



THE FUTURE OF LAW

Competitive Intelligence with Legal Analytics

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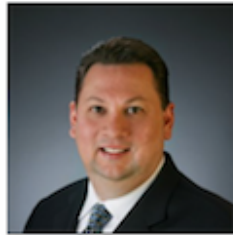
Solid competitive intelligence is a key ingredient of success, whether you are pitching a new client, or an existing client on a new matter, setting case strategy, or walking into a settlement meeting.

Our panel: Peter Geovanes, Head of Data Strategy and Analytics at Winston & Strawn, Philip Ou, Of Counsel at Paul Hastings, and Owen Byrd, Chief Evangelist & GC at Lex Machina, discuss how Legal Analytics enables you to analyze the history and behavior of your clients, prospects, and competitive counsel, at the firm and at the individual attorney level.

Speakers:



Owen Byrd
Chief Evangelist & GC
Lex Machina



Peter Geovanes
Head of Data *Strategy and Analytics*
Winston & Strawn



Philip Ou
Of Counsel
Paul Hastings

Owen Byrd: Hello and welcome to today's Future of Law webcast on competitive intelligence and legal analytics. My name is Owen Byrd. I am the Chief Evangelist and General Counsel for Lex Machina. Lex Machina provides legal analytics, which enable lawyers and everyone in their firms to employ data to win more business and win more cases. Today's [00:00:30] webcast is going to focus on what we mean by competitive intelligence in law practice, specifically for law firms, and I'm delighted to have on this webcast two experts in the use of deploying data and analytics for competitive intelligence. Our guests are Phil Ou, who's of counsel Paul Hastings and an IP litigator, and Peter Geovanes, who's the head of Data Strategy [00:01:00] and Analytics at Winston & Strawn. I'd like to ask each of them to describe their professional roles and background to set up our conversation about competitive intelligence. Phil, why don't you go first?

Philip Ou: Thanks, Owen. Good morning, good afternoon, everyone. My name Philip Ou, as Owen said, I'm of counsel at Paul Hastings in the litigation group. I've been doing patent litigation for about 10 years, we have about 100 litigators in our firm. [00:01:30] I wouldn't necessarily call myself an expert in this, but we certainly do use Lex Machina a lot for competitive intelligence, and so happy to be on this panel and to talk about this topic today.

Owen Byrd: Thanks, Phil. Peter?

Peter Geovanes: Hi. Good morning, this is Peter Geovanes. I lead the data strategy and analytics practice at Winston & Strawn. My background is diverse, I started off my career as a naval officer, did eight years active, duty during that time I completed my MBA [00:02:00] and then the next 20, I went to work for various consulting companies like Centure or PWC, and the common theme across those 20 years was helping Fortune 1000 companies really achieve a competitive advantage using data and analytics.

Sometime along that journey, the last five or six years ago, I decided I didn't have enough stress in my life so I decided working, traveling, raising a family wasn't enough, so I went back to school and got my GED. [00:02:30] About a year or two of law school, I had the epiphany of, can I combine those two passions of a new found appreciation of the law

and legal data along with so many analytics and predictive analytic capabilities I've been doing in Fortune 1000 work? With that, I'll turn it back to Owen.

Owen Byrd: Peter, I think, you're either the only or you were the first person to have the title of head of data strategy and analytics at a major law firm.

Peter Geovanes: [00:03:00] That may be the case. I've seen chief innovation officer and some of their responsibilities, I think, parallel a lot of what I do as well for the firm, but you may be right. I'll take that honor of being number one.

Owen Byrd: All right. Well, so we've got Phil from Paul Hastings and Peter from Winston & Strawn, two powerhouse firms in the legal services industry in the United States, so now we can turn with them as [00:03:30] our guests to the topic of competitive intelligence and what that means for a law firm. Where I'd like to start is asking you each the broad question of what does competitive intelligence mean for a law firm? What do you need to know to compete and to win? I guess, we should also define in there the different lanes or buckets in which competition [00:04:00] occurs, and that would include business development, competing to land the client and then in litigation where you compete to win the case and, also conceivably in transactions where lawyers are competing to obtain the best deal for their client. There's a number of different directions that our conversation can go, but let me start, Phil, with you, what does competitive intelligence mean in the context of your practice [00:04:30] and of the services that Paul Hastings provides?

Philip Ou: Sure. Thanks, Owen. For me specifically, when we talk about competitive intelligence, really the first two buckets that you mentioned come to mind. Me, personally, I've probably done 70% of my work and my career on the defense side and one of the first things I do when I get in the office or just wake up and look at my mobile [00:05:00] devices, look at Docket Navigator and see what cases were filed in the last day, you get a report every day and sometimes you see that current clients have been sued, sometimes you see that a company where you have a contact has been sued. On the defense side, you want to put together as much information as you can, as quickly as you can, so that you can try to compete to

get that work, and we use Lex Machina for that pretty much in every matter. It's one of the first things I [00:05:30] look to, to just get basic intelligence very, very quickly so that you know who is the opposing counsel, who's on the other side, how many times have they filed suit, how many times have these patents been litigated before if they have. All of this is very basic information that you need to know very quickly so that you can start preparing your proposal, trying to get that work.

Then, the second bucket is, once you get the case, gathering [00:06:00] competitive intelligence to help you get an upper hand in the case. Again, there's a lot of data analytics that can be helpful to learn more about who your opponent is, the opposing counsel, about the judge that presides over your case, the district staff, all that stuff is useful in trying to get a good result for your client in litigation.

Owen Byrd: It sounds like for you, competitive intelligence is not [00:06:30] only getting early warnings around opportunities to land a new client or land a new matter with an existing client, but then having the resources and information available to impress them with your deep understanding of the context of their case in order to close the deal and get the work.

Philip Ou: Absolutely. I [00:07:00] think one of the drivers of using analytics is there is an incredibly large amount of data out there that's potentially useful to you and being able to gather and mine through that data in an efficient way. The sooner that I can get data points on opposing counsel, on the company that filed suit, the more time we have to do other things. So being able to get that data in an efficient manner is key for us.

Owen Byrd: [00:07:30] Peter, for you and your colleagues at Winston & Strawn, what does competitive intelligence mean?

Peter Geovanes: Yeah. I would start off saying I second everything that Phil said. When we think of competitive intelligence, we draw a line in the sand, one side being more the business of law and the other side being more the practice of law, and what we strive to do in both cases is how do we apply data and analytics that we have or can obtain [00:08:00] give us an advantage in both areas?

For example, the business of law, we may be replying to an RFP for a potential new client, how can we differentiate ourselves by giving actual facts and data points about the firm? For example, how well have we fared against a certain judge for a certain type of case compared to our peer group? Great way to differentiate ourselves.

Along the practice of law too, we have a service called early [00:08:30] case assessment, where very early on in the case, or even pre-discovery, we are looking to use analytics to help us understand and communicate to the client what is the likely outcome, duration and cost for this type of litigation. Again, trying to put us in a position to use data and analytics, not only from a legal perspective but to have a business conversation with our clients as well and, hopefully another differentiator for the firm.

Owen Byrd:

[00:09:00] Well, Peter, you've given me the perfect segue here into showing a little bit about what Lex Machina's legal analytics can offer for competitive intelligence. You mentioned early case assessment and that is certainly one of the key use cases, so let me now just pull up and orient folks for just a moment to what we mean by legal analytics.

What Lex Machina provides are Moneyball [00:09:30] like data-driven insights into the behavior of organizations and people who inhabit the federal litigation ecosystem, that includes courts and judges, it includes lawyers and law firms, it includes parties, it includes patents and other subject matter of cases. All of that information rolls up out of the cases themselves and the dockets and the [00:10:00] documents.

What I'm showing here, for example, is that we've got over 300,000 cases in the Lex Machina system, those active since Jan 1, 2009 and forward, and, as you can see from this list, some of our subject matters include patent, which is, Phil, I know your core competency is patent litigation, but we also offer analytics for [00:10:30] commercial law with those federal cases that contain a breach of contract or a business tort claim, we've got antitrust, securities, copyright, trademark and other subject matter. What we do is we take the cases and roll up all of the dockets and the documents that are contained in the pacer record and clean, code and tag that

data in order to [00:11:00] then deliver these data-driven insights to attorneys.

You'll see, for example, that those insights include information about case timing and median times to key milestones like permanent injunctions, or dismissal, or some rejudgment trial, or termination. We roll up information about the resolutions of cases, whether the claimant wanted it, the defendant wanted it, [00:11:30] or there was a settlement or procedural resolution, and then specifically at what stage of the case those resolutions occurred. We roll up information about damages that's never before been knowable at a very granular level and offer people the ability to see which cases have generated which damage types and in what amounts. Then, we also roll up information about the findings contained [00:12:00] in these cases. In the example I've got on the screen, for all the cases that contained a finding of contract breach, the ability to know when that finding was made whether on default or consent, judgment on the pleadings, summary judgment, trial, J-model, and so on.

All of this data can be put to many different uses, and one of the ways that we try to make it as easy as possible for folks to use this data is through what we call our apps. [00:12:30] Peter, you just mentioned the issue of early case assessment, so let's go down to this early case assessor app and look at just one example.

This is an example drawn from Phil's professional environment, which is patent litigation, and in this case, the question is this plaintiff, Brandywine, represented by this firm, Owens [inaudible 00:12:54], in a patent case, what can we know about them? Let's use Phil's example, [00:13:00] he gets up in the morning and discovers that his existing client has been sued by Brandywine for patent infringement and he wants to represent his client again in this new matter, and what can he know? Well, he can know how often this plaintiff has filed similar cases and in what role, how far along these cases have gotten, it turns out that Brandywine rarely reaches claim construction, which as Phil knows, is a key milestone [00:13:30] in patent litigation, he can see their most recently filed cases, he can see the law firm that the Owens [inaudible 00:13:40] law firm and what its experience has been both with Brandywine and other clients of it, he can look at the patents

asserted in this case and in the other cases in which they've been asserted, look at the parties that have been involved in these cases, look [00:14:00] at other law firms on both sides of the case. Long story short, in the spirit of we try to provide a light switch and not the power plant, here's an easy way into early case assessment.

Phil, let me go back to you and let's go back to your great example where you've got an early morning notice that your existing client has been sued in a new matter, how can the existence of this [00:14:30] sort of legal analytics information help you ensure that you land representing that client on this new matter?

Philip Ou:

Sure, yeah. There's a number of things that come to mind and, obviously it depends on the circumstances, but just given the example that you just gave, one thing that you had mentioned, Owen, was you can take a look at what other law firms have represented, for example, defendants in other cases, what I've [00:15:00] learned in the last decade is that the IP litigation community is quite small and oftentimes you work on, for example, large joint defense group and you get to know a lot of lawyers and a lot of other law firms, and so it's not infrequent that we will see a new case filed against, say, an existing client and we'll look at the history on Lex Machina, see that someone we know at another law firm worked against this plaintiff [00:15:30] very recently and pick up the phone and call that person and get some intelligence, but easy access to that intel really starts with easy access to this type of information.

Another data point that's usually very helpful and one of the first thing that we look at, and you mentioned this, how quickly are we getting to case resolution? A lot of times you can see trends depending on, for example, who is the opposing counsel, have [00:16:00] they hired another large international law firm? Have they hired a smaller law firm that maybe only has one or two attorneys? That may give you insight into how large of a settlement demand that you're going to end up seeing and that might influence whether or not this is even a case that's worth pursuing for our firm versus maybe a smaller firm that one of our clients work with. Sometimes you have clients that, based on this early case information, they may not even hire a law firm because they

think that [00:16:30] they can resolve the case in its infancy, and knowing that information early on, you then don't have to expend additional resources looking into the case and thinking of whether you'll want to make that proposal. You can make that early case assessment just in terms of whether or not you as a firm want to go after that case pretty early on just based on this initial information that you can readily pull up and, Owen, what you just showed.

Owen Byrd: That's, I think, a very important insight, Phil, because I think it's easy when talking about competitive [00:17:00] intelligence for law firms to assume that you're reflexively chasing every single opportunity that's out there and using analytics to impress those potential clients to land their business, but you pointed out a threshold question, which is, is this a good case for us to chase? It sounds like you're using legal analytics to answer that question [00:17:30] and make sure the answer is yes before you then move on and use the legal analytics information to, in fact, land that client.

Philip Ou: Absolutely.

Owen Byrd: Fantastic. Now, Phil, what about ... I'm sorry, Peter, what about you? I know that you and Winston & Strawn make robust use of this legal analytics information, but you've also told me that you [00:18:00] integrate it with other sources of data, tell us a little bit about, first, how you use this data set that folks on this call are seeing on their screens, but then also what else you integrate it with and how you put those integrated insights to use.

Peter Geovanes: Yeah. This is an area that we're really excited to be exploring and, hopefully we're the cutting-edge, we see a real differentiator [00:18:30] and a competitive advantage when we combine different data sources together, which will allow us to go deeper in our understanding and analysis and, hopefully also gain some unique insights that we could use to represent the client.

When I talk about different data sources, I'm running the gamut from traditional legal research tools like your LexisNexis, I call them next generation legal analytic tools like your product, [00:19:00] Lex Machina, we're also really enthusiastic about a product called Ravel, externally-

Owen Byrd: Which our parent Lex just recently acquired.

Peter Geovanes: Very interesting. Other external data sources, so this is stuff like Cap IQ, or maybe Dun & Bradstreet Data, or Hoovers, real interesting when we start to apply SIC codes and understand verticals and give our business development team some insights into where we have [00:19:30] really industry practices that we may not have known.

Social media, really a rich source between LinkedIn, and Facebook, and Twitter, and YouTube videos, traditional just Google research, going to State Bar associations, looking for published articles, and then really the part that makes it so valuable is we combine that with our internal data sources like from accounting, our experience database, our marketing databases, [00:20:00] and that gives us a really unique way to answer the question of who from our firm has been in front of that judge and what were the outcomes? How did we do compared to other firms that are in the same category for the same type of cases? That, we call it data blending, or if you will, a data mashup type technique. It's something that we're continuing to investigate.

Also, with all this rich data, we're able to go beyond [00:20:30] just historical accounts and amounts and actually apply more sophisticated, predictive analytic techniques to make predictions as to duration, costs and outcome for our clients.

Owen Byrd: Terrific. Well, to illustrate your point, I had pulled up here the legal analytics data about your firm Winston & Strawn. You had mentioned [00:21:00] your experience with different district court judges and we see here that experience not only summarized by total cases, but also your experience on the defense side, your experience on the plaintiff side and with different district, which of course is also accessible through a number of different channels here in the Lex Machina platform, so maybe let's talk for just a moment [00:21:30] about a couple of those different sets of data and how each of you use them.

Let me also announce to everyone listening to this webcast that we will have time at the end for a couple of questions and there is a way to submit questions through the BrightTALK

interface on which you're seeing this webcast. So if anyone has questions, feel free to send them our way.

Now, Phil, let's turn to [00:22:00] specifically competitive intelligence information about law firms and attorneys. If I, again, go back to your firms data ... Whoops, my bad. We can see in your cases list [00:22:30] when we go to the law firm information and run a law firms report, what we can see are law firms that have appeared on the same side as Paul Hastings in various matters as well as law firms that have appeared in the most cases opposed to Paul Hastings. Let's start with those on the same side, because you had mentioned the importance of [00:23:00] competing in what you call the known universe of players in the patent litigation system, and we see that Paul Hastings has most often appeared alongside Morris Nichols, a local counsel in Delaware, but look at these other big firms, DLA Piper, Gibson Dun, Pillsbury, [inaudible 00:23:21], Jones Day and so on, Phil, I'm assuming that these are your professional colleagues and at the same time worthy competitors [00:23:30] out there in the market, so how can you put these data-driven insights to work in competing with other firms with sophisticated patent litigation practices?

Philip Ou:

There's a lot of different ways that we can take this type of information, I'll give you just one example, without naming a specific client, but there are a lot of clients out [00:24:00] there that tend only use, say a handful of firms, whether they're on a preapproved list or that's just what you see in the last four or five years in terms of cases that they've handled. One thing that we might do is just look at that set of firms when we have a new matter that's potentially out there for us to take and see what the other firms are doing, see how busy their lawyers are. [00:24:30] Typically, we see that clients, they like to work with generally people that they're familiar with and it might be that the team at another law firm, they've got two trials coming up and two other matters whether for this client or maybe another client, which might not make sense for them to take on this new work and be able to handle it in a way that's helpful and in the best interest of our client. That's the data point that we might look at. It's a data point that we might mention to our client when we talk them [00:25:00] about the new case.

Owen Byrd: Peter, let's turn to the information about parties, let's throw Google in there just for an example, what sort of competitive intelligence can you find about the parties to litigation that helps you best compete in the marketplace?

Peter Geovanes: [00:25:30] For us, we're really interested in understanding the number of cases, so for example if it's number of IP cases or number of employment law cases that Google may have been party to during the year, we're looking to understand what firms they typically go to, we're also interested in, of course, understanding who we know from a relationship standpoint and being able to leverage [00:26:00] that for business development purposes as well.

Owen Bird: Got it. What about the insights available into how a company like Google actually behaves out in the litigation environment itself? Does that shed light that's useful to you in a competitive intelligence context?

Peter Geovanes: Absolutely. I think we're always trying to get a sense of [00:26:30] whether Google in this case is the plaintiff or defendant, what type of trends, what are we seeing whether are they ones that want to litigate all the way through, or is it in their best interest to settle early, and then also looking at the firms that are representing them in those cases, what are their tendencies as well. All that together does give our attorneys some type of insight into maybe what to expect for upcoming litigation.

Owen Byrd: [00:27:00] Phil, let's, finally, because we just have a couple of minutes left, let's turn to the subject of courts and judges themselves, and since you are a patent litigator, we will use the busy and famous Judge Gilstrap down in the Eastern District of Texas. How does knowing this level of granular information about his behavior help you when you're trying to assemble competitive intelligence [00:27:30] and put it to use?

Philip Ou: Certainly. Obviously, the most direct thing that you can use is, Lex Machina to do, is just put together any data that you can on the opposing counsel, the plaintiff, in terms of what work may they have done in front of Judge Gilstrap. There's always potentially insight that you can get, that you can use, for example, in a hearing from that type of intelligence.

[00:28:00] Then, more generally, just trends. Grant rates in terms of granting summary judgment of invalidity or non infringement, Daubert motions, all of that, not just with Judge Gilstrap but any judge, you want to know the tendencies of the courts, of the judges, in terms of is it worth spending the effort making the recommendation to a client to file a summary judgment motion? Is it worth filing a Daubert motion? These types of analytics that we can get from, [00:28:30] for example, the data that you're showing, Owen, are things that we typically look to in making these recommendations and decisions.

Owen Byrd: Peter, last thoughts? We're almost out of time.

Peter Geovanis: Well, I would agree the motion analytics aspect to something that we're really interested in looking at, giving us insights into how often a judge grants a motion and was it for the plaintiff or defendant, great insights and, again, just another [00:29:00] way to help our attorneys with a better, more robust scouting report.

Owen Byrd: Well, thank you, Peter, and thank you, Phil. I appreciate both of you taking the time today to speak with us about employing analytics for a competitive intelligence in law practice. I want to thank everybody who has been on and attended this webcast with us. This webcast will be available for folks and your colleagues to watch available at lexmachina.com. If anyone has further interest [00:29:30] in learning more about our legal analytics platform, feel free to get in touch with us. Of course, if you want to speak more to Phil or Peter about their firms and their work, their contact information is available on screen. Again, thanks, Phil, thanks, Peter, thanks, everyone, for attending today. We appreciate your time. Take care. Bye-bye