ELECTRONIC LEGAL RESEARCH

The period of the last decade of the twentieth century up to the present time has been labeled as the information age.

In recent times there has been tremendous advance in the technology of information gathering and storage. One compact disc which holds about thirty music selections in sound recording also holds;

(a) All 56 volumes of the West Indian Law Reports, or

(b) 75 years of All England Reports from 1936 to 2002 or

(c) the entire Laws of Jamaica, Subsiduary legislation, Jamaica law reports and unreported decisions of our Court of Appeal, Supreme Court and Industrial Disputes Tribunal

(d) The entire 36 volumes of encylopedia Britinnica

It is now possible to walk around with half a dozen law compact discs that have the equivalent in legal information to the Supreme Court library. The most recent storage technology is DVD. Although it is the same size as a compact discs one DVD has the storage capacity of seven compact discs or 3264 floppy discs.

Law report and law journal publishers have quickly seized the electronic storage technology and are moving swiftly away from paper book printing and in the direction of electronic publishing. The reason is simple.

A CD costs approximately US$5 to burn with data and to package. Books with the equivalent information costs at least a thousand times as much. The CD can be shipped by air for overnight delivery anywhere in the world for about US$10

The books cost a hundred time more to handle, ship and deliver. The thousand to one cost advantage of CD's over books means affordability, ease of delivery and ease of updating.

The internet has put humongus quantities of legal subject information at our disposal. Even if you don't have a computer you can tap into the internet from a cyber café or a Cable & Wireless internet koisk

Advances in communication technology has led to the worlds population becoming more accustomed to having information as it happens or shortly thereafter and law reporting has taken up the methods to meet that expectation.

For lawyers it means that access to information on any subject and to specialized legal learning is no longer a matter of being able to use large book libraries or finding the local guru on the subject.

In the very near future the electronic publishing of information on legal subjects using CD's, DVD's and the internet will become the worldwide standard. Those of us on the Bench and at the Bar in Jamaica will have to adapt to knowing how to extract the critical information we need from electronic media.

Electronic legal research, thankfully is not very complicated and it follows the same principle used for finding a needle in a haystack, *use a magnet.*

ELECTRONIC SEARCH GUIDELINES

Internet or CD law libraries are just a vast computer databases. To extract any worthwhile information the contents must be searched according to the rules of computer database searching.

Once while filling my tank at the gas station I was approached by a pollster who asked me;

"Having regard to the economy which is your preferred party ?"

I immediately answered "Oldies mixed with soca "

The pollster could hardly contain his surprise, but he diligently marked his poll sheet.

I then asked him "How do you note that?"

He replied 'it means you are un-committed "

If Electronic research is not properly conducted the results you will get from can be like polling, unpredictable and irrelevant.

To conduct electronic legal research as a professional you have to take a structured approach. The following are some fundamental rules

1. **Avoid the random "lets see what I can find" approach.**

   This is like searching in the haystack without any magnet. systematic approach. Don't start searching with a general idea of what you are looking for and not being sure where to find it. Chances are you wont find what you need. You may be lucky and find what suits you but also you may not find crucial information that you need to know or worse, you may uncover information that you need to know and overlook it.

2. **Avoid the blind rush approach.**

   Searching takes time, like anything that should be done properly. Plan on affording yourself enough time, an hour at least. If you plan on using the internet make sure you will have enough paid up connection time. You may run out of time just as you find what you need.

3. **Define what you are looking for;**

   Make notes of the keywords that accurately describe the specific topic and detailed subject matter of your search, (e.g. self defence, knife, dark/night, police,

   Note the associated topics. (e.g. reasonable force, directions to jury)

   List the countries of the world that have similar law on the subject.

   List the subject areas that you don't want to be sidetracked into.

   Being specific is vital because as we will see electronic searching actually uses mathematical formulas for selection of information. The more specific you are in knowing what to look for the more you can extract from

the search process. The danger in not being specific is that you will oftentimes find tons of information much of which is irrelevant.

4. **While searching have an Open list and a Closed list;**
   For an effective search technique to explore large volumes of data, it is necessary to record two kinds of findings. An OPEN list is for the areas we have seen but not explored, and a CLOSED list the areas we have seen and explored. Generally, search proceeds by examining each item on the OPEN list, and moving the information to the CLOSED list

5. **Have a note pad ready to list important references and do backtracking**
   Backtracking means that when you reach a dead-end of irrelevant information you can go directly back to the last lead which gave relevant information. This method of tracking your search result guarantees completeness.

6. **Make a plan of how you intend to use the information.**
   You will not know if the information you find is satisfactory unless you first know how you plan to use it. The headnote of a case is for quick reference.. If you find the headnote of a case of great relevance to some matter which is not before the court, e.g. a contract negotiation, that may be enough to guide your opinion and advice to the client. The full text of the case is for court presentation and extraction of quote, which you therefore must obtain in print if you need to rely on it .
   The planned use is therefore important in deciding how the information will be captured for use later.

7. **Note separately the search results which are authenticated from those which are unauthenticated.**
   Cases which are reported **are authenticated.** Cases which are not reported are **unauthenticated.** They are equally important as your opponent may find them. They help to put you on guard or lead you to a recent trend in the law.

8. **Search first for summary or snapshot information to find what is available on the topic**
   If you plan to do several search sessions on a matter, a simple approach is to look at case summaries or short discussions on the topic. This will help to give you a better idea of what subject matter is available is and you can then plan what you want to see in more detail. Web sites such as **infolawfinder** and **lawnotes** are excellent tools for summary searches.

9. **Search last for the full transcript of the information to learn in detail what there is on the topic.**
   The web sites or CD'S which carry the full transcripts take a long time to load, and a long time to read. It is not advisable to go to them first unless

you have done a summary search. Thankfully most of the search engines for full transcript sites will give you a percentage of relevance figure when you use a keyword search method. The higher the percentage figure, the more relevant is the case to your chosen topic. When searching on the internet through full text like judgements it is best to download each one or capture it. This will save you the cost of telephone connection time and avoid the risk of the connection being lost.

10. **Determine what is your best means of capture of the information.**
    Always remember that what you see on a computer screen is an electronic image. In order to use it later when the computer is off you have to capture the information.
    Some efficient capture methods are;

    (a) Saving the information as a web archive, which stores it as a document on the computer.

    (b) Saving the information on a floppy disc, which you can take to use elsewhere.

    (c) If there is no printer attached to the computer you are using then faxing the information you have found will give you a printed copy

    (d) Sending the information by e.mail to yourself allows you to collect it later

11. **Never assume that information on the internet will be there again when you need it.**
    Web sites which turn up on a computer's screen are electronic images generated and sustained by another computer. If that computer goes down the information will be inacccessible. The link to that website may become disconnected for any number of reasons. To avoid loosing the contact make a note of the actual name and physical address and contact numbers of the entity which maintains the web site. This will enable you to do a general search to see if the site has moved (changed its URL-uniform resource locator). If it cant be found you can then call or fax to whomever had the site and ask them to send you a copy of the information you need which was posted on the web site.

SEARCH PRINCIPLES FOR ELECTRONIC DATA

Any good advocate knows, like the pollster, that the answer you will get is determined by the question that you ask. The same rule applies to electronic legal research.
Much database searching is based on the principles of Boolean logic. Boolean logic refers to the logical relationship among search terms, and is named for the British mathematician George Boole.

Boolean logic consists of three logical operators:

1.   OR   2.   AND   3.   NOT

Query: I nformation about compensation or damages?
*In this search, you would retrieve records in which AT LEAST ONE of the search terms is present. We are searching on the terms damages and also compensation since, documents containing either of these words might be relevant.

OR logic is most commonly used to search for synonymous terms or concepts. OR logic collates the results to retrieve all the unique records containing one term, the other, or both.
The *more* terms or concepts we combine in a search with OR logic, the *more* records we will retrieve.

Query: The relationship between damages AND children?
In this search, you would retrieve records in which BOTH of the search terms are present. You would not retrieve any records with only "children" or only "damages"
The *more* terms or concepts we combine in a search with AND logic, the *fewer* records we will retrieve.
A few Internet search engines make use of the *proximity operator* -**NEAR**. A proximity operator determines the closeness of terms within a source document. NEAR is a restrictive AND. The closeness of the search terms is determined by the particular search engine. For example, NEAR in AltaVista (Power Search) is 10 words., Google as another example, does proximity searching by default, unless you tell it not to.

Query: Information about liability, but to avoid seeing anything about damages ?
*In this search you would retrieve records in which ONLY ONE of the terms is present
*No records are retrieved in which the word "damages" appears, even if the word "liability" appears there too
NOT logic excludes records from your search results.
Be very careful when you use NOT: the term you do want may be present in an important way in documents that also contain the word you wish to avoid.

Many search engines require full Boolean searching by the use only of the Boolean logical operators.
Examples:
Query: I need information about damages or compensation
Boolean logic: OR
Search entry: <u>damages OR compensation</u>

Query: I'm interested in damages in infant cases.
Boolean logic: AND

Search: <u>damages AND infant</u>

Query: I'm interested in damages but not infant.
Boolean logic: NOT
Search entry: <u>damages NOT infant</u>

Query: I want to learn about conclusive evidence.
Boolean logic: OR, AND
Search entry: <u>(evidence OR) AND conclusive</u>

Note: Use of parentheses in this search is known as *forcing the order of processing*. In this case, we surround the OR words with parentheses so that the search engine will first process this part of the search. Next, the search engine with combine this result with the last part of the search. Using this method, we are assured that the OR terms are kept together as a logical unit.

APPLICATION OF ELECTRONIC SEARCH TECHNIQUES

Basic search techniques can be applied to any electronic document. Using the techniques often will quickly develop your skill and you will discover the wealth of helpful information that is just sitting there. It can help you to decide on how to proceed in a matter. The idea is to make your search process work like a magnet to bring the information to you.

Take for example the Weekly list of the Supreme Court which has approximately 25 pages. When you go to our local Supreme Court web site at **www/ sc.gov.jm** Instead of looking across each line of each page simply **use the find command** on the computer and type into the query box the words you would search for with your eyes, eg. "Striking out" and let the electronics do the job.

So the Weekly Court list, published on the Supreme Court web site can help you to easily find; your cases, other Attorneys cases, precedents from unusual matters, precedents of similar matters. If you need a precedent these lists will help you to quickly search several lists to find about a particular category of case. You can then call one of the Attorneys in the matter you found and ask them to fax you a copy of the document or discuss your matter with them or visit the Registry and look at the file

Research is an essential aspect of law practice, regardless of the type of practice. It is as necessary in drafting a commercial document as it is in drafting pleadings. *Understanding how to do Electronic legal research will soon be essential* as it involves knowing how to use the computer as a standard modern business tools and the internet as the standard medium of information publication.

ALTON E. MORGAN
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USEFUL LEGAL RESEARCH WEB SITES

Infolawfinder - This web site is really a search enabler, that gives access to all the important UK sources which are available Statutes,

BAILII- British and Irish Legal Information Institute- a free, comprehensive and up to date legal web site.

lawnotes.co.uk- This site is a site of summarised reports of selected High Court cases

casebase - This site is a free transcript archive of U.K. Court of Appeal cases

legaldocs.com- This web site sells american legal documents in precedent form

privy-council.org.uk - the Privy Council web site

smlawpub.jhc.net/casecheck.nsf/casecheck/1?opendocument - this site gives a weekly index of all approved judgments of the House of Lords, Privy Council, Court of Appeal, High Court (all Divisions)

sweetandmaxwell.co.uk - a subscription site with excellent resources,

macdonald.butterworths.co.uk- a subscription site with excellent resources

parliament.the-stationery-office.co.uk- All the material published by the British Government

www.thetimes.co.uk- the law reports published in the Times newspaper of London. The case date will give guidance as to the publication date to search for.

h2000.net/ira/legal.htm- this site gives web addresses for over 200 legal search web libraries throughout the world but primarily in the U.S.A.

lawreports.co.uk/indexdln.htm

lawguru.com- a site providing general legal research assistance with an American focus

ilrg.com- internet legal resource guide, a link to many legal web pages worldwide

austlii.edu.au- internationally acclaimed as the best internet legal resource site

austlii.edu.au/links/World- the internet portal to most commonwealth legal web sites.

worldlawdirect.com-this site offers answers to simple legal questions

jurist.law.pitt.edu/world- the university of Pittsburg Law school web site

law.cornell.edu-the Cornell university Law school web site, one of the oldest legal topic websites