

ABA 2007 Annual Questionnaire Part 3 Library

List of Frequently Asked Questions

compiled by the
ABA Law Libraries Committee

Ownership vs. Access:

The ABA Questionnaire tracks and reports electronic resources made available primarily via two types of licenses.

Ownership: A licensed agreement which grants perpetual access to electronic resources.

Access: A license agreement in which the right to the electronic resource terminates when payment ceases.

1. This question is specifically about question number 3 – Electronic titles (owned). In the explanation it says to “Count only titles that are purchased or titles over which the library has complete control.” What does this mean? Do you have to have the actual tapes of the digitized materials?

Response: The deciding factor is what the library’s rights are, not whether the library is in physical possession of tapes. Control refers to the fact that the library is not dependent on the database vendor or provider to provide perpetual access to the information; the library is able to obtain a copy of the documents even if the database vendor or provider is no longer in existence.

Examples:

- a. If you have a product that is hosted remotely, and have the right to the tapes (or another securable medium) at any time, consider that ownership.
- b. If you have a product that is hosted remotely, but have no ability and/or right to migrate the content, do not consider that ownership.
- c. If you have a product that stores a copy in PORTICO, that is sufficient for a product to be considered ownership if the library and publisher negotiate post-cancellation access via PORTICO (see descriptions below for various PORTICO configurations). In effect, PORTICO is an escrow agent. See <http://www.portico.org/libraries/>

"The Portico service offers a permanent archive of <http://www.portico.org/terms.html#journals> electronic scholarly journals, thereby providing protection against the potential loss of access to e-literature integral to a library's collection.

Portico provides all libraries supporting the archive with campus-wide access to archived content when specific trigger events occur, and when titles are no longer available from the publisher or other source. Trigger events include:

- * A publisher stops operations; or
- * A publisher ceases to publish a title; or
- * A publisher no longer offers back issues; or
- * Upon catastrophic and sustained failure of a publisher's delivery platform.

Portico also provides a reliable means to secure [perpetual access](http://www.portico.org/terms.html#perpetual), if participating publishers choose to designate Portico as a provider of post-cancellation access. In addition, select librarians at participating libraries are granted password-controlled access for verification and audit purposes only."

2. Do CIS digital collections like the CIS serial set and the new CIS hearings archive fall into the ownership model? And are title counts includable in new question 3? We pay a one-time purchase price, followed by an annual server maintenance fee. We can temporarily suspend payment of the maintenance fee and restart it within a certain number of years. If LexisNexis ceases to support the product, we are entitled to a copy of all the pdf files and a perpetual license to use them, although we have no ownership rights in the search interface.

Response: The ownership model is dependent on the contract signed as indicated above. However records and briefs, hearings, etc. do not fit the definition of a Title as a "separate bibliographic whole" when issued as part of a database such as a serials set collection. (See Chart)

3. We have cataloged several online resources that we have neither downloaded onto a local server nor printed out for the collection. We have just created bibliographic records with links to the site so that patrons can find them using our OPAC. Some are PDF's, some are web sites that have multiple items in PDF (like newsletters). I was asked if these could be counted. Since we are providing access only and do not "own" the item in either electronic or paper format, my answer is that we cannot count them as titles. Since they are not aggregates, they also cannot be counted as databases. So, they cannot be counted in any format.

Examples:

Department of Homeland Security Acquisitions Manual
(OCLC #55225234)

FASAB News
(OCLC #70150108)

Military Base Closures
(OCLC #60934125)

Response: That is correct. Examples such as the free websites listed above should not be counted.

Databases:

Electronic databases should be counted in Q6, and can be counted whether they are purchased or leased.

4. Where do we count databases such as Foreign Law Guide or full-text e-journals which we subscribe to but do not own? The definition of electronic databases only refers to databases that

"aggregate information from a variety of sources ... or archives ... and other types of collections of electronic resources" but does not appear to refer to individual electronic databases.

Response: Count individual electronic databases and e-journal collections in Q6 as "other types of collections of electronic resources". Individual e-journals that are subscribed to, but not owned, are e-titles that should not be counted.

Titles (e-titles; duplicate formats, etc):

Electronic titles (owned) should be counted only under Q3, and may be counted whether the individual titles are cataloged or accessed via the library's website.

5. We purchased the MOML Legal Treatises 1800-1926 data, although access is currently being provided through Gale's server. Are we correct to count one "electronic database" (question 6) and all of the individual title as "electronic titles owned" (question 3)?

Response: Yes, since the contract provides ownership rights.

6. A related area of concern is whether anything in the revised Questionnaire prevents a law library from counting print, microform and electronic versions of the same title separately. This is important to us because we own a large fraction of the 19th and 20th century legal treatises microfiche collections on which MOML is based.

Response: Section B. Instructions, Q1-5 expressly precludes counting duplicate titles in the same format, however duplicate titles in different formats may be counted (again, one title per format).

7. As we license eBrary records and Hein Classics, I assume these would not be counted as an electronic title even though we have individual records in our online catalog for each title. From the definition of electronic databases, a collection of monographs such as eBrary and Hein Classics would each be counted as a database. Am I correct?

Response: That is correct. Electronic products that are licensed should be counted as electronic databases in question 6.

8. Under the new instructions for questions 1-5, we are directed to not count "multi-media" titles more than once, but to only count the "dominant" format. Does this apply to titles that are owned in microfiche and electronic format such as the 19th Century Legal Treatises and MOML?

Response: Multi-media titles are intended to be used together, whereas multiple formats are titles that duplicate the same information. An example of a multi-media title would be "Representing High Tech Companies" where the print publication is supplemented by a cd-rom update. Other non-book formats should continue to be counted in Q3 as defined.

9. We own the Law units of Gale's "Incunabula : the printing revolution in Europe 1455-1500" which include 319 (2279 fiche) individual titles. MARC records are not available (yet) for this set.

Is it correct to count each of these individual titles, with access provided by a cataloging record for the set and the publisher supplied guides?

Response: No. The definition for Title was changed only to accommodate electronic resources made available via the law library's website, in addition to the online catalog. Other titles should still be counted only when a separate bibliographic record has been made or obtained.

10. We license and pay for Gale's MOML U.S. Supreme Court Records & Briefs, 1832-1978, providing campus-wide access through our Library's web-site. We believe that the 2007 Questionnaire instructs us to count this as one "electronic database" and allows us to count each docket number as a separate electronic title.

Response: Count the MOML Supreme Court Records and Briefs as one e-title.

Miscellaneous:

11. Does the work of the ALL-SIS Statistics Committee duplicate the work of the Law Libraries Committee?

Response: The work of the ALL-SIS Statistics Committee will not duplicate the ABA Questionnaire. ALL-SIS will ask questions that the ABA does not need or want to ask, or ask them in a way that the ABA does not want to permit, such as sampling, rather than keeping statistics for 52 weeks.

12. Indicate the number of full-time library staff who do not teach or hold faculty rank for the 2007 calendar year. Full-time library staff included in Part 5 – Profiles should not be counted in this section. Do not double count full-time library staff in this section:

The questions: who is faculty? What about library faculty? What does "teach" mean? Any teaching, full time teaching, etc.

Response: Coordinate with the person completing the faculty portion of the profiles to determine which library staff were included under the faculty count, and, do not count them in your full-time library staff portion.

Shared resources / joint purchases:

13. The main library of my campus and a state-wide consortium that my school belongs to allows patrons to have access to hundreds of databases. The law library has a link on its website to the consortium's list of databases but they do not have links on their website to the individual titles the consortium subscribes to. Can we count all of the databases the consortium subscribes to since the databases are "made accessible by your library via the Web to any local ... library user"?

Response: No. The law library should only count databases that are licensed or jointly purchased by the law library.

14. We provide access through our Library's web site to a number of electronic library resources that are licensed, and paid for, by campus central administration. The funds for these licenses are paid from a central fund, allocated (and shared) by the Libraries and entailed only for these resources. We believe the 2007 definitions allow us to count these as either electronic databases, or as electronic titles, depending on the resource.

Response: Yes, although your library should count only those databases that you consider to be "in scope" (i.e. law-related) for law library patrons.

15. This past semester I have been in negotiations with the main library to "jointly" purchase the Serial Set.

50/50 was the original deal except that Law would pay the ongoing maintenance agreement (so its 51%).

Today, their head of CD called me and said they have \$200,000 in year end \$ and they want to pay for the Serial Set entirely for us. Oh, no, then we cannot count it!

And they were even more generous in telling us that we can have the MARC records and download them as location = law online access (so I guess that means we get the title count though we did not pay???) Assuming we count titles via the ILS? Where it stands right now is that they will buy it, but we will try to reimburse them for it, or at least 50%, through interdepartmental money transfer so when/if we decide to count the titles it's not fraudulent. Not paying for the database but still counting the titles is not consistent with the questionnaire.

Response: The law library must make some reasonable contribution to the purchase of a database (based on local arrangements) in order to count it in the title count. Leased databases should be counted only when all, or some reasonable amount, is included in the expenditures section of the Questionnaire.