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Innovation by Design

Firms looking to innovate are turning to design thinking to produce fresh results from old challenges.

You're likely hearing the term "design thinking" these days. While it may sound like the latest HGTV-themed show designed to make you rethink the color palette in your home, it's actually a technique that is being used to pave the way to finding solutions in legal.

Client demands for efficiency, technology — and a workforce who grew up always tethered to it — are requiring legal to be nimbler and more innovative. It's why some firms — and even ALA — are turning to design thinking.

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“The general idea behind design thinking is to approach problem-solving and innovation from a creative, collaborative, and human-centered place,” says Brianna Leung, Principal Consultant at GrowthPlay. “It puts the people we are solving for at the center of the design, rather than the problem or thing.”

It’s a theory that might be welcome within legal, where the pursuit of perfection often impedes the ability to learn, says James Cornell III, ALA President and Office Administrator at Shook, Hardy & Bacon, LLP’s Washington, D.C., office. “For many of us in legal, innovation and process improvement feel like an extremely high bar to achieve. Design thinking helps lower the bar to innovation so legal organizations can be able to quickly respond to demands or questions and create new or improved, human-centered solutions for their clients or even their own internal customers in the organization,” he says.

And legal professionals who understand design-thinking methodology might just have the advantage for both innovating and thriving. “More and more, these problems will demand creative, unconventional solutions. Design methodologies present a compelling way forward,” says Dan Lear, Chief Instigator at Right Brain Law. He’ll be facilitating the ALA’s new conference that centers around design thinking, C4: The Legal Industry™ Conference. (See sidebar, page 23.)

He says design thinking is also a way to use an approach many might not consider when they think of classic

design. “For those who are new to design thinking, the basic idea is that principles of design can be applied well beyond the traditional areas of design like visual or product design,” says Lear.

THE 5-STEP PROCESS

The legal industry, just like many other businesses, is going through some fundamental shifts. Lear says radically disruptive forces, including technology, outsourced labor, mobile and cloud computing, and the rise of big data have caused radical shifts in the way firms operate. He says the current legal atmosphere is perfect for giving rise to “wicked problems” — problems Lear says are difficult to solve because of contradictory or changing information and where more than one solution may be possible.

“The current legal landscape is ripe with wicked problems and they’ll be increasingly common going forward,” says Lear. “Legal professionals who understand the design-thinking methodology will be better equipped to survive and thrive in this new landscape.”

So what exactly is design thinking? For this article, we’ll focus on five principles that make up design thinking: Empathize, Define, Ideate, Prototype and Test. This collective framework can help firms (or any organization) tackle nebulous problems by accounting for human needs and working to solve the problems in a human-centered way. When each of the following are used together as a process, they enable creative problem-solving and innovative outcomes.

1 EMPATHIZE: This first step is when you step outside your own view of the world and try to see it from another's perspective. In this step, the group aims to engage with and understand other people's experience and motivations. It's a time for info-gathering, for the group to obtain the best possible understanding of the users, their needs and the underlying problems associated with the issue. It's essentially the driver of the rest of the conversation.

"The hyper-specific focus on empathy is the piece that is missing from many other traditional brainstorming and problem-solving processes," says Leung. "Design-thinking framework requires that practitioners first empathize with the end user or eventual consumer of the solution they are about to create. No brainstorming or ideating can take place until we spend time really understanding what that person experiences today, what she hopes to be better or different about her reality and what surrounding factors are at play in her world. It is only then that we can truly define the problem for which we want to solve," she says.

2 DEFINE: Empathizing leads in to the next phase — defining the problem. The data collected during the empathy stage is used to create a human-centric problem statement. Cornell says it may seem counterintuitive that it isn't the first step, but it's also what's intriguing about the process.

"Think about it — we typically are made aware of a problem and then we dive right into trying to solve it based on the working definition and knowledge of the problem we have, because as legal management professionals our jobs are often about solving problems and keeping people happy while operating the business," says Cornell. "This helps me understand and uncover the root cause of the problem, so I can reframe it and ensure we are solving for the real problem and not merely a symptom or side effect of one."

3 IDEATE: Now you enter the brainstorming phase. You've got a more empathetic understanding of the problem and a clear problem statement. Your team is ready to think freely and get creative to zero in on nontraditional ways of viewing the problem. According to the Interaction Design Foundation, you should exit this stage with other ideation techniques (brainstorming, brainwriting, etc.) so you can find the best possible way to either solve the problem or have the elements necessary to circumvent it.

4 PROTOTYPE: It's time to experiment with solutions that the team identified in each of the previous three stages. According to Design Thinking Legal, a consulting firm that offers workshops on the subject, this is when a physical representation of the top ideas are mocked up. The group can decide to accept, tweak or reject an idea. When this stage wraps, the team should have a well-defined single concept to move onto the final testing stage.

5 TEST: Put your solutions into action. The complete product is tested using the best solutions that were identified during the prototyping phase. The idea can still be tinkered with at this phase to improve it before it's officially rolled out. Hopefully, you've got a user-centered solution that wasn't apparent at the start.

Cornell notes a helpful concept used in the prototype and testing stages is to prototype as if you know you are right and then test it as if you know you are wrong. "The iterative nature of design thinking is such that testing proves what you don't know or didn't get right, not the other way around. This is often counterintuitive for many," he says.

COMING TOGETHER

Yes, lawyers tend to be change-adverse. But design thinking might help alleviate some pain points that tend to stall progress. What makes this process unique is much of the time upfront is spent focusing on the human emotions and collaboration — two elements Leung says are traditionally absent from legal problem-solving. That can break through barriers that typically halt progress as it gives a voice to everyone involved in the exercise, making it a useful tool for firms getting serious about innovating.

Plus, it brings together various points of views. At its core, the process aims to involve an array of diverse perspectives to reach a fresh outcome. Cornell says it's what makes the method so valuable. "The best solutions are created when the inputs are diverse and take into account different types of experiences, perspectives and thought processes. This is why having diverse, cross-functional teams is so important," he says.

The process is not effective when done in a silo — limited perspectives lead to limited, single-minded solutions. "When we create conditions for ourselves to think out loud

DESIGN THINKING IN ACTION

Cornell says his firm, Shook, Hardy & Bacon, LLP, successfully employed design thinking to find solutions to workflow issues in the marketing department.

Kim Rennick, the firm's Chief Client Development and Marketing Officer, was looking to align the marketing department to work with and support the firm's strategic plan and initiatives. The focus was on finding solutions to the challenges the marketing department was facing by efficiently and effectively getting the numerous marketing and business development presentations and sponsorship advertisements across the firm's offices completed and turned around in a timely manner.

"Being mindful of the difficulty associated with getting tactical responsibilities completed, while also having members of the department think and act strategically, Kim decided to employ design-thinking principles to create solutions to the dilemmas the team was facing," says Cornell.

Thus, the first step of empathizing proved vital. He says the team really dug into the needs of the legal administrative assistants (LAAs) and attorneys when it came to these projects. The team spent a significant amount of time focusing on the root problem they

were solving for — a lack of training on software applications, prioritization of work, and best use of the team's talents and capabilities.

With a clear understanding of the problems, the team ideated solutions on how to accomplish the presentation work requests followed by putting together a pilot program to begin testing whether the solutions were solving the problem. And it's yielding positive results, including development opportunities for employees.

"The solutions the team created involve training the firm's professional staff in the word-processing department and LAAs in more advanced use of PowerPoint and other basic design applications, so when requests for presentations come to them they are generally able to fully handle those without forwarding them to the marketing department," says Cornell. "This has resulted in greater efficiency and more timely responses to the requests that come in, has provided skill development opportunities for the LAAs and word-processing members involved, and has engaged more employees in the client development process increasing the value they feel they contribute to the firm's initiatives. It has also enabled members of the marketing department to focus on the firm's strategic mission."

with other smart people and can leverage the individual strengths on the team, we elevate ourselves as well as our ideas," says Leung.

And, if you're trying to be more in tune with what clients want, design thinking is incredibly helpful for examining their needs. In a competitive market, firms that can connect to their clients will fare better. Leung says in interviews with law firm clients, she hears a plea for their outside counsel to know and understand their clients' businesses and to act like business partners working in collaboration with them to solve their business problems.

"When we see lawyers and other legal professionals use a design-thinking process to solve for client needs, it becomes a game changer for the client relationship and overall value delivered," says Leung.

Cornell says it very well may prove to be a deciding factor when bringing in new business. "The ability to do this may lead to new legal products and services, more inclusive thinking and collaboration within the organization as well as with the client, and the latter may become a differentiator, competitive advantage and perhaps even essential to the long-term survival of the client relationship and perhaps even the legal organization."

WILL IT STICK?

Lear says it's still unclear of how it's affecting legal, but early results are promising. He notes the logic behind applying design to legal is compelling. Moreover, the changing legal landscape and the way the world does business means it's time to try new methods to push the needle forward in firms.

Leung agrees and says she's seeing a growing interest among the business professionals within law firms to implement design thinking in their innovation and problem-solving opportunities. "Perhaps as these groups have more and more successful outcomes, the legal side of the organizations will start to have more curiosity and appetite for it. Most lawyers resist change, and yet we are in a time where change is happening all around us like a tidal wave. It will eventually pick us up and carry us along, whether we are ready or not." ■

ABOUT THE AUTHOR

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PRACTICE YOUR DESIGN THINKING AT C4: THE LEGAL INDUSTRY CONFERENCE

Come connect, collaborate, create and change in Boston at the C4: The Legal Industry™ Conference, September 18-20. This one-of-a-kind experience uses design thinking to create solutions in the legal industry. Dan Lear says he will introduce the idea of design-based innovation to the C4 audience.

"While I hope we develop some industry-changing prototypes on-site at C4, my main goal is to familiarize C4 attendees with a new and different way to approach problem-solving so that they can implement these ideas in their own work going forward," says Lear.

Get all the details and register at alanet.org/c4-conference.