Designing and Maintaining a Profitable Law Firm that will have a Future

The Look Beyond: Succession Planning

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We do not get younger…

• USA
  – Median Age of Lawyers\(^1\):
    39 years  41 years  45 years  49 years

• Japan
  – Average Age of Patent Attorneys (2012)\(^2\): 49.04 years

• Germany
  – Tax lawyers and tax consultants (2011)\(^3\):
    • average age 50.8 years
    • 19,000 bar members older than 60 years

• France
  – Average Age of Lawyers (2011)\(^4\): 43.1 ys

Sources: ¹ American Bar Association, 2012, Lawyer Demographics
³ KANZLEIFÜHRUNG PROFESSIONELL 2-2013, p. 25-28; 3-2013, p. 43-46
⁴ Conseil National des Barreaux, Les Chiffres-cles de l’Observatoire - Avril 2011
Hypotheses – Where Small and Large Firms Meet in the Market for Law Firms

• Patent-related services take place in an increasingly saturated and commoditized displacement market

  aka “gee-whiz, increasing revenues has never been so difficult!”

• Buy-in into or merger with a firm with retiring owner may be a business opportunity for growth

• Succession planning in smaller firms differs from succession planning in larger firms

... beware of the pitfalls of succession planning!
Don’t take too long!
Don‘t be too fast!

Ex-Pope

No Pope
...but behold:

In both cases there exist well-established succession routines!

(in contrast to many organizations in private practice)
Phases in Transition Planning

• Preparation phase
  – Prepare a timeline – allow for >5 years (average)
  – Get the firm and yourself ready
  – Main problem: You may have to start when you still want to continue

• Matching phase
  – Identify suitable and solvent successor
  – Negotiate terms

• Transition phase
  – Allow for 2-3 years for the transition (average)
  – Main problems
    • Quality uncertainty for both parties
    • Not letting go, pricing

• Post-transition phase
  – Main problem: Involvement of former attorney
Preparation Phase – Am I ready?

• Is the firm ready?
  – Externally: Are the clients ready?
    • Information about succession
    • Age structure of clients’ key persons
    • Billing morale
  – Market placement: Is the firm visible and attractive?
  – Internally:
    • Are the employees and partners ready?
    • Is the cost structure up to date?

• Are there any successors in view?
• Am I financially safe for a worst-case scenario?
• What do I do afterwards?
Matching Phase

• Information asymmetry and quality uncertainty problems need to be solved
  – Screening
    • Propose different paths for transitioning (partial/total handover, melt-down clauses)
    • Use feedback to identify potential problems
  – Signalling
    • Rankings, ISO certification
    • Independent evaluation report
    • Case histories of parties
    • Guarantees
Transition Phase

• Fair and reasonable compensation

• Smooth and consequent transitions
  – Transition of ownership
    • Creating an adequate legal construct
  – Transition of management
    • Becoming the functional head
  – Transition of leadership
    • Becoming the “spiritual” head
  – Transition of business developments
  – Transition of clients
    • Both: trust-building
  – Transition of firm’s know-how
Five mortal sins

• Excessive focus of firm on outgoing owner
  – “nobody knows as much as me“
  – workflow tailored to owner

• Lone wolf mentality
  – instinct to bite away competitors

• Creeping depreciation before succession
  – “I am too old for this new service/technology/law“
  – “It worked fine up to now“
  – “This is something my successor should do“

• Unwillingness to let go

• Hybris of the young
Obstacles to Transitions in Larger Firms

• Complacency of partnership towards exclusive attorney-client relationships
• Compensation system does not reward client sharing and/or work sharing
• Inconsequent retirement clauses
• Lack of career development schemes
• Unawareness of leadership transition within client business
• Successor is not identified early to clients
• Partner volatility
Succession within Firm

Involve young talents early in management by

- sharing firm budgets (except e.g. partner compensation)
- assigning specific tasks within committees
- involvement in recruiting and evaluation
- allowing management of paralegals and assistants
- allowing for client contact

To identify outstanding attorneys that also will be outstanding business owners
The last entrepreneurial decision in your business life
Thank you.