

Financial Technology

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Final Assignment

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Hypothetical business plan: *Verklag deinen Lehrer!*

(a) A description of a novel fintech business

My novel fintech business idea is *verklagdeinenlehrer.de* (German for “sue your teacher”), an online platform in Germany where pupils can get legal assistance for school related matters and legal issues in general. The focus will be on legal issues with teachers, which will likely end in a legal proceeding at the administrative court. For damages and compensations, there can be an additional trial at the civil court. The service will also include pretrial negotiation and mediation.

Due to an algorithm, similar legal cases nationwide get analyzed to estimate the outcome of legal dispute regarding the duration of the proceedings, the chance of winning the case at court and the costs. The data is used to give pupils an idea of the possible outcome of their problem and a success rate of the legal dispute at court, if pretrial negotiations are unsuccessful.

An online platform (website and app) connects pupils to the service and gives information to both, pupils and their parents about the whole procedure and enforcement of rights and applicable laws. Upon registration, the website also provides many useful information and guidelines for similar legal issues and a number of sample cases. It aims to educate persons without legal background about their possibilities, the applicable laws and the different type of courts and procedures. The information, guidelines for similar legal issues and a number of sample cases are an overview to understand the enforcement of rights in school related matters for person who are not familiar with legal trials. Those guidelines also ease the work for the lawyers working on the case later, as the clients can educate themselves beforehand and have less organizational questions and concerns to discuss.

After receiving detailed information about the dispute and current problem from the pupil, the website estimates the success rate of the claim at court and the time frame for the procedure including the costs based on the provided information. There will be a small registration free (€ 5 – 10) for registration at the website and making an inquiry.

With easy steps, pupils can seek legal assistance, including mediation and assistance at court. Also, there is the option for an initial consultation with an experienced lawyer at a fixed price rate. While the highest rate for an initial consultation with a lawyer in Germany is capped at 190€¹, the platform offers it for a competitive price of € 99.

¹ € 226,10 including tax, § 34 RVG.

While the name “sue your teacher” sounds a bit polemic, it’s a catchy name to attract attention and point out the lack of legal assistance for minors. Sometimes, the pupils are the ones who want to get legal assistance, but the parents are hesitant and afraid, mostly because they are unclear about the process, the legal situation and the cost risk. The key here is transparency and providing lots of information about the whole process and the legal classification.

To also get the parents on board, there will be webinars and info events throughout the year. Via a hotline, 24h support is given to answer any uncertainties about the process.

The target group are minors in the age group between 7 and 18. There is a relationship of subordination at school, which makes it difficult for pupils to fulfill their rights. Teachers see themselves in a position of power and often overestimate their rights and talk pupils out of seeking legal assistance. The minors as a target group for *Verklag deinen Lehrer* have limited financial aid and are afraid of enforcing their right. In Germany, everyone has access to legal protection and *Verklag deinen Lehrer* also helps with financing and legal aid. To receive legal aid from the government, there needs to be a realistic chance of winning the trial and the success rate calculated by the algorithm can be a way to demonstrate this realistic chance of winning the case in order to get legal aid. When applying for legal aid, the government examines if the applicant has assets to use for the legal trial before receiving legal aid.

Children until the age of 14 can have untouchable assets (“Schonvermögen”) of € 342, from the age of 15 to 18 it is € 414. In many cases, the children won’t have higher assets. If they have, the parents should be asked to pay for the legal fees. The basic rule at court is, that the losing party pays the whole fees, including the legal fees of the winning party. Due to the algorithm used in the case examination, there will be a quote regarding the winning chance and the possible cost risk, so the whole process is transparent for the clients. There will be figures and numbers and clients can decide on facts, if they want to proceed with the trial, rather than only relying on the spoken words and vague estimates by a lawyer.

Also, in Germany, children under the age of 7 years are not legally competent and therefore do not have the legal power to effectively make declarations of intent or to conduct legal transactions independently. Between the ages of 7 and 18, minors in Germany have limited legal capacity (“beschränkte Geschäftsfähigkeit”). This means that advantageous legal transactions are possible without the consent of the legal representatives. All other legal transactions are pending ineffective (“schwebend unwirksam”), which means that parents can subsequently agree to them within a 14 days period. Prior authorization by a legal representative is also possible.

In addition, there is the partial legal capacity. This occurs when minors have been approved to acquire a business or a service or an employment relationship. In most cases, a court determines whether or not partial legal capacity is granted. For legal transactions that affect this area, the minors are then fully legally competent and can work independently and can also represent themselves in court. For *Verklag deinen Lehrer* this means, that based on the specialties of the case, in many cases an authorization by the parents won't be necessary. If it's needed, for example in complex cases with high litigation costs, the parents need to agree or a court has to rule for partial legal capacity. This is why the business idea builds on a strong branding and reputation, to convince both pupils and parents and also show the courts the importance of a legal service for school related matters.

Another legal challenge is school contracts ("Schulverträge"), a set of rules that a school sets before accepting students. These contracts are different at every school. If those contracts are grossly disadvantaging towards the pupils, they might be declared void by a court, which needs to be examined in individual cases. As school contracts are not published online and get handed out once a pupil decided for a school, they can't be evaluated beforehand. With an ongoing number of clients, *Verklag deinen Lehrer* will pool a number of those contracts and examine recurring clauses and invalid conditions. If the contracts have a mediation clause, the *Verklag deinen Lehrer business* also offers mediation prior to going to court.

Data privacy is fully respected. *Verklag deinen Lehrer* will fully respect the EU General Data Protection Regulation ("GDPR") as well as national legislation. Key activities are evaluating court cases in Germany and mediation disputes and analyzing the outcome and time frame. The website is using big data to predict litigation pricing and can give a cost estimate. Due to § 169 GVG, German court hearings are open to the public and the schedules can be seen online on the court's websites. For mediation, the data comes from other sources (schools, teacher unions and mediators). In some federal states in Germany, mediation is mandatory before a trial starts in court. Parties have to try to negotiate and settle a dispute to unburden the courts first, before seeking judgement from a judge.

The main channel is the website and the app, supported by social media channels including Facebook, Instagram and TikTok. The social media accounts are used to advertise the service, create awareness and link interested leads to the website and app. Before launching the business, we social team will save the username "verklagdeinenlehrer" on all relevant platforms. To avoid confusion, also "verklagdeinelehrer", the plural form, will also be saved as a username. The target group is 7-18 years old and used to using those applications. It is also a way to bring legal assistance on social media platforms, as traditional law firms and

lawyers rarely use those channels. A legal business being on social media makes it assessable and it appears modern and up-to-date in the target group's eyes.

Overall, the business puts together tools of innovation, classic legal work and business strategy.

(b) An explanation of why the business you propose would be profitable;

The business aims for a new target group, children aged 7 – 18 years old attending school in Germany. Due to the compulsory school attendance in Germany, children have to go to school for at least 8 years and face issues there. According to a press release from the German Federal Statistical Office (“Statistisches Bundesamt”) from March 2021, for the academic year 2021/2022 10,9 million pupils attend German schools.² This makes roughly 13% of Germany's inhabitants. Including the parents of those pupils in the target group, the business targets about a quarter of Germany's population. It's a huge new target group for legal services. *Verklag deinen Lehrer* offers a service to people that they technically need, without knowing yet that they need it. Thinking back about own school days, most people have to agree that there was at least one situation where a professional legal opinion could have helped settling a dispute or ease a problem. In Germany, at the 4th grade in Primary School it is decided by the teachers on which school the children can continue their education. While the two lower school forms (“Hauptschule”, “Realschule”) aim for a professional training, only the higher school form (“Gymnasium”) allows pupils to attend university. It is very difficult to change to another school form once a certain form is chosen. The decision by the teachers, which school form is the right one for the pupil, is mandatory in many states in Germany and effects the future career and life of pupils. If a teacher decides that they are not talented enough to attend the higher school form when they are roughly 10 years old, this effects the whole life as it also means that they can't study at university later.

To legally challenge this school form decision will be one working field of *Verklag deinen Lehrer*.

Especially at German high school (“Gymnasium”), the grades are important for university entry and disputes with a teacher resulting in a bad grading can ruin a child's future.

Especially medical schools require a very good academic record. If there is a dispute with a teacher, this affects the grading at high school and might result in rejection from a university.

² <https://www.destatis.de/DE/Presse/Pressemitteilungen/2022/03/PD22099211.html>.

Grades on an academic transcript can usually only be challenged within one month, which means that the legal assistance needs to be requested fast.

As those school years have such an impact on later life, pupils need to have easy legal access and be aware of their rights and possibilities against mistreatment. Also, parents want the best for their children and make their school life as convenient as possible. If there are conflict between teachers and pupils or pupils and other pupils, this effects the performance at school and the grading. Legal assistance and mediation can solve those issues and *Verklag deinen Lehrer* makes it easy to access those legal assistance. It's a fast and easy solution!

In conclusion, the target group is open to using legal services and has an interest in getting easy access to legal assistance.

After a while, the business can also be expanded vice versa and add teacher to the target group, who are sued by pupils. Having the legal know-how, complex data analysis and capacities, it's possible to provide the legal service to the opposite group of the trials.

The business idea further takes advantage of the way the German legal system is organized. The principle of publicity (“Öffentlichkeitsgrundsatz”) guaranties transparency at court. The topic and parties including the legal counsel and responsible judge of pending cases and trials are published online at the court websites or on a notice board at court. Also, citizens are allowed to view court hearings and ask for further information. This makes it easy to gather data and to analyze the legal outcome of disputes. Preferences of certain courts and responsible judges also gets analyzed for an accurate prognosis. It's similar to the analyzing tools car insurances use with court cases on car crashes to get statistics and predict the success rate of a dispute. Also, administrative court procedures follow a clear scheme, which means after processing a certain number of disputes, there will be sample legal letters and the work for the lawyers working at *Verklag deinen Lehrer* get further optimized.

In German courts (besides labour law disputes), the winning party doesn't have to pay for the legal fees. *Verklag deinen Lehrer* will mainly collect the legal fees from the opposing party and doesn't have to charge the own client.

Fintech at *Verklag deinen Lehrer* helps to bring a classic legal service to a huge new target group and ease the process, making it more time and cost efficient.

This business has several revenue streams.

Partnerships with external lawyers are also a stream of revenue. To cover many parts of the country, different lawyers will work for *Verklag deinen Lehrer*. In addition to permanently

employed lawyers at *Verklag deinen Lehrer*, partnerships with local lawyers are important. Those lawyers pay a fixed fee in exchange for getting clients from *Verklag deinen Lehrer* and get trained by *Verklag deinen Lehrer* to meet the company's quality standard and to bring the legal service to a local audience. The system is similar to those used by big insurances, who also work with selected attorneys which they train and use on certain projects and cases. In Germany, it's mostly mandatory to attend court hearings in person and hearings via video call are rarely. To save time and long travels, it's essential to have lawyers in different parts of the country where the legal disputes will happen. The combination of permanently employed lawyer at *Verklag deinen Lehrer* and a strong partner network guarantees a service in the whole country and a quick turnaround time of cases. As the service will be offered in whole Germany, there is no room for competitors.

In the beginning, there will be no advertisement on the platform as it could decrease the trustworthiness of *Verklag deinen Lehrer*. The idea is novel and has a catchy name, which will surely attract the attention of press and media. In the beginning for free advertisement, and later for a fee, the founders will present the business at TV shows and various news outlets. TV lawyers are well paid in Germany and having a strong media presence generates more traffic on the platform, more invitations to talk shows and magazines and on the long-term additional income from media contracts. A strong media strategy will be created and the relevant slogans will also be registered at the trademark office.

For the future, it might also be an option to work together with legal protection insurances. One option here is recommending a certain type of insurance to the clients for their claims in exchange for a reward from the insurance, or launch a form of legal protection insurances for school related matters in partnership with an insurance company. Classic legal insurances usually don't cover administrative law and might also be interested in the new target group. The business is also open to cooperation with networks of parent's representatives, providing workshops and talks to them.

Offering easy access to legal security for a vulnerable group could also qualify as charitable and apply for tax reduction in Germany.

Due to the importance of the topic, the huge new target groups and different revenue streams, the business will be profitable.

(c) An identification of the location (country or region) where you would launch such a business – and a justification of your choice of location;

I would launch *Verklag deinen Lehrer* in the Federal Republic of Germany and use German law as the applicable law. Being German citizen myself and graduating from German law school, I have a strong cultural understanding for the people's mentality and needs.

I know the legal requirements and possible administrative burdens as well as the weak points of the German education system.

Also, there is no similar business yet and therefore no competition.

As mentioned before, there is a huge new target group in the country, which is appealing to the offered service. Also, the German court system makes it easy to gather data of court cases and analyze the preferences and standard ruling of certain judges. Due to Germany's past, transparency is important at court and hearing are open to the public.

Local lawyers might offer help in school related matters and contesting exams, but their qualifications and success rate aren't transparent. Reaching out, explaining the situation and making an appointment is often not inconvenient and people hesitate to seek legal assistance due to this. Also, the costs are often not transparent and people don't use legal assistance because they are afraid of the costs. This should not be the case as law and justice are guaranteed in the German constitution.

Germany has high standard in intellectual property protection. Besides patents, there is also copyright and trademark protection which even includes website design and slogans.

Once protection is granted in Germany, it's easy to extend the protection to other countries. Especially in the EU, there is a harmonization in intellectual property law.

Once the business is successful launched in Germany, I would think about expanding the business to other European countries, either via a partner network or franchising. First countries outside of Germany for the business expansion could be the neighboring countries Austria, Switzerland and Luxemburg. They have a similar educational and legal system to Germany and the inhabitants speak German.

For non-German speaking countries, I would try to license the idea and receive a service fee for using the website design and operation procedures as well as business training.

(d) The trademark(s) or service mark(s) that you would use for this business;

(e) The form(s) of intellectual-property protection that you would use to shield the business from competition – and an explanation of why those forms of protection would be available in the jurisdictions identified in part (c);

The forms of intellectual-property protection I use to shield the business from competition are mainly trademark protection and design protection. The focus on the strong brand helps to differentiate products and services from future competitors and interferes their market entry. Collecting data from court databases to predict the duration and outcome of a dispute is not a novel technology nor an invention. Therefore, I can't apply for patent protection.

In Germany, a patent needs to be a technological invention and the patent application process is comprehensive and expensive. Also, an application for an utility model (“Gebrauchsmuster”) won't be successful for the same reasons. Sometimes companies start an application process at the patent office, knowing that it will most likely be unsuccessful, to prevent competitors from seeking parent application for the same invention. Once there will be a technological invention in the data collection and analyzing process, I would consider seeking patent protection. With patent registration, its mandatory to publish the invention. As *Verklag deinen Lehrer* is a service-oriented business, seeking technical protection is not mandatory.

The key component of the business is using the published data and to bring a service to a new target group: Making legal assistance convenient and available to everyone for school related matters in a transparent and efficient way.

The whole idea builds on a strong branding. Choosing a lawyer is a question of trust and the platform needs to be transparent, easy to understand and trustworthy.

First, I would apply for trademark protection of *Verklag deinen Lehrer* at the Deutsche Patent- und Markenamt (“DPMA”) in Munich and also for “verklagdeinenlehrer.de” as well as for the sentence “Wir verklagen deinen Lehrer”. The registration costs per trademark are 290€ for a protection period of 10 years.³ For the slogans, it needs to have a certain originality and conciseness of word order as well as ambiguity to qualify for IP protection.

The DPMA warns on their website, that there are currently longer processing times in trademark proceedings. The reasons for this are an increase in the number of registrations and a significant increase in requests for deletion, while at the same time there is very little staff

³ <https://www.dpma.de/service/gebuehren/marken/index.html>.

capacity and restrictions due to the pandemic.⁴ Considering this, the trademark application will be the first step, before launching the website and starting the service.

The next target countries for business expansion are Austria, Switzerland and Luxemburg. Therefore, I would directly apply for trademark protection of “Verklag deinen Lehrer” in the German speaking countries Austria, Luxemburg and Switzerland. EU trademark protection for the slogan in German language doesn’t make sense. If the business expands in other countries, there needs to be a new slogan created in the country’s native language. Timewise it is important to seek the trademark registration before the business goes online.

An international registration at the World Intellectual Property Organization („WIPO”) using the Madrid system doesn’t make sense for the German brandname and slogan. If there are plans to launch the business in non-German speaking countries, it needs translation and a similar catchy slogan in the native language of the new market.

Nevertheless, the main idea is to build on a strong brand. One part is the strong word mark. “Verklag deinen Lehrer!” and “Wir verklagen deinen Lehrer!“. Both are strong sentences and also allow a good Google SEO page rank, as this are the sentences people search for when having trouble at school. The strong brand helps to differentiate products and services from competitors.

The technological invention, collecting case data from court calendars and analyzing them, is not that novel to qualify for patent protection. The crucial step is using the collected data to provide a customized legal service to a new target group via an easy assessable platform. The intellectual-property strategy relies on a strong brand and trademark protection as well as copyright protection.

In Germany, it is possible to get protection of web design as a registered design (“Geschmacksmuster”, literally "aesthetic model"). This type of design protection is not possible in all jurisdiction. It is possible to register a website design as an unregistered community design at the European Union Intellectual Property Office (“EUIPO”). I would apply for this Unregistered Community design, as it protects the design of the website in all EU countries, meaning competitors can’t just copy the platform in another language. While the main market are the German speaking countries, this website design protection also prevents companies in other EU countries to copy the website design to start a similar

⁴ <https://www.dpma.de/marken/anmeldung/index.html>.

business. Protection of a website as a design has a very narrow scope of protection and it's difficult to claim damages for infringements and enforce the unregistered community design in court. But at least it's a try to protect the website design and might deter people from copying.

In case, that the application at the European Union Intellectual Property Office fails, there is still copyright protection for the texts and other works on the website itself. In Germany, copyright is automatically granted and doesn't need to be registered. For evidence purposes, it can be lodged at a notary's office for a small fee. All EU countries signed the Berne convention and accept copyrights from another EU member state. The copyright protection starts from the moment the work is created and doesn't require a formal application process. Copyright protection grants economic rights, so if I create *Verklag deinen Lehrer* I own the copyrights and have full control over the work and remuneration for its use through selling or licensing. In Germany, only natural persons can be the owner of copyrights. Via agreements, the company (here: *Verklag deinen Lehrer*) can use the copyright, but it is not legally not the owner. Copyright also grants moral rights, namely the right to protect the rights to claim authorship ("right of attribution") and the right to refuse a modification of the work ("right of integrity").

As mentioned before, copyright automatically applies to all texts and information provided on the online platform. Additionally, I would also place digital locks on copies for additional security and prevent copying from the website. The goal is to use IP protection to prevent imitation and exercise market power.

I would be very careful with hiring people and chose the clauses in the working contracts very precisely. For the business, a handful of motivated lawyers is needed.

I will use strict non-disclosure and anti-competition clauses in the labor contracts for employees. The team behind *Verklag deinen Lehrer* will consists of mostly young lawyers, who are still familiar with the school system and eager to fight at court and win legal disputes. To prevent them from leaving the company and start a similar business completely on their own, there will be a non-competition clause in the work contracts, forbidding starting a similar business for up to 4 years after leaving the company.

Also, the IT team will have anti-competition clauses in the labor contracts. If the employees develop new technology in-house, the rights fall back to the employer.

All employees will have to sign a non-disclosure agreement and are not allowed to talk bad about the company. Internal communication and trade secrets are also protected under

numerous German legislations, which can fill in gaps in the contract.⁵ Contract penalties make it hard for departing employees to carry forth trade secrets. Trade secrets do not protect against independent development of the secret innovation by third parties.

In conclusion, the pillars of intellectual property protection for *Verklag deinen Lehrer* are trademarks, copyright and strict work contracts including NDAs, non-competition clauses and penalties. Those pillars together will shield the business from competition and secure a strong market position.

f) The intellectual-property strategy (offensive and, if necessary, defensive) that you would pursue.

The business takes advantage of the strong intellectual property regulations in Germany and it is the first business in its field. As there is currently no similar business on the market, there is no direct competitor. Therefore, it is important to protect the business from imitators and copycats as future competitors and protect a strong market position.

The intellectual-property strategy relies on a strong brand and trademark protection as well as copyright protection. With a combination of copyright, trademarks and design protection, the strong branding makes it hard for potential competitors to even enter the market.

Words: 4.512

⁵ Richtlinie zum Schutz von Geschäftsgeheimnissen (Richtlinie EU 2016/943), Gesetz zum Schutz von Geschäftsgeheimnissen (GeschGehG), Gesetz gegen den unlauteren Wettbewerb (UWG).

Attachment 1: Sample website and app

