



# ANALYTICS *EXCELLENCE* WEBINAR SERIES

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# Examiner and Art Unit Prosecution Analytics

Useful or Misleading?

Mark Stignani & Thomas Marlow



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# What are we covering

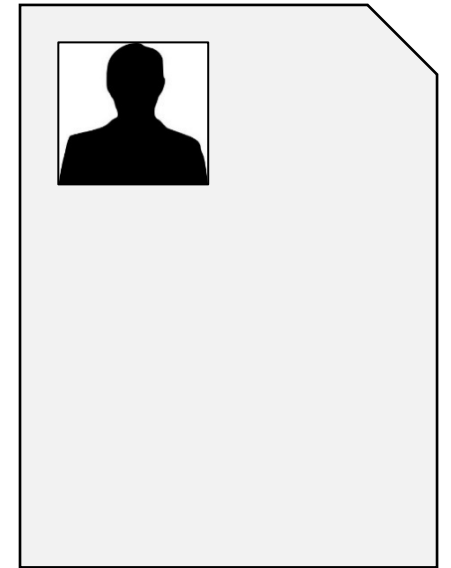
- Available Tools and Data
- What is actually useful
- How to use it
- What are the red herrings

# Available Tools and Data

- Commercial Vendors
  - LexisNexis PatentAdvisor® (Patent Core)
  - Juristat (IPFolio)
  - Patent Buddy®
  - Judicial Statistics
- Free Sites
  - Patent Examiner Ninja
  - Examiner Watchdog

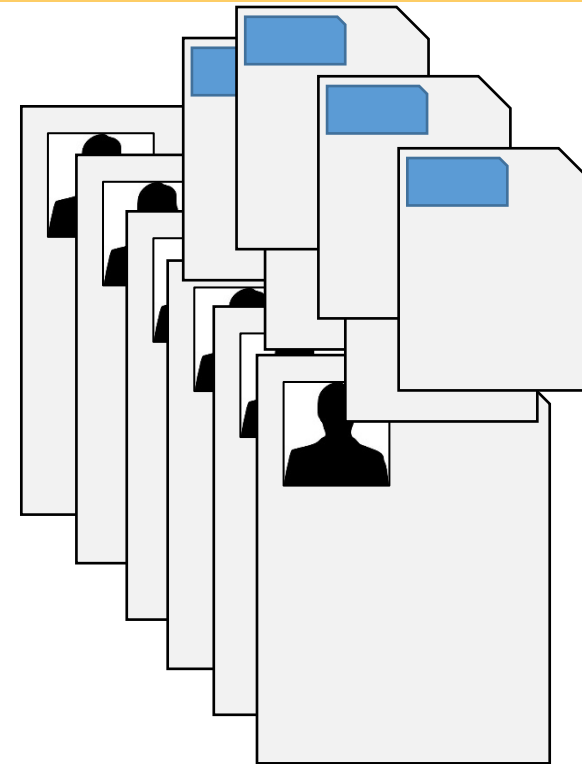
# Examiner Data

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



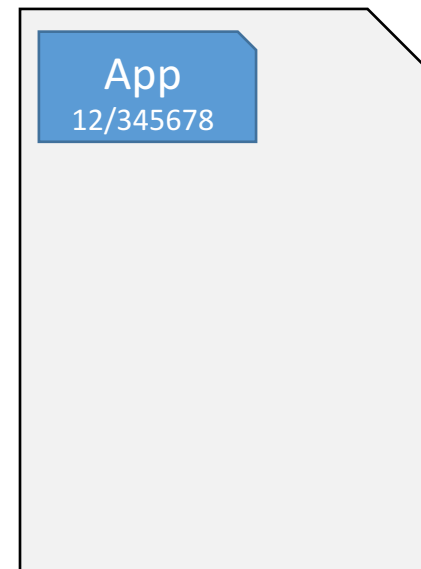
# Portfolio Examiner/Art Unit Data

- 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



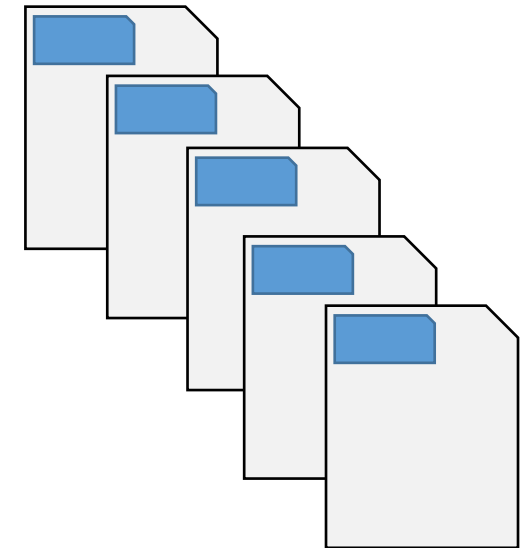
# Basic PAIR Data

- 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



# 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



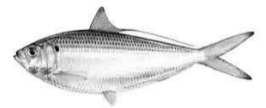
## Reddest

- 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

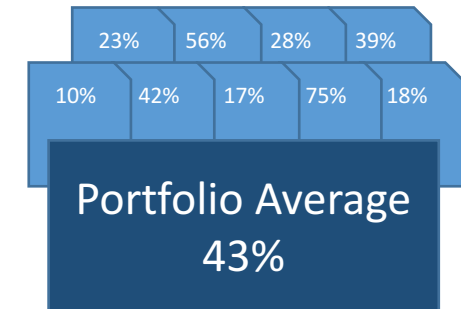
- Portfolio Level Statistics (Above 100 matters)

### 2017 Issuance Prediction



56%

### 2017 Issuance Prediction



# 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

# Analytics *Excellence* Webinar Series

## Discussion & Questions

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## Patent Annuity Pricing Analytics

Deconstructing Patent Annuity Service Pricing

December 8

1:00pm Central