Of Mice and Men and the Chicken Test: Getting the Most Out of the LEXIS Search Engine

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Is there a case anywhere in the Commonwealth or the U.S. where a contract for the sale of a house was rescinded because the house was haunted?

While I have never been asked this question, it is the form of the question I am asked most often when called for assistance with LEXIS searches. Invariably, given the size of the LEXIS database, the answer to any such question is yes. I am able to find the obscure authority which eludes many subscribers simply because of my knowledge of the subtleties of the LEXIS search engine. In this article I would like to share some of these with you.

First, for the record, the case *Stambovsky v Ackley*[1] held that where a vendor widely publicised that a house was haunted, the vendor was estopped from denying the haunting to a purchaser who was ignorant of the reputation of the property because he was not a local. As a matter of law, the house was haunted. Rescission was based on the prejudice of this reputation to the value of the house. The judgment is singular for its sardonic allusions to hobgoblins and the theme from *Ghostbusters*.

We live in an age of exponential technological development where it would be unwise to draw a line and refuse to accept any more innovation (except when setting VCR clocks). Technology is too tied up with our day-to-day existence either at work or at home. The efficient use of an online search engine is as much a technology issue as turning on a computer, using a microwave, or withdrawing money through an ATM.

Once we develop an easy familiarity with new technology it can be surprising the speed with which we can slip into new modes of behaviour. I delayed buying a mobile phone as long as possible, being paralysed by the twin fears of learning a new skill and of being stigmatised as a yuppie poseur. Yet imagine my delight during the Perth 'Specials' conference in 1997 when I was able to take a call from Sydney while reclining on a sand pillow looking over the Indian Ocean. To claim Cottesloe beach on an early spring afternoon as a virtual office seemed to me to be as natural as the sea breeze.

I am surrounded by technology as I write this. There is my laptop, mobile phone, radio, refrigerator and microwave (I have commandeered the kitchen table) and remote speakers feeding Mozart from the lounge (studies have shown that classical and baroque music aid concentration). In these situations the mind of the reasonable person inevitably turns to musings on electromagnetic radiation and cancer.

Cancer caused by electromagnetic radiation is going to be the mad cow disease of the new millennium (the RSI of the new millennium, the mesothelioma of the new millennium). To settle myself I decide to do a LEXIS search on electromagnetic radiation and cancer. I

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[1]   572 N.Y.S 2d 672

dial up (I think I am the only person in Australia who can indulge this luxury) and select the CURNWS file and type:

electromagnetic radiation or electro-magnetic radiation and cancer

I always make allowance for possible spelling variations. **Or** will be searched before **And**. There are 207 hits. Many articles mention cancer incidentally or not in the same context as electromagnetic radiation. I do a sub-search using the **Focus** function and base the search on the incidence of search terms. The **atleast** function is one of the most effective and powerful LEXIS search tools. The new search is:

atleast3(electromagnetic) and atleast3(cancer)

Any number can be chosen but I have found from experience that three will result in articles or cases about the search term.

My results are a rich variety of speculation and analysis of the issues: Israeli lawmakers demand warning labels on mobile phones; mice and men absorb electromagnetic radiation differently; electromagnetic radiation is non-ionising radiation whereas nuclear radiation is ionising radiation; scientists focus on hazards and ignore outrage; the public focuses on outrage and ignores hazards. These are lessons for us all.

Another powerful but much ignored search function is **proximity**. In LEXIS the format uses **w/n** where n can be any number. The search for example, may be for liability issues relating to bird strikes and aeroplane engines. The search could be:

bird ingestion w/9 engine w/9 power loss

I have found nine words are a comfortable buffer between words that together may constitute a concept. The nine do not include 'noise words' such as prepositions and definite articles that are too common to be searchable.

This search reveals that the US Civil Aviation Authority used to have what they called the 'chicken test' where four pound chicken carcasses were tossed into aeroplane engines as part of the airworthiness certification process. Despite the loss of power evidenced by the engines of the Lockheed *Electra* during this test the CAA nevertheless certified the aircraft to fly in and out of airports where birds were a hazard [2]

The **proximity** search is also useful for using LEXIS as a case citator. The names and year are generally sufficient (Smith w/5 Jones w/5 1982). Always avoid variable abbreviations such as Pty, Ltd or PLC.

The most convenient search is the case name field search. To search by case name only, the form is:

name(smith)

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[2]   264 *F. Supp* 673

Only cases with Smith in the name will be returned. The terms within brackets work the same way as any LEXIS free text search. To bring up a list of different cases the search could be in the form of:

name(smith or jones or brown)

The **atleast**, **proximity** and **name field** searches are the ones I use most often when needing a more precise approach. It can mean the difference between being presented with thousands of cases and the one exactly on point.

Start with a broad search and narrow it down using the **Focus** function which does not entail any extra charges, and practice using these tools. These are the three functions that will extend your searching ability most effectively on LEXIS. There is almost no case too obscure or facts too generically described that cannot be flushed out using them.

Reading over this I am tempted to speculate that nowadays with virtual flight testing of aircraft prototypes before they are built, there must also be virtual chicken tests with virtual chickens. Given that in computer modeling, hair and fur and feathers are the most difficult surfaces to render, prodigious computer resources would need to be harnessed for such a test. One chicken with a single angle of entry would not be enough. There would need to be infinite combinations of attack with flock densities staggered to simulate actual flying conditions. The algorithm will include the panic of a flock combined with the whorls and eddies of engine suction and slipstreams. No doubt this will be discussed in one of the LEXIS aviation, engineering or computing journals. I have an unassailable faith in the ability of LEXIS to provide at least some coverage of any subject. Imagination can complete the story.