

A Survey of Electronic Research Alternatives to LexisNexis and Westlaw in Law Firms*

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Ms. Justiss conducted a survey of law firm librarians in 2010 that identified electronic research database alternatives to LexisNexis and Westlaw and ranked them by subscription frequency. The survey also generated information regarding suggested or mandated legal research policies in law firms for the use of alternatives to LexisNexis and Westlaw and examined their applicability to billable and nonbillable research. Lastly, it examined the prevalence in firms of flat-rate pricing agreements with LexisNexis and Westlaw.

Introduction

¶1 Since 2002, I have provided an annual presentation for our law students entitled “Beyond Lexis and Westlaw: Discover Other Databases Lawyers Use in Practice.” The lecture is one of a series of presentations on legal research topics offered by our reference librarians to assist students in their transition from law school to law practice.¹

¶2 Moving to a law school library after eight years of law firm librarianship, I was naively surprised to learn that most law students had little, if any, awareness of the electronic services, other than LexisNexis and Westlaw, routinely used by practicing attorneys.² Of the alternative research databases I had used in my former life as a law firm librarian, only PACER was available in the law school in 2000. There were no court docket services for state courts, such as CourtLink or CourtExpress; no financial or business research databases, such as LiveEDGAR or Dun & Bradstreet; no public records databases (other than those available on LexisNexis and Westlaw); and no intellectual property, engineering, or technology research

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1. Our spring lecture series includes topics such as “Painless Legal Research Refresher” and “Legal Research Beyond Borders: An Overview of International and Foreign Legal Research Techniques and Sources.”

2. Students who had previously been (or were currently) employed at law firms as paralegals or administrative assistants or who had already completed a summer clerkship were occasional exceptions.

databases, such as Dialog.³ Thus, students seldom had the opportunity to learn of the existence of such alternatives, let alone why or how a lawyer might use them in practice.

¶3 The challenges inherent in preparing a presentation on alternative research databases were considerable. Would I be able to obtain current, meaningful information on databases I could no longer access myself? If so, would I then be able to get law students' buy-in that not everything they would ever need was available on LexisNexis and Westlaw?⁴

¶4 To deal with the first issue, I searched the law library literature, including the excellent annual CALR (computer-assisted legal research) updates and other electronic resource reviews in *Legal Information Alert*.⁵ I then contacted the database vendors for information on content and pricing that was not available on their web sites. Several enthusiastically provided me with the necessary information, including instructional screen shots, promotional literature, and pricing descriptions. LiveEDGAR and Bloomberg Law were especially helpful, giving me complimentary access so that I could provide a live demonstration of some of the content and features of these sophisticated databases.⁶

¶5 In addition, members of the Dallas Association of Law Librarians (DALL) generously shared information regarding the alternative databases their attorneys were using, those they had recently purchased or were considering, and those they had ceased to use. In short, they provided me with an annual reality check.

¶6 With this information, I prepared a handout, entitled "A Webliography of Legal and Non-Legal Online Research Sources," and describing electronic services in six categories: (1) primary source alternatives to LexisNexis and Westlaw; (2) court docket and case information; (3) secondary sources for topical legal research; (4) finance, business, and news; (5) public records; and (6) nonlegal and law-related, including patents and trademarks, science, technology, and medicine. Predictably, the database list has grown longer each year.

¶7 My presentation to the students currently includes two major components: (1) an overview of the role of electronic research in law firm economics, noting that its billing and recovery have been historically, if not ideally, driven by LexisNexis and Westlaw, which were the earliest computer-assisted legal research products widely used in law firms;⁷ and (2) a review of the six major categories of research services, demonstrating one or two examples in each category.

3. Of course, some of these sources were available on LexisNexis and Westlaw. However, others, particularly licensed content such as Dun & Bradstreet reports, were not (and are not as of this writing) available on the academic subscription.

4. At that primitive time, law students had not yet universally concluded that everything not on LexisNexis or Westlaw is available on Google.

5. See, e.g., Lara I. Swierczewski, *Tax Research Update: Part I: The Players and How They Play*, LEGAL INFO. ALERT, Oct. 2009, at 1 (providing an overview of tax research sources); Sonnet Erin Brown, *Update XXVI: What's New on LexisNexis, Westlaw, LoisLaw, Fastcase, and HeinOnline* (pts. 1 & 2), LEGAL INFO. ALERT, July/Aug. 2009, at 1, LEGAL INFO. ALERT, Sept. 2009, at 1.

6. Over the past eight years, LiveEDGAR has been owned by Global Securities, Inc., and then Thomson West. It is now integrated with the Westlaw Business subscription.

7. See William G. Harrington, *A Brief History of Computer-Assisted Legal Research*, 77 LAW LIBR. J. 543, 552-55 (1984-1985) (discussing the introduction of LexisNexis and later Westlaw into law firms in the 1970s).

¶8 The first component also contains examples of law firm retail pricing for both LexisNexis and Westlaw, including transactional and hourly pricing, eliciting the predictable sticker shock.⁸ I then focus on the importance of quality, accuracy, and efficiency as factors in a firm's willingness to pay a steep price for information, noting also that all three factors can potentially impact an associate's billing realization rate,⁹ especially during the early years of one's career, when associates are often assigned more research than senior-level people. This discussion provides a natural segue to the subject of alternative electronic services.

¶9 In 2009, while updating my presentation, I learned that Locke Lord Bissell & Liddell, a large Dallas law firm, had established legal research guidelines limiting the use of LexisNexis and Westlaw under certain conditions, in favor of the far less costly Loislaw, a primary source online product purchased in 2001 by Wolters Kluwer.¹⁰ The policy in the firm's memo stated:

- All non-billable legal research involving case law, statutes or regulations at both the state and federal level should first be performed using Loislaw.
- Loislaw should also be used for billable research where appropriate, resulting in a much lower cost to the client.
- If additional research is required on Lexis or Westlaw that research must be billed to a client/matter.¹¹

¶10 Never had I read or heard of any large law firm mandating the use of a primary source alternative, such as Loislaw, VersusLaw, or Fastcase, over LexisNexis and Westlaw, the industry gold standard for electronic legal research. Would large law firms actually deign to consider the silver or the bronze? If so, did this signal the beginning of the end of LexisNexis's and Westlaw's dominance in the online legal research market? I decided I needed a snapshot of the national picture, both for LexisNexis and Westlaw and for the increasing number of alternative research databases that appeared to be encroaching on the CALR giants' turf.

¶11 This article describes the results of a survey of electronic research database alternatives that was submitted to the American Association of Law Libraries (AALL) Private Law Librarians Special Interest Section listserv in January 2010. My goals were threefold: (1) to identify products purchased most frequently in law practice; (2) to determine whether institutional policies for LexisNexis and Westlaw

8. Retail pricing refers to non-flat-rate pricing. Pricing is obtained annually from the LexisNexis Transactional and Hourly Pricing Guide and Westlaw's Pricing Guide for Private Price Plans that I receive upon request from our account representatives. The vendors have thus far permitted me to disclose pricing to the students for selected databases with the understanding that this information will not be included in the "Webliography" or disseminated in any manner outside of the actual presentation.

9. Ronda Muir & Tanja Diklic, *The Profit and Loss Equation for Associates*, ROBIN ROLFE RESOURCES (Sept. 22, 2010), http://www.robinrolferesources.com/index.php?option=com_content&task=view&id=46&Itemid=91 (defining *billing realization* as "the percentage of billable hours that are actually billed to the client").

10. Press Release, Wolters Kluwer Concludes Tender Offer for Loislaw.com (Jan. 31, 2001), <http://www.wolterskluwer.com/WK/Press/Corporate+Headlines/2001/PR-31-01-2001-T1200CET.htm>.

11. Joe Hodnicki, *Large Law Firm Sets New Online Research Policy: Use Loislaw First*, LAW LIBRARIAN BLOG (Feb. 11, 2009), http://lawprofessors.typepad.com/law_librarian_blog/2009/02/large-law-firm.html (citing a no-longer-available posting to the blog *Above the Law*).

usage were an emerging trend, or if the policy at Locke Lord was an anomaly; and (3) to measure the prevalence of flat-rate contracts with LexisNexis and Westlaw in law firms large enough to have professional library staff. In short, I wanted to get a sense of how law librarians were distributing their materials budgets among LexisNexis, Westlaw, and other online databases.

2010 Law Firm Survey

¶12 Because the purpose of the survey was to provide law librarians with information regarding general trends in electronic resource investments by law firms, the questions were designed to yield quantitative information regarding selected fee-based electronic services in firms with professional library staff. The survey did not address issues regarding training or research proficiencies, as these have been ably addressed in the recent past.¹²

¶13 The electronic survey included eleven multiple-choice questions and one open-ended question.¹³ I used Zoomerang to design and distribute it.¹⁴

¶14 Questions 1 through 6 addressed electronic services for each of the source categories covered in my annual presentation, as discussed above. Each question included an “Other” choice to add services not listed, as well as a “None” choice. Respondents could select as many choices as were applicable for each of these questions.

¶15 Questions 7 and 8 inquired about policies regarding the use of database alternatives to LexisNexis and Westlaw and whether they applied to billable or nonbillable research. I was most interested to learn whether other firms were following the lead of Locke Lord by establishing institutional limits on the use of LexisNexis and Westlaw.

¶16 Question 9 sought to determine how many firms had preferred provider agreements with LexisNexis or Westlaw as a cost-containment strategy.¹⁵ Question 10 sought to determine the size of respondent law firms. The question was formulated to include users in branch offices of large firms where a single license covered more than one location.

¶17 Question 11 sought to identify the position and title of respondents. In retrospect, I realize I crafted this question poorly and should have simply asked for the “position,” rather than the “position and title” of the respondent. A large number of respondents responded “Other,” rather than “Librarian”; their position

12. See Patrick Meyer, *Law Firm Legal Research Requirements for New Attorneys*, 101 LAW LIBR. J. 297, 317–18, 2009 LAW LIBR. J. 17, ¶¶ 65–67 (discussing the results of his research regarding databases to which new attorneys have access and databases in which they are expected to be proficient).

13. The survey questions are reprinted in the appendix. All survey results are on file with the author.

14. Zoomerang is a Web 2.0 survey software product, offering three levels of features and functionality: free, Pro, and Premium. *Product Feature Comparison*, ZOOMERANG, <http://www.zoomerang.com/pricing/> (last visited Nov. 4, 2010). I purchased the Pro version, as it enabled a larger number of survey responses than the free version and offered other helpful features and benefits.

15. A law library director in a large Dallas law firm had advised me the previous year that more firms in Dallas were opting for flat-rate contracts with both LexisNexis and Westlaw, rather than attempting to leverage firm usage with one over the other. I wanted to learn the extent, if any, to which this was a national trend.

descriptions were those of librarians, but their titles were predictably more specific as to their particular role within the library.

¶18 Finally, question 12 was the only open-ended question and was optional. It solicited additional comments to explain or amplify answers to the preceding questions.

¶19 The survey was distributed to law firm librarians via the AALL Private Law Librarians Special Interest Section (PLL-SIS) listserv on January 26, 2010, and remained open for three weeks. Periodic e-mail reminders were posted during that time period.

¶20 The selection of sources that were listed in questions 1 through 6 was based on a review of the law library literature and my own examination of databases available from major legal publishers, such as BNA, LexisNexis, Wolters Kluwer, HeinOnline, and Thomson Reuters, as well as e-mail and telephone discussions with librarians in medium-to-large Dallas law firms.¹⁶

¶21 Rather than trying to include every possible fee-based electronic source, an unrealistic goal at best, I focused primarily, though not exclusively, on established legal publishers that have made their print products accessible electronically, as noted above. My objective was to distribute a survey that would generate useful information for the greatest number of librarians while not being so burdensome as to preclude a meaningful response rate.

Survey Results

¶22 The survey yielded 167 responses of which 162 were complete. Incomplete responses were not tallied. All but three of the responses were from professional librarians. The exceptions were two paralegals and one information technology staff member.

¶23 With respect to firm size, 69% of the respondents were employed by firms with more than 125 attorneys and 15% by firms with 75 to 125 attorneys. Firms with 51 to 75 attorneys accounted for only 8% of the responses, and only two firms, or 1%, had 1 to 25 attorneys, underscoring the sample bias favoring large law firms in law firm librarian surveys.¹⁷

Primary Source Alternatives

¶24 Primary source alternatives, listed in table 1 from highest to lowest rank by percentage, were fairly evenly distributed among the respondents, except for

16. Wolters Kluwer IntelliConnect was referred to in the survey as “Wolters Kluwer CCH Internet Research (IntelliConnect)” despite the fact that “CCH” no longer appears in any of the IntelliConnect databases. The product was renamed “IntelliConnect” to distinguish the redesigned platform from the previous Internet Research Network version, but the print loose-leaf versions of these products still bear the CCH label. In light of all of these labeling changes, I wanted to make certain the product was easily identifiable in the survey.

17. See Sarah Gotschall, *Teaching Cost-Effective Research Skills: Have We Overemphasized Its Importance?*, 29 LEGAL REFERENCE SERVICES Q. 149, 154 (2010) (considering the possibility that surveys of law firm librarians overstate the importance of cost-effective legal research to smaller firms because of the disproportionate number of large firms represented in survey results due to the fact that small firms rarely employ librarians). I confess that I knowingly sacrificed a more representative sample in order to obtain information that would be useful to law librarians rather than to law firms of all sizes.

VersusLaw, which had only one subscriber. Interestingly, Bloomberg Law, a comparative newcomer to the legal market, and Loislaw differed by only one percentage point, with Loislaw garnering 16% of responses and Bloomberg Law 15%.¹⁸ As Bloomberg Law’s web-based platform is less than a year old, the fact that it is nipping at the heels of the ten-year-old Loislaw suggests its potential as a major competitor to LexisNexis and Westlaw in the foreseeable future.

Table 1
Primary Source Alternatives to LexisNexis and Westlaw

Database	No. of Respondents	% of Respondents
Loislaw	26	16%
Bloomberg Law	25	15%
Fastcase	21	13%
Casemaker	21	13%
VersusLaw	1	1%
None	62	38%
Other	27	17%

¶25 Casemaker and Fastcase were tied at 13% of respondents. Casemaker is free to state bar members in states that participate in the Casemaker Consortium, twenty-seven as of this writing.¹⁹ Similarly, Fastcase is available at no charge to bar members in eighteen participating states, but is also available via fee-based subscription.²⁰

¶26 More than sixty percent of responding firms subscribed to at least one of the alternative databases for primary law research. However, a larger number of firms than subscribed to any single alternative database, thirty-eight percent, eschewed all of them, presumably relying on LexisNexis and Westlaw, as well as commercial secondary source reporters, such as Wolters Kluwer IntelliConnect, BNA, and RIA. The latter three services were mentioned by respondents in the “Other” category for question 1 and were covered specifically in question 3 regarding secondary sources for topical legal research.

¶27 With respect to primary law research, however, it is safe to say that LexisNexis’s and Westlaw’s exclusive hold on the law firm market has been signifi-

18. Loislaw was first marketed to law firms as Law Office Information Systems (LOIS) on CD-ROM in 1995, whereas the web interface for Bloomberg Law was launched only in the fourth quarter of 2009. See Peter W. Martin, *Neutral Citation, Court Web Sites, and Access to Authoritative Case Law*, 99 LAW LIBR. J. 329, 357–58, 2007 LAW LIBR. J. 19, ¶¶ 67–70; Elie Mystal, *Bloomberg to Compete with Lexis and Westlaw*, ABOVE THE LAW (Oct. 6, 2009, 12:02 P.M.), <http://abovethelaw.com/2009/10/bloomberg-to-compete-with-lexis-and-westlaw>.

19. *Consortium*, CASEMAKER, <http://www.casemaker.us/consortium.aspx> (last visited Nov. 4, 2010).

20. *Pricing and Sign-Up*, FASTCASE, <http://www.fastcase.com/subscription/> (last visited Nov. 4, 2010).

cantly weakened by improved content from free and low-cost, bar-funded sources, as well as by commercial competitors such Loislaw and the boldly advancing Bloomberg Law.

Court Docket and Case Information

¶28 The survey results for court docket and case information services, shown in table 2, differed markedly from the alternative primary source databases. Most of the court docket and filing information services have been in the legal marketplace for as long as or longer than the primary source alternatives²¹ and yielded a much stronger showing in law firms. All but one firm subscribed to at least two of these services. Not surprisingly, PACER, the oldest and least expensive federal court docket and e-filing source, was selected by ninety-nine percent of respondents.

¶29 LexisNexis's CourtLink and Westlaw's CourtExpress are welcome additions to the docket and case information services. They provide not only all of the information available on PACER, but also much needed state court information, including full documents, and value-added enhancements such as keyword searching, filing alerts, case tracking, and custom reports not available on PACER.²²

¶30 Both products were originally launched by smaller companies and subsequently acquired by LexisNexis and Westlaw in 2001 and 2005 respectively.²³ Interestingly, however, CourtLink's market share in the survey results (80%) was nearly twice that of CourtExpress (46%). The two services, both of which link to their parent companies' database content, offer varying features and benefits and are by no means interchangeable.

¶31 Courthouse News Service, a daily current awareness service, does not provide court docket information but produces in-depth news reports on federal court case activity from the date of filing through the appellate level.²⁴ As such, it does not really compete directly with CourtLink and CourtExpress, but instead fills a very specialized market niche with a high-quality product for litigation and bankruptcy practitioners. Nevertheless, it still ranked significantly higher (68%) than CourtExpress.

¶32 I included Bloomberg Law in this question primarily to see whether any surveyed firms were using its court dockets product, which is not, as of this writing, competitive with CourtLink and CourtExpress in either content or in a feature-by-feature comparison. As noted above, however, Bloomberg Law is still very new and will likely see significantly enhanced content and features in coming months and years.

21. See generally Warner J. Miller, *Trial Court Docket Research Tools*, LEGAL INFO. ALERT, Jul./Aug. 2007, at 1 (discussing the development of web-based court docket search and retrieval services and comparing the content and features of CourtLink and CourtExpress).

22. Search, COURTLINK LEARNING CENTER, <http://courtlinklearning.lexisnexis.com/?cat=2> (last visited Nov. 4, 2010) (click on "Strategic Profiles" for additional information); *Westlaw Court Express*, WEST, <http://west.thomson.com/westlaw/litigator/court-express/default.aspx> (last visited Nov. 4, 2010).

23. Miller, *supra* note 21, at 8.

24. See *About Us*, COURTHOUSE NEWS SERV., <http://www.courthousenews.com/aboutus.html> (last visited Nov. 4, 2010).

¶33 In the “Other” category, respondents added Courttrax, CourtsOnline, Open Online, and JIMS, all of which serve specific states or regions. For example, Courttrax includes all federal and bankruptcy courts, but its state court coverage is limited.²⁵ I expressly limited the sources I listed in the survey to court docket and information services that were national in scope so as not to skew the results if more responses were received from one part of the country than another.²⁶

Table 2
Court Docket and Case Information Services

Database	No. of Respondents	% of Respondents
PACER	160	99%
CourtLink	130	80%
Courthouse News Service	110	68%
CourtExpress	74	46%
Bloomberg Law	21	13%
None	1	1%
Other	30	19%

Secondary Sources

¶34 Question 3 addressed the secondary services that law firms are using to support specific practice areas, such as tax and securities, as well as alternatives to LexisNexis and Westlaw for legal periodicals. I was admittedly unsure how best to categorize HeinOnline for the purposes of the survey or even whether to include it at all. However, because of the large volume of titles and diverse content available on HeinOnline, I felt it was a fair contender for the law firm library’s budget dollar and as such had a potentially prominent place as an alternative to LexisNexis and Westlaw.²⁷

¶35 The results, summarized in table 3, certainly highlighted the commercial success of BNA’s evolution from print to digital content, especially considering its high subscription costs. The surprise, however, was the comparatively low ranking of Wolters Kluwer’s IntelliConnect product. RIA Checkpoint offers only tax and tax-related content, compared with Wolters Kluwer, which transferred its vast CCH loose-leaf service content in nearly all areas of tax and business-related law to a digital format. However, RIA was selected by 75% of respondents versus 68% for IntelliConnect.

25. *About, COURTTRAX*, <http://www.courttrax.com/about/> (last visited Nov. 4, 2010).
26. Respondent location information was not requested as part of the survey, so it is not possible to know what percentage of respondents work in each geographic region.
27. The HeinOnline “core” collection includes the ever-increasing law journals collection, as well as primary sources such as the *Federal Register*, *Code of Federal Regulations*, and federal legislative history sources. Customers can purchase additional modules on foreign and international law, historical legal collections, and much more. *HeinOnline Overview*, <http://heinonline.org/HeinDocs/HOLBrochure.pdf> (last visited Nov. 4, 2010).

¶36 A number of factors could account for this result. Perhaps some firms have eschewed the Wolters Kluwer IntelliConnect digital platform in favor of the CCH print loose-leaves or are accessing this content through their Westlaw subscriptions. Another possibility, given the reviews and comments on the IntelliConnect product in the law librarian community,²⁸ is that librarians and their patrons have instead gravitated toward BNA, RIA Checkpoint, LexisNexis, and Westlaw for tax and business law content.

¶37 In a recent survey of law librarians questioning the reasonableness of legal publishers' annual price increases, Wolters Kluwer received the second largest percentage of "Very Poor or Poor" ratings at 42.86%, just beneath West's 48.94% rating. LexisNexis garnered the largest percentage of "Good or Excellent" ratings at 23.7%, while Wolters Kluwer received the lowest rating at 10.92%.²⁹ Whatever the reason—whether perceived product quality issues, pricing policies and structures, or marketing strategies—BNA and RIA Checkpoint have clearly overtaken Wolters Kluwer's market share for this content.

¶38 Another surprise was the popularity of HeinOnline in law firms, at 72%. Academic law libraries quickly embraced HeinOnline in its early years, delighted to acquire digital access to law review content preceding LexisNexis and Westlaw coverage. Later, as law firms reduced office space dedicated to print collections, the ever-increasing breadth of HeinOnline's historical, and now more current, publications has made it a pragmatic and sound business investment. It is a particularly smart choice for materials that might otherwise be retrieved on LexisNexis or Westlaw at a higher unit cost, such as law review articles, legislative materials, and superseded federal regulations, to name only a few.

¶39 Twenty-four responses were received in the "Other" category. The standout was Law360 newsletters, which accounted for one-third of the responses in this category.

Financial, Business, and News Information

¶40 Selecting the services listed in question 4 regarding financial, business, and news information was the most challenging judgment call, not only for purposes of the survey, but also for inclusion in my annual lecture and "Webliography," primarily because there are so many product choices. I chose to focus on those with an ongoing presence in the law librarian literature that were also consistently mentioned by DALL members.

28. See, e.g., Joe Hodnicki, *IntelliConnect, Still Some UI Issues but Improvements Being Made: Wolter [sic] Kluwer Responds to User Complaints*, LAW LIBRARIAN BLOG (June 8, 2010), http://lawprofessors.typepad.com/law_librarian_blog/2010/06/intelliconnect-still-some-ui-issues-but-improvements-being-made-wolter-kluwers-responds-to-user-com.html.

29. *LLB's Rate Your Legal Resources Vendors Survey: Findings on Reasonableness of Annual Price Increases for Products and Services Offered by BNA, LexisNexis, West and Wolters Kluwer*, LAW LIBRARIAN BLOG tbl.2 (Nov. 9, 2009), http://lawprofessors.typepad.com/law_librarian_blog/2009/11/lbs-rate-your-legal-resources-vendors-survey-findings-for-reasonableness-of-annual-price-increases-.html.

Table 3

Secondary Sources for Topical Legal Research, Legal Periodicals, etc.

Database	No. of Respondents	% of Respondents
BNA Newsletters & Reporters	138	85%
RIA Checkpoint	122	75%
HeinOnline	116	72%
WK CCH Internet Research (IntelliConnect)	110	68%
None	6	4%
Other	28	17%

¶41 The responses, shown in table 4, were consistent with my expectations and yielded no surprises. The three top-ranking databases have long been important tools in the law firm research arsenal: Dun & Bradstreet Company Reports (60%), Westlaw Business: LiveEDGAR (56%), and D & B Hoover’s (51%). Morningstar’s 10K Wizard and Securities Mosaic fell into the second tier of user frequency with nearly a third of respondents. These two services provide much of the same SEC-related information that is available on LiveEDGAR and Bloomberg Law but do not include some of the very sophisticated features of those powerhouse providers. Hence 10K Wizard and Securities Mosaic are positioned to meet basic information needs for SEC filings and related materials at a lower cost.

¶42 Of the remaining services listed in the question, none garnered more than twenty percent of respondent subscribers. Bloomberg Law’s very recent entry into the law firm marketplace may account for its comparatively modest ranking. It currently offers much of the same enhanced functionality as LiveEDGAR, including the packaging of SEC filings and exhibits as a searchable research library for locating and drafting corporate documents.

¶43 Of the twenty-seven “Other” responses, only two services were listed more than once. Two firms listed Bloomberg Financial (not Bloomberg Law), and two others added Dialog (one expressly for Dun & Bradstreet Reports).

Public Records

¶44 Responses about public records, shown in table 5, clearly demonstrated that Accurint for Legal Professionals enjoyed the highest subscription rate among survey respondents. Seventy-three percent indicated using Accurint, while the next most popular service, AutotrackXP, was chosen by only twenty-three percent. Launched by LexisNexis in 2001, Accurint for Legal Professionals is marketed to legal professionals as an economical source for information on businesses and individuals. It shares the Lexis-Nexis platform, but is sold as a separate subscription.³⁰ Interestingly, AutoTrackXP was removed from the LexisNexis product group at around the same time this survey was closed. The product was reportedly “sun-

30. Carole Levitt, *Investigating Merlin and Accurint*, LEGAL INFO. ALERT, June 2005, at 1; *Accurint for Legal Professionals*, LEXISNEXIS, <http://accurint.com/legal.html> (last visited Nov. 17, 2010); Telephone Interview with Kristina Grammatico, Dir. for Pub. Relations, LexisNexis (Nov. 12, 2010).

Table 4
Financial, Business, and News Information

Database	No. of Respondents	% of Respondents
Dun & Bradstreet Company Reports	97	60%
Westlaw Business: LiveEDGAR	91	56%
D & B Hoover's	83	51%
Wizard 10K (Morningstar Document Research)	50	31%
Securities Mosaic	49	30%
Capital IQ	32	20%
OneSource	29	18%
Bloomberg Law	24	15%
Skyfinder	14	9%
None	19	12%
Other	27	17%

Table 5
Public Records

Database	No. of Respondents	% of Respondents
Accurant	119	73%
AutoTrackXP	38	23%
PublicData.com	8	5%
Merlin Information Services	4	2%
Courthouse Direct	2	1%
None	24	15%
Other	28	17%

setted into Accurant for Legal,” and the transition completed “approximately February 15, 2010.”³¹

¶45 With regard to the remaining public records choices, Merlin’s market share was surprisingly low, given its ease of use, retrospective coverage of corporate information, and modest pricing.³² Even PublicData.com, which lacks comprehensive state coverage in most categories, had a higher profile than Merlin.³³

¶46 Twenty-four respondents selected the “None” response. It is not unlikely that they accounted for at least some of the nineteen “Other” responses, which

31. E-mail from Michael Morton, Regional Academic Manager, Rocky Mountain-Plains Region, LexisNexis, to author (Nov. 16, 2010, 17:18 CST) (on file with author).

32. See *Frequently Asked Questions*, MERLIN INFO. SERVS., <https://www.merlindata.com/faqs.asp> (last visited Nov. 4, 2010), for a description of Merlin’s databases, coverage, and pricing.

33. See *Demo and Current Database Offerings*, PUBLICDATA.COM, <http://demo.publicdata.com/pdmain.php/Logon/home> (last visited Nov. 4, 2010), for database coverage details.

included LexisNexis public records (eight), Westlaw public records (five), and selected state-specific databases, such as REJIS for the state of Missouri.

Nonlegal and Law-Related

¶47 Question 6 covered the catch-all category of nonlegal and law-related databases, excluding business and finance, and largely consisted of patent and trademark databases. Not surprisingly, Dialog, the oldest and most established product on the list, was the major player by a wide margin at fifty-four percent.

¶48 Among the services listed in question 6, only Dialog, CISTI, and Infotrieve provide non-intellectual property information, such as scientific, medical, and technical sources. Thus it was not surprising that two of them ranked at or near the top of the list. CISTI provides not only document services for North American journals, but also interlibrary loans of books and conference proceedings.³⁴

¶49 With respect to patent and trademark databases, Thomson Delphion, which provides full-text patents that link from the Derwent World Patents Index, and MicroPatent were clearly a strong presence in firms with an intellectual property practice. Of course, Dialog offers both domestic and foreign patents and trademarks, as well as U.S. copyright information.³⁵

¶50 Nearly all the services listed in the “Other” category were intellectual property databases, including Thomson Innovation (four respondents), CT CorSearch (three), Lexis Total Patent (three), and Thomson’s CompuMark services (three). Responses to this question are shown in table 6.

Table 6
Nonlegal and Law-Related Services

Database	No. of Respondents	% of Respondents
Dialog	87	54%
Thomson Delphion	47	29%
MicroPatent	43	27%
CISTI (Canada Institute for Scientific and Technical Information)	34	21%
Derwent World Patents Index (Thomson Reuters)	28	17%
Esp@cenet	16	10%
InfoTrieve.com	11	7%
Questel Orbit or Questel QPAT	9	6%
Minesoft PatBase	6	4%
None	37	23%
Other	21	13%

34. Information about CISTI (Canada Institute for Scientific and Technical Information) is on its web site (cisti.nrc.gc.ca).

35. *Dialog’s Intellectual Property Content*, Dialog, <http://www.dialog.com/products/guide/ip.shtml> (last visited Nov. 4, 2010).

Online Research Costs

¶51 Questions 7 through 9 dealt with issues pertaining to containment and recovery of online research costs. Only thirty-three firms, 20% of the survey sample, reported having an institutional policy for the use of alternative databases for legal research. While this number was likely higher than it would have been before the financial crisis of 2008, it was still lower than I expected, given the attention received by the Locke Lord research guidelines memo. Subsequent commentary in law librarian postings suggested that the adoption of such a policy by a large high-profile law firm would open the door for companies such as BNA, Wolters Kluwer IntelliConnect, and Loislaw to compete with LexisNexis and Westlaw on a broader scale.³⁶ One year later, the *ABA Journal* published an article noting that increased competition from such products as Bloomberg Law, Google’s case law search, and products such as Fastcase threatened the market share dominance of LexisNexis and Westlaw.³⁷

¶52 Notably, there was some indication that Wolters Kluwer interpreted the Locke Lord policy broadly as a portent sufficient to justify charging law schools for Loislaw, a product that had previously been provided at no charge.³⁸ In June 2010 SMU’s Wolters Kluwer representative informed me of the new academic pricing model for Loislaw, stating that Locke Lord’s policy signaled an emerging trend in law firms favoring low-cost primary source alternatives such as Loislaw, thereby requiring law schools to make it available to students.³⁹ While Locke Lord’s highly publicized memo may ultimately turn out to have been a harbinger of more draconian standards for LexisNexis and Westlaw usage in firms, the responses to my survey in early 2010, shown in table 7, did not support that conclusion.

Table 7

Policy Mandating or Encouraging Use of Alternatives to LexisNexis and Westlaw

Policy in Place	No. of Respondents	% of Respondents
Yes	33	20%
No	129	80%

¶53 Table 8 summarizes the responses regarding the application of a law firm’s legal research policy, if any, to billable and nonbillable research. Of the thirty-three

36. Joe Hodnicki, *Should LexisNexis and Thomson West be Worried About the Economy’s Turbulence? Results of the LLB Poll*, LAW LIBRARIAN BLOG, Apr. 20, 2009, http://lawprofessors.typepad.com/law_librarian_blog/2009/04/should-lexisnexis-and-thomson-west-be-worried-about-the-economys-turbulence-results-of-the-llb-poll.html.

37. Jill Schachner Chanen, *Wired! Innovation, Competition, Lower-Cost Alternatives: The Battle for Your Legal Research Dollars Heats Up*, A.B.A. J., Feb. 2010, at 34, 35, 38.

38. In May and June 2010, Wolters Kluwer representatives advised law school customers that Loislaw would no longer be provided at no charge. The price quoted for the SMU Dedman School of Law was \$3000 per year for the primary source materials and \$3500 for the “treatise bundle,” a lengthy list of Aspen treatises, of which only eight were owned in print by the library. In a related telephone conversation with the author, SMU’s sales representative specifically cited the Locke Lord research policy as justification for a fee-based academic subscription to Loislaw. Telephone interview with Chris Egeland, CCH Account Representative, Wolters Kluwer Law & Bus. (June 2010).

39. *Id.*

firms with such a policy, the vast majority (73%) applied it to all online research, not only nonbillable work. Only eight firms (3%) limited the policy to nonbillable research.

Table 8
Policy Applicable to Billable vs. Nonbillable Research

	No. of Respondents	% of Respondents
Billable	1	3%
Nonbillable	8	24%
Both	24	73%

¶54 Table 9 summarizes the responses regarding law firms’ flat-rate contracts with LexisNexis and Westlaw. The results showed that a plurality of firms (39%) had flat-rate contracts with both vendors. As nearly seventy percent of the survey respondents worked at firms with more than 125 attorneys, the largest firms may well have generated this result. Westlaw as a sole preferred provider came in second at 33%, and LexisNexis trailed at 17%. Only 12% reported no flat-rate contract with either provider.

Table 9
Firms with Preferred Provider (Flat-Rate) Agreements

	No. of Respondents	% of Respondents
LexisNexis	26	17%
Westlaw	49	32%
Both	59	39%
Neither	19	12%

¶55 Of course, these results did not address whether firms had chosen to eliminate one provider, regardless of whether a preferred provider agreement was in place. However, 35% of Am Law 200 firms recently reported that they were considering moving to a single vendor for electronic legal research in the next five years, up from 31% in 2009 and only 12% in 2008.⁴⁰

Conclusion

¶56 Because the survey sample was heavily weighted toward large law firms, the results are probably more relevant to firms of 125 or more attorneys than to small-to-medium-sized firms. That said, the responses strongly suggested that LexisNexis

40. Alan Cohen, *More Bang for Fewer Bucks*, AM. LAW. July/Aug. 2010, at 41, 42; Alan Cohen, *No More Sacred Cows*, AM. LAW., Sept. 2009, at 53, 55.

and Westlaw are facing competitors of increasing strength, such as Bloomberg Law, which will not be easily overcome either by corporate acquisition or better capitalized marketing strategies. In addition, the sheer number of competitively priced database alternatives has reduced the value of LexisNexis and Westlaw as “one-stop shopping” resources, even if some of the alternatives are owned or licensed by entities affiliated with LexisNexis or Westlaw.

¶57 On the other hand, LexisNexis and, particularly, Westlaw clearly remain the dominant players in large firms. The majority are relying on flat-rate subscriptions with one or both providers to better predict costs and control firm overhead. Accordingly, most respondent firms have not yet instituted policies requiring the use of alternative databases for research that would normally be done on LexisNexis or Westlaw. However, with the example set by Locke Lord, as well as other firms that were counted but not identified in this survey, similar institutional research policies may well emerge as a cost-containment strategy that is likely to appeal to clients.

¶58 For law librarians attempting to extract as much value as possible from increasingly limited budgets, I believe these results are, at least preliminarily, good news. While the warp-speed advances in research technology can tax even the most progressive and cutting-edge among us, the democratization and flattening of the online legal research marketplace, highlighted by these results, promise to yield a better value to the legal profession than the *de facto* market control of LexisNexis and Westlaw that has been in place for decades.

Appendix

Survey on Electronic Database Alternatives to LexisNexis and Westlaw

1. **Primary Source Alternatives to LexisNexis and Westlaw:** Does your firm subscribe to one or more of the following services?

Please check all that apply. If your firm subscribes to any services not listed, please add them under "Other."

- ☐ Bloomberg Law
- ☐ Casemaker (if available in your state)
- ☐ Fastcase
- ☐ Loislaw
- ☐ VersusLaw
- ☐ None
- ☐ Other—Please list any additional services to which the firm subscribes.

2. **Court Docket and Case Information Services:** Does your firm subscribe to one or more of the following services?

Please check all that apply. If your firm subscribes to any services not listed, please add them under "Other."

- ☐ Bloomberg Law
- ☐ CourtExpress
- ☐ Courthouse News Service
- ☐ CourtLink
- ☐ PACER
- ☐ None
- ☐ Other—Please list any additional services to which the firm subscribes.

3. **Secondary Sources for Topical Legal Research, Legal Periodicals, etc.:** Does your firm subscribe to one or more of the following secondary source electronic services?

Please check all that apply. If your firm subscribes to any services not listed, please add them under "Other."

- ☐ BNA topical newsletters and reporters
- ☐ HeinOnline
- ☐ RIA Checkpoint
- ☐ Wolters Kluwer CCH Internet Research (IntelliConnect)
- ☐ None
- ☐ Other—Please list any additional services to which the firm subscribes.

4. **Financial, Business, and News Information (including SEC Filings, Public and Private Company Information):** Does your firm subscribe to one or more of the following services?

Please check all that apply. If your firm subscribes to any services not listed, please add them under "Other."

- ☐ Bloomberg Law
- ☐ Capital IQ
- ☐ D & B Hoover's
- ☐ Dun & Bradstreet Company Reports
- ☐ Morningstar Document Research: Wizard10K
- ☐ OneSource
- ☐ Securities Mosaic
- ☐ Skyfinder
- ☐ Westlaw Business: LiveEDGAR
- ☐ None
- ☐ Other—Please list any additional services to which the firm subscribes.

5. **Public Records:** Does your firm subscribe to one or more of the following services?

Please check all that apply. If your firm subscribes to any services not listed, please add them under "Other."

- ☐ Accurint
- ☐ AutoTrackXP
- ☐ Courthouse Direct
- ☐ Merlin Information Services
- ☐ PublicData.com
- ☐ None
- ☐ Other—Please list any additional services to which the firm subscribes.

6. **Nonlegal and Law-Related: Patents and Trademarks, Science, Technology, Medicine, etc.:** Does your firm subscribe to one or more of the following services?

Please check all that apply. If your firm subscribes to any services not listed, please add them under "Other."

- ☐ CISTI (Canada Institute for Scientific and Technical Information)
- ☐ Derwent World Patents Index (Thomson Reuters)
- ☐ Dialog

- ☐ Esp@cenet
- ☐ InfoTrieve.com
- ☐ MicroPatent
- ☐ Minesoft PatBase
- ☐ Questel (aka Questel Orbit or Questel QPAT)
- ☐ Thomson Delphion
- ☐ None
- ☐ Other—Please list any additional services to which the firm subscribes.

7. **Does your firm have a policy in place, whether written or oral, encouraging or mandating the use of database alternatives to LexisNexis or Westlaw?**

- ☐ Yes
- ☐ No

8. **If you answered yes to question 7, does the policy apply to:**

- ☐ Billable research only
- ☐ Nonbillable research only
- ☐ All research

9. **Does your firm have a preferred provider agreement (flat-rate contract) with:**

- ☐ LexisNexis
- ☐ Westlaw
- ☐ Both
- ☐ Neither

10. **Law Firm Size:** The choices below refer to the total number of attorneys in your law firm who have access to the databases listed in the questions above. For example, if the firm's main office has access to a database, but branch offices do not, select the firm size of the main office.

If one or more branch offices also have access, select the firm size that corresponds with the aggregate number.

If the subscription license is limited to the librarian(s) or other individual(s) (e.g., no site license), please select the firm size that corresponds to the number of attorneys in the office or offices for whom the librarian(s) or other individual(s) provides research services.

- ☐ 1–25 Attorneys
- ☐ 26–50 Attorneys
- ☐ 51–75 Attorneys
- ☐ 76–125 Attorneys
- ☐ More than 125 Attorneys

11. Position and Title of Respondent

- ☐ Librarian
- ☐ Information Technology Staff
- ☐ Paralegal
- ☐ Other—please specify your job title

12. Please add any additional comments that will help to explain or amplify any of your responses above.