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The CRIV Sheet

Editor's Corner

As 2008 winds down and 2009 begins, the CRIV has been working hard to provide members with pertinent information. As you read this issue, you will be winding down from the recent holiday season, and I hope this *CRIV Sheet* will help your year to be the most productive and prosperous yet.

We begin this issue of *The CRIV Sheet* with another vendor site visit report. Amy Eaton, Tracy Thompson-Przylucki, and Joe Thomas spent a day at H.W. Wilson in New York City. The CRIV committee members were joined by Jeff Buckley, legal research analyst at Debevoise & Plimpton LLP, as the Law Library Association of Greater New York (LLAGNY) chapter delegate. The report provides responses to many concerns submitted by AALL members and is lengthy. Just like our last issue, I'm sure you will find the length is appropriate given the amount of information gleaned. We follow the site visit report with Wilson's selection guidelines.

Next, Everett Wiggins, reference librarian at Hiscock & Barclay, LLP in Syracuse, New York, provides a thoughtful piece on a difficult topic: statistics. Mr. Wiggins walks through the process of using available

information provided by Lexis and Westlaw in order to analyze the usage of these services.

Lesley Ellen Harris, a copyright attorney and author of *Licensing Digital Content: A Practical Guide for Librarians*, provides a practical article regarding defining terms in a license agreement. Mr. Harris also reminds readers to not forget the AALL document, *Principles for Licensing Electronic Resources*.

The CRIV Sheet has been fortunate to receive a few submissions that were unable to be printed in this issue due to the importance of providing our members with this year's vendor site visit report. We are happy to be in this situation and look forward to bringing you these articles in our next issue in May.

Thank you to all of our contributing authors for their hard work; we strive to bring you the best possible content. If you would like to contribute to *The CRIV Sheet*, or just share your ideas on improving vendor relations, please contact us. Your comments, letters, suggestions, and submissions are always appreciated. Please e-mail smarshall@law.txwes.edu or jthomas@nd.edu.

Tracy L. Thompson-Przylucki New England Law Library Consortium, Inc., Keene, New Hampshire

From the Chair

I write this as we enter into the 2008 holiday season. Thanksgiving, one of my favorite holidays, looms, and a long weekend of family time centered around the table beckons. This is a holiday steeped in tradition. Year after year our table is laden with the same tried-and-true menu items: turkey, sweet and mashed potatoes, gravy, cranberries (fresh please!), stuffing, and warm bread. I don't dare tinker with this time-honored foundation. It's what everyone expects. It's the one day of the year that I can unequivocally answer my children's perpetual question, "What's for dinner, mom?"

And I've finally perfected it! I remember the early years of cooking my own family's Thanksgiving meal. Carving into the golden bird with everyone looking on only to discover that I hadn't found that hidden bag of innards when I stuffed the bird. I don't make those rookie mistakes anymore. The basics are absolutely perfect now, and I don't mess around with them. Creativity is invoked around the fringes. Hors d'oeuvres, desserts, and other side dishes are all fair game for innovation. This year we made sardine and bacon roll ups, spinach with portabella mushrooms, pumpkin cheesecake rolls, and apple crisp. As long as

the basics are served up, these extras can be layered on, and everyone will still be happy.

As part of the CRIV site visit team to H.W. Wilson's offices in the Bronx in November, which is reported in this issue, I was reminded of the important balance between tradition and innovation. Tradition evolves from successful practice over time. Wilson has a long tradition of success in the intellectual art of indexing periodical information. The human contribution to the process is an essential key to its success and serves as the foundation of Wilson's business. In this era of technological sophistication, it was both surprising and heartening during our tour to observe the indexers at their task, toiling in silence (or in headphones) to identify the "aboutness" of the article at hand to help the researcher quickly and accurately retrieve truly relevant content. While innovation has been implemented in a supporting role all around the process, and technology has necessitated the building of an impressive server farm at the Wilson facility, the core task of reading and classifying the content of a document remains a human undertaking.

While full-text searching is the flavor of the day,

our visit reminded me of the added value of human indexing. To drive home that point, a recent study conducted by BNA showed that index users had an 86 percent success rate, while full-text searchers had only a 23 percent success rate locating relevant information to respond to research questions. You can see a report of the BNA study in their publication *Using Online Indexes*, which is part of the BNA Law School Education Series.

I would also like to take this opportunity to commend the Executive Board on its recent decision to create a vendor relations representative position for AALL. I appreciate the work done by Penny Hazelton on behalf of the membership to advise the Executive Board on the need for and feasibility of such a position. At this point, a job description has not been developed, so I am not yet clear on the relationship between that representative and the CRIV, but I expect the roles will be complementary. Strong relationships between vendors, libraries, and the Association serve all of us, and I look forward to watching this develop.

Finally, I'd like to once again thank all of the members of the 2008-2009 CRIV. The education subcommittee (Michelle Cosby, Dina Dreifuerst, Joe Hinger, and Lucy Rieger) developed several strong program proposals for our Annual Meeting in 2009.

Ms. Rieger's proposal, "Unfair Publishing Practice? Who's to Stop Them? Superlawlibrarian! (and the Attorney General)," was accepted and has been slotted for July 28 at 10:45 a.m. Mark your calendars now for what promises to be a lively program.

Joe Hinger (chair) and Dina Dreifuerst are serving on the New Product Award Subcommittee. Please see the November *CRIV Sheet* for the submission form and consider nominating a worthy new legal information resource.

Rob Myers and Shaun Esposito serve on the CRIV Page and Tools Subcommittee. Work on the CRIV Web site is continuing as we await the planned changes to AALLNET. New implementations there may impact how we develop the CRIV page.

Amy Eaton and Joe Thomas were excellent representatives for our H.W. Wilson site visit. I am grateful to Jeff Buckley for taking time from his busy schedule at Debevoise & Plimpton to join us as the LLAGNY chapter delegate for the visit. Alicia Brillon also serves on the site visit subcommittee but was unable to attend this visit.

Stephanie Marshall and Joe Thomas have put together a wonderful issue of *The CRIV Sheet* once again. I am grateful to them and to all of the contributors.

Amy Eaton Perkins Coie LLP, Seattle

CRIV Site Visit Report: HW Wilson

A Trip to H.W. Wilson

The 2008-2009 CRIV Site Committee is composed of me, Tracy Thompson-Przylucki, and Joe Thomas. Jeff Buckley was invited to participate as a representative of the local AALL chapter, Law Library Association of Greater New York (LLAGNY). The four of us met in our hotel lobby on the morning of November 6 for the trip to the Bronx to meet with H.W. Wilson. Our driver was cheerful, if not overly familiar with the area. It took some doing, but we arrived at the meeting a little late but ready to get to work.

We were joined by Harold Regan, president and CEO; Mark Guthier, VP of indexing and editorial services; Ron Miller, director of product management; and Deborah Loeding, VP of sales and marketing. Ms. Thompson-Przylucki introduced the committee and noted that the CRIV site visits have changed in tone

during the years. The CRIV now sees the site visit as an opportunity to learn from the vendor and understand its current challenges in the legal publishing field. The CRIV members visit to advocate for AALL members and use our expertise to provide insight and guidance to the publishers. We hope that the site visit is a mutually beneficial exchange of ideas in an open and honest forum.

We quickly jumped into an impromptu discussion of the law firm pricing module. Mr. Miller and Ms. Loeding were eager to hear our perspectives and offered several possible options. Would Wilson support transactional access for law firms? What about pricing based on concurrent users or offered through a consortium? It was a stimulating discussion, and they were very interested in our thoughts. The value of these meetings comes from these types of conversations.

Index to Legal Periodicals

Mark Gauthier, Wilson's VP of indexing and editorial services, provided our group with the history of Wilson's service to the legal information market. I think all of the CRIV members were surprised to learn that what we now know as *Wilson's Index to Legal Periodicals* (ILP) began in 1908 as a product of the American Association of Law Libraries. In 1912, Wilson took over the printing responsibility for the *ILP*. Just after WWII, and then again in 1955, H.W. Wilson and AALL undertook major revisions to the subject headings. In 1961, H.W. Wilson purchased *ILP* from AALL. The Association continued to play an important advisory role with respect to the publication until the late 1970s.

In 1978, AALL expressed dissatisfaction with Wilson's editorial policies in four specific areas: (1) AALL felt that too few journals were being indexed; (2) AALL felt that Wilson's selection criteria for what to cover within a journal were too strict; (3) AALL wanted narrower subject headings and more frequent updates to the subject headings; and (4) AALL wanted *ILP* to be published more often. At that juncture, Wilson and AALL parted ways, and Wilson assumed complete and independent responsibility for the publication. However, Wilson recognized the validity of AALL's critique of *ILP* and has worked throughout the ensuing years to directly address those concerns.

Today, *Index to Legal Periodicals* boasts cover-to-cover inclusion of any content greater than a half page of text. Wilson regularly adds new titles, including 30 added within the year prior to our visit. More interdisciplinary titles are indexed. Wilson employs a separate selection policy for open access journals and currently indexes 15 of the 20 open access law journals listed in *Ulrich's Periodicals*

Directory. Wilson's subject headings are modified on an ongoing basis and are similar in structure to the Library of Congress, though more comprehensive. While the actual process of indexing and abstracting the myriad titles Wilson handles is still a human effort, the advent of desktop technologies has minimized the turnaround time for any publication, and therefore the currency of *ILP* has improved greatly. According to Mr. Gauthier, at least 50 percent of the materials received in-house are indexed and in the system within 10 days.

The intellectual capital represented by Wilson's abstracting and indexing resources is quite impressive. Wilson focuses on three guiding principles for its products: accuracy, precision, and consistency. Accuracy is achieved through the use of subject experts in the indexing of information. The work is not outsourced. *ILP* employs two indexers, an editor, and an assistant editor, who all hold JDs.

Wilson seeks to attain precision in indexing through the concept of "aboutness." Indexers learn to identify the essential aboutness of an article. In this way, the researcher can discover truly relevant content rather than merely content that contains a key word or two. Finally, consistency is reached through the staying power of Wilson's dedicated workforce. The editor and assistant editor of *ILP* have each been with Wilson for 12 years.

Since the early days of the *Index to Legal Periodicals* as a print publication of AALL, Wilson has evolved the resource into an online product with a retrospective component, as well as a full-text component. Each component is a separate product. The implementation of SFX linking helps the researcher connect to the full text when available.

Jeff Buckley

Debevoise & Plimpton LLP, New York

WilsonWeb

WilsonWeb is H.W. Wilson's online journal index platform. It is available via hwwilsonweb.com, and libraries everywhere subscribe. It is an impressive tool for identifying journal articles by subject area, author name, and other access points. Wilson painstakingly indexes articles from thousands of publications across every discipline imaginable. Although Wilson licenses its content to other platform providers, including EBSCO and OCLC, WilsonWeb is uniquely suited to deliver its own content. Database products available via WilsonWeb include indexes for art, biographies,

literature, business, science, humanities, and law. Many of the products provide access to article abstracts and full-text articles.

Wilson Product Managers Ron Miller and Bernie Seiler showed the CRIV what WilsonWeb can do. We looked at *Index to Legal Periodicals Full Text (ILP)*, a product that provides indexing for more than 1,000 legal publications and full-text archives for more than 300 journals as far back as 1994. For one of our sample searches, we looked for articles about *Loving v. Virginia*, the landmark 1967 Supreme Court case

that ended legal restrictions on interracial marriage.

Basic search is WilsonWeb's default search mode for natural language searching. The basic search screen has a single search box in the middle of the screen, much like Google. In addition to natural language, this box also recognizes complex keyword searches with Boolean operators, proximity connectors, parenthetical query nesting, and term truncation. WilsonWeb uses a Verity search engine so users who would like to conduct complex keyword searches would need to format them so Verity can read them. WilsonWeb provides a link to help pages for assistance with query formatting.

Wilson provides an advanced search page that has a few search boxes with dropdown menus for field searching. Several fields are available in the dropdown, including subject, title, author, and others. The *ILP* database provides a "court cases" field where users can search for case names and West reporter series citations. We searched this field to produce a list of articles that discuss the *Loving v. Virginia* case. It is helpful to be able to locate articles that have been indexed by case name.

There are also browse and thesaurus search options that allow users to navigate through Wilson's controlled vocabulary subject headings. Browse allows alphabetical navigation, and thesaurus allows hierarchical navigation. Browse also allows users to look through alphabetical lists of authors and periodical titles and other fields that Wilson has indexed. The browse page and thesaurus page both provide links that allow users to easily go to lists of relevant articles. WilsonWeb provides many ways to search. It allows users to search within results of their previous searches, and it provides further search options to users after every search. Search history is available too.

WilsonWeb is designed to return search results in less than five seconds. Search result lists include the title of each article, the author name (if available), the name of the publication, the date, volume number, page number, etc. Brief display and full display options are available. Users may rank result lists several ways—by relevancy, by date, and alphabetically by title or author. It is easy to format lists and export them for downloading, printing, or

e-mailing. The interface is user friendly. WilsonWeb even supports e-mail alerts and RSS feeds for current awareness.

Full-text articles of some publications are available via WilsonWeb, and PDF page images are available for some publications. When articles are not available in full text, Wilson provides an SFX "Article Linker" feature that links to full text in other Open URL databases, including HeinOnline. Many *ILP* journals are on HeinOnline. Wilson's search interface can make Hein content accessible in ways that Hein's own search interface currently cannot. A drawback of WilsonWeb is that it does not provide as much full-text content as users would like. Setting up WilsonWeb to work in collaboration with other information tools like HeinOnline is a remedy to this drawback.

WilsonWeb is highly customizable and easy to use on the administration side as well. Administrators have a lot of control over what their users will be able to see on WilsonWeb. A library can place its own logo on the interface. It is possible to set different display settings for different user groups. Wilson Web's statistics module is COUNTER (Counting Online Usage of Networked Electronic Resources) compliant. Usage statistics are available in a variety of formats, and it is possible to set schedules for automated generation of usage reports. Access to WilsonWeb is available via IP authentication or by password. Technical support is available around the clock.

Regarding cost structure, WilsonWeb is currently only available by flat-rate subscription. Pricing is by database. Few law firms subscribe to WilsonWeb, and Wilson is looking for ways to expand into the law firm market. The platform is not directly available to individual consumers without an intermediary. Most users access WilsonWeb through academic and public libraries.

Although full-text searching and algorithms rule search today, human-powered indexing of articles is alive and well at H.W. Wilson. Field searching with controlled vocabulary is a powerful tool. If you are not familiar with WilsonWeb and would like to give it a look, check out the trial page at www.hwwilson.com/trial.

How are Wilson Indexes Created?

A scene familiar to, if not necessarily dear to the heart of, any technical services librarian awaited us in the mail room of H.W. Wilson: piles of loose issues of periodicals awaiting check-in. When you take on the task of indexing the content of several thousand journals, they must be acquired, paid for, and tracked just as they are in any library. This is the first step in Wilson's remarkably efficient and technically sophisticated indexing process.

From then on, resemblance to library activities is less pronounced, especially in the next step, where the spines of the journal issues are guillotined. Loose pages from the periodicals are then fed into scanners for the rest of the processes to be followed. Each journal is then available to indexers in a variety of discipline areas. For example, a law journal may be indexed not only in the *Index to Legal Periodicals* but also in the *Business Periodicals Index* and the *Social Sciences Index*. In years past, this would have required three copies of the issue to be purchased and analyzed separately by each department. Now, the scanned issue is pushed to appropriate personnel who all work off the same document.

The next step requires indexers to "article-ize" a scanned issue, by which individual articles are selected for analysis, the title captured, and other details determined (for instance, is the article a book review? Is there an author's abstract of the article?). A quality control check is then performed by another indexer to ensure the accuracy of the article details. These separate articles are then available for detailed analysis by Wilson indexers.

The indexers are perhaps the most impressive element in the Wilson process: they are subject specialists in the areas assigned to them. For example, indexers working on the *Index to Legal Periodicals* are JDs who have passed a state bar exam. Credentialed engineers work as indexers on the *Applied Science & Technology Index*. The human capital expended on the product is unusual in the business. Their step in the process is to read the articles and assign headings for the index.

Wilson's in-house authority files for names and subjects are quite extensive and have been cumulating for many years—for a century, in the case of *ILP*. The indexers assign headings based on previous usage, much as catalogers in libraries assign

names and subjects by consulting with Library of Congress authorities. The question is often directed at Wilson indexers: why not just use Library of Congress (LC) subjects instead of creating your own? The answer stems from the nature of the material they are working with.

Periodical literature is where new concepts emerge. One company executive said that LC was more likely to borrow a Wilson heading than the other way around, because Wilson is often the first to see a new idea emerge. Also, LC subject headings are created for book-length works. Articles often require greater specificity in subject analysis than would be appropriate for books. A list of new subject headings added to *ILP* during the past month alone includes such intriguing examples as 527 organizations, Credible evidence rule, Homer Simpson (Fictional character), and Liability for space objects damages.

H.W. Wilson created a lucrative business by updating his indexes periodically using the technological breakthrough offered by the creation of linotype methods of printing. This allowed printing to be done by the line rather than by the page and made the printing of new information between pieces of older information economically feasible. In addition to presenting its indexing in traditional print format, the Wilson company now supports a robust Web presence via WilsonWeb. WilsonWeb offers access not only to the indexing of periodical literature but also to many full-text sources as well, including more than 300 legal periodicals.

The scanning process used for indexing activities is also the first step in Wilson's creation of full-text images of thousands of periodicals available to subscribers through WilsonWeb. The combination of an intensive indexing process with the availability of the articles themselves has allowed Wilson to create a search tool with unusually strong capabilities, as well as very good integration of the sources indexed.

H.W. Wilson is a company with a long history of creating sources librarians have found indispensable, and its evolution into an online provider continues the tradition of supplying high-quality information in a timely manner.

Conclusion

We ended our meeting with a tour of the facility. H.W. Wilson has been at the same site since 1917, standing on the shore of the Harlem River. An outside eating area links two sections of the site with an amazing view of the river and Washington Heights. Indexers and abstracters are located in cubicles, divided by subject area. We met briefly with Diedre Simmons, licensing and sales development, who noted that the company focuses on obtaining rights to only high-quality and scholarly/peer-reviewed journals. Our tour included a foray into the heart of the

computer servers, a cold room full of massive servers humming away.

Clearly the staff members at H.W. Wilson love their jobs and are proud to work for such a respected company. They take indexing very seriously and continually strive to improve their product. We were pleased to have this opportunity to meet with them and share experiences. The conversations were fruitful, and we look forward to hearing more from them as they further develop their products for the law library market.

Index to Legal Periodicals and Books Editorial Advisory Committee Selection Policy

April 11, 2003

- Include only periodicals with legal content.
- A periodical's content must be of high quality and have permanent reference value.
- Most of the periodical's content must consist of indexable articles of sufficient length, i.e., at least half a page.
- Periodicals must contain original articles rather than reprinted features.
- A periodical containing articles with footnotes and other scholarly apparatus is preferred over those with undocumented discussion.
- Periodicals must be in English or bilingual.
- Political orientation will not be considered as a criterion. Avoid adding periodicals that are indexed in other Wilson indexes.
- Periodicals must be published at least annually and must have a regular publication schedule.
- A periodical supplied only to subscribers to another work or service is considered a supplement to that work and should not be included in *ILP*.
- Newsletters, loose-leaf services, and newspapers are not considered.
- High-priced periodicals should have wide circulation and broad coverage.
- Periodicals available in full-text electronic formats are desirable.
- Periodicals available only in e-journal format online should be of a scholarly nature, have stable content, be produced by a reputable major publisher, and be archived.

Everett Wiggins Hiscock & Barclay, LLP, Syracuse, New York

Usage Statistics: What and Why

Librarians are not generally considered the most mathematically-inclined group, since our ranks feature a high percentage of liberal arts types. However, we do have a very real interest in statistics or at least the statistics describing our vendor-supplied database use.

To be clear, we are really discussing the two main legal database vendors: Westlaw and LexisNexis. While we have other vendors, the bulk of our spending is usually with either West or Lexis, simply because of the sheer volume of material these giants bring together.

In all fairness, both vendors try to provide their

clients with sufficient usage information. However, the information they make available is geared to the billing process. Invoices show how much time and money was spent on a particular client—essential for cost-recovery purposes and something that the academic environment, where I spent the last four years, simply does not require. These numbers are for the accountants, but, while we appreciate them, they do not really help us make decisions.

Making decisions is, after all, the reason we need information. Which specific databases should we subscribe to? Which ones actually get used, or get used enough to include in a package rather than

accessing at full price when needed? How can we save money without compromising our service? As active professionals in our offices, we have an intuitive sense and anecdotal evidence to support our choices, but hard data is really what we need. Statistical use analysis is an important part of collection development and is currently not particularly well supported for law librarians. But take heart—it can be done.

While at the University of Michigan, I did statistical analysis and reporting for the Electronic Resource Group. The method varied by vendor but always involved checking a handful of key indicators, reported either via a secure vendor Web site or delivered directly to us in spreadsheet form. Every vendor made this information available, and it would be irresponsible for a subscriber not to monitor how the product was used. What we wanted to know fell into two categories: (1) how often was a database used in terms of both the number of individual sessions and the total number of queries made and (2) how good were the results, both by number of results returned for the searches and, perhaps a better indicator, the number of results actually viewed or downloaded. Based on these numbers, as well as coverage overlap or uniqueness analysis, we could then determine whether our community was deriving sufficient use from a particular database to justify continued subscription.

As law librarians, we naturally want access to the same kind of information our academic brethren have to help control our own costs. Unfortunately, West and Lexis do not, yet, provide this kind of information routinely. The Lexis PowerInvoice system only reports on two categories: LexisNexis Legal Services and Matthew Bender Treatise Services. These categories are simply too broad to be meaningful. A library might subscribe to a number of separate Lexis libraries, like *Nimmer on Copyright*, *Chisum on Patents*, and so on, but the PowerInvoice categories lump these together under Matthew Bender Treatise Services and tell us nothing about how much each is used, so we are in the dark as to how efficiently we are spending. If no one is using one of those libraries, we could re-allocate the funds to address other information needs—if only we knew.

Westlaw similarly provides billing-oriented invoice information. However, its system does allow further exploration of individual product use. This isn't especially easy, so we will walk through the process in the next section.

Usage Analysis for Westlaw

Now we're going to look more closely at the Westlaw reporting system, QuickView+. This secure Web site

(www.quickview.com) is a service for estimating usage charges (the results do not reflect discounts that may be part of the user's plan). Access requires log-in with a Westlaw password and must be requested from the Westlaw representative by the account's administrator.

Once we've logged in, the first thing to note is that QuickView+ is primarily a tool for billing. Since we are not concerned with that now, we can skip over most of what is here. Instead, select "View Database Information" from the drop-down menu in the upper right corner. This view is intended to let us verify what databases were used on a given day so we aren't surprised by our Westlaw invoice. Our purpose is slightly different—we want to see everything we're using (and, by extension, everything we're paying for but not using). To begin, let's examine the various report settings.

Account/Account Group

If we have multiple billing groups, either physically separate offices or separate practice areas within a firm, this allows us to either view the entire organization's use or the use by a specific subset. Our concern is the overall use, which is reflected by "account group." Select the "Account Group" button and ignore the "Select Account Group" drop-down menu.

Select Date Range Type

Our choices are daily, monthly, and month-to-date. Westlaw makes its usage stats available back to January of the prior year. Daily reports will let us see any use on a given day in that time; monthly will show all use from a chosen month; month-to-date shows use for the current month. For our purposes, select "Monthly," then choose a month from the "Select Usage Date" drop-down menu.

Select Sort Options

Here, we can choose whether the results are displayed according to the client for whom the work was done or according to the attorney who used the resources. Select user: knowing who uses which material can be valuable to us (like when looking for acceptable alternative resources). Clients come and go; database use patterns may be indicative of important tendencies.

Select Special Offer Charges

Finally, we choose what charges to display: only material included in our subscription; only that excluded; both, separately; or both, combined.

Since our underlying goal is to see how our subscription compares to actual use, we will need to see both included and excluded materials. Letting the report separate those saves a step later.

This report also offers to calculate tax on use for us, which doesn't matter for our project.

To recap: we've set our report to include the entire Account Group on a Monthly basis, sorted by User and separating Included and Excluded charges. Choose the most recent completed month under Select Usage Date, and click Submit.

The next screen presents a drop-down menu listing everyone who used Westlaw in this month: Westlaw is giving us the information we need, but it isn't making it easy to pull together. Select the first name, and click Submit. Now a report for this user comes up, allowing us to see specifically which databases were used, as well as how much each was used on a given day, whether it is included in or excluded from any special pricing plan, and the total cost for use.

We will need to repeat this process for each user listed, so it's time to start recording information. Westlaw does provide options for this, allowing a report to be downloaded or e-mailed, and also allowing us to view results as either a printable HTML page or Excel spreadsheet.

Creating a spreadsheet is a good plan, since a spreadsheet will allow us to manipulate the data and facilitates analysis. However, we will run the same report for every user in each month of the past year, so it will generate a large number of reports to manage and ultimately compile into a single file for analysis. It may be more efficient to start from scratch, especially when we consider how much data in this report is not relevant to our analysis.

While it does require greater up-front effort (like typing), I prefer setting up my own spreadsheet (this may be easier if we select "view full printable HTML report" and then print the results, instead of trying to copy them from the screen). My column categories are User (a last name or initials—this is optional, but lets us see who uses what), In/Out of Contract, Number of Transactions (searches) for a particular database, and Number of Documents Returned for the search (Docs/Lines). Each database this person used during the month gets its own line. This means that a frequently-used database may have multiple entries in a given month because several people use it.

Having recorded this information for the first user on the list, use the report tool's back button and repeat the process for each of the others. We will then have a complete record of databases used during that month. Now we're ready to do it again, for the month before. Eventually, we will have a list of what is actually used, which can then be compared to, and used to bargain for, special pricing in our subscription negotiations.

Usage Analysis for LexisNexis

While it is not easy, Westlaw allows us to see which

specific titles are being used, how much, and by whom. For LexisNexis subscribers who want access to this information, I have good news and bad news. The bad news: Lexis does not give us a way to retrieve usage stats. The good news: this means it takes a lot less work to get usage stats for Lexis than it does to get them from Westlaw.

Lexis has an online statistics site, PowerInvoice (www.lexisnexis.com/powerinvoice). However, this site is only valuable for billing purposes; the full extent of product breakdown is two categories: Lexis Legal Services and Matthew Bender Services. Most of us subscribe to a number of separate Lexis "libraries," such as LexisNexis, All Public Records, our different states' cases, and individual databases for various treatises.

Given that we generally subscribe to, and want information about, a number of separate titles, the two categories available are much too broad to be of any value in determining what our clientele is actually consulting. What we need to see is a title-by-title account of what is accessed, by whom, and how many times. Instead, all we can see is a total number of transactions and their costs. These are of course important for billing and cost recovery, but are not much help in determining what a user was doing to run up the charges: is she struggling to use the system properly? If so, we want to arrange for training. Or is she looking in the wrong place? In that case, we'd like to point her to the correct resources.

This sort of information, of course, would also allow us to determine how to most effectively use our subscription resources. By showing us which databases get heavy use, which do not get sufficient use, and which out-of-contract resources get used anyway, we can fine-tune our subscriptions and better provide for our attorneys. I want to stress that the goal is not to reduce our spending with Lexis, but to increase our usage by targeting resources that are needed while reducing coverage of areas that are not accessed.

But if Lexis does not make this information available, where is the good news? The good news is that, while Lexis doesn't allow us direct access to the statistics we need, the numbers are available—we need only ask for them. A polite written request, made to our regular Lexis representative, should get us what we need for effective collection analysis. The key point to remember in this request is that we need these numbers to plan appropriate database spending—not to cut spending, but to re-allocate it effectively so we get our money's worth instead of spending wastefully. Isn't that good news? It should be much easier to write this letter than to compile comparable stats from Westlaw.

In Conclusion

It is important to remember that this is not an adversarial relationship. We need what our vendors offer, and they obviously need us. While statistical analysis has the potential to save us money, money should not be the only goal. Instead, this is about spending our limited resources efficiently and appropriately, based on evidence from our actual product use. This will let us see the value we get from our subscriptions, as well as show what, outside the subscription, gets used, whether we should subscribe to that as well (or instead), or if it is more cost-effective to access a product at full price because it is rarely used. It is about truly partnering with the vendor to provide the best possible information access

to our clients—the attorneys or students we serve.

Usage statistics are important to us as law librarians: knowing what vendor-supplied resources actually get used in our offices can allow us to better manage our subscription spending so we can tailor our subscriptions to match our needs. This involves tracking the individual database titles accessed and is much trickier than collecting the billing information that Westlaw or LexisNexis makes available for cost-recovery purposes. However, both vendors recognize our need for this information and do make it available, through different methods, if we are willing to make an effort. In this age of dwindling resources, the effort is worth making.

Lesley Ellen Harris

Taking Time to Define Terms in License Agreements

Definitions of terms used in a license agreement often take a backseat to other clauses. However, do not underestimate their importance. Definitions of terms can define the parameter of the license. Take the time to carefully review the wording used to define terms in the license, and when reviewing the license itself, be alert for other terms that you may need to provide an explicit definition for.

The way words are defined should meet your needs and expectations. The definitions may affect other parts of the agreement, and you always want to ensure that you are licensing content in the manner that works for you. Keep in mind that if there is a dispute on the interpretation of the license, a third party, such as an arbitrator or judge, may interpret terms in your license. A clear definition can help ensure that the term is defined in a specific manner as set out in the license.

Which Words to Define

Of course, it is neither necessary nor possible to define each term used in a license, so you need to choose which terms require an explicit definition. One rule of thumb is to ask yourself whether the term is being used as ordinarily defined in the dictionary or whether it has a “special” definition for purposes of your license. In other words, if the dictionary meaning applies to your use of the term, then there is no need to set out that definition in your license. However, if the term has its own meaning in the context of your license, then it’s best to set out that definition so both parties to the license are in agreement over the definition as it applies to your context.

Definitions, like all clauses in a license, may be

subject to negotiation. If a vendor offers you a narrow definition of authorized users and you need to more broadly define authorized users, let the vendor know. This term may be part of your negotiations.

If you have more than one license with the same publisher for different content, you may use different definitions in each license, since the definitions may vary vis-à-vis different content and your uses of that content.

Terms you should consider defining include:

- Commercial use
- Content (being licensed)
- Interlibrary loan
- Licensed content
- Premises
- Territory
- Not for profit
- Non-commercial
- Educational use

Authorized uses and authorized users may also be specifically defined in your definitions section, though in longer agreements they are often defined in some detail as their own clauses in the body of the agreement.

Also look at the AALL document, *Principles for Licensing Electronic Resources* (www.aallnet.org/committee/reports/LicensingPrinciplesElecResources.pdf), which lists licensing terms in its appendix that you should consider defining within your licenses.

Sample Licenses

Doing some general online searches I came across a variety of licenses that I will share with you to show how different licenses deal with definitions of terms.

In the LexisNexis Academic and Library Solutions Subscriber License Agreement (www.nlc.state.ne.us/netserv/lncontract_rev_20040421.pdf), the definition of terms was found at the beginning of the five-page agreement and the following definitions were included.

Services: LNA&LS Web-based, subscriptions services for academic institutions, public library systems, and other libraries, including all such services currently offered and any which may be offered in the future.

Subscription: Access to and use of the Services by a single Subscribing Institution under the terms of this Agreement.

Authorized Users and Subscription Period were also defined but are not included in this article due to space limitations.

In the H.W. Wilson General Database License Agreement (www.hwwilson.com/abouthw/WilsonDatabaseLicense06.pdf), the definition of terms was found at the end of the seven-page agreement where 16 terms were defined. Again, due to space limitations, only the wording for certain definitions are set out below.

Subject Database: The database or databases owned or licensed by Wilson to which Subscriber has notified Wilson that Subscriber desires access to for its Authorized Users.

Subscriber: Those persons or entities that have assented to the terms of this agreement concerning the same subject matter, whereby they have been granted access to the Wilson Products.

Wilson Products: The WilsonWeb Subscription Site or similar online service, FTP electronic feed, magnetic tape, CD-ROM, or any other electronic data comprising products provided by Wilson as listed on any order or Invoice now existing or hereafter arising between Wilson and the Subscriber.

Course Packs: A collection or compilation of materials assembled by member of staff of the Subscriber for use by students in a class for the purpose of instruction.

Electronic Reserve: Electronic copies of materials made and stored on the Secure Network by the Licensee for use by students in connection with specific courses of instruction offered by the Subscriber to its students.

Interlibrary Loan: The process by which a library requests material from, or supplies material to, another library.

Commercial Use: Use for the purposes of monetary reward (whether by or for the Subscriber or an Authorized User) by means of sale, resale, loan, transfer, hire, or other form of exploitation of the Licensed Materials. For the avoidance of doubt, neither recovery of direct costs by the Licensee from Authorized Users, nor use by the Licensee or by an Authorized User of the Licensed Materials in the course of research funded by a commercial organization, is deemed to be Commercial Use.

The other defined terms include Authorized User, Intellectual Property Rights, Order Form, Password, Secure Network, Server, Subscriber Fee, User Name, and WilsonWeb Subscription Site.

To educate yourself in both choosing which terms to define and how to define them, I recommend you take advantage of the variety of licenses available online through your own searches.

Placement of Definitions

There are no set rules as to where in your license you place your definitions. Placing all of the definitions in a single location in the license can make it easier to consult when coming across various terms in the agreement. Definitions are often set out at the beginning of a license and sometimes in an appendix to the license.

Lesley Ellen Harris is a copyright lawyer/consultant, author of "Licensing Digital Content: A Practical Guide for Librarians" (www.licensingdigitalcontent.blogspot.com), and an educator (www.copyrightlaws.blogspot.com and www.copyrightanswers.blogspot.com).

Request for Assistance: Committee on Relations with Information Vendors

Note: Prior to filing a request for assistance, individuals are expected to have made a reasonable attempt to resolve the issue at hand. To avoid duplication of effort, please provide a complete account of your efforts to communicate with the vendor. Copies of notes from conversations with the vendor are helpful.

Date: _____

Name: _____

Library: _____

Address: _____

Telephone: _____

Fax: _____

E-mail: _____

Vendor: _____

Nature of problem: _____

Please send this form and supporting documentation to:

Tracy L. Thompson-Przylucki
CRIV Publisher Communication Subcommittee
New England Law Library Consortium, Inc.
9 Drummer Road
Keene, NH 03431
603/357-3385
Fax: 603/357-2075
tracy.thompson@yale.edu

You may also complete this form online at:

www.aallnet.org/committee/criv/publisher_communication/requestform.htm