



THE FUTURE OF LAW
Maximizing Value from your
Legal Analytics Investment

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Until recently, to gain insights into the behavior of specific attorneys, firms, judges, or parties, litigators had to rely on colleagues who may have personally dealt with them in the past. Today, winning attorneys use legal analytics to reveal trends and patterns in past litigation that inform legal strategy and anticipate outcomes in current cases. The following document is a transcript from a live webcast in September 2017.

The panel: Josh Becker, CEO at Lex Machina, Ronald Cahill, IP Chair at Nutter McClennen, John Cook, Partner at Barclay Damon, and Sona Hamilton, Customer Success Manager at Lex Machina, discuss how successful lawyers are leveraging Legal Analytics to win more cases and close more business.

Speakers:



Josh Becker
CEO
Lex Machina



Ronald Cahill
IP Chair
Nutter McClennen & Fish



John Cook
Partner
Barclay Damon



Sona Hamilton
Customer Success Manager
Lex Machina

Josh Becker: Hello, this is Josh Becker, CEO of Lex Machina. I want to welcome you all to the fifth in our series of webcasts around the future of law, this one about maximizing value from your legal analytics investment. Analytics is a hot topic right now, lots of buzz. Every day there's a new article about analytics or AI and the law. What really is the value, and what are the use cases? Today [00:00:30] we're going to talk about how successful attorneys use legal analytics to win more cases, land more clients, and what are they doing to maximize the value that they get from legal analytics. Today we're very fortunate to have three outstanding panelists.

First, Ron Cahill. Ron is chair of the IP and Patent Litigation practice group at Nutter McClennen in Boston. Ron works with clients of all sizes to solve their IP problems. His experiences range from designing [00:01:00] IP protection that maximizes the value of the client's investments in R&D to asserting that intellectual property in court and in the marketplace so that his clients can realize the value. Also joined by John Cook. John is a partner at Barclay Damon in Syracuse, New York where he focuses on complex commercial litigation and IP litigation. He has represented clients in patent and trademark infringement cases and a variety of commercial litigation matters including breach of contract, employment discrimination, environmental [00:01:30] real estate, trust and estates, and other matters. He has a JD from the Villanova University School of Law where my dad taught for 40 years, so big fan.

Last but not least, Sona Hamilton. Sona is a customer success manager at Lex Machina. She manages the West Coast and works with customers out on the West Coast, over nine years of experience consulting and selling to law firms and Fortune 500 companies. Her mission to ensure Lex Machina puts [00:02:00] customers first and that goals, objectives, and initiatives are aligned with customer needs. Sona has a master's in public policy from University of Michigan. Thank you all for joining. What I'd like to do is just dive right in starting with Ron and John and really just have a conversation about how they use these analytics tools, and legal analytics specifically, and how they think about the value that they get. Ron, perhaps you can start us off.

Ronald Cahill: Sure, Josh [00:02:30]. One of my favorite uses for Lex Machina is I spend most of my time in federal court litigating patent disputes. The thing I hate more than anything else in the world is losing. I especially hate to lose when I'm right on the law and I'm right on the facts, and the judge just doesn't want to hear it. One of the things I've discovered is I use the Motion Kickstarter and Motion Metrics tools on Lex [00:03:00] Machina. One of the funny things about that is the people at Lex Machina who I talk to always tell me, "Your associates should use those to get a jumpstart on writing motions and doing the briefing." *I find them to be too important to leave to other people to think about.* I use them because what they do is they'll organize. I can go to my specific judge and a motion that I want to bring or a motion that I'm about to argue, and I can look at their decisions [00:03:30] going one way or another, and it's all wrapped up in a little bundle. I get the decision, and I get all the briefing.

One of the things that it allows me to do is I can very quickly click through and see what's really going on on these motions, what is the judge actually looking at and thinking about when deciding one way or another. Maybe it is applying a lot of the facts, and maybe it's something else because lots of times I do find it's something else. [00:04:00] *When I use those tools that way, I find I'm better prepared to get to the judge in a way that the judge will listen.*

Josh Becker: That's pretty profound. Thank you, Ron. Very powerful. John, maybe can you give us an example as well?

John Cook: Sure. Thanks, Josh. I certainly want to echo Ron's sentiment. I do use it for that as well. Another, I guess, primary use case I use for, it's kind of odd. [00:04:30] I'm an IP litigator. I also spend most of my time in federal court litigating patent cases. I have an undergraduate degree in accounting, so I'm very much into the numbers of things. I've found that over my career, lawyers, and I'm certainly no exception to that, are very bad at estimating things. I think we think we have a sense of what's going on in a particular court or with a particular judge.

What I've found very valuable is using the Lex Machina tool to actually look inside the numbers,

use the numbers to see what has actually happened, what is the likelihood of success on a particular motion, [00:05:00] am I better off making it, not making it. Also timing for scheduling, how long do these cases last, what percentage of them settle, what percentage of them don't, because I find that by actually getting those numbers and getting the objective data, I'm in a better position strategically as I'm moving forward with a case or as I'm advising a client in terms of what best to do under a set of particular circumstances.

Josh Becker: [00:05:30] Thanks, John. I do think that's quite interesting in the sense that one of the values of legal analytics is to have your hands on it directly, I think as both of you have spoken to, especially when it comes to the numbers. You might want to slice and dice it in different ways. Let me look at over the 10-year period, look at over the 3-year period. Let me look it over the last six months. Let me slice and dice it this way. Do you find that you do lots of iterations of [00:06:00] different scenarios?

John Cook: Yeah, absolutely. I think that speaks to the ease with which one can use the Lex Machina tool. It's not something that you have to delegate to someone in a library or elsewhere to do the research and then get back to you. This is something that you can get in very quickly and very easily go through the various permutations you might have in your own mind and see how those results might change, or how that might implicate the strategy you decide to roll out going forward.

Josh Becker: Good, thank you. [00:06:30] Ron, you'd also mentioned when we spoke earlier about winning business as well, and particularly around cross-sell opportunities. Maybe you could talk about that for a moment?

Ronald Cahill: Sure. Our business development folks have all kinds of resources that they use to pull up information about our clients, and what they're doing, and what they're doing in court, and who [00:07:00] might have needs in an area that we can serve that we're not already serving. What winds up happening is they outsource that stuff to the library, and the library sends something

to them, and they talk to me about it, and I ask more questions, it has to go back to the library. It doesn't work very well.

I find that especially for those kinds of questions, one came up yesterday. [00:07:30] A client of ours had an IPR filed against them.

It was after hours, and I didn't need anybody. I could just click on a few things and get all kinds of information about this specific issue that came Up, how it was related to other issues, what were the law firms that were already involved, what were ways that we might be able to help them. At 8:00 last night I got an email out to them about what the issue was and how we could help and didn't have to go through that process of talking to BD, or talking to the library, [00:08:00] and getting a report, and having to ask questions about it. It's real time because I can click through it myself.

Josh Becker: Yeah, thanks. Having it at your fingertips, I get that. That must have been very powerful for the client to get that from you right away that night. That's excellent. How about John, for you, do you use it also on that getting clients use case as well?

John Cook: Yeah, absolutely. What Ron just said, I've [00:08:30] done it on several occasions. I think it's very valuable. Yeah, it's great to get that information, and there probably in the past were ways to get it using library resources or otherwise. The ability to do it yourself, the ability to do it after hours, to have a better sense of what it is *so when you do get the inevitable call from the client, you're in a better position to talk about it* as opposed to saying, "Well, yeah, I could take a closer look at that or talk to somebody," this way you know. Even if you're on the phone with a client, you still have those results right up in front of you. [00:09:00] *If the conversation takes a turn, you can easily with a few clicks investigate that additional option, too.* It's just that real time ability that's invaluable.

Josh Becker: Cool, thanks. It does make a lot of sense. Ron, just back to you for a minute. I think it was pretty profound when you talked about

really diving into the motions and to really understand the judge. We went into [00:09:30] that kind of quickly. Could you talk about that a little bit more?

Ronald Cahill:

Sure. Like I mentioned, I hate to lose in those circumstances where I think I've got the law on my side. What I like to do because I see this happen and I heard it from judges, in fact I had an issue a month or so ago with Chief Judge Stark in Delaware where we had made a motion. [00:10:00] There was a motion pending under Rule 32 of the Rules of Civil Procedure about whether or not we could play a video deposition. At the end of the day, he said he didn't care whether the rule applied. He was going to do what he thought was fair. He actually said that in his opinion.

The more time I can spend, or actually the less time I can spend figuring out the judge's sense of fairness on issues like the one I'm dealing with, [00:10:30] the more likely it is that I can walk into court and be persuasive. I can figure out on these types of motions what's really going on in the case, who's on the moral high ground, who's on the ethical high ground, and is that more important to the judge than the specific rule that's being applied, because oftentimes it is.

A lot of judges, they [00:11:00] have their own sense for what's right. Then they're going to backfill their opinions with legal reasoning to get them to the result they want to get at. If you just read the opinions, if you just do a Westlaw search, you'll never figure that stuff out. You need a way to get deeper.

The way I do that is *I use the tools on Lex Machina that I'd mentioned before, the Kickstarter and the Motion Metrics, because it bundles the things up for me. I can see the opinion, and then I can very quickly get to the briefs and see what's the real story.* Lots of times I don't have to read the whole brief because I usually know what the rule is. I just look at the intros so I can see what the setting is, what people are really complaining about.

Josh Becker: Excellent. Thank you for doing that a little more in depth. I think that'd be really interesting for folks. I want to turn over to Sona now for a moment. No one likes to [00:12:00] pay money and buy any kind of technology, especially legal software, and then have it sit on the shelf and feel like the firm didn't get value from it. Sona, maybe you can talk about some of the ways that you work with firms and what you've seen to really help, what's led firms to be successful.

Sona Hamilton: Sure. From the customer success role, really [00:12:30] our job or our role is to really help our customers maximize the value of analytics. We do that in a variety of ways, by sharing best practices, teaching all the different groups within a firm or within the organization, business development research, attorneys, litigators, how to use it based on their primary use cases and needs, and just really providing onboarding, and then also ongoing support to make sure [00:13:00] that analytics gets integrated into the firm's processes, and helps them to make better decisions. A lot of my customers will even say that, our firms will say it's really a three-legged stool. There's *1. the business development aspect of using data*, *2. crafting the winning litigation strategies* that Ron and John have talked already about, and *3. business intelligence*, just understanding what's happening in the litigation landscape, [00:13:30] what's happening to clients and their firms, and just being able to proactively anticipate that and use that from the business perspective, and to understand the competition.

What I see when the value gets maximized is really when you have all three aspects of the data working together and using that to drive the firm's decisions and profitability [00:14:00]. It's really a combination of all three of those. That's really where we see the best integration of analytics on an ongoing basis and having it really impact the firm's business, and to solve problems.

Josh Becker: Maybe could you talk about one or two use cases that you've seen maybe recently where firms have used legal analytics to [00:14:30] get a lot of value?

Sona Hamilton: Sure. I was just recently working with a chief marketing officer of a small firm that's headquartered here in Southern California who's a new customer. She was working on a pitch for a patent case in

Delaware, and the partner she was working with thought that the time to Markman was a year in Delaware. *In less than one or two minutes on Lex Machina, we pulled up the timing and we could see that it's a year and a half.* [00:15:00] As Ron said, sometimes lawyers are bad at, or I think it was John said lawyers are bad at estimating things. In this case, he was wrong with his estimates. I think having access to that comprehensive and accurate dataset, she thought that was going to be really critical for improving the quality of their pitches and effectively competing with larger, more well-known firms.

Just back to that Motion Metrics, I hear that all the time when I'm working with [00:15:30] partners when we take a look at those summary judgment statistics. *I had a partner recently who said the grant rate was not what she expected based on her experience with that particular judge.* She thought that those statistics would be valuable in forming her settlement analysis. I just hear that over and over when partners or when litigators are looking at those data and those analytics for judges, the data isn't what they expected. [00:16:00] *I had one IP chair said to me, it's actual data, not anecdotal.* It's taking that and then using that to help them win. That's when they get the value out of doing analytics and when it makes a difference to them.

Josh Becker: Do you see firms generally adopting silos, like one group first, another group after, or is it better when you have multiple groups using it? What have you seen there?

Sona Hamilton: It really depends on the firm. Firms are so [00:16:30] different in their culture, in their processes. What I try to do is just work within the firm. It always helps if you can do that at a higher executive level or if you have those internal advocates and champions, but to work with them to figure out what is going to be that best method for that specific firm in terms of integrating legal analytics and understanding it. For more sophisticated firms or firms who have been used to using data, it's going to be a different process from a firm [00:17:00] who doesn't have as much proficiency or are new to data. You're going to have to start at a more basic level and build up. I think generally, it's not the timing of when

these groups get integrated or how they get integrated, but you reach all three areas. That's what really drives maximum value, in my opinion.

Josh Becker: Yeah. For Ron and John, were there big debates within your firms about some people saying, "Hey, this all sounds good, but are we really going to get value [00:17:30] from it? I doubt it," or were there skeptics? Any insight on how those conversations go within a firm?

Ronald Cahill: Yeah, sure. This is Ron. I spent some time with our CFO figuring out how to budget this and what the value would likely be when we signed up. My pitch [00:18:00] to him, because I did want to sign up, was really two part. One is everyone's concerned about legal project management and how to do more with less.

The quicker you can get to the correct answer, the more you can do for a client in a given day. Lex Machina helps us do that, and we can demonstrate that to our clients. The other thing is especially in this space that John and I are working in, winning one piece of business can be huge. Winning one piece of business can dwarf the licensing fees. It doesn't seem expensive when you put it in those terms.

One other thing I might add is one way it's turned out to be valuable to us is there's one client we work with where the general counsel is really a hawk [00:19:00] for probability analysis. He wants to know the expected value of everything. He's always looking at probabilities for determining, I heard Sona say this, for our settlement offers to advise his board of directors what the potential risks are in a given piece of IP litigation. I use Lex Machina to do that directly for him. I don't want to [00:19:30] necessarily say, "I think is a 75%," or, "I think this is a 33%," but if I can go and say, "The judge we're in front of grants summary judgment 20% of the time," he can take that number and run with it. It's something objective that he can use to inform his board.

Because we can do that, he calls us more often, and because he calls us more often, we do more work for that client. That work is worth more than what it costs us in subscription fees. [00:20:00]

At the end of the day, the sell really wasn't that hard for us. It just seemed to make sense.

Josh Becker: Good, thanks. I think we do hear stories more and more of in house folks who are doing some of that kind of probability analysis. It sounds like that particular one you mentioned is big on that, so that's great. By the way, we're going to move to questions [00:20:30] in about four minutes. We try to keep these webcasts concise and be respectful to people's time. If you do have questions, feel free to type them in now, and we will try to work those in. John, any comment on that last question?

John Cook: I think my experience was somewhat consistent with Ron's. May have been a bit more of a challenge. I think in these days and this market, certainly our firm is looking to do more with less. [00:21:00] I think there's a lot of requests for additional spend and great promises that if we invest in this tool or this new software, it'll have this return. I think that's not always the case historically, so I think folks are skeptical. In this instance, I found great value in the various demo webinars that myself and others at the firm, the folks that would actually be using the tool experience, *I think that was the true way we got to see just how easy it was, just how powerful the data was* [00:21:30]. We were able to see the use cases, and our own practices, and the real time type stuff that's really invaluable and there's no other options. I think it was us, the actual people that would be using it, pushing firm leadership and saying, "Hey, we know this is expensive, but it looks like it's worth it. Let's give it a shot." I think overwhelmingly that's what pushed it through ultimately, and I think we've been very pleased thus far with our subscription.

Josh Becker: Great. Before [00:22:00] we move on to questions, Sona, if you had three points to make to our listeners today on how to get value from legal analytics, what would you recommend that they do?

Sona Hamilton: *I think it has to become part of the firm culture, and I think there has to be a commitment, or a buy in, or agreement from all the different groups within a firm, so with attorneys, with business development, at the executive level.* [00:22:30] I think those like John and Ron who see the value of the analytics, really you need to help those who maybe don't immediately get it, who don't understand the use cases. Customer success can help with that to help them understand those use cases and to use it so they can make better decisions. That's, I think, where customer success really has an important role to play in helping build adoption in those groups who may not initially be as comfortable with data, and to [00:23:00] drive that adoption throughout the organization.

I'm really seeing the firms that foster a deeper understanding as to statistics and data analysis to solve problems, I think those are the firms that are going to have the best opportunity to succeed in the long run because now we're seeing where *we're past that early adoption phase where the people who intuitively understood analytics were using it.* Now we're seeing that it's becoming more common in firms. [00:23:30] I think the really interesting thing to watch will be how firms will continue to innovate and find innovative ways to leverage the analytics and the data, and to differentiate themselves from other firms who are also using data. I think we're already starting to see that with some of our customers where *they're marrying their own internal data to Lex Machina's data to either validate or improve the data* that they're already working with, and to integrate that to things like pitch tools [00:24:00] to give them a stronger competitive advantage.

I think the key things are to have it permeate throughout the firm, to have that internal executive top level buy in, to have people like John and Ron supporting it and promoting it within the firm, and then to have customer success working hand in hand with the firms to really drive that widespread adoption between all the groups who can benefit from analytics.

Josh Becker: Great, thank you. We just have [00:24:30] a little less than five minutes left. We have a couple questions. This whole series is

really not meant to be a sales pitch, but someone did ask, how is it licensed, and what's the minimum time period you buy a license for? I'll just answer that. It's really by the benefiting group, really the size of the group of a particular practice or the whole firm, and one year is the minimum, just to answer that question. Next one is, is it possible to get a trial of the software? How much training [00:25:00] does it take to learn? As John said, we will do lots and lots of demos. Again, this is not a sales pitch, but you can email sales@lexmachina.com to get a demo. As far as that training question goes, for Ron and for John, what was your experience? Is this something that takes months and months and months to pick up and learn, or do you learn it relatively quickly once you're able to sit and focus on it? What was your experience?

Ronald Cahill: This is Ron. My experience was [00:25:30] funny because we had someone come out to do training sessions here at Nutter a couple of times. As is typical of litigators, I was always on the road. I was never able to participate in a session. I just started using it. I just started clicking on stuff. I found it to be intuitive enough that I was getting everywhere I wanted to go. I'm kind of like that. I was an early Apple adopter. I don't want a manual. I just want to click on it. [00:26:00] That worked out just fine for me. I actually recently had a one on one training through a webinar and figured out how to do a couple of additional things that I didn't know I could do. I just picked it up and started working with it.

Josh Becker: Good, that's nice to know. I'll pass that onto our product guy. That's good to hear. How about John, how about for you? How long did it take?

John Cook: I had a different experience, but I think the result was the same. I had two webinar demos [00:26:30] just watching someone else click through it. I also sat through the in person training. *Frankly, I think the tool is just so intuitive*, basically it's a bunch of checking the boxes for the main screen. There's certainly the separate apps that are more pointed, but I find it very intuitive and very easy to use. Others at my firm who may or may not had the demos that I had or may or may not have attended the training, I haven't heard any issues from anyone saying, "Hey, I can't figure this out. It's too complicated." *I think that's really*

a testament to the value of the tool and the fact that it's very well done. Certainly the data and the outcomes are great, but the fact that it's easy to use, ultimately that probably is what carries the day because if something's not easy to use, it's just not going to be used. That's the fact of the matter.

Josh Becker: Good. Thank you. I want to thank both Ron and John for the time. We know you are very busy litigators. In [00:27:30] prepping for this, I know that you both had very busy years, which is a good problem to have as an attorney. You've both been very busy, so we really appreciate you taking the time today to share some of your own experiences with our assembled folks here. Before I wrap up, I want to just mention that we will be having the sixth in this Future of Law webcast series on October 5. This is a [00:28:00] particularly timely one. I know we have a lot of folks who work in library, work in knowledge management on this webcast as well, and we all know this is budget season. We hear lots of stories from our end about folks working on their budgets and trying to get legal analytics in there, and having your various debates in their firms as we've heard a little bit of detailed today.

We have [00:28:30] both Jean O'Grady and Greg Lambert. Very lucky to have both of them, super well-known folks, to talk about their experience and best practices, and how they use analytics to buy analytics essentially, and their experience in getting what you want from your legal tech budget. That should be very timely and interesting. We hope to talk to you then. Thank you, Ron, thank you, John, thank you, Sona, and thanks, all, for listening.