Bloomberg Law, the newcomer in legal research, meets academic users

by Mary Ann Neary and George D. Wilson
There's a new legal information provider in town. Bloomberg, a widely-known provider of business and financial data and news, has been working the past several years to create and disseminate its Bloomberg Law (BLAW) suite of services to law firms as well as to a number of law school libraries.

Bloomberg intends BLAW to be a product that integrates its business and financial data and news coverage with legal research and analytical tools. With BLAW, Bloomberg is looking to challenge the domination of LexisNexis and Westlaw in the online legal information arena.

For law firms, Bloomberg is working to position BLAW as indispensable not only for legal research and analysis but also for business development. For law schools, Bloomberg is seeking to acquaint school faculty and staff to be able to benefit more fully from Bloomberg's integrated platform in their teaching, research/writing, and administrative tasks.

Some Background on BLAW

In late 2006 and early 2007 Bloomberg began to offer access to BLAW to between 20 and 30 top U.S. law schools. Bloomberg provided the law schools free access to the service for three years with an option to retain the service at the end of that period on a fee basis.

The libraries at the law schools played the primary role in setting up dedicated Bloomberg terminals and in registering and introducing students, faculty, and staff to Bloomberg equipment. The accompanying software. Boston College (BC) Law School and Stanford Law School were two early recipients of Bloomberg services. BC Law and Stanford Law each have worked with Bloomberg and used BLAW for two years, experiencing both the advantages and the challenges of implementing this developing service.

Using and Learning the BLAW System

BLAW users have two options for accessing the system: use a dedicated, dual-screen Bloomberg terminal and log in with a system-authorized username and password or employ a dedicated biometric fingerprint scan device—known as a Bloomberg B-Unit—to connect. The advantage to the B-Unit is the ability to log in via any Internet-connected computer anywhere in the world (hence, the "Bloomberg Anywhere" logo prominently displayed on login screens).

Obtaining a username and password for use on a dedicated Bloomberg terminal requires online registration with brief telephone confirmation by a Bloomberg Help Desk member. To obtain a B-Unit, the user requires the physical delivery of the device and then completion of a registration process with a BLAW representative. Even though the actual registration process is quick and simple, it can be somewhat inconvenient because BLAW representatives generally must be present in person or on the telephone. As Bloomberg is still ramping up its BLAW operations, these representatives appear to be spread quite thinly and, therefore, are frequently occupied. Finally, B-Units can also on occasion malfunction or have difficulty recognizing individuals' fingerprints, requiring BLAW representative troubleshooting.

Beyond Bloomberg equipment issues, it is notable that on all of its applications Bloomberg uses an interface with a black background that harks back to MS-DOS (Microsoft Disk Operating System). Research components are organized and accessed under three- or four-character, all-capital-letter codes. As one can tell from its own appellation, "BLAW" is no exception. So the BLAW interface can be a bit daunting as well as confusing to users, especially new ones.

To help accommodate users and alleviate any confusion, Bloomberg has superimposed an easy-to-use, point-and-click “Law Menu” of basic functions as an initial step for users. Bloomberg has also recently come out with a handy 16-page “Quick Reference Guide” that presents clear, simple steps for such things as logging in, navigating the system, finding information on menus, keyword searching, printing/e-mailing/downloading search results, creating bookmarks, and setting up alerts.

Training for BLAW is typically conducted on site for users, whether in a law firm or a law school. Experienced and knowledgeable BLAW attorney representatives, at times with the aid of other, experienced Bloomberg technical personnel, provide assistance with equipment set-up, registration, and training. Typically, initial training covers the use and navigation of the Bloomberg system, searching Bloomberg business and financial data and news, as well as the details of BLAW components. Users can supplement this initial training by accessing a menu of Bloomberg training resources by typing BU (for “Bloomberg University”) and then adjusting their personal default settings (PDF) and picking up convenient tips/shortcuts (EASY).

Unlike LexisNexis and Westlaw, Bloomberg does not offer a program for training and hiring BLAW student representatives as assistants to the BLAW attorney representatives. The company's position is that all customer service inquiries should always be handled by actual Bloomberg personnel. Due to this
policy, it is necessary for an out-of-state BLAW attorney representative to respond directly to registration and training requests. Alternatively, it is possible to consult Bloomberg’s 24/7 Help Desk personnel on the telephone or online via instant messaging—although they may not be able to cover BLAW-specific questions in as much detail as BLAW attorney representatives. Note that when calling Bloomberg, there is no toll-free telephone access to either BLAW attorney representatives or Help Desk personnel.

**Range of BLAW Resources**

BLAW’s non-law resources consist of the full set of Bloomberg business and financial data and news. For example, by typing MAIN, a user can display the principal Bloomberg menus for market sectors, customer support, and more. Typing BLAW displays the principal menu of legal functions, while BBLBS enables a search interface for legal documents. If one types NEWS or TOP, the current, most popular news headlines on Bloomberg display.

News monitors are also available, such as SEC to monitor securities law issues. Typing LIVE permits access to live audio/video broadcasts. All data as well as news coverage is immediately accessible. However, there can be restrictions on certain actions; for instance, there is a time delay for online trades, such that users—at least those in law schools—cannot execute them immediately online.

The legal resources in BLAW are made up of: (1) primary law sources, including federal and state statutes, federal and state case docket information; and (2) secondary sources, including the Bloomberg Law Digest (BBLD) (organized by core legal topics, such as civil procedure and practice, corporate law, criminal practice and procedure, evidence, privacy and information law, and real and personal property), subject-specific customized Bloomberg Law Reports (BBLR), and certain specialty services.

**For More Information**

Visit Bloomberg Law online: http://about.bloomberg.com/professional/law.html.

Bloomberg pulls federal and state statutes from the official federal and state government Web sites. As a result, there are no annotated statutory codes in BLAW. Notably, there is also no ability to use BCIT, Bloomberg’s citator service (see below), to check for subsequent treatment of statutory citations.

Federal and state case law is pulled from official government Web sites as well. However, the unique BCIT product can be used here. Bloomberg has clearly invested significant time, effort, and care in BCIT. Useful citation analysis summaries are provided by case composite visual symbols. These indicate “positive,” “distinguished,” “caution,” “statute,” and “negative” treatment categories.

BCIT also helpfully covers the direct history of the case being checked so that a user can, with only a single click, display a case’s progress through the courts. Citing references can be sorted conveniently by date, court, and analysis. All citing references are hyperlinked so that users can jump directly to them. Detailed information on using BCIT can be obtained by typing BCRG.

Although Bloomberg is still developing BCIT, it appears to be growing into a “no asset” bankruptcy coverage, i.e., “no asset” cases.

Bloomberg is also building up its state court docket resources for case research and tracking. Again, Bloomberg will dispatch couriers and runners to retrieve docket information that it does not yet have online with no charge to law school users. Significant expansion of state case docket information by Bloomberg will be necessary before this component of BLAW becomes truly effective and reliable.

Bloomberg’s secondary sources are strongly represented by the periodic BBLR (the Bloomberg Law Reports). These reports—generally published weekly or monthly—provide customized, expert coverage of major developments in continually expanding practice areas via convenient PDFs. Currently, there are 23 topical areas, including bankruptcy, banking and finance, director and officer liability, environmental law, intellectual property, labor and employment, securities law, and sustainable energy. Continually changing URLs for the online location (outside of the Bloomberg system) of BBLR, however, are inconvenient (no book marking capability) and frustrating to users; PURLs (Persistent Uniform Resource Locators) would be preferable.
BLAW also offers a growing number of specialty services, such as BNA (Bureau of National Affairs) resources. Both Bloomberg Law Reports and BNA access will be useful to law firm librarians who may not want to subscribe to BNA or other news-related sources separately. Currently, the BNA titles are a selected subset of the total BNA publications. Additional practice-specific sources include Rochelle’s Daily Bankruptcy Reports. To track bankruptcy cases, one can type BNKF and bring up a function that follows companies seeking protection from their creditors. It is also possible to type BLBK for a link to a bankruptcy dockets search engine.

BLAW also incorporates congressional bill tracking (USBI). The law blog (LAWB) monitoring is easy-to-use and expanding. These features appeal to academics and practitioners, and extend the scope of BLAW coverage.

BLAW Experience at BC Law and Stanford Law

BC Law has installed one dual-screen, dedicated BLAW terminal that is accessible in the BC Law Library’s computer lab, which is open 110 hours per week. Bloomberg software is also installed on 22 terminals in teaching/computer-assisted legal research labs. BC Law Library staff announced BLAW to faculty and students and conducted initial training in April 2008. Faculty members at BC Law have been slow in their adoption of BLAW as part of their research arsenal, citing their lack of time to master a new system. Students have adopted BLAW out of initial curiosity and then realized the value of access to the corporate and financial data resources. The most enthusiastic student users are those students who have worked in the financial industry or who are planning to do so. Students appreciate having BLAW’s permission to use their academic access at summer jobs (there being no summer session at BC Law), as well as Bloomberg’s permission to use the service for six months after graduation with no restrictions. Sarah McCarrell, a second-year student, has been a strong user of BLAW. “Once a user gets comfortable with the interface, the search process is straightforward and efficient,” she says. “It is easy to refine a search as well.”

There are 10 upper-level, semester-length research courses at BC Law taught by the legal information librarian. Bloomberg Law has been integrated into many of these classes, notably Advanced Legal Research (taught by Mark Sullivan and Mary Ann Neary), and Bankruptcy Law Research (taught by Mary Ann Neary). Students in these two classes are required to enroll in BLAW, and the BLAW system is incorporated into class presentations and assignments. In addition, the BLAW representative delivered topic-specific presentations for librarian-taught, semester-long classes in Law Practice Technology (Marguerite Most, instructor), Insurance Law Research (Karen Breda, instructor), and Intellectual Property Research (Joan Shear, instructor).

Sample BLAW Commands

**MAIN:** display principal menus for market sectors, customer support, and more

**BU:** access “Bloomberg University,” a menu of training resources

**PDF:** adjust personal default settings

**EASY:** view a list of convenient tips and shortcuts

**BLAW:** display principal menu of legal functions

**BBLR:** enable a search interface for legal documents

**NEWS or TOP:** display current, most popular news headlines on Bloomberg

**SEG:** monitor securities law issues

**LIVE:** access live audio/video broadcasts

**BCIT:** use Bloomberg Law Citator service for citation analysis summaries

**BCRG:** get detailed information on using the Law Citator

**BBLD:** access Bloomberg Law Digest, organized by core legal topics

**BBLR:** read customized subject-specific Bloomberg Law Reports

**BNKF:** track Chapter 11 bankruptcy cases

**BLBK:** link to a bankruptcy dockets search engine

**USBI:** track congressional bills

**LAWB:** monitor law blogs

Stanford Law has installed two dual-screen, dedicated BLAW terminals at the library’s first floor main reading room, open 103 hours per week. The initial training for faculty and staff was held in November 2007. The service was rolled out to students in January 2008.

Overall, law faculty members have been slow to accept BLAW as part of their research routine. Some faculty members have balked at providing a fingerprint to authenticate the biometric device used to access BLAW.

Student adoption of BLAW has ranged from mild curiosity to enthusiastic adoption. Not surprisingly, students who have worked in the financial industry are the most enthusiastic users. Students appreciate BLAW’s permission to use their academic BLAW access at their summer jobs. Unlike Westlaw and LexisNexis, this BLAW access is totally unrestricted so there is no requirement that the job be at an approved nonprofit entity or part of an internship. While this access admirably functions as an advertisement for BLAW in the law firm environment, it is a helpful bridge tool for students.

Yan Kuznetsov, a second-year student at BC Law, used BLAW during his summer employment at Credit Suisse and accessed the service “primarily to receive instant news updates on the topics that interested me at those particular moments,” he says. “Everyone in the office was impressed with my portable log-in device and my ability to log on to Bloomberg for free. I still use the Bloomberg news service and believe it is an excellent resource. Incidentally, I was also able to change my settings in such a way that allowed me to read news in Russian, which saved me a lot of time going to Russian Web sites in search of needed information.”

Since there is no summer session at BC Law or Stanford, this employment-based access ensures that students keep active use of the service. Users are required to log in at least once every month or risk losing access to the BLAW service. In addition, Bloomberg permits students to use the service for six months after graduation with no restrictions.

Stanford has also integrated the use of Bloomberg Law in its upper-level research courses. The Advanced Legal Research class (taught by law librarians Paul Lomio, Erika Wayne, Kate Wilko, and George Wilson) includes demonstration of BLAW as part of the course instruction. Students receive B-Units and access the service using the Bloomberg Anywhere capability on their laptops.

Bloomberg use has also been integrated at Stanford’s Mills Legal Clinic—Organizations and Transactions Clinic (Jay Mitchell, director, and Alicia (continued on page 51))
to any content you post at the provider's site. Often you are also agreeing that you have the intellectual property rights to post the content. If you do not have those rights and someone serves the provider with a legal complaint and summons for infringement, you are obligated to step into the provider's shoes, defend against the suit, and potentially pay any damages if you lose.

Terms Governing Legal Disputes
If providers and users do find themselves in legal proceedings against each other, the TOUA often also sets the rules and the battleground where that action will take place. Not surprisingly, these will be most advantageous to the provider. Many agreements require arbitration of disputes; set the governing law and venue of legal actions, usually those of the provider's location; and make the user responsible for the provider's legal fees. Such terms are a strong incentive for users to abide by TOUAs and a deterrent from taking legal action (even with just cause).

Litigation
Of course, disputes between users and providers have germinated into law suits in state and federal courts. Perhaps the most famous case showing the legal intersection between Web 2.0 and TOUAs is Bragg v. Linden Research, Inc., 487 F.Supp.2d 593 (E.D.Pa 2007). Bragg caused a flurry of excitement when it was decided because the defendant, Linden Research, operates Second Life. The case arose after Linden accused Second Life user Marc Bragg of “virtual real estate fraud.” Linden penalized Bragg for his supposed infraction by seizing his virtual real and personal property and freezing his account as Second Life’s TOUA authorized it to do. Bragg, who just happened to be an attorney, sued in his home state of Pennsylvania. Linden responded by invoking Second Life’s TOUA requirement for arbitration on its home turf in San Francisco. The case came before the Federal Eastern District of Pennsylvania, which found the TOUAs arbitration clause so one-sided as to be unconscionable and refused to enforce it. Bragg is not so much interesting because it involves Second Life; most successful Internet enterprises inevitably end up in court. Rather, Bragg’s novelty lies in the court’s refusal to enforce the TOUA. That is not usually the case. “Courts typically hold that terms of use are binding so long as there is an opportunity to review them and their existence is indicated on the screen, even if they have not been read,” says Raymond T. Nimmer, Dean and Leonard Childs Professor of Law at the University of Houston Law Center. “So, the assumption should be that they are binding. Whether there is reason to worry depends on the nature of the materials involved and the nature of the terms.”

Even the standard protections of contract law, such as unconscionability, may not be availing in a TOUA case. In Bragg, Second Life’s TOUA term making California law applicable turned out to be counterproductive as California’s jurisprudence makes one-sidedness a critical part of unconscionability analysis. Ironically, had the case been governed by the law of Bragg’s home state, Pennsylvania, it might have been decided differently. (Incidentally, Linden subsequently changed its TOUA making the arbitration clause less onerous. Kate Fitz, law librarian at the Sacramento County Public Law Library, has posted an archive of Second Life’s TOUAs at www.lawspoonline.com/laws/ index.jsp.)

Now What?
Like it or not, TOUAs are now a permanent hazard on the information highway, a threat to be endured if you want to use the Internet, much like malware, spyware, viruses, Trojans, and zombie computers. Do you have to read the TOUA of every Web page you use? Of course not, but here are some rules of thumb.

- For casual surfing, you probably are not going to do anything to run afoul of a TOUA.
- If you desire to preserve and retain control of your content posted on the Web, you may want to host that material yourself rather than on a Web 2.0 service run by someone else. (In this case, you may even want to use a browserwrap TOUA to your advantage, for example, forbidding users of your blawg to rely on your postings as legal advice.)
- Finally, know that TOUAs govern your remedies, or lack thereof, should something bad happen. For example, if all the content you spent months to create disappears, you may have little leverage against a provider to get it back. Web 2.0 is not a good place to store your only copies of photos or writings. "The big thing is to remember TOUAs are out there; keep in mind what they can do, and use discretion in your use of the Web and Web 2.0. According to Dean Nimmer, "The terms should be viewed as potentially binding contractual terms. Again, whether there is reason to worry depends on what they say." ■

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Future BLAW Developments
Bloomberg personnel recognize the limitations of the present BLAW menu system and the need to streamline log-in procedures. Pamela Haahr, the manager of the law school initiative within BLAW, reports that Bloomberg has been focusing on a streamlined interface for legal researchers with the goal of offering a sophisticated desktop solution for modern attorneys. These changes are based on feedback received from the pilot group of law schools and existing law firm subscribers. The resulting future product should prove more appealing to law students and attorneys in its similarity to other electronic research systems.

While it does not currently offer the breadth and depth of law resources present on Westlaw and LexisNexis, Bloomberg’s BLAW service offers significant other strengths in docket-level access and in the financial and news arenas, all of which are increasingly important to law firms and practitioners in monitoring firm business strategies and crucial developments in the financial sector. The enhanced BLAW service in development now promises to deliver the same strong research product with a more user-oriented interface. ■

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