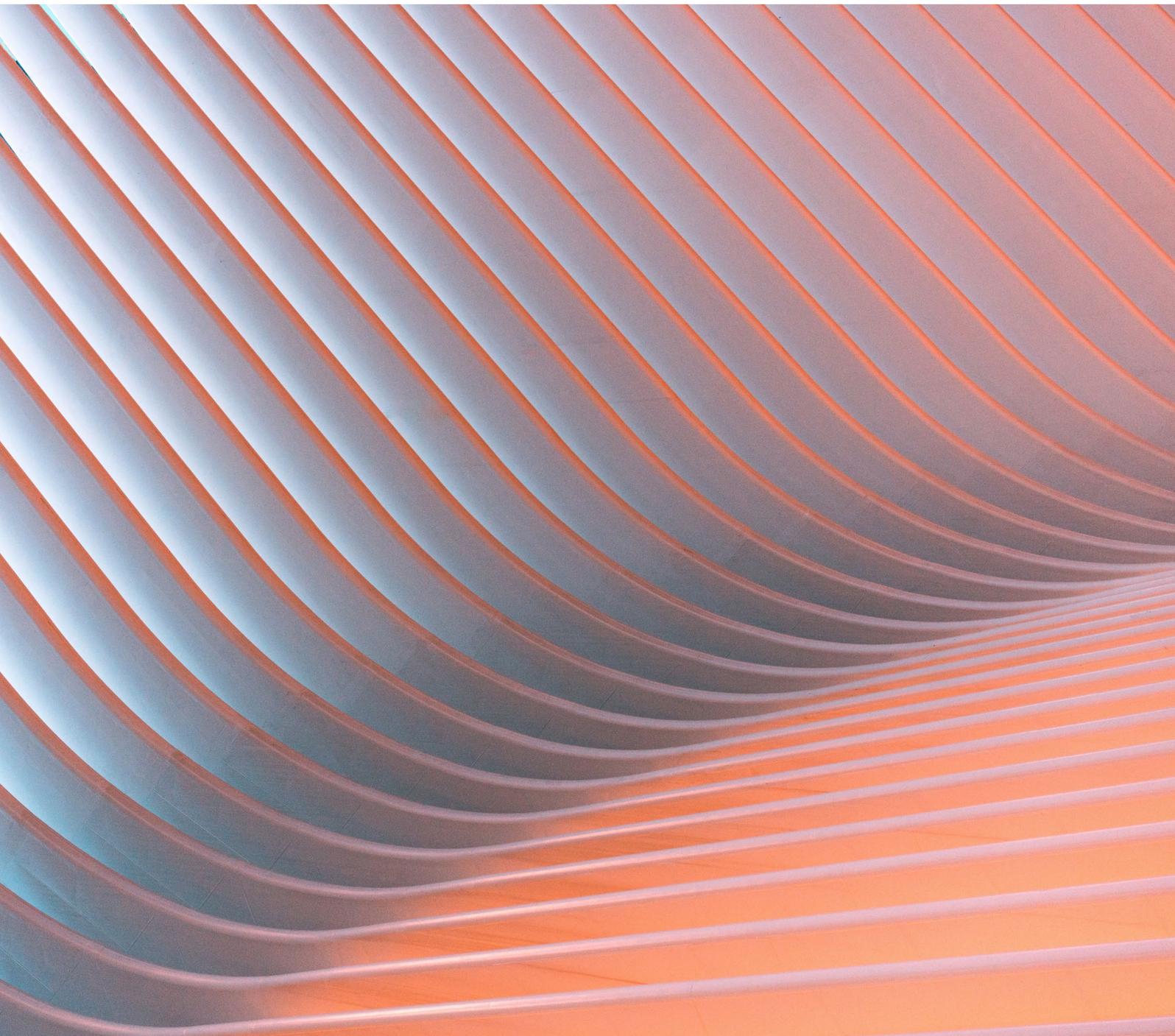




Thriving in uncertainty

Whitepaper

Interview with
Albert Woo and Kevin Paul



Introduction

Like nearly all sectors of the world economy, intellectual property law firms have faced upheaval in the midst of the novel coronavirus pandemic that took hold in March 2020.

Almost half of surveyed senior decision makers said COVID-19 disrupted their innovation strategy. IP law proceedings faced a spate of cancellations, reschedulings and ad hoc practice changes, and firms transitioned into fully or almost fully remote frameworks for their operations. The responses of lead partners at IP law firms have been considerably varied: some reduced staff or cut pay in the immediate wake of the crisis. Others instead pivoted, leveraging the flexibility of their personnel to take on new service areas that they hadn't previously covered, or outsourcing certain services rather than eliminating them.

Many organizations can now look back on the disruption from firmer footing, but the past months nonetheless beg the question about what's coming next.

The necessity of navigating unpredictable, resource-constrained, and surprising environments very well may be the new normal, calling into question what now constitutes best practice if firms are to survive and thrive in the long term. IP law firms must be prepared for any eventuality, be it an acute crisis or a gradual shift.

We may be able to find valuable perspective in examining lessons learned from the last time in recent memory when uncertainty upended trusted assumptions: the global financial crisis and Great Recession of 2008. Clarivate sat down with industry veterans Kevin Paul, former Executive Director and Chief Financial Officer at Blakely Sokoloff Taylor & Zafman LLP; and Albert Woo, Chief Operating Officer of Lewis Roca, to discuss their experiences of rethinking business during uncertainty, important parallels between then and now, the implications for the health of IP firms into the future.

The specter of 2008 and its contrast with 2020

Q: 2008's crisis and the recession that followed collectively represented a watershed event for businesses in every industry, and the legal industry wasn't spared having to re-examine its strategic priorities. Can you take us back to pre-crisis, circa 2007, and walk through what it was like for your practice? How does it contrast with the immediate post-COVID period?

Albert Woo: For law firms and business in general, [the financial crisis] represented a shift in how we measure business success. Pre-crisis, revenue was the dominant

yardstick, generally speaking. Pressures of the recession then replaced this with a prioritization of the bottom line. In other words, it brought cost squarely into focus as a primary lever to drive profit. I think what happened over time was that the pendulum — as always — ended up swinging too far [toward profit]. Prior to the start of the pandemic, we began to see negative consequences of concentrating too much on profit coming home to roost. Firms really stopped paying attention to revenue, almost completely, and that's problematic because you can't cut your way to growth.

This time around, I see yet another shift taking place across the industry; not back to an exclusive focus on revenue necessarily, but rather toward capitalizing on the concept of value. It's no longer about squeezing every dollar, but instead really asking yourself what that dollar is worth.

Kevin Paul: The impact of the financial crisis on our firm was largely delayed, compared to the experience of others. Leading up to the crash, we were experiencing unprecedented growth, fueled by certain powerhouse Silicon Valley clients we had. When we began to feel the effects in 2009, it took the form of many of our mid-size and smaller clients leaving, or drastically reducing their work with us, and we really struggled to deal with that. As a result, we also got caught up in the wave of reducing staff. Coming out of that, the main challenge was to retain our existing attorneys and start to grow again.

Fast-forwarding to the arrival of the pandemic in 2020, we were able to leverage all the technological developments that had become available in the interim to keep ourselves afloat. In fact, I believe that the '08 crash was likely an accelerant for the development of services and models, which continue to be useful tools.

Q: As the economy began its long recovery in mid-2009, did your perception of industry risk shift at all, and how did you prepare for future adverse events? What implications might your actions have for C-level executives at law firms today?

Albert Woo: Like everybody else we were trying to stay afloat, of course, but we have a very strong culture, and when you look at the business landscape back then [the crisis] really tore apart the culture of so many workplaces ... there was just a lot of bloodshed. It was a really horrible time. It helped me to realize that a knee-jerk reaction to industry risk never has long-term sustainability. You can eliminate positions in your firm, and outsource those services, but what does it look like in a year or two?

Kevin Paul: My perspective was that things had shifted dramatically, in part due to the technology wave that was crashing over us post-2008. I felt that if we hadn't embraced tech back then, we were going to be paralyzed in terms of our recovery, and as I said earlier, I basically feel that way about what's happened following the pandemic.

Q: What, if any, changes did you make to how your firm performed and delivered legal services? Is what you did still a valid strategy for firms looking to manage the post-COVID landscape?

Albert Woo: One big strategic shift we made is toward a client-focused service approach. This isn't about cutting services, but more like refocusing how we perform and deliver discrete tasks. We've found that with the right partners, we can outsource some tasks and still uphold the very high quality of work and level of service we offer to our clients. This is a huge change from the subprime crisis, when so many firms just cut services blindly, rather than trying to find another way forward. This time around, we haven't had any staff reductions, unlike 2008. We did away with a few services that just didn't make sense for us any longer, and scaled up our outsourcing. In light of the recent discussion about the commoditization of intellectual property, we adapt to issues like that by being more agile and flexible, and always focusing most on services that directly provide value to our clients.

Kevin Paul: We looked at what we were capable of internally, back when we were struggling, and we outsourced services that we couldn't afford to handle. This ultimately led us to various technologies that have been very useful to us long-term, especially in the wake of COVID, due to the greater availability of managed services. That's always going to be valid for all law firms, especially IP firms.

Considering the big picture and the future

Q: Given all of the actions you took to adapt to “the new normal” (after either of these crises), is there any decision you made that you regret, or would revisit if you could?

Albert Woo: There was a stark contrast between 2008 and 2020 with regard to the level of communication and transparency we exhibited. We were much better at both in 2020, communicating everything that was going on with the firm. As senior leadership, we tend to shy away from those tough conversations. But when you mix it in with a dose of transparency, people may not agree with your decisions but at the very least they can understand and respect how you got there.

Kevin Paul: While our investments in technology paid off immensely post-crash, what I do regret the most in hindsight is not being open to certain M&A opportunities for the firm. We were approached by a few general practice firms about partnerships, and at the time, we felt it was too peripheral to our core business. Looking back, I wish we had been open to thinking more broadly about our offerings. I think this is particularly relevant to today with everything that's going on. I would firmly encourage everyone in IP law to carefully look at everything that's on the table in terms of M&A.

Q: If you had to give today's IP law firm leaders one piece of advice to encapsulate your biggest takeaway from the pandemic as it relates to managing uncertainty, what would that be?

Albert Woo: I would go back to the value proposition I mentioned earlier. What's the value not just of your services but also of your people? As an example, there could be an attorney on staff who is struggling from a profitability perspective and perhaps that colleague is let go when a crisis arrives. Suddenly in the wake of this attorney's departure, others are now underperforming, and you come to find out the hard way that the attorney that was let go was the glue, the culture-carrier of your team. You need to look at these things from a holistic perspective.

Kevin Paul: The bottom line is that there will always be crises. You have to recognize the magnitude of any crisis you're in, but you can't get caught in its headlights for too long. You always have to keep moving forward. The key is to be proportional in your responses. We're in a unique point in time with this pandemic, and it's not always easy to draw obvious lessons or parallels from it. The way I see it, the biggest challenge we have today is our workforce – their mindset and their health. More than anything else, firms' leaders need to be looking at the state of their workforce and culture and protecting it. Without it, nothing else will matter.

Sources: Recordings of interviews with Albert Woo and Kevin Paul

<https://clarivate.com/derwent/campaigns/the-impact-of-covid-19-on-innovation/>
<https://www.jdsupra.com/legalnews/how-covid-19-is-changing-ip-law-what-78862/>

[Note: Responses to interview questions have at times been condensed and edited for clarity.]

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Contact our experts today:

+1 215 386 0100 (U.S.)

+44 (0) 20 7433 4000 (Europe)

clarivate.com/webofscience