

## Business & Careers

# Succession responsibility falls on both sides



**David Namkung**  
**The Headhunter**

**I**n our line of business, we regularly speak with leading rainmakers across Canada about how they went about building their practices. Quite commonly, lawyers with large practices say they benefited from being in the right place at the right time, enabling them to inherit substantial clients from the senior partners they happened to be working for—and those clients, in turn, attracted more clients.

Since associates often struggle with building their own books of business in today's hyper-competitive market, they can meaningfully accelerate their client development efforts by positioning themselves for succession opportunities at the right place, the right time and under the right retiring lawyer.

Similar to the process of buying a business, evaluating a potential succession opportunity, be it internal or external to your firm, requires a two-way discussion. As much as the departing partner considers whether the candidate is the right person to succeed them, the inheriting lawyer is equally responsible in determining whether it is the right move for them.

### Financials

For many associates, the mere notion of assuming a client base provides enough motivation to pursue an opportunity. As discussions unfold, however, associates often are too afraid or simply too caught up in excitement to ask specific financial questions about the prospective practice.

While financials are generally kept confidential from associates (and often, even from other partners), when a firm is highlighting a specific book of business to incentivize your candidacy, you have a right to seek out particulars. Namely, what is the size of the practice? How have billings been from the potential clients over the past three, five, 10 years? Has the practice been growing and, if so, by how much year to year?

Clearly, all things equal, larger and growing practices present better opportunities to actually inherit a substantive client base. Moreover, as likely as it is that you will grow the inherited practice, bear in mind that there is also the real possibility for client attrition during the practice transition process, so \$300,000 may ultimately dwindle to \$150,000 or less depending on the factors.

### Clientele

What kind of clients do you want to represent? It makes no sense taking over a global, highly sophisticated practice, if what you truly enjoy is working with local clients and helping them to build their small businesses, or vice-versa.

Understand what you want to build or build upon, and then assess the opportunity

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in line with your goals, not the other way around. This is critical to ensuring the practice you are considering taking over is the right, long-term fit for you—it will also increase the likelihood you will successfully take it over.

Additionally, think critically about whether the existing client base is likely to continue retaining you as counsel. This can largely be answered by understanding why clients elected to work with the departing lawyer in the first place.

Was it geographic proximity? This is often the case for less complex matters such as simple personal injury, residential real estate, wills & estates, etc., in which case practice succession can be relatively straightforward, as clients are still likely to retain you based on convenience and the strength of the firm's brand.

Was it the partner's leading expertise within a given area? In this case, practice succession hinges more on the departing lawyer's reputation as a market leader, and thus, depending on your existing skill set, further training and time may be required to establish your presence.

Do the clients use a number of different lawyers from within or outside the firm? The greatest risks to your authority over the prospective practice may come from other lawyers within the firm who have established relationships with the client base. Imagine yourself in the position of your prospective clients: would you elect to use a lawyer with your background and experience after the current counsel phases out?

Be mindful that in order to assume a lawyer's clients in a sustained manner, you must be positioned to service them better than all other counsel.

### Time frame and transition

In order to inherit a sustainable practice, you should have enough time to be trained and to build relationships both within and outside the firm before the departing lawyer transitions out. Ideal timing depends on a number of factors, including your level of experience and the degree of expertise and familiarity required to properly service and gain the trust of the potential client base.

If you are fairly junior and the departing lawyer is aiming to transfer a sophisticated practice in short order, there is a high degree of risk that the retiring lawyer's clients will elect to seek other more experi-

enced counsel. Conversely, if the departing lawyer plans to remain at the firm in some capacity, though you have an increased opportunity to properly train under them and gradually ease into client relationships, challenges may arise if the supposedly departing lawyer keeps a tight fist over their practice.

Accordingly, beyond time frame, it is important to understand the departing lawyer's incentive to ensure the transition is successful. It is common for firms to offer a one- or two-year trailing benefit to the departing partner (a legacy credit) to ensure the handoff occurs smoothly; knowing that there are proper incentives in place to motivate a successful transition greatly increases the chance that the practice will truly take. It is far more likely that the departing lawyer will keep in close contact in the first year if they have a direct incentive to do so.

Inheriting a practice may be your missing link to experience a robust and growing client base, but proper consideration of a successorship opportunity requires a high degree of due diligence—in the end, pursu-

ing the wrong opportunity can ultimately take you two steps back in your career. Your ability to properly consider options first rests on having a clear understanding of the type of practice you wish to build for the long term and the type of environment you wish to practise in, which in turn empowers you to communicate your goals to prospective departing lawyers and to gain relevant skills in the interim to prepare you for a seamless handoff.

Clarifying the hard questions is equally beneficial for both parties in any succession plan, so be confident and thorough in your due diligence. While big career moves carry with them an element of excitement and risk, they should also be undertaken with thoughtful consideration and evaluation, for as the saying goes, diligence is the mother of good fortune.

*David Namkung is a partner with The Counsel Network in Vancouver, vice-president of the Federation of Asian Canadian Lawyers (B.C. Chapter) and a board member/volunteer of WorkingGear.ca. Follow him on Twitter @DNamkung*

## Executive Director

IPIC INTELLECTUAL PROPERTY INSTITUTE OF CANADA

Innovators from around the world rely on Canadian professionals who work at the intersection of creativity, science, business and law to obtain and enforce valuable legal rights. These professionals – patent agents, trademark agents and lawyers practising in all areas of intellectual property (IP) law – trust the Intellectual Property Institute of Canada (IPIC) to represent them and to help with their professional development. Founded in 1926, IPIC's membership totals over 1,700 individuals, consisting of practitioners in law and IP agency firms of all sizes, in-house corporate professionals, government personnel, and academics.

Today, more than ever, governments, industry and media take interest in IP. It is against this backdrop of international attention to innovation, of constant change, and of a highly skilled profession, that IPIC is looking for an Executive Director to manage a dynamic organization with a strong volunteer involvement and a great team of employees.

**Responsibilities**  
Reporting to the President and the Council (board of directors) of IPIC, the Executive Director assists Council and committees and leads the staff of seven to fulfill IPIC's objectives of: actively advocating for the competitiveness of the IP system, a key requirement for economic growth and innovation in Canada; ensuring high levels of knowledge, training, and ethics in Canadian IP practitioners; and helping members grow their Canadian business.

In pursuing these objectives, the Executive Director: develops strategies and action plans for advocacy and service delivery; motivates the talent (staff and volunteers); manages the financial resources of the Institute and the work with outside experts; monitors national and international developments in IP; keeps informed of best practices in association management, of the Institute's legal obligations and of developments in technology that could impact IPIC's services to members; and maintains good relations with members, government officials, and other associations.

**Skills and abilities**  
IPIC is looking for an Executive Director with a strong background in intellectual property law and practice or a related field, excellent written and verbal communications skills, experience in maintaining a collaborative, positive and productive work environment, experience in financial and risk management, diplomacy and the ability to build consensus. The ideal candidate will also have one or more of the following assets: bilingual (English and French), experience in association management and government relations, and knowledge about the regulation of professions.

The Executive Director must be willing to travel on behalf of the association (e.g. to meet with members, government officials, and other associations), to occasionally work outside of normal business hours and to work under the pressure of deadlines.

Please send your résumé in confidence by December 3, 2014 to:  
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