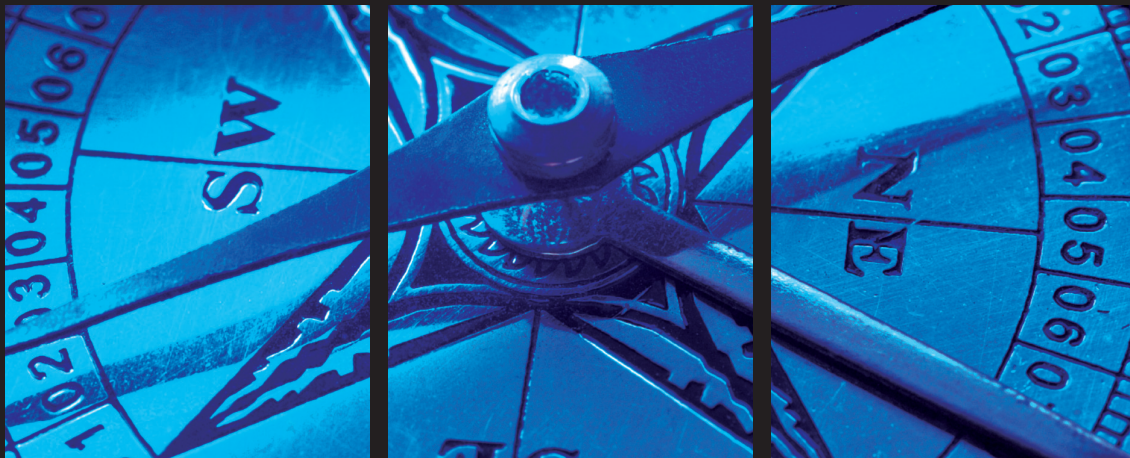


Competitive Intelligence: Improving Law Firm Strategy and Decision Making

ANN LEE GIBSON



Competitive Intelligence: Improving Law Firm Strategy and Decision Making

is published by Ark Group



UK/EUROPE OFFICE

Ark Group Ltd
Paulton House
8 Shepherdess Walk
London N1 7LB
United Kingdom
Tel +44 (0)20 7566 8276
Fax +44 (0)20 7324 2373
publishing@ark-group.com

NORTH AMERICA OFFICE

Ark Group USA
4408 N. Rockwood Drive
Suite 150
Peoria IL 61614
Tel +1 309 495 2853
Fax +1 309 495 2858
publishingna@ark-group.com

ASIA/PACIFIC OFFICE

Ark Group Australia Pty Ltd
Main Level
83 Walker Street
North Sydney NSW
Australia 2060
Tel +61 1300 550 662
Fax +61 1300 550 663
aga@arkgroupasia.com

Commissioning editor
Anna Shaw
ashaw@ark-group.com

Assistant editor
Stephanie Ramasamy
sramasamy@ark-group.com

Managing director
Jennifer Guy
jguy@ark-group.com

UK/Europe marketing enquiries
Robyn Macé
rmace@ark-group.com

US marketing enquiries
Daniel Smallwood
dsmallwood@ark-group.com

Asia/Pacific marketing enquiries
Steve Oesterreich
aga@arkgroupasia.com

ISBN: 978-1-906355-92-0 (hard copy)
ISBN: 978-1-907787-00-3 (PDF)

Copyright

The copyright of all material appearing within this publication is reserved by the author and Ark Conferences 2010. It may not be reproduced, duplicated or copied by any means without the prior written consent of the publisher.

Contents

Executive summary.....	VII
About the author.....	XI
Acknowledgements	XIII
Part One: The CI cycle in law firms	
Chapter 1: Competitive intelligence and the CI cycle.....	3
What is CI?	3
What CI is not	3
CI's scope and focus.....	4
The CI cycle	6
Legal and ethical considerations	7
Important CI distinctions.....	9
Chapter 2: Phase 1 – Direction and planning	13
Introduction.....	13
Clarify the CI assignment requirements and context	13
Common CI planning and direction challenges, and suggested solutions.....	13
Tips for improving your CI planning and direction skills	15
Chapter 3: Phase 2 – Information gathering and organisation.....	21
Intelligence before and after the information age	21
Law firms differ in their will and tools to tap information	21
More relevant (not more) information improves intelligence.....	22
Information inside law firms	23
Information outside law firms	27
In praise of law firm librarians.....	29
Tips for improving information collection and organisation skills.....	29
Chapter 4: Phase 3 – Analysis, synthesis and distillation.....	33
<i>By Bill Fiora and Ann Lee Gibson</i>	
Analysis draws actionable, relevant insights from external information	33
Analysis failures and criticisms	34
Analysis may be simple	35

Planning and structuring the analysis	35
Legal industry knowledge is necessary to good analysis.....	38
Blind spots and biases undermine analysis	38
Being more precise about uncertainty	39
Tips for improving your analysis skills	41
Chapter 5: Phase 4 – Dissemination, feedback and improvement	45
Dissemination	45
Formal, written intelligence reports	46
Oral presentations	48
Feedback	51
Improving CI	53
Tips for improving your dissemination skills	54
Part Two: Law firms’ unique CI challenges	
Chapter 6: Attributes peculiar to the legal industry and law firms	59
Law firms have many competitors	59
What law firms compete over.....	60
How law firms organise themselves to deliver legal services	60
Law firms and the people who work there	62
Chapter 7: Law firm CI structures, functions and staffing	67
First find a client; then find an analyst	67
Decide if your firm will really profit from CI	67
How can we get started?	68
Law firm CI structures	70
Qualifications of law firm CI practitioners	73
Chapter 8: Typical law firm key intelligence topics and CI assignments	77
Current law firm KITs focus on the most valuable prizes	77
CI’s surprise-avoidance responsibilities	79
CI’s responsibility to create an intelligence culture	80
Part Three: Expansion areas for law firm CI	
Chapter 9: The role of CI in shaping strategy	85
<i>By Andrew Hedley</i>	
The importance of competitive intelligence in law firm strategy development	85
Always think about the strategic triangle	86
Using CI and client preference to create service strategies	87
Recipes not ingredients.....	88
Competitor analysis does not equal competitive analysis.....	90
Using CI intelligently	93

Chapter 10: Human intelligence and elicitation techniques	95
<i>By Catherine Foley</i>	
HUMINT is highly valuable, but often underused.....	95
Selection of sources	96
Initial approach – Keeping it legal.....	96
Methodologies.....	97
Elicitation	99
The hourglass model.....	101
Basic elicitation techniques	103
Getting started.....	106
Chapter 11: Scenario planning in law firms.....	107
<i>By Ken Sawka</i>	
What might the future hold?	107
If you cannot predict the future, why plan for just one?	108
Getting started.....	109
Five-step scenario-planning process	110
Flexible plans and programmes are safest	113
Index	115

Executive summary

COMPETITIVE INTELLIGENCE (CI) is garnering resources within law firms and is now seen as a useful business tool. Long used in other industries and professional services firms, CI as a discipline entered the legal services arena less than ten years ago.

As the global economy slowly emerges from 'the great recession', CI now arouses greater interest in law firms than ever. The legal profession and legal services industry are examining closely the value they deliver to clients and how they resource and price their services. Old and emerging law firm models are being challenged as firms and other industry players seek new advantages over their competitors. Conveniently, CI is a discipline designed to do just that – help a firm identify, create and sustain new competitive advantages and vault ahead of its rivals.

This report is aimed at a broad audience – partners and senior managers of law firms, CI practitioners and others inside or outside law firms who want to understand how CI can be applied in that setting.

It takes a highly practical look at how CI is applied in this space. It addresses how CI in the legal industry is similar to and distinct from CI in other industries, the challenges peculiar to law firms, typical law firm key intelligence topics and assignments, and more.

This report will surprise some readers when it describes how some firms are already executing the full range of CI activities as that discipline is practised in

the corporate world. As with other business disciplines once considered 'not for law firms', the full spectrum of CI activities, legally and ethically executed, is rapidly being accepted by more law firm leaders.

The greatest demand in law firm CI these days is for sophisticated analysts with strong legal industry knowledge, business savvy and broad analytical skills. Without their eventual contributions, CI in law firms will not advance beyond information gathering, which, although useful, cannot offer decision makers the fuller benefits of actionable intelligence.

Whether your firm already has informal CI in-house capabilities and wants to upgrade them, wishes to engage the services of external CI consultants or hopes to learn how to utilise its existing CI resources to become more competitive, this report will help you decide where to start.

Part One provides an overview of CI as it is applied in law firms. This section includes detailed descriptions of processes and tools law firm CI practitioners use in each of the CI cycle's four phases to plan and design intelligence projects; gather and organise information; analyse, synthesise and distil information into actionable insights; and disseminate that intelligence to decision makers. These first five chapters describe common CI challenges and offer suggestions about how to overcome them. Chapters 2-5 close with tips for law firm CI practitioners at all levels – beginner, yeoman and guru – to advance their skills.

In Chapter 1, we consider the basics of CI – what it is and isn't. The CI cycle is described, as well as ethical considerations that must be satisfied when developing or using CI.

Chapter 2 explores ways law firm CI practitioners can work with harried busy clients (law firm partners) to clarify project requirements and produce actionable intelligence. The dangers of over-the-transom assignments are described along with suggestions for overcoming this problem. This chapter describes how CI practitioners can become more conversant with frequent CI clients' needs to develop intelligence that is more useful and timely.

Chapter 3 focuses on information gathering – the types and sources of information (both primary and secondary) available to law firm CI practitioners. It also explores how information can be organised and prepared to make analysis easier and more revelatory. In an information age best characterised by 'information overload', we consider the reliability of information and ethical considerations related to information collected from social media and human sources.

Chapter 4 demystifies analysis, that essential phase of the CI cycle where information is converted into intelligence. Common analytical tools and processes are described that CI practitioners use to find patterns in information collected, leading to actionable insights. The biases and blind spots that prevent analysts and decision makers from developing and using the best intelligence are also explored.

In Chapter 5 we look at how CI practitioners should disseminate actionable intelligence to decision makers who are lawyers. We also investigate how a CI unit can evaluate and improve its CI processes and products, the firm's decision making processes, and CI's ultimate value.

Part Two of this report contains three chapters that focus on peculiar aspects of the legal profession, the legal industry, law firms and lawyers. The evolution of law firm CI functions and structures is described, citing different ways CI units are staffed and located within firms. This section also details typical law firm key intelligence topics (KITs) and CI assignments.

Chapter 6 describes ways in which law firms, lawyers and their CI needs present peculiar challenges to CI practitioners new to the legal services arena, often causing fatal stumbles. This chapter helps new entrants recognise and respond successfully to these challenges.

Chapter 7 describes the rapidly evolving nature of law firm CI units. Eight different organisational and staffing models are described – from a firm with part-time researchers who provide basic information briefs to a global law firm that can claim one of the most sophisticated CI functions in any industry.

Chapter 8 describes common law firm KITs and CI projects, both strategic and tactical. CI assignments around both reactive and proactive decisions are discussed. The CI unit's responsibilities for helping the firm avoid significant surprises with upside and downside potential and creating a firm-wide intelligence culture are explored.

Part Three of this report explores three areas of imminent expansion for law firm CI. Chapter 9 describes how law firms harness CI's insights to shape successful strategies that guide the firm, and its practice and industry groups.

Chapter 10 describes the growing use of human intelligence in law firm CI. It details the ethical techniques firms can use to elicit that intelligence from knowledgeable persons. This chapter also identifies human intelligence sources often useful in law firm CI.

Chapter 11 offers a primer in scenario planning. It describes how law firms can use this popular CI tool to build the dynamic, flexible plans now required in a rapidly changing global environment.

Contributors to this report include authors from Checkmate Intelligence, GE Healthcare, Hedley Consulting and Outward Insights.

About the author

ANN LEE GIBSON, Ph.D.

Ann Lee Gibson advises law firms on projects and issues surrounding new business development and competitive intelligence. She trains and coaches lawyers and business development professionals in the areas of high-stakes competitions, sales presentations and competitive intelligence, and helps firms develop CI and proposal systems.

Since Ann began her consulting practice, she has helped law firms compete for and win more than US\$600m in new business.

As the chief of two US law firms' marketing and business development functions – at Nossaman and Gibson, Dunn & Crutcher – she worked with firm leaders and lawyers to identify and respond to new business opportunities. She and the groups she led developed winning proposals for use with prospects and planned and coached lawyers' sales presentations. Beginning in the early 1990s, she pioneered law firm client satisfaction feedback programmes.

Ann has authored scores of published articles on strategic and competitive intelligence, new business competitions and the changing legal marketplace. Her writings have been published in the *National Law Journal*, *Strategies*, *California Daily Journal* and the American Bar Association's *Law Practice*. She and her work in competitive intelligence have been profiled in the *ABA Journal*.

She speaks regularly at law firm retreats and legal industry conferences, including those of the Legal Marketing Association (LMA), the Marketing Partner Forum, the CMO Forum and the Annual Law Firm Competitive Intelligence Forum. She facilitates conversations among corporate general counsel and law firm management who gather to discuss issues of importance.

She earned a Ph.D. from the University of Texas at Austin in educational research and programme evaluation and a B.S. in chemistry from Mississippi College.

In 2006, she was inducted as a Fellow into the College of Law Practice Management, which recognises distinguished law practice management professionals. In April 2009, she was also inducted into LMA's Hall of Fame. This lifetime achievement award honours individuals who have made extraordinary contributions to the legal marketing industry and represents the highest levels of experience and leadership in legal marketing.

Ann's work is detailed at www.annleegibson.com. She blogs on law firm competitive intelligence issues at <http://lawfirmci.blogspot.com>. She can be contacted at agibson@annleegibson.com.

Acknowledgements

THANKS ARE due to the many individuals and firms who were involved in the research and writing of this report. Contributors to the report include authors from Checkmate Intelligence, GE Healthcare, Hedley Consulting and Outward Insights.

The report also benefits enormously from the experiences and generous insights of competitive intelligence practitioners and decision makers at Akin Gump, Ballard Sparr, Bennett Jones, Best Best & Krieger, Borden Ladner Gervais, Crowell & Moring, Dorsey & Whitney, Eversheds, Haynes and Boone, Hogan Lovells, King & Spalding, Linklaters, Nixon Peabody, Nossaman, Orrick, Parker Poe, Paul Weiss, Perkins Coie, Pierce Atwood, Russell McVeagh, White & Case, Winston & Strawn and other law firms around the world.