

TechnoLawyer.com: Unconventional Wisdom on Internet Legal Research

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The term "conventional wisdom" may very well be the world's stealthiest oxymoron — stealthy because most people don't consider it an oxymoron. Think about it for a minute. Wisdom has little to do with convention. Instead, wisdom arises from unconventional thinking, original thinking, creative thinking — individuality. Dale Tinch certainly had this semantic syllogism in mind when he put together this article — a decidedly unconventional look at the present and future of Internet legal research. This article won the MasterPost, a writing contest in The TechnoLawyer Community.

Introduction

We all know that the Internet is here to stay, but we don't yet know what role it will play in legal research. More importantly, many legal professionals don't know what role, if any, it currently plays. In this article, I will attempt to answer both of these questions, beginning with the latter and ending with the former. Of course, analyzing the Internet is a dangerous business given its rapid rate of change. This explains why my analysis consists of unconventional wisdom. After all, would conventional wisdom have predicted that "Yahoo" would become the most well-known brand name on the Internet?

The Internet's Current Role in Legal Research

Before getting underway, I may as well dispense with the conventional wisdom about the current state of Internet legal research:

- The Internet cannot yet replace traditional tools such as Lexis-Nexis and Westlaw in terms of its depth, reliability, and convenience. Instead, the Internet currently serves as a supplement to traditional sources of legal research.
- The legal profession will not flock to the Internet for legal research tool until broadband access becomes widely available and no more expensive than plain old telephone service (POTS).

This conventional wisdom (often preached at legal research seminars) may have merit, but its amorphous nature strikes me as hollow. Legal professionals don't really care about auspicious pronouncements concerning Internet legal research; instead, they just want to know what role, if any, it can play in their practice. My unconventional wisdom suggests that legal professionals can use the Internet as a legal research tool in three ways: (1) to obtain factual information; (2) to learn from peers; and (3) to obtain recent public documents. I discuss each of these areas below.

Factual Information

The Internet abounds with news and factual information, the sheer variety of which dwarfs that which exists on proprietary services such as Dialog and Nexis. And accounts of resourceful attorneys who make use of these resources to demolish an adversary's argument Perry Mason style have become rife. For example, a Singapore lawyer by the name of Wong Siew Hong

used medical information gleaned from Internet newsgroups and various Web sites to reduce his client's conviction from murder to manslaughter. Mr. Wong proved that his client engaged in violence as a result of a rare illness called Darrier's Disease.

A plethora of Web sites dispense valuable factual information free of charge. I could not possibly list all of them or even my favorites here, but I can give you some sense of the breadth of material with a few hypotheticals.

- A man dies. His estate owns several bonds. Thanks to poor or nonexistent planning, his estate proceeds through probate. As estate's probate attorney you must obtain historical pricing for the bonds. You have two choices — write a letter to the Federal Reserve Bank and grow a few gray hairs waiting for a response or use the Federal Reserve Bank's Web site to price the bonds on any date in a matter of seconds.
- A man loses a few fingers in a lawnmower. As it turns out, a surprisingly large number of people have lost fingers using the same make and model lawnmower. You file a class action product liability lawsuit. The manufacturer files for bankruptcy protection the day after you win a judgment for \$80 million. The manufacturer's most intriguing assets are its insurance policies. You decide to sue the manufacturer's insurer using a third-party beneficiary theory, a risky but worthwhile gambit. You deem it wise to bone up on the insurance industry. You have two options — you can buy and read print publications or you can read PropertyAndCasualty.Com <<http://www.propertyandcasualty.com>> on the Web free of charge. Before you know it, you can talk actuarial tables with the best of them. Eventually, you settle with the insurance company for \$12 million of which your firm receives \$4 million — not bad considering your weak legal position.
- A corporation wants to acquire a public company. The CEO asks you, the general counsel, to conduct some due diligence on the QT before alerting its outside counsel and investment bankers. You use your Web browser to surf over to the SEC's Edgar database <<http://www.sec.gov/edgarhp.htm>> to obtain all of the target's company's SEC filings for the past few years. Just as you're about to enter a search, you remember that your department recently purchased a LIVEDGAR <<http://www.livedgar.com/>> subscription so you click your way over to that site instead. (Both sites offer the same information, but you get what you pay for — LIVEDGAR has a few bells and whistles that the free government site lacks.) You also visit the target company's Web site (duh) and print its recent press

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releases. You then run a number of searches in Northern Light, a search engine that still looks and works like a search engine — as opposed to all those “portals.” By the time you’re finished, you’ve amassed a considerable amount of data, much of which you could not have found on Nexis.

Sadly, factual research on the Web suffers from a major flaw — finding all the great information out there has become increasingly difficult. As we noted in the last hypothetical, many of the original search engines now call themselves “portals.” As such, they have morphed from technology companies into media companies. According to Ziff-Davis’ AnchorDesk, many of these companies no longer make significant investments in search technology. Even worse, some of these portals now sell search result placement to the highest bidder. Before you know it, every search query will produce only one hit — Microsoft! But seriously, most Internet users will eventually be able to tell which portals have sold out and which ones have remained true to their original mission.

Peer Learning

Many legal professionals use search engines as a last resort, preferring instead to learn about useful factual information on the Internet from their peers on Internet discussion mailing list. Hundreds, if not thousands, of legal-oriented discussion lists exist on every imaginable subject. As a member of a typical mailing list, you will receive e-mail messages from your peers on a daily basis, many of which will contain valuable information. For example, if you join a list on corporate tax, you’ll probably be among the first to know about the latest tax legislation and where to find it on the Internet. Clever lawyers have discovered that mailing lists can help them avoid wasting time when performing research. In addition, mailing lists represent the most painless and cost-effective way to network with other legal professionals. Naturally, you can’t join hundreds of mailing lists. You should pick and choose carefully. The following Web sites contain listings of many legal-oriented mailing lists:

- ABA Discussion Groups <<http://www.abanet.org/>>
- Law Lists Info <<http://www.lib.uchicago.edu/~llou/lawlists/info.html>>
- LegalMinds <<http://www.legalminds.com/>>
- Washburn's Legal Community Lists <<http://www.washlaw.edu/>>

While some mailing lists can serve as helpful and even essential research tools, many of them will not because they suffer from poor management or apathetic subscribers or both. If you cannot find a suitable mailing list on a given subject and you’ve always fancied yourself as a Master of Ceremonies, you could always start your own mailing list. Finally, to read a primer on mailing lists, see <<http://www.llrx.com/features/mailling.htm>> and <<http://www.csalt.on.ca/review/dunmlglst.html>>.

If you would rather not join any mailing lists, you can still take advantage of the many publicly available and searchable mailing list archives on the Web. In fact, you can use these archives as a

secondary source when conducting research. I’ve heard stories about jurors who have been disqualified after mailing list archive searches revealed conflicting affiliations, interests, and statements. In addition to searching mailing list archives on the Web, you can also search Newsgroup archives. The following Web sites will help get you started:

- eGroups (Mailing Lists) <<http://www.egroups.com>>
- Topica (Mailing Lists) <<http://www.topica.com>>
- Deja (Newsgroups) <<http://www.dejan.com>>
- Dogpile (Newsgroups) <<http://www.dogpile.com>>

Recent Public Documents

The Starr Report. Although people could eventually find this very famous public document in newspapers and bookstores, only those with Internet access were able to read it on its day of release. These days, just about every public document released by institutions at the highest levels of government — state and federal appellate courts, executive agencies, and Congress — becomes available on the Internet before it becomes available in traditional sources. Those of us who use the Internet knew about the verdict in the Microsoft antitrust trial before the evening news informed the rest of America. Similarly, those of us with Internet access read the trial court’s opinion in the Louise Woodward (au pair) case at the very same time journalists were doing so.

By using the Internet rather than Lexis or Westlaw to find recent public documents, a typical law firm can save clients thousands of dollars each year. However, if your firm still operates under the time-billing model, these savings can quickly evaporate if the Internet searches its lawyers conduct take longer than the equivalent Lexis or Westlaw searches. The best way to reduce the amount of time it takes to find public documents on the Internet is to build an intranet and have one of the firm’s librarians constantly update and add to an internal index of links to Web sites that contain important public documents.

Sabrina Pacifici, Director of Research at Sidley & Austin in Washington DC and Publisher of the legal research Webzine LLRX, designed and implemented such an intranet on a very modest budget. According to Ms. Pacifici, her intranet “instantly became an integral part of the attorney desktop for research [by providing among other things] direct access to a wide variety of commercial Web subscription services and hundreds of annotated, practice-specific Web links.” She noted further that “intranets allow research professionals to proactively assist lawyers before, rather than after, they’ve wasted time attempting to locate information on the Web.”

The next best solution after a customized intranet consists of locating and bookmarking the best of the many legal link directories on the Web. These directories contain links to all the most important legal resources on the Web. Many of them also feature robust public document collections of their own, most commonly Supreme Court opinions. Some of these sites are commercial and some are not, but virtually all of them are free. Of course, nothing in life is truly free. The commercial sites generate revenue from advertising or from selling other products

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and services, such as technology consulting. The noncommercial sites typically exist to satisfy the urges of would-be publishers who somehow ended up practicing law instead. Below, I have listed my favorite legal link sites:

American Law Sources On-Line <<http://www.lawsources.com/> also>

- FindLaw <<http://www.findlaw.com>>
- Hieros Gamos <<http://www.hg.org>>
- Katsuey's Legal Links <<http://www.katsuey.com>>
- LLRX <<http://www.llrx.com>>
- Rominger Legal <<http://www.romingerlegal.com>>
- The Virtual Chase <<http://www.virtualchase.com>>

As with everything I've touted in this article, I must temper my enthusiasm with a caveat — the public documents available on the Internet do not always possess the same degree of reliability as their traditional counterparts. Many of the courts and agencies that release these documents do not have the resources to match the quality control of services such as Lexis and Westlaw. In addition, collections of public documents on the Internet are often limited to the "Information Age" — 1993 or so to the present (one notable exception being Supreme Court opinions). By contrast, the collections of case law and statutes on Lexis and Westlaw stretch back for more than 100 years in some instances. Suffice it to say that only a masochist, willing to lay their license to practice law on the line, would rely exclusively on Internet research.

That said, the Internet can save time and money. And a number of start-up companies, such as Loislaw and Versus Law, have begun building reliable databases of public documents (mostly

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case and statutory law) on the Internet. These services, unlike the existing legal links sites, charge a fee. But legal professionals have grown accustomed to paying for information so these companies may very well survive and prosper.

Conclusion

Some revolutions begin and end within a matter of days. Others move more gradually, changing the world so subtly that no one seems to notice. The legal profession is currently in the midst of the latter type of revolution. This legal research revolution began with Lexis-Nexis in the 1970s, reached adolescence in the early 1990s with legal research CD-ROMs, and is now approaching early adulthood thanks to the Internet. The Internet will eventually replace reporters and treatises — but only when the following mix of conditions exists:

- Computer screens as legible, portable, and easy-to-use as paper.
- Ubiquitous, inexpensive, and reliable broadband Internet access.
- Sophisticated computer algorithms capable of interpreting natural language queries with a high degree of accuracy.
- The changing of the managerial guard in law firms from those who grew up in the television age to those who grew up in the information age.

We live in exciting times. Although we won't be around when legal research on the Internet reaches maturity, I take solace in the fact that pioneers are the ones who typically stand out in the history books. In closing, just remember that no matter how easy it becomes to conduct legal research on the Internet, it still takes a human being to interpret the results (at least for the time being).