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INNOVATIVE TRANSFORMATIONS OF THE LEGAL BUSINESS AND LEGAL EDUCATION¹

The author analyzes the nature of innovation processes, the distinctions between legal innovations and innovations in legal activities. In the article the preconditions of innovative law firms are proved. The influence of technological innovations on the development of legal services business is investigated. Particular attention is paid to virtualization of legal services. The task for innovative reform of legal education is drawn.

Key words: law firm, legal innovation, innovations in legal business, virtualization of legal services, Legal Education.

JEL Classification: K0, M21, O33, I23.

Problem formulation. The Law Society of England and Wales has published a report dedicated to the future of the solicitor profession for 2020. According to research results, there are five key drivers that will influence the legal profession

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in 4–5 years: global and national business environments, globalization; how clients buy legal services; technological and process innovation that will be applied in the market; new entrants and types of competition; political decisions and programs regulating the level of access to justice (Rodyuk, 2016).

Analysis of recent research and publications. Ukrainian scientists examine general economic, legal, and managerial issues of company innovative development. Nevertheless, matters of innovative transformations of law firms (hereinafter – LF) and the legal profession have not been sufficiently considered. In addition, many theoretical aspects have not been researched. Scientific papers of scholars of the Economic Theory Department of Yaroslav Mudryi National Law University are the most important of scientific papers dedicated to the legal business in Ukraine (Shevchenko, Makukha, and Marchenko, 2014; Shevchenko, Makukha, Marchenko, Vovk, and Ovsienko, 2013; Marchenko, 2007; Marchenko and Yarmak, 2016).

Formulation of aims. An article purpose is to substantiate criteria of legal services business innovativeness. The main research hypothesis consists in the influence of innovative processes in the legal services business on the content and directions of reformation of the legal education and the legal profession future.

The main material presentation. Law firms, which actively conducting innovative activity, should be regarded as innovative. However, their legal status is not determined. The very concept “innovative LF” is ambiguously defined. Certainly, a LF can be referred to as an “innovative active company” and an “innovative company (organization)” in conformity with methodological statements on innovative activity statistics prepared by the State Statistics Service of Ukraine. Scientists also may apply innovativeness criteria determined by the Law of Ukraine “On Innovative Activity” (Articles 1 and 16). Nevertheless, the author thinks that the legal business should develop own standards of innovativeness.

In the broad sense of the term, an “innovation” is particular changes of firm activity, which imply more effective application of resources and aim at increase of its incomes. In the Law of Ukraine “On Innovative Activity” (Article 1), innovations are defined as recently created (applied) and (or) improved competitive technologies, products, and services as well as organizational and technical solutions in production, administrative, commercial, and other areas, which significantly enhance the structure and quality of manufacturing and (or) the social sphere («Pro innovatsiinu diialnist», 2002).

In the context of LF activity, it is expedient to distinguish “legal innovations” and “innovations in the legal area (legal business)”.

Legal innovations include the following components:

- new legal knowledge as an intellectual product of scientific research implemented in the legal services market. For instance, new and changed laws as well

as various normative and legal documents determining and regulating all types of economic activity of enterprises and organizations are considered as legal innovations;

– new or enhanced technologies of providing legal services. O. Minin assumes that division of legal work into “working process” (typical work conducted according to an indicated algorithm) and “new approaches” (when certain work is unique to a greater extent and its significant part is development of approaches and formation of something really new) will reinforce within the next 4–5 years (Rodyuk, 2016);

– new legal services and practices. The latter are consequences of changes in customers’ needs, particularly in dynamically developing economic sectors. Specialists indicate the following methods of formation of new legal services and practices: expansion of an expert base of a LF through involvement of leading solicitors of other domestic firms; formation of the principally new legal practice based on knowledge of current experts; separation of the new legal practice from current one (medical, pharmaceutical, banking, sport, aviation, and other law have formed in this way); formation of legal practices based on an inter-disciplinary approach and involvement of consultants from other professional branches or industries (for instance, accounting, auditing, consulting); implementation of legal practices in other jurisdictions applied in multi-office law firms (Korelskiy, 2012).

Legal innovations place emphasis on the importance of legal services. The author means benefits, which customer obtain appealing to a legal specialist. Marchenko and Yarmak (2016) determine the following benefits: the capacity of a legal service to meet demands of LF customers at the appropriate level; benefits related to high business reputation of a lawyer and a LF; correlation between legal service price and service quality; solution of psychological problems concerned with a need for providing confident information; operative and timely problem solving, time saving, including providing a lawyer with previously collected information; an opportunity of gaining legal knowledge, enhancement of legal culture; benefits from a new approach to problem solving (an innovative effect of a legal service); benefits in the form of revenue of a customer’s business earned owing to purchasing legal services and implementation of lawyer’s advices (an investment effect), etc. (pp. 115–120).

Legal innovation is successful if it conforms to the following four criteria: a) importance: a new legal service should provide benefits, which are perceived by customers (consumers) as significant; b) uniqueness: benefits of a new service should be replicated as unique and have important advantages compared to other services; c) sustainability: a new legal service shall not be easily replicated by rivals; d) liquidity: a LF should be able to render a new service at an affordable price through an effective system of division and promotion (Doil, 1999, pp. 262–263).

Creating new benefits of applied legal activity, a law firm gains considerable competitive advantages in comparison with other LFs.

Innovations in the legal business are a broader concept than legal innovations. In addition to the latter, innovations in the legal area also encompass technological innovations (application of new technologies of work with information and document flow), economic (new forms and systems of staff motivation at law firms, investing in a system of legal service providing, et al.), marketing innovations (new forms of bringing legal services to market, active marketing in social networks), managerial innovations (new or improved forms and structures of managing a LF, formation of teams on the project basis, formation of alternative providers of legal services, etc.). There is a relatively close relationship between certain types of innovative processes. Technological innovations stipulate corresponding organizational novelties. The latter needs particular changes in an economic mechanism of firm activity and enshrinement in normative and legislative acts.

An example of FT Innovative Lawyers is illustrative. FT Innovative Lawyers is one of the most prestigious and reputable legal rankings in Europe, which has been annually compiled by journalists of Financial Times and RSG Consulting since 2006 in order to estimate innovations in the legal business. In 2016, the ranking “FT 50: Most Innovative Law Firms 2016” encompassed two areas – legal expertise and business of law. Legal expertise has been conducted according to nine categories concerned with *innovativeness of approaches to work with customers* (accessing new markets and capital; creating advantage for clients through speed and process; creating new collaborations; driving value for clients; general legal expertise; mergers and acquisitions; monetising assets; navigating and influencing regulation; restructurings and reorganisations). Business of Law is total score for entries ranked in the seven categories of *innovativeness of doing own business* (business development and knowledge management; culture, brand and strategy; new model legal businesses; people; resourcing and efficiency; social responsibility; technology and data analytics). Total score for entries ranked in all 16 categories listed above (*Financial Times*, 2016)¹.

The author thinks that there is a set of factors encouraging innovative development of a LF. They include attempts of lawyers to exploit their creative potential (motivation and incentives), a capacity to perceive innovations (creative skills), equipment and literacy (international certificates MOS or ICDL, which confirm an opportunity to work with a large amount of documentation and data-

¹ The ranking 2016 included the following Ukrainian law firms: AVELLUM (for an innovative approach to customer service in the field of restructuring and reorganization); Aequo (for an innovative approach in the field of development of own legal services business and knowledge exchange); International Law Firm CMS (for innovations in effective managing a law firm and in the category “The most innovative law firm in Europe” (Rankings // http://uz.ligazakon.ua/ua/magazine_article/EA009643).

bases, to apply modern technologies, to complete complicated technical tasks), an opportunity of innovative activity (favorable innovative external and internal environments, particularly effective legislation and public demand for innovative legal services), innovative activity of lawyers (production and implementation of innovative legal services). All the mentioned factors are successive links of an innovative chain of a LF. In case of absence of at least one link, the whole chain will fall apart.

Nevertheless, to what extent do lawyers interest in innovations? Discussions on this matter cause directly opposite opinions. Some scholars state that lawyers are mainly conservative, stable, consistent, and confident. Creativity is discouraged. Others insist on the necessity of entering new markets, search for unique niches, and increase in the value of a business and commercial attractiveness of a law firm's brand (*Ukrainskyi yuryst*, 2013). D. Aleksandrov, managing partner of ALEXANDROV&PARTNERS, mentions that some time ago he have had to change 50% of staff in order to implement innovations and to begin working in a new manner (Kravchenko, 2016).

Such positions of lawyers may be explained by the fact that modern innovative technologies (usage of mobile applications, online programs for drawing up agreements, analytical online platforms, formation of smart-offices and virtual law firms, involvement of artificial intelligence, et al.) simplify lawyer work and give an opportunity to permanently renovate and improve ways and methods of providing services. At the same time, demand for traditional services of legal consultants significantly weakens. Applying different online-services, customers of LFs may now solve the following problems without assistance of lawyer: preparation of legal documentation (agreements, applications, claims, motions, recourses, etc.); receiving information sheets; monitoring current information on counteragents, occurrence and progress of trials with the participation of indicated persons, et al. (*Ukrainskyi yuryst*, 2016). Moreover, online-services devalue legal services, increase their affordability and immediacy. D. Hadoskyi (2016) mentions that lawyers will be useless as soon as Ukrainian databases *rada.gov.ua* and *court.gov.ua* provide information in understandable language.

The second question: have all lawyers obtained adequate qualification for innovative activity? The rule of thumbs states that contemporary legal business needs specialists being competent:

a) to effectively work in the legal services market, demonstrate innovative (creative), analytical, and communicative competencies, system thinking, multiculturalism, and customer-orientation. Academic disciplines such as *legal business-consulting*, *legal marketing*, *legal management*, *legal innovatics*, *strategic management of legal business*, etc. would develop the mentioned capacities. Unfortunately, neither law higher educational establishments nor economic ones propose

such disciplines. These disciplines are proposed only in the form of optional academic disciplines or within paid certificate educational professional programs, particularly at Yaroslav Mudryi National Law University. In majority of cases, students had to gain the second higher education at economic or managerial HEEs;

b) to conduct professional expertise of entrepreneurial activity of their customers and to apply a project approach to servicing. According to Legal Success magazine, a lawyer should also be a financier (with knowledge of anti-crisis management), a marketer, a manager, and an HR-manager (Kravchenko, 2016). However, educational plans of Ukrainian law HEEs and faculties do not comprise economic and managerial disciplines;

c) to provide services on-line. A network lawyer forms normative and legal interactions in a network, including in virtual worlds, develops systems of legal protection of a human and property on the Internet (including virtual property), resolves matters concerned with intellectual property, which are not regulated by norms of the Civil Code («Yaki tsyfrovі profesii maibutnoho», 2016). A virtual attorney company manages investments in new projects (start-ups), supports their development from emergence of an idea to its implementation. A virtual attorney must know legislation of own country and a country in which the attorney processes a case, English or a language of a partner country and be able to work with individuals, groups, employees, and consumer demands («Perspektivnye yuridicheckie professii», 2015). As a result, there is a practice of pre-employment testing a technical knowledge level at LFs. Nevertheless, neither *virtual (digital) economics* nor *virtual law* is taught at Ukrainian law HEEs. University of State Fiscal Service of Ukraine is the only establishment, which proposes a course of *digital criminalistics*. Yaroslav Mudryi National Law University is going to start a Master's program in law and technologies together with Law School of Tallinn University of Technology. Some technical universities, namely National Technical University of Ukraine "Igor Sikorsky Kyiv Polytechnic Institute", National Technical University "Kharkiv Polytechnic Institute", Lviv Polytechnic National University, Oles Honchar Dnipro National University, and Odessa National Polytechnic University train specialists in network law;

d) to study new or related professions. For example, the Service of Financial Investigations, which will replace the Tax Police, is now established in Ukraine. According to the opinion of P. Pashko, rector of University of State Fiscal Service of Ukraine, this process is not the usual legal practice. The Service must accomplish three goals, namely to prevent violations in the economic area, to solve committed offences, and to contribute to the budget. A financial detective should be a lawyer in the processual area (skills of collection of the evidence base for a court), an auditor (skills of analyzing accounting documents), and an information analyst (awareness of computer technologies and modern databases).

Lawyers and economists as subspecialists do not possess such knowledge. Therefore, graduates of University of State Fiscal Service of Ukraine will gain knowledge in three professions – a lawyer, a financier, and an IT-analyst (Chepurko, 2017).

Taking into account the importance of the mentioned issue, the Cabinet of Ministers of Ukraine has adopted the Plan of Measures for Implementation of the Conception of Reformation of the Government Policy in the Innovation Area within 2015–2019 («Pro zatverdzhennia planu zakhodiv», 2015). Aims of the Ministry of Education and Science of Ukraine are as follows: formation of innovative culture, especially implementation of an educational system for development of innovative skills being necessary for effective managing innovative processes and projects; establishment of a program aimed at enhancement of qualification of managers of state-owned companies, institutions, and organizations related to formation and carrying out the state innovative policy.

Conclusions. Nowadays, a modern innovative model of social and economic development becomes almost universal. Innovations are referred to as a strategic priority and the main factor of competitiveness of entrepreneurs and organizations. Managers of leading law firms also begin to prefer stimulation of innovative processes and creative behavior of lawyers in order to integrate their intellectual resources and making decisions, which meet needs of local and world legal services markets. However, legal services business as well as educational institutions should take into consideration innovative challenges of the contemporary professional world. The educational reform and development of new standards for the domestic legal education are directed towards achievement of this goal.

REFERENCES

- Chepurko, V. (2017, April 28). Kak stat' finansovym detektivom. *KP Ukraina – KP Ukraine*. Retrieved from <http://kp.ua/life/574359-kak-stat-fynansovym-detektyvom> [in Russian].
- Doil, P. (1999). *Menedzhment: strategiya i taktika*. SPb: Piter [in Russian].
- Dyskusiia: Uberyzatsiia yurydychnyh posluh (2016). *Ukrainskyi yuryst - Ukrainian lawyer*, issue 5. Retrieved from <http://jurist.ua/?article/1076> [in Ukrainian].
- FT Innovative Lawyers 2016: Methodology (2016, October 6). *Financial Times*. Retrieved from <https://www.ft.com/content/fb8166ae-83f2-11e6-a29c-6e7d9515ad15>.
- Gadomskiy, D. (2016). Bot-providnyk. Retrieved from <http://axon.partners/uk/blog/bot-providnyk-ukrainskyi-yuryst-dmytro-gadomskiy/> [in Ukrainian].
- Konkurentna perevaha (2013). *Ukrainskyi yuryst – Ukrainian lawyer*, issue 7–8. Retrieved from <http://www.ukrjurist.com/?article/362> [in Ukrainian].
- Korelskiy, A. (2012). Novye praktiki: chetyre puti razvitiya. Retrieved from <http://www.kiaplaw.ru/press-centr/public/novye-praktiki.html> [in Russian].

Kravchenko, A. (2016). Yuristy i IT-tehnologii: otchet o provedenii v Kieve I Mezhdunarodnoy konferentsii yuridicheskikh innovatsiy LEGAL TECH KYIV 2016. Retrieved from <http://bca.education/yuristy-i-it-tehnologii-otchet-o-provedenii-v-kieve-i-mezhdunarodnoj-konferentsii-yuridicheskikh-innovatsij-legal-tech-kyiv-2016/> [in Russian].

Marchenko, O. S. (2007). Rynok posluh yurydychnoho konsal'tynhu v umovakh innovatsiinoho rozvytku natsionalnoi ekonomiky. Kharkiv: Kortex-2001 [in Ukrainian].

Marchenko, O. S., and Yarmak, O. V. (2016). Yurydychnyi konsal'tynh: sutnist ta rol u pravovii ekonomitsi. Kharkiv: FOP Danylko N. S. [in Ukrainian].

Perspektivnye yuridicheckie professii (2015). Retrieved from http://moeobrazovanie.ru/perspektivnye_yuridicheskie_professii.html [in Russian].

Pro innovatsiinu diialnist: Zakon Ukrainy vid 04.07.2002 p. №40-IV (2002). *Vidomosti Verkhovnoi Rady Ukrainy*, 36, art. 266. [in Ukrainian].

Pro zatverdzhennia planu zakhodiv z realizatsii Kontseptsii reformuvannia derzhavnoi polityky v innovatsiinii sferi na 2015-2019 roky: rozporiadzhennia Kabinetu Ministriv Ukrainy vid 04.06.2015 №575-p. URL: <http://zakon3.rada.gov.ua/laws/show/575-2015-%D1%80> [in Ukrainian].

Rodyuk, A. (2016). I do vorozhky ne khody: maybutnie yurydychnoi profesii. Retrieved from http://protokol.com.ua/ua/i_do_vorogki_ne_hodi_maybutne_yuridichnoi_profesii/ [in Ukrainian].

Shevchenko, L. S., Makukha, S. M., and Marchenko, O. S. (2014). Yurydychna firma: poshuk modeli efektyvnoho menedzhmentu. Kharkiv: Pravo [in Ukrainian].

Shevchenko, L. S., Makukha, S. M., Marchenko, O. S., Vovk, I. A., and Ovsiyenko, O. V. (2013). Menedzhment yurydychnoi firmy: konspekty leksii. Kharkiv: NU "Yurydychna akademiia Ukrainy imeni Yaroslava Mudroho". URL: <http://library.nulau.org.ua> [in Ukrainian].

Yaki tsyfrovi profesii maibutnoho nas chekaiut (2016). Retrieved from <http://znonline.org.ua/news/481-yaki-tsyfrovi-profesii-maibutnoho-nas-chekaiut.html> [in Ukrainian].

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ИННОВАЦИОННЫЕ ТРАНСФОРМАЦИИ ЮРИДИЧЕСКОГО БИЗНЕСА И ЮРИДИЧЕСКОГО ОБРАЗОВАНИЯ

Проанализирована сущность инновационных процессов, разграничены юридические инновации и инновации в юридической деятельности. Обоснованы предпосылки инновационного развития юридической фирмы. Исследовано влияние технологических инноваций на развитие юридического бизнеса. Особое внимание

уделено виртуалізації юридических услуг. Дана критическая оценка современного состояния юридического образования. Поставлена задача его инновационного реформирования.

Ключевые слова: юридическая фирма, юридические инновации, инновации в юридической деятельности, виртуализация юридических услуг, юридическое образование.

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ІННОВАЦІЙНІ ТРАНСФОРМАЦІЇ ЮРИДИЧНОГО БІЗНЕСУ ТА ПРАВНИЧОЇ ОСВІТИ

Постановка проблеми. Серед факторів, які впливатимуть на юридичну професію у найближчі роки, визначальне місце посідають технологічний прогрес та інновації.

Аналіз останніх досліджень і публікацій. Українські вчені досліджують загальні економічні, правові та управлінські проблеми інноваційного розвитку компаній. Проте проблема інноваційних перетворень юридичних фірм та юридичної професії в цілому не вивчена.

Мета статті – обґрунтувати критерії інноваційності юридичного бізнесу. Головна гіпотеза дослідження полягає в тому, що інноваційні процеси в юридичному бізнесі безпосередньо впливають на зміст та напрями реформи правничої освіти, а також на майбутнє юридичної професії в світі та в Україні.

Викладення основного матеріалу. Юридичні фірми, які активно займаються інноваційною діяльністю, повинні розглядатися як інноваційні. Однак юридичний бізнес потребує розробки власних стандартів інновацій. Доцільно розрізняти «юридичні інновації» та «інновації в юридичному бізнесі».

Юридичні інновації включають нові юридичні знання як інтелектуальний продукт досліджень, представлений на ринку юридичних послуг; нові або вдосконалені технології надання юридичних послуг; нові юридичні послуги та практики. Юридичні інновації зосереджуються на цінності юридичних послуг. Це вигоди, які отримує клієнт, звертаючись до юриста. Створюючи нові вигоди від юридичної практики, юридична фірма отримує важливі конкурентні переваги порівняно з іншими юридичними фірмами. Юридичні інновації успішні, якщо відповідають чотирьом критеріям: важливість, унікальність, стабільність та ліквідність.

Інновації в юридичному бізнесі є більш широким поняттям, ніж юридичні інновації. Окрім останніх, вони включають технологічні інновації, економічні інновації (нові форми інвестування в надання юридичних послуг, нові системи стимулів для юристів), маркетингові інновації (нові форми роботи на ринку юридичних послуг,

активний маркетинг у соціальних мережах), управлінські інновації (нові або вдосконалені форми та структури управління юридичною фірмою, формування команд на проектних засадах, створення альтернативних постачальників юридичних послуг тощо). Технологічні інновації визначають організаційні інновації, а останні вимагають певних змін в економічному механізмі фірм та вдосконаленні відповідних законів та законодавства.

На мій погляд, інноваційний розвиток юридичної фірми визначається такими факторами, як: бажання юристів реалізувати свій творчий потенціал; здатність сприймати інновації; технологічна готовність та грамотність; можливість інновацій тощо. Ці чинники є послідовними ланками в інноваційному ланцюжку юридичної фірми, і за відсутності принаймні однієї ланки весь ланцюжок розпадається.

Здійснений мною аналіз виявив певну консервативність практикуючих юристів у сфері інновацій, особливо у зв'язку з віртуалізацією юридичних послуг, та їх недостатню підготовленість до інноваційної діяльності в освітньо-професійному плані. Тим часом практика показує, що сучасний юридичний бізнес потребує професіоналів із принципово новими компетентностями, здатними ефективно працювати на юридичному ринку, здійснювати професійну експертизу бізнесу своїх клієнтів, здобувати нові або пов'язані з ними професії для надання послуг он-лайн.

Висновки. У наш час набуває поширення новітня інноваційна модель соціально-економічного розвитку. Керівництво юридичних фірм починає стимулювати інноваційні процеси та творчу поведінку юристів задля прийняття рішень, які задовольняють потреби локальних і світових юридичних ринків. Відповідних змін потребує і правнича освіта. До навчальних програм юридичних шкіл і університетів має бути включена низка нових дисциплін. Серед них: цифрова економіка, віртуальне право, юридична інноватика, юридичний бізнес-консалтинг, юридичний маркетинг, юридичний менеджмент, стратегічне управління юридичним бізнесом та ін. Це – одне із завдань освітньої реформи та розроблення нових стандартів вітчизняної правничої освіти.

Коротка анотація до статті

Проаналізовано сутність інноваційних процесів, розмежовано юридичні інновації та інновації в юридичній діяльності. Обґрунтовано передумови інноваційного розвитку юридичної фірми. Досліджено вплив технологічних інновацій на розвиток юридичного бізнесу. Особливу увагу приділено віртуалізації юридичних послуг. Дана критична оцінка сучасному стану правничої освіти в Україні. Поставлено завдання щодо її інноваційного реформування.

Ключові слова: юридична фірма, юридичні інновації, інновації в юридичному бізнесі, віртуалізація юридичних послуг, правнича освіта.