



Legal Analytics Committee Newsletter

August 2018

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September 13-15, 2018
Austin, TX

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Message from the Committee

It's official. With both Thomson Reuters introducing Westlaw Edge and LexisNexis launching its new Lexis Analytics product the two major legal information providers are working to put data analytics on every attorney's desk. Tough competition for other legal tech start-ups; but it also gives instant credibility to the idea of using data to solve legal problems. As a member of the [Legal Analytics Committee](#) you are at the center of the movement. We want to be the place in the Business Law Section to explore more advanced methods for using analytics to solve legal problems, while providing the tools the rest of the business lawyer community needs to succeed.

With this second newsletter issue, Lev Breydo joins John Murdock in handling editing duties. We continue to provide useful news and information through @BLSData, the committee Twitter feed, and recently launched a [Linked-In group](#) to provide an online forum for what we hope will be interesting conversations.

Make sure you [register to join us](#) at the Section's Annual Meeting in Austin, September 13-15. I think this meeting will be even better than the one in Orlando. Wednesday night we will again join other committees for a great meal at [Second Bar + Kitchen](#), featuring "New American tasting menus" - whatever that is. Thanks to [SaGo.ia](#) and StoneTurn for underwriting a major part of the meal. On Friday, from eight to ten, our committee meeting will feature a discussion with LegalZoom general counsel Chas Rampenthal. Then, we are going to build on the great ideas from our spring planning session by breaking into smaller groups to launch new projects or build on existing ones. Is there an idea you want to run with? Let me know.

We are involved in two great CLE programs at this meeting. Saturday morning, Diane Holt chairs "Examining Bias in Technology: How to Determine if a Machine Learning System Meets Ethical & Regulatory Standards," with Carla Reyes, Michael Simon, James Walker and Renata Barreto. We are also co-sponsoring the Technology Committee's "AI Basics: What Business Lawyers Need to Know," chaired by members Lois Mermelstein and Lisa Lifshitz, on Friday afternoon. We'll circulate more details as the meeting approaches.

Looking forward to seeing you in Austin!

Warren Agin, Chair

Upcoming Programs and Meeting at the Annual Meeting

Thursday, September 13
7:30 PM - 10:00 PM
Joint Committee Dinner
Second Bar + Kitchen, 200 Congress Avenue, Austin, TX

Friday, September 14
8:00 AM - 10:00 AM
Fairmont Primrose, 4th Floor
Legal Analytics Committee Meeting

3:30 PM - 5:00 PM

Fairmont Park View A, 7th Floor

Program: AI Basics: What Business Lawyers Need to Know

Saturday, September 15

8:30 AM - 10:00 AM

Fairmont Park View B, 7th Floor

Program: Examining Bias in Technology: How to Help Develop Machine Learning Systems That Meet Ethical & Regulatory Standards

Click [here](#) for the official Business Law Section schedule.

Featured Articles

The Analytics Ecosystem: Beginnings **International Association for Artificial Intelligence and Law**

By our staff

Machine learning has made AI a rock star. AI is featured in the movies and on the covers of almost everything. AI and law also enjoy the rush. It all feels so new.

As with nearly all apparently sudden successes, AI today, including AI as used in law for Analytics and other functions, stands atop a history. AI has been around in some form since around 1956. AI has been used in law since at least 1987. How do we know this? That was the first biennial meeting of the [International Association for Artificial Intelligence and Law](#) ("IAAIL").

AI has had marketing highs and lows in general, and AI in law is no different. Still, the group of faithful law professors, computer scientists, and interested others at IAAIL have pressed forward over the high years and the low. Their [agendas](#) tell the story of AI and law.

In 1987, the ICAIL agenda (the "C" denotes the conference) was largely about expert systems (including "*Expert Systems in Law: Out of the Research Laboratory and into the Marketplace*" presented by a younger version of the present [Richard Susskind](#)). The searching of text for concepts was also a popular subject, as were studies of the logical underpinnings of law.

Of course, in 1987 the expert systems and the conceptual searches were primitive compared to those available today. It is interesting, however, that the themes of the original ICAIL events and the modern ICAIL meetings are the same. This continuity reflects that, however fancy our tools may become, the problems being solved remain the same. A thorough understanding of the nature of those problems is fundamental to the application of any technology to solve them. IAAIL participants have for years helped build the analytical scaffolding on which AI's use in law, and hence Analytics, rests today.

ICAIL, which next meets in Montreal in 2019, is an important part of the Analytics ecosystem.

The Analytics Ecosystem: Today **Corporate Legal Operations Consortium**

By our staff

The [Corporate Legal Operations Consortium](#) (known as "**CLOC**") is an important newcomer to the modern Analytics ecosystem. This organization has had three annual U.S. meetings.

Most CLOC members are from law departments at large companies. Private

practitioners and consultants can also participate (although at premium pricing for the events). The organization promotes the discipline it calls "legal operations," with twelve core competencies by which legal operations are managed. Many of these competencies are directed specifically to technology-enabled efforts: "Data Analytics" and "Technology and Process Support" are core competencies, for example.

Serving twelve competencies that range across the legal enterprise, a CLOC event is not a meeting devoted to AI or Analytics. There are plenty of meetings about financial systems and human resource issues and the like. Of course, these other competencies are all in some measure affected by technology offerings. The major vendors of AI and Analytics have booths and give seminars. But a CLOC event is not a technology meeting. It is, however, a *process* meeting.

CLOC attendees are not all lawyers, and some of the lawyers who attend are not "just" lawyers. Attendees who are not lawyers tend to be management personnel, often borrowed from other parts of the corporate client. Project Management Professionals (certified by the [Project Management Institute](#)) and [Six Sigma Black Belts](#) pepper the crowd. Some of the lawyers who attend are also trained in these management disciplines. Everyone trained in these disciplines knows that AI and Analytics are of great value if applied in appropriate functions for legal work.

CLOC is all about improving how legal work gets done. The attendees are enthusiastic and are committed to continuous improvement in the traditional operational sense. They are not hindered by historical legal industry notions that it is somehow not professional to study and improve how you do what you do. Their view is the contrary, that a true expert understands goals and methods richly enough to envision multiple ways by which the goals may be achieved.

CLOC's next annual [US conference](#) is in May, 2019.

The Analytics Ecosystem: Transitions It's 1911 in the Practice of Law

*By Nancy Lea Hyer, PhD
Owen Graduate School of Management at Vanderbilt*

The legal industry is under pressure to do its work differently. Pressure comes from clients for lower costs. Pressure also comes from cultural change, as management practices migrate to law practice from other industries.

The production of goods and services has improved in modern times. Advances in industrial technology (steam engine, transistors) were essential to these improvements. Along with these inventions grew management methods that foster innovation. These methods are within the discipline of operations management, which is broadly the study of how work is done.

Operations management has developed in two main periods. Prior to the 20th century, advances were informal and slow. Around 1900, manufacturing began taking on a modern shape. Assembly lines decreased the cost of goods while increasing their quality and abundance. A new class of workers appeared - industrial engineers - whose job it was to improve production. This shifted the most essential industrial task from hiring the best craftsmen to hiring the best industrial engineers.

The birth of industrial engineering is usually dated to 1911, when Frederick Winslow Taylor published "[The Principles of Scientific Management](#)." His publication and other developments make 1911 a valid tipping point in operations management.

Since 1911, operations management has progressed as a science, constantly seeking improvements, testing them, and rolling them out. By these iterations, management methods born in manufacturing have been adapted to the

management of the production of goods and services of almost all kinds. Project Management, Lean, and Six Sigma are among these management methods. They improve the speed, cost, and quality of delivery.

As with other industries before 1911, for many years the practice of law was performed much in the same way as it had always been. Beginning in the 1980s, however, law firms and law departments began using computers. To do so, they hired personnel with computer science skills. These personnel brought with them a way of thinking that was novel to legal practice. They were trained to decompose processes into their constituent parts and then rebuild the processes, applying technology to improve them. That is, while technology personnel applied new technology as their tool, their most fundamental skill was process improvement. This new collaboration between lawyers and non-lawyers inspired improvements in legal processes. Document assembly and full-text searches for legal research were among early improvements that arose from these interactions.

In recent years, the cultural exchange between lawyers and computer scientists has grown from a trickle to a tide. Lawyers and non-lawyers alike apply to law recently-blossomed technologies, such as machine learning. But the broadest effect on law practice may be not the new technologies themselves, but the use of operations management methods.

To apply technology to a process, one must understand the process. The process improvement methods and tools of Project Management, Lean, Six Sigma, and other operational techniques are foundational to technology development. As other industries have long demonstrated, they are equally applicable to non-technological aspects of business. Once an enterprise adopts these methods for technological matters, they naturally spread to other functions as well.

The [Corporate Legal Operations Consortium](#) marks a tipping point in the adoption of operations management methods to law practice. It shows that the legal industry has taken on the mission of continuous improvement broadly, in a manner similar to other industries. As experienced in other industries, some disruption should be expected.

It's 1911 in the practice of law.

Westlaw Edge Legal Analytics v. Lex Machina

By Jon Patterson, Partner, Bradley

Earlier this summer, Thomson Reuters launched its long-anticipated Westlaw Edge - an addition to its existing suite of legal technology services. One of the new features is in the area of litigation analytics - and one of the four new offerings within Westlaw Edge was in direct response to competitor LexisNexis' Lex Machina litigation analytics offering (this has been on the market for over two years).

While both products address the same basic concept of allowing users to quickly analyze certain publicly available litigation data on specific courts, judges, law firms and opposing counsel, there are unique differences in each product that should lead any interested purchaser to determine the specific needs of his or her user group in deciding which product is best suited to meet the needs of the particular firm.

First - some of the similarities. Both products essentially utilize publicly available data in the federal court system (Pacer) and mine that data using back-end artificial intelligence to provide the end-user with various pieces of information about a particular judge, court, opposing counsel, law firm, or case type. Using either product, a user can easily access information such as a particular judge's likelihood of granting certain types of motions, the average time frame to resolution of particular judges for various types of cases, success rates of

opposing counsel, the number of times a particular firm has appeared in a certain court or before a particular judge, and a host of other similar data points. Both products allow users to prepare various reports of the data.

Next - a few notable differences. Lex Machina was the first to the litigation analytics dance - and has acquired a very large market presence (claiming adoption from a very large number of the AmLaw Top 100 Law Firms). Currently, Lex Machina allows users to analyze data on federal court cases (and certain Delaware Chancery Court cases), but only in the following areas: antitrust, bankruptcy, commercial litigation, copyright, employment, patent, product liability, securities, trademark and trade secret. Unique (as of now) to Lex Machina, a user can mine data on a specific company to determine what law firms or counsel most often represent said company in a certain court. To date, Westlaw Edge appears to offer no such search capability by company. This product offering from Lex Machina is incredibly useful in the context of client development and marketing - allowing a user to determine its competition in certain markets. Other unique product features of Lex Machina include the ability to quickly search a particular case docket, and then download or print a particular court filing from such docket at no additional cost (allowing a user to replace the per-page cost of Pacer or other similar services).

Westlaw Edge - while late to the dance - allows a user to search essentially any case filed in the federal system and is not limited to certain practice areas (in essence, Westlaw Edge is mining a broader set of data than Lex Machina - a substantive difference). Westlaw Edge also gives users access to a much broader set of state court cases as well. Further, Westlaw Edge allows a user access to information on the federal appellate courts - as of now a feature unique to Westlaw Edge.

What's Next? One can expect both products to continue to offer enhancements. Lex Machina has recently announced plans to roll-out additional practice areas over the coming months, and it is believed it also plans to include information from the federal appellate courts and additional states later in 2018 or in 2019. One can expect Westlaw Edge to continue to improve its state court offerings as well.

Both products offer an incredibly valuable resource to any practicing litigator - and the use of either (or both) product will likely become standard operating procedure in the coming years for any litigator.

Help Develop this Newsletter

We are continuing to explore ideas for the content of this young newsletter, so if you have an idea for an announcement, short article, or theme that may be of interest to the Analytics Committee, please let the editors know. We will also discuss this process at the upcoming Austin meeting.

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