



Destination IP Virtual Summit

# IP Premonitions



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## Before We Get Started...



### Recording

A link to the recording and slides will be emailed to all registrants.



### Questions

Type in the question box and we will answer in real time or during the Q&A.



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## Mark Stignani

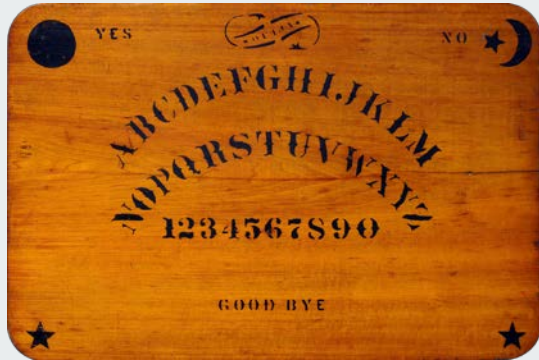
Mark Stignani is a registered patent attorney at Schwegman Lundberg & Woessner who chairs the Analytics Practice Group. Mark has patent experience in various technology areas, including software, information systems, mobile devices, computer hardware and design, telecommunications, and mechanical. His practice includes prosecution, post-grant proceedings, patent and portfolio analysis, freedom to operate, patent strategy and planning and strategic counseling.

Mark has held a number of corporate counsel roles in practicing all forms of IP, Contracts, and other Technology Law disciplines at a number of global companies. He serves as advisor to a number of global companies on IP portfolio management and well as providing strategic insights and inferences on client and competitor portfolios.



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# Problem Statement and Proposed Solution



- Competitors tend to closely guard their product/process strategies
- However, public filings around patent, trademark and public filings give strong clues about these strategies.
- Those clues can be reconstituted into product/process level strategies supported by forensic inferences
- *The clues also help you align and increase the value of your own portfolio.*

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# Goals of this Presentation

- **Define what IP premonitions can and cannot do...**
  - Dispel a few myths about IP strategy
- **Teach a process on the generation of inferences**
- **Perform a review of 2 company stories**
- **Answer questions and commentary**





## IP Premonition Basics

- **Grand strategies don't exist – Fragments do.**
- **You need to know your IP coverage before you look at another company**
- **Patents, trademarks and domain registrations are a starting point**
- **Companies reflect their management team persona**
- **Social media/SEC/other press releases add the final touch**

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# Truism 1 Competitors Pivot Around Each Other



- **Innovation Clusters (Measure v. Counter Measure)**
- **Executives move between competition**
- **Budgets react to the competitor actions**
- **Inventors/Innovators move between competition**
- **Trademarks/Domains herald innovation**
- **Hiring / firing/filing/abandonment indicates growth/distress**

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## Truism 2 Mergers/Acquisitions = Big Hints

- OP Co indicate new market or new capability
- OP Co multiples paid = Interest level/desperation
- PE/VC Mergers/Acquisition indicate portfolio direction
- PE past sales indicate hold and dump





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## Truism 3 What is discarded is probative

- Competitors abandon IP when they change course
- Inventors abandon Companies when they change course
- Company layoffs are probative
- Executive layoffs are probative
- IP donations/sales are also items for review



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# IP Premonition Anchors

- **1. Anchor product or a process (most likely)**
  - Engage all registration types and trade secrets
  - Revolve around unique choke points
- **2. Anchor: strategic move (least likely)**
  - Active interdiction of other company product or process methods
  - Active inference across 5 year span of development





# Setting the Stage

- **Focus on fast elimination criteria.**
  - Age/Tech Class/Wrong Description of goods
- **Clustering algorithms help (shown later)**
- **Isolate Market Investment on similar IP filings**
- **Profile Executive Team and Technology Leadership**
- **Enhance with other Public Records/Social Media Utterances**
- **Identify matters to be mapped to products**
- **Highlight statistical outliers**



# Establish Analysis Goals

- **Identify Brand/Product Impact**
- **Identify Overlapping IP/Hires/Fires**
- **Extraction should focus on these items**
- **Defensive v Offensive Positioning**
- **Licensing Opportunity**
- **Define Interdiction Strategy**



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# Elements of IP Premonition

## Process/Outcomes

- Over gather
- Process of Elimination
- Sort Quickly
- Test hypothesis early/often
- Iterate





# Data Sources

- **Patent Registrations**
- **Trademark/Domain Registration**
- **Copyrights**
- **Other IP clauses**
- **General Data Sources**
- **Social/Business News/Networks**
- **Career Sites**

A complex network diagram with numerous nodes and connecting lines, overlaid on a faint background of gears and technical drawings. A blue horizontal line is positioned above the title text.

# Interesting Patent Data

- **Organic Active Patents**
  - Mapped to Active Product
- **Acquisition IP**
  - Mapped to Active Product
- **Disposal IP**
- **Abandoned IP**
- **Prosecution Records**
- **Attorneys on files (in-house/law firm)**






# Forensic Inferences

- **Company Distress**
- **Tax Planning**
- **Long Term R&D direction (+3-5yrs)**
- **Organic v Acquisition Focus**
- **Incremental or New Innovation Chasm**



A background network diagram with nodes and connecting lines, overlaid on a faint gear pattern.

# Interesting Trademarks & Domain Data


- **Current actions**
  - **New filings**
  - **New domain registrations**
- **Developing prediction models**
  - **Registrations that can correlate to products**
  - **Domain names associated**
  - **Domain names (variances/misspellings)**
  - **Domain names (disparaging)**





# Forensic Inferences

- **New Launches**
- **Dilution or Encroachment Schemes**
- **Red Herring Identification**
- **Disgruntled Clients or Employees**
- **Related IP filings (18 month secrecy window)**
- **Knockoff/Market Interference**

A background network diagram with nodes and connecting lines, overlaid on a faint gear pattern.

# Interesting General Data

- News (acquisitions, counsel, executives)
- LinkedIn®/other social network
  - Sizing R&D teams/IP
  - Legal/statements on filings
- Marketing/Product
  - Specs/Brochures
  - Product to Patent alignment
  - Notice lists
- Peer & White Papers by R&D
- Employment listings





# Premonition Outcome: General Direction

- **Company Growth/Distress**
  - **New & Ex-Employee ( wide spectrum)**
  - **Triangulation by IP filings abandons (wide spectrum)**
  - **Press releases**
  - **Market movements**



# Premonition Outcome: Product Process

- **Product/Process**
  - **New & Ex-Employee ( narrow spectrum)**
  - **Triangulation by IP filings abandons (wide spectrum)**
  - **Press releases**
  - **Market movements**



# Premonition Outcome: General Direction

- **Company Growth/Distress**
  - **New & Ex-Employee ( wide spectrum)**
  - **Triangulation by IP filings abandons (wide spectrum)**
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# Caveats

- **Patent Data- 18 months old**
  - **Supplemental Data**
    - Trademark filings
    - News releases
    - Hires/Fires
- **Patent Firm/Counsel**
  - **Who does the work matters**
- **Fact Triangulation is necessary**





# Examples

CVS v. Walgreens  
Comparative Predictions





# Summary of Situations(2018)

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## CVS

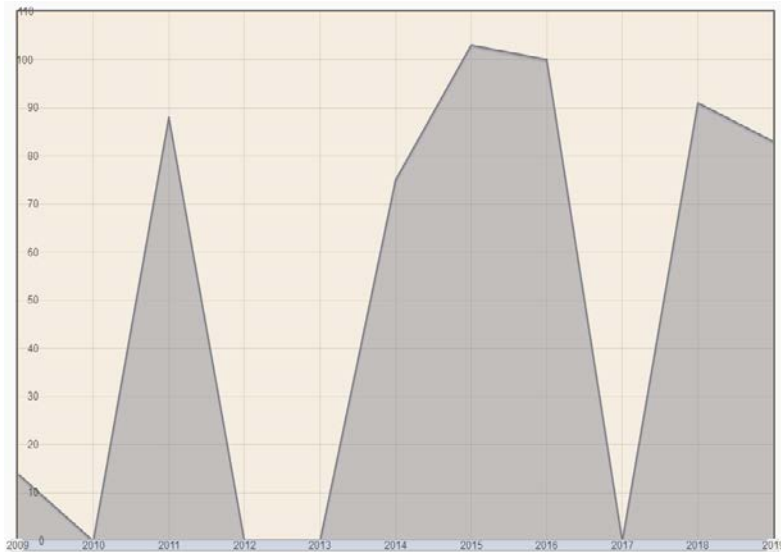
- **Topline:\$177B**
- **Footprint**
  - **Minute Clinic**
  - **CVS/Pharmacy**
  - **Caremark/ Mail-Order**
  - **Aetna Clinics**
- **Significant Acquisitions**
  - **Aetna**
  - **Target Pharmacies**
- **Threat Profile Enhanced**
  - **Amazon**

## Walgreens

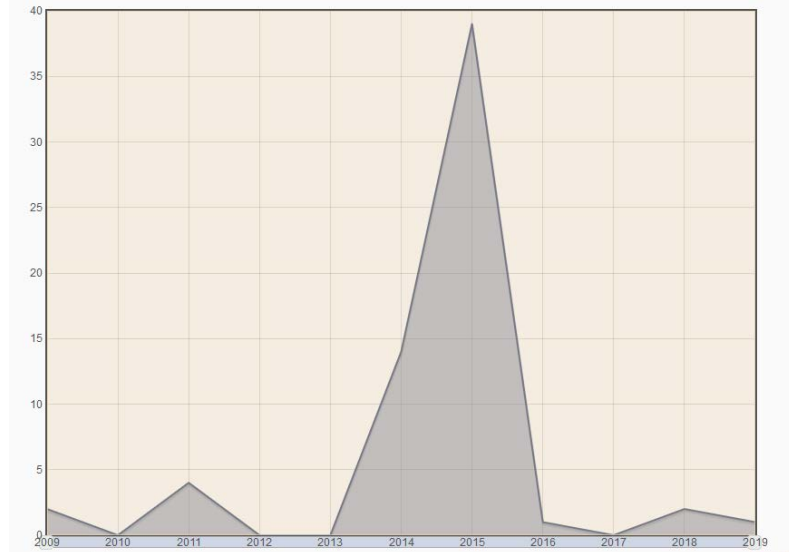
- **Topline:\$117B**
- **Significant Acq/Alliances**
  - **Rite Aid (1/2)**
  - **Failed Theranos**
  - **Lab Corp (Oct 2018)**
  - **Birchbox[Digital Brand]**
  - **Alibaba [Supply Chain]**
- **Threat Profile Enhanced**
  - **Amazon**
- **Has successfully litigated**
  - **2014 CVS**

# Brand Work (Organic/Acquired)

CVS



Walgreens





# Employee Metrics 2018

## CVS Health (105k)

- 14% employment growth(2 years)
- .6% monthly turnover
- No real IT sector of hiring
- HealthCare services (4%)
- Administrative (+15%)
- Significant Cyclic Churn of Sr Exec (2016-2018)

## Walgreens (94k)

- 7% employment growth(2 years)
- .6% monthly
- 5 year tenure
- HealthCare Service workers (6%)
- IT/Tech only growing by 1%
- Churning 1-2 Senior exec/month

# Filing Comparisons

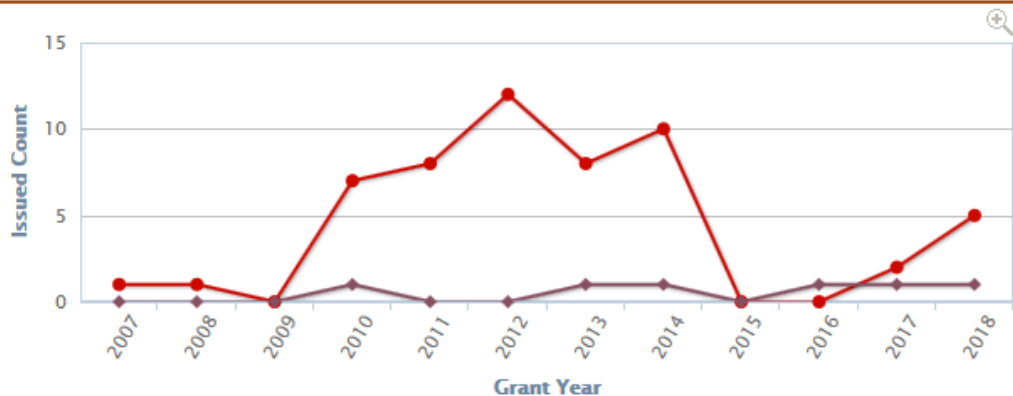
## CVS\*

- 90 US Apps/Grants
- G06Q/G06F (30%)
- Containers (40%)

## Walgreens

- 153 US Grant/Apps
- G06Q/G06F (50%)
- Containers (7%)

Patents/Apps by Year for Technology Class G06Q



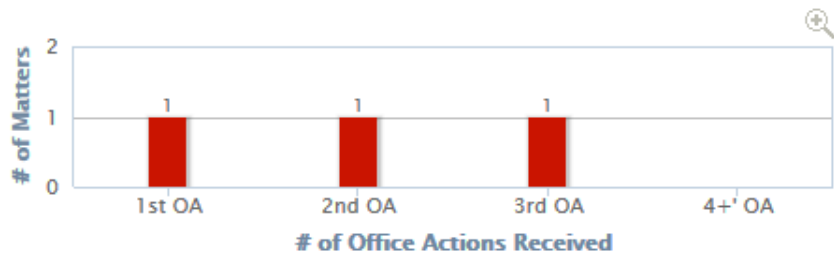
\*Does not include Aetna portfolio



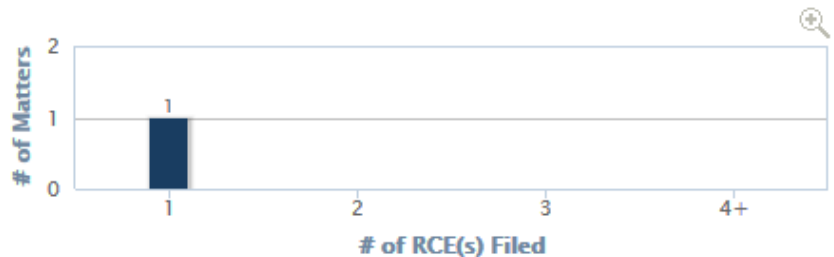
# PAIR Inferences

## CVS

### Office Action/Rejection Activity

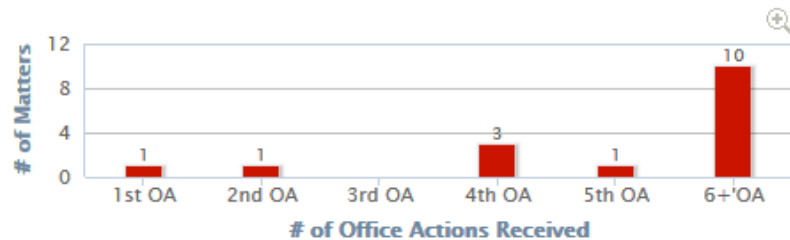


### RCE Activity

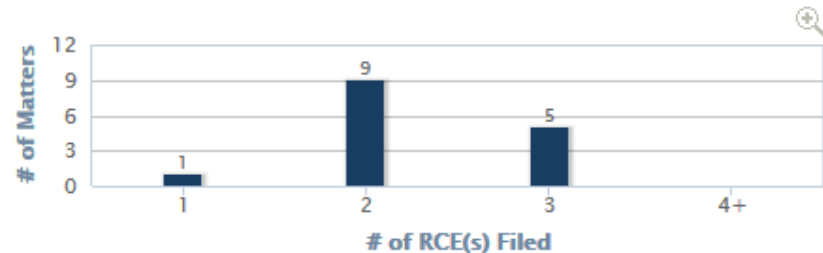


## WALGREENS

### Office Action/Rejection Activity



### RCE Activity

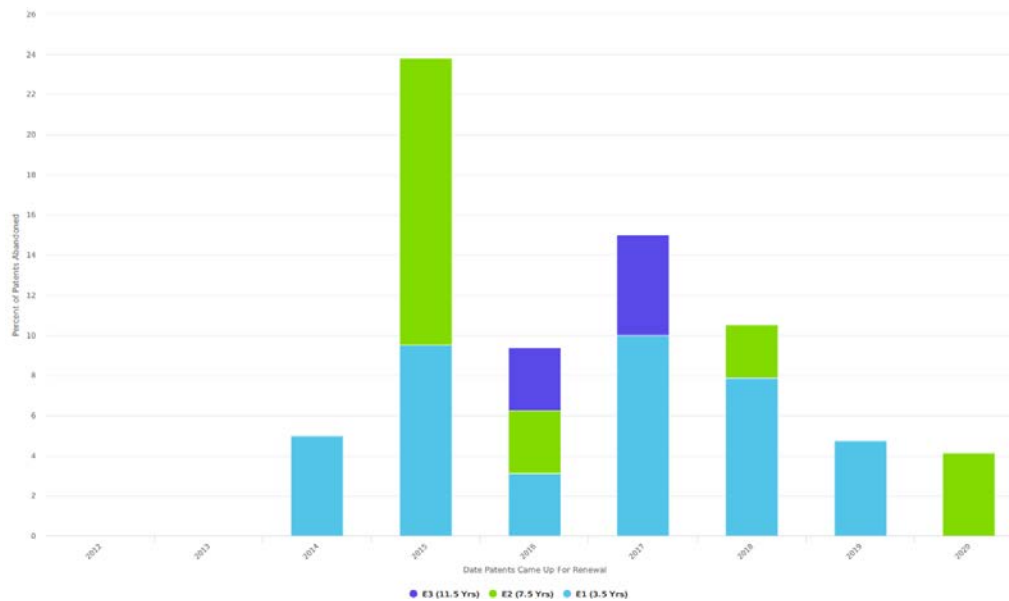


# Abandonment

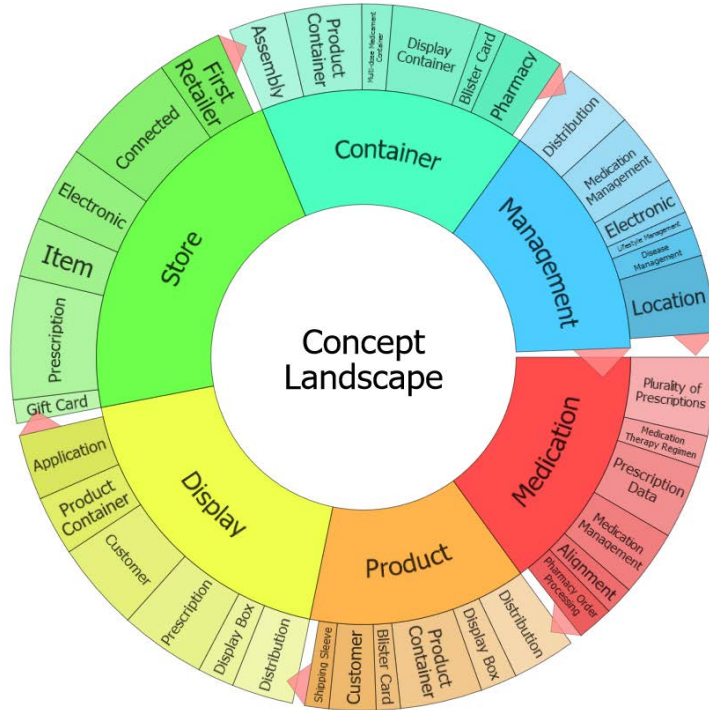
CVS



Walgreens



# Walgreen Abandons – Active Cull



- Display/Store management
- Methods of selling in-store
- Lifestyle management software
- Internal prescription and pill processing
- Design patents covering pill bottle



# Assertion Risks

## CVS

- **Amazon Defense**
  - **Licensed Cloud services +**
  - **Supporting patents**
- **Walgreens Counter**
  - **Mobile/Order fulfillment**
- **Alibaba Counter**
  - **Supply Chain/EDI**

## Walgreens

- **Amazon Defense**
  - **Licensed Cloud services +**
  - **Supporting patents**
- **CVS Counter**
  - **Wholesale/Mail Order EDI**
- **Aetna Portal Counter\***

\*Assumption all Aetna assigned patent matters transfer

# Litigation Profile

## CVS

- **181 cases**
- **Predominantly Defensive**
- **3 plaintiff cases (2008)**
- **Light ITC/PTAB users**

## Walgreens

- **223 cases**
- **Predominantly Defensive**
- **7 plaintiffs cases (2014)**
- **Successfully sued CVS**
- **Light PTAB usage**



# Predictions 2018

- **2 years ago predictions were**
  - **CVS/Walgreens continues to Amazon proof building health clinic relationships**
  - **Amazon will continue to threaten the Pharmacy/medication delivery**
  - **Technology investment will continue to decline in line with IP abandons/lack of IP litigation**



## Then 2020 Hit

- **CVS**

- Health Hubs
- Shipt Alliance
- Gene Therapy
- Drug Payment plans
- Yet no Patents.

- **Walgreens**

- Discuss going private
- Closed 400 stores globally
- Relations with health systems, grocery stores and beauty companies
- partnering with [VillageMD](#), a national provider of primary care doctor services
- Maintained some patents, most of older priority



# Employee Metrics 2020

## CVS Health (105k)

- 14% employment growth(2 years)
- .6% monthly turnover
- No IT still
- HealthCare services (4%)
- Administrative (+15%)
- Churning 1 Sr exec/month
- 601 + open roles weekly
- 50% health care providers

## Walgreens (94k)

- 7% employment growth(2 years)
- .6% monthly turnover
- 5 year tenure
- Customer Service workers (10%)
- Very light IT hiring 1-3 positions weekly
- Churning 1-2 Sr exec/month
- 1,323+ open roles



# Conclusions

- **IP filings contain a great deal of competitor information found nowhere else**
- **Pieced together it makes for a very useful tool in assessing current strategy**
- **Looking at year/year performance yields a model for future practices**
- **Premonition analysis allows a savvy company the time to react**



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Thank you for your interest.

# Questions?



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