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In Predictive Analytics Market, Law Firms See a Space of Their Own

Law firms that are developing predictive analytics tools see an opportunity in a market long dominated by legal tech providers. But it's an open question whether more firms will jump in.

BY RHYS DIPSHAN

This is the last article in our three-part series on the state and development of predictive analytics in the legal market. Our first article explored the technology's foothold in the legal industry and where it's likely to expand in the future, while our second article looked at why predictive analytics' growing accuracy will likely hit a ceiling.

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As the reach and capabilities of predictive analytics seem poised to take off, it's not just a few legal tech companies capitalizing on this market. Over the past few years, several law firms have developed predictive models themselves, an acknowledgment both that such technology is playing an increasingly vital part in client services and that there's space in the market for more tailored predictive analytics offerings.

But the extent to which more firms look to create their own predictive tools is still an open question. At the end of the day, a lot will depend on law firms' appetite to dedicate and prioritize certain talent and resources. Yet for many, it's undeniable that there's an opportunity to be had. In fact, many even see law firms as having an advantage in the predictive analytics market over more established legal tech companies despite the latter's technical experience and resources.

The Cost of Creation

Over the past few years, firms such as Canada-based Lenczner Slaght Royce Smith Griffin, Thompson Hine, Baker McKenzie and Schiff Hardin (prior to its merger with Arent Fox) have created a host of predictive analytics tools, looking to assess the likelihood of certain litigation outcomes, client risk, and legal spend scenarios, among other situations.

Like many law firm innovation efforts, the increasing prominence of predictive analytics is a result of growing client demand. Of course, not all clients are looking for the type of data-driven decision-making capabilities predictive analytics can bring to bear, nor do some even know such capabilities exist in the first place. But the number of clients that understand and value predictive analytics is sizable and only set to expand in the near future, law firms noted.

"I think it depends very much on the particular client," said Lenczner Slaght partner Paul-Erik Veel. "So there are definitely some clients that are on the sophisticated end of the spectrum. They want concrete predictions. … They want data-driven insights in the strategies being taken. And there are other clients that I would say don't yet have those desires, and are just looking for the more conventional advice."

Many see predictive analytics tools as becoming even more of a staple in law firm services in the years to come. But the jury is still out on whether firms will use their own proprietary predictive analytic tools or ones supplied by legal tech vendors.

"I think you are going to see an increase in the number of firms that use predictive analytic tools," said Thompson Hine's chief practice innovation officer, William Garcia, whose firm has created predictive analytics tools. "[But] it's not clear to me that they will develop them internally."

What's likely holding firms back from developing their own tools is the fact that such an endeavor can be resource-intensive, Garcia added. He explained that it comes down to two specific challenges. The first is making sure the data of a predictive model analysis is accurate and well-organized. "And that was an effort, and not an insubstantial effort, to make sure that we had data that the algorithms could understand in a coherent way, in a consistent way, so that we had more confidence [in] insights generated by [the models]," he recalled.

The other piece is perhaps more challenging: finding professionals with data science skills to develop these models in the first place. For Thompson Hine, that meant looking outside of the firm. "Initially we used a third party to identify [and] to contract with somebody with data science skills. But after that initial experience, we brought people on board and developed existing employees to have data science skills," Garcia said.

Still, law firms don't have unlimited hiring budgets, and for some, data scientist talent may not be a high priority. "Some firms may decide that's not where they want to hire," Garcia added.

But for those that do, such talent is vital. "It is difficult for law firms to successfully develop such tools alone," said Danielle Benecke, co-founder of Baker McKenzie's machine learning practice, in an email. She noted the firm's partnership with software developer SparkBeyond, a formative part of the firm's innovation program Reinvent, provided "the machine learning building blocks and have helped us develop new internal data science expertise."

Benecke added that for the firm, "the real value of developing any kind of internal data science or machine learning capability is enabling judgment—which is the most valuable thing that law firms sell. That's where we see the opportunity to invest."

A Firm Advantage?

While not all firms are ready or willing to build predictive models, it's clear that those that are have the wind behind their backs. After all, law firms hold a potentially enormous amount of proprietary and client data with which they can create host of predictive analytics tools.

Thompson Hine's Garcia sees initial law firms' efforts with predictive analytics exploring more "front-facing applications [such as] pricing, staffing, recruiting, retention—things [that] help run the firm better," while more mature efforts will likely explore using this technology to support clients by making strategic decisions.

Still, there may be limits to where firms can take their predictive models. After all, a host of legal tech providers, such as Lex Machina, Wolters Kluwer and Trellis, among others, already have long-established predictive analytics tools for in-house clients on the market.

But while it may not make sense for firms to overlap with the efforts of such providers, there's still a lot of ground they can cover on their own.

Lenczner Slaght's Veel sees firms developing predictive analytics tools in what he called "the nonretail space … where there's not a large enough market for a third-party service provider to come in and build their own predictive analytics program, but where there's still significant enough value to clients in having that kind of an offering." As examples, he cited the high-end commercial litigation, class actions and antitrust areas.

Of course, it's possible that legal tech companies could develop tools similar to ones law firms offer for clients to use independently of their outside counsel. Yet even if such a situation were to occur, law firms don't see their efforts being overshadowed. In fact, many aren't too worried about the competition.

In an email, Jon McClay, director of market strategy and analytics at Baker McKenzie, noted that law firms are better positioned because they "have access to different types of domain expertise and subject matter experts. … I truly believe there is a lot of space in the market for different players to add complementary value using data science and machine learning."

Law firms also have a host of client data that many legal tech providers lack—or may struggle to obtain. "The firms that are embedded with a client have a really good idea of the client's challenges and their goals and have a really good sense of the data that the client keeps and how they keep it," Garcia said. "That's information that the legal tech providers, when they're building sort of a commercial tool, might not necessarily have."

Of course, technology development isn't many law firms' core business. But this opportunity is likely theirs for the taking, if they want it. "To be sure, legal tech providers can be single-minded in development while firms might have competing priorities for development … but I think with the right resources and the right focus in the right commitment, I don't think there's a structural reason why law firms would be precluded from competing with legal tech providers," Garcia said.