# Litigation Finance: Assessing Litigation Risk and Case Value with Legal Analytics!

Watch Lex Machina's Regional Director Darren Schleicher, as he interviewed Angela Ni, Director of Underwriting and Data Science Strategies at Parabellum Capital, in this recorded webcast. Litigation Finance has recently experienced explosive growth. Legal Analytics is the key to investing in the right cases and eliminating the ones that are not a good fit.

Our speakers discussed:

- How to identify potential funding candidates
- How to assess cases based on their risk level, potential duration, and claim value
- How to evaluate the track records of the firms and attorneys involved
- How to leverage detailed case outcomes, including resolutions, damages, findings, and more when making critical decisions

**Speakers:**



Darren Schleicher
Sales Director
Lex Machina

Angela Ni
Director of Underwriting & Data Science Strategies
Parabellum Capital

Darren Schleicher (00:04):

Hello, my name is Darren Schleicher with Lex Machina. I want to thank everyone very much for carving some time out to join us today. We'll be looking at legal analytics and the role that they can play in litigation finance. And the backdrop to what we'll be talking about is information from Lex Machina that I'll be showing live in demonstration as our very special guest speaker is talking through some use cases for litigation finance.

Darren Schleicher (00:27):

This information is being used by nearly all of the most active and influential and successful organizations that are involved in and around litigation. So this would include in-house counsel, who are using our data on attorneys to decide who they want to hire. They're also using it for early case assessment, and timelines and budgeting. This includes law firms, who are using our data to identify cases, then pitch and land the business, and also set the most effective strategies to optimize the outcomes and ensure that the business is return business. And we'll be talking about litigation finance and how they're using this data also.

Darren Schleicher (01:01):

But in terms of why these different core organizations use this information, the answer is pretty simple. Quite frankly, the information within Lex Machina is not available anywhere else. What I mean by that is we have the only outcome-based map of US litigation available.

Darren Schleicher (01:16):

So when I talk about outcomes, I'll be talking about things like who actually won, did the defendant win at trial? Was the plaintiff successful at summary judgment? What are the behavioral patterns of a judge? Is the judge pro-plaintiff? Is the judge pro-defendant? Does that answer change if we're looking at a [inaudible 00:01:30] case, dealing with a product liability, or a securities class action?

Darren Schleicher (01:34):

We'll have information on attorneys that you might want, because maybe you want to demonstrate your own experience, figure out who you want to hire, who you want to fund, who you're going up against. What is their track record in our court? What is their track record in front of this judge? What about going up against a given opponent? Have they gone to trial? What type of damage awards have they achieved?

Darren Schleicher (01:54):

Speaking of damage awards, we have over $333 billion worth of damage awards coded and available to our users within Lex Machina. And damages are a huge reason why funders have been very successful with our data. Basically we help them pick the best cases to invest in. We can show a map of where are the dollars being awarded, which firms are most frequently involved? What type of litigation is it? Where in the country is this occurring in? And they can make better decisions to drive success for their business.

Darren Schleicher (02:25):

So without further ado, I want to introduce our very special speaker, Angela Ni, who's the Director of Underwriting and Data Science Strategies, as well as the Corporate Counsel for Parabellum Capital. Before I turn it over to Angela, just a few housekeeping items. Number one, we will have a Q&A session at the end. So if you have any questions, please don't hesitate to enter them in chat and we will get to them. Number two, you are able to resize the windows that are going to show some of the data that we're talking through. So just

make sure you can enlarge it so everything is nice and clear and easy to read. And number three, if at any point the webcast hangs up at all, just hit the refresh button, that should solve it.

Darren Schleicher (03:01):

So Angela, thank you so much for joining us. Perhaps you could start out by sharing what you do for Parabellum?

Angela Ni (03:08):

Sure. So thanks for the intro, Darren. Welcome to everyone who's joining us today. So Parabellum is a commercial litigation funder. That means a lot of things, but basically it's provision of capital in litigation to cover fees or costs and return the funder debt portion of [inaudible 00:03:29]. We started in 2012 and our two co-founders are pioneers in the industry. They launched the litigation risk strategies at[inaudible 00:03:41] and our teams invested hundreds of millions of dollars and investments in commercial litigation situations and arbitrations. A lot of common claims include business contract, fiduciary duty, patent antitrust bankruptcy cases.

Angela Ni (04:01):

At Parabellum, I had the underwriting and data science strategies. Effectively, we analyze legal merits and risks to inform [inaudible 00:04:11] of potential transactions. And we're looking to see the likelihood of success for these claims.

Angela Ni (04:18):

On top of that too I have another role, which is I head our data science strategies. That piece is actually very fun and interesting, so is the other one, but this one is really sort of integrating and utilizing tools, developing tools as well internally to sort of assist with the process.

Angela Ni (04:38):

And as a result, I'm really in tune to what technology is available, whether it's in the legal market or elsewhere. And it fits with my backgrounds of science and engineering from MIT and dealing with a lot of data prior to becoming a lawyer. But before Parabellum, I spent 13 years as a litigator. I represented clients at trial and on appeals, and I specialized primarily in IP at an AmLaw 100 firm in New York City for the last 10 years.

Darren Schleicher (05:14):

Great. Thank you. You've worn a lot of hats, so hopefully that allowed you to bring a number of different perspectives of how some of this data could be leveraged. So I just started sharing my screen. Angela, maybe you could confirm it's coming through for you.

Angela Ni (05:26):

I haven't seen anything yet. Oh, there it is. I do see it now.

Darren Schleicher (05:33):

So, I have a couple questions for you about how you integrate analytics into your decision-making process. And what I'm going to try to do is just kind of follow along, not with the specific judges or cases that you might be thinking of, but just generally mirror how someone could move around a Lex Machina and see things about a firm, or an attorney, or a judge as you provide some of your answers. Where I'd like to start with is let's

imagine a brand new opportunity or a case comes to Parabellum and you're trying to decide if it's a good investment opportunity. What are some of the steps you take to evaluate things and some of the data you're looking for to make the best decision possible?

Angela Ni ([06:10](#)):

Yeah, so at Parabellum we provide funding at all stages, so it could be from pre-litigation to collections. And obviously the earlier we're involved, the more options exist, because they're able to apply a business mindset to litigation as legal claim. And deciding how to monetize that asset is really a business decision, and like all business decisions, it's best practice to investigate and weigh the alternatives before coming to a course of action.

Angela Ni ([06:41](#)):

I think where analytics can come in and is very helpful is, obviously, there's more information where something has been [inaudible 00:06:49]. But a potential opportunity comes in... It's very similar. The information that we actually see from the client [inaudible 00:06:59] themselves. We really want to focus on what the key basic issues are. So for example, if we want to understand what the nature of the claim is. So, is it a [inaudible 00:07:11] claim? Is it an antitrust claim? Is it patent, employment?

Angela Ni ([07:14](#)):

Those are all things that Lex Machina cover. And we want to know from claimants a brief description of what happened. Now, if it's a filed case, you can get some more flavor for it from the [inaudible 00:07:28]. So Darren, I see you pulled up the complaint. Is that right? Yeah.

Darren Schleicher ([07:33](#)):

Yes.

Angela Ni ([07:35](#)):

So the complaint can give more background as to what the nature of the dispute is. And further to that too, whether litigation has commenced. As I mentioned before, we fund cases that are already proceeding or maybe they haven't yet. But to the extent it's been commenced, and it's been assigned to a judge in the court, we can look at that judge to see what's the timing? Is the judge slow or faster? If there's any tendency [inaudible 00:08:06] to motions to dismiss or others [inaudible 00:08:12] And in terms of the court itself, just generally how fast it moves. That stuff is, as you can see on what Darren's put up, you can see a lot of those analytics as well.

Darren Schleicher ([08:27](#)):

So let me jump in. In terms of timing, what timing milestones are you looking for specifically? Like is it trial, termination, contests, dismissal? And what do those answers tell you and help you do better?

Angela Ni ([08:40](#)):

Yeah, so the timing really depends on the types of cases. Obviously if you have a patent case, there's different issues that are in hand, like claim construction. When you've got to mark men, if there's intentions, infringement invalidity contentions. Then if you're dealing with an antitrust case or a class action, if there's class certification. So the milestones really depend on what type of case is being presented. But let's just say

for a motion to dismiss, you could see how long is the court generally, is the judge generally very slow or fast in terms of motions to dismiss and just seeing it compared to other similar cases.

Darren Schleicher (09:23):

So this can factor into whether you decide to move forward with this case or not.

Angela Ni (09:29):

Yeah, I think it's a consideration. We... Depending on how long things may take, obviously we can adjust for that in terms of the structure, but it's definitely a consideration that we'll look at. Obviously I think when there's data that's available that can be usable and that can kind of be used as a whole to inform a decision. I'm definitely a [inaudible 00:09:55]

Darren Schleicher (09:57):

Just out of curiosity, you said sometimes you were approached with potential litigation before anything's filed. Do you ever provide any feedback or counsel on what venues might be best?

Angela Ni (10:09):

Yeah, I think that depends. I mean, they will at some point have their counsel [inaudible 00:00:10:17]. If they have counsel, they probably have ideas where they want to bring suit. I'm sure that the lawyers themselves are also doing sort of an analysis where to bring suits, but certainly we can see where cases have been filed in the past against certain of these defendants, whether there have been motions to transfer, that's a thing. So we can factor that into the calculation.

Angela Ni (10:42):

We're not providing legal advice like lawyers or acting as lawyers for the claimants as [inaudible 00:10:50]. So this is just all information for us to sort of make a decision and sometimes people will ask.

Darren Schleicher (11:01):

Okay, do you ever export data from Lex Machina and hand it over to them? Which is within your license agreements, you're not going to get in trouble.

Angela Ni (11:10):

I was actually going to ask that, are we actually able to do that? No, I have not. I have not done that, but good to know. It's no.

Darren Schleicher (11:21):

So moving back to some of the things you look at when a new case comes in the door. We talked about timing. You mentioned things about the judge. What specifically are you looking for on the judge and how important is it to filter, just to cases specific to yours? I mean, for example, a judge could be super slow and pro-defendant in a securities case and the exact opposite in a patent troll case. I'm just making things up, but I'm assuming you are trying to filter things to make sure that the data is as relevant as possible.

Angela Ni (11:51):

Yeah, and I see that on the screen. Yeah, so the filtering is actually very helpful. So obviously you want to see... Look for cases, but I think this goes into another thing that we look at. But if there was a related litigation, so

they might be a party to a really related litigation, it could be in the same core, it may not be. That information can be helpful.

Angela Ni (12:13):

Even if it's sometimes claimants... They know who their competitors are in the industry. They know of similar cases-related litigations where they might not necessarily be a party but that could impact their case. So obviously want to see similar type cases. The more you can narrow it down, the more efficient it becomes.

Angela Ni (12:37):

I think that you say this even coming from a big law firm for over a decade, I mean, you do a lot of analysis like this, where it's like, okay, is it a similar case, is it similar facts? How... What is the judge's tendency in these particular types of facts? And obviously it's not going to provide you with a definitive this is what's going to happen here, but it can give you data points that inform how potentially a judge could rule or cut up arguments that can be made that have been accepted in the past, or-

Darren Schleicher (13:18):

Right. So you mentioned seeing where else someone might be involved in litigation. So I pulled this case up just because it was semi-recent, and everyone's using Zoom these days. So I picked it, but I'm not asking you to comment on any specifics of this case, but if we wanted to learn more about Cortec licensing and have they ever been involved in litigation, we could see there's five other cases we might want to investigate if someone was hypothetically thinking about investing in this one case in Delaware. And so we certainly can pull that up.

Darren Schleicher (13:45):

In addition to the parties, maybe you could tell me, when you're looking at the firms and attorneys specifically, what are you trying to learn about them?

Angela Ni (13:57):

Yeah. So for the parties themselves to see if they've been in litigation before. How long? If it's related litigation, obviously want to know about it. What was the outcome there? Did they settle? Did they file? What ended up happening? Was this for a reason? And on top of that too, I think it gives you kind of an idea as to their litigation behavior. In terms of the law firms themselves that represent that, obviously, I mean, we know our team knows a lot about the lawyers, pretty much the whole legal... Most of the legal industry.

Angela Ni (14:41):

But to the extent there might be smaller lawyers or other law firms that are out there and you want to get more specific data into what cases they brought in the past. What are the outcomes, the case outcomes? You could easily get that from here as well.

Darren Schleicher (15:00):

Or imagine even if you are intimately familiar with the firm and the lawyer that you might be funding, it probably is relevant to look at who are they going up against? Does it look like someone who has been successful in the past, or never has been in this court and might just want to settle in 10 days? We don't know, but hopefully...

Darren Schleicher (15:18):

So I can pull up, for example, the attorney in that one case and see that this person has had a lot of activity in patent litigation. But if I want to learn what's actually happened, we can see that even though there's a lot, it's recent. And there haven't been any damage awards for these cases. And there haven't been any decisions on the merits in these cases. And there haven't been anything like a finding of infringement. This is a patent case or a one-on-one. If there have been then this chart would be populated with the ones, the threes, the fours, and you could click into those cases where there was a finding infringement or, any of these other things that you see here.

Darren Schleicher ([15:55](#)):

Are you... I'm assuming that you're probably looking more closely at the attorneys than the firms, would that be accurate or not? Because attorneys can move different firms. So the track record of a firm might not necessarily represent the track record of an attorney.

Angela Ni ([16:09](#)):

Yeah, we look at both. Our relationships are with established... Or established relations with established law firms, but also new ones as well. So we look to see what the law firms... If it's new a relationship, see what else they're involved in? Obviously the lead attorney... You want to see that your case is being handled by someone who's good, but obviously where they are too can play a role in it.

Darren Schleicher ([16:41](#)):

Got it. One thing that we haven't talked about that Lex Machina provides for any list of cases, and for the attendees that might not be super familiar with Lex Machina. I'll just give a quick little overview of how this works. It's super simple. User creates a list of cases. It could be a list of cases for Kessler Topaz. For a judge in Delaware. For all patent litigation nationwide. And Lex Machina just automatically services what's happening in the litigation itself.

Darren Schleicher ([17:08](#)):

So for example, within these over 1300 cases for this particular firm, I know in two seconds there were 147 approved class action settlements totaling over $24 billion. And I could drill into those cases and see who else was involved, and the judge, and everything along those lines. So moving on from a firm to the damage awards, maybe you can share what type of data you're looking for when you're evaluating a claim.

Angela Ni ([17:32](#)):

Yeah. So damages can really take many forms and there's a number of considerations here, but generally we want to know about the nature and amount of damages. What types of damages we're looking for, what types of damages are we trying to get that lost revenue, lost profits, or out-of-pocket costs, destruction of business and the basis for damages as well. Whether there's ongoing settlement negotiations. This stuff, I think, obviously, if it's a case that was just filed or a case was filed and hasn't been completed, you're not going to have information on this.

Angela Ni ([18:13](#)):

But the damages analysis is helpful if you see similar cases and you can see if it's within kind of what's the ballpark range. Or say like a patent case with similar technology, similar number of infringing units. I'm just making up an example, but it can be helpful to see what's been awarded in the past for these types of cases or in a particular court or a particular judge. So those are the types of things we're looking for.

Darren Schleicher ([18:45](#)):

Okay. And are there specific damage or goals or monetary value for cases that meet some threshold for "yes you want to back this" or, "no you don't".

Angela Ni ([18:59](#)):

Yeah. So there's no minimum damages threshold for investment for us, but I'll say that generally it's about $10 million for a commercial case and it's higher for patents. And that's all using conservative models.

Darren Schleicher ([19:13](#)):

Okay. So for example, one could look up all the cases that have had at least a $10 million damage award. And we have a lot of them... 3,870. But then you can start drilling down to just specific damage types. How many of these were for lost profits? How many of these were for proof class-action settlements in securities litigation? So you can really target, okay, where are the dollars actually occurring and then drill into those cases. Which firms got those awards? Which attorneys were behind that?

Angela Ni ([19:42](#)):

Right. And it's also nice too, I mean, looking at your screen right now, to be able to see it broken down by the area of law that makes it a lot... That streamlines things.

Darren Schleicher ([19:54](#)):

Right. We could certainly filter this just by damages that were awarded at a jury verdict or judgment on the merits. Or we just want to look within the past few years because we want to make sure we're looking with a current and relevant data, versus something that maybe happened 10 years ago that's no longer relevant.

Darren Schleicher ([20:11](#)):

So yeah, certainly Lex Machina's philosophy is, if you're going to use data in your decision, you better have data that mirrors the facts and realities of your case.

Darren Schleicher ([20:24](#)):

Okay. Shifting gears a little bit. One thing that we built recently is what we call an app that helps our customers. And we actually have it. If you go to our website you can get here and see this for free as well. But it's helping people make sense of what is happening in response to the Coronavirus. What's happening in the courts? What cases are being filed more? Which are slowing down? What's happening in these cases? How is COVID impacting your business?

Angela Ni ([20:56](#)):

Yeah, so it's been very busy. You know I think the theory is in what we've been saying too... Is in an economic downturn, there's increase in litigation. And I think that's what you're going to show for the impact analyzer from like SMACNA, but really pretty much the COVID cases are on the rise.

Angela Ni ([21:15](#)):

And as this pandemic continues, you'll [inaudible 00:21:19] to see that it's increasing and it's impacts on businesses. You're always going to find businesses as [inaudible 00:21:26] insurance companies or banks pass claim. You're going to see employment cases involving hazard pay or protection. Startups trying to protect

their IP. And so really these COVID-related cases, I think if you pull up... If I remember correctly in the COVID tracking series that you see that the cases are really predominantly in contracts and insurance basis.

Darren Schleicher ([21:53](#)):

Yeah. We're seeing contracts, insurance, employment... For obvious reasons as well.

Angela Ni ([21:59](#)):

Right.

Darren Schleicher ([21:59](#)):

And we actually can do a search not just to see the case counts, but get the actual complaints. I have a safe search here where if I'm looking for COVID or Coronavirus or pandemic and I went to look at just cases filed within the past few months. We'll pick March 15th to make sure we're not grabbing something that mentioned a pandemic from years ago, and we want to limit this just to complaints. So this is going to surface cases where COVID is actually showing up as a reason for the litigation occurring, versus a case that maybe has been going on for five years and then it got delayed because of COVID.

Darren Schleicher ([22:30](#)):

So this will get rid of those false hits, where we want to find litigation-driven at least in part by COVID. And we can certainly pull these up, go to these cases, and see which firms are doing this work. Which companies are being impacted the most and look at the complaints.

Angela Ni ([22:46](#)):

Yeah. I want to add to that. You know the nature of a funder's role is in sharing... Sharing risk, which means that you're going to see an increased demand in funding as a result of this economic downturn. And really funding can help claimants and other businesses as well as law firms. You can help.

Angela Ni ([23:06](#)):

We've been seeing a lot of activity with the portfolio arrangements with law firms. You can help them increase the types of cases, or help them if they want to take on more cases by allowing them for some working capital. And also on the business side of things, if people need assistance with legal fees, that type of thing so they can free the money, the capital for somewhere else. We've been seeing a lot of that.

Darren Schleicher ([23:39](#)):

Okay. And one last question before we turn to Q&A from the audience. Since you wear many different hats for Parabellum... Your corporate counsel hat. How do you see analytics playing into the role of in-house counsel, and the decisions and responsibilities those types of people have?

Angela Ni ([23:56](#)):

Yeah, so there's always been data out there, though it's not necessarily in like the most easily usable form. And I think over time that technology advancements have really allowed for more [inaudible 00:24:09] so it really gets you to maybe a narrower subset of what you look at and can get you there faster as well. Whether it be you're an attorney practicing in a law firm, if you're outside counsel or even a solo practitioner.

Angela Ni ([24:25](#)):

And having spent a significant amount of time... I've been in the law firm and also as well as now being in-house, it's really helpful to have these analytics tools. The extent it can help drive some efficiencies. I think something for instance that I could take 40 hours to do in the past with traditional legal tools, and that's not to say that, I mean, traditional legal tools are still always going to be out there, but if they can cut that time like into a fraction of that amount of time it can be very helpful. And particularly as in-house, if you don't have necessarily the 40 hours to look into a particular issue. So I think that as more people understand the benefits and powers of tools, but also understand what their limitations can be, they really can use it to benefit themselves, the law firm or their clients.

Darren Schleicher ([25:24](#)):

Great. So I know we promised we'd get everyone out of here at the 30 minute mark. There are a few questions that have come in. So I'm going to pause sharing my screen for just a moment and we can work through some of these.

Darren Schleicher ([25:38](#)):

So we have one that says, how is this information collected and verified? So we are hitting Pacer on an hourly basis, and I haven't mentioned this yet, but we do collect from state courts as well. But we have technology that ingests the documents and the key information from the complaints, and the jury verdicts, and the orders. But at the end of the day, we have a data team. These attorneys that are doing essentially technology-assisted review, that are putting the final stamp of approval. And I'll just pull up a case where something significant happened.

Darren Schleicher ([26:10](#)):

We'll go to trade secret. And there was a reasonable royalty in nine of these cases. So we add these tags and codes to the data, which is really the secret sauce of how Lex Machina works, or how we can show a user the track record for a court or a judge. These aren't added until an attorney data expert has actually verified that there was $117 million damage award that was enhanced damages for antitrust, and they add the tag on this.

Darren Schleicher ([26:36](#)):

We have another question. Do you offer analytics for state courts? Yes, I just mentioned that. We don't have really time to get into it, but we have been spending the past 10 years or so building out analytics for federal litigation, in state courts is the big horizon. And we've already started tackling that challenge. We have seven courts now... LA Harris County, Sacramento. We're developing another five to 10, just in the remainder of this year alone.

Darren Schleicher ([27:01](#)):

Of course, we're going to be building the courts that have the most litigation volume and have the most people who can benefit from knowing the outcomes of those, and optimizing their outcomes when they're directly involved.

Darren Schleicher ([27:12](#)):

We have another case. Let's see. Most of the cases get settled when a claim defendant results. Can you tell the probability of settlement? So what we can show you, and I'm sorry that the whole question is not coming through clearly to me, but within the resolution wheel in Lex Machina we show a breakdown of what happened in the cases.

Darren Schleicher ([27:37](#)):

And we actually have a definition within our help center that specifies when Lex Machina codes the cases they contest the dismissal it meets this criteria. Or a stipulated dismissal it meets this criteria. Or a consent judgment meets this criteria. So we certainly can filter the cases that settled in or out.

Darren Schleicher ([27:54](#)):

If a monetary exchange was not made public in the actual litigation itself, there's no way we know about it because we're pulling from the actual documents.

Darren Schleicher ([28:04](#)):

I think that's all we have time for today. So I just want to say a very big thank you to Angela and to all of you for attending. If you would like more information on Lex Machina, where we could explore some of this data customized for you. We could look at some of your cases, some of your judges, firms, et cetera. Please don't hesitate to reach out to us. I'm going to put a slide up here. Here's my information, and we'd be happy to help. Unless there's anything else from Angela, I will say thank you and wish everyone a great rest of their day.

Angela Ni ([28:39](#)):

Yeah. Thank you.