



Trademark Likelihood-of-Confusion Test Revisited with Deep learning

Samuel Dahan, Director of CAL, Professor at Cornell Queen's
Former Référendaire, General Court of the European Union



Queen's | LAW



 **Columbia Business School**
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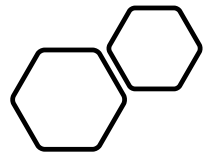
HEC
PARIS

University Consortium



Vision

Improving Conflict Resolution with Analytics





Trademark

Supervision team

- Samuel Dahan, Cornell-Queen's
- Xiaodan Zhu, ECE Queen's, Vector Institute
- Maxime Cohen, McGill, Google AI

Research team

- Rohan Bhambhonia, ECE Queen's
- Simon Townsend, Queen's Law
- Sean Gulrajani, Queen's Law

Advisory Team

- Sven Stürmann, EUIPO
- Aymeric de Moncuit, CJEU
- Christophe Roquilly, EDHEC Business School

Challenges (1)

1. Finding similar trademarks (application stage)
2. Comparing trademarks (registration stage and opposition proceedings)
 - Comparing trademarks is a complex task
 - Current assessment test is not fully data-driven or objective
 - Inconsistent case law and lack of precision





Challenges (2)

3. The Dispute Resolution process: do we need five levels of assessment?

- Examination
- Opposition
- Board of Appeal
- GC
- CJEU

Innovations



1. Analytics for Trademark Retrieval (application stage)



2. Image and text classification with deep learning for confusion assessment (application and opposition stage)



3. Online Dispute Resolution system with integrated analytics system

1. Finding similar trademarks: TMView (brilliant system)!

TMview

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Find term

Contains


Search by trade mark name, application and registration number.

Search


Clear

This is a beta functionality, currently supported by these offices: BX, PT, CZ, EM, IT, GB, ES, SI, SK, EE, BG, FR, RO, AT, CY, FI, GR, HU, IE, LT, MT, SE, HR

Select search device



Click on the red box, or draw your own by clicking-and-dragging on image to select an area.

Advanced Options 

☐ Colour (searches only for colour per se trade marks)

Change image

Beta powered by TrademarkVision

Advanced search




Filters

of results

WIPO Global Brand DB

Page 1 of 99

10 20 30 50 75 100 | Displaying results 1 - 10

	Graphic representation	Trade mark name	Trade mark ...	Designated ...	Application number	Registration number	Trade mark status	Nice class	Applicant name	Application date	Trade mark type	Registration date
)		STARBUCKS COFFEE	SE	SE	2007-07637	396152	Registered	7,11,21,25,30,42	Starbucks Corporation	19-09-2007	Figurative	13-06-2008
)		STARBUCKS COFFEE	EM	EM	003086014	003086014	Registered	35,36,43	Starbucks Corporation	05-03-2003	Figurative	23-08-2004
)		STARBUCKS COFFEE	SE	SE	2009-09410	410735	Registered	30	Starbucks Corporation	23-11-2009	Figurative	30-04-2010

1. Finding Similar Trademarks: Limitations (1)

TMview

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English (en)


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Find term

Contains Search by trade mark name, application and registration number.

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Select search device



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Advanced Options ⓘ

☒ Colour (searches only for colour per se trade marks)

Change image

Beta Powered by TrademarkVision

Search Clear








Advanced search Filters

List of results

WIPO Global Brand DB

Page 1 of 100

10 20 30 50 75 100 | Displaying results 1 - 10 of 1000

	Graphic representation	Trade mark name	Trade mark ...	Designated ...	Application number	Registration number	Trade mark status	Nice class	Applicant name	Application date	Trade mark type	Registration date	Senior
<input type="checkbox"/>		FLASH & CO	FR	FR	4509839	4509839	Registered	16,41,43	Monsieur ROMAIN RAVENEAU	20-12-2018	Combined	12-04-2019	
<input type="checkbox"/>		Hortense Plantes	FR	FR	4541214	-	Filed	31,39,44	Monsieur david demeuse	08-04-2019	Combined	-	
<input type="checkbox"/>		CYCLISMEMAG	FR	FR	3842704	3842704	Registered	9,16,35,38,41,42	NEWSWEB, Société Anonyme	30-06-2011	Combined	21-10-2011	
<input type="checkbox"/>		Sportifarm LA GESTION DE PATURAGE	FR	FR	4580981	4580981	Registered	9,35,41,42	ISAGRI SAS	11-09-2019	Combined	03-01-2020	
<input type="checkbox"/>		DESPERADOS MAS	FR	FR	3337082	3337082	Registered	32,33,43	HEINEKEN ENTREPRISE, société par actio...	26-01-2005	Combined	-	
<input type="checkbox"/>		SOLIHA BÂTISSEUR DE LOGEMENT D'INSERTION SOLIDAIRES POUR L'HABITAT	FR	FR	4418208	4418208	Registered	36,37,42	FEDERATION SOLIHA ASSOCIATION	09-01-2018	Combined	13-07-2018	
<input type="checkbox"/>		13 GARAGE Green & Thirteen	FR	FR	4551072	4551072	Registered	37,41	Monsieur Amaury VIAULT Agissant pour le c...	13-05-2019	Combined	06-09-2019	

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1. TM View/eSearch plus : Limitations (2)

TMview

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English (en)

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Select search device

Advanced Options

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Advanced search

Filters

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10 20 30 50 75 100 | Displaying results 1 - 10 of 1000

	Graphic representation	Trade mark name	Trade mark ...	Designated ...	Application number	Registration number	Trade mark status	Nice class	Applicant name	Application date	Trade mark type	Registration date	Senior
<input type="checkbox"/>		SIGN'ENSEIGNE VOTRE EFFICACITE VISUELLE	FR	FR	4464863	4464863	Registered	35	MARQUE EN CIEL EURL	27-06-2018	Combined	19-10-2018	
<input type="checkbox"/>			FR	FR	4540673	4540673	Registered	42	POLYY SAS	05-04-2019	Figurative	27-09-2019	
<input type="checkbox"/>		FINADEA	FR	FR	3666526	3666526	Registered	35, 36	COMPAGNIE GÉNÉRALE DE LOCATION D'...	24-07-2009	Combined	31-12-2009	
<input type="checkbox"/>		PILOTE d'amour	FR	FR	4484959	4484959	Registered	16, 18, 25	Monsieur JORDAN PROUST	21-09-2018	Combined	11-01-2019	
<input type="checkbox"/>		ECLOSING	FR	FR	3769965	3769965	Registered	35, 36, 41	Eclosing.fr, SARL	28-09-2010	Combined	11-02-2011	
<input type="checkbox"/>			FR	FR	4537544	4537544	Registered	9, 25	Madame Valérie Plateau	27-03-2019	Figurative	19-07-2019	

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eSearch plus 2.0

2. Trademark Comparison System

- Can we take it to the next level?
 - Assessment system based on other factors (goods and services, class, relevant public ...)
 - Output based on past legal data, not only image recognition, so that System understands similarity as judges would
- If yes, how should we go about it?
 - Text + image analytics
 - Full text + annotated data
 - Google BERT + Facebook detectron

Judges

Has specific information about the case itself.

[I am a judge](#)



Users

Has a logo, company name, and a company description.

[I am a user](#)

Input 1: The Goods & Services

Goods & Services

Please describe what your company does.

We develop software for laptops and cellphones.

Classify

NICE Classification (?)

Class 42

Class Similarity

95%

Scientific and technological services and research and design relating thereto; industrial analysis, industrial research and industrial design services; quality control and authentication services; design and development of computer hardware and software.

Explanatory Note: **Class 42** includes mainly services provided by persons in relation to the theoretical and practical aspects of complex fields of activities, for example, scientific laboratory services, engineering, computer programming, architectural services or interior design.

- Application or Opposition Stage
- What are the classes for both trademarks?
- Provide descriptions and explanations where conflict occurs
- Input format:
 - Raw text related to “*The Goods & Services*”
 - *Dropdown/check box options*
- Output:
 - NICE Classification and percentage to denote confidence of belonging to that class

Input 2: Signs

Similarity Input

Please drag the sliders below to answer the questions using your understanding of the case where 5 is very true and 1 is not true at all.

Visually, do the trademarks look similar?
Explain how they look similar.

Visually, the trade marks are both word marks which consist of one word element of similar length...

Aurally, do the trademarks sound similar? What elements of the trademark sound similar?

Aurally, both signs will be pronounced in four syllables. The earlier trade mark will be pronounced...

Conceptually, are the trademarks similar? Identify and explain root words from which they may be derived.

Conceptually, the element DEHESANO does not exist as such in Spanish language, however part of...

Run Model

Not Similar



Similar

Based on the similarity of the signs there is a risk of confusion.

Similarity Input

Please drag the sliders below to answer the questions using your understanding of the case where 5 is very true and 1 is not true at all.

Visually, do the trademarks look similar?



Aurally, do the trademarks sound similar?



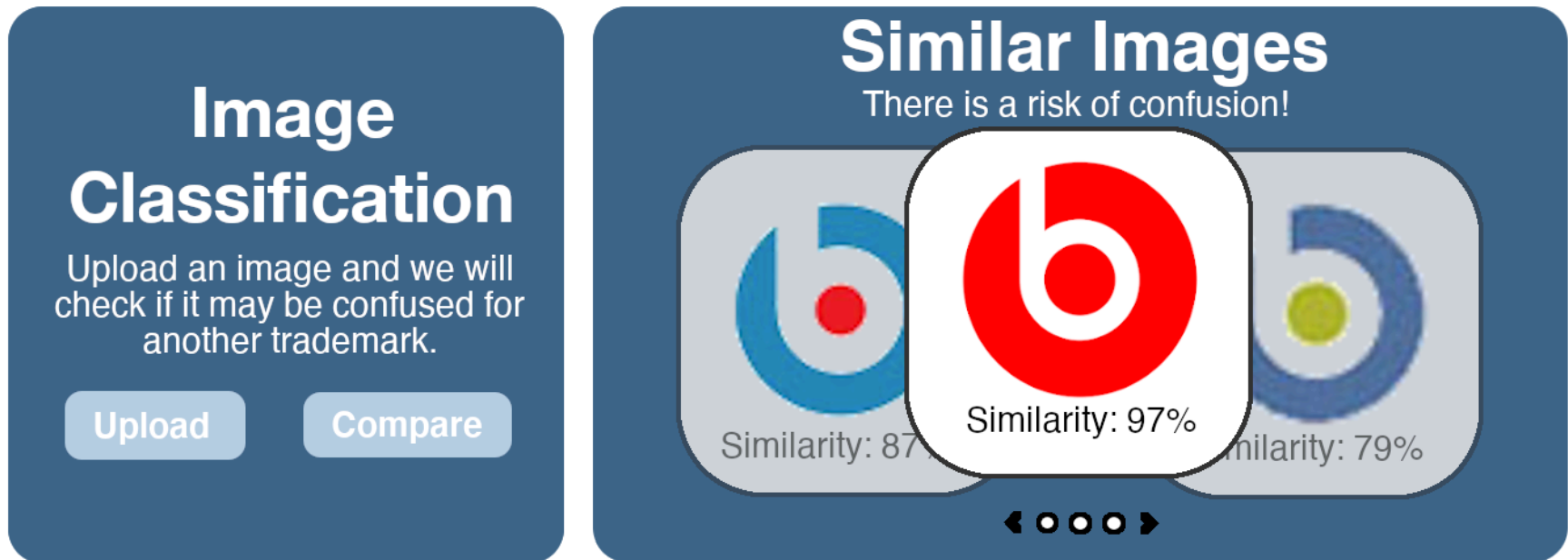
Conceptually, are the trademarks similar?



Run Model

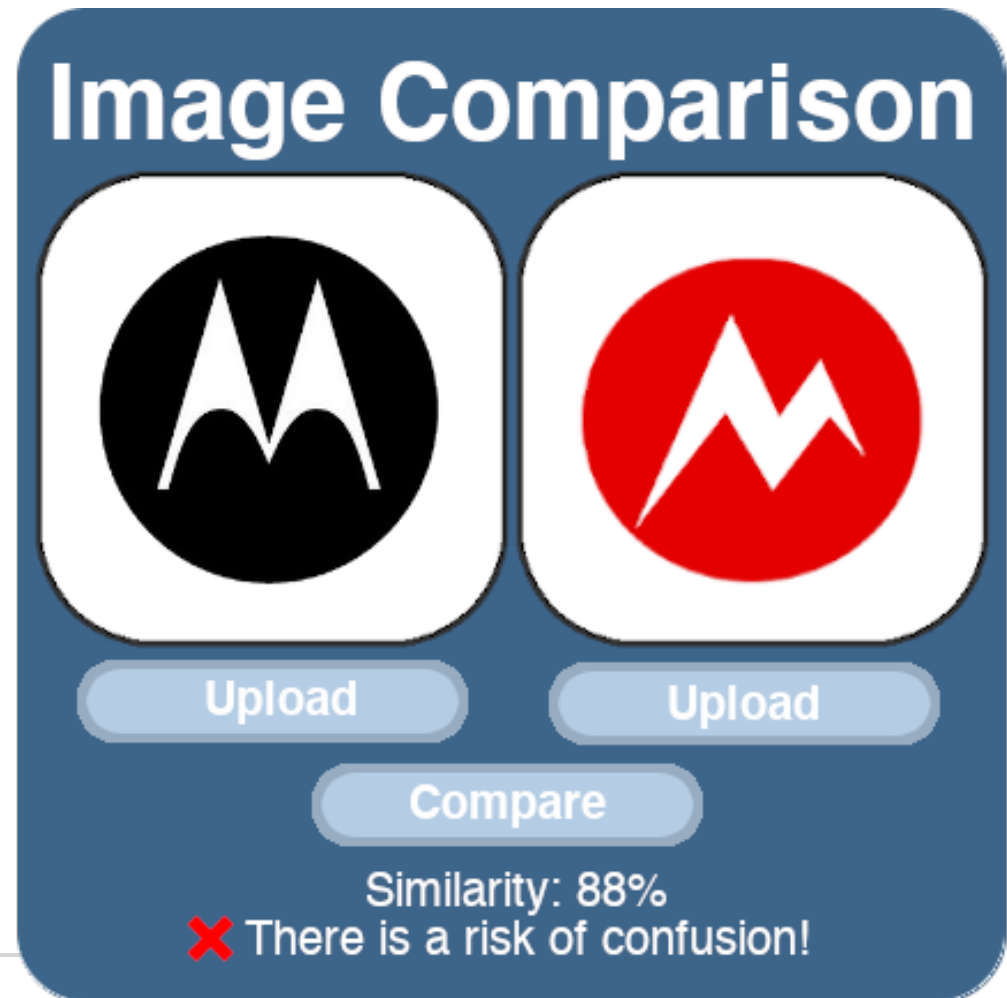
X There is a risk of confusion!

Input 3: Image Retrieval (TMView Boosted)



Input 3: Image comparison

- Upload two images
- Compare for a similarity score (Similar to TMView)
- Assess risk of confusion based on data from previous assessments



Input 3: Verbal comparison

- Upload two company names, output similarity score (float value)
- Can also identify similar words in informal context (e.g. “Lol” in “Lollipop”)
- *Common Crawl*: Represents words in context based on sentences
- For example, “stream” and “river” appear in the same contexts
- Taken from an external knowledge graph with relations (WordNet)

Name Comparison

Type two names you want to compare. The model will find words that frequently appear in sentences with root words in the names you enter or have strong language specific relationships. Then, it will calculate the percent of characters shared by the names.

Judges can use the related words to conceptually compare the names.

Name 1
STREAMWORKS INTERNATIONAL

Name 2
STREAMWORX

Compare

Related Words
Stream (Context)
Flow (Relationship)
Current (Relationship)
Pour (Relationship)

Similarity
54% common characters
STREAMWOR

Additional Input

- These can be added to our model to improve the assessment of Risk of Confusion
- Judges can optionally provide answers to these questions to receive a better judgement by our model

Additional Input

What are the dominant (visually eye-catching) elements?

In determining the existence of likelihood of confusion, the comparison of the conflicting signs...

Is the earlier trademark particularly distinctive by virtue of reputation?

The distinctiveness of the earlier mark is one of the factors to be taken into account in the global...

Are the goods directed to: general public, professional public, or both?

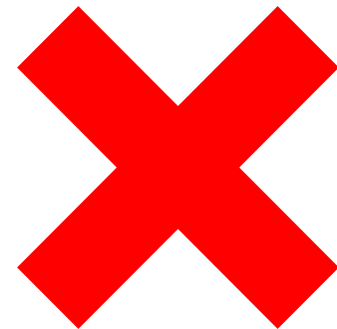
The average consumer of the category of products concerned is deemed to be reasonably well...

Run Model

✗ There Is a risk of confusion!

Final Outputs: Confusion/No Confusion

- We can predict Confusion/No Confusion with our deep learning models with an accuracy of roughly 74% without any prior annotations using state-of-the-art deep learning models
- GIDBERT - We've improved these results to an accuracy of 78% by letting our model learn legal lingo from a large corpus of text
- There is a lot of room for improvement by annotating data and using other strategies commonly used in Natural Language Processing!



Final Outputs: Summarization

- Assistive tool for judges to obtain a conclusion from the content of cases
- Automatically identifies important sentences through "Extractive Summarization" which works by ranking sentences
- We have a large dataset of paragraphs that can be summarized from cases. It is supervised by existing conclusions present in the case law for better results

Summarization Model

Goods & Services

The relevant factors relating to the comparison of the goods or services include, ... the method of use and whether they are in competition with each other or complementary to each other. ... They are provided by different undertakings.

The Signs

Visually, the trade marks are both word marks which consist of one word element of similar length... DENTESANO does not exist as such in Spanish language ... the signs are not conceptually similar.

Distinctive and Dominant Elements

In determining the existence of likelihood of confusion, the comparison... marks under comparison are word marks, thus they have no elements which could be considered clearly dominant... more distinctive than other elements.

Distinctiveness of the earlier mark

The distinctiveness of the earlier mark is one of the factors to be taken into ... assessment of the distinctiveness of the earlier mark will rest on its distinctiveness per se... of the earlier mark must be seen as normal.

General public - level of attention

The average consumer of the category of products concerned is deemed to be reasonably well informed... be borne in mind that the average consumer's level of attention is likely to vary... the goods are directed at the public at large.

Summary

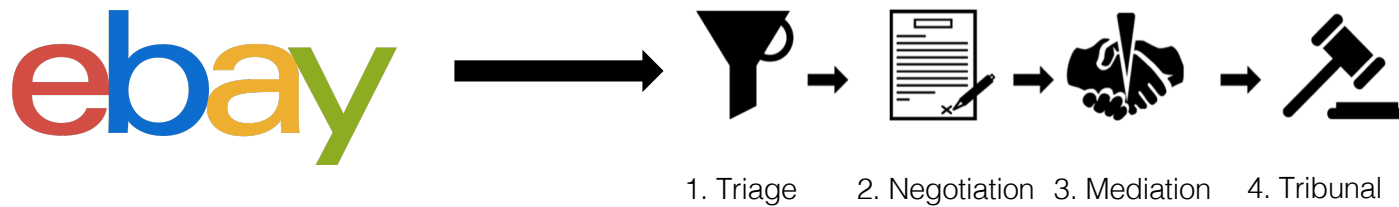
The relevant factors relating to the comparison of the goods or services include whether they are in competition with each other. DENTESANO does not exist in Spanish language. The earlier mark must be seen as normal. The average customer of the category of products concerned is deemed to be reasonably well informed.

3. Trademark dispute resolution (ODR)

- First fully online EU Tribunal

Judicial Technology

From e-commerce dispute resolution to Online Justice



The Current System: Judicial Technology 1.0

Why choose ODR over the courts?



Asynchronous



Greener



Faster



Less emotional



Cheaper



Expected

AI-powered Dispute Resolution Process



1.CLAIM SUBMISSION



2.INTELLIGENT
NEGOTIATION




3.MEDIATION



3.ADJUDICATION

1. Claim Submission



TRIBUNAL EN LIGNE EXPRESS


Sam@gmail.com

Statut

Voir/Modifier votre demande

Voir la réponse de la partie adverse¹

Négociation/médiation



Bonjour Alexandre
Voici votre demande et son statut

1

Demande envoyée

2

En attente de la partie adverse

3

Le juge est assigné

4

Choix de dates pour l'audition

5


Médiation

6


Audition

7


Décision




Demande envoyée
12 mars, 2019




Dossier assigné à un juge
Oui



Montant réclamé
3 200 \$



Éligibilité pour la médiation
Oui



Vous pouvez modifier votre demande jusqu'au
25 mai, 2019

Les prochaines étapes

Vérifier ou compléter votre demande
Vous avez jusqu'au 25 mai pour faire des modifications.

Lepsum oriel



Allez

Négociez une entente
Vous sauvez temps et argent.

Faites des offres et contre-offres afin de régler votre différend. C'est rapide et

Allez

1. Claim Submission

Formuler une demande au tribunal en ligne

Type de demande

De quel type de conflit découle votre demande?

- ☒ **Biens impayés**
- ☐ Services impayés
- ☐ Dette (créance)
- ☐ Loyer impayé
- ☐ Dommages
- ☐ Vice caché
- ☐ Rupture de contrat
- ☐ Logement, locataire
- ☐ Droit familial
- ☐ Autre



Biens impayés:

Sed ut perspiciatis unde omnis iste natus error sit voluptatem accusantium doloremque laudantium, totam rem aperiam, eaque ipsa quae ab illo inventore.

Revenir en arrière

Sauvegarder et continuer



2. Negotiation

 TRIBUNAL EN LIGNE EXPRESS Sam@gmail.com

Statut Voir/Modifier votre demande Voir la réponse de la partie adverse **Négociation/médiation**

Intro Offres Discussion

✓ Négociation en ligne

Plus de 90% des différends se règlent peu importe qui a raison. Notre plateforme de négociation vous permet de faire des offres et contre-offres.

Le processus de négociation



Négocier



Intro Offres Discussion



Discussion sur les offres effectuées

Puisque plus de 90% des différends se règlent avant de se rendre devant un juge, nous vous permettons d'échanger avec la partie adverse afin d'en arriver à une entente. Regardez nos offres proposées afin d'avoir une meilleure idée des montants obtenus lors de négociations de litiges semblables au vôtre.

Phil Pelley ●

Hier, 20:19
Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod.

Phil Pelley, hier 20:20
Duis aute irure dolor in reprehenderit in voluptate velit esse.

Argumentus

19:40
Sed ut perspiciatis unde omnis iste natus?

Phil Pelley, 19:46
Ut enim ad minima veniam, quis nostrum exercitationem.

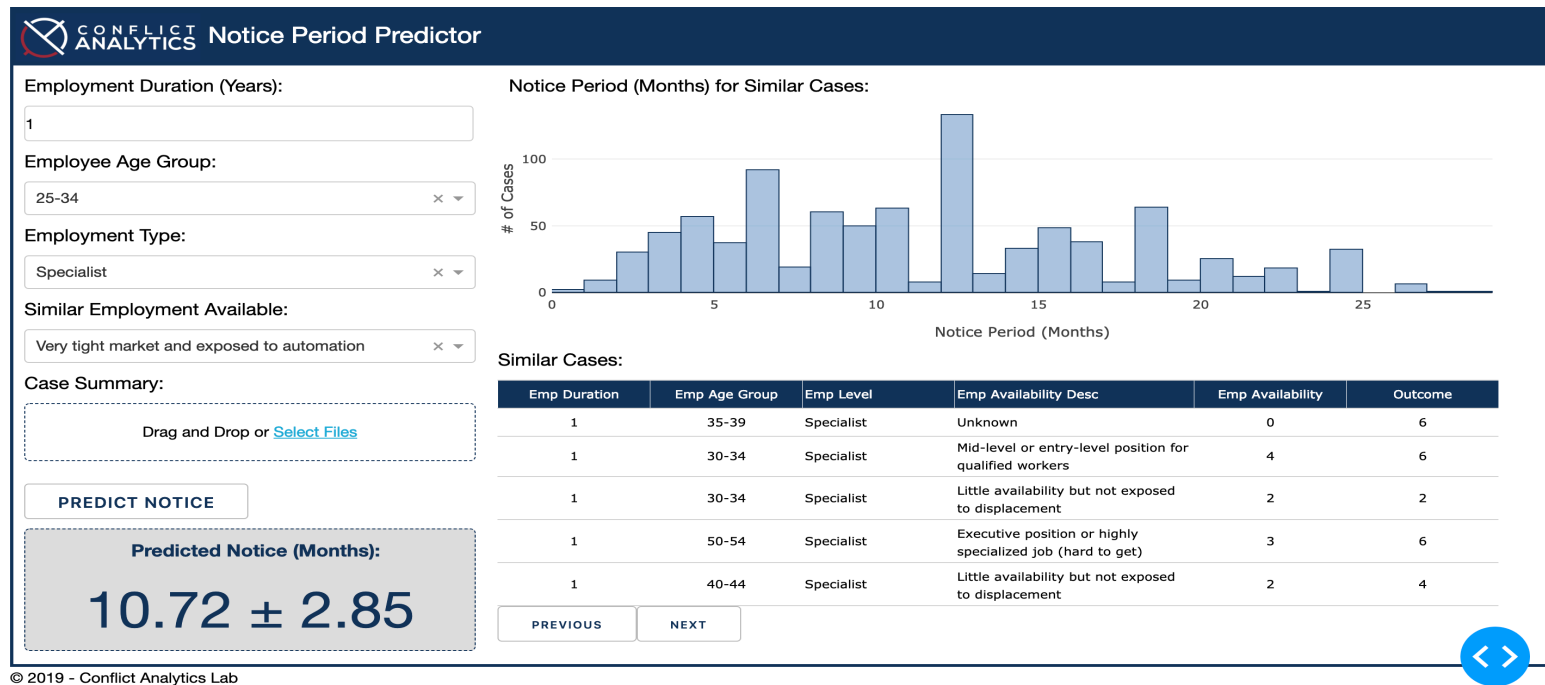
Aliquid ex ea.

19:47
Parlatu?

Phil Pelley, 19:48
Vel illum qui dolorem.

Phil Pelley vous écrit... ✕

2. Intelligent Negotiation (1): Legal Analytics



Intro

Offres

Discussion

L'offre actuelle

Voici les détails concernant la dernière offre qui a été soulevée.

2,500\$

Sed ut perspiciatis unde omnis iste natus error sit voluptatem accusantium doloremque laudantium, totam rem aperiam, eaque ipsa quae ab illo inventore veritatis et quasi architecto beatae vitae dicta sunt explicabo. Nemo enim ipsam voluptatem quia voluptas sit aspernatur aut odit aut fugit, sed quia consequuntur magni dolores eos qui ratione voluptatem sequi nesciunt. Neque porro quisquam est, qui dolorem ipsum quia dolor sit amet, consectetur, adipisci velit, sed quia non numquam eius modi tempora incidunt ut labore et dolore magnam aliquam quaerat voluptatem. Ut enim ad minima veniam, quis nostrum exercitationem ullam corporis suscipit

Faites une offre

Selon le montant réclamé, et afin de maximiser vos chances de régler, nous recommandons que vous fassiez une offre de 2,500\$.

84%
chance de succès
2,500\$

Faites l'offre

51%
chance de succès
1,950\$

Faites l'offre

27%
chance de succès
1,340\$

Faites l'offre

Offre sur mesure

Insérez le montant

Faites l'offre

Reclamations non monétaires

L'entente hors de cour peut également comprendre des réclamations non monétaires. Inscrivez-les ci-dessous.

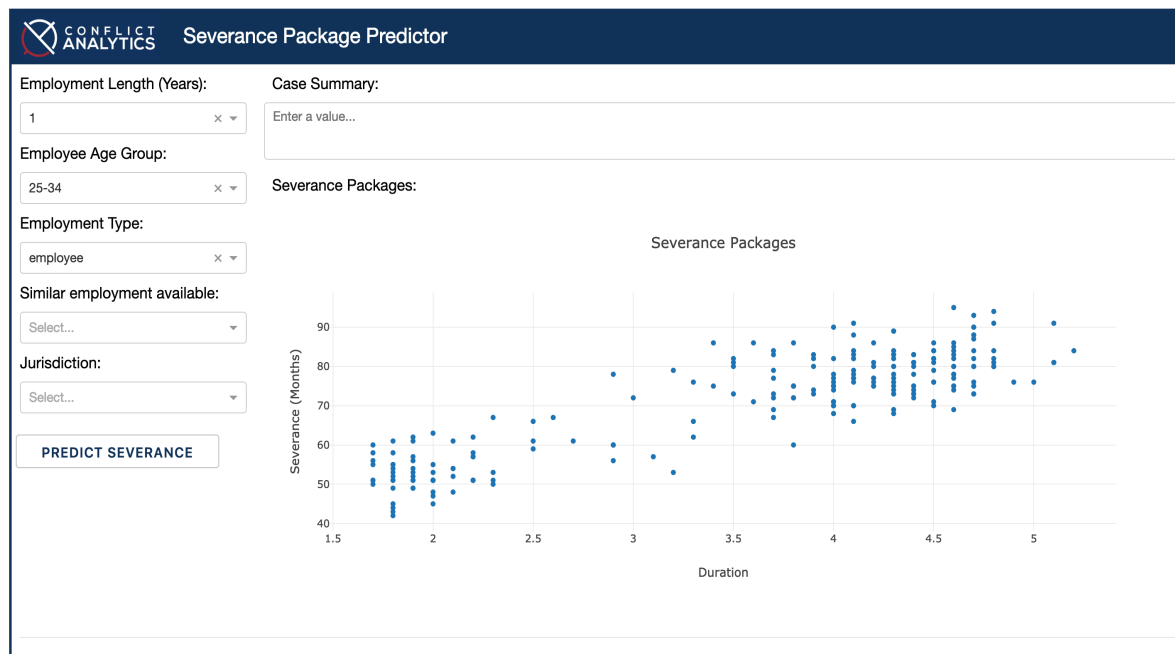
Sed ut perspiciatis unde omnis iste natus error sit voluptatem accusantium doloremque laudantium, totam rem aperiam, eaque ipsa quae ab illo inventore veritatis et quasi architecto beatae vitae dicta sunt explicabo. Nemo enim ipsam voluptatem quia voluptas sit aspernatur aut odit aut fugit, sed quia consequuntur magni dolores eos qui ratione voluptatem sequi nesciunt. Neque porro quisquam est, qui dolorem ipsum quia dolor sit amet, consectetur, adipisci velit, sed quia non numquam eius modi tempora incidunt ut labore et dolore magnam aliquam quaerat voluptatem. Ut enim ad minima veniam, quis nostrum exercitationem

2. Intelligent Negotiation (2)

Negotiation is Intuitive. Limited data points and law is not representative of reality

3- Future of Legal Practice: Intelligent Settlement System

Conflict Analytics reveals trends and patterns in past negotiations or mediations that inform legal and negotiation strategies



Intro

Offres

Discussion

L'offre actuelle

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2. Intelligent Negotiation (2)


Negotiation is Intuitive. Limited data points and law are not representative of reality

Negotiation analytics: Bargaining optimization driven by legal and past settlement data

Self-learning: self-learning ODR system



3. Mediation



TRIBUNAL EN LIGNE EXPRESS


Sam@gmail.co

Statut


Voir/Modifier votre demande

Voir la réponse de la partie adverse¹


Adjudica



David



Ali



Brandon

EVIDENCE

CASE # _____ INVENTORY # _____

CONTENTS

ITEM DESCRIPTION

1	
2	
3	
4	
5	

DATE AND TIME OF RECOVERY _____

LOCATION OF RECOVERY _____

RECOVERED BY _____

SUSPECT _____

VICTIM _____

TYPE OF OFFENSE _____

CHAIN OF CUSTODY

RECEIVED FROM _____	BY _____
DATE _____	TIME _____
RECEIVED FROM _____	BY _____
DATE _____	TIME _____
RECEIVED FROM _____	BY _____
DATE _____	TIME _____

[Statut](#)[Voir/Modifier votre demande](#)[Voir la réponse de la partie adverse¹](#)[Adjudication](#)

Merci d'avoir utilisé le tribunal en ligne de l'Ontario

Félicitations! Votre litige est réglé.

[Demander une explication](#)

Pour voir les détails de la décision, veuillez cliquer sur le document ci-dessous.

[Que faire maintenant?](#)

4. Adjudication

- Upload evidence
- Choose a hearing date



Télécharger la preuve

Téléchargez les éléments de preuve qui appuient votre demande. Par exemple, des photos, des factures, des contrats, etc.

▼ Contrats

Télécharger

> Photos

> Courriels et textos

> Autre



Vous devriez télécharger les éléments de preuve qui pourront vous aider à convaincre le juge que vous avez raison.



Sélectionner la date d'audition

Veuillez choisir 3 dates, parmi celles listées ci-dessous. Assurez-vous de choisir des dates où vous serez disponible pour l'audience. Nous vous enverrons un email avec l'heure et la date précise lorsque chaque partie aura confirmé ses disponibilités.

Lundi, 8 octobre 2019 à 9h00

☐

Mercredi, 16 octobre 2019 à 14h00

☒

Jeudi, 17 octobre 2019 à 11h00

☐

Vendredi, 25 octobre 2019 à 15h00

☒☒



Upload Evidence

Both the Arbitrator and the other party will see this evidence a week before the hearing. Maximum of 30 evidence items allowed. Add a short note to each to describe the item and/or its importance.

▼ Cont

> Phot

> Ema

> Othe



Drag and drop files here

or

Browse files



Sed ut perspiciatis unde omnis
iste natus error sit voluptatem
accusantium doloremque
laudantium, totam rem aperiam,
eaque ipsa quae ab illo
inventore.

Sed ut perspiciatis unde omnis
iste natus error sit voluptatem
accusantium doloremque
laudantium, totam rem aperiam,
eaque ipsa quae ab illo



Heari

Please select
We'll send yo

Monday, October 8, 2019 at 9 am



Wednesday, October 10, 2019 at 2 pm



4. Adjudication



Ontario

Décision

Dossier #3443

ALEX LACOURTIER
ci-après le « demandeur »

ET

PHIL PELS
ci-après le « défendeur »

Collectivement, les « Parties »



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Tribunal en ligne <tribunal@justice.on.ca> ☆ ↶ ⋮

Ontario

Bonjour Alexandre,

L'audience d'aujourd'hui commencera dans environ 20 minutes à 17 h (HNE).

Votre audience se tiendra via la plateforme en utilisant ce lien ci-dessous.

Veuillez consulter notre FAQ avant l'audience et assurez-vous que vous vous trouvez dans un lieu disposant d'une connexion Internet fiable et / ou d'un service cellulaire.

[Rejoindre l'audience en ligne](#)

Si vous avez des questions, n'hésitez pas à vous inscrire ~ 10min plus tôt et un modérateur BidSettle sera disponible pour vous aider.

N'oubliez pas votre apparence au cours de l'audience (caméra face à vous, éclairage et son correct, etc.) afin de pouvoir communiquer votre argument de manière plus efficace.

Merci,

L'équipe du tribunal en ligne de l'Ontario



Thank you!

Samuel Dahan

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