Legal Analytics in Practice Series: Assessing Your Opposing Party and Counsel

Knowing critical insights about the previous experience of your opposing counsel and party in cases like yours allows you to formulate winning litigation strategies. Join Aria Nejad, and Neil Magenheim for an exciting 30-minute webcast, where they will show you how Legal Analytics enables you to analyze the litigation history and behavior of lawyers, law firms, and companies. They will cover:

- How to analyze their track record before your judge
- Understand the level of litigation risk they pose to you and your client
- Find the best time to offer a settlement
- Highlight conflicts of interest
- And much more

Speakers:

Aria Nejad, J.D.
Campaign Manager
Lex Machina

Neil Magenheim
Director of Client Relations
Lex Machina

Aria Nejad ([00:00](#)):

Hello everybody. Good morning. Welcome to the Lex Machina Legal Analytics and Practice Series webcast. Thanks for joining us today. Today, we're going to be talking about how to use legal analytics to make more informed data driven decisions regarding assessing your opposing party and their counsel.

Aria Nejad ([00:15](#)):

Before we get started with the program, couple of housekeeping things, couple of reminders. Number one, this web is being recorded. Number two, we'll be having some time at the end of our session today to address any questions you guys might have, and we'd love to hear your questions. So via the Q&A feature at the bottom of the Zoom link. If you see that Q&A feature, go ahead and submit your questions there. We saved a little bit of time towards the end to get to those.

Aria Nejad ([00:39](#)):

My name is Aria Nejad. I'm going to be the moderator of today's webcast. I'm relatively new to the Lex Machina team, been here a couple months. Before starting here, I practiced law in Utah and I've worked at two different Am Law 100 firms. Neither of those firms had Lex Machina at the time I was there, unfortunately for me, but I believe both of them use the software now, years after I left. And since starting here, I've been exploring the legal analytics tools, and honestly just really had my eyes open to how many insights can be gained in just a few minutes when those same insights used to take hours in the past. Something that we're going to dive into shortly.

Aria Nejad ([01:12](#)):

Joining me today is our guest, Neil Magenheim. Neil, how's it going, buddy?

Neil Magenheim ([01:16](#)):

Great Aria. How about you?

Aria Nejad ([01:18](#)):

It's going well. Neil is the director of client relations here at Lex Machina. Neil, maybe you could say hello, give a brief introduction of yourself. Tell our audience a little bit about you and honestly, I think the Lex Machina origin story is very interesting too. Maybe you can touch on that too.

Neil Magenheim ([01:33](#)):

Happy to. Thanks for the warm welcome, Aria. Thanks everyone for joining us. So my name's Neil Magenheim. I am the director of client relations here at Lex Machina. I've been in the legal technology space for over 20 years in various capacities. And I've been here with Lex Machina now for just about six years. And you're right, Aria, the origin story is really important because it could really kind of frames what we're talking about today, but also lets the audience know where we're going and how we got there.

Neil Magenheim ([02:05](#)):

SO Lex Machina started as a public interest project, maybe, I don't know, 10, 11 years. It spun out of this initiative at Stanford University where the law school came together with the computer sciences department there. And they had this whole theory of being able to bring more openness and

transparency to at the time patent litigation matters. That was a really well funded initiative and was crystallized and deployed as, it was called IPLC, Intellectual Property Litigation Clearinghouse. Lex Machina spun that initiative, like I said, about 10 and a half, 11 years ago. And we've been on a pretty significant growth trajectory since then.

Neil Magenheim ([02:45](#)):

So if you think about putting it in numbers and putting data behind it, which is what we like to do here at Lex Machina, if you look at our patent cases, it's one practice area in Lex Machina and it's roughly 60,000 cases right now in the database. Since we spun out that initiative, we're now up to 18 federal practice areas and over 20 state and county courts as well, where combined, we are now assessing over 6 million cases across those various areas. So the significant growth trajectory helps with the product itself, but also the diversity of our software and our content has enabled us to have a diverse set of consumers as well.

Neil Magenheim ([03:31](#)):

So you'll notice here, Aria, if you look at some of the companies on the left hand side of my screen, some of the most recognizable brands in the work use Lex Machina to make those more informed decisions to select, evaluate, and benchmark their outside counsel, to be able to very quickly assess risk and make more informed decisions on how to handle types of cases that they're either filing or being filed against. Then you notice, if you focus on the right hand side of my screen here, just a smattering of various law firms that use Lex Machina. We have some of the largest firms in the world like Kirkland and [Letham 00:28:05]. And we have a litany of solo practitioners across the country as well and hundreds in between. And ultimately, the law firms are using Lex Machina to help them win, to help them win business or using our data to demonstrate their areas of expertise and ultimately, to help them optimize outcomes on behalf of their clients and their firms. Does that kind of help put it in perspective a little bit, Aria?

Aria Nejad ([04:35](#)):

It does. Yeah, definitely. I thought it was very interesting when I started here, someone let me know, like 90 of the top 100 biggest law firms are already using Lex Machina. So it's definitely made an impact early on. It's interesting to see that it's starting to catch on more with in-house counsel and a few other segments. But I've been using the analytics for probably about two months, two and a half months, and the first thing that really stood out for me specifically related to what we're talking about today was sizing up opposing counsel and the other party, is the early case assessor. Can you go into a little bit about what early case assessor is, how litigators and in-house counsel are using it?

Neil Magenheim ([05:12](#)):

Absolutely. So I orient you to what we're looking at here and you'll hear me say a couple times as we're in Lex Machina now our production site, as it sits, this is what our consumers use. I'll use the analogy of a microscope. I like to describe our user interface as a microscope where you're able to put different sets of combinations of data underneath the lens of Lex Machina microscope to allow you to get to cases that are most like yours, to really be able to look at the different combinations of criteria matter most to the task at hand.

Neil Magenheim (05:45):

And notice here, I'm on the quick tools tab and I can scroll down here and look at our early case assessor. This goes back to a little bit about the origin story, Aria, because one of the reasons why that IPLC initiative was deployed was because there was a lot of non-practicing entity patent lawsuits going on at the time where these non-practicing entities were going after big technology companies for potential infringement on their patents.

Neil Magenheim (06:12):

So that's kind of one of the reasons why we came up with this early case assessor. So what this allows us to do, to orient the audience to what we're looking at here, is if we're on the fence side of a matter, we could very quickly just plug in some of those key entities that we're opposing. The plaintiff, the plaintiff's law firm, the case type, it's not just limited to patent. You see all the various case types I was talking about earlier. And then optionally, you could put in the group of patent numbers that the potential infringement is based on that threat letter or demand notice is based on. So what this does now is this puts those combinations again, underneath the lens of the Lex Machina microscope. So within seconds, opposing parties, opposing counsel, et cetera, can look at this data and the combinations of criteria that matter most to our task at hand, to make those more informed decisions.

Neil Magenheim (07:08):

A great example of that here is looking at the plaintiff. We could see how many times the plaintiff has been involved in a patent case, the various outcomes of those cases. So at the surface, you could see from a high level, what type of threat or risk is posed by these types of cases. Only $24,000 of damages have been awarded in their 223 cases, zero have reached trial, et cetera. One of the great things that I get to do in my job as director of client relations is go out and talk to current consumers and potential consumers of Lex Machina data. And because Lex Machina has been designed and built as an exploratory workflow tool, you can actually link out to the various cases and underlying documents and docket entries to see what types of arguments have been effective or not.

Neil Magenheim (08:00):

And you can see a good example of that here. Here are all the cases, the venues, et cetera. As I scroll down a little bit more, we could see here's plaintiff's law firm that wrote us that demand letter, that threat, the new case, et cetera. And we could see what their expertise is representing the plaintiff in a patent case, how many of their cases reach trial, how much damages were rewarded, et cetera.

Neil Magenheim (08:26):

What's really important about this... So what? So the way that our corporate consumers, our in-house consumers use Lex Machina is a critical component of that risk formula, risk analysis, risk assessment formula. So they'll look at our data and they'll say, "Okay, this might be a little riskier. So we might outsource this to our gold list of firms." This says moderate risk. "Okay, well maybe we'll outsource that to our silver list of firms." This might be a little less risk. So we might want to outsource that to our bronze set of firms. Ultimately, what that does, Aria, it allows in-house counsel to most effectively, not only understand the threat or risk posed by a new case, but also allows them to get their most value out of their outside counsel budget and spend management. Is that making sense so far?

Aria Nejad (09:19):

It does. It does for sure. And that's from the in-house perspective and that's a hundred percent true. And also if you're a litigator, your client, they want you to predict the outcome, give them a comprehensive case strategy and they want it five minutes ago. They're under stress. They've just received this new plaintiff, this new lawsuit. Historically, that was a major problem. Litigators had to cobble together predictions from extensive, usually expensive research, and a lot of times anecdotal evidence collected from other attorneys down the hall, you talk to them. But now with legal analytics, it's nice that you can quickly get a sense of the issues that are most critical to the case and the client. And when your client wants a almost immediate prediction on case outcomes and advice on how to proceed, you can give it to them with confidence, if you have the analytics. So, that's something I found that was very nice about it.

Neil Magenheim (10:08):

Absolutely.

Aria Nejad (10:09):

And so now we have an initial sense of the case, let's say. You can dig a little bit deeper on both you opposing party, the opposing counsel, you understand their experience a little bit better, their typical litigation behavior. You were just talking about Unilock, which was interesting, actually 223 cases and 24,000 in damages, doesn't seem like maybe that's the most lucrative area for them, but that's beside the point. Maybe we can talk a little bit about comparing various attorneys past track records, analyzing their areas of strength for a litigation strategy. So if opposing counsel has handled 50 similar cases before the same judge, and they've settled half the time. That's important to know, I would think. And do they frequently file for a summary judgment? Do they take their cases to trial? Is this one of the first cases they've ever tried with cases of this type? Those things are important.

Aria Nejad (10:59):

Equally important, I would say is sizing up like a judge. The judge assigned to the case or a court where the case is filed can have significant impact on the ultimate outcome. Maybe you've heard word of mouth that plaintiffs tend to be more successful before a certain judge, but that's not always the whole story. Right, Neil? Am I making a little bit of sense?

Neil Magenheim (11:18):

That's exactly right. And really, ultimately, what Lex Machina is able to do, to really over simplify it, is to get you very quickly and accurately to sets of cases that are most like yours. So it allows you to look at the data through different lenses. For example here, we're going to look at Lex Machina through the lens of a Carnival Cruise Lines case. So Carnival Cruise Lines was recently served in a torts matter by this firm Lipcon Margulies. So you could see here, kind of orienting to what we're looking at, I was in the counsel tab up top here, and I typed in Lipcon Margulies and I'm able to get to all of their federal district court cases, which is what we care about for this task at hand.

Neil Magenheim (12:07):

So we could see their torts behavior. Why is that important? We want to know what their familiarity is in this area of law. And then ultimately, we could compound their familiarity in certain venues or opposing certain parties or from a certain judge, like you were talking about earlier, Aria. We'll look at that in a second here, but ultimately what we're doing here as we're going through Lex Machina, is I'm

showing you clearly and concisely, actionable nuggets of data that could be applied to optimizing the outcome, to informing your strategy. For example here, let's take a look at Lipcon's torts cases. So we could see their trendline year over year. We could see what courts they're in front of, what judges they've been in front of, et cetera. But what we want to do is we want to start really assessing and acting upon what we call our outcome based analytics, which are unique and proprietary to Lex Machina.

Neil Magenheim (13:10):

So for example, we want to look at our timing analytics. We could see how long it's taking Lipcon Margulies to get to those key events or key milestones. And just to reorient everyone to what we're looking at here, that's exactly what we're doing. Our technology extracts the key events or key milestones in the sets of cases that we're looking at to really get a understanding. In this case, we're looking Lipcon's torts cases. How long are those cases taking? How many of those cases are reaching those interesting events or milestones? That kind of helps us assess our strategy as we're thinking about our opposing counsel. So the questions that get asked all the time, and I'll start sprinkling in some of this stuff as they go through it, how long is our case going to take? How much is our case going to cost? Ultimately, are we going to win this case?

Neil Magenheim (14:03):

Attorneys get peppered with a lot of questions. And those are three really critical questions that we can answer in Lex Machina within seconds. So again, Carnival Cruise Lines is on the defense side of this torts case filed by Lipcon Margulies. We could see from a definitive win perspective how many times the defendant won and how. How many times did Lipcon win and how? They won three cases on trial. So that gives me a second to pause. And if I wanted to, I could click on those three cases, just do that for demonstration purposes. And I could scroll down here and hear those three cases.

Neil Magenheim (14:40):

So what we're doing is we're building out our analytics, our outcome based analytics at the analytical graphical view, 30,000 foot view. But you also see, if I scroll down at any given point in time, here are the actual cases and the underlying documents and documentaries as well. And we can see how many times Lipcon Margulies is going after these various cruise lines. So that's another pattern we want to get our finger on the pulse of. But ultimately, we want to look at the data through the lens of our criteria. Our criteria, as a reminder, is that Lipcon Margulies served Carnival and Judge Altonaga has been assigned to the case. So this is great. We could see all their torts cases.

Neil Magenheim (15:28):

But what we want to see is what's their experiences like in front of the judge assigned to this matter. So I come over here and I can look, they've been in front of Judge Altonaga 91 times. I haven't hit apply yet, but focus on the right side of my screen here. Once I hit apply, you'll see, in real time, we're going to take that microscope and zoom in to those 91 cases in which Lipcon Margulies has been in front of Judge Altonaga. It's pretty interesting.

Aria Nejad (15:59):

That is for sure.

Neil Magenheim ([16:00](#)):

So now you can see the data flip here. I think it was 13 to three defendant friendly. Definitive wins for the defendant, one. Definitive wins for the plaintiff, one. 78% of cases settled. So does that help bring a little clarity to the conversation area?

Aria Nejad ([16:17](#)):

For sure. Yeah. That's all super relevant. That's something that you want to know. It's going to inform your litigation strategy in general. Thanks for explaining that. One thing I've found that's also beneficial... We've talked about sizing up opposing counsel, which is critical, and you've done a great job explaining how you can use the legal analytics to get there. I think sizing up your court and the assigned judge is also critical about how you're going to advise your client, or if you are the client, if you're the in-house counsel, you can talk to your outside counsel about pursuing different strategies.

Aria Nejad ([16:52](#)):

So let's say you're pursuing maybe a change in venue. You definitely want be looking at the statistics and you want to find out about the success of your potential motion, and specifically tailored to the sample of cases you're talking about. So if your judge has only granted a motion to transfer like three out of 50 times, three out of 50 times in the last five years, well, yeah, you might want to save your money by skipping that expensive motion and investing in a different strategy. I think that's also a critical piece. I don't know if you maybe have a minute or two to talk about-

Neil Magenheim ([17:25](#)):

Absolutely. Let me dive into that. I'll just say, just to wrap up the opposing counsel side of the conversation, both plaintiff and defense counsel used Lex Machina to size up the opposing counsel. So I've done the same exact analysis, Aria, on Carnival's counsel, who in that case was Fowler White. So if on plaintiff's counsel, I could see the tendencies of my opposing party, Carnival Cruise Lines. And then even furthermore, I could look at the data through the lens of when Carnival Cruise Lines is represented by Fowler White or any other defense counsel. So I just wanted to put a little bow around the opposing counsel side of it.

Neil Magenheim ([18:05](#)):

You bring up a great point regarding the judge and being able to look at the judge's data and use that to inform your decision making process. So again, let's look at Lex Machina through a lens of Judge Altonaga here. Again, Judge Altonaga is the judge that has been assigned to this Carnival Cruise Lines case that we're talking about.

Neil Magenheim ([18:28](#)):

All those same unique and proprietary and actionable outcome based analytics are here now through the lens of Judge Altonaga. So we want to know her timing. Again, looking at the key events, key milestones in her torts cases. How many of her tort cases reached trial? How many of her cases reached summary judgment? How many of her cases terminated? How long did it take to get there? So we're using this from a budgeting perspective, from a setting expectations perspective, and ultimately going to use this data to optimize our outcome.

Neil Magenheim ([19:08](#)):

What we could see here is what firms have the most experience in front of Judge Altonaga as it relates to torts cases. So if I'm on Carnival side, I could see that Lipcon Margulies has a lot of experience in front of Altonaga. I think it was like 15% of her cases, Lipcon Margulies has been representing the plaintiff. So again, these are actionable nuggets of data we're taking with us as we're moving our conversation forward. But what we care about to reset those expectations, two things I'll focus on here, Aria, then I'll pass it back to you.

Neil Magenheim ([19:46](#)):

One is our damage analysis. Only Lex Machina can share with our consumers what types of dollars changed hands, how those dollars changed hands. And we could bring it through this lens of transparency and share with our consumers, the underlying document or docket entry that supports those damage awards. So again, setting expectations where opposing parties or opposing counsels, what their areas of expertise are here, as it relates to Judge Altonaga.

Neil Magenheim ([20:15](#)):

Then that last piece that you talked about is motion practice. So we want to use Lex Machina's data here to understand Judge Altonaga's motion practice as it relates specifically to her torts cases. So this is used a couple different ways. Obviously, outside counsel law firms are using this to inform their strategy and talk to their in-house partners about this. But what's really interesting about this and having the conversations that we're having is that in-house uses this for a couple different reasons. We've had a fortune 500 consumer of ours tell us that he saves anywhere from 750,000 to $1.5 million a year of his outside counsel spend, because he's able to use our motion metrics data to work with his outside counsel.

Neil Magenheim ([21:09](#)):

So this hypothetical situation here, if he's talking to outside counsel about a potential summary judgment strategy, we could see that Judge Altonaga is 38% lower than the national average. She has a 9% grant rate. So that's an area that I just walked us through. They might pause at this point and say, "You know what? Going for a summary judgment strategy doesn't make sense. Let's pivot our strategy here and spend our outside counsel dollars more effectively." That's one way to use it. The other way that in-house counsel uses it is to kind of reign in outside counsel and their billables. So not only from a motion perspective, but if you think about how powerful that is when you're looking at timing, as it relates to a judge in certain milestones, so a lot of different ways that we're using this.

Aria Nejad ([21:56](#)):

Right. Yeah. A lot of different ways that it can be used, having those conversations with both your clients and also with your outside counsel, with your in in-house counsel, is critical. I feel like it's just interesting to even just think about 5 or 10 years ago, what those conversations look like compared to today, just having hard data.

Neil Magenheim ([22:17](#)):

Hard data, Aria, and it's also doing things in harmony. What I've learned over time and what we've learned collectively is that in-house and outside counsel needs to be singing off the same sheet of music. And Lex Machina is one of the ways to help make that happen and harmonize all that.

Aria Nejad ([22:34](#)):

Right. Neil, I wanted to just quickly, before we get into some of these other questions, do you remember, there's a question actually, that came in and it reminded me of something we talked about yesterday. It's talking about cases and underlying docket entries. And Lex Machina is actually a current Lex Machina user, looks like a client already, but they're talking about the cases and underlying docket entries that are in Lex Machina, and yeah, just based on our conversation yesterday, maybe you can take the ball and run with it. Do you remember what I'm referencing?

Neil Magenheim ([23:05](#)):

Yeah, absolutely. So, as I mentioned earlier, again, this whole theory of a microscope, you're zooming in, your zooming out and we're building out our analytics at the case level and in turn the document and docket entry level. So here's a good example of that. Here is Johnson versus, I think, Norwegian Cruise Lines in front of Altonaga here, and we could see the underlying documents and docket entries here that support the resolutions. We're not editorializing the data. We're simply using the underlying documents and docket entries from piecer here and just bubbling up that information and reporting back on it. So you could see here, if I clicked on any one of these documents, there's going to be a docket entry that supports a pain and suffering damage award to the tune of $688,000.

Neil Magenheim ([23:56](#)):

Shown another different way, here are all 134 docket entries from this case. So very quickly, here is the complaint. So we'll see in a second here, once this is done loading, the complaint will show up. Here's the PDF, and then we OCR it. So it's searchable. And once you get in Lex Machina, you own it. You could hit view original, pop it out to your PDF reader, save it in your case file, share it with your clients, et cetera. You own the complaint or any of the other underlying documents or documentaries directly through Lex Machina. And it's very important to note that that's budgetable and predictable. You're not going to stumble off the reservation and incur any additional charges. Those document access is part of the subscription model.

Aria Nejad ([24:44](#)):

Very nice. Well, Neil, we've covered a lot of ground today, but just very quickly, when it comes to remaining competitive, the legal industry has changed so much, just even over the past 5 or 10 years, like we've been talking about, but to remain competitive and offer your clients the best possible representation, you have to have an informed litigation strategy. That's critical. You want to be able to size up opposing counsel and who it is that the plaintiff is, or this new lawsuit that came in through the door, you need to be able to get answers quickly. It's nice that with Lex Machina, with legal analytics, you can gain these in depth insights in order to help the clients understand their cases, craft the best possible strategy for success. And you can actually point to the data and these insights and deliver it with confidence as opposed to, "Yeah, no, I've actually heard that this particular judge goes this way with this particular plaintiff, we don't need to worry about them too much."

Aria Nejad ([25:35](#)):

Now you can point to real evidence and have more insightful and informed discussions with your clients and with outside counsel and you can hold the outside counsel a little bit more accountable in terms of what they're telling you. I can't even tell you how often there's in-house counsel, how often are they getting pitched with, "Ah, we're the best. You definitely want to hire us. Look at this case we had three years ago and how much the damages were." When really, they could just pull up, using Lex Machina

and just be able to actually hold that accountable and say, "Well, actually you don't have as much experience as even this law firm down the street that's maybe on our bronze list, but maybe they deserve to be on the silver list now or on the gold list because they actually do have better outcomes and they're even charging less." There's just a lot of actionable insights you can gain from this. So I guess that's where I'm getting at.

Neil Magenheim ([26:28](#)):

A hundred percent and we don't rest on our laurels here, Aria. Our ultimate vision and mission statement is to bring Lex Machina to all areas of the law. So we're constantly innovating. We're constantly growing. Every day, we're growing, we're releasing releases every week. So a lot of great value now and a lot more coming too. So you're absolutely right. You're spot on.

Aria Nejad ([26:56](#)):

The last question. I'm going to let us go. We have about a minute left here, but can we talk about... There's someone who's asking about our plans for federal courts of appeal analytics coming in 2022. Do you know much about that? Do you want to-

Neil Magenheim ([27:10](#)):

It's a great question. I should have been prepared for it. I could show you a little bit of it. We could start showing at a very high level, but yes, it is solid right in the middle of our roadmap with every intention of it going lives sometime, ideally in Q1 of 2022. And it's going to have some really, really positive ripple effect throughout the entire platform. So we're really excited about that. When we talk about bringing Lex Machina into all areas of law, the federal courts of appeal are a critical, critical component of that.

Aria Nejad ([27:42](#)):

Right. And it's coming into 2022. So we'll get there soon enough. We'll have more information about that soon. But Neil, thanks so much for joining me today. I had a good time. You answered-

Neil Magenheim ([27:52](#)):

I had a great time. Thank you.

Aria Nejad ([27:53](#)):

Yeah, we talked a lot. We covered a lot of ground, but it was very informative for me. Thank you everybody for joining us this morning and enjoy the rest of your week. Take care. Bye.