



## Evaluating Research Technology

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**L**egal publishers and legal research vendors continually improve their offerings, with lawyers often paying a premium for the latest information and enhancements. Which products will improve your practice and how should lawyers determine this? This article presents considerations for determining if any given offering is worth the cost for your practice's research and information needs. Whether just starting a solo practice or negotiating multifaceted renewals for a large organization, there are fundamental questions for evaluating research technology that impact how legal researchers keep up with the law and analyze legal issues.

### Research is Self-Education

Fundamentally, research is an exercise in self-education and every researcher learns in different ways. Even the most routine matters

might require awareness of new developments or surprising uses of old precedents. As an initial matter, the organization should develop a sense of how members acquire and engage with information. For example:

- Voracious readers who need to pore over the written word to really absorb ideas will value comfortable text layout.
- Those who prefer incremental updates in their inbox rather than navigating websites for new information will benefit from robust alerting features.
- For those who understand an issue only after discussion and hashing out ideas with colleagues, wide availability and easy sharing will be important.

Rather than allowing the tools to dictate the use, organizations should inform their choices by reflecting on how individual researchers learn best.

By the same token, lawyers and researchers can get stuck in ruts when they do legal research and should be open to innovations. It's easy to slip into thinking the familiar is the only way to accomplish a task. We may, for example, instinctively turn to "Shepardize" a case, when the task is more fully described as "determining if there is later authority that disrupts a holding." Or we might lean heavily on an ever-useful title like *Colorado Causes of Action*,<sup>1</sup> when we should be open to every method to identify appropriate legal theories for a lawsuit. It's entirely possible that a new platform or publication will come along that helps us learn more quickly, more accurately, or more cost-effectively.

### Usage Data Should Inform Subscription Decisions

Decisions on updating or replacing research platforms should be informed by how re-

searchers use existing research tools in addition to qualitative user feedback. It is possible to know with a great level of detail exactly how researchers interact with online information. Vendors should be forthcoming with how organizations and researchers interact with their platforms. Online activity trackers can also provide objective information across a variety of sources.<sup>2</sup> Lawyering and legal research, like most professional knowledge work,<sup>3</sup> is a very personalized craft. That personalization is essential to delivering client service, but can color objective evaluations of research methods and tools. User feedback should be gathered and analyzed alongside usage data.

#### **Trials and Samples are Essential**

Videos and demonstrations are great, but nothing beats interacting with and using a research tool. Beware the vendor that sells

subscriptions but doesn't offer a trial of any length. Legal research projects arc over time, the landscape is potentially huge, and information must be continually updated. A week's worth of access or a handful of sample reports ought to be a small burden to the vendor. Research and information vendors that don't offer trials or samples demonstrate lack of faith in their product. Perhaps their content is so thin that they fear it being totally consumed. Perhaps their support can't manage the load of uninitiated users. Whatever the reason, committing to a subscription sight unseen can be problematic.

#### **Test Platforms against Expertise**

A research platform's information repositories may be vast, but there is almost certainly some content area that a researcher knows well. Evaluating whether the service gets that right will shed light on other content areas of the

platform. For example, if a service offers profiles or organizes information by attorney or judge, look up information on yourself and colleagues. Although that may not be a perfect indicator for the whole platform, it will give some insight into how the service compiles and publishes information. Similarly, reviewing materials that cover familiar practice areas can form an anchor point for evaluating a broader range of materials.

#### **Test Platforms against a Current, Live Issue**

Researching a live issue for a current client helps evaluate a research tool in way that hypotheticals cannot. The research may take paths into unfamiliar sources. Researching a live issue also provides opportunities to put training materials and support to the test. Sales representatives understandably demonstrate their wares with

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cherry-picked examples that highlight useful features. Working through niche issues may reveal a different perspective.

A more thorough approach would be to compare research tasks in the new platform exactly with your current methods, essentially doing the research twice. The comparison will involve extra time—this is justified if it results in better answers or time savings, or avoids investment in unsuitable research products. For example, setting up duplicate topical or litigation alerts during an evaluation trial period can give definitive insight into which one is faster and more thorough. Or comparing search results lists side by side can shed light on potential gaps in coverage or ranking algorithms.

### Balance Costly Subscriptions against Free Resources

Do subscriptions make sense when so much is available for free or low cost? A lot of legal information is freely or inexpensively available online in some form.<sup>4</sup> For example, the Colorado Bar Association provides Casemaker access to members.<sup>5</sup> Public law libraries provide a range of materials and legal reference services.<sup>6</sup> The potential trade-off of the low cost is time, convenience, and enhanced functionality.

Robust online research platforms gather sources in one format and provide links between them and other editorial enhancements. For example, Google Scholar serves up case opinions for free and includes a rudimentary citator through its “How Cited” feature.<sup>7</sup> It doesn’t, however, provide subject arrangements of legal issues or robust ways to evaluate subsequent authority. Likewise, the U.S. Government Publishing Office provides reliable and official access to a wide range of federal materials,<sup>8</sup> but it doesn’t provide annotations or links to relevant cases and secondary sources. It’s entirely possible to come up with minimally

competent research with these tools. But even a modest investment in a research platform or an occasional trip to a law library to use one will likely yield better results in less time.

### Extending Evaluation to Emerging Technologies

As of this writing, venture capital investment in legal technology is on track for incredible totals in 2018.<sup>9</sup> Technological innovations will undoubtedly impact how practitioners acquire new knowledge. The general trend—albeit slow by tech sector standards—of court and government information becoming available digitally points to wider insights into law firm practices and tasks.<sup>10</sup> Established vendors like West and Lexis have made investments in litigation analytics that are set to provide insight into broad trends in the law.<sup>11</sup> FastCase allows law firms to experiment with integrating internal data and external publications.<sup>12</sup> Although the many systems currently in development<sup>13</sup> are casting about for best practices and plodding through uncharted territory, it’s clear that data-intensive tools will complement traditionally published legal information.

### There are No Shortcuts

Building clever connections in an online platform or automated methods for summarizing legal information will never remove a lawyer’s obligation to substantiate his or her opinions in law and fact. Despite the promise of streamlined research and integrated understanding, ultimately a lawyer’s counsel and expertise rests on a deliberative understanding of legal principles and how they apply to the client’s situation. How a lawyer comes to that understanding, and which tools make this task expedient, are ultimately personal and variable decisions worthy of continual evaluation. 



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### NOTES

1. MacGregor *et al.*, *Colorado Causes of Action: Elements, Defenses, Remedies, and Forms* (Bradford Publishing Co. 2011).
2. See, e.g., Speight, “Product Review: Research Monitor,” *Legal Information Management* (Mar. 2009).
3. See generally Davenport, *Thinking for a Living: How to Get Better Performance and Results from Knowledge Workers* (HBS Press 2005).
4. The Law Library of Congress compiles comprehensive lists of sources, including Colorado materials. Law Library of Congress, Guide to Law Online: Colorado, [www.loc.gov/law/help/guide/states/us-co.php](http://www.loc.gov/law/help/guide/states/us-co.php).
5. Colorado Bar Association, [www.cobar.org/Casemaker](http://www.cobar.org/Casemaker).
6. Publicly accessible law libraries are listed by the University of Denver’s Colorado Law Project, [www.law.du.edu/the-colorado-law-project/colorado-law-libraries-and-law-librarians](http://www.law.du.edu/the-colorado-law-project/colorado-law-libraries-and-law-librarians). The University of Denver’s Westminster Law Library is open to attorneys conducting legal research, [www.law.du.edu/library/policies/access-policy](http://www.law.du.edu/library/policies/access-policy).
7. See Lawyerist.com, Google Scholar, <https://lawyerist.com/technology/online-legal-research-tools/google-scholar-legal>.
8. <http://govinfo.gov>.
9. Blijd, “Legal Tech Funding Landscape,” *LegalComplex* (Oct. 24, 2018), [www.legalcomplex.com/blog/2018/07/09/first-half-of-2018-legal-tech-raised-1-2-billion-in-cash](http://www.legalcomplex.com/blog/2018/07/09/first-half-of-2018-legal-tech-raised-1-2-billion-in-cash).
10. See generally Walters, ed., *Data-Driven Law: Data Analytics and the New Legal Services* (Auerbach Pub. 2018).
11. Ambrogi, “LexisNexis Launches Lexis Analytics, Putting A ‘Stake in the Ground’ to Claim the Legal Analytics Space,” *LawSites* (July 13, 2018), [www.lawsitesblog.com/2018/07/lexisnexis-launches-lexis-analytics-putting-stake-ground-claim-legal-analytics-space.html](http://www.lawsitesblog.com/2018/07/lexisnexis-launches-lexis-analytics-putting-stake-ground-claim-legal-analytics-space.html); O’Grady, “Major Thomson Reuters Launch: Westlaw Edge, West Search Plus, Analytics, Enhanced Citator and More,” *Dewey B. Strategic* (July 12, 2018), [www.deweybstrategic.com/2018/07/6838.html](http://www.deweybstrategic.com/2018/07/6838.html).
12. Dipshan, “Fastcase Looks to Expand Access to Analytics with AI Sandbox Platform,” *Legaltech News* (May 4, 2018), [www.law.com/legaltechnews/2018/05/04/fastcase-looks-to-expand-access-to-analytics-with-ai-sandbox-platform](http://www.law.com/legaltechnews/2018/05/04/fastcase-looks-to-expand-access-to-analytics-with-ai-sandbox-platform).
13. See, e.g., *Legaltechlist*, Stanford CodeX, <https://techindex.law.stanford.edu> (listing 1099 legal technology companies with 68 organized under “Legal Research”).

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