ANALYTICS *EXCELLENCE*

WEBINAR SERIES

Black Hills IP
Paralegal and Docketing Services

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Examiner and Art Unit Prosecution Analytics

Useful or Misleading?

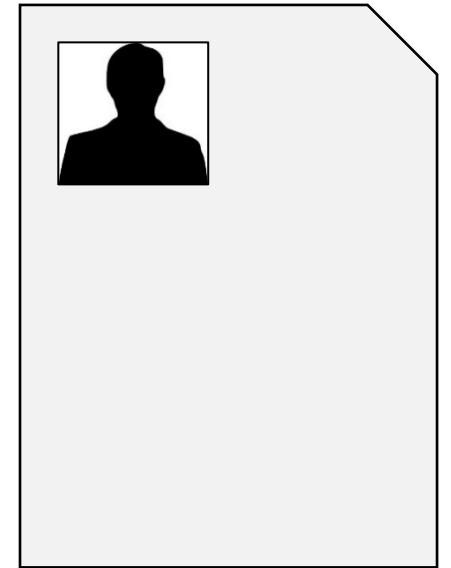Mark Stignani & Thomas Marlow

What are we covering

- Available Tools and Data

- What is actually useful

- How to use it

- What are the red herrings

Available Tools and Data

- **Commercial Vendors**
  - LexisNexis PatentAdvisor® (Patent Core)
  - Juristat (IPFolio)
  - Patent Buddy®
  - Judicial Statistics

- **Free Sites**
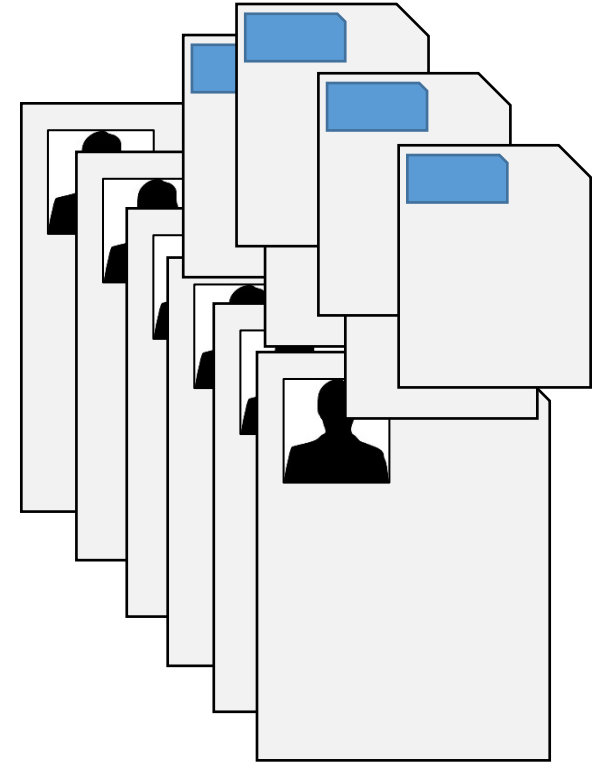 - Patent Examiner Ninja
  - Examiner Watchdog

Examiner Data

- Overview (OA/RCE, Rejections, Interviews, Pendency)
- Compare Examiner v Art Unit
- Comparatives over Time
- Specific Rejection Types (101, 102, 103, etc)
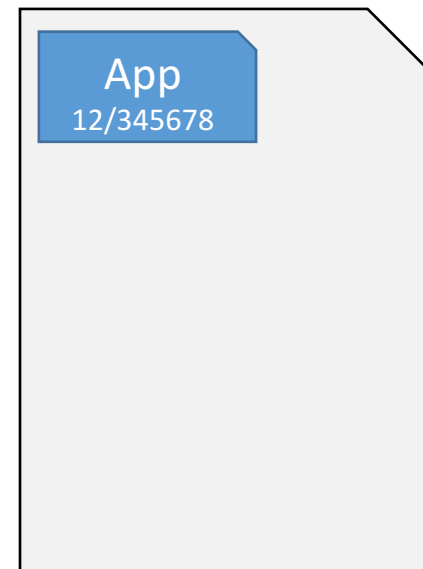- Favorite/Recycled References

Portfolio Examiner/Art Unit Data

- Better Application of Statistical Method

- Patent Portfolio Driven Analytic Data
  - Overview (OA/RCE, Rejections, Interviews, Pendency)
  - Comparatives v Art Unit
  - Comparatives over Time
  - Specific Rejection Types (101, 102, 103, etc)
  - Law Firms(Agents)
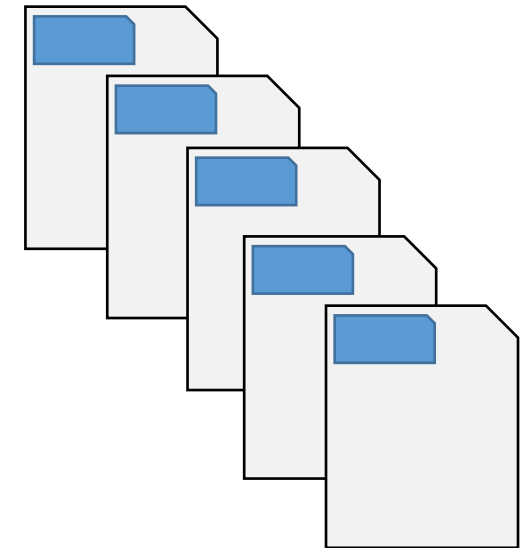   - Agent/Firm v. Examiner/Art Unit Performance

Basic PAIR Data

- Matter Centric – 1 Record 1 Filing
- Individual Record PAIR views
- USPTO Format Not Great for Analytics
- Summary views
  - Tabular View of Claims/Amendments
  - Tabular View of References
  - Tabular View of Arguments

App
12/345678

Portfolio PAIR Data

- Overview (OA/RCE, Rejections, Interviews, Pendency)
- Comparatives v Art Unit
- Comparatives over Time
- Specific Rejection Types (101, 102, 103, etc)
- Law Firms(Agents)

Tool Limitations

- ## Almost Every Analytic Tool is Search Centric
  - Almost all Analytics launched from a search query
  - This is more true for PAIR analytics
    - Exceptions
      - Patent Advisor®
      - Patent Buddy®

- ## All tools currently do statistical review
  - Do not do Qualitative Review
  - Do not compare Active Matter

Data Limitations

- Statistics – No Qualitative Review
  - No correlation to your matter by human
  - No correlation as to semantic similarity of your matter
- No correlation to Authoring Attorney/Your filing lexicon
- Claim phrases aren't x-reference against Examiner action
- Post hoc ergo propter hoc
  - No direct causal relationship
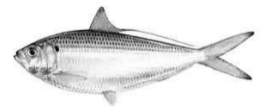- Portfolio level Comparison and Tracking

Red Herring Discussion

Reddest
- Attorney, Matter v. Examiner
- Corporation v. Examiner

Less Red
- Law Firm v. Art Unit
- Classification v. Art Unit
- References cited by Art Unit

Well Done Herrings
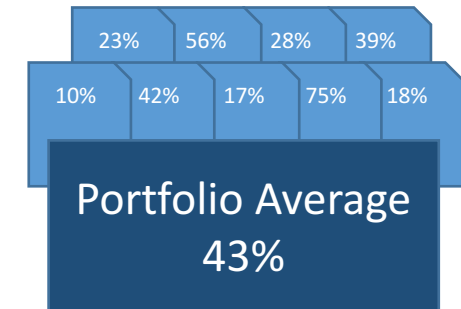- Portfolio Level Statistics (Above 100 matters)

2017 Issuance Prediction

56%

2017 Issuance Prediction

23% 56% 28% 39%

10% 42% 17% 75% 18%

Portfolio Average
43%

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Good Things Statistics Can Tells Us

- How difficult an Art Unit/Examiner tends to be
  - Trend/Propensity
- How long the matters take on average
  - General planning
- What are the favorite rejection types
  - Planning and response strategy
- What are the favorite references
  - Drafting and response strategy
- Allowance timing with Examiner Performance Goals
  - Examiner Mood Cycles (EMC)
- Identification of Outliers
  - Planning, budgeting, response/appeal strategy

Other Data

- IPR
- PTAB
- Litigation

Key Take-Aways

- Examiner/Art Unit data may be useful for planning and expectation-setting

- Matter-specific data must be qualitative or at least content specific

- Portfolio data can effectively leverage statistics

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Discussion & Questions

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Deconstructing Patent Annuity Service Pricing

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