Judicial Analytics: The Landscape

The category of judicial analytics has a few major players, with more coming into play. Lex Machina, the granddaddy of judicial analytics began with patent and trademark analytics and moved into federal, bankruptcy, appeals and states. Others such as Thomson Reuters Litigation Monitor followed. The focus for several years was on developing analytics for federal courts, with Courtlink being one exception. Lex Machina, Gavelytics and Docket Alarm began exploring state coverage. Acquisitions have played a role in shaping the judicial analytics landscape, in particular, Lexis' acquisition of Lex Machina and FastCase's acquisition of Docket Alarm. More recently, Westlaw Edge has come out with a comprehensive platform and substantial state court coverage and new player Trellis has made a significant impact into state court coverage.

While the analytics platforms are robust in themselves, there is a growing trend to develop custom analytics. Several offer API options that allow customers to apply algorithms to internal datasets. Docket Alarm has a sandbox feature that allows customers to customize their own algorithms to apply to data of their choice.

The challenges in selecting a judicial analytics solution are many. There is significant overlap in coverage and a range of maturity in tools. Several tools are integrated in larger information platforms that customers may already own. Content sets may not be the same and approaches to normalizing data sets vary amongst vendors. This can make comparing and understanding results challenging

How it Works: The Technology

Docket analytics search tools are generally underpinned by some combination of basic machine learning and natural language processing. It is important to note that the search results can vary between platforms based on proprietary algorithms used along with the docketing data that is included as part of the search. Vendors take different approaches to inclusion of missing or mislabeled docket entry information. It is also important to note that results can vary since some tools are searching full text of dockets and filings and others only search the text of the docket entries and document titles.

Common Use Cases:

Judicial analytics technology has a wide variety of uses.

Docket analytics technology has transformed litigation strategy and has enabled practitioners to use evidence-based metrics to both support their positions and to communicate with clients. The ways to use the data are practically boundless. Attorneys can see their judge's motion history in different types of actions. This can inform which motions to file and when. Attorneys can also craft their arguments based on arguments their judge typically favors and which cases they rely upon most often. Some platforms have information on settlement and damages, and this can help a practitioner determine when and if to settle. Time to resolution metrics help attorneys and client plan their time and their budgets. The ability to know the history and experience of your opposing counsel, the opposing party, share that with a client and plan accordingly is quite priceless.

If litigation strategy has been impacted by docket analytics technology, business development and lateral recruiting have been positively disrupted. Business development teams can look closely at litigation metrics of clients and potential clients to determine if a play for business is viable. They can see how their firms representation metrics stack up against other firms and craft RFP responses and pitches around this information. Similarly recruiting teams can see the extent of a lateral's client representation and assess the size, amount and value of engagements.

Docket analytic can also be used in combination with internal firm data to determine the likelihood of success and whether to take on a potential case and the selection of appropriate representation teams.

The ability to generate content and support various models of distribution and access are key features of docket analytics platforms. Some of the models include basic document retrieval, reports with visual display of information, RSS feeds, API capabilities, dashboards and client portals, databases (for example, brief banks) and the DMS. Sharing content in a meaningful way with clients is particularly interesting. Some platforms can automate deliver organized content directly into client portals for shared review. Similarly, API solutions can be used to auto populate attorney dashboards for an almost real time view of cases.

Benefits of Technology in Practice

Docket analytics tools have revolutionized the litigation landscape because it uncovered completely inaccessible and valuable dataset. Until docket analytics tools were created, it was not cost effective to attempt to collect docket data manually to assess. If it was attempted, data for each docket record was entered and updated by hand in a excel file and was painstakingly slow. Some workarounds, say for a judge's ruling metrics, could be performed using caselaw research libraries on Lexis and Westlaw, but the result provided was more a general idea, the understanding being the data in a caselaw library and dockets were not the same. Now the information can be accessed in seconds.

Risks and Adoption Challenges

Objections to the use of docket analytics platforms generally stems from skepticism regarding the need for attorney experts to rely on analytics and lack of adoption into an existing workflow.

One way to overcome these hurdles is to determine and share how many peers use these sorts of tools and how. This sort of information is available via vendors, professional networks and associations and legal tech surveys. Vendors will share general client statistics, although perhaps not names. They often publish white papers with use case examples. If an internal evangelist is willing to socialize their own support of a tool, it increases your chances of adoption

Case law on occasion will reference how metrics support winning arguments in court. This can be framed as a cautionary tale regarding the need for use of metrics as part of due diligence in client representation.

Another approach is to change workflow and use researchers or knowledge management attorneys to proactive delivery of docket analytics results. If these teams can provide relevant one click or customized results and the timing of the delivery is mapped to the time of need, this can generate interest.

Challenges can also arise when testing platforms based on variances in coverage, algorithms and approaches to normalizing docketing data. Users may distrust particular or all platforms due to varying results. It is important to reinforce that no online information resource is foolproof, yet firms rely on them daily. For example, using eDiscovery platforms to tag relevant documents has been shown to be superior to manual review in terms of avoiding mistakes, but documents can still be missed. Similarly, searching Lexis, Westlaw or Bloomberg Law will generate different resluts, even in the same general content libraries. While the platforms are not perfect, they still offer a significantly better picture than if we complied by hand, or worse, had nothing to reference at all.

Who's Who in Docket Analytics: The Players

Bloomberg Law Litigaiton analytics is part of the Bloomberg Law Litigation Intelligence Center. Analytics options center around Company, Law Firm, Federal District Court, Federal District Court Judge or Attorney.

Context Context is a solution that does not focus on dockets, but on judicial language used in opinions. Analytics center on the language and citations judges use in their options, highlighting the most commonly used. Context is part of a Lexis Advance/Lexis+ subscription.

Courtlink Courtlink offers robust features for tracking, alerts and document retrieval.   It can operate as a standalone solution and as part of the Lexis+/Lexis Advance platform.

All federal courts and select state courts are covered. Analytics can be performed using Courtlink data, but involves a more manual process than using some of the other solutions in this space.

Courtroom Insights Courtroom Insights is not a docket search solution. It offers access to evaluations of experts, arbitrators and judges. The included Daubert tracker tracks, monitors reported and unreported Daubert challenges. Courtroom Insights offers a API solution and integrates with a number of other information platforms including Lexis, Westlaw, Docket Alarm/Fastcase, Wolters Kluwer and HeinOnline.

Docket Alarm / Fastcase Marketed as a low cost alterative to Lexis and Westlaw, Docket Alarm stands out because it offers a workbench for end users to develop custom analytics, robust state court coverages and full text docket searching. Docket Alarm also offers coverage of specialty IP courts (PTAB, TTAB, The Orange Book, the ITC, Public PAIR and the TSDR) and agency materials (US Tax Court, NLBR and select state agencies.

Gavelytics   Originally focused on California dockets, Gavelytics covers Federal District Courts along with select coverage of courts in 10 states: Arizona, California, Florida, Georgia, Illinois, Nevada, New York, Ohio, Pennsylvania and Texas. Focus is on Judicial, Law Firm and Litigant analytics. A couple of unique features include a Section 170.6 Analyzer and attorney reviews of judges. There is a brief bank, containing content that is mostly from California courts. An API solution is available. Gavelytics claims to have millions of briefs not accessible on any other platform.

Lexis+/Advance Analytics Part of the Lexis+/Lexis Advance licensing. Lexis Analytics offers Judge and Court Analytics, Attorneys and Law Firm Analytics.Motion, Time to Key Events analytics, Experience, Past Performance and Damages Analytics. It can be used alone, or in combination with Lex Machina

Lex Machina Part of the Lexis (Rlex) family of information product, Lex Machina is the most mature docket analytics solution on the market. It can operate as a stand alone platform or in combination with Lexis+ or Lexis

Advance and offer heighted analytics capability. Lex Machina covers all US district and appellate courts, along with select state courts in CA, DE, GA, NV, NY, OR, TX and WA. It also covers all IP specialty courts.

Monitor Suite (Litigation Monitor)   Litigation Monitor is a business intelligence & development solution, allowing firms to analyze legal data such as litigation, billing, case and prospective customer trends. It is part of the family of Thomson Reuter products and one of the more mature analytics tools

Monitor Suite (IP Monitor) Extensive patent and trademark filing and litigation information, and analyze intellectual property protection and prosecution.

Trellis Trellis is one of the newcomers to docket analytics space. It focuses on state courts dockets and claims to be the largest searchable database of state trial court records. Features include Smart Search, judicial forms, quick verdict and party search. APIs are not available but in development.

UniCourt Unicourt offers analytics around judges, case types and jurisdiction for Federal District Courts, California State Courts (Superior) and Florida State Courts (Circuit and Superior). Unicourt offers a smaller footprint in terms of analytics and courts than most of the other players in this space.

Westlaw Edge Litigation Analytics Westlaw Edge Litigation Analytics may have the most comprehensive coverage of both state and Federal courts. There is a coverage map provided which highlights the coverage in each court. Westlaw Edge Analytics include Judge, Motion, Prt, Attorney, Expert Challenges, Role, Case Type, Outcome and Damages. At the Federal level, analytics on Judges' citations are included.

<u>**Specialty Tools**</u>

There are a number of patent prosecution analytics platforms on the market. The value of these tools is that insights provided can help reduce the length of time to a successful prosecution. Metrics include time to approval, amount of and basis for examiner rejection. Tools include

Juristat, Anaqua, AcclaimIP and Lexis Patent Advisor.

ECF tools ECF tools make the process of electronic filing more automated, gets notice of filings to the right people faster and distributes filings to workspaces and the DMS. **PacerPro** is the most mature solution on the market. Others include **eDockets** and **ECFx**