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Online Legal Research Revolution

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Feb. 11, 2008, was a day that may forever change the course of online legal research. On that day, the nonprofit Public.Resource.Org published 1.8 million pages of federal case law online, free of copyright or other restrictions. The release included all U.S. Supreme Court cases and all federal circuit decisions since 1950.

Ever since 1872, when John West hit upon the idea of building a business around publishing court decisions, commercial publishers have maintained a firm hold on the dissemination of judicial opinions. Not to knock them -- legal publishers filled an essential niche and continue to provide valuable and necessary products.

But in this information age, private control over the distribution of public case law seems anachronistic. For nearly two decades, gradual progress has been made towards greater public access. But the Public.Resource.Org release is just one of several developments whose convergence suggests that this trend is accelerating.

The roots of this movement trace back to Project Hermes, the experiment launched in 1990 by a consortium of legal and educational groups to disseminate Supreme Court opinions electronically. Other trailblazers were law schools such as Case Western, Emory and Villanova that published federal circuit opinions as early as 1994 and Cornell Law School's groundbreaking Legal Information Institute, launched in 1993.

Now, several recent developments point to a new era in expanding and facilitating public access, notably among them the release by Public.

Resource.Org, made in cooperation with another nonprofit, Creative Commons. In addition to the Supreme Court cases, the release -- available at <http://bulk.resource.org/courts.gov> -- includes virtually all of the *Federal Reporter* second and third series, said to be the equivalent of 1,858 volumes of case law.



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The opinions carry a new Creative Commons label indicating that they are works of the U.S. government and thus free of copyright or other restrictions on their dissemination and reuse. This initial release is composed of cases purchased from legal publisher Fastcase using donations from various sources, including lawyer David Boies and Electronic Frontier Foundation founder John Gilmore.

Public.Resource.Org has obtained additional cases for later release from legal publisher William S. Hein & Co. and Justia Inc.

The organization's purpose in publishing these cases is not to create a primary research archive -- although the collection can be searched using Google's "search this site" function -- but to encourage other developers to build new tools for searching and using these cases.

NEW RESEARCH TOOLS

One project already underway is AltLaw, a joint effort of Columbia and Colorado law schools. Its goal is to make federal case law easier to search and freely accessible to the public. It already housed nearly 170,000 decisions dating back to the early 1990s from the Supreme Court and federal appellate courts and planned to add the Public.Resource.Org cases.

Another project, still in early testing, aims to give this growing body of public-domain law a sophisticated search engine comparable to those of commercial legal databases. Already, the developers of this experimental legal search engine, called PreCYdent, claim their tests outperform "by a wide margin" Westlaw natural language search, not to mention other commercial databases.

An alpha version of the site launched in January 2008 with about 340,000 cases, with a beta launch scheduled for the end of February 2008. Like AltLaw, it plans to add the Public.Resource.Org cases. The site came about through the work of University of San Diego School of Law Professor Thomas Smith, who serves as its CEO.

Smith says PreCYdent is based on two fundamental beliefs: that judicial opinions and statutes must be in the public domain, and that everyone -- lawyers, students and the public -- should have access to state-of-the-art legal research technology. "The site is free and will stay that way," Smith says. The service will rely on ads to generate revenue.

PreCYdent's search engine works by ranking results according to their "authority." It uses a proprietary algorithm to analyze connections within networks of data similar in concept to Google and its PageRank technology. This helps retrieve legally relevant authorities even when they do not contain the search terms.

PreCYdent incorporates a number of Web 2.0 features. On the drawing board is a social network platform to help users find lawyers, and lawyers and laypeople to share knowledge.

Not to be outdone, at least one commercial publisher is getting aboard the free-law bandwagon. On Feb. 13, Fastcase, the company that provided Public.Research.Org with all those cases, unveiled an even larger free library of cases, statutes, regulations, court rules and legal forms. Called The Public Library of Law, it claims to be "the most comprehensive free resource for legal research online."

PLOL includes all the federal cases Fastcase provided to Public.Research.Org, plus appellate cases from all 50 states from 1997 forward. In addition, it has all states' statutes and court rules, selected states' regulations or administrative codes, the U.S. Code, the Code of Federal Regulations and court rules.

What's the catch? None. Users must register and agree to the terms of service, but registration is free and the TOS is standard fare. PLOL lacks the bells, whistles and red flags of Fastcase and other commercial research services. But for simple, bare-bones research, you can't beat the price. It is all part of the company's commitment "to democratize the law," says Fastcase CEO Ed Walters.

Case law wants to be free, and with these latest developments, it appears the fences are permanently down.

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