

The Shifting of the Law Firm Business Model in the Disruption Era¹

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Abstract

The flow of globalization, liberalization and the development of information technology must be anticipated by every law firm. Especially with the massive development of information technology where such condition is often referred to as the disruption era. It means that the development of information technology in an industry has the potential to replace old players with new ones. In the disruption era, old physical technology will be replaced with digital technology that produces something that is completely new, more efficient and also more useful. In the management of law firm, there are at least two areas of innovation that must be developed: legal service and legal process. To realize an effective and efficient legal process there are two steps that can be taken, the development of Knowledge Management Systems and Knowledge Management Technology. In the perspective of the law firm business model in the era of disruption, in addition to developing legal processes in the form of Client Portal, Information System and Virtual Data Room, it is also necessary to develop electronic document and records management systems ("EDRMS"). The EDRMS development is also carried out to anticipate the application of Case Administration in the Electronic Court (e-Court) which was imposed based on the Republic of Indonesia Supreme Court Regulation No. 3 of 2018.

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1. Introduction

The flow of globalization, liberalization, and development of information technology has greatly influenced the shift in the legal profession. This is in line with Richard Susskind's opinion which stated "*For many lawyers, therefore, it looks as if the party may soon be over.*"⁵ The message conveyed in Susskind's statement was the dominance of large law firms that run conventional legal services will gradually be replaced by more efficient information technology-based law firms. Thus law firms must know how to anticipate the paradigm shift in information technology-based legal services.

In the context of shifting business models, Rhenald Kasali used the term *disruption*, meaning as an innovation, which will replace the entire old system with new ways. Disruption itself was introduced by Clayton M. Cristensen who stated that "*The concept of disruption is about competitive response: it is not a theory of growth. It's adjacent to growth. But it's not about growth.*"⁶ Furthermore, Rhenald Kasali stated that disruption has the potential to replace old players with new ones. And disruption will also replace old physical technology with digital technology that produces something completely new and more efficient, also more useful.⁷

In terms of consequences of the current disruption era, Rhenald Kasali explained at length that it was not just an ordinary change from the flow of information technology change, but had a broad impact on three things: First, disruption attacks almost all incumbents (old actors, leaders market), be it products or well-known companies, leading schools or universities, social organizations, political parties, or services that we are familiar with. Second, like a flood that seeks a way down the lower plains, disruption creates a new market that has been ignored by the incumbents, which are from the people who occupy the base of the pyramid. Thanks to the new middle class below, the market in the incumbent is empowered. However, when newcomers' goods or services that are considered to be of poor quality improve their services, even branded products (owned by incumbents) can turn into mere commodities and gradually the newcomers have the potential to erode the incumbent-dominated market. No matter how strong the brand loyalty that the incumbent has built through conventional marketing strategies, the incumbent's position remains threatened. Third, disruption has the effect of deflation (falling prices) because searching costs and transaction costs are practically zero rupiah. Both types of costs are generally only known by the millennial generation thanks to the development of information and communication

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⁵ Richard, Susskind, Richard, *The End of Lawyers ? Rethinking the Nature of Legal Services*, Oxford University Press Inc, New York, 2008, p. 270

⁶ Quoted from Rhenald Kasali, *Disruption* "There is nothing that cannot be changed before being faced, motivation alone is not enough", Facing Unseen Opponents in the Uber Civilization, PT. Gramedia Pustaka Utama, Jakarta, 2017, p. 3.

⁷Rhenald Kasali, Op.cit., p. 27.

technology. In addition, there is the movement of a sharing resource that is able to mobilize the use of consumer goods into productive economic activities.¹

The term disruption is also found in the legal profession which stated: “*Lawyers are practicing in a market that is “on the verge of disruption” and “smart firm will take steps now”.*² This means that lawyers or law firms must make changes or strategic steps when facing a disruption era and smart law firms, if they do not want to be left behind so they must start now.

From the description above it can be seen how massive the shift in business models in the disruption era driven by the flow of globalization, liberalization and information and communication technology, so if the law firms do not want to be left behind, they must anticipate it. For this reason, in this article with the theme of the Shifting of the Law Firm Business Model in the Disruption Era, issues relating to the paradigm shift in legal services and development of law firm information systems will be discussed.

2. Shifting Paradigm of the Legal Service

The existence of a law firm as current legal service providers should try to anticipate the market demand or legal service users, which based on Susskind there are two ways to change it, such as:

1. *New methods, system, and processes will emerge to reduce the cost of undertaking routine legal work.*
2. *The market will be for clients, in various ways to share the costs of legal services.*³

Also, Susskind predicted five types of law firms that will survive in the long run, there are:

1. *will be the “expert trusted adviser”*
2. *category of lawyers for the future will be the “enhanced practitioners”.*
3. *category of lawyers – the “legal knowledge engineer”*
4. *will be the “legal risk manager”*
5. *lawyers is the “legal hybrid”, the successful lawyers of the future, wherever they sit on my evolutionary path, will be increasingly multi-disciplinary.*⁴

To give a more comprehensive description related to that shifting, Richard Susskind used “Legal Paradigm” Terminology. “Legal Paradigm” is a revolution in law, after which many of the current features of contemporary legal systems which we now take for granted will be displaced by a new set of underlying premises and presuppositions.⁵ To be more concrete, he said that shifting paradigm of the legal service or legal process will be range “From print base to IT-Based Legal Systems”. Which means, legal practice and administration of justice will no longer be dominated by print and paper in tomorrow’s legal paradigm. Instead, legal systems of the information society will evolve rapidly under the considerable influence of ever more powerful information technologies.⁶

The shifting process of legal service can be done by each law firm and initiated by a professional association. In some developed country the paradigm *new business models for legal services* are initiated by professional advocate association. For example in New Zealand, where the Bar association collaborate with the University of Otago prepare New Business Model for Legal Services through Working Group on Access to Justice.⁷

The shift itself at least must be done in two steps of preparation of the change, the Knowledge Management Systems⁸ and development of Knowledge Management Technology.⁹ The first step is drafting Knowledge Management Systems which is divided into some types, there are administrative data, declarative knowledge, procedural knowledge, and analytical knowledge.¹⁰

Administrative data includes all of the nuts and bolts information about firm operations, such as hourly billing rates for lawyers, client names and matters, staff payroll data, and client invoice data. Declarative knowledge, is knowledge of the law, the legal principles contained in statutes, court opinions and other sources of primary legal authority, law students spend most of their law school careers acquiring this kind of knowledge. Procedural Knowledge, “procedural” is knowledge of the mechanics of complying with the law’s requirements in

¹ Rhenald Kasali, Op.cit., 129-130

² Harvard Law School Center on the Legal Profession “*Disruptive Innovation in Legal Services*”, The Pragtice, 2015, p.2

³ Richard, Susskind, *The Future of Law, Facing the Challenges of Information Technology*, Clarendon Press, Oxford University Press Inc, New York, 1996, p.270

⁴ Susskind, Op.cit., p. 271

⁵ Richard, Susskind, *The Future of Law, Facing the Challenges of Information Technology*, Clarendon Press, Oxford University Press Inc, New York, 1996, p.41.

⁶ Richard, Susskind, Op.cit, p.286-289

⁷ Deborah L. Edwards and Dirk E. Mahling, *Toward Knowledge Management Systems in the Legal Domain*. Proceedings of the International ACM SIGGROUP Conference on Supporting Group Work Group’97, USA: The Association of Computing Machinery ACM, 1997, p. 158.

⁸ Petter Gottschalk, *Knowledge Management System: A Comparison of Law Firms and Consulting Firms*, Informing Science, Volume 3 No. 3, 2000.

⁹ Petters Gottschalk, *Toward a Model of Growth Stages for Knowledge Management Technology in Law Firms*, Informing Science, Volume 5 No. 2, 2002.

¹⁰ Petters Gottschalk, p. 117

*a particular situation: what documents are necessary to transfer an asset from Company A to Company B, or what forms must be filed where to create a new corporation. Analytical knowledge is the conclusions reached about the course of action a particular client should follow in a particular situation. Analytical knowledge results from analyzing declarative knowledge (i.e. substantive law principles) as it applies to a particular fact setting.*¹ But the drafting process of *Knowledge Management Systems* should consider the character and should adjust with the needs of each law firm.

The next step that should be developed is *Knowledge Management technology*. Information technology is playing an important role in successful knowledge management initiatives. Information technology support for knowledge management is linked to stages of growth. A model of growth stages is proposed consisting of four stages. *The first stage* is end-user tools that a made available to knowledge workers, *the second stage* is information about who knows, *the third stage* is information from knowledge workers, and *the final stage* in information systems solving-knowledge problems.²

3. Construction of the law firm information system

A simple description regarding Information system development of law firm may be taken from the opinion of Granat and Kimbo. Based on Granat and kimbo, there are at least 3 (three) main points that should be prepared in legal service processes such as the construct of *Web or Client Portal*, *Designing Information Architecture of Law Firm* and *Data Structure*. Web Portal or Client Portal can be used as the main communication access between law firms with the clients. In the development of Client Portal should be completed with the Username and password to protect and guarantee the security of Interaction and communication in the legal service as the stated that:

*The web portal or client portal as one where client have access to the firm's lawyers, communications and documents related to their legal issues through a password protected and secure web space where both the attorney and client may interact, share a document, and use legal services.*³

Furthermore, Granat and Kimbo conveyed that client portal is used as the online communication mode because without the client portal, the communication between the law firm and client will be difficult. But the communication should also adhere to the professional of code ethics, client confidentiality and also law firm must eliminate conflict of interest as stated:

*Without a client portal web application, it is difficult or impossible for lawyers who offer a virtual practice option to their client to comply with the rule of professional conduct, client confidentiality, the lawyer/client relationship, and conflict of interest issues.*⁴

The next step is the development of information system application, but in the process of the development, the architecture of the information system that will be built should be formulated first. This is because the architecture of the information system will be used as the reference to build the business model. Even though practically there is no exact law firm business model, but there is some business model that can be adjusted with the needs of each law firm as described by Bridgate Toy-Cronin as stated:

*It is important to remember that no single model responds to all needs. Just as the current dominant model of hourly billing and full carriage of matters does not suit all clients needs, new business models will not be a one-size-fits-all.*⁵

Basically, in the information system application at least some features such as management practice and management document solution are available as described by Granat and Kimbo:

*Information architecture describes all software applications that a law firm use the build its business model. These applications include practice management and document management solutions, specialized software programs that can be used to enhance a practice area, document automation and web advisors used to enhance the client experience.*⁶

And lastly to save, compile. and seek and protect the client data, comprehending the data structure is essential to be done first, as described by Granat and Kimbo:

*A Law Practice can be viewed as a compilation of databases. Lawyers must keep client files, discovery documents, internal research memoranda, and financial record in separate databases. Its follows that lawyers should have a basic understanding of hoe database are constructed and of the difference between files and records.*⁷

¹Deborah L. Edwards and Dirk E. Mahling, op.cit., p. 160.

²Peter Gottschalk, p. 79.

³Richard S. Granat, And Stephanie Kimbro, *The Teaching Of Law Practice Management And Technology in Law School: A New Paradigm*, Chicago-Kent Law Review, Volume 88, Issue 3 Justice, Lawyering and Legal Education in the Digital Age, 2013, p.770

⁴Richard S. Granat, And Stephanie Kimbro, Op.cit., P. 773

⁵Bridgate Toy-Cronin, John Billington QC, Matthew Smith and Kalyani Dixi, *New Business Models For Legal Services*, University of Otago, Legal Issue Center For The New Zealand Bar Association, 2016, p. 2

⁶Richard S. Granat, And Stephanie Kimbro, Op.cit., P. 775

⁷Richard S. Granat, And Stephanie Kimbro, Op.cit, P. 776

Referring to the description by Granat and Kimbo above, Budi hendarto et al, formulated an information system of legal service which should be developed to fulfill the needs of the law firm which at least there should be Client Portal, Information system and Virtual data Room as described that:

1. Client portal, which functions as the mode of interaction between the lawyers with the client. In the client portal, it is served some information such as law firm profile, lawyer profile, legal service and information system of the legal service.
2. Information system, developed as the medium of the virtual legal service similar to the client portal, we can say online, web-based, use PHP the programming language with Laravel as the framework chosen. The differences with the client portal are in this application the database, there is PostgreSQL with expectations that the feature inside the database able to fulfill the VLO needs that quite complex.
3. Virtual Data Room (VDR) is the alternative of the client document storage which purpose to keep the confidentiality of the document, which the document that had been uploaded can only access by the one concerned only. The development of VDR to replace the tradition paper data room using internet access and login process using the user name and password, so the lawyer and team can access at the same time. VDR system advantage differ from the traditional data room are the transaction time, reduce expense and the lawyers can do the work together. To keep the security of the clients' data build server that designed with the storage system that does not use Cloud-storage but Local Storage based.¹

4. The Development of the Law Firm Information System

The next step is the development step, which is the follow-up process from the constructing step of the law firm information system. In the development process, the step that can be done is the improvement effort as the attempt to complete the law firm information system. Generally, in the development of the new technology to improve the legal service of a law firm, there are some concepts, one of them is ... *"new technologies available include cloud computing, electronic document management systems, artificial intelligence, virtual law firms, online dispute resolution, electronic courts and electronic filling of the court document, use of social media and blockchain"*.²

The development effort after the Information technology construct which is very basic and needed is the development of the electronic document and records management systems ("EDRMS"). EDRMS is defined as *"an automated software application designed to assist you with the creation, management, use, storage and disposal of information and records"*.³ In the development steps of EDRMS there at least module client file and digital library as described that:

- a. Client files, as the important part of a law firm, it is different from the client file in the pre-digital era, or the era of lawyer mobility. In the era of lawyer mobility, the file of the client must be in the form of digital file that aims *to reduce or eliminate some recurring problems with hard copy files. The portability of digital files poses significant challenges to firms attempting to mitigate the effects of lawyer mobility*.⁴
- b. Design of digital law libraries, which the law practice can be categorized with applied form. In carrying out applied legal research, a lawyer needs law research resources in the form of primary legal materials and secondary legal materials. Primary legal materials are legal materials which are authoritative.⁵ Secondary legal materials are consisting of laws, legal notes or minutes in laws and court decisions. The secondary legal materials are only publications of laws that are not legal documents like law textbooks, law dictionary, law journal, and comments about court decisions.⁶

The developments of EDRMS, beside as the anticipation of the information technology development also as an effort to align with the regulation of the supreme court of the Republic of Indonesia No. 1 of 2009 on Case and Electronic Court Administration in Courts. Electronic Case Administration or e-court is a series of processes for receipt of claims/requests, answers, replicas, duplicates, and conclusions, management, delivery and storage of civil/religious/military administrative/state administrative documents using the electronic system applied in each judicial environment. The e-court application is expected to be able to improve services in its function of accepting online case registrations so that court services will save time and money when registering cases. The scope of e-court applications includes online case registration, advance payments of online fees, trial documents,

¹ Budi Endarto, Fitra Mardiana, Muhammad Harist Murdani *Re-Orienting the Teaching of High Legal Education in Indonesia Study in Law Faculty of Wijaya Putra University*, Journal of Law, Policy and Globalization, International Institute for Science, Technology & Education, ISSN 2224-3240 (print), ISSN 2224-3259 (online) Vol. 52, 2016, p.115-116.

² The Law Society of Western Australia, *The Future of the Legal Profession, The Essential Membership for the Legal Profession*, The Law Society of Western Australia, 2017, p.6.

³ National Archives of Australia, *Electronic document and records management system* <<http://alrc.gov.au/publication/6.%20Documentary%20Evidence/background>> at [6.1.]

⁴ Allison D Rhodes & Robert W. Hillman, *Client Files and Digital Law Practices : Rethinking Old Concepts in an Era of Lawyer Mobility*, University of California at Davis School of Law, 2010, p. 898.

⁵ Peter Mahmud Marzuki, *Law Research*, Kencana Prenada Media Group, Jakarta, 2005, p.141.

⁶ Ibid

and electronic summons. As the final stage of the construction and development of a law firm information system, legal protection is needed through the registration of Intellectual Property Rights in the form of Copyright under Law No. 24 of 2014 on Copyright. The function of Copyright is to protect creations in the form of law firm information systems from competitors to create fair business competition.

5. Closing

The flow of globalization and liberalization, as well as the development of information technology, change the order of various types of business models called disruption, where the development of technology in an industry has the potential to replace old players with new ones. In the disruption era, old physical technology will be replaced with digital technology that produces something truly new and more efficient and also more useful. It must also be anticipated in the management of law firms, there are at least two areas of innovation that must be developed, namely legal service and legal process. To achieve this, two steps of change can be taken, there are Knowledge Management Systems and Knowledge Management Technology.

In the business model perspective for law firms in the disruption era, information technology development is needed in the form of Client Portal, Information System, and Virtual Data Room. Furthermore, in smaller, technical sub-systems, it is necessary to develop electronic document and records management systems (“EDRMS”) which include client files and digital libraries.

In the perspective of handling legal services in courts in Indonesia, the Republic of Indonesia Supreme Court Regulation No. 1 of 2019 on Case Administration and Trials in Electronic Courts has been enacted. Electronic Case Administration or e-court is a series of processes of receiving lawsuits/requests, answering, making replicas, duplicating, and making conclusions, managing, delivering and storing case documents using an electronic system that applies in each court environment.

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Republic of Indonesia Supreme Court Regulation Number 1 of 2019 *concerning Case Administration and Trials in Courts Electronically.*