
IP Law Firms of the Future Think Tank Report

Executive Summary



International
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Introduction

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IP law firms are increasingly involved in matters beyond traditional trademark protection and enforcement issues. In-house teams are looking for strategic partners for a myriad of issues, which may include traditional intellectual property (IP) legal issues, but are also just as likely to relate to regulatory issues in an online world, public relations, policy, data privacy, and more. Consequently, law firms must be prepared with the knowledge and flexibility to counsel and support business clients across wide-ranging industries and issues. They are also faced with new challenges and opportunities, including new technologies that impact the way firms operate and how society behaves and communicates; changes to their clients' needs and expectations; the changing landscape for IP; and increasing competition.

In 2019, Etienne Sanz de Acedo, CEO of the International Trademark Association (INTA), reached out to leading Association members and experts in order to form a think tank with a mandate to produce a proactive and thought-provoking report on what the IP law firm of the future might look like. The expert group was supported by INTA Staff: Sharón Aguayo, Senior Associate, Membership Recruitment & Retention – North America.

INTA's *IP Law Firm of the Future (IPLF)* Think Tank was asked to broadly examine rapidly shifting and changing markets to provide guidance for member firms in preparing action plans for these wildly changing times. Recent worldwide events, such as the COVID-19 pandemic, have served to further accelerate the need for change through preparation and adaptation.

The IPLF Think Tank tapped into the knowledge and experience of IP industry leaders, considered current research, and consulted with leading IP firms throughout the world. The Think Tank has compiled a series of chapters addressing the key issues and the call for change that is impacting everyone.

State of the Legal Market in General (Chapter 1)

For anyone involved in the practice of law, it is apparent that change is in the air. The traditional law firm model grew on the assumption that legal work was labor intensive, that only lawyers could provide those services, and that it was up to law firms to control the design, delivery, and pricing of those services.

Many think of the Great Recession of 2008–2009 as the turning point, from a seller's, to a buyer's, market in the legal services business.

This report examines the extent to which clients are now in control of the key decisions influencing legal hiring, including staffing and scheduling decisions, outsourcing requirements, project management, and pricing structures. Since the Great Recession, clients have become ever more willing to move matters "down market" to smaller firms or to non-traditional providers to save costs. Law firms, including IP firms, must learn to adopt their fee structures to fit different needs, which may include individualized fee and staffing models. They should also remain flexible and ready to diversify their services, exploring specific client business needs.

Successful law firms of the future will have to distinguish themselves in new ways, such as on price, service models, and speed; the use of technology and communications; innovation; and add-on services.

State of the IP Market (Chapter 2)

Historically, IP firms have been the beneficiaries of country-by-country regimes for the protection of intellectual property that necessitated local representation; high profitability associated with the management of important, but routine, prosecution tasks; and high margins and hourly rates associated with intellectual property litigation where the stakes for the client are usually quite high.

The harmonization of intellectual property laws, the success of international filing systems, and the Great Recession have had an impact upon IP practices in a meaningful way.

As this report explains, routine prosecution tasks have become commoditized, clients are applying for protection of their IP using their own in-house counsel and international filing systems, and hourly rates are no longer being accepted as a viable means for calculating what compensation for services rendered should be.

New market entrants are also in play and IP firms are expected to meet or exceed the cost and efficiency of those alternative service offerings.

Different Types of IP Practices (Chapter 3)

IP practices come in all shapes and sizes: IP departments within multinational law firms, IP specialty boutiques, small family-run IP agencies, and even virtual IP law firms. These business models will remain for the foreseeable future and each must focus on optimizing their service offerings. All of the market pressures outlined in this report come to bear upon each of these practices and adapting to change is the order of the day.

Geographical Considerations (Chapter 4)

International markets are changing, and firms should expect a strong shift toward Asia, applying pressure to European and North American markets. The IP law firm of the future must continue to evolve globally, while remaining vigilant that individual regions will likely see different types of firms develop in different ways for cultural, regulatory or economic reasons.

Different Clients that IP Law Firms Serve (Chapter 5)

IP firms have traditionally served a broad range of different clients, ranging from individuals who have developed a single product locally, to traditional family-owned companies, to start-ups with bold visions, to large corporations with global IP strategies and portfolios. And this is unlikely to change. There will always be a broad variety of potential clients, and small businesses and inventors will remain in an increasingly globalized world. IP will remain at the core of any business, large or small; however, many things will change, including the way clients operate and what they expect from their outside counsel in terms of the nature and speed of services, communications, and costs. The move towards a *business partner* relationship has already begun and will continue to evolve. More and more companies can be

expected to develop into global players with a need for the global advice, speed, and flexibility on the part of their outside counsel.

Competitive Factors (Chapter 6)

All at once, there are many dynamics at play: new and reduced fee structures, new market entrants in the commodities end of the business, one-stop shopping from the Big Four, and automated platforms and tools from the support service providers, to name just a few.

This inevitable change has created both challenges and opportunities. It is a two-way street that blurs the dividing line between traditional law firm services and those of consultants and legal-support service providers.

Staffing the Trademark Practice Now and in the Future (Chapter 7)

The staffing model for IP law firms must be completely revamped for them to survive. Again, the dynamic here is multi-faceted; the drivers for change include the following client expectations:

- better ways of communicating
- digital platforms and user expertise
- accessibility and remote working
- indifference to office space and location
- new generational needs
- diversity and inclusion

These drivers affect law-firm staffing, recruiting, training, incentivizing, and compensation schemes.

The Role of Technology (Chapter 8)

It is axiomatic that technology is transformational, all pervasive, and something that must be fully embraced by all IP professionals.

The many facets of relevant technology include, for example, pricing tools, the automation of routine tasks, means of communication with clients, data management, collaboration platforms, docketing and billing systems, as well as practice enhancement tools such as case law research, smart document drafting, and predictive AI.

The expectations are that these new technologies are poised to generate seismic changes in how the practice of IP law will develop in the future and with respect to how firms communicate, work, collaborate, and engage with courts and IP offices.

IP Law Firm Projections for the Future (Chapter 9)

The current COVID-19 pandemic may someday be credited as the critical force that drove (maybe forced) law firms to cross the Rubicon and let go of conservative thinking. Early on in the pandemic, changes

began with basic remote working, remote communications and meetings, remote invoicing and payments, and even remote court appearances and TMO hearings, which evolved also to include remote conference participation and even networking—all in less than six months.

The law firm of the future will embrace all of the pandemic learnings and will rise to the next level. Operational changes will include some key areas such as:

Data management—law firms will align with clients and collaborate to populate corporate databases with relevant IP information that is secure in a blockchain style environment.

Near-virtual existence—law firms will always need a brick-and-mortar presence, but on a much reduced and cost-effective scale. In other aspects, law firms will likely become much more agile by relying on a variety of software and remotely located human resources.

Blurring of the separation between IP professionals and service providers—professionals and service providers will continue to team up or expand into each other's domains.

Evolution in work opportunities—law firms may no longer be competitive enough to offer routine prosecution and other commodity-type services, but they will grasp new opportunities that present themselves on the Internet and in software-based industries.

The professional consultant—IP professionals will evolve to become value-added brand consultants.

Smart marketing—the focus will be on the client experience and on reaching clients by less conventional means.

The Action Plan (Chapter 10)

The Think Tank concludes its report with a detailed and thought-provoking chapter enumerating the action items that the IP firm of the future should follow.

As the variable of change now seems to be the leading constant, the IPLF Think Tank has created this Report with the hope that it will serve as a practical and holistic guide for all IP law firms striving to be a successful firm of the future.