

MyCercle.net helps attorneys share information in full confidentiality

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Abstract:

MyCercle.net offers lawyers new solutions for exchanging and sharing electronic messages and documents in full confidentiality with their clients. Lawyers' reactions to this offer are a litmus test of their use of digital technology and of their expectations and misgivings about it. For the time being, the main reaction is wariness. To be convincing, offers of digital services must clearly state whether they are bringing attorneys solutions... or problems in three areas of concern to them: confidentiality, competition and the personalization of justice.

As digital technology enters the realm of the law, more than a hundred legaltechs have sprung up: companies that propose digital services to practitioners of the law or litigants.¹ MyCercle is one of these legaltechs.² Founded in 2013, it turned, two years later, toward addressing the needs of the legal professions. Its services make the exchanges of legal professionals (first of all attorneys) easier and secure with their clients, colleagues and partners. Its web-hosting activities are not limited to legal professionals, since we have subscribers active in bookkeeping, consultancy, services.... However MyCercle has adapted to the requirements of a community that has respect for documents and confidentiality.

Electronic sharing among attorneys

The state of the art for a firm is to manage what it shares electronically with third parties outside the company via a secure extranet: password-protected Web-hosting service spaces where partners exchange messages or share documents, an agenda, etc. Besides the advantage of security, since their servers are better protected than messaging servers, extranets provide the comfort of arranged, shared and updated spaces for exchanges with partners (something that a history of messages does not provide).

MyCercle has conducted studies on the actual "digital sharing practices" of a sample of 1840 law offices in France (in 2016) and of 620 in French-speaking Belgium (in 2017). Exchanges with the outside (in particular, clients) are increasingly in the electronic form of e-mail messages and attachments, but most of the means used for exchanges lack security and are exposed to piracy and (destination) errors. Only one out of one hundred of French law offices has secure client spaces accessible on its website; and the same proportion holds for Belgium. This lag exists even in the very big offices (with more than a hundred attorneys): only one out of three is

¹ This article has been translated from French by Noal Mellott (Omaha Beach, France).

² www.mycercle.net The list of startups made by Village de la Justice is updated regularly: <https://www.village-justice.com/articles/Les-start-up-droit,18224.html>.

equipped, compared with six out of seven of the very big English-speaking law offices in France. In Belgium, this proportion is slightly higher.

This lag of private lawyers' offices is not inconsistent with the means used for exchanges and document-sharing between attorneys and public jurisdictions. In France, the court system has focused on the security of identification procedures; and its solutions are ambitious and, therefore, rigid. These digital tools are reserved for court officers and jurisdictions; and "clients" are excluded by design, since the architecture is close to being an intranet for the system of justice. Owing to this rigidity, "users" are inventing, as need be, workarounds, such as sharing colleagues' identification logins within the office. Given the scarcity of means, attorneys are using messaging services (which severely limit the size of attachments) instead of extranets with spaces for sharing documents and information.

MyCercle's offer

Big firms have installed extranets, which, as pointed out, are now the state of the art. However the usual way of installing them is long and costly, and this has left marks on the extranets themselves. Each installation is designed as an information system's project with its specifications, project leader, versions and investment (of tens of thousands of euros), to which are added annual operating costs (amounting to 15% of the investment).

For the large majority of law practices, all this is out of reach, and has caused them to lag in adopting digital tools. They cannot acquire such a top-heavy system, and they would lack the means for keeping it up to date. These law firms are thus saddled with a handicap in terms of competition.

This situation is also a global national security issue. Nowadays, nearly all exchanges in projects involving attorneys take place through e-mail and e-mail attachments (as pointed out, a procedure lacking in security); and there is hardly any major economic project that does not involve one or more law offices.

MyCercle seeks to make up for this lag by enabling lawyers' offices or even free-lance attorneys to equip themselves right away with a secure extranet with spaces for sharing documents that the subscriber will be able to organize in a few clicks. We have designed a state-of-the-art extranet with secure web-hosting services located in France. This extranet is replicated for each subscriber and improved every two months with new features to the benefit of the user community. This solution of software as a service (SaaS Internet) makes several major innovations, not to mention its cost (50 cents per month for a document-sharing space with unlimited contents).

To list some of the innovations in MyCercle's offer:

- **INSTANTANEOUS USE:** Classical extranets require making complicated settings at the start. This is logical for firms of a certain size that want to set parameters for internal use, but it is not adapted to lawyers' offices that want to open an extranet for exchanges and document-sharing with clients. MyCercle's offer has no equivalent: "Your extranet made secure in 20 seconds, your first personalized space for sharing in 3 minutes."
- **INTUITIVE MANAGEMENT OF RIGHTS:** Classical extranets propose a vast set of possibilities: anyone on the extranet can do everything on each document (Append, View, Edit, Delete, Print, etc.). This vast multidimensional matrix offers nearly infinite choices, and thus also as many doubts... and possible errors. MyCercle has selected a few relevant profiles for users based on observing that all feasible client extranets have made the same choices (in banks, public administrations, etc.).
- **SEVERAL EXTRANETS IN ONE SUBSCRIPTION:** The subscriber may profile (and then duplicate) each document-sharing space separately and, therefore, manage, in parallel under a single subscription, client spaces, project spaces, training spaces, Médiation, Data Room..., whatever its activities might call for.

- CLIENTS SHARED BY SEVERAL SUBSCRIBERS: A law office will strengthen its position through “interprofessionality”, *i.e.*, partnerships and alliances with others professionals. MyCercle allows for collaboration among independent practitioners and for temporary or more durable arrangements via compartmentalized or shared spaces opened for a common client.

Reactions to MyCercle’s offer

The reaction of lawyers’ offices to MyCercle’s offer is an excellent litmus test not only of actual practices in exchanges and file-sharing but also of the apprehensions and hopes of attorneys with regard to digital technology.

Our subscribers appreciate the aforementioned innovations. Rather than describe their satisfaction however, it is more worthwhile to analyze the reaction of the wary who have not chosen to subscribe. This wariness can be illustrated with three topics of special concern to attorneys: confidentiality, competition and personalization. In each case, attorneys wonder whether an offer of digital services will actually bring solutions... or problems.

Confidentiality

Confidentiality is the core of MyCercle’s offer, and our subscribers are pleased with the solution. But how to explain the attitude of the law offices that have not yet changed their habits? After all, attorneys probably set more store on confidentiality than any other professional. Why do rational, intelligent stakeholders still have qualms?

For many attorneys, the pair “confidentiality” and “digital technology” arouse suspicion, and there are ample reasons for this attitude. Their argument (often voiced out loud ten years ago but less so today) runs as follows: “If something is really confidential, it had better not be digitized.” For a long time, attorneys set the standards for good conduct in matters of confidentiality, and have refused to benefit from the facilities offered by digital document-sharing procedures. But this argument no longer stands on two legs, nor on solid ground: lawyers’ clients have moved in mass toward digital technology, as have their clients’ other business contacts. What good is an argument grounded on thin air? Since these law offices tend to lump all digital tools together, they have taken a prudent approach. They adopt the tools already used by their clients: messaging services, WeTransfer, DropBox... especially if their peers are using the same tools... and even if they are aware of the shortcomings.

Prudence still prevails in these law offices; but it also prevails in the professional associations that offer advice on security that is pertinent... but so demanding that it leaves attorneys perplex.

Competition

Lawyers’ offices are increasingly competing with each other. The number of attorneys is still rising; but many of them have difficulty bringing in enough income and will eventually give up. For the time being, “uberization” in the legal field has less to do with digital technology. Instead, it takes the form of an established law office exploiting other lawyers (in particular women). Can digital technology help lawyers face up to the competition? Of course, even though most attorneys are still wary, once again for good reasons. A lawyers’ office mainly receives two types of offers with regard to client (customer) relations.

One offer is for referencing. Several platforms offer to facilitate the recruitment of clients via a single website for establishing a first contact or making a first bid (up to the lawyer to follow up on it). Attorneys are wary, since the platform’s interest (maximize the number of lawyers listed

who offer interchangeable services) is not necessarily the same as the interest of the lawyers on the platform (build up their own client base).

Another offer from information system service-providers is for law offices to create an extranet. Apart from the question of costs, such an extranet requires a degree of maintenance that is nearly inconceivable. When the office realizes this, it tries to find a way to amortize the costs with other law offices but usually does not manage to do so.

MyCercle thinks it is more reasonable to explain that a digital tool by itself never creates a lasting comparative advantage for a law firm. The only way to obtain this advantage is to stake out original positions, moving over time, and to easily mobilize flexible digital tools for targeting these positions. This is what we offer.

Depersonalization

Will predictive justice take over the realm of the law? Is it a good idea to apply artificial intelligence to court decisions? MyCercle lies on the margins of this major debate, which directly concerns some of the most visible legaltechs working in case law, such as Doctrine.fr or Predictice.

The legal professions' sensitivity to this debate became clear when MyCercle introduced a set of sharing features for use in mediation, arbitration or other alternative methods for reaching a settlement. These alternative methods opt for rapidity, procedural flexibility, confidentiality (opposite third parties) and transparence (between the parties involved). Our digital tools have been honed to facilitate these methods. It thus becomes possible for a board of arbitration to allow the instantaneous sharing of the documents filed by each party, under conditions of traceability, time-stamping and user identification. It becomes possible for a mediator to juggle, without making a mistake, between what he shares with both parties to a dispute and what he reserves for private conversations. It becomes possible for two lawyers to "copilot" spaces for working together. MyCercle allows for this, right away and at a token cost (a few euros per instance).

At the time of the writing of this article, several professional organizations that organize alternate methods of dispute settlement are weighing plans for switching their activities to an electronic format on MyCercle. However none has yet made the decision. One reason for this hesitation is that some parties strongly object to what they feel to be a first step toward an impersonal justice, something they reject. This apprehension can be deemed irrational. MyCercle helps its subscribers improve sharing practices without doing away with physical meetings, arbitrators, mediators, etc. The use of digital technology in the realm of the law has a bearing on this point, as on the questions of confidentiality and competition.

Platforms other than MyCercle have been tempted to automate small cases of mediation. In the coming years, it might be hard for a claimant to know whether or not the response has been produced automatically. MyCercle is in a position to observe that digitization is advancing into the realm of the law. But rather than concluding, as is often done, that the law has to adapt to digitization, it is probable that, on various subjects, the new solutions will have to adapt to the law's priorities.

Digital technology is all the more convincing insofar as it enables attorneys to set store on confidentiality and on the personalization of their services to clients. In the past ten years, attorneys have lost their expert role in "confidential sharing". With the new, simple, flexible tools, they can easily catch the ball and run... For example, they have strong arguments for outrunning notaries, accountants and bankers toward the goal of keeping their clients' key documents up to date. They can easily become, once again, the party that formulates and applies good practices, now in matters of digital confidentiality.