

Product Counsel: How to be THAT kind of lawyer

Published on October 7, 2015

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Every time I see my dad, he asks me things like “Did you go to court today?”

My shoulders slump, and my eyes roll. “No Dad, I am not THAT kind of lawyer.”

Good news, my Dad is not losing it. But it turns out that Dad is not alone in thinking that all lawyers are Perry Mason. I’m a product lawyer at a tech company – not usually featured on shows like Law and Order. In fact, most people have no idea what a product lawyer does.

Product lawyers work with clients to create compelling risk-managed user experiences. Our clients may have titles like “product manager,” “content specialist,” and “lead UX designer.” Product counseling is a mash-up of the best areas of legal practice:

- **commercial contracting** – helping to create clear agreements with our customers for their use of our websites, apps, or other technology.
- **regulatory** – assuring that our products align with the words and spirit of regulations.
- **consumer protection** – making sure our customers are informed and treated fairly.
- **marketing** – promoting our products in a clear and compelling way.
- **intellectual property** – respecting and protecting rights to great ideas.
- **privacy** – promoting trust in our products through transparent, consistent, and reliable use of a customer's personal information.
- **good old-fashioned common sense** – what my dad taught me!

Product counseling is a relatively recent category of lawyering, often seen in the titles of in-house counsel at Silicon Valley giants such as Google, Facebook, Twitter, and Airbnb. As product counsel at eBay, we work with product managers, designers, and engineers to create engaging user experiences for our customers while assuring everything is legally compliant. So

when Dad wants to buy a drill on his mobile phone or tablet, he gets the information relevant to his purchase, his payment is secure, and he is delighted by the simple interface.

Like chocolate chip cookie recipes, the elements of a product lawyer's job vary from person to person, company to company, but here are some core ingredients:

1) Ask Great Questions

- **Understand the ultimate business goal.** Are we looking for ways to drive more revenue? Are we trying to solve for a frequent complaint from users? Are we trying to make the experience faster? Every single inhouse lawyer must nail this skill.
- **Ask what is happening both on the “front end” and the “back end.”** When, for example, a consumer uses your app to sell her mobile phone, are the steps clear? Does she know how much it will cost? On the back end, do you know how that data will be used?
- **Learn the product language fast so you can ask even better questions.** I don't mean learn Java or Python. I mean words like “render,” “hamburger,” and “API.” Ask what is happening to the user's personal information. Find out if the functionality can be replicated across devices (desktop, mobile, and wearables).

2) Be the Customer

- **Ask yourself, will the customer get it?** Attorneys General and regulators seem to start with this question, so we as lawyers should, too. If you want some thought-prompts, check out [The Design of Everyday Things](#) by Don Norman.
- **Eat the dogfood:** This phrase may be overly-descriptive for the Tums-dependent, but use your company's product. Know what happens when you enter your credit card number for a subscription. Sign up for every marketing promo offered by your company. Watch your aunt program her new heart-monitoring wearable. Whatever it is you are advising your company to do better, you need to know how it works today.
- **Know the space.** Check out the competitors. Understand why the customers and clients want change. Don't just look at the big guys. Watch the right flank for the next big idea. [TechCrunch](#) and [AngelList](#) can be great places to find out what is getting funded and what's coming down the pike.

3) Know Your Stuff

- **Know the people.** Most in-house legal teams run lean. The upside is that we often cover multiple projects or teams. Product lawyers can be connectors between product teams so the best ideas from one are being implemented by the other, and vice versa.
- **Know the Issues.** Product lawyers can specialize in areas such as payments, marketing, or privacy, or they can be generalists, with a focus on spotting issues across the whole user experience. Either way, know enough to sit down with an engineer and triage.
- **Know the big picture.** Know how the user experience all fits together. If you think a disclosure is necessary here, is it also necessary there? Does the company want different user flows for different situations? What happens if a customer has a question? Does your company have good customer support or online help? Your job title may say "product lawyer", but you are really the customer advocate for the best experience with your company's product.

4) Don't Be the Dream Crusher

- **Customers first.** At the end of the day, lawyers and UX designers want the same thing – a great user experience. So instead of immediately suggesting another “disclosure”, ask the product manager “does the user have the information she needs here?” Look your designer in the eye and ask: “It’s slick, but will my mom know how to use it?”
- **Be clear about the downside.** Instead of saying “risk,” talk about the expense of building changes to the product later rather than addressing an issue now. If you foresee litigation, pencil out the costs looking at both probable judgment cost and likelihood that you are at risk.
- **Be one with the client.** Embed with the designers, PMs, and engineers early in the process. Not only can you give them some guiderails, but you can also unify everyone around the goals.

I am sure that product lawyers throughout Silicon Valley – and the world – have their own recipes for effective client counseling. But until we get our own TV show, I'll use this list when talking to my dad. I'll just say, “I am THAT kind of lawyer.”