

Creating Sustainable Competitive Advantage with Legal AI

How AI is transforming legal strategy





The rise of generative AI will likely free up lawyers' time to engage in more strategic and creative work



It is an ideal moment for firms to consider what sorts of strategic initiatives will allow them to create value over the long term



In-house counsel can take this opportunity to focus on their organisations' key business drivers

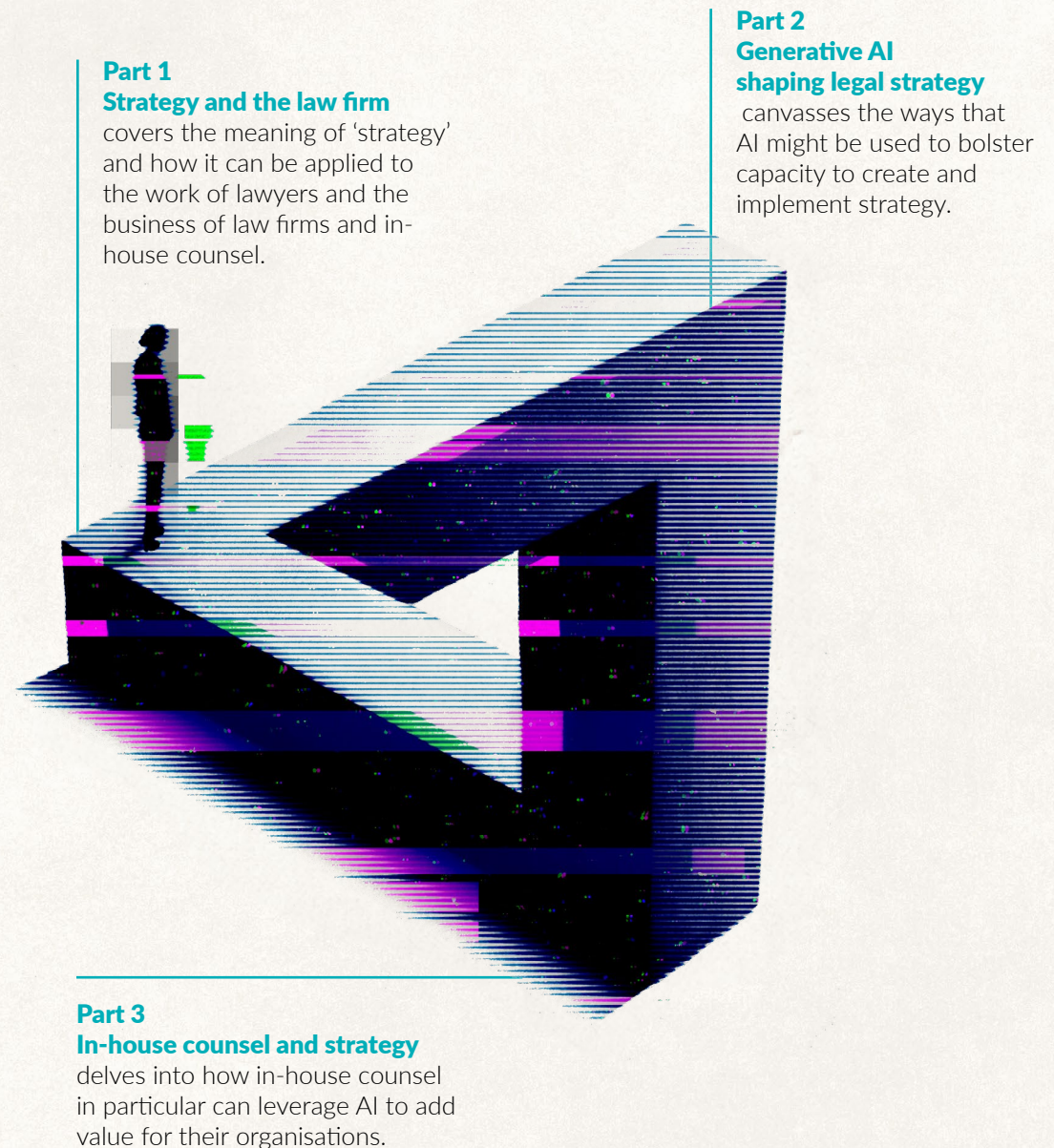
Introduction

What will legal practice look like when lawyers' time is freed up by the efficiencies created by generative AI?

Keen legal observers of the rise of generative AI will have noticed claims that the use of AI in law opens up opportunities for lawyers to engage in 'high level', 'creative', or 'high value' work. This higher-order work is positioned as distinct from the more routine manual tasks that might occupy a lawyer's time — particularly the time of a more junior legal practitioner. It can be difficult to envisage what 'higher value' work in a legal context might look like, particularly in relation to the billable hour business model.

One of the valuable tasks that a law firm or legal department might turn its mind to — given a lower burden of operational, administrative, and routine legal tasks — is the creation of strategy across different dimensions of legal practice. The intersection between AI and strategy in law is the subject of this white paper.

With the advent of generative AI, law firms and legal departments have a crucial opportunity to consider how the use of AI can be used to create a sustainable competitive advantage into the future.





PART 1

Strategy and the law firm

There has traditionally been little crossover between strategy and law¹. Commercial skills and acumen are generally not taught in law schools. The traditional role of the lawyer — in a nutshell — is to take instructions from their client, discover what the relevant law is, and apply it to the matter at hand. Evidently, experienced lawyers will over time become familiar with business drivers in their clients' industries and with the strategic considerations involved in competing effectively in the legal services market. They will likely also spend increasing amounts of time in business development. However, these are not traditional core competencies of legal professionals and are not generally shared by more junior lawyers.

What is 'strategy'? A classic 1996 Harvard Business Review article defined strategy as a company's choice of a mix of activities designed to deliver value:

"Competitive strategy is about being different. It means deliberately choosing a different set of activities to deliver a unique mix of value... Strategy is the creation of a unique and valuable position, involving a different set of activities. If there were only one ideal position, there would be no need for strategy."²

'Operational effectiveness' — constant process improvements and efficiency gains — is not strategy and is necessary but not sufficient to stay competitive and continue to provide value over time. The rapid diffusion of best practices means that competitors can quickly duplicate improvements in operational efficiency and erode profitability.³ Strategy, on the other hand, is difficult to copy. It necessarily involves trade-offs in activities; that is, choices not to do a particular activity in order to pursue another activity effectively.

¹ Pathways of Legal Strategy, 14 Stan. J.L. Bus. & Fin. 1 (2008)

² [Michael E. Porter, 'What is strategy?', Harvard Business Review, 1996](#)

³ Ibid.

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Strategic thinking in law requires a change in mindset from a professional, here-and-now delivery of services to a future-focused mix of relevant legal expertise, industry insight, and superior end-to-end client experience.”



What does this mean for lawyers? How can a law firm differentiate itself from its competitors, given that all are engaged in providing legal services? As an article by the Harvard Law School Centre on the Legal Profession noted in 2017, law firms’ implicit strategy was traditionally simply to do excellent work and to rely on that to retain new clients and attract new clients and the best talent. The need for law firm strategy increased as the market for legal services became more competitive.⁴ Strategic thinking in law requires a change in mindset from a professional, here-and-now delivery of services to a future-focused mix of relevant legal expertise, industry insight, and superior end-to-end client experience.⁵

Law firm strategy might include the following decisions, among others:

- Which clients and which industries to serve (involving, for example, assumptions about which industries will have a greater need for legal services in the future, or whether the firm wants to become the preferred provider for a particular niche)
- What sorts of employee skills to invest in (for example, hiring more technologists and innovation specialists)
- The mix of technology and technical solutions to implement via purchasing, partnering, or building in-house
- The desired end-to-end client experience

⁴ [HLS Center on the Legal Profession, Steering law firm strategy: the evolution of what it means to compete in the legal marketplace, May/June 2017](#)

⁵ See [Edge International, Why is law firm strategy so hard?](#)

PART 2

Generative AI shaping legal strategy

Generative AI seems poised to impact the legal profession — and knowledge work more generally — on a scale that is unlike any previous technological shift. Authors of a study published in March 2023 found that legal services are among the industries most exposed to advances in language modelling.⁶ Similarly, McKinsey & Company found in a July 2023 report that the advent of generative AI significantly increased overall automation potential for business and legal professionals.⁷

The facility of generative AI — and Large Language Models (LLMs) in particular — with natural language is what gives this technological moment unprecedented significance for lawyers. LLMs are deep learning models that are trained on a vast, unstructured corpus of text to produce fluent, human-like text in response to prompts.

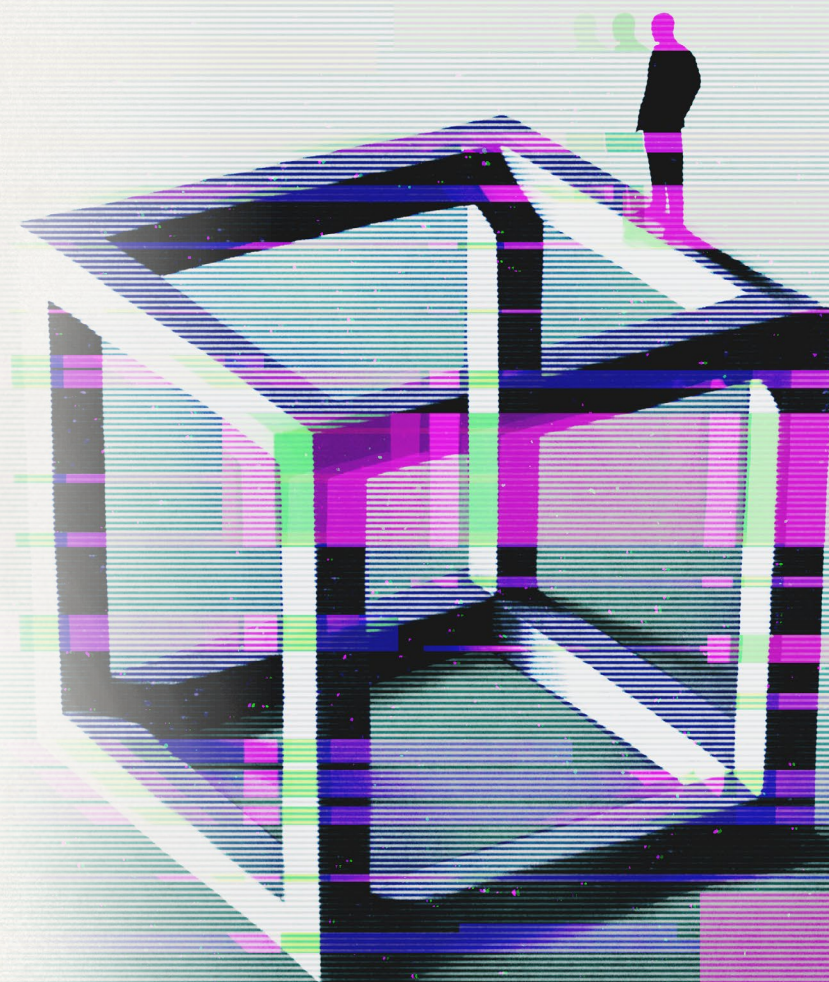
Unlike previous AI models designed to perform a specific task within a particular legal workflow (for example, classifying documents in discovery), LLMs are 'foundation models' that can be fine-tuned to perform a range of domain-specific tasks. The flexibility and versatility of foundation models means that a single model can be fine-tuned to perform several legal tasks — including drafting, legal research, and summarisation.

The impact of generative AI on strategy in law will likely occur along multiple dimensions, encompassing higher productivity, the shifting of resources to different activities, and the development of new solution lines.

First, and most obviously, the fact that LLMs can fluently perform language-based tasks, including content creation, means that manual, time-consuming legal work now has the potential to be automated. This increase in efficiency and productivity will eventually become table stakes for law firms. It is the 'operational effectiveness' side of the coin. The choices that firms make to differentiate themselves and drive long term competitive advantage, given the efficiencies driven by generative AI implementation, are the strategy side.

⁶ Felten et al, [How will language models like ChatGPT affect occupations and industries?](#)

⁷ McKinsey & Co, [The Economic Potential of Generative AI](#), July 2023.



Increased efficiencies in traditional legal work — as well as in administrative, non-billable tasks — will free up more time for other kinds of work, including creative work, the development of commercial acumen, relationship building, and thought leadership. In this way, firms can go beyond legal services to position themselves as a trusted advisor to their clients and differentiate themselves in a crowded market for legal services.

Generative AI itself can also contribute to generating the market- and client-facing content necessary to execute on strategy, and conceivably in the future to the creation of strategy itself. As Ilona Logvinova, Associate General Counsel and Head of Innovation for McKinsey Legal observed in a May 2023 blog article:

“The value we bring as lawyers is captured in our expertise, judgment, and ability to advise clients in a thoughtful, creative, nuanced, and easily accessible way...The elemental and crucial shift for us as lawyers — especially amidst our own tech revolution — is to position ourselves and see ourselves as content creators and legal designers who are constantly generating content...”⁸

Finally, firms may leverage generative AI to create new lines of business or productised legal services. In our 2024 Investing in Legal Innovation Survey, LexisNexis surveyed 266 leaders from large law firms and Fortune 1000 companies in the United States to better understand the adoption, use and planned investment in generative AI. 47% of law firm respondents indicated that they were exploring new lines of business and new billable opportunities only possibly because of generative AI.⁹

In public interest law, generative AI may be used to lower the cost of providing legal services and producing legal information for underserved populations — thereby increasing access to justice.

⁸ [McKinsey & Co, Legal innovation and generative AI: Lawyers emerging as ‘pilots,’ content creators, and legal designers, May 2023](#)

⁹ [LexisNexis. 2024 Investing in Legal Innovation Survey.](#)

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PART 3

In-house counsel and strategy

In-house counsel have a particular need to understand and contribute to formulating and executing on corporate strategy. Delivering on the promise of generative AI to enhance efficiency will be essential for in-house counsel who are under pressure to deliver more with less, and to justify the value of the in-house legal team to the business.

How can in-house counsel contribute to overall strategy? And how might generative AI enable in-house lawyers to do so?

In-house legal teams have a valuable role to play in the overall success of a business.¹⁰ To contribute to the greatest extent possible, general counsel should become familiar with overall business strategy, relevant business models, financial metrics, the competitive landscape, and key strengths and weaknesses. Being oriented to commercial outcomes will ensure that the legal team has a seat at the table when key business decisions are made and that the value of the legal function is not in question.

Evidently, this is difficult to achieve in circumstances where in-house lawyers are constantly engaged in lower-level, repetitive work — or in responding to urgent requests and tactical issues, rather than broader strategic initiatives. In-house teams might consider experimenting with generative AI use cases to automate or speed up lower-

level tasks, freeing up lawyers' time to upskill and to contribute to longer-term initiatives. The efficiencies created by using generative AI may also enable the in-house legal function to reduce the amount of work briefed to panel firms. This in turn contributes to a need for firms to become increasingly strategic in relation to their own business.

Determining the most valuable AI use cases within an in-house team requires understanding the tasks that are currently taking up lawyers' time, the capabilities of generative AI, and relevant success metrics. At an event co-sponsored by the Wall Street Journal and LexisNexis in January 2024, Lydia Petrakis, Senior Corporate Counsel and Digital Strategist at Microsoft, noted that some the most successful use cases among 250 suggestions were summarisation, research, drafting, and understanding and interpreting regulation.¹¹

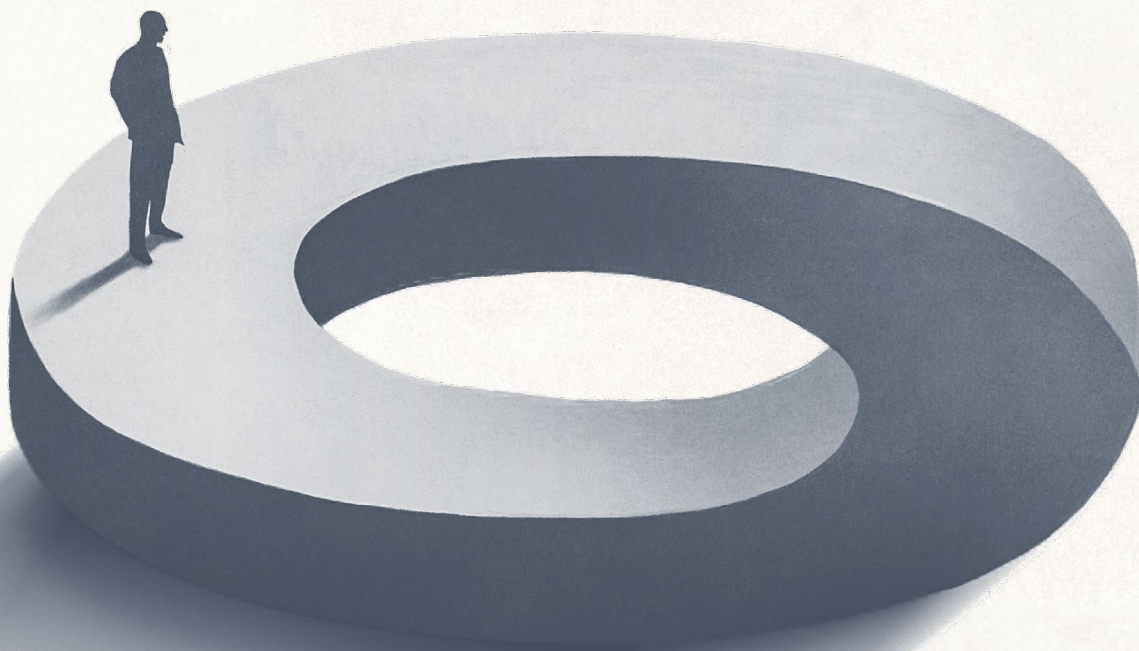
In-house counsel should also be aware of business strategy and attitudes in relation to AI itself, particularly if the business plans to develop or commercialise an AI product. The development and use of generative AI tools may be more or less high-risk, depending on their intended applications and potential impact. As in-house counsel, it is important to be well-versed in legal issues relating to AI and in ethical implications.

¹⁰ Sarah Hallowell, [How in-house lawyers can be impactful strategic business leaders, August 2022](#).

¹¹ [LexisNexis and the Wall Street Journal, Generative AI and the General Counsel Perspective, 31 January 2024](#).

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BUILDING A FUTURE-PROOF STRATEGY

It is an ideal moment for firms and legal departments to consider where they would like to be in three to five years' time, and how they plan to differentiate themselves from their peers over that period of time to drive long-term, sustainable competitive advantage. The rise of generative AI, although disruptive, presents an opportunity to reconsider how the firm sees itself, what are its strengths and weaknesses, and what it can stop doing or automate in order to dedicate more time to innovation, relationship-building, and other types of creative work.

KEY TAKEAWAYS



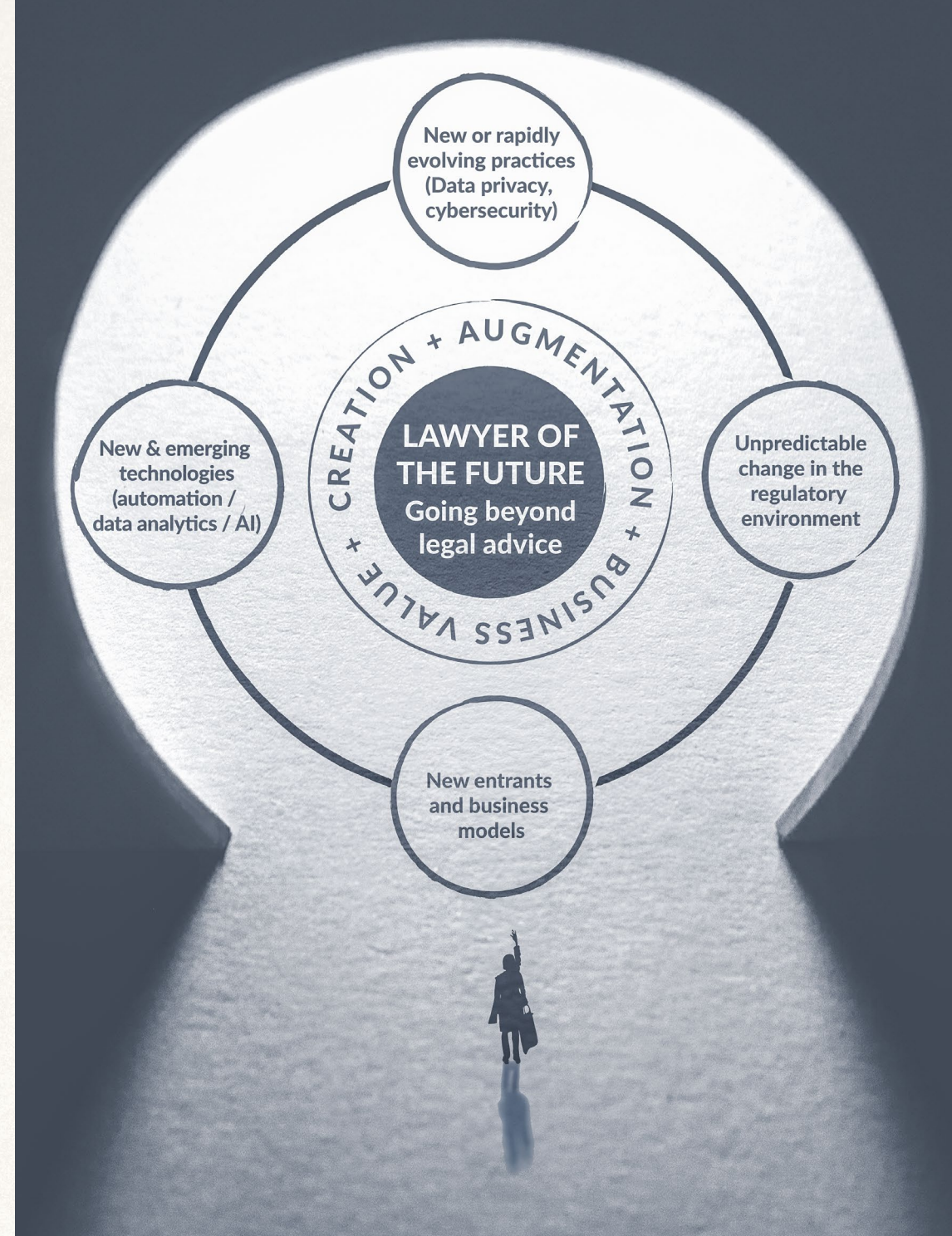
Law firms should consider the strategic moves that will differentiate them from competitors



The use of generative AI to perform manual, repetitive tasks will make more time available for strategic work



In-house counsel in particular can capitalise on time savings to become more involved in corporate strategy



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