

Competitive Intelligence: Spy Games or Market Research?

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Editor's note: This is the first installment in a series on how law firms approach and utilize competitive intelligence.

As far as any of them will tell, law firms haven't converted any of their conference rooms to "war rooms" filled with people looking to bring down the firm across the street. But keeping tabs on the competitive landscape is something law firms are increasingly attempting to do in-house—and every one seems to approach it differently.

Similar to the early stages of law firm marketing departments, in which firms were still experimenting with missions and staffing, competitive intelligence processes in law firms are still in a relatively nascent stage in which even the definition of competitive intelligence is something upon which firms don't agree.

For some, competitive intelligence is only tracking what your competitors are doing. For most, it is a blend of business, market and competitive intelligence, with an eye toward tracking other firms, current and prospective clients, geographic and industry sectors and the firm's own internal data.

Many large firms have competitive intelligence analysts in their firms, while others task business development or librarians with the process. The department where competitive intelligence employees are based ranges from the business development team, marketing group, library services, knowledge management and, in very few instances, a specific strategy group that works with firm management on larger-scale issues.

The focus of intelligence gathering is largely on tactical one-off issues, such as learning more about a client prospect before a pitch. But as competitive intelligence functions in law firms evolve, consultants in this space say the goal is to reach the strategy stage in which competitive intelligence analysts are assisting firm management in making long-range decisions such as mergers and office openings.

While firms are all over the map when it comes to implementing competitive intelligence functions, one area where many firms do align is on what they focus the least of their intelligence-gathering efforts—other law firms.

Boston-based Foley Hoag's director of marketing and business development, Jasmine Trillos-Decarie, said there is more of a role now for competitive intelligence in law firms than ever before given the only way to increase market share in this business climate is to take it from other firms.

"But pure competitive intelligence, I'm not sure you will ever see law firms have war rooms talking about taking down a product line or industry group another firm offers or target another firm to take them down like [might occur] in corporate America," Trillos-Decarie said.

She noted she hoped that wouldn't happen or else the law would no longer be a true professional services industry.

Zena Applebaum is director of competitive intelligence at Toronto-based Bennett Jones. She said the demand for competitive intelligence roles is "crazy" right now. She said firm leadership is recognizing they need a competitive advantage. Applebaum said in some respects, it's giving a title to something that has been going on in firms for decades.

After the market crash of 2008, when every firm "was watching what was happening in everyone's backyard, it was like 'maybe we should do this in some kind of systemic way,'" Applebaum said.

In some respects, certain data on private law firms is very difficult to track—such as firm M&A data—but in other ways, there is more information about law firms available now than ever before.

"The info where you used to feel like a spy, it's on the Web now," said Clare Block, director of business development at Saul Ewing.

Applebaum said firms can track what is happening at other law firms, but that doesn't help you get new clients in the door.

"Spending too much time focusing on that can distract," Applebaum said.

Kristin Sudholz, chief value officer at Drinker Biddle & Reath, said her firm is tracking what other law firms are doing, but she said firms can't give too much weight to the information they collect on competitors.

"If somebody was a law school roommate of somebody and they have been their best bud and they are practically neighbors and their kids go to the same school and this has been their IP lawyer, for example, for the last 25 years, if you think you are going to go wrestle IP work away from him, really?" Sudholz said. "Why would we spend all of our time and energy trying to do something that would almost be an effort in futility?"

So for Sudholz, the information-gathering process focuses on the client and what other areas they may need legal services.

Duane Morris' chief marketing officer, Mark Messing, said gathering data on a client prospect will involve looking at the competition, but more importantly it focuses on the client's industry and competitive landscape.

"Because there is so much writing on the law firm industry and because it is covered so intensely, I don't think we're in the dark about what other firms' vulnerabilities, strengths, weaknesses and their overall profiles are," Messing said, adding later his efforts are much more devoted to the clients than the competition.

Chris Fritsch of Clients First Consulting does outsourced competitive intelligence for law firms. As part of a panel discussion at the Legal Marketing Association's national conference last month, Fritsch and Trillos-Decarie surveyed 25 law firms on their competitive intelligence practices. The answers were "all over the board," Fritsch said.

Firms know it is important, but they all approach the topic differently, she said.

From her experience, Fritsch said firms are focused now more than ever on business development and that has naturally led their focus to be on intelligence gathering surrounding a specific client or industry.

The goal of all intelligence gathering is not to acquire information but to acquire actionable information—something that can be synthesized, analyzed and acted upon, Fritsch and others said. Most firms will say that process has been focused largely on the tactical uses of competitive intelligence—learning more about a prospective or current client to better prepare for a pitch or identify an opportunity in a specific area.

"In the law firm, the ultimate goal is to get to the strategy aspect," Fritsch said.

Competitive intelligence consultant Ann Lee Gibson said one of the reasons strategic intelligence has not taken hold as quickly could be related to lawyers' risk-adverse nature.

"Everything we know is a fact. Every fact is something that has happened in the past. We have to be able to certainly rely on the patterns we see in past facts, but we have to be able to take some leaps of intuition based on the facts of the past that we have," Gibson said.

Educated guesses to back up strategic objectives of the firm, such as opening in a new market or switching practice focus, can make lawyers uncomfortable. But focusing only on the tactical application of competitive intelligence, Gibson said, can mean more of the same for law firms.

"If a law firm really thinks it doesn't need to do anything different from its competitors but simply do what it and all of its competitors are doing better than other people, there is no strategy there," Gibson said. "It's just work harder, be smarter. But we are now in an era where differentiation and doing things differently is going to become really important to law firms."

Gibson said firms need to go to school on what competitive intelligence is and what it isn't.

"It is not more and more information, it is better and better insights about the competitive space," Gibson said.

It isn't just about clients, it's about everything that affects the space in which law firms and the clients operate, she said.

In the next installment of the series, read about how law firms are structuring their competitive intelligence departments, how they are getting information and how one firm has turned it into a revenue source.

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