

## 拥抱颠覆性创新 EMBRACING THE NEED FOR DISRUPTION



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If you ask the CEO of a Global Fortune 500 company about the greatest challenge facing his or her company today, “disruptive innovation” will probably be the answer. That’s not surprising in this age of information, marked by fast product cycles, disruptive products and innovation, increased regionalization, supply chain complexity, cloud technology, IoT (internet of things), smart devices and big data.

Some market research reports forecast that by 2020, 50 billion devices will directly connect with one another, creating dynamic communities and streamlining communications, and by 2025, IoT may have a potential economic impact of between US\$3.9 trillion and US\$11.1 trillion per year. IoT will impact homes, offices, factories, retail, and worksites.

Times have changed. Powerful technologies are transforming business. Information is free and real-time. Mobility is trending, available for anyone, anywhere, anytime. Cloud has massive power, extensive scale and low cost. For in-house lawyers, the new era requires rethinking and reshaping of our role. How can we be well prepared and stay ahead of changes?

### WHAT IS DISRUPTION?

Disruption doesn’t necessarily indicate anything negative. It could be a new business model or a converging product category that changes the traditional way of doing business. Uber is a good example. It has disrupted the traditional taxi/car services industry and created a new business model known as a “sharing economy”. Every car owner could choose to be an Uber driver, and passengers can enjoy an easier and cheaper

**如**果你问一家《财富》世界500强企业CEO其公司面临的最大挑战是什么，答案可能会是“颠覆性创新”。这个答案并不令人意外：我们正处在以快速产品周期、颠覆性产品和创新、加强区域化、复杂供应链、云技术、物联网、智能设备和大数据为标志的信息时代。

一些市场研究报告预测，到2020年500亿个设备将能够直接互联，创建动态社区并简化通信；到2025年，物联网每年将产生3.9万亿到11.1万亿美元的经济影响。物联网将影响家庭、办公室、工厂商店和生产场所。

时迁事异，技术正在改变企业。信息是免费和实时的，流动性逐渐能够在任何时间、任何地方、任何人身上实现。云计算影响巨大、规模广泛且成本低廉。对于企业法务而言，新时代要求我们反思和重塑自身角色。我们该如何做好准备，积极应对这些变化？

### 何为“颠覆”？

颠覆不一定是负面的。它可能指改变传统经营方式的新商业模式或聚合式产品类别。以优步为例，它颠覆了传统出租车/汽车服务行业的运营模式，创造了“共享型经济”的新商业模式。每个车主都可以选择成为优步司机，而乘客可以享受优步提供的更便利、实惠的服务。同时它还改变了人们相互联系的方式。颠覆性创新不仅创造新产品，还带来新的法律挑战和风险。例如，如何监管AirBnB和优步这样的共享型经济企业成为最近的热门话题。有鉴于此，企业法务应当如何应对传统法律支持方式面对的“颠覆”呢？

### 传统角色与新角色

从传统上来说，企业内部法务是风险管理人和守门员，主要起到防御和响应的作用。法律职能部门被视为成本中心，根据企业战略和行为而被动地采取行动。

而今天技术日新月异，商业周期更迭迅速，因此要求企业内部法务

ride through Uber. It has also changed the way people connect to each other. Disruptive innovation not only creates new products but also brings about new legal challenges and risks – for instance, how to regulate companies in a “sharing economy” such as Airbnb and Uber are hot topics these days. So what should in-house counsel do in response to the “disruption” to our traditional way of providing legal support?

### TRADITIONAL VERSUS NEW

Traditionally, in-house counsel are risk managers and gatekeepers – more on the defensive and responsive side. The legal function is perceived as a cost centre, taking actions passively in response to corporate strategies and behaviours.

Today, rapidly changing technologies and business cycles call for in-house counsel to re-shape our roles. We are called to be more proactive, strategic and anticipative in how we think, act and react. We should strive to enable business, helping them bring concept to product.

If you were the in-house counsel in a “sharing economy” company, part of your role could be co-ordinating efforts to support policy teams for political lobbying and stakeholder engagement, thereby changing the game from a legislative perspective with the drafting of new laws.

Cloud and big data also require new knowledge and skill sets. Cybersecurity and data privacy have become more and more important. We need to equip ourselves with new techniques and technologies to understand the risks and legal support requirements in these areas.

重塑自身的角色。我们需要在思想、行动和反应中更加积极主动、更具战略眼光和前瞻性。我们应当努力推动业务，协助企业将概念转化为产品。

如果你是共享型经济公司的内部法务，你的部分任务可能是协调各种工作，包括通过建议制定新法规来变更法律方面的游戏规则，以及支持政策团队的游说活动及利益相关者的参与等。

在云技术和大数据方面，我们也需要掌握新知识和新技能。网络安全和数据隐私的重要性正在日益凸显。我们还需要掌握新的技术和技巧，以了解这些领域的风险和法律支持要求。

### 如何接受变化？

我们是否已为法律团队管理方面的变化做好准备？以下是帮助你制定行动计划的一些建议：

**心态：**我们需要跳出思维定式。我们需要改变心态，变得更加开放、灵活，并具备创新、创业和冒险精神。新的商业模式可能会要求律师与其业务部门一样，敢于为获取竞争优势而承担风险。律师不能再安于墨守成规，不再对不可预测的新业务轻易说“不”，而应该不懈推动新业务的发展。没有从守门员到业务推动者的心态转变，企业法务不可能为高风险的业务计划提供支持。

**调整：**我们需要审视我们当前的组织结构，如果与新业务模式不一致，应进行结构重组。除了调整法律结构，我们可能还需要新的制度和工具来满足新的业务需求。我们可以从他人的失败中汲取教训：很多企业的战略调整以失败告终，不是因为新的战略有错，而是由于支持部门未能为新战略做出改变。

无论我们是团队领导或团队成员，现在都要意识到在技术飞速发展中作出改变的紧迫性。我们发现一些公司为传统业务和新业务分别设置独立的法律、人力资源或财务等职能团队。新业务支持团队不必遵守正常的规则和流程，因此能够做出快速灵活的决策。

### EMBRACING CHANGE

Are we ready for change from a legal team management perspective? Here are a few ideas to drum up your action plan:

**Mindset.** We need to think out of the box, to change mindset and be more open-minded, flexible, creative, entrepreneurial and risk-taking. New business models may mandate lawyers to think the same as their business partners – to be willing to take risks in exchange for competitive edge. Lawyers have to step out of their comfort zone and make the tough choices between easily saying “no” to unpredictable new business, or driving relentlessly to enable and facilitate the business. Without the change of mindset from a gatekeeper to a business enabler, it’s impossible for an in-house lawyer to support a potentially high-risk business plan.

**Alignment.** We need to review our current organization and restructure it if it is not aligned with new business models. In addition to readjusting the legal structure, we may also need to put in place new systems and tools to facilitate new business needs. Lessons have been learned from previous failures: many companies fail when they change strategy, not because the new strategy is wrong but because the support functions fail to change to support the new strategy.

Whether we are a team leader or a team member, it’s important to appreciate the urgency of change amidst the advance of technology. In some companies, we have seen legal departments set up two different and independent functional teams, such as legal, HR or finance, to support traditional business and new business separately. The new business support



## 时迁事异，技术正在改变企业 *Times have changed. Powerful technologies are transforming business*

**人才：**好的计划需要合适的人来执行。培训非常重要，能够让人为执行计划做好准备。进入新的商业模式后，我们需要对法律和业务团队进行新的技术、工具、流程、战略、知识和法规的培训。我们需要对人才进行培养，以适应出现的变化。通常情况下，快速发展的新业务可能不允许我们目前的团队从头学起。在这种情况下，有针对性的人才招聘会更加有效。

**沟通：**沟通在推动业务发展过程中起着至关重要的作用。我们需要就商业环境和需求变化、公司转型及法律部门的配合进行自上而下的沟通。法务部门的所有成员的认同会消除混乱和阻力，确保计划成功执行。如果没有切实有效的执行，再完美的计划都只是纸上谈兵。

在沟通方式方面，通过现场会议、邮件、电话会议或录像等提供实时和定期的企业愿景、路线或团队目标的最新信息，将是非常有益的。面对面会谈或电话会议被证明比电子邮件更具吸引力、更易被接受。如果企业内部形成了认可和奖励员工成就的文化，对鼓舞士气和鼓励员工将起到很大作用。

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team is released from following the normal rules and processes so that they can make fast and flexible decisions.

**Talent.** A good plan needs the right people to carry it out. Training is very important to get people ready. We need to train both legal and business teams on new technologies, tools, processes, strategies, knowledge and regulations when we get into new business models. We need to develop our people to catch up with change. Often, a fast moving new business may not allow a learning curve for the current team. In this case, targeted hiring of well-established talent can be more effective.

**Communication.** This plays a crucial role in making things happen. We need to communicate from the top down about the changes in business climate and needs, corporate transformation, and the legal team’s support. Buy-in from all team members of the legal department will smooth chaos and resistance, and ensure successful execution. Without effective execution, a perfect plan is only a plan. In terms of the means of communication, real-time or regular updates on corporate visions, vectors or team goals via live meetings, emails, tele-conferences, newsletters or videotaped training can be helpful. Face-to-face meetings or teleconferences are more engaging and better accepted than emails. A culture of recognizing and celebrating achievements is very important to boost morale, and cheer up and encourage people.

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