The Future is Insight: Connecting the dots with legal analytics
Introduction
By Simon Wilkins

When we imagine a lawyer winning a dramatic case, or a landmark hearing, we often imagine a crack-shot lawyer from a show like ‘Suits’ or ‘Law and Order’ having an epiphany about a vital clue that we’ve all missed. In practice however, breakthroughs aren’t the result of dramatic epiphanies. They are a direct result of vast amounts of painstaking and precise legal research and strategic decisions.

Before the age of computers, research involved countless hours in libraries with countless volumes of law reports, judgments, precedents and other legal texts.

With the rise of the digital database the research process has become faster and more efficient. But the digital era has also brought a huge increase in the amount of data that is available for research. Attempting to go through all that data can become unmanageable, and in a profession where the depth of your research is the difference between winning and losing, this leaves a lot to chance.

Enter legal analytics.

By utilising analytics, lawyers can now gather information in a completely new way. The arduous labour of sifting through mountains of legal information in the hope of creating a successful strategy is being replaced by a system that partners with lawyers to connect the dots and actively helps to craft strategy.

The Smart Law: 2016 LexisNexis® Roadshow Report found that new technologies such as artificial intelligence and advanced analytics are automating or informing matters & decision-making in new ways – especially at the research phase – and, as a result, transforming the legal sector. Importantly for many lawyers, this means more opportunity to focus on the elements of legal work that delivers client value, like problem solving and offering strategic counsel.

As we sit on the cusp of what is shaping up to be an industry-changing revolution, we thought it pertinent to take a deeper look at legal analytics: what it is, what it does, and how it will empower the data-driven lawyer of today and tomorrow to be more efficient and provide improved client value.
The impact of big data has been felt in almost every industry in the world, and legal is no different. As legal professionals use and harness the power of data, the nature of legal research has changed. The amount of data generated increases exponentially, the amount of legal research and analysis that lawyers must review has become unmanageable.

What does this ‘data’ consist of? Put simply, it is the combined digitised records of our legal system. Amongst the sources are judicial rulings, precedents and interpretations – which can all be mined to create new data sets.

At LexisNexis, we ingest massive quantities of data – 13 million new documents daily from more than 50,000 data sources in varying formats. In total, we have more than 60 billion documents and 2.5 petabytes of legal data stored in our legal big data platform. A legal researcher using a traditional database could work their entire career and not sort or utilise even a fraction of this information.

What this means is that the volume of data that needs to be thoroughly examined before a case is now unmanageable in a traditional research sense. You can read more on this in Making sense of Big Data: A behind the scenes look at Legal Search Technology.

Lawyers must now employ analytics tools to structure and refine these massive datasets and extract the most relevant information to their case. The most competitive lawyers are proving to be those who can combine astute legal prowess with technology to draw the deepest historical or predictive insights.
What is legal analytics?

Legal analytics is the application of data analysis methods and technologies within the field of law to improve efficiency, gain insight and realise greater value from available data.

Traditional legal research tools focus on simple data extraction, but do not perform the difficult task of structuring that data into its most useable and relevant form. They offer lawyers a faster way of accessing information. Legal analytics moves a step further than a database; from merely associating information by topic to drawing patterns, insights and trends.

In practice, legal analytics involves mining data contained in case documents and docket entries, and then aggregating that data to provide insights into (among other things) the behaviour of all parties involved – from judges and lawyers to organisations and the subjects of lawsuits. This is momentous, as analytics is the first application to make the jump from being a passive research tool to an active, reliable partner in strategising a case.

There are three levels of analytics - descriptive, predictive and prescriptive.

Each offers something of value to the legal services sector.
Descriptive analytics combines the use of natural language processing and machine learning to mine vast volumes of legal data and turn it into actionable insight. It extracts and organises historical data to help users spot legal trends, analyse behaviours of participants in litigation and highlight other factual information that lawyers can use to better determine the likely outcomes of cases, develop winning legal strategies, estimate the value of a case, forecast litigation costs and timing, and make crucial decisions, including whether to settle or proceed to trial.

A lawyer using descriptive analytics could, for example, examine data on the results of similar cases to the one they are making in that particular court. They could then cross-reference this with the Judge’s decision history in like cases, as well as the success rates of certain arguments and the win-loss rate of opposing counsel.

Predictive analytics considers data retrospectively, predictive analytics inspects what will happen in the future. This encompasses a variety of statistical techniques including predictive modelling, machine learning, regression analytics, time series models and graph analysis mining. It analyses current and historical data to draw predictions about what is likely to happen in the future.

In following from the example above, a lawyer using predictive analytics would be able to generate reports showing the likely outcomes arising, and adjust those for different variables (like what might happen if a different judge were hearing the case).

Prescriptive analytics extends beyond descriptive and predictive analytics to recommend specific courses of action and present likely outcomes of those actions. With prescriptive analytics, legal professionals will be able to compare and contrast potential outcomes based on historical trends and current data.

Again following from the above examples, prescriptive analytics takes this data-structuring capability one step further – by drawing upon the descriptive and predictive data sets, prescriptive analytics can suggest the courses of action that will have the most statistically significant chances of success.

When the full breadth of insights offered by analytics is considered, it’s easy to see why this technology is having an enormous impact upon the legal industry. These advances will challenge the boundaries of how legal professionals interact with data to connect the dots to gain competitive advantage.
Impact of legal analytics on the industry

The benefits of this partnership between lawyers and an intelligent system is clear to see. In the increasingly competitive legal industry, a tool that not only contextualises information but also suggests strategies could mean the difference between winning or losing a case.

Analytics will have a democratizing effect on the industry. As the technology becomes more widely available, firms will be able to make data-driven decisions.

As more legal professionals leverage analytics, a shift in the value proposition that lawyers bring to clients will occur. Lawyers will be able to spend increased time on directly addressing the needs and concerns of their clients while using analytics to explore and experiment with different legal scenarios and strategies in order to offer the best, most informed counsel.

At the same time, the application of analytics will impact the way organisations operate in the areas of pricing - predicting risks as well as eliminating friction with new processes.

Research from the Coalition of Technology Resources for Lawyers on Data Analytics in the Legal Community: 2016-2017 Trends revealed that 99% of respondents agreed that data analytics will be necessary to the profession over the next decade. In fact, twice as many legal departments confirmed their intention of using analytics for matter management and 71% predict increased spending.

The survey respondents were found to be using advanced analytics in defensible disposition (83%), policy compliance (83%), data migration (82%), and automated content categorisation (72%). Five times as many legal departments say they will start using analytics for contract review in 2017.

There is no doubt that the breadth of analytics applications will increase dramatically among organisations looking to apply more process efficiencies and cost savings to their legal operations.
AIG, the world’s leading insurance giant, has over 90 million customers in 90 countries. The organisation specialises in property casualty insurance, life insurance, retirement products, mortgage insurance, and other financial services.

In 2012, AIG created a single global resource to meet the legal services needs of the Property Casualty Claims function and its non-claims legal department. The project was focused on two key elements - building a multidisciplinary team with diverse areas of expertise, and designing scalable processes and technology to allow that team to effectively deliver their services across AIG’s huge footprint. In managing more than 1,200 outside firms, AIG created an online sourcing platform that conducts automated requests for information, online RFPs, and reverse auctions conducted in real time.

AIG has estimated it has seen $200 million in legal savings in 2014 alone on a total annual budget of $2.4 billion.

Through this process AIG achieved workflow efficiency and cost-savings in the following areas: -

- **Process and information excellence**: AIG spent two years developing an in-depth legal analytics capabilities and legal information systems for managers across five major claims lines of business. As a result, self-service dashboards now allow users to create individualised reports and compare law firm performance across similar matter types using real-time data.

- **Firm management**: Given the firm manages 1,200 approved law firms, an online sourcing platform was developed to conduct automated requests for information among firms interested in serving on the company’s panels. As a result, the line of credit was able to realise reductions in hourly panel rates ranging from 2 to 32 percent.

- **Legal vendor management**: By thinking creatively which elements of standard legal processes could be performed reliably outside of law firms, and pricing those services competitively through RFP’s and reverse auctions, AIG reduced the cost of legal discovery from 40 to 60 percent.

- **Alternative fee agreements**: In studying their legal processes closely, AIG categorised them in high-frequency, low-complexity matters, and different structures appropriate for low-volume, high-complexity work. The company has more than 70 percent of outside counsel assignments made under fixed fees which is estimated to save 20 percent compared to historic hourly costs.

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Legal Analytics in Action

Improving litigation strategy

Until now, to get insights into the behaviour of specific lawyers, firms, judges, or parties, litigators have had to rely on querying colleagues who may have personally dealt with them in the past. Legal analytics gives litigators an advantage over opposing counsel by providing data-driven insights into how judges, firms and parties have behaved in similar cases in the past, and how they might behave in similar cases in the future. Analytics can accurately estimate variables like time to trial, the potential value of a case and likely outcomes. The ability to have a bird’s-eye view of not just one case, but thousands in a jurisdiction, can shed light on when and how to litigate the issues – informing potential litigation strategies and maximising chances of success.

Optimising chances of success

Analytics tools can increase the chances of winning cases by augmenting the astute human knowledge of the lawyer with objective data points in making critical case decisions. For example, a solicitor may be considering an appeal in relation to a negligence matter and wish to review previous outcomes to assist in making strategic decisions.

By using legal analytics, the solicitor can quickly narrow down to the relevant information and view the previous orders made. To obtain an even more granular view, the solicitor is able to see previous outcomes before a particular judge and the success rate of appeals from a specific originating court. All of these objective data points are designed to assist a solicitor to make a more informed and strategic decision in relation to the running of a matter.

Analytics for in-house counsel

Analytics tools also provide strong benefits for in-house counsel. In the past, it has been difficult for companies to use objective data to drive panel selection or to provide evidence to justify why a particular team was selected to represent a client. This is true for a number of reasons:

- Data about a lawyer’s or law firm’s specific experience has been unavailable
- Billing data from current and prior outside counsel is difficult to correlate with specific results obtained.
- Subjective information about the depth and quality of inside counsel’s relationship with outside counsel is difficult to quantify.

Using legal analytics, litigation data can be mined to identify prospective outside counsel, from which you can request responses to a company’s request for proposal regarding a new matter. It can also be used to evaluate existing or potential new outside counsel, independent of the information any firm submits about itself. Finally, it can be used to explain counsel decisions to senior management and business teams who often cherish hard data.

In the future, savvy in-house counsel will correlate litigation data with billing data to assess the effectiveness and efficiency of existing outside counsel, which will provide new ways to benchmark them against potential new panel firms.

Legal analytics does not reduce the selection of outside counsel to pure math. In-house counsel’s judgment and relationships will continue to matter. But hard data can be a useful tool to inform decision making, check up on counsel’s claims of success and experience and to help explain to non-lawyers why a particular counsel was selected. While hard data cannot replace in-house counsel’s judgment, it supplements all the existing ways that inside counsel evaluate potential outside counsel and helps in-house counsel to make better choices and produce better results.
Case Study
By Julie Austin, Data Analytics Manager, LexisNexis

We were approached by an in-house counsel team to provide a report to surface who had experience in various areas of practice in specific courts. The aim was to produce a report with an additional data point to form a panel of legal firms to provide advice, including to surface firms that were not previously on the company’s radar.

To perform the analysis a custom-built database was set up with over 22,000 cases extracted from the LexisNexis editorial system. The case set was then isolated to the courts of interest: Federal Court of Australia and New South Wales Supreme Court (including New South Wales Court of Appeal decisions).

A series of content rules were developed to:

- identify the judgments as ‘contract’ cases;
- exclude the judgments that were not of interest (eg interlocutory judgments); and
- assess the case outcome.

The rules were created, applied to the data set and refined in an iterative cycle to improve categorisation.

In parallel, a data clean-up was undertaken of the extracted case information to improve accuracy.

Once the data set was refined, a team of four legally qualified staff members reviewed the output to assess and improve the quality of the data set as much as possible within the given timeframe.

The data was then normalised for reporting purposes, for example, the firm names were reviewed to take into account name changes over the course of the five-year period to ensure a consolidated firm name results output.

The final output was a report to the team that assisted with legal panel firm selection and validation of ROI on legal spend.
Conclusion: Using data analytics to connect the dots

The true impact of legal analytics is only just starting to be felt. In the coming months and years we will see nothing short of revolutionary changes to the ways in which the law is practised.

Some lawyers may resist this transformation out of a fear that new technologies might change how they practice law or even make their jobs obsolete. Similar concerns were voiced when legal research moved from books to computers. However, that transition did not reduce the need for lawyers skilled in legal research. Instead, it made them better and more effective at their jobs.

Similarly, data-driven insights from legal analytics do not replace legal research or reasoning, or lawyers themselves. They are a supplement, both prior to and during litigation. Legal analytics will not make the judgment and expertise of seasoned lawyers obsolete. It will enable those who employ it to provide better and more cost-effective representation for their clients and better compete with the opposing counsel.

Legal analytics tools are fast becoming an absolute necessity in the business of law. Their power to augment the keen minds of lawyers in delivering efficient, precise and effective information and – above all – great client value is bringing an added depth to the profession unlike anything seen before.
High Court Analyser is a brand new subscription solution brought to you by the Lexis Legal Analytics* suite of products. Integrated with our award-winning legal research platform, Lexis Advance® and powered by our industry-acclaimed case set, CaseBase®, High Court Analyser empowers you to uncover new insights from High Court judgments — quickly and easily.

*Lexis Legal Analytics suite of innovative solutions support the data-driven lawyer of the future to help make better, faster informed decisions.
LexisNexis has done the hard work behind the scenes so you don’t have to! Become an instant legal analytics expert without the need to be a data technology guru.

With our Legal Analytics suite of solutions, LexisNexis has taken an important step forward in the area of legal data analytics. By combining our comprehensive case datasets with machine learning and natural language processing technologies, High Court Analyser goes beyond traditional legal research – helping legal professionals reach the most relevant insights, more easily and faster than ever before.

Become the expert today with powerful analytics

The Lexis Legal Analytics suite of innovative solutions support the data-driven lawyer of the future to help make better, faster informed decisions.

By developing leading-edge analytics solutions, LexisNexis helps legal professionals harness the power of data and access powerful insight — leveraging the breadth and depth of LexisNexis legal information — enabling legal professionals to:

- Drive better advice for their clients and organisation;
- be more confident in predicting legal outcomes; and
- Make better decisions for litigation planning and strategy.

About Lexis Legal Analytics

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