possibilities to find relevant information will be substantially improved and the internal knowledge sharing will be leveraged since previous lessons learned, best practices and new ways of solving problems can be better shared and taken advantage of by all lawyers. Thereby substantial efficiency improvements and increased profitability can be reached. Furthermore, new tools such as document assembly, workflow tools and online legal guidance can bring significant cost reductions. By implementing automated document production to support standardization firms will be able to deliver the same quality legal services and yet maintaining profit margins regardless of fee structure.

New law firm business model

When many of the tasks carried out by junior associates will be replaced by standardization of processes and new techniques (i.e. a “digital associate”) or be taken over by internal or external specialized professionals, inevitably the need for junior associates will be decreased. Consequently, the law firm business model will change from the traditional pyramid structure towards a more rhombus-like shape with a larger number of associates with some years experience and a lessened basis of junior associates (figure 2).



With this higher ratio of more expensive senior associates, it becomes increasingly important to focus on standardization of processes, with technology as a vital support, and refinement and focus on core services. To achieve success in the long run, law firms do need to start finding new, more cost-efficient ways, to deliver the same quality legal services and yet maintaining profit margins, by implementing the right tools to support the business.

Thus, all parts of the business that is merely common service, such as basic documents and advice that is available elsewhere, need to be standardized and automated to the furthest extent possible, so the lawyers can focus on providing added value and more sophisticated and client-focused advice. Law firms that can provide a service that is truly valuable to the client on top of the common services on the market, like intangibles in a trusted relationship, will certainly put themselves at a competitive advantage.

Emerging of new business opportunities

In other types of industries than the legal profession, management naturally also look at how to improve their business by building new business models, new and better services, new ways of producing goods, etc. Currently, there is also a lot of discussion in the legal market regarding the future of legal services based on more focus on branding, standardization, use of technology to better serve the clients and the battle of the best talents. But when discussing the management of a law firm most partners seems to believe that the management of a law firm is so totally different from all other kinds of businesses. But is this really the case?

In the Washington Post article “Changing law firm business models” by James R. Bailey, 20 March 2011, it was discussed whether it is not time for law firm leaders to rethink this, and start focusing on leadership and act as a normal business: "For reasons of tradition and credibility, law firms are run by lawyers, despite the fact that lawyers are not trained in business and management. To be successful, law firms must create executive teams that include business-savvy non-lawyers. They have to think more strategically about the broader economic climate, industry trends, client needs and internal policies."

The difficult part is to really change the way law firms work and is managed. But consider if the management foundation that has built the basis of success for companies such as for example Goldman Sachs would be applied on a law firm. This could mean a big change for how a law firm is run.

Some signs of such a different approach have already started to show. In April, for example, the UK law firm Irwin Mitchell announced its intention to convert to an alternative business structure under the Legal Services Act, with the assistance of an investment bank to guide them through the process. This seems to be driven by the analysis to focus more on standardized work, since they are developing a commoditized service section on its website, which ought to need quite a lot of IT investments. This could be more easily supported by more capital invested into the firm. Around the same time, another firm – Taylor Wessing – announced the launch of a division offering pioneering technology to handle data mining, contract management and due diligence as value-added alternative to outsourcing (LPO). In the legal futures article “City firm develops technology alternative to legal process outsourcing”, 26 April 2011, the head of the initiative (the “New Street Solutions”) at Taylor Wessing, Tim Stock, said that “Unlike other initiatives that have sought efficiencies by sending volume legal work to lower-cost jurisdictions, New Street Solutions aims to enhance the value-added aspect of

legal services. This is about using technology to work smarter, not just cheaper. With a more efficient process, legal experts can invest more time in understanding client businesses and providing value-added services – a win-win situation.”

When adapting to the new legal services market reality, with greater client demands, new technological developments, price pressure and efficiency requirements, firms have to focus on their core business and finding new business opportunities therein. By explore new possibilities by use of IT and by taking on a more professional management approach, law firms will prosper by finding new legal services to offer their clients. By implementing automated document production to support standardization firms will be able to deliver the same quality legal services and yet maintaining profit margins. New business opportunities will arise in the provision of services to fixed prices by the use of “digital associates” and new specialized and individualized solutions for clients. An example hereof is the use of an internal document assembly tool to create a special solution directly to a client. With a more professional and corporate like management approach, and a positive enhancement of the technological developments, law firms have great possibilities to differentiate themselves by providing added value and more sophisticated and client-focused advice.

Benefits for in-house counsel

Lawyers focusing on providing added value and more sophisticated and client-focused advice, must inevitably be a good thing for in-house counsel. But most benefits for in-house counsel is in the concept of the “digital associate”. When the technological development has started to take on, when firms are starting to make better use of efficient IT solutions and when focus is on core business, which lawyer will be able charge hour after hour on generic legal work? No lawyer will longer be able to still argue about only doing high-level work which cannot be done more efficient by use of IT. No law firm can longer avoid the use of sophisticated IT tools as a help to provide efficient legal service to the clients.

You as an in-house counsel should take advantage of this development to shop around for firms to receive the best digital support for each matter, thereby accelerate these winds of change even more. When procuring legal services an important question should be about IT solutions and fixed fees rather than about fees and estimated time. You should also be able to demand high-skilled lawyers handling the complex legal issues, while most of the basic work should be performed via standardized processes rather than by junior associates being trained on your expense. When you know that there are intelligent document assembly solutions out there, you can demand that the law firms should use such a tool, or purchase external basic documents, for the work, rather than charging you per the hour for it.

In order to manage the legal matters in an efficient way it ought to be possible for you to engage different firms for different kind of matters thereby supporting their niche development towards a specific kind of matter. It should also be possible to demand an easy access to standardized documents that the niche firms will use to base their individualized work upon. This way the legal spending on expensive lawyers will mainly focus on engaging trusted advisers to complex matters that can benefit from support from an experienced lawyer.

The changing legal services profession will put you in a favorable position, with new services offered to you, with a greater possibility to demand efficiency from law firm and

that work currently performed by expensive lawyers should be replaced by a “digital associate”-solution. Now is the time to be an in-house counsel.

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Ann Björk holds a LL M in Business Law (*Sw. jur kand*). After doing service at Swedish courts, Ann practiced law for over three years as an associate at Vinge, focusing mainly on mergers and acquisitions and corporate law. In 2003, Ann joined Vinge's newly started Knowledge Management Department as one of the firm's first KM Lawyers. In 2007, Ann was appointed Deputy Head of the KM Department, a position she held until she left Vinge in 2010 to found VQ.

Virtual Intelligence VQ (VQ) is a consultancy firm that operates within a new and unique niche, where the practice of law is combined with strong IT and knowledge management skills. VQ acts as strategic advisers to support knowledge driven businesses to grow revenue, to improve efficiency and to drive innovation and business change. VQ is founded by two of the most experienced knowledge management professionals in Scandinavia, Helena Hallgarn and Ann Björk.