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3-1-2009

Hello BLAW: Bloomberg Law, the Newcomer in Legal Research, Meets Academic Users

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Bloomberg Law, the newcomer in legal research, meets academic users

by Mary Ann Neary and George D. Wilson
There's a new legal information provider in town. Bloomberg, a widely-known provider of business and financial data and news, has been working the past several years to create and disseminate its Bloomberg Law (BLAW) suite of services to law firms as well as to a number of law school libraries.

Bloomberg intends BLAW to be a product that integrates its business and financial data and news coverage with legal research and analytical tools. With BLAW, Bloomberg is looking to challenge the domination of LexisNexis and Westlaw in the online legal information arena.

For law firms, Bloomberg is working to position BLAW as indispensable not only for legal research and analysis but also for business development. For law schools, Bloomberg is seeking to acquaint students, faculty, and staff with BLAW and develop their use and reliance on the product. Bloomberg is aiming for law schools to be well prepared to join firms as well as to a number of law school libraries.

Bloomberg has worked the past several years to create and disseminate its Bloomberg Law (BLAW) suite of services to law firms and law schools. Bloomberg Law and Stanford Law have each worked with Bloomberg and used BLAW for two years, experiencing both the advantages and the challenges of implementing this developing service.

Using and Learning the BLAW System

BLAW users have two options for accessing the system: use a dedicated, dual-screen Bloomberg terminal and log in with a system-authorized username and password or employ a dedicated biometric fingerprint scan device—known as a Bloomberg B-Unit—to connect. The advantage to the B-Unit is that it is the ability to log in via any Internet-connected computer anywhere in the world (hence, the “Bloomberg Anywhere” logo prominently displayed on login screens).

Obtaining a username and password for use on a dedicated Bloomberg terminal requires online registration with brief telephone confirmation by a Bloomberg Help Desk member. To obtain a B-Unit, the user requires the physical delivery of the device and then completion of a registration process with a BLAW representative. Even though the actual registration process is quick and simple, it can be somewhat inconvenient because BLAW representatives generally must be present in person or on the telephone. As Bloomberg is still ramping up its BLAW operations, these representatives appear to be spread quite thinly and, therefore, are frequently occupied. Finally, B-Units can also on occasion malfunction or have difficulty recognizing individuals' fingerprints, requiring BLAW representative troubleshooting.

Beyond Bloomberg equipment issues, it is notable that on all of its applications Bloomberg uses an interface with a black background that harks back to MS-DOS (Microsoft Disk Operating System). Research components are organized and accessed under three- or four-character, all-capital-letter codes. As one can tell from its own appellation, “BLAW” is no exception. So the BLAW interface can be a bit daunting as well as confusing to users, especially new ones.

To help accommodate users and alleviate any confusion, Bloomberg has superimposed an easy-to-use, point-and-click “Law Menu” of basic functions as an initial step for users. Bloomberg has also recently come out with a handy 16-page “Quick Reference Guide” that presents clear, simple steps for such things as logging in, navigating the system, finding information on menus, keyword searching, printing/e-mailing/downloading search results, creating bookmarks, and setting up alerts.

Training for BLAW is typically conducted on site for users, whether in a law firm or a law school. Experienced and knowledgeable BLAW attorney representatives, at times with the aid of other, experienced Bloomberg technical personnel, provide assistance with equipment set-up, registration, and training. Typically, initial training covers the use and navigation of the Bloomberg system, searching Bloomberg business and financial data and news, as well as the details of BLAW components. Users can supplement this initial training by accessing a menu of Bloomberg training resources by typing BU (for “Bloomberg University”) and then adjusting their personal default settings (PDF) and picking up convenient tips/shortcuts (EASY).

Unlike LexisNexis and Westlaw, Bloomberg does not offer a program for training and hiring BLAW student representatives as assistants to the BLAW attorney representatives. The company’s position is that all customer service inquiries should always be handled by actual Bloomberg personnel. Due to this
BCIT also helpsfully covers the direct history of the case being checked so that a user can, with only a single click, display a case's progress through the courts.

The legal resources in BLAW are made up of: (1) primary law sources, including federal and state statutes, federal and state cases, the Bloomberg Law Citator (BCIT) service, and federal and state court dockets; and (2) secondary sources, including the Bloomberg Law Digest (BBLD) (organized by core legal topics, such as civil procedure and practice, corporate law, criminal practice and procedure, evidence, privacy and information law, and real and personal property), subject-specific customized Bloomberg Law Reports (BBLR), and certain specialty services.

For More Information
Visit Bloomberg Law online: http://about.bloomberg.com/professional/law.html.

Bloomberg pulls federal and state statutes from the official federal and state government Web sites. As a result, there are no annotated statutory codes in BLAW. Notably, there is also no ability to use BCIT, Bloomberg's citator service (see below), to check for subsequent treatment of statutory citations.

Federal and state case law is pulled from official government Web sites as well. However, the unique BCIT product can be used here. Bloomberg has clearly invested significant time, effort, and care in BCIT. Useful citation analysis summaries are provided by case composite visual symbols. These indicate "positive," "distinguished," "caution," "statute," and "negative" treatment categories.

BCIT also helpsfully covers the direct history of the case being checked so that a user can, with only a single click, display a case's progress through the courts. Citing references can be sorted conveniently by date, court, and analysis. All citing references are hyperlinked so that users can jump directly to them. Detailed information on using BCIT can be obtained by typing BCRG. Although Bloomberg is still developing BCIT, it appears to be growing into a serious competitor to LexisNexis' Shepard's Citations and Westlaw's KeyCite.

When standard case citations, such as citations to federal circuit court opinions in the Federal Reporter or federal district court opinions in the Federal Supplement, are not available, Bloomberg provides unique internal BLAW citations, just as LexisNexis and Westlaw reference their own unique document access designations. According to BLAW representatives, Bloomberg is pursuing recognition of the BLAW citation format in the Bluebook ("A Uniform System of Citation").

Federal court dockets are provided via records mined from the U.S. PACER (Public Access to Court Electronic Records) system. Unlike PACER, there is no charge to law school users to search dockets on BLAW. Since Bloomberg does not maintain a continuous live feed of data from PACER, dockets are not automatically updated. Academic users, however, can update a docket at no charge by clicking on a link marked "Update this docket," and the results are e-mailed to the user. The message appears in the user's Bloomberg mail folder, and users are alerted to the incoming mail by a blinking sign in the upper portion of the screen; clicking on a link embedded in the e-mail brings the user to the updated docket.

I am most impressed with Bloomberg's docket tracking feature," says Cara Perlas, a researcher at Stanford's Securities Class Action Clearinghouse. "One can set a docket track to receive e-mail notifications of changes to a court docket. These changes can be whenever there are new proceedings since the last time I downloaded the docket, these changes can be based on keywords that I am tracking, and these notifications can be delivered as frequently as 'intraday.' Furthermore, all my alerts are easily managed using the Bloomberg system. Bloomberg has the ability to send couriers and runners to retrieve docket information that it does not have posted online. Certain cases may, nevertheless, not be tracked in BLAW (e.g., some bankruptcies of smaller companies that are not deemed relevant to Bloomberg's bankruptcy coverage, i.e., "no asset" cases).

Bloomberg is also building up its state court docket resources for case research and tracking. Again, Bloomberg will dispatch couriers and runners to retrieve docket information that it does not yet have online with no charge to law school users. Significant expansion of state case docket information by Bloomberg will be necessary before this component of BLAW becomes truly effective and reliable.

Bloomberg's secondary sources are strongly represented by the periodic BBLR (the Bloomberg Law Reports). These reports—generally published weekly or monthly—provide customized, expert coverage of major developments in continually expanding practice areas via convenient PDFs. Currently, there are 23 topical areas, including bankruptcy, banking and finance, director and officer liability, environmental law, intellectual property, labor and employment, securities law, and sustainable energy. Continually changing URLs for the online location (outside of the Bloomberg system) of BBLR, however, are inconvenient (no bookmarking capability) and frustrating to users; PURLs (Persistent Uniform Resource Locators) would be preferable.
Bloomberg Law has been integrated into teaching/computer-assisted legal research courses at BC Law taught by the legal information librarians. Due to BC Law’s incorporation of Bloomberg software on all computer lab, which is open 110 hours per week. Bloomberg software is also installed on 22 terminals in teaching/computer-assisted legal research labs. BC Law Library staff announced BLAW to faculty and students and conducted initial training in April 2008. Faculty members at BC Law have been slow in their adoption of BLAW as part of their research arsenal, citing their lack of time to master a new system. Students have adopted BLAW out of initial curiosity and then realized the value of access to the corporate and financial data resources. The most enthusiastic student users are those students who have worked in the financial industry or who are planning to do so.

Students appreciate having BLAW’s permission to use their academic access at summer jobs (there being no summer session at BC Law), as well as Bloomberg’s permission to use the service for six months after graduation with no restrictions. Sarah McGarrell, a second-year student, has been a strong user of BLAW. “Once a user gets comfortable with the interface, the search process is straightforward and efficient,” she says. “It is easy to refine a search as well.”

The BLAW representative was an expert user and tailored these presentations for class needs in cooperation with the librarian instructor. Due to BC Law’s willingness to use Bloomberg software on all workstations in the computer labs where research courses are taught, students have ready access to the service during classes.
to any content you post at the provider's site. Often you are also agreeing that you have the intellectual property rights to post the content. If you do not have those rights and someone serves the provider with a legal complaint and summons for infringement, you are obligated to step into the provider's shoes, defend against the suit, and potentially pay any damages if you lose.

Terms Governing Legal Disputes
If providers and users do find themselves in legal proceedings against each other, the TOUA often also sets the rules and the battleground where that action will take place. Not surprisingly, these will be most advantageous to the provider. Many agreements require arbitration of disputes; set the governing law and venue of legal actions, usually those of the provider's location; and make the user responsible for the provider's legal fees. Such terms are a strong incentive for users to abide by TOUAs and a deterrent from taking legal action (even with just cause).

Litigation
Of course, disputes between users and providers have germinated into law suits in state and federal courts. Perhaps the most famous case showing the legal intersection between Web 2.0 and TOUAs is Bragg v. Linden Research, Inc., 487 S. Supp. 2d 593 (E.D. Pa. 2007). Bragg caused a flurry of excitement when it was decided because the defendant, Linden Research, operates Second Life. The case arose after Linden accused Second Life user Marc Bragg of “virtual real estate fraud.” Linden penalized Bragg for his supposed infraction by seizing his virtual real and personal property and freezing his account as Second Life’s TOUA authorized it to do. Bragg, who just happened to be an attorney, sued in his home state of Pennsylvania. Linden responded by invoking Second Life’s TOUA requirement for arbitration on its home turf in San Francisco. The case came before the Federal Eastern District of Pennsylvania, which found the TOUAs arbitration clause so one-sided as to be unconscionable and refused to enforce it. Bragg is not so much interesting because it involves Second Life; most successful Internet enterprises inevitably end up in court. Rather, Bragg’s novelty lies in the court’s refusal to enforce the TOU. That is not usually the case. “Courts typically hold that terms of use are binding so long as there is an opportunity to review them and their existence is indicated on the screen, even if they have not been read,” says Raymond T. Nimmer, Dean and Leonard Childs Professor of Law at the University of Houston Law Center. “So, the assumption should be that they are binding. Whether there is reason to worry depends on the nature of the materials involved and the nature of the terms.”

Even the standard protections of contract law, such as unconscionability, may not be availing in a TOUA case. In Bragg, Second Life’s TOUA term making California law applicable turned out to be counterproductive as California’s jurisprudence makes one-sidedness a critical part of unconscionability analysis. Ironically, had the case been governed by the law of Bragg’s home state, Pennsylvania, it might have been decided differently. (Incidentally, Linden subsequently changed its TOUA making the arbitration clause less onerous. Kate Fitz, law librarian at the Sacramento County Public Law Library, has posted an archive of Second Life’s TOUAs at www.lawspotonline.com/lawspot/index.jsp.)

Now What?
Like it or not, TOUAs are now a permanent hazard on the information highway, a threat to be endured if you want to use the Internet, much like malware, spyware, viruses, Trojans, and zombie computers. Do you have to read the TOUA of every Web page you use? Of course not, but here are some rules of thumb.

• For casual surfing, you probably are not going to do anything to run afoul of a TOUA.
• If you desire to preserve and retain control of your content posted on the Web, you may want to host that material yourself rather than on a Web 2.0 service run by someone else. (In this case, you may even want to use a browswrap TOUA to your advantage, for example, forbidding users of your blawg to rely on your postings as legal advice.)
• Finally, know that TOUAs govern your remedies, or lack thereof, should something bad happen. For example, if all the content you spent months to create disappears, you may have little leverage against a provider to get it back. Web 2.0 is not a good place to store your only copies of photos or writings. “The big thing is just to remember TOUAs are out there; keep in mind what they can do, and use discretion in your use of the Web and Web 2.0. According to Dean Nimmer, “The terms should be viewed as potentially binding contractual terms. Again, whether there is reason to worry depends on what they say.”

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Future BLAW Developments
Bloomberg personnel recognize the limitations of the present BLAW menu system and the need to streamline log-in procedures. Pamela Haahr, the manager of the law school initiative within BLAW, reports that Bloomberg has been focusing on a streamlined interface for legal researchers with the goal of offering a sophisticated desktop solution for modern attorneys. These changes are based on feedback received from the pilot group of law schools and existing law firm subscribers. The resulting future product should prove more appealing to law students and attorneys in its similarity to other electronic research systems. While it does not currently offer the breadth and depth of law resources present on Westlaw and LexisNexis, Bloomberg’s BLAW service offers significant other strengths in docket-level access and in the financial and news arenas, all of which are increasingly important to law firms and practitioners in monitoring firm business strategies and crucial developments in the financial sector. The enhanced BLAW service in development now promises to deliver the same strong research product with a more user-oriented interface.

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E. Plerhopes (fellow). In addition, the Stanford Journal of Law, Business & Finance (Ashley Walter, student editor-in-chief) uses Bloomberg via a dual-screen, dedicated BLAW terminal. A senior analyst at Stanford’s Securities Class Action Clearinghouse, Jason Hegland has searched Bloomberg extensively and comments that the service is “information rich, regardless of what you are looking for.” Hegland finds the multiple approaches to searching using the BLAW menus helpful. As a “power user,” however, Hegland also notes that the “menu-driven system is not intuitive and a bit clunky in its operation.” This comment echoes the responses of many students in both institutions who find the BLAW system and menus cumbersome and confusing.