

# Legal Innovation

## The harnessed power of the brainstorm

Break down hierarchies, get outside help to stimulate inventive ways of thinking

DONALEE MOULTON

Good ideas can come out of thin air. Generating consistently great ideas, however, requires more than mere luck. Creative thinking must be fostered, and it must be actively supported at all levels of the organization. Regular brainstorming sessions can help.

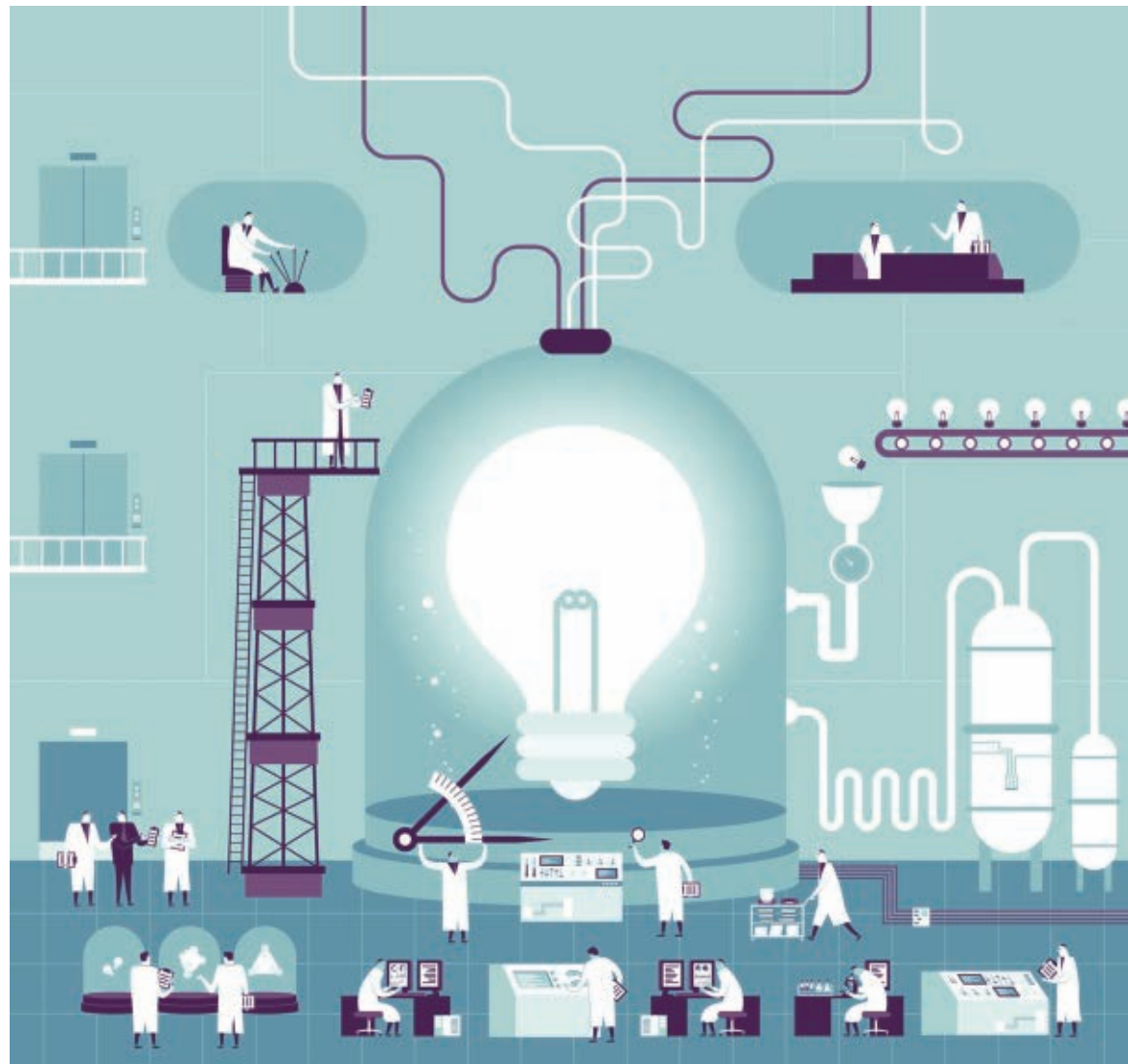
Brainstorming as a way of working begins with the realization that innovative ideas must be nurtured. “So many lawyers are strapped for creative thinking time. Unless you carve out intentional space and time to think about your business and how you can improve, innovation discussions simply don’t happen,” said **Kate Dewhirst**, founder of Kate Dewhirst Health Law in Toronto.

At MacDonald & Partners LLP in Toronto, groups are often set up, sometimes around a specific project, to engage members of the legal team and to encourage creative thinking. The composition of the groups does not follow hierarchy, however; senior partners and associates sit next to each other, sleeves rolled up, thinking caps on. “We try not to have decision-making coming down from the top. That stifles creativity,” said Gary Joseph, the firm’s managing partner.

Blurring the lines between associate, partner, clerk and CEO also sends a message about the organization’s commitment to innovation and inclusion. “Everybody has something of value to contribute,” Joseph said.

Ideas are fostered in an atmosphere of openness. Therefore, individuals must feel safe about making suggestions that may seem to be off the wall or impossible to achieve. For brainstorming to be effective, participants must feel secure any suggestion they bring forward will be welcome. In the end, it may not be acted on, but it will not be dismissed out of hand. “Inclusion forces everyone to look at an issue and from different perspectives,” said Joseph. “Partners may not agree with a proposal, but it will encourage them to rethink their approach.”

Dewhirst recommends demystifying the term “innovation.” At its core, creative thinking involves identifying standard practices and considering alternatives, she noted. “Every lawyer has the ability to collect information to deter-



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mine the status quo. And every lawyer is trained to consider alternatives. The challenge is applying those skills in a self-reflective exercise.”

An essential first step for many legal teams is recognizing that brainstorming and other means of inventive thinking are needed at all. “Lawyers can easily fall into the trap of why mess with what is already working and may not see the need to innovate their offerings and products if they are currently busy with client work,” Dewhirst said.

Such complacency is no longer acceptable, stressed Joseph. “There are demands on firms to be innovative. It’s not optional. You need to create and to keep up. There has been a huge shift in the way law firms operate.”

The basics of brainstorming have not changed since U.S. ad exec Alex Osborn originated the approach in 1953 when his book *Applied Imagination* hits bookstores. Four fundamentals defined the process then and

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MacDonald & Partners LLP

now: opt for quantity over quality, ban criticism, get wild, and build on individual ideas. While those basics continue to describe effective brainstorming, reality must be acknowledged. Often ideas are dismissed, albeit silently, because of the person proposing the suggestion or a reluctance to adopt the idea itself. That’s where enhanced brainstorming can help, Brad McRae pointed out in

his book *The Seven Strategies of Master Negotiators*. He recommends that others in the room be called on to show how someone else’s idea could work. This will foster buy-in and greater openness to ideas.

Today, noted McRae, director of the Atlantic Leadership Development Institute in Halifax, brainstorming can be anonymous. For virtual and very busy teams, e-mail can be used to generate participation anonymously. No one has to know who suggested an idea, so inherent biases are diminished.

Joseph also advises doing away with tools—such as flipcharts, PowerPoints and white boards—that are closely associated with traditional meetings and a one-way flow of information. “That just encourages people to sit there and take notes,” he said. Instead, he recommends engaging people directly by asking them for their insight. “That gets people talking and away you go.”

Brainstorming ultimately works because the people in the room or at the other end of the e-mail chain feel safe to contribute to the conversation. Ensuring—and creating—that sense of security is the responsibility of the organization itself. “You have to foster a culture where people feel comfortable to express their ideas,” said Joseph. “Senior people need to seek input. If you make people feel that their opinions are important you will get valuable input.”

For legal teams looking to make their first foray into brainstorming, Dewhirst suggests starting with what you know. Ask yourself what are the most common questions from clients, she said. “The answer to that question will identify patterns and opportunities to package up your advice in new ways.”

Then dig deeper into what truly motivates your clients. Look at what they value, and what they don’t. Look closely at what inspires them and what concerns them. “Evaluating what matters to your clients is the cornerstone of innovative thinking,” Dewhirst said. “You miss many opportunities if you are not thinking about the client experience.”

It may also be helpful to get outside help. Joseph points out that a professional facilitator from outside the firm can be effective in stimulating creativity within the team. Training, in areas such as legal writing, will also encourage collaboration and teamwork.

Finally, the team must look inside and outside the profession to see how organizations generate great ideas. “Consider looking at the websites and offerings of legal brands who have made a splash,” said Dewhirst, who also advises having “a conversation about the ways in which other industries have changed and what prompted those radical shifts.”

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