



## Becoming A Visionary Law Firm: Developing Board Foresight

By Patrick J. McKenna and Vincent A. Cino

Nearly every law firm of any significant size will have a Board of Directors or Executive Committee comprised of partners elected by their peers, for some predefined term. Some Boards are primarily concerned with providing oversight on the activities and actions of their management team (managing partner, management committee and administrative professionals) and some are actually charged with developing the firm's formal strategic plan or direction such that the management team can then focus primarily on implementation. In either scenario, your elected Board is a valuable resource . . . if used properly. According to the most recent report from Citi Private Bank's Law Firm Group, law firm leaders "struggle to see the market," are not very good at making predictions about what is likely to transpire in the near future and are often victims of a "positive bias" which doesn't then translate into reality.

Meanwhile if we were to examine what happens in many law firms' Board meetings, the vast majority, if not most all, of the Board's time is spent on internal versus external, and operational versus strategic discussions. With the accelerated pace of change currently going on within the legal profession we believe that law firm Board meetings need to find the means of engaging Board members in more external and strategic discussions. Many will likely remember Jack Welch, the former CEO of General Electric, saying, "If the rate of change on the outside exceeds the rate of change on the inside, the end is near."

The role of your board should be directed to help guide the firm successfully into the future while also governing for the present. Boards move toward the visionary when they excel at not only providing oversight and insight, but, even more importantly—foresight. This is a challenge, and future focus and expansive thinking can and will make all the difference. Building and maintaining a visionary board is a journey and every board starts in a different place; some are highly effective and looking to become more future-focused in their perspective, while others have a long way to go

Leading firms know their future will not be an echo of the present. In fact, we believe any firm's elected Board members need to regularly engage in deep strategic thinking about trends currently shaping the profession. Have your partners thought about how the advent of online legal services, artificial intelligence, big data or predictive analytics will impact their personal practices?

Getting to the future first requires firms to be deliberately farsighted. Why is this important?

By investing serious time in examining trends, it will enable you to see what competitors may not, thereby allowing you to be a leader in exploiting new opportunities or preparing contingency plans for the possibility of any disruptive events.

We are not talking about navel gazing or trying to predict the future. Rather, tomorrow's potential threats and explosive opportunities are already being hinted-at today. If one looks closely enough, one can see the beginning of trends, often years before they become common knowledge. Seeing the future requires that you understand the potential of what is already happening. The essence of winning in a competitive marketplace is to be at the right place *before* the right time.

## SCANNING THE FUTURE

Our central premise is that there is no proprietary data about the future. Whatever you need to know about tomorrow is to some extent, already visible. The data is there for everybody to see, but there is an enormous difference in firm's abilities to construct new opportunities out of that understanding.

Interestingly, the sophistication of professional service firms varies considerably in the discipline with which they direct consideration to their external environment. The largest and most sophisticated of the accounting and consulting firms have long devoted serious attention to what is happening outside their doors. Many even have special Advisory Boards comprised of various industry leaders, who meet regularly with the firm's leadership to help them see what is evolving in their different client industries. Most law firms, however, are populated with professionals who are so pre-

occupied with their particular area of specialty, that they are remarkably out of touch with the wider world.

Not all partners are equally up to date on what is happening. Many will be fully aware of issues that affect their particular practice area, but it is not at all uncommon for an entire practice group to lack a coherent concept of those macro-trends affecting some of the client industries they serve.

By way of illustration, here are examples of “what is going on out there”:

- Every minute we send 204 million emails and send 278 thousand tweets.
- Google alone processes an average of 40,000 search queries per second – 3.5 billion per day.
- The total amount of data being captured and stored by industry DOUBLES every 1.2 years.
- The BigData industry is expected to grow from \$10.2 Billion (2013) to \$54.3 Billion this year.
- There are some 7000 peer-reviewed medical journal articles published every day.
- The first 3D printed drug is expected to be approved by the FDA in . . . 2015 (it has already happened) and 3D human tissue is now being implanted.
- There are currently over 1400 LegalTech start-ups on AngelList with an average \$3.9 million valuation - - and many of them are looking to eat your lunch!

Realistically, can anyone who devotes time to exploring “What’s going on out there,” ever fully understand all of the dimensions and interpret all of the signals? Not likely! With that pace of change and a business environment that becomes ever more complex and fluid, it

becomes critical that members of your elected Board maintain a running dialogue on the meaning of significant events and trends – and that they use their understanding of those trends to develop consensus on refining the direction and strategy of the firm.

## THE PROCESS OF ANALYZING TRENDS

Consider this: if we knew in 2015 what we will know in 2020, (only three foreseeable years into the future) how would we change our attitudes, actions and the way in which we practice law – the services we offered, the clients we targeted, and the ways in which we chose to deliver our services? That is what this process is really all about – observing the present trends to determine how we might intercept the future.

There are a number of different steps involved in going through a process of identifying and interpreting external trends. At Jackson Lewis this has become a regular review item on the agenda of every Board meeting.

### Step 1: Identify The Relevant Trends

Your first step is simply to scan the external environment for early warning signs and for areas of new opportunity. At Jackson Lewis we started by identifying a number of different environmental components. The importance of each may be quite different depending upon the practice composition of your firm. We then had the individual members of the Board voluntarily select one specific component they would be willing to invest time into monitoring between meetings. By studying the goings-on in these areas and connecting the trends in all of them, you can begin to build a reasonable basis of fact (and speculation)

about what will happen over the foreseeable future.

The process of identifying these trends, transforming the data into valuable insights about the future of your markets / practices is an inseparable part of the intellectual leadership that your Board can provide the overall partnership. While consultants might help, they should not supplant the Board's work. If the members of your Board create it, they will own it. It will form a key part of their thinking process and will guide the decisions they make.

What the Jackson Lewis Board has done is have each member voluntarily devote time to doing research, through various publications (both within the profession as well as across related professions), the internet, speaking with consultants, clients and so forth. The challenge for each Board member is: "In your opinion, what would be the most important trends capable of impacting both positively and negatively, the overall profession and our firm's operations over the next few years?"

In general, it helps to keep each identified trend reasonably concise; otherwise reading and reviewing it becomes a chore. Drowning your colleagues in facts, figures, charts, graphs, and detailed analysis makes it difficult for busy practitioners to find the critical insights that can help them shape their direction. Therefore, document and distill each trend in a carefully prepared, thoughtfully written, one-page statement of "what's going on out there." Also, the act of distilling the information can often lead to valuable insights. Explaining something in concise terms forces you to focus on the core concept.

## SOME EXTERNAL STRATEGIC COMPONENTS

### 1. How Technology Is Reshaping the Practice of Law

#### Study Group:

As the natural evolution in legal services pushes more of what lawyers do from being highly specialized to being highly commoditized, it opens the door for innovators to creatively package and offer clients internet-based legal services that allow the client to do for themselves that which previously they had to hire a lawyer to do for them. The implications are profound (see LegalZoom.com).

Many of the tasks currently undertaken by lawyers, often in costly buildings, in downtown financial centers, may soon be more cost efficiently done elsewhere or differently. Concurrently, we see firms sharing their most cherished templates on common web sites that competitors or any prospective client can access, while other firms market themselves to prospective clients on Twitter, and still others are beginning to explore how bigdata, artificial intelligence and predictive analytics might be utilized in litigation matters.

*What does this all mean for how we should embrace or utilize technology going into the future?*

**Example:** The Legal Technology Core Competencies Certification Coalition, or LTC4, has created a certification program around lawyers' use of technology.



The organization argues that rapid technological changes, alternative fee models and increasing scrutiny from clients are putting pressure on attorneys to prove their worth.

## 2. New and Emerging Areas of Practice

Study Group:

Entire industries from automotives and financial services to the newspaper business are being swept by fundamental, ‘transformational’ change. Meanwhile numerous State governments have identified selective industry clusters for long-term strategic job creation. New advances in the science behind energy, infrastructure, connectivity and health care drive fascinating new areas of growth. Success going into the future may very well depend upon identifying where the best opportunities are to gain a “first mover advantage” and develop knowledge in specialized areas of the law in advance of our competition.

*Where are the best opportunities going to be in the coming years and what opportunities should we be proactively investing in?*

**Example:** There may be a bright future for Micro Colleges. The systems used to create colleges centuries ago seem justifiably primitive by today’s standards. Learning formulas for nearly every degree are based on hours, one of the least important considerations when it comes to assessing talent.

Colleges today cost far too much, and they take far too long. For this reason, a new wave of full-immersion skill training centers, or Micro Colleges, have begun to emerge. Look for Micro Colleges to crop up around every hot new industry including VR, 3d printing, Inter-

net of Things, flying drones, crowd funding, cybersecurity, cryptocurrency, and many more.

## 3. Competitive Threats and Our Evolving Marketplace

Study Group:

Law firms are continuing to expand across a broader geography than ever before and with aggressive geographic growth and merger plans. Many of these competitive firms are leveraging their strengths in specific practices or industries as the catalyst for either setting up offices in new locations or acquiring selected firms. Meanwhile, corporate legal departments are bringing increasing amounts of legal work in-house rather than sending it to their outside law firms.

*How will our marketplaces likely evolve over the coming years and what do we need to do to capture a greater share of the better business?*

**Example:** The Corporate Legal Operations Consortium (CLOC) is gaining traction as a go-to organization that can help legal entities optimized their service delivery models. CLOC has worked to establish standard measurements and metrics for law firms and corporate legal departments to get a better sense of the value of the services they are charging for... and paying for.

While this list of three components is not meant to be comprehensive it should serve as a starting point for us to examine some of the myriad different trends and developments now emerging.

## BEWARE OF INCOMPLETE OR DEFECTIVE DATA.

In one of those classic “Pink Panther” films, Peter Sellers, is seen checking into a quaint hotel. In a corner of the lobby, he notices a small dog. Thinking he might go over and pet this cute little animal, he inquires of the innkeeper, “Does your dog bite?” Hearing the elderly gentleman say no, Sellers reaches down only to have the dog snap ferociously at him. Sellers turns to the innkeeper and says, “You said your dog didn’t bite!” To which the gentleman calmly responds, “That’s not my dog.”

In identifying relevant trends you must remain keenly aware of the problem of incomplete or defective data. What you ask, whom you ask, and how you ask can be critical to getting valid and useful information. Here are a few guidelines to consider:

- Censor incoming bits of information at their source. Be constantly vigilant to the impartiality and agendas of reporters, journalists, commentators and anyone supposedly in-the-know, reporting their take on some new development.
- Get as many different perspectives as possible. If you are hearing the very same predictions from a number of sources, try to find a contrarian view.
- Distrust your own biases. If you are hoping to find the research to support a strategic decision you have already made, it is very likely that you will find the support you are looking for.
- Be willing to contradict prevailing beliefs. The majority is not always right, the conventional wisdom not always wise, and the ac-

cepted doctrine could very well be flawed. Breakthrough thinking depends on it.

- Be careful of jumping to conclusions. Are you betting your future on the assumption—that a particular market will materialize, grow or disappear? Do you have enough real evidence to support your conclusions?

## Step 2: Discuss and Evaluate Each Trend

Having this as a consistent agenda item at every Board meeting should provide the means for focusing attention on the business environment, sharing observations and building consensus about what the signals are telling us.

An effective way to tackle this is for your Board to divide into small working groups. These participants share their thinking about the issues and thereby can uncover important differences in the ways each might perceive the impact of any given trend. Each group selects one of the trend categories (i.e., technological changes, etc.) and prepares its interpretation of the data. During the process debates or differences will emerge about various aspects of these trends. Although these discussions can become rather animated, they are useful. To see the future first, you may need to deconstruct old notions and ideas. It is important, during this step, to keep a watchful eye on a few natural tendencies that may occur:

- **Denial.** When a trend suggests a potentially negative consequence, some suffer from the ostrich syndrome. They prefer to bury their heads, deny the validity of the trend, and ignore danger signals. For example, in the

billing arena, some firms do not (want to) see the trend for providing clients with complete “transparency” as it relates to whom is working on what matter, when, and at what internal billing rate.

- **Blindness.** What we know (or think we know) determines what we see. Unfortunately, the more experienced and the smarter we are in our particular area, the more myopic we may become. Often trends present themselves, but busy professionals don’t see them. Not knowing how to look for them, or simply missing them is the primary factor. What we see determines our destination.
- **Arrogance.** The late management theorist, Peter Drucker, once commented dryly, “Whom the gods would destroy, they first grant forty years of business success.” Drucker believed that sooner or later, time will turn your most precious assets into liabilities and that the most powerful competitive advantage may eventually be neutralized by the shifting sands of the external environment. Intel’s past-Chairman, Andy Grove agreed, with his now famous remark, “Only the paranoid survive.” Ironically, one of the reasons why we may tend to miss trends is from what we call, “success arrogance.” The firm is doing so well that we fail to see the danger signals.

The key point is to make sure that all members of your Board engage in a personal and intellectual level in forming a consensus about what’s going on. One of the critically important by-products of this process is, that through active participation they will also be much better equipped to communicate any particular trend’s meaning to other partners in

the firm. This is an ongoing educational process within the larger firms and takes time.

### Step 3: Determine The Impact Potential of Each Trend

Each of the trends that have been identified can be evaluated within the context of the PROBABILITY of occurrence and IMPACT (negative and positive) on your firm of such occurrence. The Diagram presented below is designed to help with your analytical efforts. You can use this graph (below) to assess the overall pattern of the trends identified. Obviously, those trends judged to have a very high probability of occurrence and a very harmful impact or portend huge opportunities should they occur, become your top priority. Clusters of trends falling into the top right-hand corner of this diagram are the ones we tend to label “Mission Critical” and are the ones that require your **urgent attention**. In those instances this Assessment Diagram can serve as a tool to help explain to partners the need for urgency.

*Trends Analysis Assessment Diagram, Impact On Firm*

Significant Positive/ Negative		Trend 3 (-)	Trend 2 (-)		
Moderate				Trend 1 (+)	
Imperceptible					
None					
	0%	25%	50%	75%	100%

*-Probability that the trend, event or condition will occur-*

The secondary band, running diagonally through the graph, represents those trends that are not imminent time wise, but nevertheless should be considered *important* and needing attention through ongoing monitoring.

Finally, the cluster of trends that will tend to occupy the bottom left-hand corner of the graph fall into the area best labeled as *post-ponable*. These trends should also be periodically monitored for changes which could cause them to shift to a higher priority. In spite of the graph presented here to help with your analysis, let us not create the impression that this process is scientific, systematic, or precise. If anything, seeing the future is guess-work at best. The events, trends, issues and opportunities in the external environment are ultimately whatever we interpret them to be. Intelligent professionals may disagree completely about what a particular trends impact may suggest. The most valuable aspect of this process is how it can enable members of your Board to discuss, debate, interpret and assimilate the lessons the external trends have to teach us. From this understanding, which must be continually updated and refreshed, they can commit energy, attention, talent and resources for the greatest strategic value. This Assessment Diagram is merely intended as a practical tool that can be used to help make sense out of and prioritize those eternal issues deserving of some attention, in your efforts to determine the best strategic direction.

#### **Step 4: Develop Your Action Plans**

Finally, it is necessary to transform the discoveries that come from your discussions into actions. There is little point in knowing that you are heading for an iceberg if you don't determine how to course-correct and steer around

it. In order to be effective, some portion of your firm's strategy must concern itself with what we must be doing right now in order to be well positioned to capitalize on our future. Among other considerations, your strategic plan therefore should identify:

- what skills your firm should be developing (or hiring) *right now*;
- what you must do to anticipate and better serve unmet client needs *right now*;
- what new practices you should be pursuing *right now*; and
- what new experiments and field tests your firm should be engaging in *right now* in order to intercept the future.

#### **A Necessary Part Of Your Strategy Process – And An Ongoing Exercise.**

It is said that in far northern regions there is an old tradition whereby hunters construct blankets made of animal skins. These blankets are not for shelter, but intended as a crudely improvised form of trampoline. The blanket is spread across the ground and one of the hunters steps into the middle. The remaining members of the group grab the edges, heave the blanket upward, and eject the hunter high into the air. The purpose of physically hurling the hunter into the sky is to have him see if any caribou are in the area. While we have evolved from those humble techniques there remains a need to look to the horizon to see how the future will unfold. Behind every new trend and its ensuing ramifications is either a potential marketplace threat or a window of opportunity. Those keen enough to perceive the trends early are in a prime position to pilot their firms into a more promising future. The obvious challenge therefore, is to be the first to see the future and then devise appropriate action plans to take full advantage.

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