



How Founders Legal Maintains Its Competitive Edge Using LexisNexis PatentAdvisor®

The PatentAdvisor™ solution is allowing an entrepreneurial law firm to increase transparency, set expectations and win more clients.

At a glance

FOUNDERS LEGAL
BEKIARES ELIEZER LLP

Customer

Founders Legal

Requirements

- Gain visibility into the patent prosecution process to improve prosecution outcomes
- Save time and increase ROI with data to determine the prosecution strategy most likely to succeed with specific patent examiners
- Generate more business by distinguishing the firm's competitive prosecution performance

Solution

With PatentAdvisor, Founders Legal is able to leverage market-leading examiner analytics to determine the strategy most likely to succeed with the patent examiner they have been assigned and market their firm's competitive prosecution performance with real-time fully customizable, comparative PatentAdvisor™ Benchmarking Reports.



“Understanding whether the examiner is one who tends to grant a lot of patents or tends not to changes the whole tone of the discussion.”

**Megan McLoughlin,
IP attorney,
Founders Legal**

Founders Legal

Based in Atlanta, Georgia, Founders Legal is a tech-focused, distributed law firm that provides legal services across the U.S. And while the firm is made up of an entrepreneurial team, it serves clients of all sizes, at all stages of development and prides itself on its business and operational efficiencies. With a team of attorneys who have extensive experience and deep understanding of the latest technological advances, the firm works with rapidly growing companies located in top U.S. tech hubs—from Austin, Boston, and Chicago to Los Angeles, San Francisco, Washington, D.C., and New York City. The firm’s diverse portfolio of industry specialists means it can tackle innovations in anything from artificial intelligence and blockchain to fintech, fashion, e-commerce and the cannabis industry.

An insider's view

At Founders, patent attorney Megan McLoughlin is not only a regular user of PatentAdvisor in her work advising the firm’s clients, she also has a unique understanding of it that comes from an insider’s perspective. Before joining Founders in 2022, McLoughlin spent seven years as a LexisNexis® Intellectual Property Solutions product manager helping develop PatentAdvisor.

“When I had the role, people would ask me what I did and I struggled to come up with a concise way of explaining it,” she says. “But essentially, it’s determining the strategy and roadmap for the product and seeing that through by making sure it does exactly what customers want, that it’s developed in the right way and that it meets expectations.”

At the time, what customers wanted was a way of gaining better visibility into a patent prosecution process in which patent examiners operated very differently to one another. “You might submit a patent application to one examiner and get one result and submit the exact same application to another and get a very different result,” she says. “This was known but there was no data to prove it out.”

PatentAdvisor grew out of this demand for data. And McLoughlin sees its initial purpose—gaining insights into the behavior of different patent examiners—as remaining critical. “It’s well established at this point that it’s important to know who’s on the other side of the negotiating table,” she says.

In some cases, this enables applicants to choose how to characterize their innovation—by focusing on the novelty of, say, an artificial intelligence model rather than on its business method—so that it ends up being reviewed in an art unit (a team of examiners within the patent office) that has much more favorable outcomes for applicants.

“We built a tool within PatentAdvisor that helps you adapt the way the technology is characterized,” says McLoughlin. “In some situations that can lead to a different classification being assigned to it—and based on that it goes to a particular group of examiners.”

A new ability to set expectations

Not every innovation can be framed in a way that allows it to move between classifications. And given that most applicants have no choice over individual examiner, a key advantage of PatentAdvisor is that it provides the data needed for innovators and their attorneys to design the strategy most likely to succeed with the patent examiner they have been assigned.

“The data is most helpful for increasing transparency and making for better communications between clients and their attorneys.”

**Megan McLoughlin, IP attorney,
Founders Legal**

First, says McLoughlin, if they are aware that the application is likely to be a long haul, clients can decide whether or not to increase the budget or, if the application is not that important to them, they can abandon it and focus their efforts and resources elsewhere.

More specifically, insights into examiner allowance rates (the rate at which they issue patents) and what influences them can change the procedural options an attorney presents to a client. It might, for example, mean seeking an interview with the examiner. “If you have an examiner who is trying to find allowable subject matter, it helps to get on the phone with them,” says McLoughlin.

On the other hand, if the application is going to an examiner who, as the data shows, is highly likely to block it, the attorney might suggest a different strategy. “If you really care about an application, you want to get the claims in condition for appeal early on and consider appealing after the first final rejection,” says McLoughlin. “And, PatentAdvisor also has statistics on how applicants fare on appeal.”

One PatentAdvisor tool that helps navigate the variables is PatentAdvisor ETA™ (Examiner Time Allocation), which goes beyond allowance rates when analyzing an examiner’s behavior. ETA looks at all pending applications and factors in how long the examiner has been at the United States Patent and Trademark Office. The tool’s algorithm is also driven by the examiner’s behaviors, not by the filer’s actions.

However, while it informs application strategies, McLoughlin argues that one of the most important things PatentAdvisor can do for attorneys is to help set expectations, particularly when an application lands in the hands of an examiner with a low ETA score in terms of both the likelihood and the difficulty of obtaining a patent.

“There will be times when you see the statistics and they are just bleak, there’s not much chance of success and there’s not a lot you can do to change that,” she says. “But at least now your client knows.”

New insights enhance the capability to compete

When developing PatentAdvisor, the LexisNexis team soon became aware that data could do more than increase understanding of patent examiner trends—it could also be used to create profiles of companies and law firms and their performance.

First, firms can learn about their own performance—something that is a powerful tool in building confidence among clients. “You can have a report card to show to clients that objectively you get these particular results, which is exciting for lawyers,” says McLoughlin.

In addition, the data enables firms like Founders to learn about its existing and potential clients. It reveals, for example, which law firms companies are currently using and enables a firm to compare its own

outcomes with those that potential clients are getting with other firms.

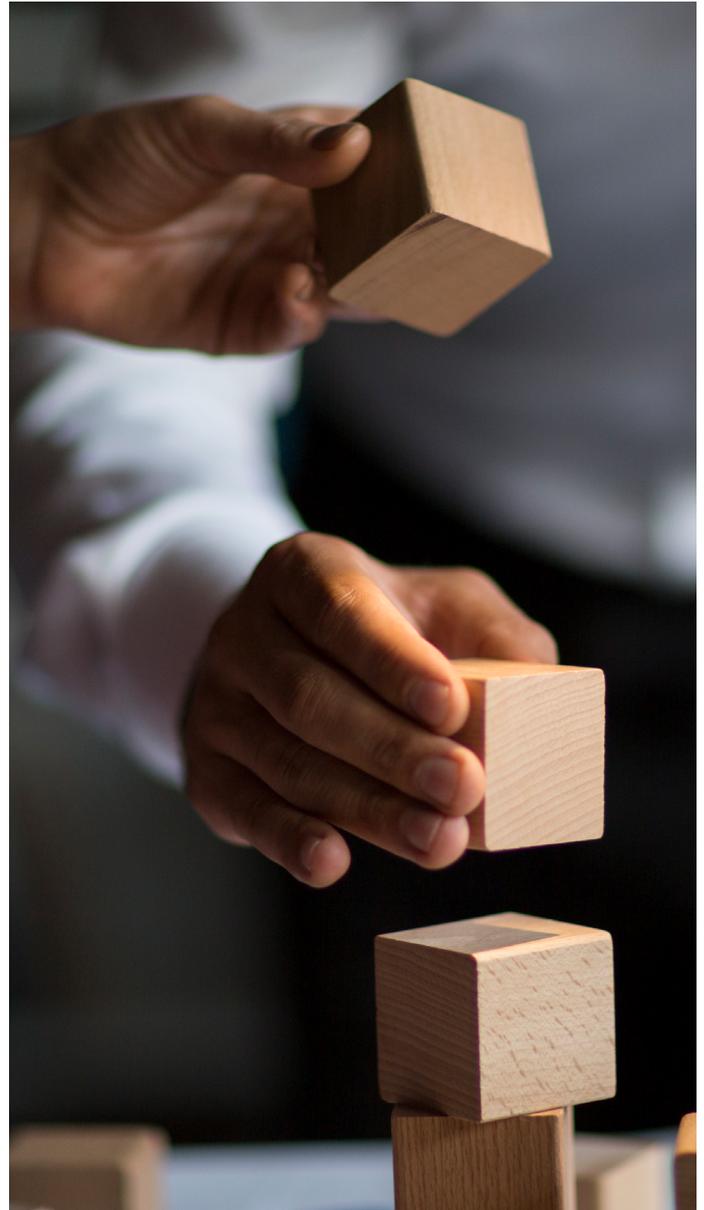
The information also tracks how many patent applications a company has already filed and whether it is likely to be subject to a particular type of rejection.

For a firm looking to win a client or deepen a relationship with an existing one, these insights are extremely valuable. “Clients like to know you’ve done your homework,” says McLoughlin. “So to be able to walk into a meeting with background on what their portfolio looks like and where their struggles might be impresses them.”

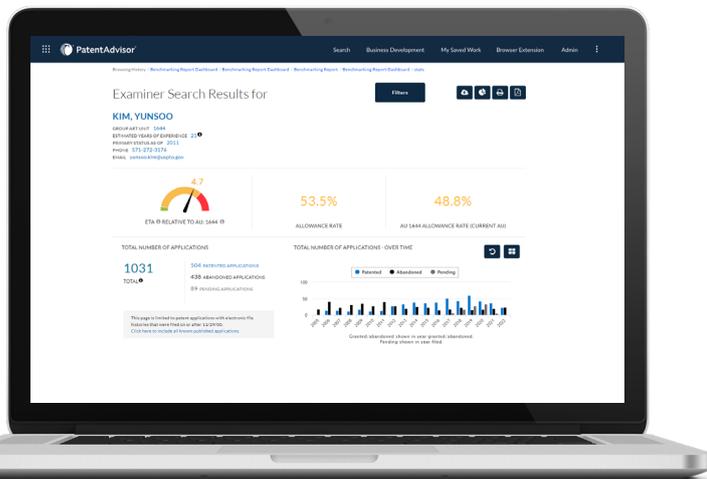
In a part of the legal industry where the bar for entry is already high (patent lawyers must have a degree in a technical discipline before they even start their legal training), this helps firms like Founders to stand out from the crowd. “It’s a competitive world out there for law firm attorneys,” says McLoughlin. “It’s really hard to distinguish yourself and, for me, this is how I do it.”

“Being so much better informed and having these extra pieces of information—that’s huge. That can be the difference between getting a client or not getting the client.”

**Megan McLoughlin, IP attorney,
Founders Legal**



Bring Predictability and Productivity to Your Patent Prosecution Process



Anticipate an examiner's behavior for better prosecution outcomes

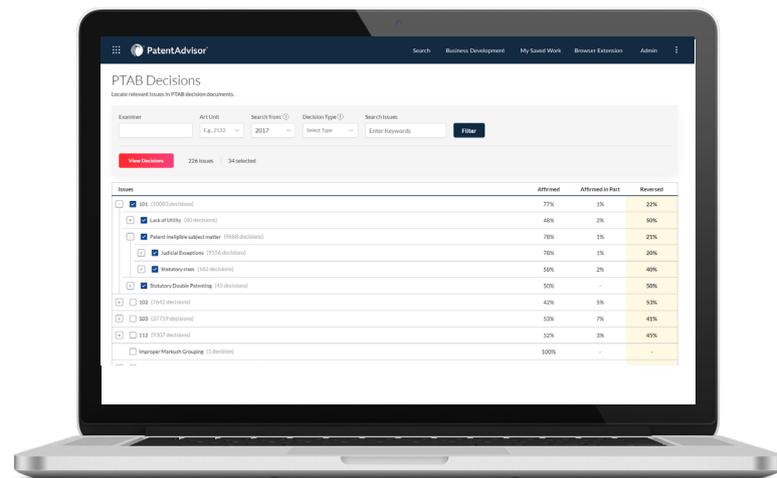
PatentAdvisor Examiner Time Allocation (PatentAdvisor ETA™) is a more reliable predictor of examiner behavior than allowance rate because it:

- Includes all pending applications
- Factors in how long the examiner has been at the patent office
- Is driven by the examiner's behaviors, not by the filer's actions

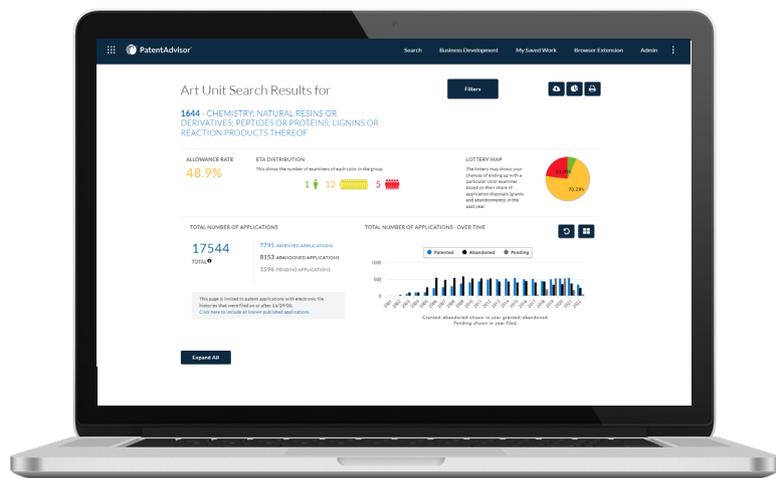
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Predict the likelihood of winning the examiner lottery and identify high-risk cases

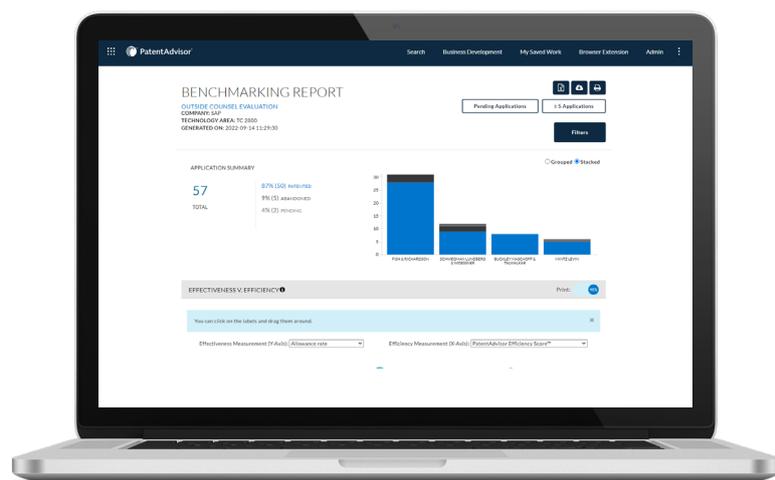
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Promote your impressive prosecution performance

Quickly create insightful data-backed prosecution performance reports with the PatentAdvisor™ Benchmarking Reports feature.

- Compare and benchmark your firm's prosecution performance against that of your competition.
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