Taking Analytics to Court
Technology advances are driving a higher form of litigation intelligence

The challenge—and opportunity—of exploding data volumes is everywhere, and the legal arena is no exception. Huge quantities of potentially case-informing data are spread across disparate and disconnected sources: case law, court records and dockets, regulatory content, public records and more. There is so much unstructured, unconnected, yet potentially critical information that it's practically impossible to make sense of it all—or even know where to begin.

The good news is that attorneys who can harness these masses of data into valuable insights can drive real competitive advantage, and advances in technology are helping them do just that. Technology is helping attorneys on all levels sift, sort, connect, contextualize, analyze and even visualize massive amounts of data in powerful, productive new ways. These advances offer revealing new views into litigation trends, fact patterns, outcome analytics and behavioral insights on key case players like judges, opposing counsel, experts and more. Analytic technologies are taking us from understanding what has happened, to predicting what will happen, and ultimately to prescribing the best path forward. In short, technology is enabling a higher form of litigation intelligence.

DESCRIPTIVE ANALYTICS – LEARNING FROM THE PAST

Data is just data until you learn something from it and use it. Descriptive analytics helps you do exactly that. Leveraging advanced techniques like natural language processing and machine learning, descriptive analytics sifts through large volumes of historical legal data to identify trends and patterns of behavior. The resulting content helps attorneys and support staff:

- Identify emerging legal trends
- Understand how a judge typically rules in a specific type of case
- Analyze the success rate of adversaries or potential outside counsel over time
- Assess the value of a case and estimate litigation costs
- Flag potential issues within legal briefs or motions
- Understand the other jurists and opinions your judge cites most often to ensure your arguments are aligned

Those complex patterns, trends and relationships can be further condensed into easily accessed and understood visuals, such as charts and graphs. These visualization tools allow you to, among other things, map search terms, see case connections, or literally see and compare settlement valuations.

PREDICTIVE ANALYTICS – FORECASTING THE FUTURE

While understanding the past is an important first step, the real value in analytics is in gaining insights into future implications. Predictive analytics, as the name implies, aims to predict what is likely to happen in the future. It does so using a mixture of innovative methods—machine learning, predictive modeling and intelligent algorithms—as well as enormous volumes of rich and varied data.

Drawing from past behaviors and current data, predictive analytics can address a range of questions and provide valuable insight for decision making. For example:

- If a client faces a liability claim around a product, predictive analytics can use cases with similar fact patterns to predict the case's timeline and likely award. These predictions can go into a cost analysis to drive better litigation decisions.

- While the decision-making pattern of a judge is always subject to change, analysis of their track record and how they respond to certain motions can indicate probable patterns of behavior. Counsel can then leverage that insight to create a winning strategy.

- Sometimes it's not just what you say but how you say it. By analyzing the language that is most commonly used by a particular judge in granting or denying motions, you can better predict the language that will be most persuasive in your motions, driving up your probability of success.

Of course, predictive analytics cannot guarantee the outcome of a case or provide 100 percent certainty. However, it can make intelligent predictions on potential or even likely outcomes. And with visualization tools that can map potential outcomes and probabilities in a range of scenarios, the most likely result becomes easier to see.

PRESCRIPTIVE ANALYTICS – IDENTIFYING THE BEST PATH FORWARD

If predictive analytics provides attorneys with likely outcomes based on patterns of behavior, there is an emerging category of analytics that goes one step further—prescriptive analytics. Prescriptive analytics suggest a specific direction to follow based on likely outcomes. This method compares and contrasts multiple outcomes based on different actions and recommends the best path forward.

In many ways, prescriptive analytics is the technological equivalent of the seasoned lawyer who counsels less-experienced attorneys based on historical data and experience. This "trusted advisor" can access and analyze far more data in far more quickly than any human, providing insight and guidance never possible before.

While it will likely take some time and continued advances in analytics and deep learning technologies for legal counsel to truly see prescriptive analytics as a "trusted advisor," its power and potential capabilities will undoubtedly facilitate its ultimate adoption. Attorneys can't afford to ignore the advantages these advanced analytics will provide in both efficiency and effectiveness.

FROM OFFICE TO COURTROOM

There is no doubt that data and advanced analytic technologies will have a significant impact on the practice of law on any level, from how legal research is conducted and strategies are defined, to execution in the courtroom. Lawyers and legal departments are in a transformative period in which data analytics, machine learning, natural language processing and other deep-learning technologies can have a profound impact on how lawyers work. The competitive advantages in mining data for knowledge and insight will inevitably make analytics a must-have tool. The question is no longer whether attorneys will adopt these new technologies, but rather, how fast and who will get there first.

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