

My Experiments in Truth

Comparing litigation strategies of Microsoft, Google, and Apple using google scholar

December 8, 2011 in [Litig-o-meter, Projects](#) | [2 comments](#)

One way we can measure a company's "evilness" is by how important litigation is to corporate strategy. We'll open this series by comparing today's three tech giants: Microsoft, Google, and Apple. Which company gets sued the most? And more importantly, which company sues others the most?



(<https://web.archive.org/web/20120104222713/http://izbicki.me/blog/wp-content/uploads/2011/12/logos-apple-google-microsoft.png>) To find out, I wrote a perl script called the **litig-o-meter** that searches google scholar for lawsuits involving specific companies. It graphs how many cases the companies have been involved in every year; whether those cases were at the circuit, appellate, or supreme court level; and whether the company was the plaintiff or the defendant. Essentially, it does a search for "allintitle: [company name]" of federal court cases and interprets the results. It's not yet ready for public release, but the results so far are fascinating.

RESULTS DISCLAIMER

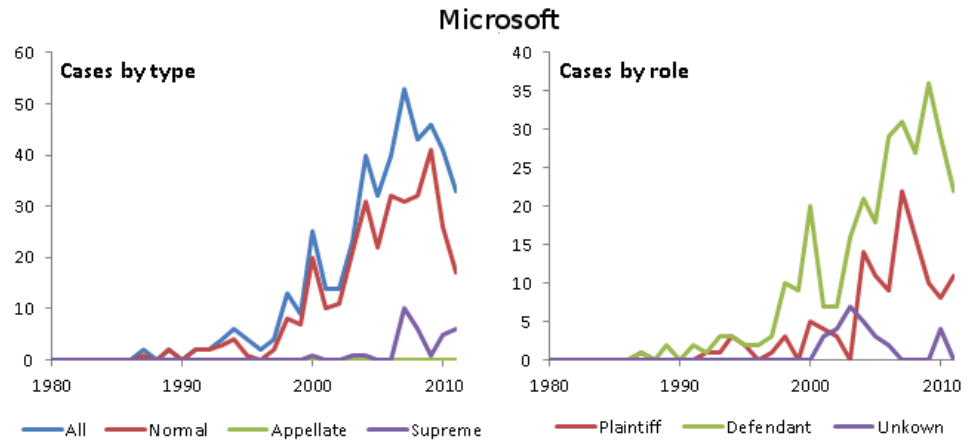
Before we look at what the results *are*, you need to know what they are *not*. They are not every single lawsuit the company has ever been involved in. We simply can't get that for two reasons.

1. **Google Scholar tracks only published court opinions.** Most lawsuits do not result in published opinions for two reasons. First, most cases are settled out of court, before a judge ever looks at the case. For this reason the litig-o-meter can't measure the RIAA/MPAA litigation scams. Second, even when a judge does render an opinion, it is rarely published. Opinions are only published when the judges interpret the law in a novel way. This is commonly known as "case law." Occasionally, you also get "published unpublished" opinions, or opinions that judges make public so that the public understands their decision making process, but do not carry the authority of case law in future cases.
2. **Big companies have "shell" companies that get sued on their behalf.** For example, when [Pfizer was found guilty of fraud, they created a shell company for the sole purpose of taking the blame](#) (https://web.archive.org/web/20120104222713/http://articles.cnn.com/2010-04-02/health/pfizer.bextra_1_bextra-pfizer-and-pharmacia-generic-drugs). This lets them continue to sell pharmaceuticals with an "unblemished" record of honesty. There is no easy way to find what shell companies each company might be using for this task. And unfortunately, the most litigious companies are probably the best at hiding behind these shells. *C'est la vie*.

But as long as we compare companies within the same sector, these shouldn't be problems. For example, two software companies should have a similar proportion of published to unpublished cases. This might not be the case in different sectors, however. Software companies are charting new legal ground that chemical companies are not, and so will likely have a higher proportion of precedent setting cases. Likewise with shells, if companies are in the same sector they must follow the same regulations on when and how they can create shells. This should keep the results roughly proportional.

Enough boring disclaimer... Let's see some results!

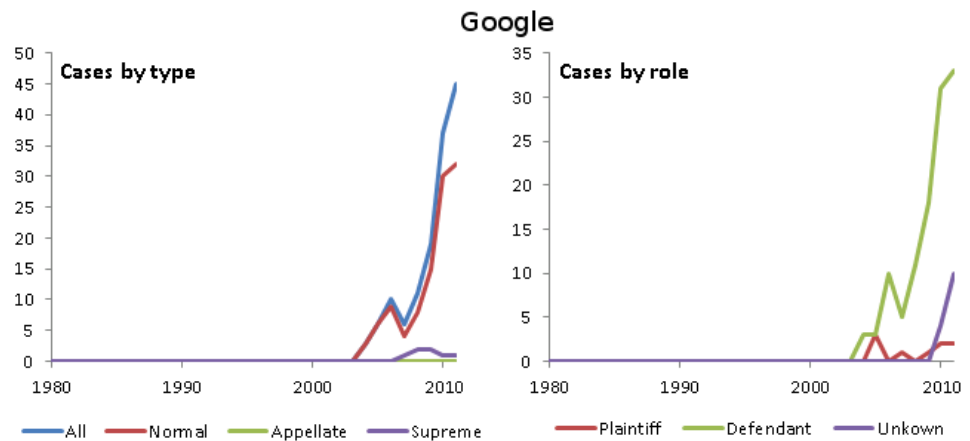
COMPARING MICROSOFT, GOOGLE, AND APPLE



(<https://web.archive.org/web/20120104222713/http://izbicki.me/blog/wp-content/uploads/2011/12/microsoft1.png>).

Microsoft has a litigation profile very similar to most other large companies. On the left we see the total number of cases the litig-o-meter found, and what level those cases were decided at: normal federal court, the appellate courts, or the supreme court. As the company grows, more lawsuits will naturally occur.

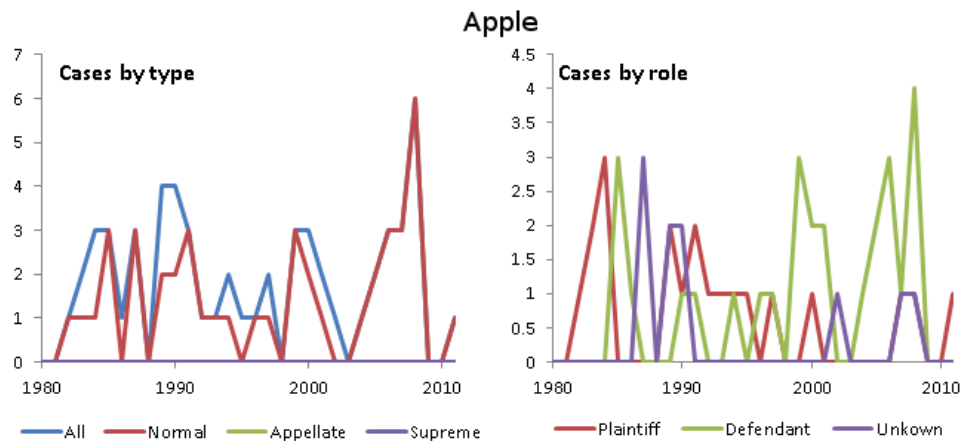
The graph to the right is probably the more interesting. In green is the number of cases where Microsoft was sued, and in red the number of cases they sued someone else. A company with an "average" level of suing should have the red line hovering just below the green, as does Microsoft. This is because individuals often sue large companies, but large companies rarely sue individuals. So, despite Microsoft's [poor reputation amongst the slashdot crowd](https://web.archive.org/web/20120104222713/http://entertainment.slashdot.org/story/08/10/14/0120221/microsofts-ethical-guidelines) (<https://web.archive.org/web/20120104222713/http://entertainment.slashdot.org/story/08/10/14/0120221/microsofts-ethical-guidelines>), they have a pretty standard level of lawsuit evilness.



(<https://web.archive.org/web/20120104222713/http://izbicki.me/blog/wp-content/uploads/2011/12/google1.png>).

Google is a much younger company than Microsoft, so it is hard to say anything we see is really a long term trend. Nonetheless, they clearly get sued much more often than they sue others. This is a strong contrast with the average company profile displayed by Microsoft and demonstrates that offensive litigation—for example patent trolling—is not a major component of Google's business strategy. Let's hope this remains the case as Google ages. I think this goes some way to demonstrating that Google still tries to adhere to their "Do No Evil" motto.

To be fair, Google at ten years old is involved in a lot more lawsuits that Microsoft was at that age. Not only was Microsoft not suing other companies then, but they weren't even getting sued! If Google's lawsuits grow at the same rate Microsoft's did, they are poised to become a very litigious company in 30 years.



(<https://web.archive.org/web/20120104222713/http://izbicki.me/blog/wp-content/uploads/2011/12/apple.png>).

Apple is even more startling. Whereas both Google and Microsoft average around 40 major lawsuits a year, Apple has only 4! This is despite the fact that Apple is a larger company than both Google and Microsoft (<https://web.archive.org/web/20120104222713/http://ycharts.com/companies/AAPL/assets#compCos=MSFT,GOOG>) by total assets, market capitalization, net income, and many other measures. In fact, out of the 20 companies that I analyzed, Apple had by far the fewest lawsuits of all of them. So, despite (<https://web.archive.org/web/20120104222713/http://an.droid-life.com/2011/10/18/dilbert-comic-sums-up-apple-lawsuits-in-just-three-small-squares/>) lots (<https://web.archive.org/web/20120104222713/http://www.goodanddevo.net/2011/10/prepare-yourself-for-more-ugly-apple-lawsuits.html>) of (https://web.archive.org/web/20120104222713/http://www.washingtonpost.com/blogs/faster-forward/post/apple-lawsuits-continue-as-judge-relaxes-samsung-galaxy-ban-in-europe/2011/08/17/gIQAMwKFLJ_blog.html), press (https://web.archive.org/web/20120104222713/http://www.madlife.com/article/news/guide_apple_lawsuits) about (https://web.archive.org/web/20120104222713/http://en.wikipedia.org/wiki/Apple_Inc._litigation) Apple's (<https://web.archive.org/web/20120104222713/http://www.epicstocknews.com/201111171383/news-stories/samsung-surrenders-to-apple-lawsuits-alterns-galaxy-design-%E2%80%93-nasdaqaapl/>) recent (<https://web.archive.org/web/20120104222713/http://convert-dvd-ipad.com/dvdipad/apple-lawsuits-samsung-uk/>) lawsuits (<https://web.archive.org/web/20120104222713/http://bestipadgames.blogspot.com/2011/12/apple-faces-legal-threat-to-ipad.html>), they're actually historically a very non-litigious company. So, props Apple! We need more companies like you.

MORE COMPANIES AHEAD!

In future posts we'll look at some more controversial companies. We'll look at oil giants like Halliburton and Exxon Mobile, major chemical companies like Monsanto and Pfizer, and defense contractors like Boeing and Northrop Grumman. Subscribe to the RSS feed (<https://web.archive.org/web/20120104222713/http://izbicki.me/blog/feed>) to make sure you don't miss out.

2 comments

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fh on [December 9, 2011 at 3:58 AM](#)

You started off nicely with a description of Google Scholar and what to expect from searching it, but when your results say that Apple has been the plaintiff in 2 lawsuits the last 11 years, it's about time to question the quality of your data.

Anyone with the slightest interest in technology would have read enough news articles to intuitively know that this just isn't true, and a quick google search for "apple lawsuit" confirms it. You have to be a real fanboy to come to the conclusion that Apple don't sue other companies/people just because there are few cases about in Scholar.

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Mike on [December 9, 2011 at 6:19 AM](#)

You're right that Apple has sued way more than two companies in the last 11 years. What I tried to show is that there's only been 2 published judicial opinions about their lawsuits. Likewise, both Microsoft and Google have sued many more times than is listed here. I'm hoping that the number of published opinions is roughly proportional to the total number of lawsuits, and that's what I'm basing my conclusions off of. But like I say in the disclaimer, that may be way off base.

I'm sorry if I came off as too supportive of Apple. They just really stood out from all the other companies I tested, and I was very surprised. Personally, I'm a die hard Linux user with an Android phone. I'd never pay the extra money to get an Apple logo slapped on my product.

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