

The Melito & Adolfsen Law Firm

Why Google may beat Westlaw at Its Own Game

By Louis G. Adolfsen

Westlaw and Lexis provide powerful legal research tools used by judges, lawyers and students all across the country. A new surprisingly powerful tool is Google Scholar. Westlaw and Lexis are private services which can be expensive depending on the contract and how they are used. On the other hand, Google Scholar is entirely free.

A recent vignette related to me by a law school professor made me think that Google Scholar may be able to beat Westlaw and Lexis at their own game.

First, let's address the two different types of services. For purposes of this discussion, I will only talk about Westlaw, since I think that it has features that are not generally considered important on Lexis. By that I mean Westlaw has the "Key Number" system, which puts various portions of court decisions in categories and allows searching for citations to the various Key Numbers. What this service does is allow the researcher to cite-check a case and determine whether the case has been cited in connection with a particular Key Number. This is a very useful tool because cases are often cited numerous times for general propositions. By using the Key Numbers the researcher can narrow down the number of cases that have to be read based on whether the cases in the cite-check refer to the Key Number at issue.

Google Scholar does not have a Key Number system. A Key Number system, I understand, is proprietary to Westlaw and cannot be used by Google Scholar. What Google Scholar does is provide an analogous service which comes up on the screen as "How the Case is cited." Google's approach is useful because it will also allow the researcher to determine whether the case was cited for a proposition. However,

Google's method is not quite as direct as Westlaw's Key Number system which allows the researcher to zero in on the particular key numbers and not have to read to see how the case was cited as is required under the system used by Google Scholar.

In my view, what we've discussed above are the major differences between Westlaw and Google Scholar. But there is one difference that is, in my view, far more important, and that is the one identified by the law school professor when discussing an assignment with her students.

The assignment given by the law school professor was to research an issue involving sexual harassment in the workplace. According to the professor, one of the elements of sexual harassment in the workplace is a causal connection between the harassment and the work. Without examining that area of the law to understand it (I, like the students, I presume, know nothing about it), the point is that the students were told to look for cases involving the causal connection in cases involving sexual harassment in the workplace.

After a few days a number of the students came back and told the professor that they could not find any cases in Westlaw discussing the issue of the connection between the contact and the harassment. Some others made a more interesting find. They found that, when they researched the subject using Google Scholar, or even simply Google itself, and typed in their search, Google responded with a question. The question from Google was -- did you mean "causal connection"? What the students had written was "casual connection". Thus, Google, using the logic employed by its system, automatically asked if the students intended to search for the word causal instead of the word casual.

The students then learned that they may have misunderstood the professor. Perhaps, understandably, when the students thought of sexual harassment in the workplace, they inferred that the professor meant a "casual" connection, such as the kind of socializing engaged by people in their daily lives.

Does that mean that Google is a better research tool than Westlaw or Lexis? Of course not. What it does mean is that Westlaw and Lexis will have to change their logic to ask more such questions or they run the risk of having some researchers deciding that perhaps Google is a more useful service for research. After all, it certainly is a nice

feature that Google points out to someone doing research that perhaps they misspelled a word or misused a term.

Time will tell whether all of the case law, which apparently is now in the public domain, will be capable of being researched simply using Google Scholar. Another question is whether lawyers and students will ultimately conclude that the Key Numbers are not that important and they are certainly not important enough to pay for Westlaw or Lexis when they can do their research for free using Google Scholar.