



Driving the Retail Experience Economy Through Digital Transformation

Introduction

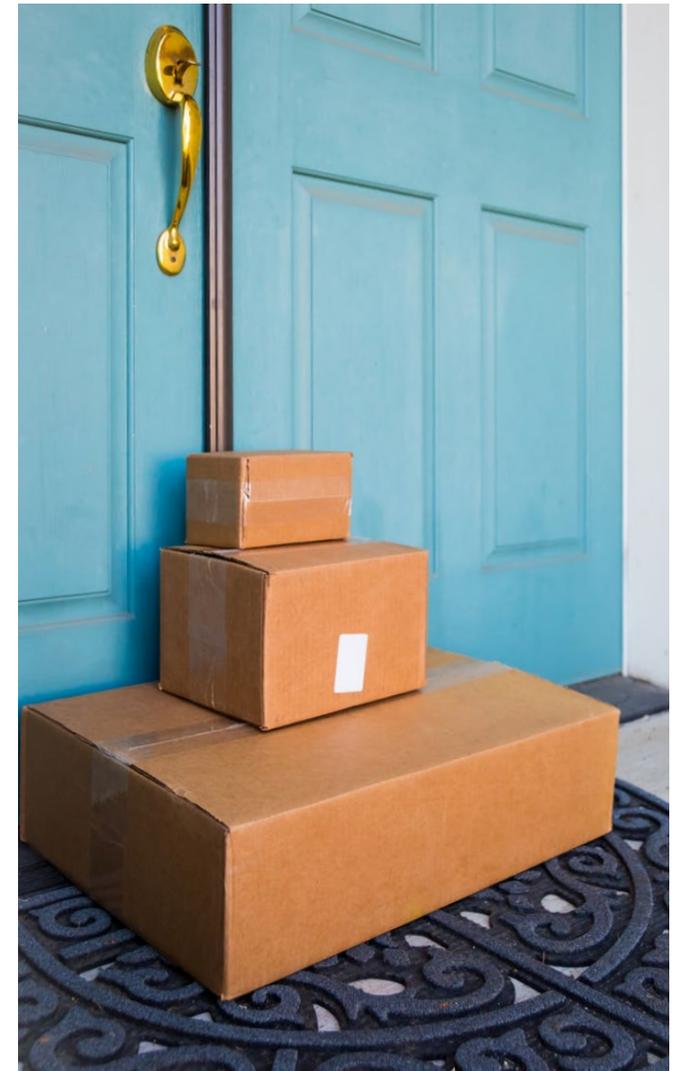
The retail experience economy is increasingly being delivered by digital transformation programmes, which are revolutionising the way retailers interact with their customers and suppliers.

Retailers need to ensure that they project manage and deliver their e-commerce platforms safely. They also need to securely and effectively manage the negotiation of procurement, supply and logistics contracts; the supply and acquisition of business critical systems; and outsourcing of core business functions, with the consumer experience driving all decisions underpinned by stringent data protection, e-privacy and cybersecurity technologies compliance.

The retailer brand and consumer experience have never been so aligned. Protecting the brand is paramount to reputation and, therefore, consumer experience and, in turn, revenue. Whether a media crisis is brewing or they are proactively seeking to manage, protect or exploit their reputation, retailers need to be poised to respond quickly and effectively.

In terms of brand protection, it is critical that retailers have effective trademark, copyright, registered and unregistered design protection and portfolio counselling.

Having robust controls of endorsement and sponsorship deals (such as with influencers) may also be key to the consumer experience.



At a Glance

- A proven track record providing advice to fashion houses, department stores, food retailers, online retailers, manufacturers, wholesalers, distributors, logistics operators, property developers and landlords.
- Team members who have worked in-house in retail, who know what it is like to be in your shoes.
- More than 60 retail specialists who support UK and international retail clients across the globe.
- Many e-tail clients, such as Studio Retail Group, Amazon and Net-A-Porter, so we understand the unique challenges facing online retailers.
- Invest in people who know the sector best. We have recently been joined in Manchester by Louise Barber, who was previously Group Legal Director at Pets at Home.

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Retail Digital Transformation Checklist

We have developed a quick checklist to support you to assess the impact on your operations, supply chain, brand and marketing and against a number of commercial risk factors that affect your digital transformation.

Have you considered the impact of digital transformation on your operations and supply chain?

This includes:	Yes/No
How best to build a connected retail experience across all customer channels, but remembering that each retail segment has its own requirements	
What the impact is on the planning and sourcing of inventory, the operation of the supply chain (including logistics from suppliers, warehousing and logistics to customers) and the multiplicity of channels that can be used to sell to customers. In all of this, data analytics is increasingly important to being able to meet customer demands.	
How to identify which new technologies are best suited to your business, including in relation to data analytics, digital experiences (in store and online) and virtualisation, etc.	
How your logistics and warehousing services providers need to service your changing requirements	
How best to procure and implement new technology, including the use of agile processes, “as a service” applications and outsourcing, etc.	
How to ensure the seamless integration of all connected systems	

In support of your digital transformation, have you considered (as a media owner and also as an advertiser):

Have you considered:	Yes/No
How you will approach the promotion of branded content via each customer channel?	
What is the impact in relation to any endorsement and sponsorship deals (such as with influencers)?	
What are your search engine needs?	
What are your online media buying requirements?	
What additional or altered relationships will you need with advertising and media agencies?	
What additional advertising regulation will you need to comply with? For example ASA, Ofcom, CMA and trading standards	

Consider how this will impact your business in relation to:

In relation to:	Yes/No
The collection, processing, use and exploitation of personal data (including in relation to the personal data of individuals who reside outside the UK, particularly in the EU post-Brexit), e.g. for 360-degree customer views, audience targeting, mobile marketing, predictive intelligence, etc.	
E-privacy and cybersecurity issues	
Import/export regulation, particularly in relation to customs compliance, tariffs and VAT payments – here: <ul style="list-style-type: none"> Tariffs will be payable on any non-UK products that are exported from the UK to the EU even if a tariff has been paid when the product has been imported into the UK (e.g. from China) which, in turn, may impact the viability of UK-based European distribution hubs Tariffs will not be payable on the export of products that originate from the UK to the increasing number of countries with whom the UK is negotiating Free Trade Agreements 	
Exploitation of brands and intellectual property (IP) rights, through licensing, franchising, agency and distribution	
Operational compliance with environmental regulations	
Real estate needs, including capital projects – adapting existing retail space and changing asset/warehouse needs	
Specialised regulatory and labelling advice	
Health and safety	
Workforce and skills needs in all aspects of the management of staff	
Environmental, social and governance requirements	

How We Support Our Clients

Our commercial and technology team advises clients in the retail sector on all aspects of digital transformation and its impact on the retail supply chain, from the drafting and negotiation of complex multimillion-pound contracts for the development and supply of digitised services, to simple queries about contract enforceability and everything in between. In so doing, the team has extensive experience advising clients on the negotiation of logistics contracts, the implementation of business-critical systems (including on an agile basis), Software as a Service (SaaS) and the outsourcing of core business functions.



Commercial and Technology

Our technology transactions lawyers have extensive experience on a broad range of licensing and commercial transactions matters.

Our services include the full suite of requirements for e-commerce platforms; structuring, negotiating and drafting licence and technology transfer agreements; assisting vendor clients with EULAs, SaaS terms of service and procurement agreements; conducting due diligence; structuring, negotiating and drafting technology development agreements; and advising on technology-based joint ventures and strategic alliances.

Our experience includes:

- **World-leading department store** – Advised across a broad range of matters, including its digital transformation programme, which will revolutionise the way our client interacts with its customers and suppliers.
- **Well-known clothing retailer (with more than 200 locations in the US and Canada and 130 locations worldwide)** – Advised on its global technology transformation project.
- **Leading retailers and suppliers of consumer products to retailers** – Advised on transformational IT service projects, often involving IBM, SAP and Oracle, together with contracts to procure the delivery and operation of automated warehouses to support the online business models and efficient logistics.
- **Charlotte Tilbury (both in the UK and globally)** – Advised in connection with its business-critical project to transition its online operations to a new IT platform. Our support has included advising on the contracts to be put in place with multiple suppliers, together with related compliance advice, in particular concerning data protection/GDPR.
- **Pets at Home** – Advised on an innovative new project to design and implement the new automated systems for Pets at Home's new national UK distribution centre, which will replace all existing facilities. This contract is critical to transforming the way in which Pets at Home will be able to operate its UK business and represents its most significant single investment in recent times.
- **Number of major retailers** – Drafted and negotiated bespoke agreements on new projects, including the launch of a new food range at Sainsbury's and exclusive household goods products for Asda Walmart and Waitrose.
- **Apparels and brand companies (including Amer Sports, New Balance and others)** – Provided support on IT procurement issues, cybersecurity issues, the need to establish/maintain online stores, considering tax, legal and logistics issues, and JIT hubs, etc.
- **Drinks manufacturer** – Advised on the negotiation of its contract to deliver its products to all trade customers.
- Advising a supplier of SaaS applications to a leading European retailer for use in more than 30 countries.



Advertising, Brand and Consumer (ABC)

We support our clients with their digital transformation. Our intellectual property (IP) and technology specialists work with clients to help them evolve their business by taking advantage of the online world and emerging technologies.

From all aspects of e-commerce, to real-time analytics, media-buying, ad serving (including programmatic and contextual advertising) and content marketing, we are here to help you establish and increase your online presence.

In addition to supporting you with new technologies, we advise on intellectual property rights, commercial contracts and consumer regulatory law. We work with retailers to exploit their intellectual property, ensuring maximum return on investment.

We also recognise that protection of brand is paramount. Whether a media crisis is brewing or you are proactively seeking to manage, protect or expand your brand presence, our team is poised to respond quickly and effectively. We provide an integrated “cradle to grave” trademark and design registration and portfolio management service. Our team also advises on advertising and marketing strategies and content at all stages of production.

Brand protection, commercial agreements (manufacturing and supplier agreements, franchising, brand licencing, consultancy and distribution agreements), trade secrets and IP litigation are also among our specialities. Our expertise includes drafting and negotiating influencer contracts and brand ambassador/celebrity endorsement agreements for use across a range of platforms and in multiple territories. We are also here to support you on all aspects of consumer regulation, including enforcement action taken by private entities and regulatory bodies.

Our experience includes:

- **Net-A-Porter** – Created the terms and conditions relating to its brand partnerships work, which includes all media and related activities, including events, the *Mr Porter* magazine, its website and also its social media channels.
- **Clarks** – We are appointed by this client to manage its entire IP portfolio, with more than 1,200 trademarks and a number of designs and patents. We manage, develop and defend its portfolio on a global basis.
- **Furla** – Organising and orchestrating the raid of an underground factory and the seizure of more than US\$3 million in counterfeit bags. Relying on both its strong evidence-gathering capabilities and its good relations with local law enforcement, the team’s efforts led to the arrest of five individuals, with lengthy jail terms.
- A number of our **retail clients** – Successfully defending on regulatory investigations against the ASA, OFT/CMA and trading standards. Cases have included alleged breaches of misleading advertising rules, comparative advertising/unfair competition, unauthorised gambling, social media transparency and breaches of unfair consumer terms laws.

Data Privacy and Cybersecurity

With any digital transformation project comes the need for more stringent data protection compliance, e-privacy and cybersecurity issues.

We provide support globally on regulatory and legal analyses of existing data and cybersecurity requirements under the patchwork of US law, including newly enacted state laws, such as the California Consumer Privacy Act (CCPA), regulations, guidance and best practices; the EU Data Protection Directive and GDPR, cyber- and data-breach preparedness and response; and cross-border data flow compliance issues, including the EU-US Privacy Shield, cloud computing and the protection of sensitive personal data (under HIPAA and other heavily regulated regimes).

Our experience includes:

- **One of the leading multinational technology brands** – Advised on privacy and security issues, including compliance with HIPAA and other US laws, as well as international laws (including the GDPR), and frequently provided compliance guidance regarding innovative product and service initiatives. This includes partnering with the client to create a mobile-centric Identity as a service solution from scratch to help authenticate identity using biometrics and distributed ledger technology.
- **Clintons** – Advised on data privacy and cybersecurity matters including the exploitation of its customer database.
- **Charlotte Tilbury** – Advised on contracts to be put in place with multiple suppliers concerning GDPR.

Further Digital Transformation Support for Our Clients

We support retailers across all of their business needs, including:

- All aspects of real estate, including capital projects – project management and asset/warehouse
- Environmental, social governance
- Health and safety
- Exploitation of brands and intellectual property (IP) rights, through licensing, franchising, agency and distribution
- Import/export regulation
- M&A transactions
- Retail joint ventures
- Specialised regulatory and labelling advice
- Supply chain management
- Workforce support on all aspects of the management of staff and business immigration



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