

A close-up portrait of Astrid Kohlmeier, a woman with dark hair pulled back, smiling warmly at the camera. She is wearing a light blue collared shirt. The background is a soft, out-of-focus yellow.

Legal Design and Mastering Challenges in the Legal Market

By Astrid Kohlmeier, attorney and mediadesigner

Due to digitization and the expectations of (legal) users / consumers, the legal market is changing rapidly. Legal Design is a holistic method that can be used to master the challenges of this change. It is mainly about a combination of law and design, in which the mindset of designers is transferred to legal issues. Their primary goal is to develop user-centric, relevant solutions and innovations - analog or technical. Legal design offers the legal market a new frame of thought with valuable tools and instruments to work out sustainable solutions. This frame of thought is built on an ecosystemic approach that puts the user of a service, a product or a technical solution at the center of all considerations.

The legal industry is undergoing a massive upheaval. Digitization, mechanization and cost pressure are changing the expectations of all those involved. Technology is going to perform cumbersome, repetitive tasks and will become intelligent in the future. Legal Tech ventures in

Astrid Kohlmeier

the B2C and B2B markets are springing up like mushrooms. At the same time, technical change is also changing visual expectations - infographics and intuitive user design (UX, UI) have taught us that simplified design leads to better and clearer understandability. A simple example: emoticons, vector graphics and icons have long since found their way into everyday life - in both a private and in a professional context. This is nothing but the work of designers who have dealt with the obvious need for simple and cross-language comprehensibility. The billion-fold use of emoticons on our smartphones proves that oral communication is not meeting the demand of digital communication, which should be fast, clear and unambiguous. Emoticons & Co are much less interpretable - unlike the natural spoken language, which is supported by melody and emphasis and additionally by facial expressions and gestures. In contrast, text alone often leads to misunderstandings.

Everyone has made the experience that quite often irony is not understood when expressed in writing. In that regard, Emoticons & Co solve a big problem: users and recipients understand the same thing and there is less room for misunderstandings. Whether you like emoticons or not, it is a fact that almost all of us, in every age group, are using them, easily and intuitively.

The example shows: when designers place the needs of users of systems and applications at the center of their considerations, the outcome can be very useful and intuitive. The question is: what can lawyers learn from designers and what brings the two professions together? The answer is: contextual thinking, collaboration,

problem understanding, quality of results and appearance.

Which existing challenges can be overcome with Legal Design?

1. Involving legal topics as early as possible in the design development of products and services. Digitization places new demands on products and services. Legal design helps to integrate legal aspects early in the process of product and service development. In the future, not only user-centered design will be in the center of attention, but also legal security.
2. Changing the perspective of lawyers- Lawyers focus on the legal correctness of their contracts, legal documents and abstracts because basically they want to limit risks. In doing so, they often pay too little attention to the real needs of their clients or interlocutors. The combination of legal design methods and new opportunities in the field of legal tech help to develop a holistic view - in order to come to need-based and relevant legal services.



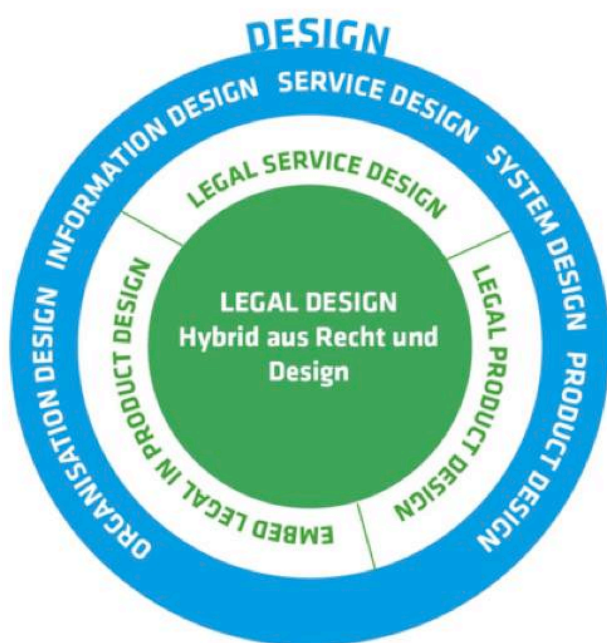
What is Legal Design?

Legal design is a combination of the expertise of lawyers with the expertise of designers, translating the thinking and process models of designers into legal issues. Legal Design is still a relatively new discipline and can be divided into the following subareas: Legal Service Design, Legal Product Design and Embedded Legal in Product (and Service) Design.

The field of design itself is subdivided into various disciplines - in organization -, system -, product-, information- and service design. All have an influence on legal design and can be adapted in the field of law.

With legal design methods:

1. Legal Services can be redesigned and improved,
2. Legal Products can be improved and
3. Legal issues can be already integrated in the early product and service development process.



On 1) Design of Legal Services

This encompasses the legal service itself and how it is provided. Everything related is accessible to legal design methods such as e.g. the design of the environment of legal advice, the organization providing legal services, the way in which it takes place, the communication and information accompanying the legal services, how understandable laws and contracts are formulated and visualized, and the technical or analog instruments used along the user journey. On a broader approach, Legal Service Design also includes questions about access to law or how legislation and case law may apply in the future - e.g. Jurisdiction by including digital support in the courtroom or shaping procedure, e.g. digital interfaces between lawyers and courts etc.

On 2) Improvement of Legal Products

Legal Products are (Legal Tech) applications that bundle or process a variety of concurrent operations so that they can be understood as a product, e.g. Flightright.de, geblitzt.de etc. Legal Products may however also be understood as meaning results of an application of law, such as Contracts that are generated automatically and thus get product character. Legal Products could also be automatic analysis tools, such as Contract Analysis tools/applications or similar offers.

On 3) Embedded legal aspects in Design and Service Development

Finally, legal design can also play a major role by embedding legal issues into products and services development of every industry. In our age of digital medical technology, self-driving cars, smart contracts and IOT, it is more and

more important to integrate e.g. privacy issues and other legally relevant impact for the consumer early in the design process of products themselves. Legal issues can be included in the development process so that users of applications or products can better understand which legal components the product or application contains, e.g. Cookie policy, acceptance of terms and conditions on the Internet.

Equally conceivable, however, is a minimally invasive embedding, which is necessary due to regulatory requirements, but which should not affect the product experience superficially.

Service Design as the basis for Legal Service Design

Service design is a branch of design and designates the process of designing services. Service designers create interfaces of systems involved in a service (e.g., communications, visualizations, digital instruments & applications, UX and UI, etc.), using real-world analytics tools to define real needs and develop ideas for user-centric solutions. The future user and his desires, needs and hopes in the context of his ecosystem are at the center of all considerations.

Design Thinking-Service Design-Legal Design Thinking

“Design thinking is a human-centered approach to innovation that draws from the designer's toolkit to integrate the needs of people, the possibilities of technology, and the requirements for business success.” - Tim Brown, CEO of IDEO

How does a designer work? He/she deals with the person for whom something is being creat-

ed, looks at the user ecosystem in which something is taking place, considers what stakeholders are involved in a process, and what interests and needs they have. A designer analyzes and structures, visualizes in order to make it easier to understand, observes and creates or enhances something in this context of knowledge. He/she interacts with all stakeholders and asks for feedback - in order to make quick improvements to a design or a process. It is precisely this thinking and approach that is called: Design Thinking.

Service Design

Service Design is based on Design Thinking as well as classic product and graphic design - it transfers the methods and thinking patterns of the designer to the development and improvement of services. As a rule, service designers work closely with companies and organizations and collaboratively develop customer and market-oriented services. The right composition of a team is of fundamental importance, because only if all the perspectives involved in a process are incorporated into the development of a service the right problems can be identified and - mostly interdisciplinary - sustainable solutions be developed. In addition, in a service design process great emphasis is placed on the environment and premises in which ideas and innovation processes take place. The creative setting is characterized by mobile screens and furniture as well as room for creative ideas and utensils (good pens, paper, sticky notes, Lego building blocks and much more). It is a known fact that communication is easier in environments that encourage creativity, is more fun and gives participants a better feeling - resulting in more creative and better solutions. Design Thinking

has been successfully used worldwide for many years in every imaginable industry to drive innovation and improve products and services.

Legal Design Thinking

The legal industry so far has been very shy in using the model of design thinking yet to really design legal issues. The first task at hand is to better understand the context and needs of people who have stakes in a legal issue and to create improvements and innovations based on this knowledge and with regard to user-centered and relevant visual designs. The user of law should make the best user experience (UX), so that law and the legal system are not - as so often - perceived as an obstacle or hurdle.

Legal Design Thinking could not only be a suitable innovation method, but also could have the ultimate goal of empowering people who operate in the legal system, to come up with better and smarter decisions based on contextually well prepared and transported information. On this basis, people will be able to act autonomously and not feel dependent, as is often the case now. Maybe the handling of law in general and the interaction with law could even be fun. And: it does not necessarily mean that the legal profession itself is in danger. On the contrary, lawyers who use legal design thinking methods can gain a real competitive advantage, because they understand the clients and their ecosystems, which in turn will help them to anticipate which legal problems have to be solved or could be avoided at an early stage. By this, lawyers could strengthen their actual USP by providing legal advice as a creative service and thus interlocking personal with economic added value.

Example: if an online contract is concluded, a multitude of design options can play a role: the template can be personalized, a simple, comprehensible language can be used; after signing the contract, a message can be sent to the signer, and a contract or legal document can have a user friendly look. Infographics can be built in, the template can be made user-friendly and mobile-responsive, have a clear structure, etc.

The benefit of using legal design thinking methods is obvious: it puts the user at the center, leads to interdisciplinary collaboration, prototypes of ideas are as easily developed and quickly tested as possible, giving feedback on whether an idea meets the needs of the user or needs to be re-adapted etc. Simply put: a path that leads to genuine and relevant innovation. Incidentally, the method is suitable for all organizations and tasks in legal departments, law firms, legal and legal tech companies. Of course, there have always been lawyers who have intuitively incorporated excerpts from this process into their work. However, the question arises as to whether this intuitive approach will be sufficient to meet the complexity of today's challenges.

What are specific objectives of Legal Design?

With Legal Design many improvements and goals can be achieved that are relevant in the field of law:

- The type and form of communication: These include, for example, the choice of words and / or the design of legal texts, laws and contracts, as well as the form of the transmission of information, whether in person or by virtual means.



illustration by Margaret Hagan

- The improvement of service offerings to stakeholders or clients - as well as the relationship to each other.
- Improvement of problem solutions: the shift of perspective towards the user opens new chances to solve problems.
- Development of new (legal) products and services.
- Development a culture of innovation in organizations dealing with law and legal advice.
- Evolvement of the legal profession: A Legal Design Mindset offers new options for

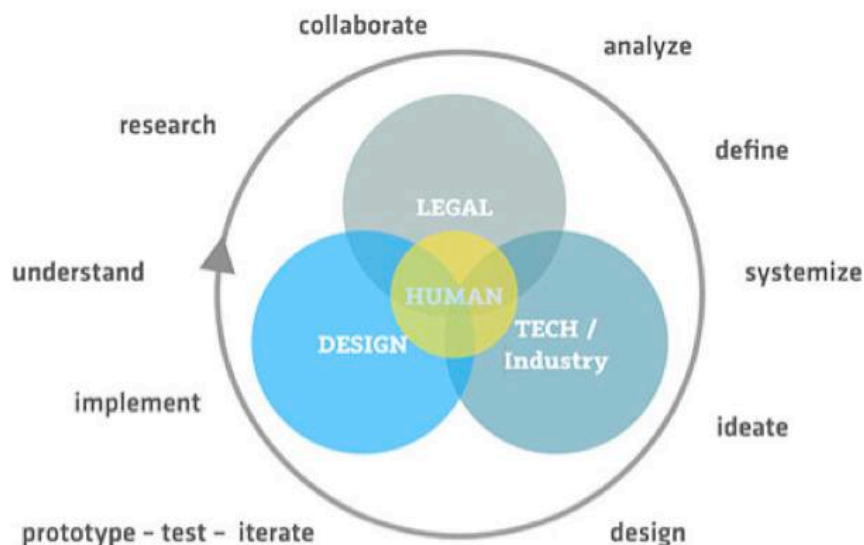
lawyers, with new business models and competencies.

Legal design methods in the derivation of service and product design methods-

Legal design in practice - understand (research, collaborate, analyze, define), systemize, create (idea, design, prototype) and finally: implement

The method flow in the legal design process follows a certain rule, which can roughly be subdivided into the phases „understand", "systemize", "create" and "implementation".

LEGAL DESIGN human centered principles



by Fabrice Rothmann

Team and culture

In adopting the approach of service design to the legal world, we first have to ask very practical questions such as: which team should work on a problem (core team - only internally or with external support), in which composition of the team analyzes and examinations should be made. Basically, putting together the innovation and legal design team looks easy, but its formation typically varies from case to case.

The most important thing, however, is that the culture in the company is open to innovation processes of this kind, and that for each project all stakeholders are identified who are involved in a question or a process and are actively integrated into the process.

Understand: from Problem Solver to Problem Finder

Legal designers deal with the task that is to be solved. It is important to note that the task here should not be accepted as a well-defined basis for the planned solution - as lawyers are used to, and to find the most efficient, legally compliant solution from A to B. On the contrary – now the most intense part "understand" begins. The original question is examined in more detail with different methods.

The hypotheses found based on the task then are challenged with the stakeholders, e.g. through personally observing and interviewing to find out their needs and interests along the process chain that require service. In very many cases the result of this deep user research is that the fundamental problem sits in a completely different place than originally assumed.

Systemize

This process step is about reorganizing and prioritizing the knowledge gained from step "understand". It's about formulating the very core of the problem, and it's best done through a collaborative and interdisciplinary look at the research results. On this basis, the (newly) elaborated question and problem identification are defined.

Create

Only now the design process to develop new solutions is starting. It is very important that the best ideas are quickly prototyped and tested in the real world in which the problem occurred. Fast testing can detect what works and what doesn't at an early stage in the development process. In iteration loops, new improvements to ideas can always be tested before a product or service is ready for the market. This is certainly the most unusual step for lawyers, as they have been trained to present a solution that is as perfect as possible. The mindset in design thinking requires a real rethink and an openness for not yet perfect solutions. And it requires an innovation team **that** is not afraid to enter into genuine dialogue with users and customers and see mistakes not as failures but as valuable learning input.

Implement

Finally, the integration of the previously tested and improved idea into the existing ecosystem follows. This can happen purely internally or with the external help of a service provider. It is crucial that the existing structure in an organization is taken into account, which can be achieved very well with a so-called "customer journey" or a "service blueprint". This can be used to quickly define gaps and any additional

requirements. The discovery of such gaps and the willingness to make improvements to a system are ultimately critical to the success of a new service or service structure.

Example of procedure: Contract often leads to legal disputes

If, for example, the information resulting from a text of a contract is often misunderstood by customers, consumers or other recipients and conflicts arise regularly, a closer look on the document itself and the review of the legal statement itself can be useful, but also - and that is the ecosystematic approach of Design Thinking - to all people (!) and systems involved in the development of the contract like automated processes but also analog communication. The decisive factor in a second step is to find out the reason for the misunderstandings in the contract. This is where service design comes into play with its instruments of observation and analysis of the needs of all stakeholders involved - qualitative interviews are conducted and observations made in the real environment of the individual. In many cases, these observations of the participants in their ecosystem change the initial assumption and show the relevant problem being elsewhere. Typical examples here are e.g. legally correct explanations which, while providing legal clarity, are not considered useful in terms of content. The lawyer's mindset is: I have formulated the contract legally correct, whereas the typical user wonders what the document really means and what good it does for him.

Example: Finland

Let us have a look at a practical example from

Finland, in which the large pension fund VARMA changed and simplified its entire contract design. In a research process emerged that pension letters, in which the expected pension payment was calculated, led to massive customer dissatisfaction. The research process involving the legal department, management (both VARMA), law firm (law firm Dottir), service design agency (Hellon) and end customers revealed the letters to be legally correct. The letters also correctly showed the amount consumers could expect at retirement age. In addition to the incomprehensibility of the legal language and the confusing design of the letter, the researchers discovered the actual root of dissatisfaction of the pensioners. The important questions for them were whether the amount indicated would be sufficient to make a good life and were there any options to improve if necessary. The consequence of the project was not only the graphic transformation of the letter and the use of simpler language. Rather, a new department has been introduced in the Pension Fund, which deals with the options and additional possibilities on how future pensioners can improve the pension level (alternative pension savings, etc.).

Example: Africa

Another example from Africa (quoted from the preface of the publication "Liquid Legal") shows that legal design is a good tool for identifying underlying or hidden problems: Farmers in South Africa wanted to commit their food production workers to punctuality, hygiene standards and safety, including legal consequences of infringement. Workers signed these contracts but that did not change anything. Only an investigation of the reality

revealed that since most workers were illiterate, they had not understood the content of the contract. Only through questioning and observation of those affected and a change of perspective, the need for a new contract design was revealed and the contract was finally transformed into a comic.

The example shows again that the problems had nothing to do with the legal comprehensibility and correctness of the contract, but only with the fact that the view of those involved in the process were not examined exactly and their needs were not initially the focus of the problem solution.

Legal design coming up

The international Legal Design Summit with around 600 participants held in Helsinki in November 2017 has shown that legal (service) design is growing out of its infancy, even though many activities are currently still mainly in the US environment, and there in the context of universities. The Stanford Legal Design Lab is certainly in the lead. At its helm is Margaret Hagan, a lawyer and designer who has been developing successful models for some years now. She adopts the designer's gaze to the world of law. Her work focuses primarily on the topic of access to justice, an area which requires special attention due to the high legal costs in the US.

In Europe, the topic is gaining momentum. There are first legal design initiatives in Finland, Holland, France, Italy and Germany, either on service agency side and also from law firms, who already dare to employ legal designers and integrate them in projects. In Germany, IXDS GmbH is a pioneer on service

design agency site. There are also the first examples to be found in the legal departments, but still there is relatively little public communication here.

Another movement is to be seen in the Liquid Legal approach, driven by Kai Jacob and Dierk Schindler, who are working to build a so-called Common Legal Platform, where interdisciplinary collaboration should lead to uniform standards for innovations in the legal market. In context to this approach, Legal Design will play a major role.

How to become a Legal Designer?

At the moment Legal Design is no specific field of study in Germany. Generally Legal Design requires skills in the field of law and design. If you are only trained in one of the two professions, collaborative work is a good option.

Illustration by Margaret Hagan



that skills of designers can be adapted in the legal context. Design Thinking, which has already been used as a successful instrument across many industries, also provides an ideal instrument for legal topics.

Nevertheless, lawyers should be careful in calling themselves "legal designers" without further deepening their knowledge of design. First, because design is a profession of its own, and second, lawyers usually do not possess the skills of designers, and have to learn their special way of thinking and approaching problems. There are likely to be found no designers at all who will call themselves „lawyer” without a proper law degree.

Legal Design in Legal Education-Legal Tech is not yet a comprehensive answer, but a good start.

It would be a breakthrough if universities would offer training courses or better yet specific fields of study. Especially against the background that today's law students still prepare themselves with traditional means for legal professions, which are subject to the rapid digital development and change. At least supplementary teaching content would be helpful. It could empower law students trained according to the current (classical) curriculum to work later in a practice in which digital tools will probably be widespread and prepare students to develop innovations and improvements with own expert knowledge.

Some training centers in Germany have already been recognized to offer students at least more options in the area of Legal Tech. In many cases, however, it is also the students

(such as MLTech in Munich) who organize themselves and independently set up relevant teaching content. These initiatives are a first good step, but Legal Tech is not the only answer to the changes in the legal market. Rather, a much broader approach is needed to meet the challenges.

In my opinion, the discussion should not be narrowed down to Legal Tech (though the buzzword gets a lot of issues going). It would be important to teach students a thinking tool and mindset, such as Legal Design, to empower them for all professional challenges and to collaboratively and interdisciplinary develop needs-based and human centered solutions and offers.

Universities could very easily start by building up Legal Design Labs and use the method of Design Thinking to develop projects and invent new courses - always in an interdisciplinary exchange and in a variable composition of affected stakeholders in a process. Legal Design Labs have already been set up in the US and might serve as models for German universities as well. Interestingly there is already the «Law School Innovation Index" (<https://www.legaltechinnovation.com/law-school-index/>) for universities. Universities in the US will use this as a competitive advantage, why shouldn't we follow?

Conclusion

The following statement on Legal Design by Attorney Antii Innanen (law firm Dottir / Finland) shows quite well, where lawyers already can be: "Legal Design is not visualizing contracts or using plain and understandable language in legal work.

These are the outcomes of the legal design process & mindset.

'Lawyers Mindset'

- Clients contact lawyers in order to solve complex legal problems.
- Lawyers are taught to use THEIR expertise and previous experience to deliver high-quality legal services.
- We are taught what the law is, and we are then taught how to apply the law to a problem from the mindset and perspective of a lawyer.
- Only later, usually through actual work do we cultivate an ability to see and understand a legal problem and its challenges through the eyes of our clients.

'Designers Mindset'

- Designers refuse to design anything before understanding the end user - what they do, how they use things or what they need.
- Only after this will they proceed (often in collaboration with others) with solutions to the problems.

'Legal Design Mindset'

- Lawyers need to adopt the design mindset to gain a deeper understanding of their clients' needs - both immediate and future.

My personal conclusion, *Legal Design is coming – let's start playing!*

About the author

Based in Munich, Astrid Kohlmeier is an attorney and a mediadesigner and combines the disciplines law and design as a legal designer for over a decade. She worked for more than 10 years as head of Marketing & Communications in the legal service industry at ERGO Insurance group, a subsidiary of Munich Re and is engaged as a consultant for legal transformation and development of new legal services. Astrid has a long-standing experience in legal design, project management, consulting and leadership. She has a background in law, media design, strategy consulting and design thinking. She works as director of legal design & legal tech in Munich, Germany

