



by Brian C. Howard J.D./M.A. Associate General Counsel & Legal Data Scientist

Executive Summary

Lex Machina's first Top Law Firm Report for Select Federal Litigation surveys each of Lex Machina's federal practice area modules: patent, trademark, copyright, securities, antitrust, commercial litigation, employment, product liability, and bankruptcy appeals in district court.

For each practice area, the report examines the top 20 firms filing the most cases and the top 20 defending the most cases over 5 years of data, from January 2013 through December 2017. The report provides in-house counsel with a starting point for outside counsel selection, and allows law firms to see how they compare with the competition.

While the number of cases filed or defended is a good measure of a firm's experience in a particular practice area, such metrics are not the sole (or even primary) factor when it comes to finding the right firm for a particular case.

The report ranks each practice area separately, as well as separating cases representing plaintiffs from cases representing defendants. But other factors, such as the billing rate, prior successful outcomes, and geography, should also be considered in selecting a firm. Determining whether a hammer or a screwdriver is the "best" tool requires reference to the task it's meant to perform, just as the "right" firm may vary by case according the business goals of a client's litigation. This report is not meant to suggest that higher ranked firms are inherently better than those lower ranked (or not ranked), but instead to provide insight into one key metric relevant to firm selection for a large segment of litigants in each space.

The report also includes an example of a sophisticated comparison using Lex Machina's Law Firm Comparator App. The app helps companies (or firms) to compare their performance using a variety of different analytics.

Taken together with a firm's proposed price and legal strategy, such analytics can enable in-house counsel to increase their odds of achieving the best possible outcome in litigation.

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Lex Machina's Data, Methodology, and Terminology

This report draws on data from Lex Machina's proprietary intellectual property litigation database. Although some of our data is derived from litigation information publicly available from PACER (federal court system), Lex Machina applies additional layers of intelligence to bring consistency to, and ensure the completeness of, the data. Beyond the automation, key areas of Lex Machina's data are either human-reviewed or hand-coded by a dedicated team of attorneys to ensure accuracy.

To determine whether a case is a belongs to a particular practice area, others may blindly trust the Cause-of-Action (CoA) and Nature-of-Suit (NoS) codes entered in PACER. But Lex Machina actively analyzes complaints to ensure that cases filed under mistaken CoA/NoS codes (or a CoA/NoS code corresponding to a different claim, e.g., contract in a combined patent/contract case) are not missed. This same system also allows Lex Machina to filter out the many spurious cases that have no claim, for example, of patent infringement despite bearing a patent CoA/NoS code (e.g., false marking cases).

Moreover, due to inherent design limitations, PACER often shows inaccurate or corrupted information for older terminated cases. For example, when a lawyer leaves one firm for another, PACER may show closed cases that the lawyer worked on at the old firm as having been handled by the new firm. When combined with law firm splits, acquisitions, and mergers, these inaccuracies accumulate to render PACER data less reliable for older cases. Lex Machina, however, has a historic record going back to the first days of electronic filing on PACER (and other data going back even further). These snapshots, unique to Lex Machina, give us access to normalized contemporary data and enable us to provide more accurate data for older cases than someone using PACER today.

Information on how Lex Machina defines each practice area is available to subscribers at law.lexmachina.com/help.

Other notes:

Lex Machina's data is focused on the U.S. District Courts and does not include appeals or modifications of judgments on appeal.

All charts refer to cases filed between January 1, 2013 and December 31, 2017 (5 complete years of data).

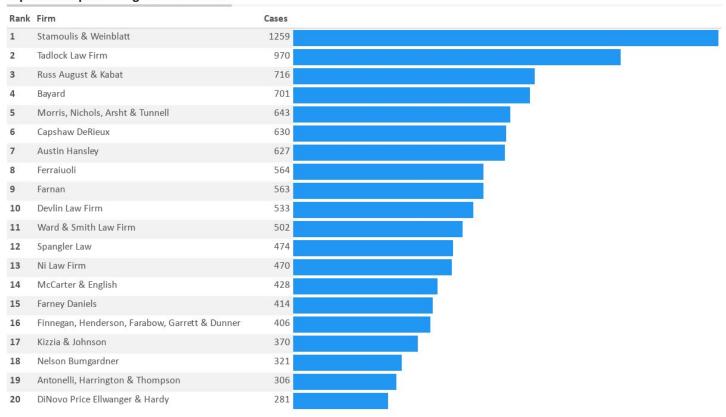
Cases are credited towards the law firms appearing in the case, so the same case may count for multiple firms (including local counsel).

Intellectual property cases seeking declaratory judgment are excluded from this report for clarity (although in Lex Machina'a data set online, they are identified as such and may be included or excluded as the user wishes).

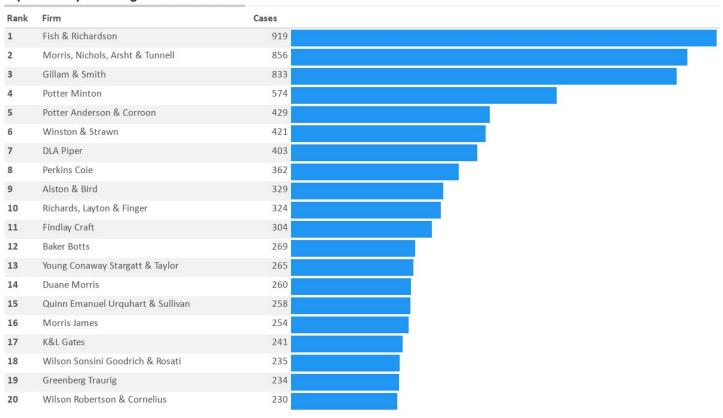
Firms with the same number of cases are shown with the same ranking (the lowest of those covered by the tie).

Patent Litigation

Top Firms Representing Patent Plaintiffs

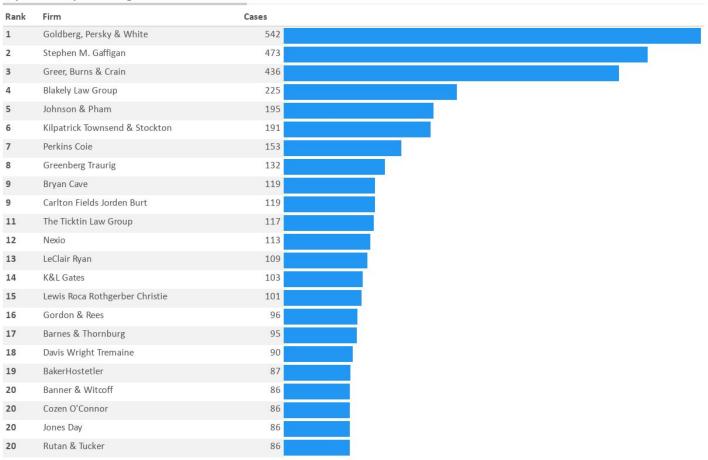


Top Firms Representing Patent Defendants

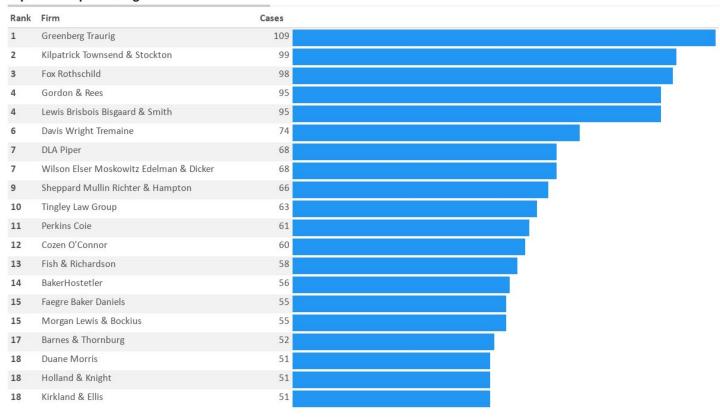


Trademark Litigation

Top Firms Representing Trademark Plaintiffs

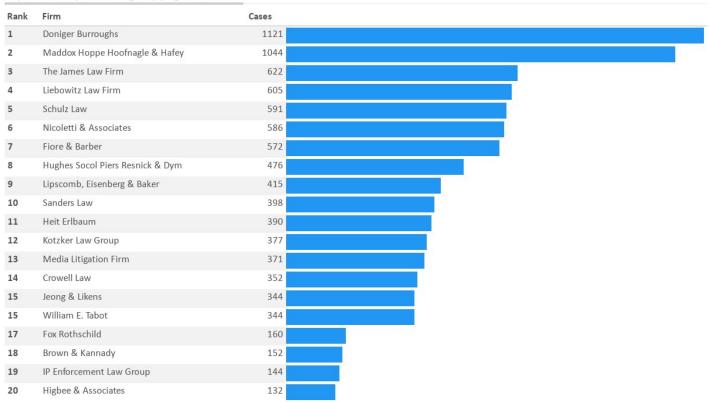


Top Firms Representing Trademark Defendants

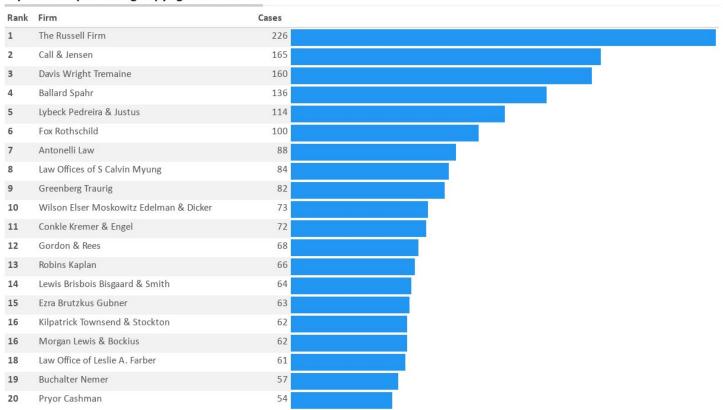


Copyright Litigation

Top Firms Representing Copyright Plaintiffs

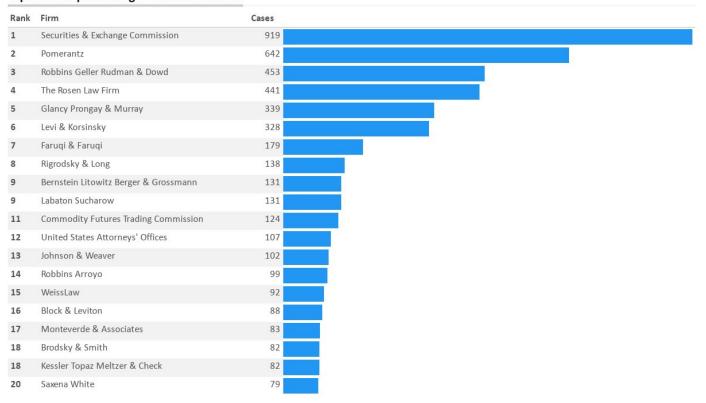


Top Firms Representing Copyright Defendants

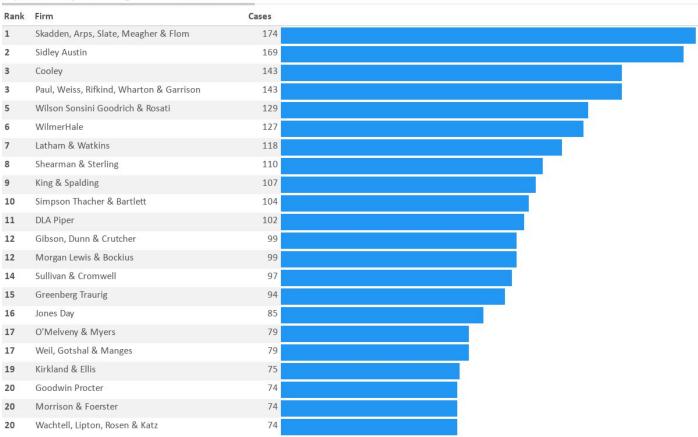


Securities Litigation

Top Firms Representing Securities Plaintiffs



Top Firms Representing Securities Defendants



Analysis: Patent, Trademark, and Copyright Litigation

Patent

Between 2013 and 2017, Stamoulis Weinblatt filed the most patent cases of any firm (1,259 cases) followed by the Tadlock Law Firm (970) and then by Russ August & Kabat (716). Of the top firms representing plaintiffs, few are national firms (Russ August & Kabat, and Finnegan are the notable exceptions). Firms based in Texas make up about half the list, and those in Delaware another quarter, reflecting the most popular districts for patent litigation over the last 5 years. One exception is the firm in 8th place, Ferraiuoli, which is based in San Juan, Puerto Rico (though they have filed more cases in the Eastern District of Texas than in the District of Puerto Rico).

Representing defendants, Fish & Richardson defended the most cases (919 cases), followed by Morris, Nichols, Arsht & Tunnell (856 cases). Morris Nichols, based in Delaware, is also the only firm to appear on both plaintiff and defendant representation lists. Other Delaware firms rank highly (Potter Anderson & Corroon at 5th; Richards, Layton & Finger at 10th, and Young Conaway Stargatt & Taylor at 13th), and a few Texas firms do as well (Gillam & Smith and Potter Minton at 3rd and 4th), but the majority of firms appearing in the list are larger national firms (Winston & Strawn at 6th, DLA Piper at 7th, Perkins Coie at 8th, and Alston & Bird at 9th). Defense side work is also spread out more evenly, as the number of cases decreases more smoothly for firms representing defendants than it does for firms representing plaintiffs.

Trademark

The top firm by trademark cases filed over the last 5 years is Goldberg, Persky & White (542 cases, most representing individuals). Stephen M. Gaffigan filed the second highest number of cases (473) and his clients include such well-known brands as Chanel, Louis Vuitton, Gucci, Tiffany, Adidas and Abercrombie & Fitch. The Chicago firm of Greer, Burns & Crain ranks third with 436 cases, after which the number of cases drops significantly - the 4th ranked Blakely Law Group has had just over half as many (225 cases). Several national firms appear in the top ten (Kilpatrick Townsend & Stockton; Perkins Coie, Greenberg Traurig, and Bryan Cave), though none appear in the top five.

Many of these firms also appear among the top firms by cases representing defendants, though the numbers at the top are lower. Greenberg leads the list with 109 cases, followed by Kilpatrick (99 cases); Perkins Coie appear in the 11th rank with 61 cases.

Copyright

The top copyright plaintiff firms, Doniger Burroughs (1,121 cases) and Maddox Hoppe Hoofnagle & Hafey (1044 cases) have both filed the majority of their cases on behalf of the same plaintiff, Malibu Media. Malibu Media, an adult film company, has filed far more copyright cases than any other plaintiff in recent history and, for a few quarters around 2015, accounted for more than half of all copyright cases filed in the country.

These cases, along with others involving internet piracy via BitTorrent, follow very different dynamics than most copyright cases. For example, mean time to termination in file sharing cases is shorter, settlement rates are higher, and the cases are often filed in districts not otherwise known for copyright litigation. To prevent these cases from skewing the analytics of more traditional copyright cases, Lex Machina tags these cases, allowing users to include or exclude them as appropriate.

Analysis: Securities, Antitrust, and Commercial Litigation

Like patent plaintiff firms, copyright plaintiff firms tend to be more specialized, and few national firms appear on the list (Fox Rothschild at 17th with 160 cases being the notable exception). Top firms by cases defending copyright claims include the Russell Firm (266 cases), Call & Jensen (160 cases) and Davis Wright Tremaine (160 cases). Although many smaller practitioners appear on the list, so too do many larger national firms.

Securities

Several governmental actors appear on the list of top firms representing plaintiffs (namely, the Securities and Exchange Commission (SEC) in the top place with 919 cases, the Commodities Futures Trading commission at 11th with 124 cases, and United States Attorneys' Offices at 12th with 107 cases). Aside from those, the firms representing plaintiffs in the securities space tend to be more specialized: Pomerantz, a firm focused on securities and antitrust litigation, had the most cases in the last 5 years with 642 cases, followed by Robbins Geller Rudman & Dowd (453 cases) and then by the Rosen Law Firm (441 cases).

In contrast, the top firms by cases representing defendants are nearly all national big-law firms. Skadden, Arps, Slate, Meagher & Flom (174 cases) narrowly beat out Sidley Austin (169 cases) for the top place. While the number of cases drops off significantly after the top few firms representing plaintiffs, most top firms by defense representations are more closely spaced with many firms tied for rank. Cooley (143 cases); Paul, Weiss, Rifkind, Wharton & Garrison (143 cases) and Wilson Sonsini Goodrich & Rosati (129 cases) fill out the top five ranks.

Antitrust

Similar to securities litigation, the firms representing plaintiffs tend to be smaller and more specialized firms, with some exceptions such as Cotchett, Pitre & McCarthy, which filed the most cases (193) between 2013 and 2017, and the third ranked firm Susman Godfrey, which is also active in a variety of other practice areas.

In contrast, the top firms by cases representing defendants tend to be larger firms with national reach: Latham & Watkins tops the chart with 313 cases, followed by Gibson, Dunn & Crutcher (269 cases), Kirkland & Ellis (233 cases), O'Melveny Myers (220 cases) and Freshfields Bruckhaus Deringer (207 cases).

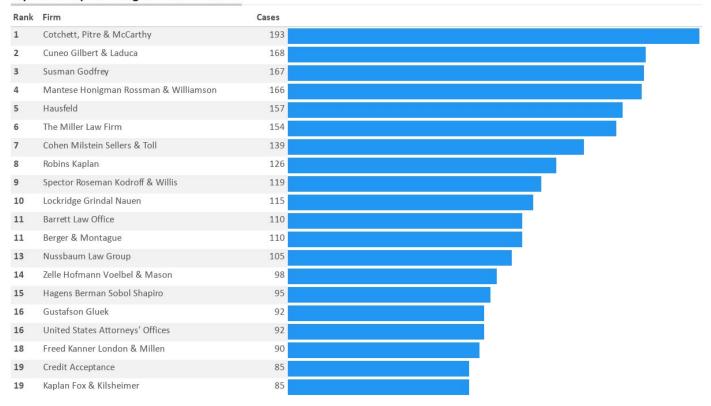
Commercial Litigation

Lex Machina defines commercial cases as those which involve businesses and either contract or business tort claims (including negotiable instruments and franchise agreements, each of which are separately tagged within Lex Machina).

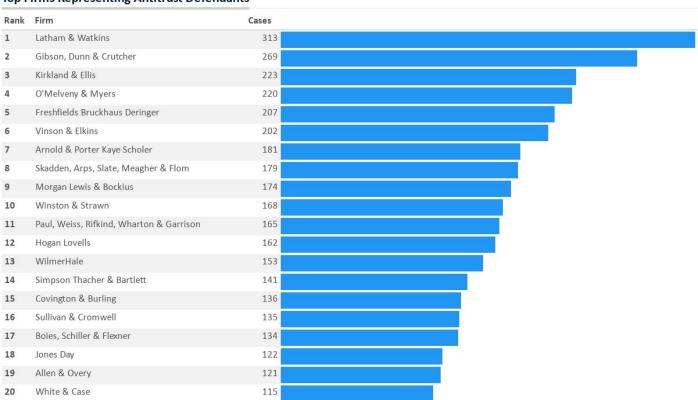
More often than in many of the other practice areas covered this report, law firms (and the parties they represent) appear in both plaintiff and defendant roles. For example, Greenberg Traurig is ranked 4th by commercial cases representing plaintiffs (194 cases), and first by cases representing defendants (214 cases). Other firms appearing on both lists include Bryan Cave (7th representing plaintiffs with 141 cases and 19th representing defendants with 136 cases), Duane Morris (20th representing plaintiffs with 113 cases and 7th representing defendants with 153 cases), and Gordon Rees (11th representing plaintiffs with 126 cases and 2nd representing defendants with 212 cases). Interestingly, Le Clair Ryan, a younger firm with 26 offices across the U.S., is the leading firm representing plaintiffs and has had nearly twice as many cases (564) as the next highest ranked firm (Doniger Burroughs with 207 cases).

Antitrust Litigation

Top Firms Representing Antitrust Plaintiffs

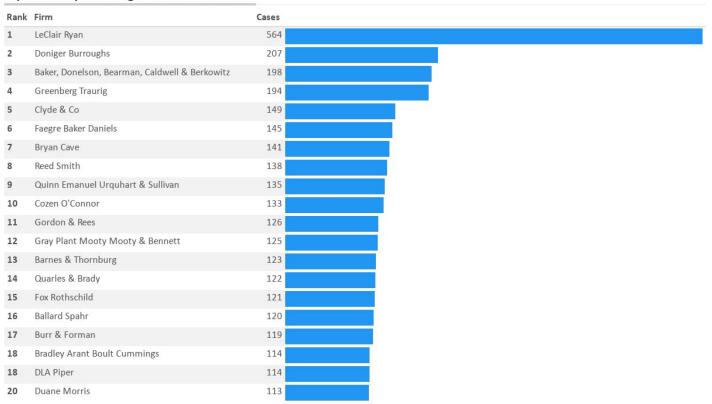


Top Firms Representing Antitrust Defendants

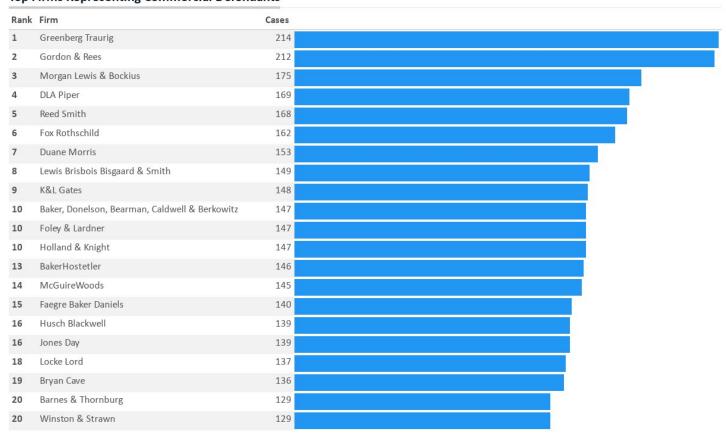


Commercial Litigation

Top Firms Representing Commercial Plaintiffs

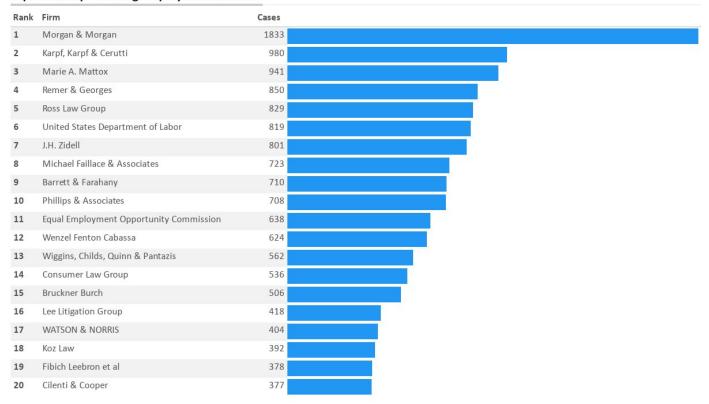


Top Firms Representing Commercial Defendants

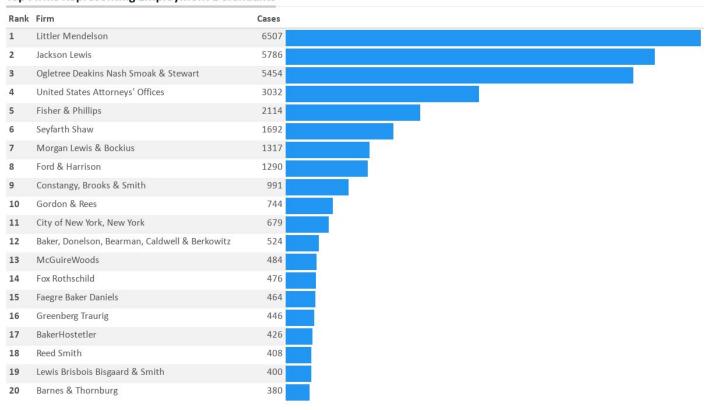


Employment Litigation

Top Firms Representing Employment Plaintiffs

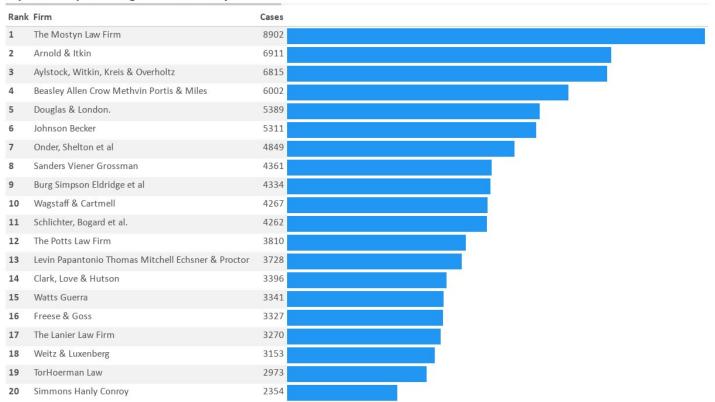


Top Firms Representing Employment Defendants

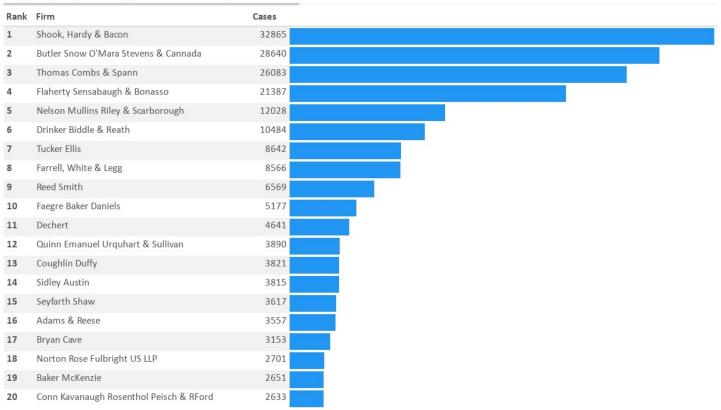


Product Liability Litigation

Top Firms Representing Product Liability Plaintiffs



Top Firms Representing Product Liability Defendants



Analysis: Employment, Product Liability, and Bankruptcy Appeals

Employment

Lex Machina defines employment cases having one or more claims of employment law violation, including: 1) discrimination, harassment, or retaliation under federal employment law based in civil rights; 2) wage and hour claims under the Fair Labor Standards Act (FLSA); or 3) interference and retaliation claims under the Family and Medical Leave Act (FMLA).

The top firms by cases representing plaintiffs tend to be firms that specialize in employment or personal injury: the top firm is Morgan & Morgan (1,833 cases), followed by Karpf, Karpf & Cerutti (980 cases), then by Marie A. Mattox (941 cases). On the defense side, the top 7 firms (excluding the U.S. Attorneys' Offices) all have more than 1,000 cases, and some significantly more. The firms at the very top focus primarily on employment and labor law: Littler Mendelson has had 6,507 case over the five years covered by this report, Jackson Lewis ranks second with 5,786 cases, followed by Ogletree Deakins Nash Smoak & Stewart (5,454 cases), Fisher & Phillips (2,114 cases), and Ford & Harrison (1,290 cases). However, several full service firms also appear among the top ranks with over 1,000 cases: Seyfarth Shaw (1,692 cases) and Morgan Lewis & Brockius (1,317 cases).

Product Liability

Significantly more product liability cases are filed each year than in any other practice area that Lex Machina covers. Many of these cases, however, are associated with multidistrict litigations (MDL), where much of the pre-trial work is done by counsel for a lead plaintiff and counsel for the common defendant(s). Lex Machina tags MDL associated cases, as well as the MDL master proceedings, making it easy for subscribers to focus only on the cases that matter to them. These two charts include MDL associated cases. Along with the ability to independently analyze MDL associated and master cases, Lex Machina offers subscribers tags for product liability product classifications (medical device / pharmaceutical, asbestos, vehicle, aircraft), and for cases that involve subrogation or an order on expert admissibility.

As in many other practice areas, the firms with the most cases representing plaintiffs tend to be specialized in product liability. The Mostyn Law Firm has filed the most cases (8,902). This firm along with the next four firms (Arnold & Itkin with 6,911 cases, Aylstock, Witkin, Kreis & Overholtz with 6,815 cases; Beasley Allen Crow Methvin Portis & Miles with 6002 cases and Douglas & London with 5,389 cases) all focus heavily on pharmaceutical and/or medical device litigation, as do many of the other firms on the list. The top firm by cases representing defendants is Shook, Hardy & Bacon (32,865 cases), followed by Butler Snow O'Mara Stevens & Canada (28,640 cases) and Thomas Combs & Spann (26,083 cases). Many of the top firms representing defendants are national full service firms.

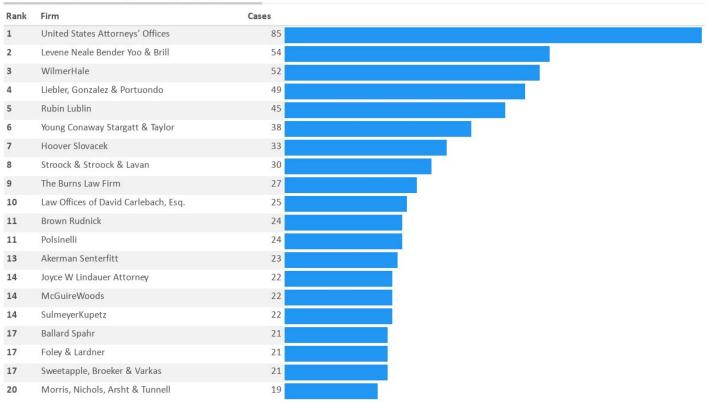
Bankruptcy Appeals in District Court

Lex Machina covers appeals to U.S. District Courts in bankruptcy proceedings. Appellants seek to have the district court modify the decision of the bankruptcy court, and appellees generally ask the district court to affirm. Aside from the U.S. Attorneys' Offices, several firms appear on both lists: Levene Neale Bender Yoo & Brill (2nd by appellant representation with 54 cases and 16th by appellee representation with 47 cases), Young Conaway Stargatt & Taylor (a Delaware firm, 6th by appellant representation with 38 cases, and tied for 16th by appellee representation with 47 cases), and Ballard Spahr (17th by appellant representation with 21 cases and 18th by appellee representation with 46).

More often than in many of the other practice areas covered this report, law firms (and the parties they represent) appear in both plaintiff and defendant roles. For example, Greenberg Traurig is ranked 4th by commercial cases representing plaintiffs (194 cases), and first by cases representing defendants (214 cases). Other firms appearing on both lists include Bryan Cave (7th representing plaintiffs with 141 cases and 19th representing defendants with 136 cases), Duane Morris (20th representing plaintiffs with 113 cases and 7th representing defendants with 153 cases), and Gordon Rees (11th representing plaintiffs with 126 cases and 2nd representing defendants with 212 cases). Interestingly, Le Clair Ryan, a younger firm with 26 offices across the U.S., is the leading firm representing plaintiffs and has had nearly twice as many cases (564) as the next highest ranked firm (Doniger Burroughs with 207 cases).

Bankruptcy Appeals in District Court

Top Firms Representing Bankruptcy Appellants



Top Firms Representing Bankruptcy Appellees

Rank	Firm	Cases
1	United States Attorneys' Offices	447
2	Buchalter Nemer	74
2	Richards, Layton & Finger	74
4	Akerman Senterfitt	73
4	Jones Day	73
4	Kirkland & Ellis	73
7	Pachulski, Stang, Ziehl & Jones	66
8	Greenberg Traurig	65
8	SulmeyerKupetz	65
10	Venable	61
11	Bryan Cave	58
12	Chapter 13 Trustee	56
13	Morris, Nichols, Arsht & Tunnell	53
14	LaMonica Herbst & Maniscalco	51
15	Reed Smith	48
16	Levene Neale Bender Yoo & Brill	47
16	Young Conaway Stargatt & Taylor	47
18	Ballard Spahr	46
19	Cole, Schotz, Meisel, Forman & Leonard	44
20	BakerHostetler	43

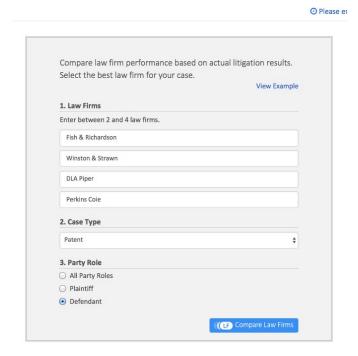
Law Firm Comparator App - Example

Lex Machina's Law Firm Comparator App allows users to see detailed analytics comparing up to four law firms on a single page.

The analytics include case filings, timing to key events, case resolutions, damages, remedies, and findings.

The ability to compare firms this way makes it easy for counsel to make intelligent decisions on the metrics that matter most for the particular case.

The example shown here compares four top national firms as patent defendants.



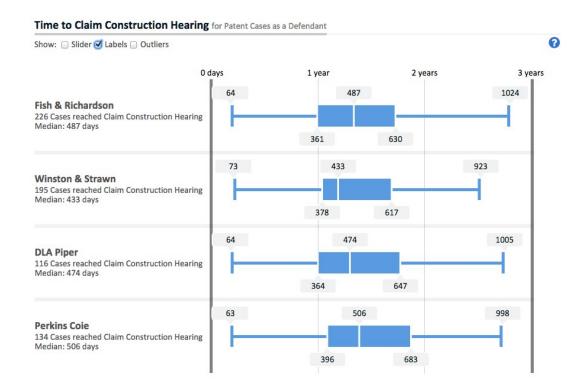
Open Cases as a Defendant

	Fish & Richardson	Winston & Strawn	DLA Piper	Perkins Coie
Open Patent Cases	139	140	69	68
Open Lex Machina Cases 😯	216	500	627	221
Patent Cases Percentage	64%	28%	11%	31%

Terminated Cases as a Defendant

	Fish & Richardson	Winston & Strawn	DLA Piper	Perkins Coie
Terminated Patent Cases	1411	630	685	621
Terminated Lex Machina Cases	1775	1587	6714	1733
Patent Cases Percentage	79%	40%	10%	36%

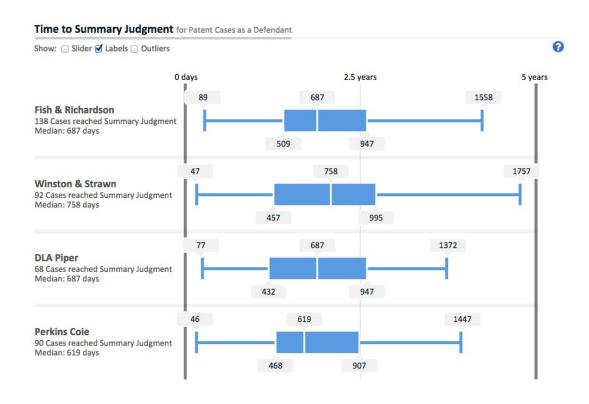




The app shows timing to key events including time to claim construction and summary judgment (shown here) as well as time to contested dismissal, permanent injunction, trial, and case termination.

The center line of each plot represents the median, and the box surrounds the middle two quartiles (from the 25th percentile to the 75th percentile).

This shows, for example, that Winston Strawn has the fast median time to claim construction, but the slowest median time to summary judgment.



Case Resolutions for Patent Cases as a Defendant

	Fish & Richardson		Winston & Strawn		DLA Piper		Perkins Coie	
Cases with Claimant Win Resolutions	29	(2%)	60	(10%)	20	(3%)	22	(4%)
Cases with Claim Defendant Win Resolutions	73	(5%)	51	(8%)	43	(6%)	53	(9%)
Cases with Likely Settlement Resolutions	1097	(78%)	403	(64%)	515	(75%)	419	(67%)
Cases with Procedural Resolutions	212	(15%)	116	(18%)	106	(15%)	127	(20%)
Total Cases with Resolutions	1411	(100%)	630	(100%)	684	(100%)	621	(100%)

Damages for Patent Cases as a Defendant

	Fish & Richardson		Winston & Strawn			LA Piper	Perkins Coie		
	Cases	Damages	Cases	Damages	Cases	Damages	Cases	Damages	
Reasonable Royalty	15	\$3,074,332,289	8	\$115,938,296	10	\$296,731,514	7	\$585,873,594	
Lost Profits (Patent)	2	\$96,418,174	1	\$234,110,000	-	\$0	2	\$41,417,661	
Other / Mixed Damage Types	2	\$17,877,054	1	\$29,000,000	4	\$948,939,341	2	\$4,635,668	
Attorneys' Fees	6	\$29,509,252	3	\$5,893,815	2	\$3,572,227	5	\$5,659,109	
Costs	34	\$4,225,097	22	\$2,120,695	22	\$3,815,634	24	\$2,641,875	
Prejudgment Interest	2	\$15,272,018	2	\$11,305,351	4	\$17,772,285	2	\$10,374,207	

Findings for Patent Cases as a Defendant

Select Finding ▼

Findings of Invalidity

Law Firm	Defaur tiden	indenent on the	Summa, e Pleading	Juden Studenen	Decision Dentas a No.	On Bankruk	Any Judge Appeal	nent Event	*
Fish & Richardson		1	-	11	19	13	2	-	45
Winston & Strawn		-	1	6	17	16	-	-	40
DLA Piper		-	1	4	15	7	1	-	26
Perkins Coie		-	2	10	19	6	1	1	37



Lex Machina 1010 Doyle Street, Suite 200 Menlo Park, CA 94025 Phone: (650) 390-9500 www.lexmachina.com

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