

LEGAL DESIGN

Bringing Innovation to Law

By Julie Sobowale





If you had \$1 million to use on an idea, what would you do? How about just \$5 instead? These were the questions facing in-house lawyers and support staff from Siemens Canada in their first legal design workshop. The goal was to figure out how to improve the legal department's process management system. After a half-day session filled with discussion and brainstorming in groups, lawyers and staff came up with more than 150 ideas.

When I worked in private practice, it was rare for me to encounter a lawyer that had a consistent out-of-the-box way of thinking,” says Shawna-Leigh Moulton, Director, Governance and Legal Operations at Siemens Canada. “When lawyers see problems, they want immediate solutions. How did the problem arise?

Can we fix the problem at the forefront? Lawyers tend to always want a perfect solution too. In legal design, you learn that solutions can evolve and change to suit other scenarios.”

Legal design thinking is the blueprint for innovation. The process involves taking a more holistic approach and focuses on why problems arise as opposed to simply focusing on solutions. The key to its success is giving lawyers the freedom to explore new possibilities in a healthy, facilitative environment, and trying out something new with the understanding that failure is part of the process. If lawyers can embrace legal design thinking, there’s an opportunity for legal departments to operate more efficiently, effectively and with less cost.

Nowadays when people think of legal design, the first image that might come to mind is drawings explaining access to justice ideas or visual contracts. But legal design involves more than visuals. Human-centred legal design focuses on understanding the human needs of users with the goal of enhancing current processes.

Legal design thinking can have a tremendous effect on legal departments. Darlene Tonelli has seen the changes firsthand.

Her experience as Vice-President, Business Development and Corporate Affairs for Universal Music Group gave her insight into how disruption works.

“People looking to understand disruption look at the music business,” says Tonelli, now Partner and Founder of Inter Alia Law. “How-

ever, it was copyright that provided the protection to the music industry that allowed them to navigate that disruption. For example, copyright means they come out okay because they have exclusive rights to U2’s catalogue. We in the legal industry do not have that protection. We don’t own anything. So we have to get serious about innovating and disrupting the parts of our job that aren’t necessary to doing great legal work.”

After a successful career as in-house counsel, Tonelli decided to try something new. She founded Inter Alia Law, where her team works as in-house counsel for companies in the entertainment business.

“There are obstacles,” says Tonelli. “First, lawyers have internal resistance that says nothing can happen without their review. That’s not true. I help clients by showing them how workflows can deal with review of simple agreements like NDAs. We start small to build comfort with this idea. Second, lawyers are afraid that streamlining processes will diminish their importance. Also not true. Streamlining makes it possible for lawyers to provide work the company thinks is valuable rather than drowning in volume!”



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HOW TO HAVE A SUCCESSFUL LEGAL DESIGN WORKSHOP

Legal design thinking may be a popular idea in the legal innovation world but it's not a new concept. Caitlin “Cat” Moon has been focused on human-centred design thinking for the past 12 years.

After starting a small practice with two other lawyers, she and her partners used human-centred design thinking to create an agile work environment. Moon has shifted from private practice to teaching law students about legal design and innovation at the Vanderbilt Law School.

“Human-centred design is optimistic,” says Moon, Director of Innovation Design for the Program in Law and Innovation. “In-house counsel are the superheroes that we need to change the profession. This is a human change management challenge. We're building a culture around these mindsets and we need to embrace this change. Human-centred design is part of our innovation process and we must embrace it to move our profession forward.”

To become superheroes, you'll need to assemble a team and plan a legal design workshop. The first step is to determine what goals you want to achieve and what value that will bring to the people in the organization.

“You have to understand what the purpose is,” she says. “Human-centred legal design is really a change management issue. For example, I was speaking to the German division of a global corporate legal department. The whole company was going lean and agile for better efficiency, and legal had to be embedded in multidisciplinary groups. So the purpose was to create a lean and agile legal team. They were the last group that had to make the change and they had no choice. The lawyers were described as chickens: they sit there and lay eggs but they have to come out of their cages. It's not a bad term—they lay great eggs—but now there had to be a switch. Our work was to help them manage this change.”

Before any system can be fixed, you have to figure out what's broken. A thorough analysis of the current systems will help to determine what needs to be redesigned and expose some pressure points.

“For example, there are service design tools very relevant to the legal department,” says Moon. “First, there are journey maps and system maps. These are tools themselves that apply to a context of how work happens in map structure. Generally, mapping journeys, systems and workflows can improve efficiency and response times and increase client satisfaction. The journey creation process with the client is incredibly good at eliminating waste and inefficiencies. Stakeholders can look at what their interests are and see how it weaves through the system.”

Perhaps the most critical step in hosting a workshop is getting lawyers to participate. Legal design thinking requires people to be more creative and not rely on the traditional problem-solving methods used in the practice of law. Moon says the key is to make the workshop useful and relevant.

“How do you bring people along?” asks Moon. “First you have to start with self-awareness: have them recognize clearly who they are and what biases and preferences they have. Most people won't reject you if you take the right approach. You need to figure out why they're doing it and provide value to create a new process. A lot of that requires curiosity and design.”

Siemens Canada is the perfect case study in executing a legal design workshop. The legal operations team worked together to understand human-centred legal design thinking and picked process management as the topic because it was a sore point for many lawyers and support staff. One of the lawyers on the team also completed a secondment with Stikeman Elliott to learn about knowledge management and legal design thinking. As a result of the overwhelming success, Moulton and her team are going through the more than 150 ideas to figure out what to implement and determine the next issue to tackle.

“Once you start collecting information you have to think about where you are going to store it,” says Moulton. “Our business will keep growing but our legal team will not. We strive to be the best business partner we can and efficiently serve our clients. We know there's legal technology out there that could make us more efficient but typically it's too expensive for us. How do you convince the business you support to make that investment?”



DARLENE TONELLI

Partner and Founder of Inter Alia Law

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What tools are out there that we can use across the board in our different practice areas? This is our next challenge. Now we’re looking at what can be developed in-house. We have a great IT resource. How can we utilize it to help us develop legal technologies that will create efficiencies for us and the business?”

FINDING THE RIGHT FACILITATOR

One of the reasons the Siemens workshop was so successful was that they had the right facilitator. Moulton reached out to their external counsel, Andrea Alliston at Stikeman Elliott, to learn more about legal design thinking. Through their conversations, Alliston agreed to help them and facilitate the workshop.

“Lawyers are perceived to be resistant to change and not innovative, but I think that is an unfair and blunt generalization,” says Alliston, Partner, Knowledge Management at Stikeman Elliott. “Lawyers are intellectually curious and creative but are often short on time. Design thinking provides that opportunity to be creative.”

Alliston was inspired by Stanford Law School’s Margaret Hagan and other legal designers, and began to work with a team to host a workshop. Expecting maybe 30 lawyers to attend, they

were pleased to have more than 80 lawyers participate and work through the problem of creating better cross-functional groups.

“You have to be prepared to do something with the ideas generated through a design thinking session,” says Alliston. “When we first started using it as an approach, we did not really appreciate how overwhelming it would be to review the new ideas and determine next steps. And we underestimated the importance of doing that. We have since learned to manage expectations of the participants, and communicate next steps and follow-through.”

A key part of legal design thinking is implementation. Ideas have to go beyond the brainstorming phase into implementation. Remember that ideas don’t have to be about the latest tech trend. They can be simple.

“The ideas coming out of a design thinking session can vary widely,” says Alliston. “One of my favourite ideas from our cross-functional project session was to have stand-up meeting corners around the office so people can have quick meetings. It’s simple and no tech and is a subtle way to address complaints about too much time spent in meetings.”

Even with successful workshops, the biggest test is failure. Legal design thinking is based on the principle that failure is a necessary part of the process. Not every idea will work and anyone using legal design thinking needs to be comfortable with trial and error. The trick is not to avoid failure but to embrace it.

“Andrea talked about the challenges lawyers have with accepting failure, as it is not part of providing legal advice or client service,” says Moulton. “‘FAIL’ means ‘First Attempt In Learning.’ I really liked hearing out loud that acknowledging failures could be seen in a positive light. She talked about technology-related pilots her firm had tried and the point at which they decided to pull the plug.”

“Before you mention to your team about doing a legal design lab,” she adds, “you really should research it so you can sell it. Help them understand the value in it.” ■

Julie Sobowale is a writer and journalist based in Halifax.

LEGAL DESIGN RESOURCES

Here’s a quick guide on where to start for legal design thinking.

- **Stanford Law School Legal Design Lab (www.legaltechdesign.com):** The standard go-to website to find out the latest news and projects in legal design.
- **Legal Problem Solving (www.legalproblemsolving.org):** This website, which serves as a hub for the Legal Problem Solving Course at Vanderbilt Law School, has a great list of resources for design thinking.
- **Coursera online class, “Design Thinking for Innovation” (www.coursera.org/learn/uva-darden-design-thinking-innovation):** This course is a good beginner’s guide on design thinking.

