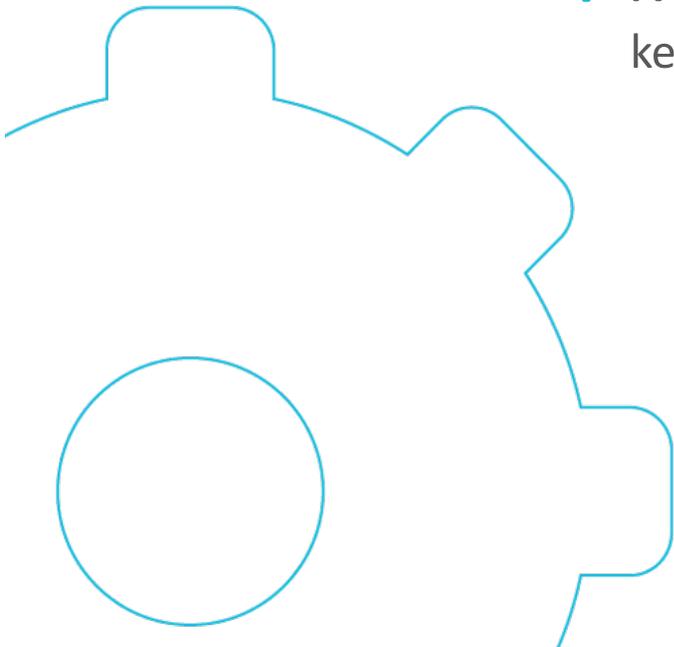


Corporate Legal Strategies

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What is the Purpose of Your Legal Function?

- ⚙️ In-house legal departments are embarking on a modernization journey that is akin to:
 - ⚙️ The transformation of accountants into CFOs
 - ⚙️ Sales professionals embracing marketing skills
 - ⚙️ Other corporation functions integrating insight from operational data
- ⚙️ Embracing this mission means rising above the reputation & mentality of being a cost center and becoming a strategic asset for the corporation
- ⚙️ To answer the title question, you need to know what your corporate legal strategy is today and where you want it to be tomorrow?

A Framework* for Corporate Legal Strategies



Avoidance

- * Lawyers defend company from problems remedially
- * Legal knowledge is needed, if at all, to circumvent obstacles



Compliance

- * Lawyers police misconduct
- * Law is an unavoidable constraint on business activities & a cost to be minimized



Prevention

- * Lawyers partner with business to proactively manage risks
- * Legal advice is sought to minimize identified business risks



Value

- * Lawyers are partners in broader decision making as they & their clients become savvy in mutual leverage
- * Law as an opportunity to create value



Transformation

- * Lawyers facilitate top level corporate strategy
- * Legal strategy is a competitive advantage & fully integrated into the company's value chain

*Based on the article "Finding the Right Corporate Legal Strategy" by Robert C. Bird and David Orozco, MIT Sloan Management Review, September 16, 2014

Strategies in Action: Examples of Each Approach

Avoidance: MF Global attempted to exploit legal ambiguities arising from being regulated by several agencies and was able to sidestep regulatory intent. But this only hid many of the serious problems underlying its lax controls and flawed risk-management practices, ultimately leading to a massive liquidity crisis and a Chapter 11 bankruptcy filing.



Compliance: UPS pays millions of dollars annually for the parking fines that its delivery trucks incur in New York City rather than comply fully with local parking ordinances. That expense is considered an acceptable cost of doing business in order to maintain its leadership in shipping and logistics.



Prevention: IBM, for example, has routinely made technical software disclosures to protect its open-source server servicing business from the threat posed by Microsoft's proprietary server operating system.



Value: Xerox in the 1990's monetized its otherwise dormant patent portfolio through licensing, mostly to competitors.



Transformation: Qualcomm bet its future on developing a licensing business model based on CDMA rather than focusing on handset manufacturing. It contributed CDMA wireless technology patents to develop an industry standard, and encourage key stakeholders (e.g., wireless equipment vendors and network operators) to adopt that standard through tactful licensing terms & negotiations.



Determining the Suitable Strategy

- ⚙️ No one-size-fits-all approach
- ⚙️ Some sectors or regions within a company may develop a different sub-strategy depending on the circumstances
- ⚙️ Crafting and implementing a suitable legal strategy will invariably:
 - ⚙️ Be an iterative process that requires learning and adaptation over time
 - ⚙️ Involve both the internal organization and key external stakeholders



Considerations for choosing a strategy:

- ⚙️ Size of organization
- ⚙️ Stage of development of company
- ⚙️ Maturity of industry
- ⚙️ Degree of regulation
- ⚙️ Level of competition
- ⚙️ Corp. culture & value of law & legal function

Ascending to the Next Level

Transition	Changes Needed to Execute the Strategy	Capabilities Required for Legal Strategy
<p>Avoidance</p>  <p>Compliance</p>	<ul style="list-style-type: none"> * Management should strengthen the compliance function with direct lines to CEO and board * The legal function should be restructured to ensure greater transparency & accountability * The legal function needs to develop competency in balancing close relationship with the business while remaining objective and arms-length in offering risk assessment 	<ul style="list-style-type: none"> * Master the changing <u>boundaries of compliance</u> & peer companies positions * <u>Police</u> corporate conduct * Manage budget (<u>legal processes, outside legal spend, inside legal spend</u>)
<p>Compliance</p>  <p>Prevention</p>	<ul style="list-style-type: none"> * Management needs to move beyond traditional association legal engagement, e.g., fire-fighting, and involve legal function more closely with business operations and planning * Legal needs to deepen their understanding of business issues and risks that can be mitigated through legal strategy * Legal must seek out root causes when addressing compliance and legal risk issues 	<ul style="list-style-type: none"> * Proactive <u>embedding</u> into business operations * <u>Spotting & solving</u> issues upstream * Manage risk with <u>actionable data</u> * Designing robust operational guardrails together with stakeholders, e.g., <u>further connecting contracts with operations</u>
<p>Prevention</p>  <p>Value</p>	<ul style="list-style-type: none"> * Business stakeholders need to develop legal savvy, as in the case for other functions like IT, and regard the legal function as a key enabler of value creation * Management should devote adequate resources & support for conceptualizing and spearheading legal strategies that generate business opportunities, in the role of a chief legal strategist * Guided by the chief legal strategist, develop a cross-functional strategic team composed of lawyers and non-lawyers to hypothesize legal strategies and test for impact on bottom lines 	<ul style="list-style-type: none"> * <u>Business savvy</u>, e.g., <u>collaboration to improve operations, revenue and/or profit</u> * <u>Lean & efficient</u> delivery of legal services * <u>Efficacy</u> in matching <u>resources</u> to business needs, applying <u>data & quantified risks</u>
<p>Value</p>  <p>Transformation</p>	<ul style="list-style-type: none"> * Senior leadership, starting from CEO, sets the tone & vision throughout the organization that legal function is concerned with more than cost or risk-management issues, and is a strategic resource as part of an ongoing process for a sustainable strategy that is linked directly to the company's future competitiveness * Additional legal team members should be added to embed with every aspect of the corporate strategy decision and execution teams 	<ul style="list-style-type: none"> * <u>Strategic thinking</u> to link long-term corporate opportunities to legal developments & underlying socio-political and economic forces * Aligning legal strategy with <u>business operations</u> * <u>Design thinking</u> to <u>integrate legal service value delivery</u> into strategy execution and operations

Who We Are



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Kenny has practiced law in New York and worked as an associate in China before leading China and Asia in-house legal functions for companies such as Kodak, Honeywell, Goodyear, PepsiCo and Geely. In addition to In-Gear Legalytics, Kenny also acts as *ad hoc* GC to multinational companies operating in Asia.

Bill is a US-qualified lawyer who litigated in New York for Shearman & Sterling and Paul Hastings and has provided legal management advisory services across the US and Canada for companies such as PepsiCo, TD Bank Group, Stikeman Elliott and Gilbert's.