

The Bloomberg Citator

A first look at BLAW's citation function

By Michael Robak

In *Studying Law: An Introduction to Legal Research*, J. Clark Kelso writes, "Because our common law system is built upon the idea of following precedents and because the practice of law is a business as well as a profession, it is vital to be able to find relevant cases quickly." This article will offer a brief description of the Bloomberg Citator, a service offered through the Bloomberg Law "suite of services." (For an excellent introduction and overview of Bloomberg Law, please see Mary Ann Neary and George D. Wilson's article "Hello BLAW: Bloomberg Law, the newcomer in legal research, meets academic users" in the March 2009 issue of *Spectrum*). BCIT, as it is known in the shorthand of Bloomberg terminal commands, or "BCiting," as it is described in Bloomberg's literature, is designed to compete with Shepard's and Keycite.

Is "BCiting" the same as Shepardizing or Keyciting? Answering that question will require a rigorous and deep comparative analysis of the BCIT offering with the Lexis and Westlaw products, which is more than can be offered in this article. Furthermore, any real discussion of the "BCiting" function necessarily requires some conversation with the Bloomberg personnel who developed the product. I contacted Bloomberg representatives to request an interview for this article; despite numerous e-mails and phone calls, I was unable to interview the relevant Bloomberg staff.

Therefore, and unfortunately, my discussion of the Citator is based solely on a review of the few materials Bloomberg produced about the Citator, as well as my own use of the Citator feature. (I have access to a Bloomberg terminal at the University of Illinois, although it is not located in the law school. Further, in my previous employment, as director of legal research for CRA International, I used Bloomberg for both business and legal research.)

Bloomberg's Entrance into the Legal Information Market

For those unfamiliar with the Bloomberg financial information system, it was developed in the mid-1980s by, among others, the current

mayor of New York, Michael Bloomberg. Bloomberg built a company to develop a financial information delivery system that provided real-time information to financial professionals, making it the first of its kind. Bloomberg's company created a proprietary software system as well as a proprietary hardware system unique at the time and ahead of other financial information services. Over time, the company added new content resources, including the Bloomberg news channel.

That company, now known as Bloomberg, LP, began moving into the legal information market in approximately 2004: during an information industry conference in September 2004, a presenter noted Bloomberg, LP, a leading provider of financial information apparently planned to compete with LexisNexis and Thomson West in the legal information market. In January 2005, a Bloomberg, LP, press release announced a new ranking for international mergers and acquisitions work that could be accessed conveniently via the new Bloomberg Law feature (BLAW). This appeared to be the first press release announcing Bloomberg's entry into the legal information market and was followed by an article in the March 2005 *Maryland Daily Record* discussing the new offering, which was subsequently picked up by a few blawgs.

All in all, this was a rather low-key introduction for the Bloomberg Law product. Bloomberg has presented itself in the vendor halls of both the American Association of Law Libraries and the Special Libraries Association but so far has focused more on the AmLaw 100. It appeared early on that Bloomberg might have been avoiding the private law librarians and focusing on law firm partners; as the Strategic Librarian Blog noted after attending an SLA conference, "I spoke with two Bloomberg representatives, one who swore that librarians were his best friends and another who was a bit more forthcoming, saying that Bloomberg is contacting partners in firms and will continue to do so. The reality is that this is a service that has some power behind it and the lawyers in your firms will want to look at it" (Strategic Librarian blog, available at <http://strategiclibrarian.com/2008/06/>

20/sla-conference-products-of-note-bloomberg-law).

Little has been formally written about the Bloomberg Law Service besides material produced by Bloomberg, LP. Other than some blawg reporting, as previously noted, the first article to fully describe the service from a law librarian's perspective is the Neary and Wilson article in the March 2009 issue of *Spectrum*. While the Neary and Wilson article did provide a brief discussion of the Bloomberg Citator, I wanted this article to provide a more detailed discussion of the Citator. However, without the opportunity to speak with the Bloomberg personnel who developed the Bloomberg Citator (BCIT), the best I can offer is a short and brief review from a user's perspective and a basic introduction to lay the groundwork for further analysis and research.

Entering the Market

The Bloomberg literature, which describes the Bloomberg Citator (BCIT), is available via the Bloomberg terminal. This material consists of three articles: a six-page overview of the service functions and commands; a nine-page guide entitled "Bloomberg Law Citator Research Guide, September 3, 2008, Version 1.5"; and a two-page article that appeared in the May 2008 issue of Bloomberg Markets authored by Constantin Cotzias.

The article suggests Bloomberg developed its unique citator for the same reasons Shepard's and Keycite exist: "There's nothing more embarrassing for a trial lawyer than to have opposing counsel or a judge point out that the case she's seeking to rely on was overuled last year and is no longer considered good law. The new Bloomberg Law Citator (BCIT) function can help litigators avoid such situations and be confident that their case law citation references are strong, accurate, and to the point."

In its guide, Bloomberg states additional reasons for the development: "The same vision and innovation which launched the most comprehensive financial information service now offers Bloomberg Law Citator (BCite). BCite provides advanced cite checking, allowing you to research cases in a way never before possible. Revolutionary features help you find 'Good Law' faster and with more supporting information, giving you the advantage over your competition and the tools you need to better serve your business and your clients."

This review will not comment whether the self-described "revolutionary features" exist. Rather, I will provide an overview of the features and functionality as best I am able to tell from my own use and the Bloomberg literature.

Comparisons

In order to immediately present information about BCIT, I will use two comparisons. First, I am aware of two cases that are in error in Shepard's, but not Keycite (to be fair, one is more an error in description). I determined to run these two cases on BCIT and examine the results.

Next, there is a relatively important case in Illinois on the binding authority of appellate court decisions at the trial court level. But this is only one point of law for that case (and not the main point), and I wanted to see whether I could "Bcite" to understand the history of just that particular point of law.

Comparison One: Cases in Error

The first case for comparison is *Brozo v. Oracle* (324 F.3d 661). For this case, Shepard's provides the following information:

Brozo v. Oracle Corp., 324 F.3d 661, 2003 U.S. App. LEXIS 5980 (8th Cir. Minn. 2003)

Subsequent Appellate History (2 citing references)

1. Motion granted by: *Brozo v. Oracle Corp.*, 2003 U.S. App. LEXIS 9168 (8th Cir. Minn. May 12, 2003)
2. Writ of certiorari denied: *Brozo v. Oracle Corp.*, 540 U.S. 1017, 124 S. Ct. 578, 157 L. Ed. 2d 432, 2003 U.S. LEXIS 8388, 72 U.S.L.W. 3347 (2003)

Shepard's shows a May 12, 2003, court decision. This was originally brought to my attention while working at the reference desk—a member of the faculty provided an excerpt from an article that seemed to suggest an opinion had issued when the court granted a rehearing en banc on May 12, 2003. Clicking on the link to the 2003 U.S. App. LEXIS 9168 citation displayed the court's order simply granting an amicus request to file a motion for rehearing and *did not* grant the rehearing itself. Further docket research discovered the court denied the rehearing en banc on June 24, 2003. Not necessarily an error of tragic proportions but, nevertheless, Shepard's presents incomplete information.

Keycite, on the other hand, correctly shows the rehearing motion denied on the date the court docket confirms correct and presents a more accurate version of the court's activity. BCIT's "direct history" tab (which, as the name suggests, shows the case history) simply shows the 324 F.3d 661 opinion and the subsequent denial of certiorari. The intermediate motion for rehearing is not presented.

A second case to consider is *Kelley v. Neilson* (727 N.E.2d 952). Shepard's indicates the following:
Kelley v. Neilson, 49 Mass. App. Ct.

115, 727 N.E.2d 82, 2000 Mass.

App. LEXIS 276 (2000)

Subsequent Appellate History

(2 citing references)

1. Review or rehearing granted by: *Kelley v. Neilson*, 432 Mass. 1103, 738 N.E.2d 353, 2000 Mass. LEXIS 477 (2000)
2. Affirmed by: *Kelley v. Neilson*, 433 Mass. 706, 745 N.E.2d 952, 2001 Mass. LEXIS 189 (2001)

Unfortunately, this is not correct. This case is a probate matter in which the trial court granted summary judgment for the defendant (the executor in this case). The plaintiff appealed and the appellate court first reversed the trial court and then, after a motion for rehearing, changed its opinion to effectively remand it to the trial court for further consideration. The defendant then appealed to the Supreme Court. The Court held, as a matter of first impression, the trial court was correct and affirmed the trial court—not the appellate court. Therefore, any citator should properly show *Kelley v. Neilson*, 745 N.E.2d 952 as reversing 727 N.E.2d 82. Keycite properly shows the reversal.

However, BCIT also gets this case wrong. The "so-called normalized" result from Bloomberg shows (incorrectly) that 727 N.E.2d 82 is "affirmed" by 745 N.E.2d 82. This feature is a potentially intriguing development in the general area of citation functions, which I will discuss below.

Comparison Two: The Illinois Case

Illinois jurisprudence played an early role in the development of the American citator system. As Michael J. Lynch notes in his *Legal Reference Services Quarterly* article, "*Citators in the Early 20th Century—Not Just Shepard's*," "[I]n 1875 [Frank Shepard] quit his job as a law book salesman and began to compile and print citations to the Illinois Reports in a form suitable for pasting in the margins."

Since I am located in Illinois, I thought it perhaps fitting to use an Illinois case for one more examination of BCIT. I chose *State Farm v. Yapejian* (605 N.E.2d 539) because it is often cited for the proposition that, in Illinois, "[g]enerally, an appellate district's decision is binding on a lower court, but when conflicts exist among the appellate districts, the lower court is bound by the decision in its own district."

Now, this is not the main holding for this opinion. However, it is an important part of the opinion that can be tracked in Westlaw through Headnotes two, three, and four, and tracked in Lexis in Headnote four.

This raises a concern about BLAW and BCIT. There are no headnotes in

the opinions presented on Bloomberg. Biting the *Yapejian* case shows 80 cases in the citation analysis, which displays the “indirect history” of the case. The summary and the full analysis for this case are visually rich and dense with information about the “treatment” of the case, along with “signals,” but it is unclear how to glean from BCIT’s analysis the information I want about the particular point of law I mention above in the 80 cases that cite to this opinion. As best I can tell, I have to open each “extract” and read each one until I find those that are relevant. For this case, it is the 13th case on the list (in “analysis” order) that provides me the information I need.

Had I been able to speak with Bloomberg representatives, this is a case I would have used as a springboard for discussion on how I can effectively use and understand the Bloomberg Citator to determine what information I can find (relatively easily) with either Shepard’s or Keycite.

I hope these brief comparisons provide some sense of how BCIT appears to work in comparison to Shepard’s and Keycite. Specifically, the BCIT feature offers a direct history of the case much like Shepard’s and Keycite. BCIT offers a “normalized result,” a way of expressing the final outcome of the case. BCIT offers the citation analysis but without readily distinguishing different points of law within the opinion. To complete this look at BCIT, I present next a more detailed description of the product albeit without screen shots. Screen shots (for which I needed appropriate permission) would have been helpful because the Bloomberg presentation is visually rich and easier to explain with presentation of the information as seen on the terminal.

CASE Content

In its guide, Bloomberg indicates it provides “comprehensive coverage of legal materials including access to all state and federal court opinions.” This coverage should compare to the Lexis and Westlaw federal and state court databases for citation coverage, but, as noted by Neary and Wilson, statutory coverage does not exist.

Accessing BCIT

The Bloomberg financial services are traditionally delivered via a proprietary terminal, although Bloomberg now offers Bloomberg Anywhere that provides access via a biometric device that can be used on a computer in any location. A Bloomberg representative whom I was able to engage in one brief discussion told me that Bloomberg is planning to revamp the Bloomberg Law offering so that it becomes a Web-based product; however, the release date is uncertain.

Bloomberg’s traditional access to information employs mnemonic shortcuts that are typically four letters long. So, for example, to access the Bloomberg Law features menu, one can type BLAW and use the GO key (the Enter key). The Bloomberg literature provides additional methods to access the Bloomberg Citator: besides the BCIT mnemonic, which returns a search screen in which you can type in a citation, you can also use a gray BCIT tab that appears in the upper right-hand corner of any opinion you retrieve. You can also type the BCIT command along with the citation into the command line (the example Bloomberg provides is 7 NY3D 530 <GO>, with the <GO> meaning hit the GO or Enter key). Finally, Bloomberg is well integrated with the Blackberry devices, for which you can set up the citator icon.

Display

Once you receive the citation, the BCIT screen displays six major components. In the upper left-hand corner is the “Citation Analysis Summary.” According to the article included in Bloomberg’s literature, this box of information, which is labeled “Current Case Summary,” “displays a breakdown [of identification labels] indicating how subsequent courts have referred to the case.” These identification labels are referred to in the article as the “so-called case composites”: “[C]ase composites [are] visual symbols that show whether a case is good law. A plus sign on a green background, for example, is used when a case is positively cited in a subsequent case for a particular proposition. It’s also used if the case is positively discussed when a court provides additional details about a subsequent case or is followed when the case is the controlling or persuasive authority.”

These “case composites” are in every part of BCIT. They are categorized in one of five different ways: “Positive,” indicated as a green box with a plus sign; “Distinguished,” indicated as a blue box with a check mark; “Caution,” indicated with a yellow box with a triangle; “Statute,” indicated as an orange box with a circle; and “Negative,” indicated with a red box with a minus sign. The “Citation Analysis Summary” corresponds to a tab located directly below the box labeled “Citation Analysis” and displays a summary count of the cases that have cited the current case, as well as the case composite category into which each case falls. So, for example, the screen shot provided in the Bloomberg Markets article shows seven citing cases and the summary box shows all seven with a case composite of “Positive.”

Immediately to the right of the box marked “Citation Analysis Summary,”

the case name appears with a hyperlink that links directly to the text of the opinion in a new browser window. The name of the case is presented with parallel citations but not in *Bluebook* citation format.

Immediately below the case name (and to the right of the “Citation Analysis Summary”) is what Bloomberg calls the “Result” line, which shows the “so-called normalized result.” This is a potentially intriguing development in the general area of citation functions. However, the information presented in the Bloomberg literature is quite brief and states: “BCIT includes a number of innovative features. One is that the function ‘normalize’ case results and procedural outcomes. Different judges use a variety of wordings to describe the results of their cases. Yet because only a fixed number of outcomes exist, Bloomberg normalizes variations in the actual language to get at the point of the case’s result, using brief phrases such as ‘judgment affirmed’ or ‘rehearing denied.’”

Immediately below the “Citation Analysis Summary” are a series of three “Sort Cases By” choices: Date, Court, and Analysis. Immediately below the sort choices are tabs that work with those choices, titled “Direct History,” “Citation Analysis,” and “Current Case.”

The “Direct History” tab is self-explanatory. It shows the “procedural history of the case itself including opinions and appeals.” This is meant to include prior and subsequent history. When one clicks on this tab, he or she will see the “BCited” case in bold. According to the Bloomberg literature, “[c]ases indented are affected by the case above. Each case in the history is accompanied by its own [case] composite...the symbol next to a case...means that case relates to the same controversy as the BCited case.” The Direct History tab provides hyperlinks to the opinions that are listed within this tab. As I noted in my first comparison, the BCIT feature may not necessarily pick up intervening appellate activity.

The next tab is the “Citation Analysis,” which is the centerpiece of BCIT. Bloomberg describes this as “the indirect history of the BCited cases, specifically how subsequent cases have analyzed the BCited cases.” The cases in this list are presented in date order. However, one can re-sort the cases by court (with “highest court first”) or analysis (with “strongest analysis first”) using the sort links immediately above the tabs. Each case in the list is numbered; when you click on the number hyperlink, it opens a brief case “extract” to provide the context within the opinion for the BCited case. There is also a “View Context for all Cite

References” link, which reveals all the “extracts” for all cases appearing in the citation analysis list. In addition, a “Treatment” column appears next to the case composite; each treatment explanation also includes a “Signal.” There are nine treatment explanations (e.g., “CITED – a case is possibly cited for a particular proposition”), which may also appear with one of seven types of signals (e.g., “But see”).

There is also a visual representation of the treatment that appears as five bars increasing in size from left to right, which are either blank or filled with color depending on the “strength” of the analysis. It is not completely clear precisely how this visual indication is to be interpreted.

The final tab is labeled “Current Cases.” This tab shows all the cases that appear in the “BCited” case along with their case composite. Again, there is a “View Context for all Cite References” showing an extract from the opinion with the case citation. And again, this provides a visual comparison of the “strength” of the case.

That, for the most part, covers a basic description of BCIT. Again, without access to Bloomberg personnel I was unable to explore what appears to be a desire to improve upon the current citator systems. Their literature provides

only the highest level view of the information and does not afford a real discussion of the self-described “innovative” features, the role Bloomberg sees for “BCiting,” and other aspects.

Analysis of Citators: Brief Thoughts for Future Research

This article is not meant to draw any definitive conclusions about the strength of Bloomberg’s BCIT product or, really, how it compares toe to toe with the Lexis Shepard product or the Westlaw Keycite product. However, I hope it did convey something about how the BCIT product functions. I also hope it raised enough awareness that Bloomberg’s entry into the legal information market appears to be serious and a potentially major challenge to Thomson Reuters and Reed Elsevier. The BCIT product does appear to be an attempt to re-think/re-design the citator concept with an eye toward developing a tool that can quickly and easily provide action-specific information, but in this regard Bloomberg is not novel.

Another new legal research product called Fastcase (product information available at www.fastcase.com/ Corporate/Home.aspx) has a very unique use of visualizing “authority check.” These new methods for presenting information that provide quicker, faster,

more visual ways of determining relevant information are an interesting and potentially significant trend and should be examined thoroughly by law library professionals in the near future. ■

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and notify vendors if there is a change in address; and (4) work with other libraries to get their help providing library services while your library is closed.

Schneider suggests that the library pay for lunch and/or dinner and give staff members opportunities to take breaks during the move. She also recommends that you read the shelves when the move is complete to determine if all the call numbers are in the correct sequence. And, finally, be sure that you distribute maps and display accurate signs to ensure that your users can find materials easily in your new space. ■

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