

The Canadian Legal Information Institute - a Model for Success

Abstract: In a paper presented at the 39th Annual BIALL Conference held in Dublin in June 2008, Janine Miller described the development of CanLII by Canadian law societies from its earliest incarnation to the huge free legal resource that it now comprises.

Keywords: Canada; legal databases; law reports; legislation

Introduction

The Canadian Legal Information Institute, CanLII, has done what many online legal searchers wished for – established itself as a must-use site that has a comprehensive collection of Canadian legislation and case law. CanLII.org was conceived by the law societies of Canada, who put the resources together to design and maintain an ever-growing and free virtual library that is fast, easy to use and 100% accessible to anyone with internet access. This venture was undertaken through the Federation of Law Societies of Canada, to provide free legal information from the courts, government, and other institutions, to both lawyers and the public.

It has been very exciting to be part of the development of CanLII. I have been involved since I first took the idea to the law societies and asked them to support the concept of a virtual law library. The timing was right, as the Great Library, of which I was the director, was being sued by the publishers for breach of copyright and the law societies were concerned that legal professionals were being restricted in the use of legal materials which they needed, either for court or for study purposes.

The database

The crucial day-to-day examination of Canada's primary legal materials is undertaken by law librarians, lawyers, law firms and judges. However, the organisation of the data, the mode of access and the character of search capabilities, the guarantee of authenticity, and the completeness of the information are not. The digital information required by the profession to ensure its competence is not truly 'in the digital library'. It is within the control of publishers, who provide portions of it at a substantial cost, and who make choices about what is important and what is not, and each publisher organises the information in ways which are advantageous for its specific business objectives. The copyright law suit clearly drew attention to this fact and was the impetus in securing the funding necessary for the development of the site.

CanLII's website is recognised as the largest web resource providing free access to legal documents from Canada's federal, provincial and territorial governments. It has become an extremely valuable resource for both legal practitioners and the public. CanLII's website is developed by, and continues to be produced by, LexUM - the Centre for Research at the Université de Montréal's Faculty of Law. LexUM's expertise and commitment to CanLII has been vital to the success of the site. Courts, legislatures and administrative tribunals partner with CanLII by freely providing the documents (cases/legislation) that are published on the site.

Launch of CanLII 2001

The CanLII site was launched in late 2001 and it has evolved extensively in only seven years. It is constantly improving its functionality and coverage. Its commitment to providing free access to primary legal information was recognised in May 2005, when CanLII won the *Hugh Lawford Award for Excellence in Legal Publishing*.

The site provides lawyers with an excellent alternative for locating current case law and legislation. CanLII provides a superior search method and includes value-added features, such as the ability to search using variant forms of search terms, to search both by citation and by style of cause. Results are relevancy-ranked with the ability to refine one's search by date, court level and jurisdiction. Users are provided with easy linking to cited cases and legislation and CanLII allows the researcher to generate a note-up list showing cases that cite the document being viewed. Parallel citations to printed reports are included and a neutral citation, or a CanLII citation, are also provided. It is a dynamic, bilingual and multi-faceted resource for the legal profession and public alike.

In June 2001, the CanLII site consisted of 37 database collections containing 39,818 documents with 3,000 new decisions being added monthly. By 2007, it had developed new tools to increase publishing efficiency and is now able to publish 8,000 decisions a month. By the end of 2007, the site had reached just under 500,000 decisions

and contained 100 case law database, plus numerous Boards and Tribunal databases.

Enhanced search engine 2007

In February 2007 the new CanLII interface and enhanced search engine was launched. The clean “Google-like” interface, and the speed and efficiency of searching have been very positively received. Features such as location of keywords in context, catchphrases, selection of several jurisdictions in advanced searching, ability to refine searches from results screens and searching by citation all make for superior searching capability. Comments about the new site include the following – “very intuitive, good functionality, very little clutter, parfaitement bilingue, rapid page transitions. Everything from the choice of colours to the placement of components makes this website easy to understand and navigate.”

CanLII prepared a Strategic Plan for 2006–2009 in which it recognised that it had to decide whether its primary mission was to serve the legal profession or to serve the public. A legal information system that was sufficiently good for free public access was not of a standard that would meet the needs of the profession. It was determined that CanLII would maintain its focus on primary sources, but would strive to publish them at a standard which would meet the needs of the profession. This involved improvements to the search engine, the look of the documents, and the comprehensiveness of the collection. It also involves a major overhaul of the legislative offerings, which is still in progress.

A significant change from current trends will be in building and managing content solutions that meet the needs of the members of the law societies who are ultimately the funders. Controlling the cost of obtaining legal information is important to both law society members and the public. Making a free service available limits the power that the commercial publishers have over access to these primary materials through the restrictive licences and cost of subscriptions to their services. Developing a resource of primary materials that is funded and maintained by the legal profession guarantees that lawyers will continue to have access to information at very low cost.

Survey of use by Canadian legal professionals

In 2008, CanLII conducted a survey of the legal profession in all Canadian provinces and territories. The survey results indicated that CanLII has become a major player in the delivery of primary legal information to the legal profession. A large percentage of lawyers responded that they can accomplish a substantial part of their work by using CanLII, which also enables them to reduce the cost of legal information by a significant amount. The survey also showed that CanLII has a

significant reputation and it has developed a real trust amongst its users for the quality of its primary material.

The results are interesting in that they demonstrate that over 57% of lawyers frequently conduct their own research. As a source of quick legal information, CanLII is the first choice for 39% of lawyers. This pattern is most clear in the responses from sole practitioners, lawyers in small firms (2 to 5 lawyers) and lawyers in the largest firms (26 lawyers and more).

The responses indicate that CanLII is the most frequently used electronic legal resource. When asked about the resources used at least once a week, results for CanLII showed 40% usage compared with less than 30% for commercial databases. Government websites are popular, with 34% of lawyers using their province’s site for legislation. The usage is 21% for provincial courts’ websites. In addition, 29% research in secondary material sources and 15% use library services. The use is consistent across office size.

In terms of user-friendliness, lawyers rated CanLII first among the national resources - 47% compared with 44% for commercial services. The majority of lawyers, 74%, use CanLII, both to find documents and to conduct legal research. The percentage using the site only as a tool to find known documents is 26%. Almost half of the lawyers surveyed, 43%, state that they can accomplish at least half of their legal research work with CanLII.

The survey results highlight the fact that CanLII has accomplished an important part of its mission - to reduce lawyers’ costs in acquiring legal information. A large percentage of respondents, 71%, find that CanLII allows them to reduce their costs for legal information and 43% estimated that the impact is significant.

The survey results, and many other observable changes, revealed that CanLII has made progress towards achieving one of its main goals, which is to ensure the public nature of Canadian primary legal information. The evolution of the free legal information environment has resulted in the major legal publishers repositioning themselves as providers of integrated services to the legal profession. Some publishers go as far as recognising that “judicial decisions are important public documents that should be available to the public”. In so far as CanLII’s fundamental mission is concerned, it is felt that measurable progress has been achieved. CanLII will continue to follow the changing marketplace closely and to explore opportunities arising from those changes.

CanLII is indebted to its funders – the members of the law societies across Canada and to the jurisdictional Law Foundations, whose financial and moral support has been fundamental in the development and improvement of the site. In this rapidly changing environment, it becomes increasingly important for law societies to control their library budgets and the overall cost for collecting, disseminating and providing legal information to their members. By virtue of its sufficiency and dependability CanLII provides a substitute for commercial offerings in primary legal material and now allows for real savings in lawyers’ and law societies’ costs for accessing legal information and conducting research.

User needs and expectations

CanLII continues to pay close attention to user needs and expectations and provides high-quality access to primary legal material at a very competitive cost. CanLII's focus has been on perfecting a core feature set which will be completed through its point-in-time publishing system for statutes (SATAL) and various content enhancement initiatives. In future the focus will be placed on perfecting the tools that enhance access to its primary materials.

CanLII's initial goal was to build a collection of court decisions from all jurisdictions that was at least of 10 years' duration. Now it is planning to ensure the comprehensiveness of its courts of appeal databases from 1995 to present. To achieve this CanLII's databases are compared with printed reports. Automated alerts, based on neutral citation, are used to identify gaps. As part of this effort, CanLII advertises its goal in terms of comprehensiveness by clearly communicating the scope of its databases.

Decisions of administrative tribunals are of growing importance to lawyers and other CanLII users. The addition of new databases, based on a content addition policy that has been drafted, will place an emphasis on content that is of significance to the legal profession. CanLII will continue to target key areas of law with labour, intellectual property, privacy and access to information, human rights, securities and professional discipline as priorities.

Through various special projects, CanLII is striving to extend the scope of court of appeal databases even further back, to 1990. Preceding that date, plans will be developed for the selective addition of thousands of leading cases in various areas of law. The addition of a manageable, yet significant, number of leading cases in major areas constitutes the most effective and economical way of extending the site's historical coverage. The selection of cases will be carried out using various methodologies, including adding cases cited by other cases, cases cited in major works and cases used for teaching. By providing access to material which constitutes the historical foundation of Canadian law, CanLII will also better serve teaching needs. Strong ties with law faculties are crucial for building loyalty among law students and for creating awareness of the public nature of legal information.

Use of citators

Citators are the backbone of most legal information systems. CanLII will endeavour to maximise the benefits

offered by its citator (Reflex). Preparation is underway to perfect the value-added features of the site, such as hypertext linking, note up and judicial history using a mixture of software tools and new editorial processes. Identification of cited and citing decisions will be supported by more powerful tools, ensuring timely and accurate treatment. Some editorial verification will also be relied upon. The cumulative effect of the recent publishing standards adopted by Canadian courts for the preparation of their judgments, and the growing use of neutral citations in the reasons, will facilitate CanLII's citation extraction procedures.

Currently the main source of revenue comes from the law societies who collectively decided to establish a mandatory tax on their members based on the number of full-time equivalent Law Society members (FTE). This is what provides stability to the organisation and confidence to users about CanLII's permanent existence and future development.

The future

CanLII will explore various opportunities to create alternative sources of revenue to allow the content on the site to be broadened. It may consider building partnerships with entities offering products and services that may be complementary to the legal research experience in CanLII. The objective of such initiatives will be twofold. On the one hand, those partnerships may become a sustainable source of revenue. On the other hand, integration with other resources may enrich the user experience by complementing CanLII's offerings. Other possibilities are the provision of programmatic access to some elements of CanLII's resources to institutional users, and advertisement or establishment of partnerships with government.

Conclusion

At the BIALL conference in Dublin I was able to demonstrate the CanLII site to attendees and to show some of the exciting developments that have taken place in the last year. I look forward, some time in the future, to being able to share with you some of CanLII's new initiatives that are presently underway.

Biography

Janine Miller is the Executive Director of CanLII. She was previously the Director of Libraries at the Law Society of Upper Canada for 11 years. She was on the Executive Board of CALL for 10 years and was President from 2003–2005.