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Crowdsourcing Legal Research: The Opportunities and Challenges

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CROWDSOURCING
LEGAL RESEARCH
THE OPPORTUNITIES AND CHALLENGES

How two platforms leveraged technology and expertise to improve legal research.

BY PAT NEWCOMBE

Accessing and researching the law has changed little over the past decade. Legal research is typically a solitary pursuit involving databases of information in the hands of a few large vendors. Lately, however, this approach has come under increasing scrutiny for a variety of reasons.

For starters, comprehensive legal research is expensive. The cost of accessing the major commercial databases limits, to some degree, who in the legal community has access to the law. That limitation raises questions about social justice. When the tools of law become so expensive that only certain lawyers and their clients can afford them, it stifles equal access to the legal system.

Secondly, the traditional solitary approach to legal research looks increasingly outdated and inefficient in a world where rapid searching and sharing of information is the norm. Although online collaboration has taken root in a growing number of professions (e.g., software engineering), it has been slow to catch on in the legal field.

The popular term for online collaboration is crowdsourcing. Wikipedia, perhaps the most famous example of collaborative knowledge building, defines crowdsourcing as "the process of obtaining needed services, ideas, or content by soliciting contributions from a large group of people, and especially from an online community, rather than from traditional employees or suppliers."

Some people view crowdsourcing as a potential alternative to the expensive proprietary legal research platforms that exist today. Although an increasing amount of case law is available for free through Google and Google Scholar, those cases lack the annotations and commentary that make it helpful to lawyers and law students—crowdsourcing can be used to fill in the gaps. As the *American Bar Association (ABA) Journal* explains, "If two heads are better than one, then why should legal research be a solitary pursuit? What if you could put three or four or even dozens of heads to the task? If you could tap into a collective, collaborative research process, it seems fair to say, you could complete your work more quickly and be more confident of your conclusion."

The answers to these questions posed by the ABA were put to the test in two online platforms—Casetext and Mootus. Both impacted the legal community and introduced new ways to conduct online legal research through crowdsourcing. By doing so, the founders desired to "free" the law—by making it more accessible and more helpful—through collaboration and the sharing of ideas. Despite fundamental

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similarities, each resource served a different purpose in the field of legal research and utilized and engaged experts in different ways. Casetext stays steadily committed to its "mission to make all the world's laws free and understandable," while Mootus determined its model was not viable, and joined the ranks of many of its crowdsourcing predecessors.

Casetext

Casetext.com, launched in 2013 by two lawyers, is a free legal research platform where users can search more than six million federal and state cases, the U.S. Code, the Code of Federal Regulations, and limited state statutes (CA, NY, DE, FL, and NJ). It includes published and unpublished decisions and is updated daily with information from a private vendor, according to Pablo Arredondo, Casetext's vice president of legal research.

Casetext's primary law database is supplemented with commentary and insights from members of the legal profession, creating an online community for annotating and analyzing the law. Casetext users are encouraged to add descriptions, tags, annotations, and documents, as well as links to secondary sources. Users can vote up or down on these additional posts, which moves them higher or lower on the reading list, helping to separate and elevate the higher-valued content.

Between 350,000 and 400,000 users—primarily lawyers, law professors, and law students, as well as journalists and legal historians—access Casetext every month, according to Arredondo. The principle behind Casetext is to create a legal resource that can leverage legal expertise from a large group who work online and who can share the information quickly. "If you want to do [legal] research, you want to have access to secondary analysis that helps you understand what you are reading, and alerts you to potential pitfalls, misunderstandings, and new cases that you might not know about," said Arredondo.

One of Casetext's unique features is its ability to analyze legal blogs and publicly released law firm client alerts to see which primary sources are being discussed. Casetext then links the commentary to the relevant cases and statutes. Another helpful feature is the judicial summaries that provide actual court opinions about a case or statute in explanatory parenthetical-style statements and phrases.

Casetext also uses a visualization tool called a "heatmap" to show how frequently each page of a particular case is cited—the darker the blue, the greater the citations. Users can also click on the heatmap to see what in the case is being cited most often.

In addition to cases, Casetext has a growing database of more than 13,000 legal briefs, according to Arredondo. Briefs are the most costly dataset on Westlaw and Lexis. Casetext users can see relevant briefs when they are in a case, and they have the ability to add more briefs to Casetext by using a simple drag and drop feature. Once a new brief is in the system, Casetext will automatically mine it to see what cases are being discussed based on the table of authorities.

Casetext also has legal communities that help readers with shared interests and practice areas stay abreast

of legal trends. For example, the site contains criminal law, business law, and constitutional law communities. Interestingly, more than 50,000 attorneys subscribe to Casetext communities, which helps writers reach the audience they want, and readers stay up-to-date on what's important in their chosen fields.

"We found that people sometimes want to know who is reading their stuff," said Arredondo. "So we created these community pages. If you click on a community, you will see a list of followers of the community and those who are getting email alerts from the community."

In 2014, Casetext launched WeCite, a crowdsourced citator—an important addition to this form of free online research. "You don't really have free legal research without a citator," said Arredondo. "It's like giving away a car without brakes."

To build this citator, users review a case and examine the nuanced impact of the case on an earlier decision that it cites; then users select among four categories to indicate treatment of the earlier case: positive, negative, distinguishing, and referencing. Users also have the option to add a brief explanation to describe the relationship.

To encourage crowdsourced citations, Casetext uses "gamification." The WeCite tool has a leaderboard of who is contributing citations; law students in particular have become enamored with the gaming approach. "We have more than 1,000 students at over 105 law schools participating so far, creating more than a quarter-million WeCites," said Arredondo. "The students get competitive with students at other law schools; there are even prizes."

To moderate the citations—always a big concern—Casetext enlisted 70 volunteer law librarians and law students to review what's been cited. Arredondo's vision is for the law librarian community to take stewardship of the citator. Librarians will be pleased to know that the citator will be provided to Cornell's Legal Information Institute where it will be available for free bulk download and use by the public.

One of the challenges crowdsourcing faces everywhere, and in the legal community in particular, is the problem with getting people to contribute and to collaborate. "You always want more people posting original contributions," said Arredondo. "With lawyers especially there are challenges. There's not a lot of free time; attorneys are overworked as it is. Also, the system is a bit adversarial," he said. "Lawyers for the most part are accustomed to working with privileged information and not sharing their information."

But advocates believe the online approach can help the legal community in a number of ways. By contributing to crowdsourced legal research, such as Casetext, lawyers can build their reputation, said Jake Heller, chief executive officer of Casetext, in a posting on Lawyerist.com. Lawyers can demonstrate their intelligence by showing that they are up-to-date on the latest issues, he added.

Others have pointed out that by linking contributions to user profiles, lawyers can draw attention to their

professional experience and legal knowledge while connecting with other thought leaders in the field. Writing in the *LJN Legal Tech Newsletter*, Daniel J. O'Rielly noted that "Casetext has made it easier for us to highlight our expertise and enhance our reputation by integrating our existing law firm blogs on the platform. Every time we publish a new post on our blogs, it is also featured on Casetext …."

Basic Casetext accounts are free, but Casetext does generate revenue by selling premium functionality such as knowledge management to law firms. For instance, firms can use Casetext's technology to associate a law firm's internal work product, such as memos and briefs, with relevant cases and statutes making a firm's work product on a topic available through the normal research process.

Mootus

Mootus launched in 2013 and shuttered March 2016. The idea of Mootus was to expand the field of online research by promoting legal argument. Mootus reflected how lawyers actually work—around issues. Users would find open issues, cite good law, add relevant law, and vote other cites as "on point" or "off-base." For example issues could have been: Does the First Amendment protect legal assistance software?

Mootus co-founder Adam Ziegler said the purpose of the site was to encourage and promote a sense of lawyers working together to solve common legal issues. "I think as lawyers, we do way too much repetition of the same things," he said. "Mootus [was] an opportunity to learn from each other and capture all this work we are doing and build upon it rather than repeat it."

Users could add and answer open issues and build portfolios of responses to issues; they could even create personalized libraries. When users opened an account, they had the option of making an issue public or non-public. Public issues were posted anonymously. As others responded to the specific issue, email notifications were sent to the person who originated

the issue, providing details about their responses. For those who preferred a less crowdsourced approach, such as one to be shared only by a user's firm, the non-public option created a private workspace for lawyers to enter their arguments on a specific legal matter.

Mootus was free up to a point. Users could suggest an issue and Mootus would decide whether or not to post it. Users who wanted to be sure their issues would get posted could purchase one of several tiers of monthly subscriptions, ranging from $25 per month for five new issues to $100 per month for up to 25 issues. However, law students had unrestricted free access to the site.

Presciently, Ziegler remarked on the challenging future of crowdsourcing for lawyers. "You need the right incentives; you need people with time and motivation to provide high-quality contributions, and all of those things are particularly hard to do in the legal space." To that end, Mootus attempted to use gamification to entice users and encourage participation, though it did not trigger the kind of activity that was expected.

Mootus also struggled with the fact that it did not have free and open access to primary legal sources. Users could cite cases and court opinions, but they had to go somewhere else to read the opinions.

Mootus became a side project for Ziegler when he joined the Harvard Law Library in 2014. He viewed Mootus from the beginning as less of a business and more of an experiment to learn what role collaboration can have in legal knowledge and legal analysis. Ziegler said that he has learned that traditional crowdsourcing is very hard to do across the legal spectrum for many reasons, but that there is still a lot of room and interest in collaboration and sharing.

On March 22, 2016, Mootus announced that it would cease operations due to insufficient activity to keep the site viable. Ziegler stated that, "I am still very optimistic about the potential for crowdsourcing in the legal field and would love to see law

librarians take an active hand in it." Ziegler hopes that Mootus participants will continue experimenting with new legal tech products.

The Future of Crowdsourcing

With the advent of crowdsourcing legal research, the question remains whether free online research will become a viable alternative to paid sites. Robert Ambrogi, a lawyer and consultant who has written extensively about legal technology and social media, points out that the "ideal" crowdsourced legal research site has yet to be realized. "Over the years, any number of legal sites have tried and failed to achieve a critical mass of crowdsourced contributions," he said.

Ambrogi isn't sure why there have been so many failures and so few successes. Some of the promising, but failed crowdsourced legal websites include Spindle Law, Jurify, Standardforms.org, and Lawford. Ambrogi quoted Apoorva Mehta, a Silicon Valley entrepreneur who launched a successful online business, but whose crowdsourced legal site Lawford, failed. When asked why Lawford didn't work, Mehta said, "I didn't know anything about lawyers when we started. Turns out, they don't like technology and they don't like to share things."

But Ambrogi said he's an optimist and references Casetext as a site that appears to be achieving some success. He also mentioned Wex, a crowdsourced legal dictionary, which started in 2005 and uses the crowdsourced model, and CanLII Connects, a project of the Canadian Legal Information Institute, which crowdsources case law with commentary from the legal community, as projects with promise.

As for Mootus, Ziegler told Ambrogi his takeaway from running Mootus and its less than favorable results was that "explicit, unpaid crowdsourcing—Q&A style—isn't a viable model right now."

Having analyzed the results of legal crowdsourcing attempts thus far, Ambrogi believes success boils down to four important factors:

- Make it easy to contribute.
- Make it rewarding to contribute.
- Make the content useful to others.
- Success will breed success.

Crowdsourced legal research should have a future for two reasons. First, it embodies the concept of social justice by opening up tools of law to everyone, not just those who can afford them. Second, demography is on the side of crowdsourcing. The next generation of lawyers will likely be more open to collaboration. According to Arredondo, "Communal cooperation is becoming much more embedded in the DNA of the new generation."

This is good news for law librarians who care deeply about the democratization of legal information. Crowdsourcing has the potential to change how we access and share legal information, providing free and value-added resources to the legal community. ∎

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