

Working the Problem

By Paul D. Callister



"Houston, we have a problem" harbingered one of the most important rescues of the last century – the near-fatal disaster aboard Apollo 13. In the movie *Apollo 13*, NASA flight director Gene Krantz must bring order to the scientists and engineers in the Houston Flight Center, who are reacting to a flood of negative information about Apollo 13. As portrayed by Ed Harris, Gene Krantz demands that his staff "work the problem" and avoid simply guessing.

The Apollo 13 crisis parallels the initial reaction of new attorneys and law clerks when presented with legal research problems. Reacting in panic, the researcher trips over herself in an effort to foresee an immediate solution. The important lesson to draw from *Apollo 13* is to work the problem, not the solution. To do that, you must first find out everything there is to know about the problem itself. After this initial step, you can match the problem to appropriate strategies and resources for an expedient solution.

Questions for the client or supervising attorney

The general framework for working the problem is familiar to any eighth-grade English class. These questions should be addressed in the interview with the client or supervising attorney.

Who? Parties. "Who am I representing (i.e., which side of the issue am I on – buyer or seller, plaintiff or defendant, etc.)? What legal entities are involved (trusts, corporations, partnerships, etc.)?"

What? Descriptive words of facts. "Besides the term 'profit-sharing plan,' are there other terms, I should be using?"

Descriptive words of legal issues. "Do you think that the best subject heading might be 'exemptions in bankruptcy'?"

Finding the right answers means learning to ask the right questions.

Specific sources to be used. "For my research on foreclosures, is there a specific treatise or loose-leaf service I should consult?"

Where? Applicable jurisdictions. "Do you want me to research federal law as well as Illinois? Do you want me to confine my federal research to a single circuit? Are you interested in any other states?"

When? Time periods. "What time periods do you want me to research? Are the last two years sufficient?"

Time deadlines/priority. "Do you want a quick answer or exhaustive research? If I complete this by Tuesday morning, is that okay?"

Why? Objective. "What are we trying to accomplish with this memo (brief, motion, contract, etc.)? How do we want this to come out?"

How? Precision/recall. "Do you want all of the relevant journal articles or just the best article on the topic?"

Billable time/costs. "How long should this take me? Are there any limits as to how many hours we can bill for? May I use LEXIS and/or Westlaw?"

Presentations of results and reporting back. "How do you want me to present my results? Should I check back with my initial results?"

Precision and recall

While most of the items in the framework are self-explanatory, a few points are in order.

Practice makes perfect. First, learning to identify the legal and factual is-

Figure 1.

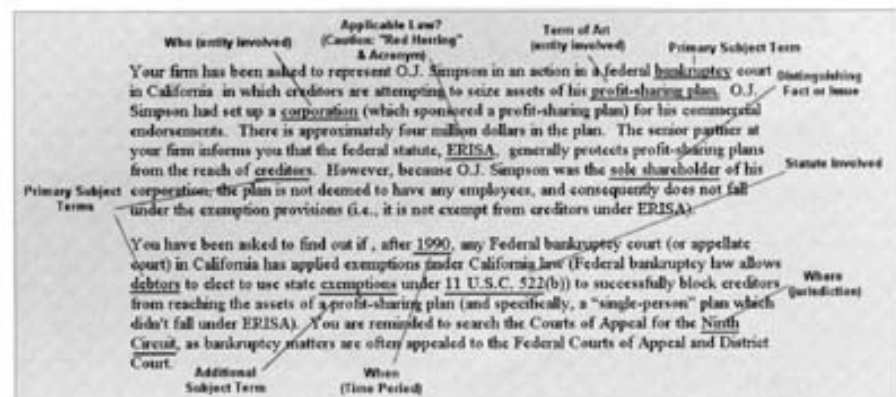
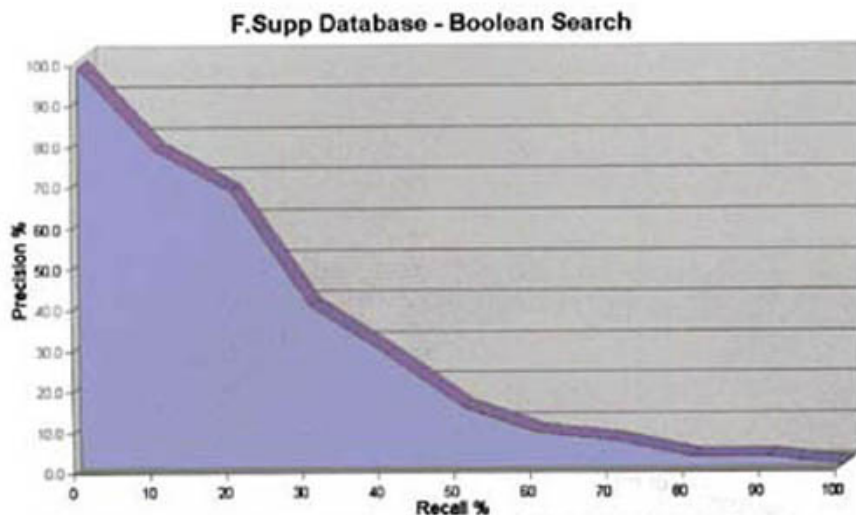


Figure 2.



Compiled from Howard Turtle, *Natural Language vs. Boolean Query Evaluations*, in W. Bruce Croft and C.J. van Rijsbergen, eds., *Proceedings of the Seventeenth Annual International Conference on Research and Development in Information Retrieval*, 212-21 (1994).

sues comes with experience, but the skill can be honed with practice.

Consider the hypothetical in Figure 1. Here is a prime instance where "working the problem" can pay off. Typically, our law students will search for "ERISA" (a red herring) and overlook the important issue of a "single person" plan. It is best to slow down and look for the "who," "what," "where," etc.

Quick answers or thorough re-

search? "Precision" and "recall" are technical terms borrowed from information science. Essentially, there are two conflicting standards for measuring the success of your research. Precision measures how many documents were on point within your search results. In contrast, recall gauges the relevant documents in your results compared to what you could have found.

In the chart in Figure 2 (compiled from a West study of Boolean searches

in the Federal Supplement database), notice that as recall scores increase (i.e., as fewer relevant cases are missed), precision falls (and there are more extraneous "hits"). This is a universal principle of information science. The important ramification for legal research is that you cannot have it both ways. You need to ask your client or senior partner, "Do you want the quick answer (i.e., the best authority or explanation on a particular point of law)?" or "Are you seeking everything there is on a particular legal issue?"

Effective legal research is predicated on your ability to "work the problem." Before you launch an expensive search on Lexis or Westlaw, attack the library catalog, or run to your favorite treatise, make sure you know everything you can about the problem itself. ■

This edition of "Finding Illinois Law" marks the debut of Paul Callister and Phill Johnson as alternating column authors. They are assistant professors of library administration and reference librarians at the University of Illinois College of Law at Urbana-Champaign. They will address research skills and strategy, the current and changing nature of legal bibliography (including print, electronic, and Internet resources), and legal-research issues facing the profession. If you'd like to suggest a topic, e-mail Paul at <callistr@law.uiuc.edu> or Phill at <pwjohnso@law.uiuc.edu>.