



Knowing Your Competition

Can **competitive intelligence** make your firm extraordinary?

BY JOHN MCGONAGLE

The answer to that question is yes. Why? Because effective competitive intelligence (CI) is a critical function for every business of any size and, so far, those in the legal business have not made good use of it. This is not to say that CI is brand new to the practice of law. A little quick research will show you that numerous large and medium-sized firms have announced that they are involved in CI and even have full-time competitive intelligence professionals on staff. Why? Because CI is designed to provide you with important information that you need to make decisions. But CI does not have to be limited to the largest firms. Any firm, even sole practitioners, can do it and benefit.

CI is broader than looking at your competitors, although that is a critical element. It can also involve looking at your clients, your potential clients (as when responding to RFPs), your former clients, potential partners and other factors that influence how you practice your profession and conduct your business. CI involves:

- the identification of information that you need on the competition and the total competitive environment;
- the collection of raw data, using legal and ethical means, from public sources;
- the analysis of that data, using any one of a wide variety of tools, converting it into intelligence on which you can take action; and
- the communication of the finished intelligence to the decision maker(s) for their use if you are working for them.

To understand CI, you first must clearly understand what CI means by “public,” that is, where the raw data you need is located. “Public” in CI is not limited to published; it is significantly broader. In CI, public encompasses all information you can legally and ethically identify, locate and then access. It ranges from documents filed as a part of a local zoning application to the text of a press release issued by a competitor’s marketing consultant describing its client’s proposed Internet marketing strategy.

COMPETITION

For purposes of this article we'll just limit our focus to your competitors. Well, exactly who are your competitors? Certainly law firms in your geographic area, as well as law firms that engage in similar areas of practice are all competitors. But your competitors, and your potential competitors, are broader than that. For example, if a major business client is considering bringing part of its legal practice in house, its new general counsel is now a "competitor." Firms with which you have previously associated, that now decide to expand into an area that you have already staked out for your firm, can shift a cooperative relationship to a competitive one overnight.

What about attorneys who have been involved with your firm in the past? In that regard, not only think about individuals who left your firm for positions elsewhere, whether associates or partners, but consider also summer associates. All of these people accessed your firm and can provide useful information to your competitors, if not become competitors themselves. What kind of decision making can CI help with? This list is just a small part of where it can help you deal with direct competitors:

- What clients should you seek?
- What client industries should you focus on?
- How should you price services? By the hour or by the project, or on some other basis?
- What ancillary services should you offer, if any?
- Which practice areas should you invest in and which should you move away from?
- Should you grow? If so, how fast, where, and why?
- What technology should your firm invest in?

COLLECTING CI

Right now, let's focus on what kind of CI you can collect on your direct competitors, including on your corporate clients' legal staff. But before we get to that let's deal with one question. Are there any ethical or legal issues blocking the collection of and use of competitive intelligence? The answer is no. Ethical standards covering legal practice deal with advertising. If you wish to look at ethical standards dealing with collection, visit www.scip.org/About/content.cfm?ItemNumber=578&navItemNumber=504 and read the ethical standards

of the Strategic and Competitive Intelligence Professionals. Essentially, so long as you are not violating trade secret laws, misrepresenting yourself, engaging in dumpster diving or involved with disinformation practices, you will be fine. Here is a test: Do not do anything, when collecting CI data, that you would not want to see described on the front page of your local newspaper the next morning.

So what kind of CI can you expect to generate on your competitors? Major clients, practice areas, new lateral partners and associates, size, growth patterns, offices, legal technology in use, salary ranges, and client development activities are but a few.

RESOURCES

Let's take a quick look at what resources you have and where you should look to develop this kind of CI. But before you even start, realize that conducting competitive intelligence is an ongoing process. It is not something that you do one time and then leave the results in a file for future use. One-time looks at a competitor are almost always misleading simply because your intelligence is old. You really must put continuing efforts into tracking key competitors. That way you can spot opportunities and protect yourself against threats. So what kind of resources can you use?

The Competitor: The first place you should check are your competitors' own website pages, Martindale listings, etc. And don't just stop at the first page; follow every link to every place on the site. Look at it as a potential client. What message are they trying to deliver? Are they using blogs or other social media to deliver that message? How effectively are they delivering that message? And once you look at this, come back and check it regularly. There are services, such as *changedetect.com*, that can send you an alert every time a competitor updates its website so you do not check it every day or every week. Consider using one of those services.

Publications: You are probably inundated with subscription requests for online and hardcopy publications from national, state, county and local organizations. Instead of looking at them

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as sources for advertising, or sources for industry news about your clients, review them as potential sources for competitive information. For example, do they highlight comings and goings at law firms – or even more? Consider regularly accessing local newspapers that cover key competitors if you are not in the same service area as your daily newspapers. Depending on the size of your firm and the nature of its practice, the resources you should be considering range from details that AmLaw collects on the AmLaw100, to checking out who is representing competitor firms at county bar association functions.

Legal research services: You probably subscribe to one of the major legal research services – West, Lexis or Bloomberg. If you do not, you most certainly have arranged to get access to at least one. Look at the services as providing more than simply research for your clients. View them as providing research on other attorneys and their clients. While some of these have specific ways of highlighting the relationship between the client and its law firms, those features are often limited to the very largest publicly traded companies. Learn how to use docket searches, particularly if you are not a litigator, to identify who is currently representing a given company and who are the lead partners in litigation. At least every quarter, you should run a search on your own clients through the dockets to see who is representing your client in court at that moment. The fact that a client has gone to another firm for a piece of litigation, even if that litigation does not fall within your specialty area, can be an early warning that there is now a potential competitor eyeing your client for your area of business. What about primary research?

- First, take a look in your own firm. Which partners and associates within your firm have had any contact whatsoever with a competitor? Perhaps that has been at a bar association committee meeting or while serving as co-counsel when your partner worked at another firm. Spend a few minutes getting background about what they think, and on what they know about the firm. You also should consider talking with your own clients about how they view other law firms. This is obviously a very delicate matter. And you certainly do not want to encourage them to violate any confidences, but having a client tell you that they met with someone from another firm and felt that they were “unqualified” or “pushy” can be a very valuable insight.
- Now that you’ve talked to the professional members of your staff, talk to the other members of your staff, your paralegals, research assistants, clerical staff, etc. They may also have come in contact with competitor firms.

Keep in mind that you are not interrogating your lawyers or the staff – never, never make anyone feel under pressure to discuss a previous employer. The safest thing to do is to say that you want to talk to him/her, but that you do not want to talk about anything that is sensitive or confidential. And if they feel that they cannot talk, well that is fine too. And then stick to this. Using existing Internet-based services:

- General background searches: You can use Google or you can try some of the commercial “deep web” services to develop background on a specific person, including from public records. Two of these commercial services are

BizNar.com and Papi.com. But, with any Internet research, the results are only as good as the sources. For example, when I did a search on myself, I was surprised to find I am listed as a partner in a firm that our firm joint-ventured with several years ago.

- Business social networking: LinkedIn is a very useful site to use to check on people and relationships. For example, if a competitor firm is on LinkedIn, you can "follow" it. You can also review to whom your competitors are connected, or from whom they have recommendations, as well as job openings they have posted. And you can do much, much more.
- State law licenses: llrx.com/features/lawyerlicenses.htm provides direct links to state databases so you can check out bar admissions, licensing status and disciplinary history of individual attorneys.

- Political relationships: *OpenSecrets.org*, aimed at tracking political influence, allows you to cross-check attorneys, their law firms and their clients in terms of political donations.

Using CI can only help your firm get better; not using it may cost you its very existence. ✱

About the author



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