Introduction to Online Legal Research Guides

This legal research class was designed for 1Ls in their spring semester near the end of the legal research curriculum. The objectives were to teach the students about the usefulness of online legal research guides when approaching an unfamiliar area of law, and to reinforce the importance of having a research plan and log. This class has accompanying slides and incorporates two student exercises using scenarios in intellectual property law.

Optional reading in *Perspectives*

1) Research strategies for new jurisdictions or areas of law

    1.A) Nearing the end of Legal Research Lab, and will soon start working on a large research & writing assignment for Lawyering Skills in an unfamiliar area of law, and then head out to summer jobs with unknown assignments
        a) Know what you don't know: we couldn't possibly teach you every resource and database, just like you can't take every possible doctrinal class
        b) Important that you approach research with a strategy rather than jumping right in. You could get overwhelmed, started down the wrong track, and waste money and time.
        c) Keep a research log with your plan, key terms, resources you have checked (including search terms), and follow-up questions to ask
        d) Research strategy will vary depending on the info you have and what you need to research

    1.B) Efficient and effective starting points:
        a) Preliminary step: develop research terms and research issues
            (1) Make sure you understand the assignment – ask questions.
                (a) Particularly important to ask questions at the start
                (b) What is expected of you? How comprehensive? What level of detail/analysis?
            (2) Look up any terms you don't understand
        b) Starting points
            (1) Knowing to start with a secondary source doesn't help if you don't know a specific title or database
            (2) Ask if the person can suggest a starting point or a sample (there may be a binder or database of samples your employer maintains)
            (3) If you do not know anything about the area of law (or it is a new jurisdiction), consult an online legal research guide to help you devise a research plan
        c) Develop a research plan: list potential authorities and assess what resources are available. A good research guide will help with this.
        d) Why are we covering this now at the end of the year? Because we had to give you the foundation to understand different types of legal resources first so that the titles and headings you see in a research guide have meaning.

2) What are online legal research guides?

    2.A) Usually written by law librarians at academic or government law libraries – we write some too!
    2.B) Can focus on…
        a) a subject (e.g., family law),
        b) a jurisdiction (e.g., legal research in Oregon), or
        c) a type of research (e.g., CA legislative history)

    2.C) Structured and organized to give you an overview of the resources covering a topic
    2.D) Pulls together resources selected by the librarians, so take advantage of their work:
        a) Primary *and* secondary sources
        b) Print *and* online format

        c)   Free *and* subscription-based databases

  2.E) Extra features that some guides may have:
- a) Tables of contents
- b) Checklists or research tips (print it out and use as a worksheet)
- c) Detailed explanations of the different sources
- d) Direct links to the databases, including Lexis and Westlaw (***careful**: link could be through that law library's catalog and your computer's IP range won't work. Will need to check our catalog)
- e) Library call numbers and locations for print materials (***careful**: will need to check our catalog, although call number will likely be the same across libraries)

  2.F) Finding research guides:
- a) UCI Law Library: Research Guide Finder on our homepage (custom Google search)

> **From Law Library homepage, search for a guide. E.g., family law**
>
> **Optional: Open the guide from UW and point out key features**

- b) A few alternatives:
  - (1) Cornell Law Library's Legal Research Engine
  - (2) Search Google, local catalog, or Worldcat Local for your subject with the terms *pathfinder*, *bibliography*, or "*research guide*"
  - (3) For state legislative history, visit the Mauer School of Law Library's State Legislative History Research Guides on the Web

3) Evaluating research guides

  3.A) Quality of research guides can vary
  3.B) Considerations to keep in mind as you determine how useful the guide will be for your specific research problem, although most of this is probably second-nature to you
  3.C) Mnemonic device from *Perspectives* article – how much is the guide TEACHing you?
- a) Timeliness: when was it last updated? Look for date at top or bottom.
- b) Ease of use: formatting, TOCs, links
- c) Accuracy & Authoritativeness: who wrote it? Usually assume ok when it is a law library…
- d) Comprehensiveness: scope and depth of treatment?
- e) Handiness: easy to print and save?

In-Class Exercise

> Students work individually on their laptops. **Hypo 1** – max. 30 min:
>
>   - 10 min to show video, distribute handout, and talk about which type of secondary source as a class
>
>   - 10 min for students to look at Minnesota and Duke IP Research Guides and find a specific title
>
>   - 10 min to discuss as a class, and show how to access that title through local catalog
>
> **Hypo 2** – max. 30 min (same timing as above).

1) IP Hypo #1 (RA for faculty member who wants background info to write article)

1.A) Background information

    a) IP consists of 3 main branches (copyright, patent, and trademark). Currently, very low state of IP protection for fashion design

> **Show the first 2:30 of the TED Talk linked in the PPT slides. Speaker is a prof at USC.**

    b) Congress is considering extending copyright protection (3-year term) to fashion design. In July 2011, Rep. Goodlatte (VA) introduced the H.R.2511 and it was referred to committee. Similar bills in last 3 congresses (from last congress: PPT slide from WSJ Blog post)

> **Distribute In-Class Exercise.**
>
> **Looking at first hypo, of all the types of secondary sources you have learned, what type(s) of secondary source would you use to begin your research? Why? Discuss…**

> **Good reasons to use law reviews and <u>treatises</u>**

> **Students, take 5-10 minutes to peruse the Minnesota and Duke IP Research Guides on your laptops (URLs are on the exercise). Your goal is to find one or two specific <u>treatise</u> titles that you would like to consult. Do not go to those treatises yet.**

> **Class discussion. Will get multiple titles, but many will say Nimmer.**

1.B) Nimmer on Copyright

    a) Why?

        (1) Duke IP guide, copyright section lists treatises alphabetically. Nimmer annotation says, "This looseleaf set is the classic scholarly treatise on copyright law."

        (2) Minnesota IP guide, copyright section lists treatises in the same way, but no annotations. Good example of how guides differ.

    b) How would you access it?

        (1) Even if these research guides had links, you would want to look the title up in ANTPAC because the links would go to that school's catalog rather than ours.

> **ANTPAC Law from our homepage: "nimmer on copyright"**
>
> **3 records – print, index in Lexis, and database in Lexis**
>
> **Select Record #3, the database to show direct access into the Nimmer search screen.**
>
> **OPTIONAL: search full-text "fashion /s design" and review first result**

1.C) Points you may want to emphasize

    a) research guides show you how many more resources there are that we couldn't cover

    b) when were guides last updated?

c) scanning is an important skill: guides can be long, but scan (or Control-F find) for the type of resource category you've decided use as a start (secondary)
d) can work from research guides online or print them out to use as a worksheet
e) Similarities/differences across guides – some have explanations, different sections, etc. Important to look at a few different guides on any given subject to compare.
f) Secondary sources will help you determine which additional sources to consult in your research plan – cases? statutes? regs? etc.)

2) IP Hypo #2 (Judicial extern researching elements of trademark infringement)

> **Show the ABC News clip and blog post in the PPT slides re: trademarking the color red on the sole of a shoe.**
>
> **Looking at second hypo, what type of secondary source would you use to begin your research? Why? Discuss…**

> **Good reasons to use practical secondary source, like <u>practice guide</u>**

> **Students, take 5-10 minutes to peruse the same two R guides on your laptops. Goal is to find one or two specific <u>practice guide</u> titles that you would like to consult.**

> **Class discussion. May get multiple titles, but looking for Kane on TM.**

2.A) Kane on Trademark Law: A Practitioner's Guide (published by PLI)
a) Why? The title and the publisher indicate that this is a practice-oriented secondary source.
b) How would you access it?

> **ANTPAC Law from our homepage: "kane on trademark"**
>
> **1 record – link through to WLN database**
>
> **OPTIONAL: Browse Ch.14 for pleading requirements, or search "trademark infringement" /p (complaint or pleading)**

2.B) Emphasize to the class that they were using the research guides to get a starting point in an unfamiliar area of law. They used the research guide to find a secondary source to get them started, but would not stop there. They would continue to develop their research plan – cases? statutes? regs? etc. A good research guide would help them identify potential primary and secondary authorities to review.