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## **The challenges and opportunities of digital transformation on the strategic, economic and operational structure of services firms, specifically in the legal industry**

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**The challenges and opportunities of digital transformation  
on the strategic, economic and operational structure of  
services firms, specifically in the legal industry**

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## **ABSTRACT**

Like many others, the legal industry is currently facing pressure from a number of new economic imperatives and technological developments. This forces law firms to adapt to the digital transformation in order to preserve and enhance their competitive advantage.

In this thesis, we define and analyze the concept of digital transformation and in order to successfully develop a digital strategy, we then analyze the legal market. Regarding demand, the main trends are the stagnating demand for law firms' services, despite growing demand for legal services, and the pressure from clients to get lower fees. Regarding supply, the main trends are the tendency towards liberalization and the exponential development of technology which, thanks to the unbundling of legal matters into individual tasks, have enabled a number of alternative providers to perform many tasks more efficiently.

Based on this understanding of the market we develop our vision of the ideal business model for a law firm, with a value proposition comprised of new ways to deliver legal expertise, through services as package legal information and self-service legal tools.

Then, by comparing this vision with the realities of initiatives lead by leading law firms we can formulate recommendations for law firms looking to successfully manage their digital transformation.

We recommend that firms expand their understanding of their client's needs by adopting a more client-centric approach, that they develop solutions allowing them to produce practical, actionable and use-friendly answers to clients' challenges, that they adapt their pricing methods based on the nature of the output expected by clients rather than based on the input necessary to produce it, and finally, that they adapt their organizational structure with more IT and project management specialists as well as more support staff such as IT specialists and paralegals.

**Keywords:** digital transformation, legal market, business model, legal tech



## **NOTE DE SYNTHÈSE**

Comme beaucoup d'autres, le monde juridique fait actuellement face à des pressions induites par de nouveaux impératifs économiques et développements technologiques. Cette situation oblige les cabinets d'avocats à s'adapter à la transformation digitale de manière à préserver et renforcer leur avantage compétitif. Dans ce mémoire, nous définissons et analysons le concept de transformation digitale et afin de pouvoir développer une stratégie digitale, nous analysons ensuite le marché juridique. En ce qui concerne la demande, les tendances principales sont la stagnation de la demande pour les services des cabinets d'avocats, en dépit de l'inflation de la demande pour les services juridiques, et la pression imposée par les clients pour obtenir des honoraires plus réduits. En ce qui concerne l'offre, les tendances principales sont le penchant vers plus de libéralisation et le développement exponentiel de la technologie qui, grâce à la décomposition des problèmes juridiques en tâches individuelles, ont permis à des fournisseurs alternatifs de services juridiques d'effectuer ces tâches de manière plus efficace.

Sur base de cette compréhension du marché, nous développons notre vision du business model idéal pour un cabinet d'avocats, avec une proposition de valeur comprenant de nouvelles façons de proposer l'expertise juridique, au travers de services tels que l'accès accru à l'information juridique et des outils de gestion juridique en self-service. Ensuite, en en mettant en regard des exemples d'initiatives menées par des grands cabinets internationaux, nous sommes en mesure de formuler des recommandations visant à guider les dirigeants de cabinets désireux de mener au mieux leur transformation digitale.

Nous recommandons aux cabinets d'étendre leur compréhension des besoins de leurs clients en adoptant une approche centrée sur le client, qu'ils développent des solutions leur permettant de produire des réponses pratiques, accessibles et pragmatiques aux défis de leurs clients, qu'ils adaptent leur calcul d'honoraires de manière à se baser sur le résultat attendu par le client plutôt que sur les ressources à mobiliser en interne pour produire ce résultat et finalement, qu'ils adaptent leur structure organisationnelle avec plus des spécialistes en IT et gestion de projets, et plus de personnel de soutien, tel que des parallégaux.

Mots clés : transformation digitale, marché juridique, business model, legal tech



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# 1. INTRODUCTION

## 1.1.1. Preamble

In a 2010 article entitled *The Death of Big Law*, Ribstein explains that the business model of large law firms is failing, and therefore must be fundamentally transformed.

This vision of the imperative for law firms to adapt or disappear is echoed by Richard Susskind (2013) in *Tomorrow's Lawyer*, in which he predicts that the entire profession of lawyer will change in fundamental ways.

Truly, law firms' business model and lawyer as a profession are no exceptions in terms of radical change.

In 2011, Watson, IBM's Artificial Intelligence system, beat a famous champion on 'Jeopardy!', demonstrating its ability to understand question posed in natural language and answer them<sup>1</sup>. Such exponential technological development put on additional pressure on existing models to adapt and embrace the opportunity rather than try to stop a tide of inexorable change.

In this thesis, we will analyze that these changes, in conjunction with the pressure put on the existing structure of law firms, actually create the perfect incentive and circumstances to transform an old-fashioned and conservative model into one that is client-centric and technologically advanced.

## 1.1.2. Positioning

In this paper, we will focus on the digital transformation in the legal market globally and on the other major trends impacting the industry.

We will focus on the impact on large global law firms which are established in Belgium. The focus on large firms is explained by two major reasons. First, the investments and operational capabilities required to be at the forefront of digital transformation are not easily accessible to

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<sup>1</sup> See Markoff, J. (2011, February 16). Computer wins on 'Jeopardy!': Trivial, it's not. *The New York Times*. Retrieved from <http://www.nytimes.com/2011/02/17/science/17jeopardy-watson.html?pagewanted=all>

smaller firms. Second, global firms are more affected by supranational trends, as they operate on markets which might be more liberalized and more advanced in terms of innovation, such as in the United Kingdom and in the United States of America.

### **1.1.3. Research Questions**

The legal industry is in the midst of profound changes, both in economic and technological terms. What are the trends impacting the global legal market? What are the threats and opportunities stemming from these shifts? How can large global law firms adapt their business model in order to take advantage of these opportunities to strengthen their competitive advantage?

### **1.1.4. Contribution**

The aim of this thesis is to provide a clear vision of the legal industry and the challenges and opportunities stemming from economic, legal and technological changes. Equipped with this insight we will then be able to develop a strategic framework for law firms eager to transform their business model in order to bolster their competitive position.

### **1.1.5. Methodology**

We will start with defining the concept of digital transformation in general and its key elements in order to understand the strategy that companies must adopt to successfully manage their evolution into digitally capable businesses. For companies to develop their strategy, they must understand where value is likely to shift within their industry. Therefore, as our focus is the legal industry, we will analyze the evolution of the legal market and the forces shaping its competitive landscape, using models such as Porter's five forces (2008) and a PESTEL analysis.

After this analysis, we will attempt to develop the key elements of a general strategic framework for law firms to enhance their competitive advantage through an updated business model.

In order to better visualize the range of options available to law firms, we will practice an exercise that Susskind (2013) calls "blank-sheet thinking", which is aimed at developing a vision of the ideal law firm. We will start by understanding the clients' changing expectations, based on

which we will explore the opportunities in terms of outputs and value proposition. These developments will then lead us to designing our ideal business model for law firms.

After forming our business model, we will confront it to the reality of three leading global law firms established in Belgium. Our understanding of these firms' approach to digital transformation we will be developed based on interviews conducted individually with a partner from each firm<sup>2</sup>.

Finally, after comparing our vision of an ideal business model with what the perspective of partners at leading law firms will allow us to identify areas in which we can formulate recommendations in order for firms to start or advance their digital transformations.

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<sup>2</sup> For this thesis; we interviewed Tanguy Van Overstaeten, Partner at Linklaters, Sébastien Champagne, Partner at Jones Day and Filip van Elsen, Partner at Allen & Overy.

Mr. Van Overstraeten is Global Head of Linklaters' Privacy and Data Protection Practice, Head of the TMT practice in Brussels and chairman of the Firm's Information System Board.

Mr. Van Elsen heads the IP/IT department of Allen & Overy in Belgium and chairs the global Telecommunications, Media & Technology sector group. He is also a member of Allen & Overy's global Client Group, which aims at developing and managing client relationships in an integrated and collaborative way.



## 2. PART I: THE DIGITAL TRANSFORMATION

### 2.1. Assessing the changes

Law firms do not operate in a vacuum. While it is true that for a number of causes, the field of law has seemed less likely to be impacted by technological developments supporting the digital transformation, there is no reason to believe that it will not have to adapt, as has or will every other industry.

Christensen, Wang, and van Bever (2013) state that disruption will affect every industry:

If our long study of disruption has led us to any universal conclusion, it is that every industry will eventually face it. The leaders of the legal services industry would once have held that the franchise of the top firms was virtually unassailable, enshrined in practice and tradition - and, in many countries, in law. And yet disruption of these firms is undeniably underway.

The evolution of technology, and the continuously increasing connectivity, among customers and equipment alike, create what Fitzgerald, Kruschwitz, Bonnet, and Welch (2013) call “*a digital imperative for companies*”. They argue that “companies must succeed in creating transformation through technology, or they’ll face destruction at the hands of their competitors that do”.

In order to understand what the digital transformation implies for law firms, we will first develop our perception of what it means for companies in general. We will later narrow our focus on law firms.

While the effects of the digital transformation are or will likely be felt by every type of company, we will focus our analysis on incumbents companies, as this is the best qualification for Big Law firms. Indeed, the goal of this thesis is to introduce and understand how large, established, globalized law firms can adapt and innovate to gain a competitive advantage.

Regarding incumbent companies, according to Catlin, Scanlan, and Willmott (2015) from the consultancy firm McKinsey:

*The stakes continue to rise. From 1965 to 2012, the “topple rate,” at which they lose their leadership positions, increased by almost 40 percent as digital technology ramped up competition, disrupted industries, and forced businesses to clarify their strategies, develop new capabilities, and transform their cultures.*

Hirt and Willmott (2014) summarize the impact of technologies being leverage in new ways, and therefore causing competitive shifts in many industries:

*As these technologies gain momentum, they are profoundly changing the strategic context: altering the structure of competition, the conduct of business, and, ultimately, performance across industries. One banking CEO, for instance, says the industry is in the midst of a transition that occurs once every 100 years. To stay ahead of the unfolding trends and disruptions, leaders across industries will need to challenge their assumptions and pressure-test their strategies.*

In this thesis, we will attempt to understand how the digital transformation might impact the legal industry in the coming years. Indeed, many lawyers today recognize that a number of trends, among which the exponential development of technology will fundamentally change their industry. In order to remain competitive in this upcoming era, firms must correctly manage their own digital transformation. In the following part, we will attempt to shed light on the fundamentals of this transformation, which will later enable us to imagine what an efficient and competitive law firm might look like.

## **2.2. Defining the digital transformation**

In order to understand the underlying principles and requirements of a successful digital transformation, we must first discern the concepts and definitions behind this transformation. Unfortunately, there exists no single definition behind this general idea.

First of all, the terms digitalization and digitization are often used interchangeably. As Catlin et al. (2015) note, it is however important to settle on a definition in order to build the alignment and a common vision necessary to correctly manage and lead digital transformation.

The Cambridge dictionary defines "digitize" as the action of putting "*information into the form of a series of the number 0 and 1, usually so that it can be processed electronically*"<sup>3</sup>. It redirects from the word "digitalize" but does not differentiate between the two terms<sup>4</sup>.

We define the digital transformation as the redesign, around and supported by technology, of processes, services, and business models aimed at enhancing the customer experience.

Dörner and Edelman (2015) articulate the definition of digital transformation into three attributes: "*creating value at the new frontiers of the business world, creating value in the process that executes a vision of customer experience, and building foundational capabilities that support the entire structure*". The creation of value at new frontiers requires companies to reexamine their way of doing business identifying the new frontiers of value, whether this means creating entirely new business or "*going after value pools in existing sectors*". The creation of value in core business means "*rethinking how to use new capabilities to improve how customers are served. This is grounded in an obsession with understanding each step of a customer's purchasing journey—regardless of channel—and thinking about how digital capabilities can design and deliver the best possible experience, across all parts of the business*".

In order to ensure that digital evolves as "*cyclical dynamic where processes and capabilities are constantly evolving based on inputs from the customer, fostering ongoing product or service loyalty*", the authors from McKinsey highlight an interconnected set of four core capabilities: proactive decision making, contextual interactivity (meaning "*analyzing how a consumer is interacting with a brand and modifying those interactions to improve the customer experience*"), real-time automation (allowing companies to drive down costs but also to get the flexibility to "*respond to an anticipate customer demands*") and journey-focus innovation (Dörner & Edelman, 2015).

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<sup>3</sup> As seen at <http://dictionary.cambridge.org/dictionary/english/digitize>, last retrieved on August 3<sup>rd</sup>, 2017.

<sup>4</sup> As seen at <http://dictionary.cambridge.org/dictionary/english/digitalize>, last retrieved on August 3<sup>rd</sup>, 2017

While, as Dörner and Edelman (2015) state, *"it's tempting to look for simple definitions", it is also important to note that "to be meaningful and sustainable, [they] believe that digital should be seen less as a thing more a way of doing things"*.

Similarly, Cohen (2017) describes digitization as *"The process - enhanced by technology - of reimagining the delivery of goods and services and creating new business models and structures from which to manage them. Digitization is the interplay of tools, tasks, resources - human and technological - process, and models designed to better serve customers and to provide 24/7/365 connectivity between provider and client"*.

### **2.3. Leading a successful digital transformation**

Our first goal in this Part I was to understand what the Digital Transformation is, and identify the necessity for business in all industry to be aware of this systemic change, as well as of the need to proactively adapt to it.

This need is generally well understood, as are the opportunities arising from technology. Indeed, according to Catlin et al. (2015), *"McKinsey research shows that companies have lofty ambitions: they expect digital initiatives to deliver annual growth and cost efficiencies of 5 to 10 percent or more in the next three to five years"*. However, *"despite the often-substantial investments companies have made in digital initiatives, few see that kind of growth"*.

There are many reasons for this gap between expectations and reality. Fitzgerald et al. (2013) have highlighted nine specific obstacles to digital transformation. In terms of leadership, many managers do not feel the urgency to achieve digital transformation. This absent sense of urgency, the lack of a clear vision coming from the top management as well as the absence of a clear roadmap towards digital transformation are three of the main barriers encountered by companies. In terms of institutional challenges, the companies they surveyed noted that their main obstacle where the perception that older workers are averse to digital changes, the weight of legacy technology, potential innovation fatigue due to the never-ending flux on technological and organizational adaptations that companies need to stay on top of in order to retain their competitive

position, and finally, the interaction of multiple internal power centers which do not necessarily share the same objectives and priorities.

Desmet, Duncan, Scanlan, and Singer (2015) assert that companies looking to be digital high-performers must be able to leverage and orchestrate six fundamental building blocks: strategy & innovation, customer decision journey, process automation, organization, technology and data & analytics.

Similarly, Westerman, Bonnet, and McAfee (2014) highlight nine elements of digital transformation, which they can regroup in three broader areas: the customer experience, the operational processes, and the business models.

This shows that evidently, leading a successful digital transformation is a complex process which require a wide vision of the organization processes and capabilities.

In this following part, we will summarize the findings from these authors which are relevant to B2B companies, and we will briefly describe these key components of a successful digital transformation effort. It is important to note, however, that not all companies require the same involvement and level of change in all areas, and that some areas will need to be prioritized depending on the needs of a very specific business.

### ***2.3.1. Defining key elements***

#### ***2.3.1.1. Strategy***

Porter (1996) describes strategy as the creation of a unique position based on the identification of and focus on different ways to perform activities, or on performing different activities altogether. In that optic, we may refer to Desmet et al (2015) who identify strategy and innovation as the first building block of a successful transformation as companies need to understand "*where value is likely to shift within their own business and market*". Based on this determination, companies can target which of the other building blocks must be leveraged and at what scale.

Similarly, Catlin et al. (2015) assert that the starting point for a successful digital transformation is *"developing a clearly defined, coherent digital strategy that's fully aligned with the overall corporate one"*. This requires a solid understanding of the concept of digital regarding that particular company. This corporate-strategy-aligned digital strategy must be based on an assessment of the opportunities and threats stemming from digital, and the identification of untapped value pools. This assessment can then lead to the development of a timeline for the expected digital disruption and eventually, to the design of solutions to take advantage of opportunities and divest resources from the threatened areas of the business.

This emphasis on the importance of a strategic vision is echoed by Westerman et al. (2014), who found that digitally mature companies, those who *"combine digital activity with strong leadership to turn technology into transformation" all have managers with a vision "of how to transform their company for the digital world"*.

While most of the previously cited authors analyzed on the digital transformation in the general sense, without necessarily making the distinction between B2C and B2B companies, it has also been noted that, while *"B2B companies trail consumer companies in terms of their overall digital maturity"*, mostly because their efforts *"have tended to focus on internal costs and process efficiencies and less on innovating around sales and the customer experience – and that's where the real growth is"*, B2B companies can greatly improve their financial performance by *"investing in a targeted set of digital capabilities and approaches"*. (Catlin, Harrison, Plotkin, & Stanley, 2016). As in B2C companies, the digital transformation of B2B companies must be developed with *"commitment to digital at a strategic level"*, in order to achieve fundamental change rather than marginal improvement in specific areas.

#### **2.3.1.2.     *Understanding the customer***

As we have previously stated, the main driver and focal point of the digital transformation is the Customer Experience.

Fanderld and Perrey (2014) found that *"brands that can improve the customer journey see revenues increase as much as 10 to 15 percent while also lowering the cost to serve 15 to 20 percent"*. Consequently, according to Desmet et al. (2015), *"understanding those decision journeys*

*and the fundamentally different ways that customers behave—from evaluating products to bonding with brands—is becoming the cornerstone for successful businesses".*

Indeed, companies can now take advantage of previous investments in systems and on the ever-growing amount of data and analytics to better understand their customers, and tailor their approach accordingly (Westerman, Bonnet, & McAfee, 2014).

While developing a coherent, integrated digital strategy is the first step towards building a truly digital organization, the focus on the customer must be the underlying basis supporting every other development. Indeed, successful companies are those that can correctly identify and understand their customers' needs, and who are able to design creative solutions to satisfy those needs. The digital transformation does not change this key aspect of business success; rather, it enables organizations improve customer understanding through technology, which makes it possible to collect and analyze a large volume a data, and to design solutions that better match what the customers require.

#### **2.3.1.3.    *Process automation***

A key step in improving both customer satisfaction and efficiency, according to Desmet and al. (2015), consists in digitizing processes *"has less to do with technology and more with how companies approach development"*. Indeed, this require companies to understand their processes and how it can be done in a different, more efficient way.

Additionally, automated business processes *"enable companies to refocus their people on more strategic tasks"* (Westerman, Bonnet, & McAfee, 2014).

#### **2.3.1.4.    *Organization***

As Desmet et al. (2015) state regarding organization, *"The challenge is to move toward a structure that is agile, flexible, and increasingly collaborative while keeping the rest of the business running smoothly"*. Indeed, there needs to be a mindset within the company which promotes innovation.

#### **2.3.1.5. Technology**

Obviously, technology is the impulse that kick starts the conversation on digital transformation. However, achieving a successful digital transformation does not mean making a one-type large investment in technology. Rather, it means putting organizational, operational, and technological foundations in place that foster constant evolution and cross-functional collaboration (Forrester, 2015).

Getting the technological aspect of the transformation right being key nonetheless, companies must identify the tools required fundamentally adapt the business, and evaluate if they have the skills to develop them internally, or if they need to use third-party providers.

Indeed, a Forrester global survey (2015) revealed that “*Eighty-seven percent of B2B firms use a third-party solution provider for at least one component of their digital transformation*”.

#### **2.3.1.6. Business models**

The real impact of digital transformation is not only visible in terms of processes, but even more so in how functions interact and even evolving the boundaries and activities of the firm (Westerman, Bonnet, & McAfee, 2014).

Johnson, Christensen, & Kagermann (2008) define a business model “*as four interlocking elements that, taken together, create and deliver value*”. These four elements are the customer value proposition, the profit formula, the key resources, and the key processes.

There are two aspects relating to the business model in the digital transformation: new digital businesses, built around new digital products and services, and digitally modified business, which keep focusing on the same core clients’ needs, but who attempt to satisfy them through technologically enhanced processes.

### 3. PART II: FOCUS ON THE LEGAL MARKET

#### 3.1. The demand side

##### 3.1.1. *Porter's five forces in demand*

Michael Porter famously wrote about the five forces that define an industry's structure and therefore shape the industry's competitive interactions. With regard to the demand side of the market, the most relevant force is the power of buyers, the level of which depends on the customers' negotiation leverage and their price sensitivity. Powerful buyers heighten competition in an industry by capturing value through pressure for lower prices and better quality, among other demands (Porter, 2008).

In the legal industry, clients' negotiation leverage is currently fairly high, the market being described as a buyers' markets (Georgetown Law Center for the study of the legal profession & Thomson Reuters Peer Monitor, 2016). Additionally, the information asymmetry between clients and law firms tends to fade, which means that better informed clients are now able to make superior purchasing decisions, without having to rely exclusively on the firms' reputational capital (Ribstein, 2010). One of the main drivers of the increased level of information available to clients is the rise of in-house counsel. As Ribstein found, *"rising legal fees, global competition and financial restructuring motivated corporate clients to cut costs by building their in-house department"* (Ribstein, 2011). This heightened legal expertise reduces the client's need *"to buy outside legal services based on personal relationships with individual lawyers or to rely on a stable of 'preferred providers' Big Law firms"* (Ribstein, 2010). Therefore, we can conclude that improved in-house legal expertise increases client's negotiation leverage, which allows clients to force down prices and demand better service (Porter, 2008).

Negotiation leverage is all the more relevant when the buyer group is price sensitive, which leads corporate clients to start applying the same purchasing logic to their legal spending as they do for other costs. Corporations tend to call into question their automatic reliance on a limited number of big law providers. A Deloitte study on future trends for global services showed that a

majority of legal services buyers (General Counsel, legal counsel, CEO's and CFO's) had either recently reviewed their legal suppliers or planned to do so in the next 12 months .

Moreover, in-house counsels face the challenge of doing more with less, namely because they have to deal with an increasing level of compliance work (Deloitte, 2016). This is what Susskind calls the More-for-less challenge: the situation in which General Counsel find themselves, where they are put under pressure to reduce their expenses, to reduce their legal spend on external counsel , while being responsible for more legal and compliance work. This prompts legal department to push for lower prices, or even different remuneration structure, among which we find Alternative Fee Arrangements, or AFA<sup>5</sup> (Susskind, 2013).

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<sup>5</sup> A survey from The BTI Consulting Group (2016) found that 60% of clients using AFAs prefer fixed fee, which allow for clearest view upfront of the legal budget. Fixed or Flat Fees are fixed compensation for a predefined service. They can either be applied for single engagements, in which case they can be viewed as a Transaction Revenue, or they can be applied to cover a portfolio of matters, in which case they cover a large but undetermined volume of cases over a specific period of time (Hassett, 2011).

In this type of arrangements, the firms accept to cover the risk of a larger volume of cases than expected, and stands to benefit from improved efficiency, as reducing the amount of time spent on any specific case directly enhance profitability.

The second most widely used type of AFAs, according to the Survey from The BTI Consulting Group (2016), are Capped Fees, which are similar to hourly billing except that there is a hard limit of the maximum amount charged for a particular matter (Hassett, 2011). As with Fixed Fees, this type of fee structure encourages firms to improve their efficiency to improve their profitability.

Other types of AFAs are more directed at sharing the legal risk between the firm and the client, and at better aligning the firm's objectives with the client's.

The most extreme form of such arrangements can be described as Full Contingency fee, in which the fee depends entirely on the outcome of the case. . However, this billing method is not permitted in Belgium as the article 446ter of the Judicial Code prohibits fee calculations based exclusively on the case outcome.

Partial Contingency Fees are designed on the same structure, except that a portion of the normal fee, typically based on hourly billing, is independent of outcome and is based on normal hourly fees as the matter proceeds (Hassett, 2011).

Partial Contingency Fees may also come with an additional Success Fee, which is a previously agreed upon bonus depending on the outcome.

Another type of Partial Contingencies is described by Hassett (2011) as Holdback, "In which the law firm is guaranteed part of its fees, but the other part is contingent upon the case's success".

In addition to these data, we can note that, in terms of perceptions, an Altman Weil survey of American law firm leaders showed that over 95% of respondents foresee that increased price competition will be a permanent trend in the legal industry (Clay & Seeger, 2017).

### ***3.1.2. The PESTEL analysis***

Another useful model is the PESTEL analysis, used to assess the macro-environmental factors that have an impact on an organization or an industry. These macro-environmental factors can be categorized as political, economic, social, technological, environmental and legal (Johnson, Whittington, Scholes, Angwin, & Regrér, 2014). With regards to the demand side of the legal industry, the most relevant of those factors appear to be economic, technological and legal.

The essential economic factors for our analysis are the size of the legal market, and the market share of law firms.

In a 2016 study, Deloitte found that *“both demand and spend for legal services [were] growing”*, especially in areas such as regulatory compliance, M&A (merger & acquisition) and litigation (Deloitte, 2016)<sup>6</sup>. However, while demand for legal services is rising, *“the past decade has been a period of stagnation in demand growth for law firm services”* (Georgetown Law Center for the study of the legal profession & Thomson Reuters Peer Monitor, 2017). This mismatch indicates that *“law firms have lost “market share” of overall legal spend to corporate law departments (as a result of decisions by corporate general counsel to keep work “in-house”) and to alternative services providers”* (Georgetown Law Center for the study of the legal profession & Thomson Reuters Peer Monitor, 2016) who are able to disaggregate and tailor their offering to align it more closely with clients’ expectations (Lim, 2016).

Additionally, *“despite sluggish demand growth and falling realization rates, law firms have been able to maintain their profitability levels over the past few years by their annual rate increases, even despite growing client resistance. Over the last couple of years, however, the rate*

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<sup>6</sup> This study was commissioned by Deloitte Legal. Respondents to this survey were individuals influencing or deciding the purchase of legal services at large multinationals and mid-sized companies present in five or more countries.

*of growth in worked rates – i.e., the rates actually charged for work performed – has slowed considerably”* (Georgetown Law Center for the study of the legal profession & Thomson Reuters Peer Monitor, 2016). We are currently seeing a pushback from clients who now refuse to pay the same fee for external counsel.

Regarding legal factors, the most notable would be the increased regulatory requirements on clients, which gives rise to expansion of regulatory compliance work. Indeed, global compliance is described as the biggest challenge by 26% of in-house legal advisors (Deloitte, 2016). This leads to growing demand for legal services, but as we have seen, it does not necessarily translate into increased demand for law firm services. It can however constitute an opportunity for law firms, as the volume and complexity of work add an additional burden to clients. We will explore further in this thesis a number of options available to law firms to profit from these opportunities.

With respect to technological factors, we must analyze the clients’ shifting expectations.

We note that clients increasingly expect their external law firms to be able to work more effectively with their own imbedded technology. As we will see further in this thesis, a number of new technologies make it possible for clients to manage a larger scope of legal matters in-house.

Additionally, corporations can use technology to increase their access to legal information, and they “*do not confront regulatory impediments to these new technologies*” (Ribstein, 2011).

## **3.2. The supply side**

### ***3.2.1. Liberalization***

#### ***3.2.1.1. The case of the United Kingdom***

The tendency toward liberalization of the legal market is best exemplified by the situation in the United Kingdom, where the Legal Service Act 2007 has profoundly modified the legal landscape. This piece of legislation aimed at opening up the legal market in the United Kingdom,

in order to improve the access to justice, promote competition in the provision of legal services and encouraging innovation and effectiveness of the legal profession.

The text of the Act states eight regulatory objectives, among which are the protection and promotion of interests of consumers of legal services, and the promotion of competition in the provision of legal services<sup>7</sup>.

It also differentiates between reserved legal activities and legal activities, which is either a reserve activity or “*any other activity which consists of (...) the provision of legal advice or assistance in connection with the application of the law or with any form of resolution of legal dispute*”, or “*the provision of representation in connection with any matter concerning the application of the law or with any form of resolution of legal dispute*”.

Additionally, the Act opened up the legal market by allowing alternative business structures (ABSs) in which non-lawyers can hold management or ownership roles in legal service providers. This means that lawyers can form associations with non-lawyers regardless of their profession.

This piece of legislation aimed at opening up the legal market in the United Kingdom, in order to improve the access to justice, promote competition in the provision of legal services and encouraging innovation and effectiveness of the legal profession.

While it does not appear that this change in mindset and legislation has had any measurable impact yet, it is worth noting that it appears that a number of law firms and Alternative Business Structures seem to be investing in innovation both in technology and in services delivery models, at least according to the amount of legal news coming out of the United Kingdom.

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<sup>7</sup> As seen in *Evaluation: Changes in competition in different legal markets*, a report published in 2013 by the Legal Services Board, the independent body responsible for overseeing the regulation of lawyers in England and Wales.

### **3.2.1.2.    *The position of the European Union***

The push for liberalization in the European Union started in 2004, with a report from the European Commission. The report, focused on competition in professional services, highlighted the “*Negative effects of excessive or outdated restrictive regulations*”, while acknowledging that some legitimate regulation may be necessary for three reasons: to protect customer from information asymmetry between them and their providers, as customers may not have the technical knowledge to evaluate the quality of services; to protect third-parties who might be impacted by these services; and to maintain quality of the professional services which are deemed ‘public goods’, as they are of value to society in general . The report further stated that “*[the] Commission invites all involved to make a joint effort to reform or eliminate those rules which are unjustified. Regulatory authorities in the Member States and professional bodies are invited to review existing rules taking into consideration whether those rules are necessary for the public interest, whether they are proportionate and whether they are justified*”.

Additionally, the directive 2006/123/EC, also known as the Services Directives aimed at “*[realizing] the full potential of services markets in Europe by removing legal and administrative barriers to trade*”, states the three conditions needed for requirements upheld by Member States to be valid: non-discrimination, necessity and proportionality. It also provides a list of requirements to be reviewed, among which the most relevant to our analysis are “*an obligation on a provider to take a specific legal form*” (art 15, 2 b), “*requirements which relate to the shareholding of a company*” (art 15 2 c) and “*requirements, other than those concerning matters covered by Directive 2005/36/EC or provided for in other Community instruments, which reserve access to the service activity in question to particular providers by virtue of the specific nature of the activity*” (art 15 2 d).

### **3.2.1.3. In Belgium**

In Belgium, the practice of law is restricted to lawyers, who enjoy a monopoly on client representation before courts<sup>8</sup>.

There is of course a level of liberalization coming from European Union regulations, as non-Belgian lawyers are authorized to practice law in Belgium under certain conditions<sup>9</sup>.

Lawyers performing complementary activities within the bounds of an employment contract are forbidden from acting in their capacity as lawyers, and to represent their employer or the opposing party<sup>10</sup>. Consequently, in-house counsels in Belgium cannot be lawyers, or act in that capacity to represent their company<sup>11</sup>.

However, despite the previously listed restrictions, there are a few openings on the legal market. Indeed, while lawyer enjoy a monopoly on client representation before the courts, and on a number of legal acts which may only be performed by a lawyer, they do not enjoy any monopoly on the provision of legal advice. This means that outside of the frame of restricted activities, anyone may provide legal services.

Regarding the qualification of lawyers in terms of an economical agent, the Court of Justice of the European Communities, the former Court of Justice of the European Union, stated in its judgment on the infamous Wouters case that a body such a national Bar is in fact an association of undertakings. This means that the profession of lawyers does fit the larger definition of the exercise of an economic activity. As such, lawyers and associations such as the Bar operate on a market that must be ruled by an efficient competitively.

This does not however prevent association such as the Orde van Vlaamse Balie and the Ordre des Barreaux Francophones et Germanophones de Belgique from prohibiting a number of

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<sup>8</sup>See article 440 of the Belgian Judicial Code.

<sup>9</sup> On the practice of law by lawyers from a member state of the European Union, see articles 447bis to 447nonies of the Belgian Judicial Code.

<sup>10</sup> See article 2.4 of the Bar code of conduct, Le Code de Déontologie de l'Avocat.

<sup>11</sup> See article See article 2.3 of the Bar code of conduct, Le Code de Déontologie de l'Avocat, which states that the profession of lawyers is incompatible with the function of in-house counsel, tax advisor or legal advisors, and with any professional occupation susceptible to being performed by a lawyer in that capacity.

practices, such as forming a partnership with non-lawyers<sup>12</sup>, contrary to what is now allowed in the United Kingdom, as we have seen.

They may however form associations with individuals in a number of accredited professional occupations; such as accountants, tax advisors, or auditors. These associations would not, however, be considered as law firms and cannot have as objective to work jointly as a multi-disciplinary association<sup>13</sup>.

Additionally, contrary to what is being done in the United-Kingdom through ABSs, non-lawyers cannot have ownership of shares in a law firm, and cannot hold management positions. However, this topic is now being discussed, as is the case within Avocats.be, the association grouping the French and German speaking Bars. Indeed, a working group in 2015 had concluded that while the British model, which completely opened the ownership to non-lawyers, is not acceptable nor possible in Belgium, a limited form of openness, severely regulated, could be considered<sup>14</sup>.

Finally, we can note that the liberalization of the legal market, while not extremely advanced in Belgium, poses a number of ethical and philosophical questions in terms of the profession of lawyer. Mr. Van Wassenhove remarked that the growing tendency to view lawyers as just another type of consultant could potentially be detrimental not only to lawyers, but to the institution of justice<sup>15</sup>. Indeed, what markedly differentiate lawyers from other consultants is their independency, which they are legally obligated to uphold.

### ***3.2.2. The rise of legal tech***

We will now turn our attention to the second trend impacting the global legal industry: the exponential deployment of technology in law.

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<sup>12</sup> See article 4.14 of the Bar code of conduct, Le Code de Déontologie de l'Avocat.

<sup>13</sup> See article 4.38 of the Bar code of conduct, Le Code de Déontologie de l'Avocat, in conjunction with article 4.41

<sup>14</sup> The conclusions of the working group were presented during the 2015 biennial congress of Avocats.be on May 29, 2017.

<sup>15</sup> As was discussed in an interview with Mr. Van Wassenhove, on June 22, 2017.

Indeed, as evidenced by the focus of this thesis on the digital transformation of established law firms, we believe that legal tech, or the use of technology to improve the delivery of legal services, constitutes an incredible opportunity to enhance the value created by the firms.

One of the key components of the impact of legal tech is the unbundling of legal services, which leads to legal matters being broken down into smaller, individual parts. The other component is the development of diverse technologies able to perform a number of these tasks that were traditionally undertaken by lawyers, and to do so faster and at a lower cost.

We will first expand our understanding of the unbundling of legal services, before introducing a number of key technologies affecting the legal industry. Alongside the technological operational aspect, we will present a number of an overview of the state of legal tech landscape in different countries.

#### **3.2.2.1. Unbundling legal services**

As we have previously mentioned, a dominant force driving change in the legal industry is the pushback from clients regarding the traditional relationship with external counsel, and the *“general sense that lawyers and their fees are out of control. It’s not just the size of any particular bill that irks executives; it’s that they feel they have little influence over what they spend and what they get for it—and that the accountability seems to be much less than what most other business services provide”* (Ertel & Gordon, 2012).

As a result, the Georgetown Law Center for the study of the legal profession & Thomson Reuters Peer Monitor (2016) found that clients are increasingly looking to unbundle the legal services they need:

*Clients today are more willing than ever before to disaggregate matters, combining the services of several different service providers in order to achieve increased efficiencies. They are more open than ever before to utilizing non-traditional service providers (including non-law firms) to provide a wide range of services previously obtained almost exclusively from law firms.*

*However, clients are far more likely today to retain work in-house, bringing their outside counsel in only where needed to supply specialized expertise or to handle matters on a discrete project-by-project basis.*

It is nonetheless important to note, as Susskind (2013) does, that most clients do not object to paying significant rates for experienced and specialized lawyers. However, they oppose the idea of pay high fees for routine and repetitive tasks to be undertaken by young lawyers who do not bring them any additional value.

There is indeed a distinction to be made between high-value, highly specialized work and routine work, and while “[it] would be difficult to argue that cost savings should be the top priority at “bet the company” moments, (...) most legal matters are more routine than that. And even large, complex issues can be divided into discrete tasks, many of which don’t require senior-level attention” (Ertel & Gordon, 2012).

This leads us to the idea that we can unbundle or disaggregate legal services so that any matter can be broken down into a set of constituent tasks, some of them being more routine, and therefore possibly automated, and some of them being highly tailored, or bespoke, and therefore requiring the involvement of qualified lawyers.

We can elaborate further on our understanding of the type of tasks constituting any legal matter. In his book, *Tomorrow’s Lawyer*, Susskind introduces five different levels of complexity, which he categorizes as bespoke, standardized, systematized, packaged, and commoditized.

He theorizes that in order to maximize efficiency, legal service providers must determine, for each individual task, the most adequate way of performing it, and to which of the five categories the task belong.

The tasks can therefore be placed on a spectrum going from bespoke to commoditized tasks. We can define these five categories:

1. Bespoke defines work that is highly customized, tailored to fit perfectly with the specifics of the task.
2. Standardized using premade standard process and templates.
3. Systematized tasks fitting “where there are many tasks, activities, and people involved, and yet the process can be proceduralized” to create an automated workflow.
4. Packaged work that “occurs when lawyers pre-package and make their experience available to clients on an online basis. It offers an entirely new way of tapping into lawyers’ expertise, under a form of licensing arrangement”.
5. Commoditized work, that is work so widely and easily available that law firms can no longer make money from it.

Additionally, the Altman Weil survey (2017) among US law firm leaders, that we have previously quoted, reveals that over 80% of respondents believe that more commoditized legal work will be a permanent trend going forward. It is interesting to note that this number has significantly increased since 2009, when only 25.5% of respondents viewed commoditization as a permanent trend (Clay & Seeger, 2017).

### ***3.2.2.2. IT developments and the legal tech landscape***

It is not surprising to read that technological developments happen at an increasingly fast pace. Evidently, not all of these innovations or improvements affect the legal industry to the same extend, and it might be difficult to sort through technologies to identify those that will matter.

Adding to the potential confusion is the perceived hype regarding some technological innovation. Namely, terms such as Artificial Intelligence and Cognitive Computing are frequently employed, but depending on the author might not always be used to describe the correct thing. We will attempt to prevent any confusion by briefly discussing the relevant terminology.

### 3.2.2.2.1. *A word on Artificial Intelligence, Machine Learning and Cognitive Computing*

Many authors refer to the technology supporting many practical application in the legal industry as Artificial Intelligence (AI).

It appeared, over the course of our research, that this term is being use to characterize different things, and that when referring to Artificial Intelligence, numerous authors use different terms.

In order to be as accurate as possible when describing technologies, we will give a brief explanation on what we take as constituting Artificial Intelligence and to what we actually refer to when using terms like Artificial intelligence or Machine Learning<sup>1617</sup>.

In the general sense, AI refers to a field of computer science which aims at making a computerized system do things that normally require human intelligence.

Initially, AI research focused on strong AI, or General AI, which remain the ultimate goal of AI research: getting to build a system capable of generally performing any intellectual tasks that human perform.

However, lack of progress in the development of strong AI led to the focus shifting on Weak AI, or Narrow AI: system that focus on narrow problems, and that can only perform the tasks that they were designed to.

Machine learning is a subfield of Artificial Intelligence with roots in statistics and mathematical optimization. In simple terms, it is about teaching a computer to learn in the same way we do: by interpreting data, classifying it, making an educated guess at what the data is, and later, by integrating previous successes and failures to make an better guess the next time.

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<sup>16</sup> <https://www.ibm.com/developerworks/library/cc-beginner-guide-machine-learning-ai-cognitive/index.html>

<sup>17</sup> <https://www2.deloitte.com/nl/nl/pages/data-analytics/articles/part-1-artificial-intelligence-defined.html>

This subfield covers techniques in supervised and unsupervised learning, as well as deep learning, for applications in prediction, analytics, and data mining.

Finally, Cognitive Computing as another subfield of AI, aiming at simulating the human thought processes. It draws from multiple other fields, such as machine learning, natural language processing, vision, and human-computer interaction.

A famous example of Cognitive Computing is IBM Watson, a system capable of answering questions posed in natural language, and that was able to beat two of *Jeopardy's* greatest champions<sup>18</sup>.

Cognitive Computing systems can have applications such as visual recognition, speech-to-text, and text-to-speech functions.

#### 3.2.2.3. *Focus on legal tech*

To identify the relevant evolutions, we can use the framework theorized by Clayton Christensen (1997), who differentiates between sustaining technologies and disruptive technologies. He describes sustaining technologies as *“improving product performance (...) along the dimension of performance that mainstream customers in major markets have historically value”*. Conversely, disruptive technologies *“bring to a market a different value proposition that had been available previously”*.

Richard Susskind (2013) draws on this distinction to highlight the disruptive technologies he identifies in law. Said technologies are those that *“fundamentally challenge and change the functioning of a firm or a sector”*. He predicts that *“[individually], these existing and emerging systems will challenge and change the way in which certain legal services are delivered”* and *“[collectively], they will transform the entire legal landscape”*.

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<sup>18</sup> <http://www.nytimes.com/2011/02/17/science/17jeopardy-watson.html?pagewanted=all>

We will provide a definition of those technologies which are the most relevant with regards to law firms. We will also add to his list, based on the classification traditionally employed to describe the Legal Tech landscape.

In parallel, we will present practical application of these technologies as well as a number of legal tech companies from various countries who are currently capitalizing on these applications.

#### **3.2.2.3.1.      *Automated document assembly***

The first technology introduced by Susskind is called automated document assembly, which refers to a software generating customized first draft of documents, based on questions asked to the user. In the legal context, it allows lawyers to obtain draft of documents such as contracts.

While it has been done for a long time, and while many law firms are already using a variety of tools to this end, McGinnis and Pearce (2014) contend that machine intelligence will provide individuals and organizations with the ability to use form automation with more accuracy and to operate in a wider scope in legal practice.

At firms where form automation has been in place for a while, it still is only the first step in the document drafting process, as lawyers later have to review the draft and sometimes add a substantial amount of work in addition to what the software has generated. However, through machine learning, as the technologies evolves and as lawyers provide more training to their drafting software, these will become increasingly accurate and sophisticated, therefore reducing the amount human work necessary to achieve an output of equal quality.

#### **3.2.2.3.2.      *Workflow management systems***

Susskind describes these as “automated checklist that drive a standard process from start to finish” to handle “high-volume, repetitive legal work” and project management systems, “better

suitable to legal tasks and activities that are more complex, less structured, and yet still amenable to more disciplined handling than the ad hocery that is found in many law firms and in-house departments”.

Once again, many firms currently use one or a number of management systems. However, increasing connectivity and integration with other services keep improving efficiency for lawyers, and the automation of repetitive, low added-value tasks frees up more time to focus on high-value tasks.

Additionally, better internal management allows for better communication with clients, and give firms the opportunity to enhance transparency, by making it easier to know to identify key dates, steps and documents.

### **3.2.2.3.3. eDiscovery**

Another area of legal tech which is already well known by many firms relates to eDiscovery.

eDiscovery can be defined as the “*process of discovery in civil litigation that involves information in electronic formats – known as electronically stored information (ESI)*” (Exterro, 2015). In terms of process, as soon as a law suit is foreseeable, “*attorneys from both sides determine the scope of e-discovery, identify and preserve (lockdown) the relevant ESI<sup>19</sup>, and make e-discovery request and challenges. Once parameters are set, ESI is then collected analyzed, and formatted for use in court*” (Exterro, 2015).

Advances in e-discovery, such as predictive coding, allow lawyers to extract only the relevant information, and to focus on that specific content which can provide added value to their case. Indeed, “*technology-assisted review (TAR, or predictive coding) uses natural language and machine learning techniques against the gigantic data sets of e-discovery*” (Mills, 2016).

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<sup>19</sup> ESI refers to Electronically Stored Information

eDiscovery constitutes a crucial aspect of the firm's readiness and performance, as this enables lawyers to optimize their handling of content. As such, many law firms already have internal units set up for eDiscovery. However, numerous specialized providers may also offer more advanced tools, both to law firms and to clients.

While there are a number of providers of eDiscovery services, we can cite household names such as Everlaw, kCura, LexisNexis or IBM<sup>20</sup>.

Additionally, we will note that all of the Big 4<sup>21</sup> offer eDiscovery services.

#### **3.2.2.3.4.      *Legal research & legal analytics***

At LexisNexis<sup>22</sup>, they describe legal research as "the process of identifying and retrieving information necessary to support legal decision making".

While many lawyers are already familiar with tools such as lexis.com by LexisNexis or Jura by Wolters Kluwer, which store and allow users to search through vast amounts of legal information, from case precedents to legislation, these tools are often qualified as expensive and not sufficiently efficient<sup>23</sup>.

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<sup>20</sup>See Magic Quadrant for E-Discovery Software, published annually by Gartner, available at <https://www.gartner.com/doc/3055717/magic-quadrant-ediscovery-software>

<sup>21</sup> The Big 4 refers to the four largest professional services networks: Deloitte, PricewaterhouseCooper, KPMG, and EY.

<sup>22</sup> LexisNexis is global provider of legal, regulatory and business information and analytics, as explained at <https://www.lexisnexis.com/en-us/about-us/about-us.page>

<sup>23</sup> This view was expressed by Jean François Henrotte during a Café Numérique conference entitled "Les robots ébranlent le monde des avocats", on April 12, 2017. Jean-François Henrotte is a lawyer at the firm Lexing and Chairman the working group on Artificial Intelligence at of Avocats.be, the organization grouping all French and German speaking Bars.

Nevertheless, current players such as Wolters Kluwer and LexisNexis are now working hard towards enhancing their legal research offerings with additional capabilities.

Accordingly, they are heavily investing in Legal analytics solutions and advanced research tools, as is exemplified by the recent acquisition of analytics and visualization start-up Ravel by LexisNexis<sup>24</sup>. This acquisition, added to the acquisition of another legal analytics provider Lex Machina in 2015<sup>25</sup>, demonstrates the willingness at LexisNexis to provide additional value to their customers by combining their leading asset, data, with technology allowing lawyers to gain more visibility and understanding from their legal search than they are able to do with traditional tools.

Ravel is indeed a perfect example of a service allowing users not only to more efficiently conduct legal research, but also to add an extra level of value to their research, view better visualization and contextualization.

Based on their data analysis, these systems are also able to make predictions. The software drawn on its previous output to find patterns in large bodies of data, such as precedents and case outcomes. The system's findings are then reviewed by lawyers who can sort through good and bad results and feed the information back to the software to improve its subsequent predictions.

According to McGinnis and Pearce, one of the biggest impact of the rise of legal analytics will be a better understanding of the risks relating to any given case. The parties being better informed, they will be able to adapt their strategy based on their expected case outcome. Of course, these systems tend to be more relevant in common law judicial systems, as judges rule based on precedents.

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<sup>24</sup> See

<http://abovethelaw.com/2017/06/why-lexisnexis-acquired-ravel-law-a-conversation-with-ravel-ceo-daniel-lewis/>

<sup>25</sup> See <http://abovethelaw.com/2015/11/lexisnexis-acquires-legal-analytics-lex-machina/>

#### **3.2.2.3.5.      *Data management & extraction***

Data management and extraction, data analysis systems, are able to automatically read, sort, and extract information from large volume of documents and bodies of unstructured data.

These systems have applications in a variety of legal areas, such as due diligence, contract analysis, or compliance.

Examples of such data extraction companies include the American kira or the British RAVN.

These systems rely on machine learning, as they review the output produced by the system, evaluate it and correct it if needed, and sending it back to the software which can then correct its processes.

#### **3.2.2.3.6.      *Online legal services***

Online Legal Services are standardized legal advice available only online, which are generally accessed through a subscription service.

There are a number of such services, and some of them seem to be among the legal tech companies most widely known, even by the public. Indeed, companies such as LegalZoom or RocketLawyer have existed for several years in the United States, and are not reaching for markets in Europe.

These companies offer legal documents as a service, and if needed connect users with their own lawyers online.

Regarding online legal service in Belgium, we must note that while the delivery on online services is authorized, lawyers may only provide it to identified individuals regarding specific issues.<sup>26</sup>

However, lawyers are not permitted to provide specific online legal advice on public discussion platforms<sup>27</sup>.

### ***3.2.3. The impact on competition in the industry***

To understand the impact that liberalization and of technological development have on the legal market, we can once again draw from Porter's analysis of the forces that shape competition in a given industry, which may also be used to assess the supply side of the legal industry.

We will analyze two of these forces which are especially relevant on the legal market regarding our previous developments: the threat of substitutes and the threat of new entrants.

#### ***3.2.3.1. The threat of substitutes***

By Porter's definition, "a substitute performs the same or a similar function as an industry product by a different mean" (Porter, 2008).

In this particular industry, substitutes come in the form of increasingly prominent in-house counsel, law firms operating under a totally different business model and other legal services providers, all taking advantage of the combined effect of liberalization, IT development and the unbundling of the legal supply chain.

##### ***3.2.3.1.1. In-house legal departments***

The first substitute that we analyze are in-house counsels, or in other words, the corporate legal departments. As we mentioned previously, market pressures "*motivated corporate clients to cut costs by building their in-house legal departments*" (Ribstein, 2011). However reducing cost is not the only reason behind the increasing power of in-house counsel: "*the more fundamental*

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<sup>26</sup> See article 4.12 of Le Code de déontologie de l'avocat, rendered mandatory by regulation of November 12, 2012, published in the Moniteur Belge on January 17, 2013.

<sup>27</sup> See article 4.13 of Le Code de déontologie de l'avocat.

*reason for in-house growth is law firm's inability to deliver legal expertise and value – as well as to integrate technology and process in delivery” (Cohen, 2016).*

Ribstein identifies four reasons why in-house counsel, particularly in large corporation, are ready to become even more prominent. “First, the legal information revolution enables firms to harness data and computing power to make legal judgments. Large firms produce data as a byproduct of their activities and have scale economies in purchasing computing power”. As we have previously mentioned, a number of technologies such as Big Data and intelligence legal search can play a significant role in the empowerment of corporate legal departments.

The second reason is the fact that” because large corporations exercise concentrated control over significant resources their purchasing decisions can shape the entire demand side of the market. By contrast, the law firm market is segmented and dispersed”. This leads to increased control available to in-house counsel in setting the conditions for their collaboration with external legal providers.

The third reason identified by Ribstein (2011) is that in-house legal department have more of an incentive to increase efficiency, and are therefore more likely to be willing to try new solutions:

*[large] corporations with in-house legal departments can overcome the incentive problems that impede adoption of legal technologies throughout the legal profession. The move to technology inherently threatens lawyers' basic business model, which relies on customized advice to individual clients. As lawyer-managed organizations, law firms are unlikely to take transformative steps toward technologies that will reduce lawyers' comparative advantage. By contrast, corporate in-house lawyers' strong incentives to minimize costs temper their guild-preservation mentality. Thus, the new methods are likely to face less resistance in corporations than in the general market for legal services. Even if in-house lawyers would want to protect lawyers' role, their desire for success and compensation within the corporation may drive them to embrace new technology”.*

The fourth reason for the rise of large corporation's in-house counsel is that “*corporate users of legal services do not confront regulatory impediments to these new technologies*” (Ribstein, 2011).

Additionally, in-house counsels enjoy a home field advantage compared to external law firms. Example of this advantage are “*superior knowledge of enterprise goals and risk profile; collaboration with core business interests; and integration with the enterprise IT platform*”.

They also are structurally and culturally better prepared to articulate legal, technological and process expertise. “*Simply put, in-house departments are doing a better job than law firms integrating technology and process into the delivery of legal services*” (Cohen, 2016).

It is important, however, to note that through our interviews with law firm partners, we learned that the development of in-house legal department is less advanced in Belgium than it is in the United Kingdom or in the United States. Indeed, interviewees all share the assessment that while legal department have generally grown in terms of human resources, they have not yet adopted new and more efficient technology. However, this shift is expected to occur in the coming 3 to 5 years, which makes our point relevant even in the context of Belgian companies.

The threat that they represent to law firms is two-folds.

First, because of the previously mentioned buyers' market situation, they have the ability to exert considerable pressure on large law firms, for which there are the largest clients. It is worth mentioning that the process of hiring external counsel has also shifted in many large corporations. Indeed, the “*[engagement] of legal services, once a cozy, relationship-driven process, has become a more disciplined, competitive, and value-driven one re ective of the ever-expanding legal supply chain*” (Cohen, 2016).

Second, the increased size and influence of corporate legal department have led to potentially different sourcing decisions. Clients tend to retain more legal work in-house, or to unbundle their legal problems in order to find the most appropriate providers for any given task<sup>28</sup>.

The combined effect of the downwards pressure on costs and of the willingness to source legal services elsewhere make the relationship between the legal department and procurement all the more relevant.

While this is mostly significant for large corporations, it is nonetheless worth analyzing as it is set to further influence the relationship between clients and law firms in the coming years.

It is however still an evolving situation, as, contrary to other many other corporate departments, “[legal] are just late to the procurement party and it seems they’d rather not attend it at all; while law firms have been just as resistant to procurement interfering in the business of buying and selling legal services” (Bartle, 2016).

Nonetheless, it is essential for legal departments to understand the requirement and dependencies of buying legal services. As such, “a formal process should be developed to effectively and efficiently manage these key relationships” (Joiner, 2012).

Hodges explains that while Procurement is responsible for the sourcing process, which consist in the negotiation and development of contracts, the evaluation of legal providers and the development of sourcing strategies, the selection of the law firms remains the legal department’s prerogative.

This increased professionalization and quantification of the selection process lead large corporation to take into account the opportunity presented by alternative legal providers, that constitute the next category of substitutes.

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<sup>28</sup> An Altman Weil global survey of Chief Legal Officer, or General Counsel, conducted in 2016, reveals that only 21.8% planned to increase their overall spend on outside counsel while 35.2% of respondents planned to decrease it. Among those, 80.9% indicated that the work would be redirected in-house, and 41.8% that the work no longer needed to be done.

#### 3.2.3.1.2. *Alternative legal providers*

As we have previously mentioned, the combination of looser regulation and technological development have allowed the proliferation of alternative legal providers.

Operating under a completely different business model, and being potentially managed by non-lawyers, these providers usually offer a specific service at a much lower cost and with more efficiency than law firms. They focus on one or a number of tasks that their clients are able to isolate by unbundling their legal work.

As we have previously mentioned, legal tech companies constitute a number of these alternative legal providers, focusing on their deployment of technology.

However, we cannot adopt the restrictive view that all alternative legal providers are legal tech companies. Indeed, a number of such providers put the emphasis on human resources rather than on technology.

According to a survey of almost 200 senior buyers of legal services, conducted by the firm Allen & Overy (2014), 63% of respondents had used Contract Lawyers in the previous two-year period, 34% had used Document Review Services, 28% had used Online Legal Services, 24% had used Legal Consultancy and Hybrid Legal Solutions, and 18% had used Managed Legal Services.

Additionally, respondents indicated that they planned to increase their use of all of these non-traditional legal services providers.

In order to provide a better understanding of these results, and therefore of the disruptive potential of such providers, we will present the definitions applied by Allen & Overy (2014) in the survey:

*Contract lawyers: Self-employed, independent lawyers engaged for short periods or a fixed term to provide flexible project support or fill an absentee position.*

*Document review service: Outsourced organisations that review high volume of legal documents at a lower cost, sometimes by non-legally trained individuals; often used in litigation or due diligence.*

*Managed legal services: Contracting out all or part of the function of the in-house legal team to an independent legal provider.*

*Online legal services: Standardised legal advice available only online; often accessed through a subscription service.*

*Legal consultancy: Independent consultants who advise on the management and operation of a legal department or the structuring of a large piece of work.*

*Hybrid legal solutions: A collaboration between two or more of the above providers, often combined with process and technology innovation.*

As we have previously noted, there are a number of restrictions on these services in Belgium: online legal services must meet certain criteria, and lawyers may not work as in-house counsel, nor as tax advisor, nor as legal advisor in any other capacity than that of a lawyer<sup>29</sup>.

#### **3.2.3.2.    *The threat of new entrants***

New entrants to an industry bring new capacity and a desire to gain market share that puts pressure on price, costs, and the rate of investment necessary to compete.

Porter (2008) also note that when new entrants are diversifying from other markets, they can leverage existing capabilities and cash flows to shake up competition. He adds that the threat of entry in an industry depends on the strength of entry barriers, and on the expected incumbent's reaction.

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<sup>29</sup> See article 2.3 of Le Code de déontologie de l'avocat.

In terms of barriers to entry, a good example are the professional services networks, the Big 4 in particular.

Indeed, all four of them already offer legal services in areas such as taxes and labor law. From this point of view, they are in fact already competitors of traditional law firms, according to all the lawyers that we have interviewed.

However, in Belgium, lawyers are not permitted to practice within the frame of such a professional network. Consequently, the legal services provided by the Big 4 are limited, as they cannot appear in front of a judge to represent their client, should any litigation reach this point. To counter this, they partner with traditional law firms to handle the aspects of the case requiring the services of a lawyer.

It is nonetheless important to note that, as compliance requirements are constantly increasing, and as the complexities of business dealings inflate the volume of legal challenges faced by companies, providers such as the Big 4, who are able to offer a large panel of solutions to a wide range of problems are becoming increasingly attractive to clients who want to rely on a single provider.

Additionally, we can echo here our previous developments on in-house legal departments regarding their excellent position in terms of leveraging new technology to improve their efficiency and their solution offering. Indeed, they can benefit from an existing culture of efficiency and from their own expertise in developing new services or solutions.

Consequently, we see that they are investing in a number of legal tech areas such as eDiscovery and Forensics. They can therefore become providers for client but also for law firms, creating an interesting dynamic on the market.



## 4. PART III: DESIGNING A STRATEGY

### 4.1.Objectives

The goal of this thesis is to provide an accurate understanding of what the digital transformation entails for established, large law firms, and to introduce a set of directions which firms' leaders can explore in order for their firm not only to remain competitive, but more ambitiously, to enhance their competitive advantage and strengthen their competitive position.

To this end, we have dedicated the first part of our analysis to understanding the digital transformation in the general terms, as well identifying the key building blocks that company leaders can leverage to affect change in their organization.

We have emphasized the fundamental requirement of developing and company-wide strategy in order to deeply transform the business, rather than focusing on any individual technology.

Our aim in this final part of the thesis is to develop a coherent strategic framework for law firms looking to stay competitive in this highly volatile era of changes. We argue that all previously mentioned developments can be leveraged to design a better performing, more client-centric law firm that will be beneficial for lawyers as well as for clients. While we do not underestimate the negative effects that such an evolution is likely to have on the firm, perhaps mainly on some categories of lawyers and law firm employees, we contend that there are extensive benefits to be achieved by correctly understanding and adapting to the digital transformation of the legal industry.

The combined effects of changing customers' expectations and quickly developing legal-tech have made it necessary for firms to reinvent the way they operate. In the words of Susskind, “[the] challenge is to innovate, to practice law in ways that we could not have done in the past” (Susskind, 2013).

## **4.2. Designing a strategy**

In order to effectively visualize the strategy, we will develop a different business model, allowing us to move away from the traditional business model of law firms. Christensen et al. recommend a three steps roadmap for reinventing a company's business mode: first understanding the customers' expectations, second figuring out how the company can fulfill the identified needs and finally, comparing this ideal solution with the firm's existing business model in order to identify the necessary changes and the best way to seamlessly move from one business model to the other without altering the company's competitive position.

This designing effort will be articulated on two axes.

First, we will adopt a Marketing perspective, moving from the ground up, starting with a better understanding of the customer, and allowing us to design the foundations of an ideal Business Model, without taking into account the imperatives and limitations of an existing law firm.

Secondly, based on the optimal scenario built on a Marketing foundation, we will adopt a Strategic perspective, developing a top-to-bottom approach starting with the Business Model, this time also taking into account the specific resources and limitations of an existing firm, in order to adjust the model with the realities of the existing business model being prevalent in law firms today.

### **4.3. The marketing vision**

The first part of our designing effort consists in presenting a set of options to build an "ideal" business model for a high-performing digitally-mature law firm.

This is in line with an exercise Susskind calls ‘blank sheet thinking’, which allows us to design a vision of the firm, without any constraints stemming from the firm existing position and organization.

The goal is not to draw an exhaustive picture of any firm or client, but to provide examples that we could later extrapolate from in order to apply this designing exercise to a specific situation and/or firm.

We have previously stated that, while IT is a crucial aspect of a company’s digital transformation, the main driver and focal point of the digital transformation for any company is the Customer Experience.

Accordingly, we will start with improving our understanding of large law firms’ clients, in order to better appreciate their evolving expectations. We will then try to formalize number of coherent value propositions, as well as opportunities in terms of offering.

#### ***4.3.1. Understanding the customer***

Based on the nature of practice at large law firms, which are almost exclusively focused on business matters, we can infer that the majority of clients are corporate clients. We are therefore in B2B type of relationships, or Business-to-Business. This means that law firms need to interact with individuals belonging to larger organizations. Each of these individuals belongs to distinctive category of customer, whose interaction with will ultimately impact the firms’ interaction with the entire company.

This makes understanding the customers more difficult, because “*in fundamental ways, a B2B company’s customers and their buying patterns are more complex than those of a business focused on retail customers. Indeed, a B2B company requires specific strategies to differentiate*

*itself via customer experience*” (Maechler, Sahni, & van Oostrum, 2016). This heightened complexity stems in parts from the fact in B2B relationships, there are multiple customer within the same client who interact with the firm.

To deal with the added complexity stemming from the multitude of customers in B2B relationships, Maechler et al. (2016) assert that the first step is “*mapping all customers*”. It is important to identify the specificity of each type of customer, in order to later design a value proposition tailored to meet their particular needs.

As a result, in order to provide the most accurate analysis, we need to delve a little deeper into the customer previously identified - the corporate clients. Within a company, multiple agents are involved with the company’s legal needs.

The biggest share of interaction relates to the in-house legal department, which is responsible for all legal business at the company. Headed by the General Counsel, or Chief Legal Officer, they are the reference point for all legal questions, no matter the size of the legal department. We will categorize this role as the Advisor role.

They are not however the only customer within the company. As we have previously mentioned, rising pressure on costs has led many companies to look for ways to better manage their legal needs, in order to limit expenditures. This has contributed to increasing involvement of the procurement team, or at the very least, to the application of procurement processes in order to better source legal services. Individuals managing the buying and sourcing aspect of legal services, whether they are the General Counsel, in-house counsel, procurement specialists or even Legal Operation Manager, will be categorized as Buyers in terms of customer segment.

Finally, company executives, including the General Counsel, also require legal services regarding strategic decisions or bet-the-company questions. We can thus summarize the Customer Segments that we will be looking into as Adviser, Buyers, and Decision Makers, with the understanding that the same people can fill these different positions depending on the specific situation.

#### ***4.3.2. Value proposition***

After clearly determining who the customers are, we can work to develop the Value Propositions, which described the different ways services and products can be mobilized in order to create value for a specific Customer Segment.

We will draw inspiration from the Value Proposition Canvas (Osterwalder & Pigneur, 2010), which offers a framework to help visualize the value proposition. However, as we are not working on a specific firm, we will not attempt to describe in details any of the jobs that clients need to perform, nor their pains and gains<sup>30</sup>. Rather, we will analyze the underlying needs that are common to every company, and therefore any potential law firm client.

The Value Proposition Canvas has two sides: the Customer Profile, which helps clarify the customer understanding, and the Value Map, which describes the way the firm intends to create value.

##### ***4.3.2.1. The Customer Profile***

The Customer profile describes a specific customer segment in a more structured way.

With the awareness that corporate clients are a mix of different customer segments - Advisers, Buyers and Decision Makers - we can now break down their jobs, pains, and gains, which will help visualize the Customer Profile.

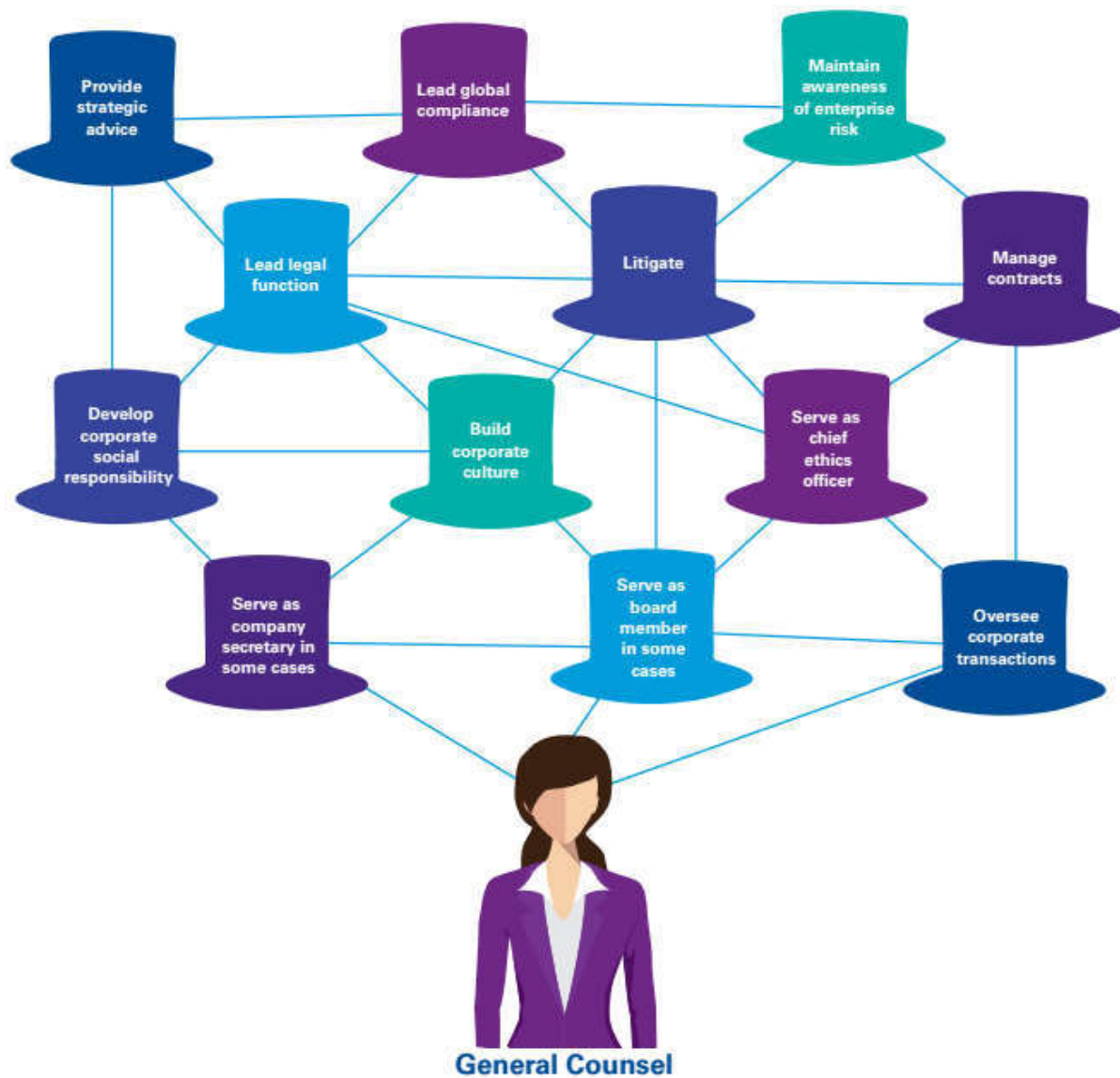
The customer jobs describe what clients are trying to achieve.

At its core, what companies need, regarding their legal obligations, is to protect themselves from legal risks and enhance their own operational excellence through the application of smart and efficient handling of legal requirements. Every single other need that we can identify regarding corporate clients stem from these two core needs.

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<sup>30</sup> Customers' jobs, pains, and gains are the three aspects of the Value Proposition Canvas, which we will partially use further.

A KPMG survey of General Counsel has highlighted 12 roles that General Counsels are expected within their company, to various degrees. As General Counsels are commonly understood to ultimately be responsible for all of the company's legal matters, we can draw from this list to understand the jobs that clients need to perform regarding their legal requirements. Understanding these jobs then empowers law firms to come up of with creative solutions for those of them that can, to whatever degree, be outsourced to external counsel.



Source: *Through the looking glass*, KPMG International, 2016

It is important to acknowledge that not all of those roles, or jobs, have the same importance regarding the legal department work. Obviously, those relating to managing risk are the most crucial jobs, as General Counsels bear the ultimate responsibility regarding legal risks with regards to the company.

In terms of managing risks, the same study identifies 5 categories of risks that are viewed by General Counsels as the ones they need to focus the most: Reputation, Regulation, Contracts, Litigation, and Technology-related risks. Unsurprisingly, most of these relate to some of the twelve roles previously mentioned.

In order to perform their mission, General Counsels, and more broadly legal departments, rely on external legal services providers. In an Altmann Survey of Chief Legal Officer, respondent indicate that their main concern is balancing efficiency and cost control. As they are responsible, either solely or with input from the procurement team, for sourcing outside legal services, GC's must also perform the job of buyers of legal services.

The second part of the Customer Profile is the description of the Customer Pains. These are anything that make getting the job done more difficult, or even prevent the customer from getting a job done.

Based on our previous analyses, we can highlight a number of customer pains. Indeed, we have already mentioned that the growing volume of rules and regulations, as well as of compliance requirements, have significantly complicate the job of GC's. The sheer volume of information, and the complexity of the information to master are one example of Pain faced by GC's when trying to protect their company from legal risks.

Regarding the responsibility of the legal department to enhance operational excellence, we have already mentioned that the main concern for General Counsels was cost control.

As the Altmann Weil survey of CLO shows, almost half of legal departments' budget consists in expenditure to outside counsel. Additionally, the same report also shows that the top three service improvement that General Counsels would like to see from their outside counsel are greater costs reduction, improved budget forecasting and non-hourly based pricing structures.

Evidently, the cost of legal service appears to be a major pain to customers, as General Counsels must ensure a high level of quality while also being pressured to reduce their spending. In the same line of thinking, a lack of costs predictability and a lack of transparency regarding what the clients are actually paying for in terms of service and in terms of tasks, as this reduce the General Counsels' ability to evaluate providers and therefore to choose which is the most relevant in a specific situation. Similarly, the complexity of law firms practice offering as well as the complexity of matters might make it difficult for client to identify which outside counsel is best suited for their particular need, which may represent a significant pain for the client. .

Half of respondents said that they shift significant amount of work from one firm to another because of client service. This seems to indicate that, while 2/3 of respondents declared that they either had no problem with the service delivery model of their outside counsel, or that they did not view it as an important factor compared to cost and output, a number of customers face additional pains.

We can list a few of these potential additional pains:

- Lack of efficient communication on legal matters
- Perceived lack of commitment, by external council, to the success of the business
- Lack of efficiency in management matters, which results in higher costs
- Lack of practicality, as the solutions offered, while sound from a legal point of view, may not be relevant to the business<sup>31</sup>

Finally, the third part of the Customer Profile is the description of the Customer Gains. These are the outcomes and benefits that customers want.

Obviously, the key gain expected by clients is to protect themselves from legal risks. This is of course absolutely essential. However, we can give a few examples of other expected gains:

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<sup>31</sup> For example, in terms of compliance requirements, it may be cheaper for the company not to comply and endure the penalty than invest in compliance. While outside the strict bounds of legal advice, this is nevertheless relevant and practical advice for company executives.

- Actionable, to-the point legal advice

With this understanding of the Customer Profile, we can move on to the formalization of key aspects of the value proposition of high-performing digital law firm.

#### **4.3.3. Output**

As we have mentioned, the value proposition describes the value that the firm wants to provide to their customers. This value exists through the offering of products and services developed by the firm.

Once again, we are not looking to give a definitive list of outputs which every firm must produce, but we want to present options.

As the goal of our analysis is to provide a starting framework for improvement, this list of products and services does not aim at being all-inclusive, but rather at highlighting directions in which firms can conduct further research.

In this thesis we have chosen to define services as an activity or process bringing value to clients over a period of time through continuous engagement by the firm, and products as packaged solutions aiming at empowering the clients to develop their own solutions.

In terms of services:

- Legal - Specific, highly tailored advice regarding specific or complex legal transaction.
- Legal/Advisory - Curated, industry or business-specific information based on new or prospective legislation as well as risk analysis and a framework or range of options in order to adapt to said legislation.
- Advisory - Information on technological tools available to in-house legal department to streamline their legal tasks.
- Management - Mobilization of multiple legal providers in order to design an integrated solution for the client (project management).
- Litigation

- Add-on services to software (additional advices; industry, business or practice specific plug-ins...)

In terms of products:

- Software allowing companies to draft contracts and other documents for day-to-day business activities.
- Software/App training tool for the clients to conduct legal training
- Information packages on specific topics for employees to refer to in day-to-day activities
- Software allowing a company to streamline specific practice with compliance.

We also include in this list the Supporting products and Services, which are specifically design to help the clients perform their buyer role, whether it is done by the in-house department or a procurement team.

In terms of supporting products and services:

- Budgeted offers providing a good understanding of the expected costs
- User-friendly platform allowing clients to keep track of their case (financial information, contact points ...). The goal is to give clients a better understanding of their own case and of the value brought by the firm. It also aims at increasing and centralizing communication to streamline the user experience.
- Risks analysis

We have previously mentioned Porter's definition of strategy (1996), which highlights the necessity to select which activities the company should perform, and maybe more importantly, which activities it should not perform. Identifying the client's needs and the activities required to satisfy those needs, as well as innovative ways to perform those activities is key to transforming the firm's business model.

#### **4.3.4. Business model**

Finally, building on our previous developments, we can summarize the Customer Understanding, Value Proposition and Offering into a Business Model.

While there are many defections and structure for business models, we have chosen to use the definition and structure provided by The Boston Consulting Group<sup>3233</sup>.

Therefore, we can define the business models as consisting on two essential elements: the value proposition and the operating model.

Each of these elements consists of three sub elements.

First, the value proposition is comprised of the understanding of the clients, the product or service offering that we create to satisfy the customers' needs, and the revenue model which describes how the firm is compensated for its offering. Second, the operating model consists in the value chain, the cost model and the organization. We will develop each of these elements as they articulate into the business model.

##### **4.3.4.1. Clients**

We have already extensively written on the customers and have developed a solid understanding of their needs. We can summarize our developments by noting that big law firms mostly target corporate clients, which they interact with through their General Counsel who are therefore the main customer of the firm. The General Counsel's core mission is to protect their company from legal risks and enhance their organization's operational excellence through the application of smart and efficient handling of legal requirements.

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<sup>32</sup> We have previously given the definition used by Johnson, Christensen, & Kagermann (2008). However, we believe that in this case, the definition given by The Boston Consulting Group allows us more easily articulate their various aspect of our ideal business model.

<sup>33</sup> As seen at <https://www.bcg.com/en-be/expertise/capabilities/strategy/business-model-innovation.aspx>

#### **4.3.4.2. *Offering***

We have already developed a better understanding of the customers and identified the jobs that the firm could address. This allowed us to present a series of potential outputs that the firm could offer. Based on this series, we will now analyze the third element of the value proposition: the revenue model.

#### **4.3.4.3. *Revenue model***

In this part, we will describe the various pricing structure which can be set up by law firms. As we have already mentioned, cost control is a key priority for General Counsels, who are therefore using various tactics to reduce their spending. It is therefore important for us to be able to correctly understand the opportunities for law firms to correctly charge for their offering, while remaining aware of what clients are willing to pay for. Our goal is to find pricing methods for various categories of products and services, which balances the need to compensate the firm for their expertise with the need expressed by clients to reduce their legal spending and to have more transparency and predictability.

In their book on the Business Model Canvas, Osterwaler and Pigneur (2010) discuss a number of pricing methods. We can use their definition to present a few potential solutions.

One such pricing solution is the Subscription fee. This type of fees may be used to compensate continuous access to a service for a defined period of time. This method is appropriate for services such as information platforms, or software enabling clients to better manage the legal aspects of their processes.

Similarly, fixed costs for a predetermined output are also a good solution because it gives clients the predictability and transparency which they are pressure for.

Hourly rate, finally, are one of the methods frequently use to compensate the specific expertise of individual, in this case, of lawyers. Indeed it makes sense to pay for the time of lawyers bring their experience and creativity, provided that tasks not requiring this level of expertise are handle and priced following a different method.

Choosing a pricing method for services is not easy, as it is generally more complicated to identify parameters such as costs than for products. However we can attempt to categorize pricing methods based on what the client pays for: with hourly rates, the client pays for the lawyer's time, attention and specialized expertise, with subscription fee the client pays for access to information, tools, and generally for self-service solutions which empower the client and finally, with fixed fees the client pays for automatable matters<sup>34</sup>.

#### **4.3.4.4.    *Value chain***

While the offering describes the form in which we deliver value to our clients, the value chain describes how we create that value through the use of our resources and the implementation of processes. The digitally advanced firm creates value in two forms: enhanced expertise and efficiency.

Additional value is created when the quality of the expertise is improved, in other words, when the output delivered to the client is either more specific, more actionable and useful and when it better satisfies the client's needs. There are numerous ways this can be achieved through effective use of legal tech. We can make the distinction between back office solutions, which the client does not interact with, and front-end solutions which directly involve the client.

With regards to back office solutions, we can draw from our previous developments on legal tech solutions to give a number of examples. Legal research and analytics provide lawyers with additional insight that they can turn into higher quality advice. In terms of efficiency, additional value is created when legal tech and project management are leveraged to perform a larger volume of tasks in a cost efficient fashion. Document reviews system, which are able to process large volume of documents improve efficiency in all practice of the firm, as it may be used to perform tasks for due diligence and compliance matters or contract analysis. This in turn leads to higher quality, as it allows lawyers to spend more time. Similarly, automated document assembly may be used to significantly reduce the time necessary to produce a draft for things such as contracts, with the same benefits.

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<sup>34</sup> There are automated tasks in every matter, however we believe that fixed fees are appropriate for matters in which most of the work is automated.

Regarding front-end solutions, which those that directly involve the clients, either because they are self-services for the client to use, or because to require some client input, we can also relate to our previous developments on legal tech and services unbundling. One example of client facing solutions is packaged information made available to clients online. As it improves clarity for clients and therefore enhanced their ability perform their jobs, this is value that is created though lawyers' expertise being made available to the client not in terms on time spend on a legal matter but in terms of delivered output.

The first aspect of this improved value chain is the unbundling of legal matters, which we have already extensively written about.

In order to reach operational excellence, lawyers, IT specialists, and project managers must analyze every aspect of the clients 'needs and identify the tasks that must be performed to satisfy these needs. Once the tasks are identified, the team must list the options available to perform the tasks. Then can then choose which option is the most appropriate in terms of quality, costs, integration within the larger organization.

By systematizing this process for every aspect of legal work, law firms can find quality solutions for their client, while ensuring more control on costs and therefore lower fees, as well as more internal efficiency which frees lawyers up from low-values tasks, and gives them the opportunity to spend more time and energy working on complex legal tasks.

As tasks are categorized based on the level of human involvement and expertise necessary, the firm can then identify and source the technical tools or the outsourced legal providers that they need to mobilize.

Regarding technological solution, they are off-the-shelf systems which do require less development from the firm, in order to design innovative solutions, the firms must be willing to invest in terms of time and effort to develop and implement the best systems in the most efficient way. To design these solutions, lawyers must work with IT specialists who are able to translate the vision and specificities of the products and services imagine by lawyers into useful, efficient, user-friendly technological solutions.

Legal work, as well as legal tech tools, may be sourced in a variety of different way. Of course, it can be done completely internally, by mobilizing the lawyers and the firm's own IT team. However, the firm can also seek to work with outside providers, which are able to bring a different set of resources and capabilities. As we have mentioned when discussing technology as it integrates into digital transformation, 87% of B2B companies work with third-party providers, which can bring a number of benefits (Forrester, 2015). Indeed, working with specialized third-party solution providers allows the firm to access high value capabilities, as well as reducing the strain on the internal IT department. This reduced burden on the resources of the IT department allows these internal specialists to focus on integrating the designed solution with the large structure of the firm's technology and processes.

Beyond the development of solutions, either in-house or with third-party providers, the firm may also work with outside legal providers, to which they can outsourced a number of tasks. As we have previously discussed, this give the firm the opportunity to reduce its costs, therefore being able to match the cost control expectations of clients. This also can greatly improve efficiency.

With regards to both legal tech solution and legal service providers, the firm operating under our ideal business model should be able to develop a number of relationships with its providers, allowing it to evolve in an ecosystem fostering value co-creation.

Indeed, the firm should develop a clear framework to evaluates its providers and define the degree of control it needs to have on processes and output. This is of course a crucial aspect of correctly managing the business evolution, as the firm remains ultimately responsible for the final output: quality must remain the paramount concern when designing innovative solutions aimed at improving cost and time efficiency.

#### **4.3.4.5. *Costs model***

The costs model describes how the firm can structure its assets, costs and investments in order to profit from the delivery of its value proposition.

Given our observations regarding the value chain, the major sources of costs in a digitally evolved firm are human resources and technological investments.

Regarding technology, in order to be able to deliver its value proposition, the firm needs to invest in Legal Tech solutions and tools. While this likely represents big up-front investments, it should also be rapidly profitable if the firm manage to get a sufficient volume of work, as the marginal cost of usage of implemented technological solutions is near zero.

#### **4.3.4.6. *Organization***

The organization describes how the firm must deploy and develop people to enhance its competitive advantage.

As we have mentioned, lawyers are the key resource of the law firm. It is therefore important to understand which structure would be the most conducive to efficiency.

As a number of routine tasks are automated through the use of legal tech, junior lawyers have the opportunity to spend more time focusing on higher-value tasks. Accordingly, fewer junior lawyers are needed on a specific case. This is significant in terms of staffing, as well as in terms of training, as being involved on a larger volume of complex legal tasks allows young lawyers to gain experience faster. Consequently, their value in terms of contribution to the firm is enhanced.

Regarding more senior lawyers, the same observations apply with regards to their ability to focus on higher value tasks. Additionally, in order to be able to offer specialized expertise, the firm needs to be staffed with highly specialized lawyers who are able to integrate their own experience into digitally enhanced processes and global teams of specialized lawyers.

To deliver the type of value proposition which we have previously described, a number of other positions need to be filled.

Obviously, a solid IT team is necessary, to perform a number of roles. First, they need to supervise the implementation and maintenance of technology across the firm, both for back-end and client-facing system. They must also be involved in the development of these solutions, either completely or in partnership with third-party providers.

In addition to lawyers and IT specialists, a staff category that a digitally capable firm should invest on are paralegals, who are describe as “A person qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible”<sup>35</sup>. Within our ideal business model, paralegals are not tasked with routine, automatable work. However, there is a clear need for qualified professional with a very good understanding of legal requirement and processes, as well as of the firm’s value creation processes. Indeed, as the firm invest in legal tech, of which many systems rely on machine learning, these systems have to be supervised and trained, which involves review the output and correcting the assumptions and interpretations.

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<sup>35</sup> As described by the American Bar Association. The definition is available at [https://www.americanbar.org/groups/paralegals/resources/current\\_aba\\_definition\\_of\\_legal\\_assistant\\_paralegal.html](https://www.americanbar.org/groups/paralegals/resources/current_aba_definition_of_legal_assistant_paralegal.html)

## **4.4.The Strategic vision**

So far in this thesis, we have developed a definition of the digital transformation, as well as of its key elements. We have then analyzed the major trends impacting the legal market globally, and in Belgium in particular, which has highlighted the fact that law firms absolutely must transform the way they create value and how they deliver it.

In the previous part, we have attempted to develop a vision of the "ideal" business model for a high-performing digitally-enhanced law firm. However, successful, established law firms cannot scrap their entire business model in order to evolve into a digitally evolved organization.

In order to contextualize and understand our how ideal business model might fit into existing law firms. To this end, we have conducted interviews with partners at three leading law firms: Linklaters, Jones Day and Allen & Overy.

We will present the most interesting points discussed during these interviews by themes, which will allow us to better understand the realities of the digital transformation of law firms.

In light of these observations, we will then conclude this thesis with a number of recommendations for law firms aiming at successfully transform their business into a digitally enhanced firm.

### ***4.4.1. Analysis of the interviews by theme***

#### ***4.4.1.1. On the perception of the legal market***

All interviewees agree with the point of view that the legal market is currently undergoing a systemic transformation, due to the pressure on costs faced by clients and therefore also passed onto law firms, and to the developments in technology. Client's expectations are changing and the job of lawyer as well.

#### ***4.4.1.2. On in-house legal departments***

All interviewees agreed that the in-house legal departments of most of their clients have grown in recent years in term of human resources. However, in terms of the usage rate of legal tech, respondents have not seen a real evolution so far. This was explained by Mr. Van Elsen by

the fact that in-house departments have to operate within the larger structure of their company, which might lengthen the decision time.

Nonetheless, interviewees noted there is a clear interest shown by in-house legal departments and that they expect a wider deployment of legal technology in the coming years.

#### ***4.4.1.3. On cost pressure***

All interviewees reported being under a lot of pressure from their clients to lower costs, and to provide more transparency and predictability. However they also all reported that clients were willing to pay high fees for specialized expertise.

#### ***4.4.1.4. On revenue model***

All interviewees reported that hourly billing remains the most widely used method. However, pressure from clients to better control costs and increase predictability drives the use of Alternative Fee Arrangements, especially of capped fees.

Mr. Van Elsen reported that fixed fees are widely used as well, especially in the case of industrialized, high-volume tasks. Regardless of the tools and process used, the clients only pays for the output.

Additionally, subscription fees are also increasingly used, to compensate access to services such as packaged legal expertise online or self-service solutions developed for the client.

Mr. Van Overstraten highlighted the challenge posed by the introduction of new processes and tolls, as well as new services, in terms of identifying the most adequate pricing method. The goal is to balance the clients' demand for costs efficiency, with the necessity to remunerate the technological investment as well the access and/or use of lawyers' expertise when it is delivered in a non-traditional form, such as the output produced by an AI system which has been developed and perfected with using the firms 'expertise.

#### **4.4.1.5. On organization**

On this topic, interviewees showed different opinions.

Mr. Van Overstreuten expressed his expectation that in the coming years, the firm will move from a pyramidal structure to a straighter structure, with fewer junior lawyers, but more paralegals and professional support lawyers tasked with supervising machine learning. Additionally, he expects that there will be more IT specialists as more management specialists to handle project management. In terms of project manager, Linklaters already created the role of Legal Project Manager, who is involved on complex, multinational matters and whose sole responsibility is to bring project management expertise rather than legal expertise.

Differently, Mr. Champagne believes that while there may be a possible reduction of the number of junior lawyers in the short run, after an adaptation period, the number should get back to where it was, as the increased efficiency will simply lead the firm to rethink the way it allocates tasks to junior lawyer, having them spending more time in higher added-value tasks.

In terms of project management, he contends that there is no need for management specialists as lawyers already are project managers, and have experience handling complex cases across multiple jurisdictions.

Similarly, Mr. Van Elsen does not believe that there will be a reduction of the number of young lawyers, as they will be needed for higher-value tasks in the additional work that the firm could gain by opening up new lines of service.

However, regarding project management, the firm has taken a systematic approach with what they call the "A&O" way. Mr. Van Elsen describes it as a team of legal project management specialists responsible for developing management processes, support tools and training for all lawyers across the firm. Additionally, as is being done by Linklaters, they may also be assigned as designated project managers to larger and more complex matters.

In terms of training, all interviewees agreed that it will become necessary for all lawyers, junior or senior, to gain a better understanding of technology in order to take the best possible advantage of new tools and solutions and to improve their ability to design innovative solution.

#### **4.4.1.6. *On processed and tools***<sup>36</sup>

In terms of the effective deployment of technology within the firm, interviewees had two different perspectives.

Mr. Champagne indicated that while large investments are made in-house to the IT department in order to develop back-office solutions aimed at enhancing the quality of the legal services provided by Jones Day, the focus of the firm remains on the lawyers' job. There does not seem to be any development in terms of client facing solutions, as this does not relate to services provided by law firms but rather by IT providers.

This is not the view exposed by either Mr. Overstreten nor by Mr. Van Eslen regarding Linklaters and Allen & Overy.

At Linklaters, in addition to back-office systems already implemented for document management and automation, are also working with third-party, specialized providers Kira Systems and RAVN Systems, for application in areas such as contract in due diligence. They also develop client-facing solutions such as the LinkRFI software, which is used by banking institutions in matters relating to compliance.

Additionally, the firm is developing Nakhoda, its own AI in-house in partnership with Eigen Technologies Limited. The flexible AI platform may have numerous applications to enhance the efficiency of many legal process, among which data room management, due diligence, disclosure, document comparison. The platform is currently for internal use only, but the firm is looking at potential application in client-facing solutions.

At Allen & Overy, there is a clear focus on innovation in terms of legal delivery, which involve developing solutions with the clients to solve their challenges. One of the key elements of the firm's toolkit is the Legal Services Center. Initially developed to provide support in high-

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<sup>36</sup> In order to provide a clearer view of this part, the information discussed during interview has been supplemented publicly available information found on the firms' respective websites or shared with us by interviewees.

volume matters in a cost efficient way, it is now increasingly used to handle more tasks stemming from the decomposition of work streams in complex cases.

The Legal Service Center handles work such as document review in litigation preparation, contract and loan due diligence, document drafting and research tasks. It is staffed with specialized lawyers and paralegals who work to develop to-the-point, user-friendly output in a cost efficient way while maintain the level of quality that clients expect from the firm.

Additionally, the firm is committed to developing tools which can be used in self-service directly by clients. These tools are developed by multi-disciplinary teams associating lawyers, in-house IT specialists and, if necessary in terms of technical capabilities, third-party IT providers.

One example of such a client-facing solution is the MarginMatrix™ solution, which was developed to negotiate a large volume of agreements as part of a regulatory change project in derivatives. The solution was developed as a combination as Allen & Overy's expertise in tech enabled solution and legal expertise in derivatives, and the managed services and development capabilities of Deloitte. The solution is an end-to-end stand-alone service, made available to clients in exchange of an annual subscription fee.

#### ***4.4.1.7. On culture and innovation***

In terms of conducting the transformation, interviewees have also expressed different views which reflect the different direction taken by their respective firms.

While Mr. Champagne indicated that Jones Day was not looking at a radical transformation but rather incremental improvement of the firm's practices through the internal use of technology.

At Linklaters, a committee is in charge of evaluation opportunities and driving innovation within the firm. The firm is committed to innovation both in technology and in business models.

At Allen & Overy, change is viewed as a strategic imperative. They attempt to implement firm-wide commitment to innovation and future-proofing the firm. This commitment also translates into the willingness of the firm to develop an ecosystem to foster innovation. This is evidence by the tech innovation space that will be launch by the firm is September 2017. The goal

is to accelerate practical solutions in legal tech, regtech and dealtech through co-creation between technology start-ups, law firms and clients. The firm aims at developing an ecosystem involving actors from all sectors of the legal market in order to find innovative solutions in terms of legal services delivery.

#### ***4.4.2. Recommendations for law firms***

##### ***4.4.2.1. Widening the definition of the clients' needs***

As we have emphasized in the first part of this thesis, the basis for digital transformation, beyond the development of technology, are the evolving customer expectations. Indeed, successful businesses today must excel at understanding their customers.

To this end, the firms should increase communication with their clients and prospective clients in order to better categorize their needs. While Customer Relationship Management tools are already used in large law firms, there are many opportunities at value co-creation with clients, which can be achieved through adopting a wider definition of the clients' needs beyond the traditional legal requirements.

##### ***4.4.2.2. Developing processes and services addressing these unmet needs***

Whether a firm chooses to focus on a limited range of legal services in which they are very specialized, or chooses to evolve towards a master legal services providers and act as a one-stop-shop coordinating the design of solutions for all of their clients' legal needs.

Clearly decomposing work streams and evaluating what tools and services are the most appropriate, which of those can be developed in-house and which require the involvement of third-party providers.

##### ***4.4.2.3. Adapting the organization***

In terms of organization, we have highlighted staffing needs that are different from the traditional structure of large law firms. Indeed, most law firms currently operate as pyramidal structures, with a high ratio of junior lawyers per partner, who are responsible for a number of tasks that can be or already outsourced or automated.

We do not believe that this indicates that firms need to cut the number of young lawyers they hire, however we share the opinions of all our interviewees who have expressed that the firms will need

Additionally, we have explained that as firm implement a number of automation and outsourcing solutions, junior lawyers will be able to dedicate more time to higher value tasks. This means that they will be handling more responsibilities and getting training at a faster pace. This will inevitably impact the way firms view young lawyer training, which should be adapted to better fit the new reality of junior lawyers.

However, training should not only be a major focus point juniors lawyers, but for more senior lawyers as well. While continuous training in legal areas is already a requirement for lawyers, the forms should also invest in project management and IT training for its lawyers.

#### ***4.4.2.4. Experimenting with revenue streams***

As firms develop tools to improve their efficiency, and widen their offering in terms of products and services, they must find fee structure which allow them to monetize their output while also enabling their clients to reduce their legal spending.

In the Altman Weil survey of law firms, more than half the respondents noted that non-hourly-billed projects are either equally as or more profitable than projects billed at an hourly rate. The survey also reveals the profitability of non-hourly based projects seems to be linked to the attitude of the firm towards alternative fee arrangements: firms that proactively discuss such arrangements with clients tend to see a higher profitability.

Consequently, we recommend that the firms systematically analyze the potential profitability of various fee structures, from hourly rate and AFA's to subscription fees, to identify those that better fit the specific situations of their clients and of the cases. This internal formalization can then be translated into transparency for the client that goes beyond the current standard practice of communicating details of billable hours to the clients. However, real transparency lies in the communication of the use of resources need to reach a specific output.

Indeed, in order to present a budget, the firms must decompose the matter, identify the costs associated with each automatable tasks as well as the involvement of lawyers in terms of time and expertise.



## 5. CONCLUSION

In this thesis we have attempted to provide a clear vision of the evolution of the legal industry and its current and future trends, based on which we have developed strategic recommendations for law firms eager to enhance their competitive advantage through a new digitally powered business model.

To do this, we have developed the concept of digital transformation for companies in general. We have then narrowed our focus to the legal industry in particular. This analysis of the legal market was divided in two parts, the demand and the supply aspects of the market. While focusing on demand, we have found that the most impacting trends are the pressure from clients' for lower fees, as well as the decreasing market share of law firms globally, despite the growth in demand for legal services, mostly due to the increasing volume of compliance requirements.

Regarding the supply side, the major trends are the liberalization of the legal market and the rise of legal tech, which is made possible and increasingly efficient by the unbundling of legal matters into individual tasks. While some require the involvement and expertise of lawyers, a significant portion of those tasks can be automated and performed more efficiently and at a lower costs by machines.

This unbundling of legal services combined with technological advances is leading to the development of legal tech solutions in a number of areas which can be leveraged by law firms, clients and third-party providers to enhance the delivery of legal services.

We have then analyzed the impact of these evolutions on the legal market in terms of competition. We have found that the most significant threats to law firms are substitutes: which come mainly in the form of in-house legal departments and alternative legal providers. Regarding in-house legal departments, they redirect an increasing portion of work inwards, therefore reducing their need for outside counsel. Regarding alternative legal providers, they deliver legal service in a completely different fashion, which allows them to be more costs-efficient, responsive and client-centric, whether they are supported by legal tech or by different staffing models and solutions.

In the final part, we have developed recommendations for law firms looking to strengthen their competitive advantage in this era of rapid and profound changes. These recommendations are based on our vision of an ideal business model for a digitally-enhanced, client-centric innovative law firm. This ideal vision has been balanced by a snapshot of some of the initiatives taken by three major global law firms, as well as of the perspective developed within those firms regarding the transformation of the legal industry, both in economic and technological terms.

In practical terms, we have recommended that law firms adopt a more client-centric approach, as well as a wider definition of their clients' legal needs. This would enable the firm to identify challenges that they could address for and with their clients. Secondly, we have recommended that firms use that deeper understanding of their client to develop new solutions based on new ways to address problems, with a focus on producing practical, user-friendly and actionable solutions, with the same or a superior level of quality in a more costs efficient fashion. Thirdly, we have recommended that firms adapt their organization in order to have the capabilities required to develop and implement innovation solutions. In terms of staffing, this means investing in IT specialists and support staff such as paralegals who could be tasks with calibrating and instructing the machine and system in place in the value chain. In terms of training, this include improving the technical understanding of lawyers in IT and in client's industries, as well as their project management skills. Finally, we have recommended that the firms implement a number of alternative pricing methods which better balance the need for law firms to make profits and recover their heavy technological investments, and the need of clients to better control and predicts their legal spending's.

Ultimately, the fundamental point of this thesis is that, while there are indeed a number of potential threats and sources of disruption in the legal industry, we do not believe that this spells the doom of traditional large law firms. Rather, we believe that the digital transformation affecting all industries constitutes a prime opportunity for these firms to reinvent themselves in a way that will create more value for their clients, and that will further capitalize on the expertise and creativity of their top lawyers by enhancing their work through technology.

### **5.1.1. Further research areas**

In this thesis we have chosen to focus on large global law firms for two main reasons: operating in various markets, they are more likely to be influenced by the developments and innovations already at work and more advanced in other countries, and being large structure, they are in a better position to invest heavily in innovative solutions. However, as large firms invest in legal tech start-up and other solutions providers, their development are making those solutions increasingly accessible to smaller firms with smaller budget. Developing a framework for the digital transformation of small firms would allow research and professional to gain a more thorough understanding of the legal industry. Similarly, research into the development and implementation of alternative legal solutions within corporate legal departments would also improve researcher's understanding of the legal industry.

Additionally, while we have mentioned that the job of junior lawyers will likely keep evolving away from routine tasks and into a larger volume of high-value work, we must understand what it will imply in terms of young lawyers' training within their firm. Similarly, researchers might look into legal education, as the way law students are taught should logically change due to the changing nature of the job students are being prepared for.



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