

Peter W. Martin  
Jane M.G. Foster Professor of Law  
Cornell Law School  
ABA Technology in Law Practice  
Conference -- March 25, 1993

## **HYPERTEXT -- THE NEW LAW BOOK?**

### **ON FOLLOWING HYPERTEXT TRAILS AND BLAZING YOUR OWN**

#### **I. WHAT IS HYPERTEXT?**

Lawyers who have never seen computer-based hypertext are nonetheless far more familiar with its print equivalents than are most other professionals because of the importance of authority citation, footnotes and cross-references in their professional literature. If you can imagine reading a judicial opinion that cites a particular statutory provision or invokes a prior Supreme Court decision as precedent and as the reader having the power, immediately and in context, to access the referenced portion of that document you have the idea of hypertext.

Lawyers who use WESTLAW or LEXIS know hypertext, whether or not they are familiar with the term. Both LEXIS and WESTLAW have long had a crude form of hypertext, for both allow a researcher to move from a decision or journal article found with a word search to other documents cited in it so long as those documents reside in their respective services. WESTLAW's "FIND" command and the "LEXSEE"- "LEXSTAT" pair of LEXIS allow one to follow citations in this way. Within the past year both systems have taken that functionality and delivered it to users without the need to rekey the citing reference -- allowing the user instead to point and click on a token. The hypertext experience that many have had working with WESTLAW or LEXIS also illustrates another important hypertext feature which is that having followed such an reference electronically one can pursue additional leads it furnishes or one can return to the original starting point. Hypertext allows a researcher to follow a long independently traced path through related documents or to use a single document for a series of more limited forays. In many ways this pattern is ideal for legal research.

#### **II. THE POWER OF HYPERTEXT -- NAVIGATING THROUGH SETS OF INTERCONNECTED DOCUMENTS**

When hypertext is brought to some of the most tradition forms of law writing, it delivers immediate and dramatic gains. Those gains relate directly to some of the frustrations we have lived with in print during the centuries lawyers and judges had no alternative. Hypertext allows the researcher to examine cited material easily and immediately. It minimizes distraction by references that are not relevant to the researcher's task. Hypertext allows much closer integration of the organizing structure and the material it organizes than treatises and journal articles can achieve in print.

These advantages of hypertext combined with some of the other advantages of electronic document storage and retrieval yield a dramatically superior environment for working with legal documents ranging from statutes and court opinions to law firm work product.

### **III. HYPERTEXT FURNISHED BY LAW PUBLISHERS**

Because of the power of hypertext the new generation of electronic reference works include it. CD-ROM based law publishing from West, Matthew Bender, Michie and Thomson combine full-text search and retrieval with heavy use of hypertext.

In these CD-ROM publications of both jurisdictionally defined (N.Y decisions) and specialty defined (bankruptcy) collections, hypertext is used to furnish tables of contents, indices, overviews that allow the reader immediate access to the referenced section. This application of hypertext I have come to think of as "exploding detail." Hypertext allows display of a document or set of documents (statutes, regulations, decisions, memoranda) as a list of headings or titles, any one of which can be exploded into full text (in the context of the remaining headings) through point and click interaction. This is an especially useful application of hypertext to statutes and regulations -- which are poorly served by print and the on line systems.

These new "electronic law libraries" also implement electronic footnotes and cross references through hypertext, displaying a reference to statute or decision(s) that can be followed as a symbol that indicates when a reader can pursue it with a point and click.

### **IV. HYPERTEXT ANNOTATION**

Hypertext can be more than a means of publication, of accessing and appropriating information prepared by others. With appropriate software, a lawyer can link his or her own notes and files to material acquired from a law publisher or through the firm's own work product database. Good hypertext software allows users to construct their own links in two ways. When a lawyer sees connection between statute and regulation or decision and provision in a standard form that she or he wishes to record in order to remember or share with others, the right software allows creation of a hypertext link between the two on the spot -- point and click. A second form of user link that hypertext can facilitate is connection of personal notes to published material and vice versa. Some but not all of the commercial CD-ROM publications offer these two related forms of user "ownership" of the published information -- a hypertext capability with which the on-line systems cannot currently compete.

When a CD-ROM or other local collection of law material is both central to and frequently used in a lawyer's practice, the capacity to join personal material and published material within the same hypertext linked space can be the most powerful advantage of the "electronic book".

### **V. HYPERTEXT ADDED PROGRAMMATICALLY TO MEMOS, TRANSCRIPTS AND OTHER "NON-BOOK" MATERIALS**

Some of the same hypertext tools that law publishers are using are available to law firms

who desire to bring firm work product in a practice field and other codified firm "know how" into a form that makes it more accessible to those with similar subsequent matters in which it may be useful. The elements of functionality that make hypertext so attractive to CD-ROM publishers apply here equally.

Since this use of hypertext requires creation of links in addition to navigation through hypertext it raises important additional considerations. First among them is the capacity of a hypertext system to take electronic texts that have been structured and formatted for print and convert them to a hypertext form that implements as far as possible all the hierarchical structure and the cross and outside referencing those texts contain. Today's leading hypertext systems are accompanied by tools that facilitate the programmatic conversion of flat texts designed for print to dynamic texts with both exploding detail and executable references.

## **VI. HYPERTEXT FEATURES WISH LIST**

The ideal hypertext package should meet all the criteria implicit in the preceding discussion and several others as well. Important additional considerations include:

- \* ease in including graphic or other non-text material in the same hyper environment,
- \* ability to connect hypertextually to external information resources including, importantly, the on line legal databases,
- \* existence of other database capabilities including that of performing real-time searches of all document types, using modifiable pre-formulated searches as well as user written ones,
- \* capacity to deliver first-rate print versions of any selected material (so that the user can choose to work with a number of key documents or portions of them in print),
- \* block and copy to notes/brief/memo, without confining the user to a strange or less capable word processing environment,
- \* extracted material stamped automatically with the identity of the source document,
- \* ready means to save the user's location and searches and also to retain certain user specified default settings, and
- \* strong navigation aids.

Hardware and operating system constraints limit current hypertext options. For the present MacIntosh, DOS and Microsoft Windows remain separate worlds. And within those respective worlds no one hypertext system gets high marks or even passing marks on all the above counts. But strong systems do exist and with the growing familiarity with hypertext that the new CD-ROM publications will bring, it should not be long before hypertext, known by that name or some other, will be widely used by lawyers.

February 9, 1993

Mr. Bernard G. Reisz  
Mead Data Central, Inc.  
9393 Springboro Pike  
Post Office Box 933  
Dayton, Ohio 45401

Dear Sonny:

As you know, the agreement I have with MDC, dated June 9, 1992, that settled issues arising out of the termination of our prior agreement, provides for MDC to provide me with machine-readable copies of an array of Social Security documents -- statutes, regulations, rulings, and federal court decisions.

By this letter I am requesting delivery of those documents. I am prepared to identify them in the terms the agreement calls for, with some categories using a search, in others providing a list of documents in the DOC # format ("thumbprint" and database number, with such other DOC # information as MDC's process requires).

Thomson Electronic Publishing is my CD-ROM publisher and will be my agent in receiving the data from MDC and preparing it for disk. Thomson will want the data on nine-track tape, in VISF format -- which since it requires no manipulation on your part should raise no format issue under paragraph 12 of the agreement.

Someone from Thomson will be in touch with you shortly to work out the details for document identification and data transfer.

Sincerely,

Peter W. Martin

cc: Gary E. Pollard  
Steven M. Emmert

February 24, 1993

Mr. Bernard G. Reisz  
Mead Data Central, Inc.  
9393 Springboro Pike  
Post Office Box 933  
Dayton, Ohio 45401

Dear Sonny:

As you know, the agreement I have with MDC, dated June 9, 1992, that settled issues arising out of the termination of our prior agreement, provides for MDC to provide me with machine-readable copies of an array of Social Security documents -- statutes, regulations, rulings, and federal court decisions.

By this letter I am requesting delivery of those documents. I am prepared to identify them in the terms the agreement calls for, with some categories using a search, in others providing a list of documents in the DOC # format ("thumbprint" and database number, with such other DOC # information as MDC's process requires).

Thomson Electronic Publishing is my CD-ROM publisher and will be my agent in receiving the data from MDC and preparing it for disk. Thomson will want the data on nine-track tape, in VISF format -- which since it requires no manipulation on your part should raise no format issue under paragraph 12 of the agreement.

Someone from Thomson will be in touch with you shortly to work out the details for document identification and data transfer.

Sincerely,

Peter W. Martin

cc: Gary E. Pollard  
Steven M. Emmert

Friends:

This message tests the Internet Thomson cc-mail link.

I am told by your technology person that it should work from me to you today and the reverse tomorrow.

Let me take this opportunity to report to you all that I am, today, shipping Ms. Hagstrom for forward transmittal to Beagan's a sample of my current notion of statute and regulation structure in FOLIO 3.0, represented by the U.S. Patent Act.

Last March I prepared and shared a memorandum that took a first cut at infobase structure in 3.0. Since then I've spent a great deal of time under the hood of 3.0. The Patent Act infobase represents a number of changes or refinements of the ideas reflected in that memorandum, which I would be pleased to lay out in specification form should that be useful. My principal hope is that we achieve some way to approach the issue of structure, form, and function mutually so that the piece of the product that I am building, denominated treatise, works well with the underlying primary resources being prepared by Beagan's.

=====

Peter W. Martin, Jane M.G. Foster Professor of Law  
Legal Information Institute  
Cornell Law School | e-mail: MARTIN@LAW.MAIL.CORNELL.EDU  
Myron Taylor Hall | phone : 607/255-4619  
Ithaca, NY 14853 | fax : 607/255-7193

=====