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**A Paradigm for Electronic Publishing
in the Humanities and Social Sciences**

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Abstract

The goal of this research project is to determine which types of editorial products are offered by legal publishers in the United States (whether domestically or foreign owned) more often in electronic form than other products and, conversely, which types of editorial products are more often in print than other types (i.e., which types are likely to remain in print). I then analyze that body of data to see what relevance it holds for scholarly publishers in the humanities and social sciences who are considering or have recently entered electronic publishing, particularly for editorial and marketing decision-making.

My methodological tools are empirical. Using a random sampling method, I have selected both legal print and electronic titles published between 1984 and 1994 from industry reference sources. I assume, as the publishing historian Roger Chartier does, that commercial legal publishers develop strategies based on their markets; therefore, legal publishers will produce products in electronic form year after year based on the buying habits of those markets.

What I show is that certain types of legal editorial products are more likely to be offered in electronic form than others. Specifically, an editorial product that is factual in nature is much more often offered in electronic form than an editorial product that is critical/interpretive in nature. What this means for scholarly publishers in the humanities and social sciences is that, given limited resources, they should concentrate their electronic publishing efforts on editorial products that are factual rather than critical/interpretive in nature and continue to publish critical/interpretive works in print for the immediate future. In addition, I show that factual material is offered more often in electronic form than descriptive works; however, the difference is not as great.

I touch on other considerations as well. Electronic publishing was introduced into legal publishing to solve problems related to volume. Scholarly publishers need to keep such considerations in mind when contemplating whether to publish in electronic form in a given discipline.

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Foreword

In the period from 1530 to 1660, the market for books in the French countryside was for the most part non-existent. A relatively well-off peasant or school teacher might read aloud while others gathered under a tree and listened; but for the most part the population of a town or village, being largely illiterate, did not purchase books.¹ During the same period, although illiteracy was still a problem, a “popular” market for the printed word was established” in urban areas.² Publishers in the cities, particularly Paris, had established markets and publishing strategies for serving those markets. They published, and their publics purchased, almanacs, religious material, fiction, and books of “instruction and apprenticeship.”³

If an enterprising group of publishers decided in the late 1600s or early 1700s that certain country villages were potentially viable markets, how might they have begun to publish for those villages? They might have conducted a survey in the countryside (expensive if one is to gather data from more than just a few villages) and asked people what books they thought they might buy if those books were available: what stories or tales they enjoyed hearing aloud in the communal readings or in the church and wanted to see in print. Our publishers might, however, have found out later—perhaps after losing considerable money—that those people *did not necessarily enjoy reading what they enjoyed*

1 . Roger Chartier, *The Cultural Uses of Print in Early Modern France*, translated by Lydia G. Cochrane (Princeton: Princeton University Press, 1987), 155.

2 . *Ibid.*, 180.

3 . *Ibid.*, 172-173.

hearing aloud.

Those publishers might have also looked at the “established” markets in the cities to determine what publishers there were marketing to comparable audiences: to artisans, blacksmiths, small shopkeepers, and so on. Our enterprising publishers might then have decided to begin their publishing program by publishing a number of similar works: almanacs, books of instruction and apprenticeship, religious books and fiction. They might have discovered later that it was necessary to adjust their program somewhat; but they would not have embarked on large printings of books that *they* believed would be suitable for their potential market—books that they might have been unable to sell. In short, our imaginary publishers would have been prudent in identifying a similar audience and then determining which types of editorial products were offered by publishers marketing to those audiences.

Similarly, contemporary book publishers about to enter the electronic publishing arena might identify publishers of electronic products whose markets are relatively similar to those they wish to reach. They may then determine what types of editorial products are being published by those electronic publishers. The aspiring electronic publishers would then have data from which to make inferences about the products in electronic form suitable for their own markets.

For the scholarly publishers considering electronic publishing, for whose benefit this study was undertaken, the market for electronic legal products is relatively similar to that they wish to reach. Lawyers and scholars construct arguments in order to support a case; both the legal and the scholarly communities differentiate between primary and secondary sources, and both generally place more value on the former. Primary source material for an

historian writing about the role of the press in the Gulf War, for example, would include newspaper clippings, TV and video footage, military documents addressing the press or individual reporters, and so on. Secondary sources would include any previously published books or articles on the role of the press in the Gulf War. The historian is expected to consult both; however, greater weight is placed on the former than on the latter. A lawyer constructs an argument in a similar fashion, placing greater weight on primary sources (records of prior judgments on a case or similar type of case, statutes, and codes) than on secondary sources (such commentaries as treatises).

By determining the publishing patterns of legal publishers, scholarly publishers thus have data from which to make inferences about the products in electronic form suitable for their markets.

The following study is not meant, of course, to give publishers in the humanities and social sciences a *sure-fire* method of entering the electronic publishing field. It will, however, provide them with a framework for making decisions about whether to publish something in electronic form—and how to market it—or to remain with the centuries-old form scholars are most comfortable with: print. Electronic products are used frequently by legal researchers. Scholarly publishers, who have expressed an interest in electronic publishing, will gain a better understanding of what will and will not work in electronic form by examining the research I have conducted. Let's begin.

Introduction

Articles in *Publishers' Weekly*, *The Chronicle of Higher Education*, *Scholarly Publishing*, and other publications make note of new electronic publishing projects in planning stages or actual production by both university presses and commercial scholarly presses. Although electronic publishing seems to be more attractive to scientific, technical, medical (STM) publishing, it is beginning to attract the attention of publishers in the humanities and social sciences. Several university presses have announced the formation of electronic publishing programs, or are seeking publishing professionals to start new programs. What seems to be lacking among the announcements of various proposals is a clear sense of what will sell and what will not. Although many university presses are subsidized, university administrators expect at least some fiscal responsibility on the part of the publisher or managing director of the press, especially in these times of shrinking budgets. Publishers must, in turn, weigh the financial concerns (projected profits or losses) with those of the scholarly worthiness of various projects, both individually and as part of their overall publishing programs.

In this thesis, I propose to determine the publishing patterns regarding the editorial content of electronic legal publications, a rapidly expanding market, in relation to the editorial content of legal publications in print. I will then analyze that body of data to see what relevance it holds for scholarly publishers in the humanities and social sciences who are considering or have recently entered

electronic publishing, particularly for editorial and marketing decision making. I shall structure my thesis in the following manner: first, I shall review relevant literature in order to present the reader with both a brief historical sketch and theoretical ideas concerning the emerging technologies. Second, I shall describe the gathering of my data and shall analyze the data in such a way as to provide publishers with a paradigm (as opposed to a rigid formula) for publishing in electronic form. Third, I shall discuss recent developments in electronic publishing and their relevance to my study.

This study will limit itself to the editorial and marketing aspects of electronic publishing. It will describe neither the technical aspects of electronic publishing products or computers nor developments in electronic pre-press production except when a discussion of editorial or marketing matters warrants such a digression.

Before moving on, let me briefly define my terms. By **scholarly publishing products**, I mean products (e.g., journals, books, or monographs) used by professors, researchers, and graduate students in the course of their research or professional development. This term will not include products used in undergraduate classes except where the same material may be used in the previous sense. In short, it does not include textbooks. Fiction, poetry, and regional interest material published by university presses will not be included in this term except where the content is also directed toward professors, researchers, or graduate students (e.g., translations of medieval French poetry or state histories).

By **legal publishing products**, I mean products used by legal researchers, lawyers, or paralegals in the course of their professional work. It will not include

trade books on law. By **trade books**, I mean books published primarily for the general book buying public and sold primarily through bookstores.

By **electronic publishing products**, I mean electronic on-line products, CD-ROM and CD-I products, computer disks (diskettes) and fax newsletters. My focus will be on the on-line, diskette and CD-ROM offerings, primarily because they are the forms in which most electronic legal products are published. By **editorial products**, I refer to the presentation of textual, audio, or graphic material in journal, book, or electronic form for purchase or consumption.

Historical and Theoretical Context

The adoption, if not the introduction, of new publishing technologies is often done for problem-solving.⁴ Afterwards, the new technologies become more than mere problem solvers: they are seen as vehicles for enhancing the pursuit of information and understanding. The printing presses of the fifteenth and sixteenth centuries were introduced to ease the pressure of demand on the European system of manuscript copying.⁵ Print then “led to pagination, indices, and bibliographies, since they were now possible and made searching easier.”⁶ The printing press not only affected society as a whole—by increasing literacy, facilitating science and technology transfers, democratizing knowledge, creating public libraries and publishers⁷—but its introduction affected the individual user’s pursuit of information and understanding. The importance of memory decreased,⁸ as users of the proliferating products (including printings of classical authors) could store those products and retrieve them at will; and literacy, never stagnant, became associated more with the skills of interacting with the printed

4 . Anthony Smith, *Goodbye Gutenberg: The Newspaper Revolution of the 1980s* (New York: Oxford University Press, 1980), p. 97. Although my course of study will be directed toward electronic publishing for legal consumers and its relevance for scholarly publishers in the humanities and social sciences, no study is yet available in book or monograph length on the electronic publishing of legal or other types of products formally found exclusively in print. There is a short text, which I discuss later, on the use of computer assisted legal research but it primarily addresses WestLaw and Lexis (electronic on-line sources of legal data).

5 . *Ibid.*, 323.

6 . Gregory J.E. Rawlins, “Publishing over the Next Decade,” *Journal of The American Society for Information Science* 44(8 ,1993): 474.

7 . *Ibid.* In the second half of the 19th century, new mechanized printing processes and mechanically produced wood pulp furthered these developments. Also see “The Diverse Psychologies and Functions of Print and Electronics,” *Book Research Quarterly* (Spring 1985), 16.

8 . Rawlins, “Publishing over the Next Decade,” 474.

product (that is reading text, searching alphabetically) and writing than with reciting oral compositions.⁹

In the same way that the printing press was used to solve a problem in the fifteenth and sixteenth centuries, electronic computer systems were first introduced into newspaper publishing to solve the problem of time-consuming pre-press operations.¹⁰ These systems soon became a feature of the newspaper's editorial department for last-minute proofreading and editing to page-layout, the incorporation of last-minute news stories, and as tools for dealing with the problem of an ever-increasing body of data. Journalism and librarianship merged, according to Anthony Smith, for the same reasons that printing presses were required in Gutenberg's day: to keep up with the generation of data.¹¹ Modern researchers have thus come to be seen "more accurately as collators of existing work who succeed in making one further crucial formulation of a problem."¹²

Anthony Smith's excellent history of the electronic transformation of the newspaper industry (through the late 1970s) points to some of the benefits accrued from electronic computer systems and, specifically for our study, the use of data in electronic forms which previously had been available only in print forms. Smith predicts the coming of an "Alexandria without walls,"¹³ where information will be easily accessed by us from the computers on our desks, and an interactive system that could replace publishing, broadcasting, telephone, postal, banking,

9 . Benjamin M. Compaine, "Development of a New Literacy," *Book Research Quarterly* (Spring 1985): 36.

10. Smith, 97.

11 . Ibid., 115 & 116.

12 . Ibid., 315.

13 . Ibid., 317.

library, and to some extent government activities.¹⁴ In this he is not alone; but clearly we have not yet arrived at this juncture in history. In fact, a 1988 study indicates that electronic publishing will not replace print in the near future.¹⁵

In that study, completed as a dissertation, Chih Wang looks at the expenditure for, and usage of, electronic and print forms of publishing in three libraries in Atlanta, Georgia. He concludes that contrary to the assertions of several other researchers, electronic publishing will not replace print publishing and libraries in the near future. Expenditures for electronic publishing at the three libraries will increase moderately as a portion of their budgets, but those expenditures are a "tiny figure" in comparison with the amount allocated to print products.¹⁶ Furthermore, Wang reported that electronic product users requested print-outs for on-line search results 80-100% of the time.¹⁷ And although Wang found that there was relatively high use of *Dissertation Abstracts*, he found that there was little or no use of full-text on-line databases; and that he said indicated that electronic publishing has not established itself as a predictable and balanced market.¹⁸

Editorial materials previously only found in print, however, are being published in electronic forms. But this transformation is not uniform in that it is now a significant part of legal publishing and gaining momentum in professional publishing, yet only in its most nascent form in scholarly publishing in the humanities and social sciences. Furthermore, if we examine the category of legal

14 . Ibid., 291.

15 . Chih Wang, *Electronic Publishing and its Impact on Print Publishing: A Study of Expenditure and Usage in Three Selected Libraries in Atlanta, Georgia*. Submitted as a dissertation to the University of Pittsburgh, 1988.

16 . Ibid., 136

17 . Ibid.

18 . Ibid., 139.

publishing, it is apparent that electronic forms have not replaced print forms completely.

It appears—and most of the literature written since Smith's book seems to indicate—that users desire some added value from a product in electronic form before preferring it to print. Consider the following comments on the publishing of CD-ROM titles for the general consumer:

The biggest question facing CD-ROM publishers, however, is not how to use the technology but how to provide titles people want. To do this CD-ROM developers have to maximize the medium's strong points. . . . The real trick is getting quality content and adding value to technology.¹⁹

Whether for general, business or legal consumers, it appears (at least for the near future) that the material traditionally published in print needs to have some value added to it in electronic form if it is to be accepted. Value may be added by decreasing storage space, by decreasing the amount of time necessary to search for information, and by linking bits of information more easily than would be the case with print products. Publishers of electronic products have thus far found that one value of "electronic dictionaries, encyclopedias and other reference books (all of which are gradually being subsumed into the larger category of 'data bases'), is that computers offer the reader a variety of very rapid search devices for finding specific information, devices that are much more efficient than those of book culture."²⁰ Perhaps for those reasons many book publishers are predicting that "what they call the [electronic] 'revolution' will happen first in the reference

19 . David R. Guenette, "It's the Content, Stupid," *CD-ROM WORLD* (February 1994): 38.

20 . Robert Coover, "And Hypertext Is Only the Beginning," *The New York Times Book Review* (August 1993): 8.

world.”²¹

Genres that many publishers believe will be suitable for publishing in electronic form in the future include “travel, cookbooks, gardening, how-to, reference, biography, diet, financial, science fiction, children’s literature, and adult games (where there is some learning involved).”²² By “suitable,” the publishers mean that value may be added to the editorial product by publishing it in electronic form.

The following predictions, made by Dan Lacy, deviate somewhat from the publishers’ predictions just cited, but they address the issues of what will work in electronic form and what will not in a more fundamental way:

In general, however, the new technology is unlikely to replace print for extensive documents such as novels, histories, biographies, and longer treatises; for works read for pleasure; and for works likely to be in demand in their full form, as distinguished from works, like telephone directories or dictionaries, consulted only for individual data. . . . The most important role of the new technology as a medium for the embodiment of information, however, is not in doing what print does, replacing paralleling printed documents, but in its capacity to bring into the public compendium vast quantities of information too detailed, specialized, or evanescent ever to be embodied in print. A vast ocean of recorded data now lies beneath the scattered islands of print. Of course enormous quantities of information [such as individual census data] always lay below the level of print recorded in written files. . . . But access to them has been blocked by their physical form: they could be consulted only at the one, usually securely restricted, place in which they were housed. And consultation of any large number of

21 . Carol Robinson, “Publishing’s Electronic Future: A wide range of book people ponder what the business may look like by the year 2000,” *Publishers Weekly* (6 September 1993): 46.

22 . *Ibid.*, 48

records by manual inspection and tabulation was impossibly expensive.²³

Here we return in a sense to the conception of the researcher that Anthony Smith mentioned earlier: as “collators of existing work who succeed in making one further crucial formulation of a problem.” In Lacy’s view, the value of publishing in the electronic form seems to be that of making collating possible and feasible where before it was either impossible or extremely expensive, thereby enhancing the value of the data, rather than merely transferring material from print to electronic form for its own sake. By enabling researchers to easily create links between otherwise disparate data, we enhance knowledge.

Steven Levy approaches this aspect of the electronic revolution in his history of the Macintosh computer. From the late 1940s to the present, a number of intellectuals have been pondering the problem of “augmenting man’s intellect.”²⁴ These thinkers thought that one of the most pressing problems of the post-war era was “that the accumulated knowledge of humanity had exceeded our ability to handle it. Only by ‘augmenting man’s intellect’ could we remedy this situation—resulting in better comprehension of problems, and the conquest of previously insoluble problems.”²⁵ The tools to “augment man’s intellect” were to be found at computer workstations. The window on the computer was the “*informationscape* in which the features are words, numbers, graphs, images, concepts, paragraphs, arguments, relationships, formulas, diagrams, proofs,

23 . Dan Lacy, “The Computer and the Print Media,” *Publishing Research Quarterly* (Summer 1993): 7.

24 . Steven Levy, *Insanely Great: The Life and Times of Macintosh, the Computer That Changed Everything* (New York: Viking Penguin, 1994), 37.

25 . *Ibid.* I wish that this theme was developed in greater detail, but to be fair to Levy the purpose of the book was more general in nature: a history of the Macintosh computer (and it is a trade book, not a scholarly monograph).

bodies of literature and schools of criticism," or cyberspace.²⁶ Another tool was that of "hypertext , or 'non-sequential writing. . . . Treating the accumulated knowledge of the world as a single body, providing access to it via a series of dynamic links, under the control of the individual.'"²⁷ Levy concluded that the history of the Macintosh "pointed to—and hastened—a future where we might interactively consume and reshape all our information from a vast library of ones and zeros representing the accumulated wisdom, expression, and knowledge of humankind."²⁸ Knowledge and information are enhanced by virtues of new electronic media.

The change that is occurring will affect the way we pursue knowledge and understanding and in turn how we comprehend the processes by which knowledge and understanding are obtained. In a recently published work, two co-authors (Taylor & Saarinen) attempt to address those issues and confront the new technologies and the changes they have brought (and will bring) by developing what they simultaneously call "Media Philosophy" and "Imagologies."²⁹ Much

26 . Ibid., 39.

27 . Ibid., 243. Though descriptions of hypertext include such terms as "links" and "interconnections" (Ibid.), probably the best way of expressing it is by way of example. Suppose you have several illustrations of German Weimar Republic paintings and wish to explore one in greater depth. You may click on the illustration and receive a greater explanation of the work than that found under it in the main text; click on the painter's name and receive a short biography; click again and receive a longer biography; click on an unfamiliar term and receive an explanation; retrieve parallel terms from surrounding countries in order to determine any cross-cultural influences not mentioned in the explanation; and so on. Of course, all this is dependent on the data included in the database and the links provided by the publisher.

28 . Ibid., pp. 260-261.

29 . Mark C. Taylor & Esa Saarinen, *Imagologies: Media Philosophy* (London: Routledge, 1994).

of what they have to say is beyond the scope of our study,³⁰ but they are correct in emphasizing that any approach to the content or the study of the new media must address “contingent technicalities and context-bound production mechanisms . . . because the net [and other electronic information or communication systems are] becoming something like an apriori that is a condition of the possibility of our experience.”³¹

A hypertext is not a closed work but an open fabric of heterogeneous traces and associations that are in the process of constant revision and supplementation. The structure of a hypertext is not fixed but is forever shifting and always mobile. The interplay of surface and depth gives way to a perpetual displacement of surfaces that is anything but superficial. Branching options multiply, menus reproduce, windows open on other windows, and screens display other screens in a lateral dispersal that disseminates rather than integrates. Hierarchy unravels in a web where top and bottom, up and down, lose consistent meaning. Everything—everywhere is middle. Instead of an organic whole, a hypertext is a rent texture whose meaning is unstable and whose boundaries are constantly changing. There is no clearly defined preestablished path through the proliferating layers of a hypertext. Though the network is shared, the course each individual follows is different.³²

30 . The authors are attempting to develop a philosophy that will address the entire spectrum of the new media (from video and telephones to the internet). Borrowing ideas from Kierkegaard, Baudrillard and Foucault, they propose an approach to studying the media that seems to engage “surface” phenomena or “images” locally while historicizing the medium (or technology). Though such an approach is prescient in anticipating the coming multimedia environment predicted by many, it does not serve our study as well at this point in time because of the primarily text-bound nature of both print and electronic products used by legal researchers and (where it is used) by scholarly researchers.

31 . Ibid., *Interstanding*⁴ [sic]. The authors and their publishers use a very unorthodox layout.

32 . Ibid., *Telewriting*⁶.

Such an “unstable” situation may appear alarming to some, as indeed the introduction of print may have been to members of oral societies. Once a text, for example, was produced, it was cast adrift so to speak from the intentions of the original author; it may have then served purposes and generated meanings that the original author had not intended. The structure of hypertext, as described in the preceding passage, presents us with a means to obtain information and to pursue knowledge and understanding that is further removed from the intentions of the original (or should I say initiating) author or authors of a body of text or a collection of images or other data. Two researchers attempting to solve the same problem may pursue very different paths of enquiry, borrowing bits of information from one document, opening onto a second, and merging text from yet a third (whose existence was suggested by the second) with their own text before moving on to other windows. The final product of the two researchers, obtained from the same on-line source, CD-ROM library, or from the internet may be very different; but each, given the opportunity, may review the other’s work and then either modify their own work or combine their work in some way. The new media, the authors suggest, threaten to subvert “the notion of the solitary genius that has governed our understanding of authorship for over two hundred years. Letting go of the isolated author threatens the very foundation of individual identity [that we hold today].”³³

Yet the new electronic media provide us with opportunities the older media could not. Taylor and Saarinen challenge us to consider the possibilities opened by Windows or equivalent programs as they are adopted by the telecommunications industry. “Unprecedented possibilities for the

33. Ibid., Pedagogies⁷.

dissemination of information emerge. The restrictions of limited newspaper space and air time give way to a lateral extension in which topics expand without limit. For people who are interested, a simple click enables further consideration of a broad range of topics and issues. Furthermore, the passivity of traditional televisual media [or printed text] gives way to interactive dialogues in which the reader/listener does not simply accept what is given but asks questions and even offers reactions and responses.”³⁴

For the casual reader or the seasoned researcher, the new technologies make custom searching more viable than traditional print forms; but the new technologies also affect the way the user conducts searches and pursues knowledge and understanding. Because hypertext is a fabric of associations with branching options that multiply,³⁵ the user is encouraged to a much greater degree than is the case with print technology to pursue knowledge in an associative manner. The “branching options that multiply” make it possible to pursue tangents that might otherwise be impractical. “Book culture, under the pressures of the imperatives of speed, seems to yield too low cost/benefit ratios for the conscious user [of books] the moment he or she is outside his or her field of expertise.”³⁶ With a click of a mouse (or another device), the user can move from one window to another, pursuing avenues of thought and drawing on detailed definitions, explanations, artifacts, and so on.

Imagine a museum with an inexhaustible image file and multiple paths that allow navigation through the archive. Each person could, then, assemble an exhibition from whatever point of view seemed interesting or

34 . Ibid., Superficiality⁴.

35 . Ibid., Telewriting⁶.

36 . Ibid., p. Superficiality⁸.

for whatever occasion seemed relevant.³⁷

And because “everything—everywhere is middle,”³⁸ one is never really finished. Meaning is also unstable because the structure of the hypertext is not fixed but mobile; the user is encouraged to jump around and explore.³⁹ He or she can constantly revise and supplement a search or a text. One is only limited by, and dependent on, the amount of data available on the electronic medium at hand.

For publishers, the structure of the new media may also mean—in threatening the concept of the single author or sole genius—that they are better suited to multiple authorship or group projects. The multiple paths or branching options of a publisher’s product would, in fact, be extremely limited if only one author contributed to it. Even if one person (e.g., a project editor or a director) is responsible for the finished project, the nature of hypertext encourages the participation of others in providing for the main text, for example, supplemental materials or full text of footnotes.

The new technologies addressed by Taylor and Saarinen exist and are being

37 . Ibid., p. Virtuality⁸. Several multimedia projects have been initiated that aspire to put this into practice. See “Museums Go High-Tech: Several multimedia projects aim to allow visitors to study exhibits in depth,” by Thomas J. DeLoughry, *The Chronicle of Higher Education* (14 September 1994): A47& A49. Library Schools have also begun training their students in setting up exhibits like those in the above quote. See “New Era for Library Schools: They strive to overhaul curricula to reflect the explosion in information technology,” by Beverly T. Watkins, *The Chronicle of Higher Education* (18 May 1994): A19-A20. The Dallas Museum of Art has placed images on the internet. Visitors can access general information, such as exhibit and event schedules, educational documents relating to the museum and its permanent collection, and digital images from the museum’s permanent collection (see *Internet World* [June 1994]: 14.).

38 . Ibid., Telewriting⁶.

39 . Not being able to quickly discover the “final word” or “truth” may, of course, cause anxiety in some. Furthermore, being able to explore continually or look at several sides of an argument does not mean that each and every person will; there are lazy students and researchers, and they may merely use the new electronic media for the speed and convenience with which they provide data (quick answers).

adopted to varying degrees. "It is not a question of whether to accept or reject this new world, but of who is going to use it and how. To resist the possibilities opened by the [new media] is to leave this extraordinary technology in the hands of others."⁴⁰

But, as mentioned earlier, the movement toward a paperless society is not uniform. "We are," as Irving L. Horowitz has stated, "in a transitional psychological mood, one in which we take for granted a multitiered information environment, instead of approaching knowledge needs in a unidimensional mood. Electronic databases are value-added media, rather than alien intrusions aiming at the destruction of other, more conventional forms of delivering information."⁴¹ The preceding quote is from an essay published approximately nine years ago, but I believe it is as applicable today as it was then.

Publishers are aware of the transitional nature of the present period—as articles in *Publishers' Weekly* and other periodicals indicate—and many are concerned about their standing in the future.⁴² A number of large trade publishers have initiated electronic publishing programs and are testing products.⁴³ A number of college textbook publishers are now offering interactive language-learning products on CD-ROM.⁴⁴ And a few scholarly publishers in the humanities and social sciences have announced the formation of electronic

40 . Ibid., p. Net Effect¹.

41 . Irving L. Horowitz, "The Political Economy of Database Technology," *Book Research Quarterly* (Summer 1985): 73.

42 . Tony. Feldman, "A View from Europe: The Frankfurt Book Fair Goes Electric," *CD-ROM WORLD* (February 1994) p. 108; Robinson, Carol. "Publishing's Electronic Future: A wide range of book people ponder what the business may look like by the year 2000," *Publishers Weekly* (6 September 1993): 46.

43 . Bridget. Kinsella, "Bookstores Go Interactive: New media publishers team up with Apple to test their products in the bookstore," *Publishers Weekly* (20 December 1993) p. 21.

44 . American Council on the Teaching of Foreign Languages, Official Program, 1993, pp. 2-3.

publishing programs.⁴⁵

One branch of publishing that seems relatively comfortable about publishing in electronic forms is that of law or legal publishing. Catalogues from many legal publishers feature print and electronic products side by side. In fact, electronic legal products have been in existence since the early 1970s.⁴⁶ Scholarly and other publishers can, in my opinion, learn from developments in the legal field.⁴⁷

The motivation for developing electronic document retrieval systems for legal consumers came, according to one author, "primarily from researchers who [were] dissatisfied with conventional case-law searching tools such as digests and annotations."⁴⁸ The source cited, however, is attributed to two co-authors, one of whom was then president of Mead Data Central which publishes LEXIS. LEXIS operates on the assumption that formal indexing is not needed when the statutes can be searched directly for words and phrases. Another popular on-line document retrieval system called WestLaw, which is published by Mead's competitor (West), operates on the assumption that indexing and abstracting *are* essential to any search for legal concepts.⁴⁹ Because WestLaw is quite popular we

45 . David L. Wilson, "Uniting Disparate Elements: Project Seeks to Expand Use of Electronic Networks for Publishing," *The Chronicle of Higher Education* (26 January 1994), pp. A24-A25. In discussing scholarly publishers in the humanities and social sciences, I will include university and commercial presses. Most university presses do not engage in any substantial way in the publishing of books or journals in the scientific, technical, and medical (or STM) field; in fact much of it is done by commercial STM publishers, and much of it by European-based publishers such as Elsevier (Dutch) or Springer-Verlag (German).

46 . James A. Sprowl, *A Manual for Computer-Assisted Legal Research* (Chicago: American Bar Foundation, 1976) p. vii. Such systems retrieve cases, statutes, administrative law decisions, etc.; instead of searching for those items in print, legal researchers may now do so at their computer.

47 . I believe that other publishers may find what I have to say about legal publishing to be beneficial; however, I will discuss the relevance of legal publishing to scholarly publishing for two reasons (primarily). First, the two fields are similar in a very basic sense: researchers construct an argument to support a case and both make a distinction between primary and secondary sources, and place greater value on the former. Second, I am—at the moment—most familiar with scholarly publishing in the humanities and social sciences.

48 . Sprowl, vii.

49 . *Ibid.*, 56. Also see West Publisher's promotional flyer for WestLaw, dated 1993.

cannot, therefore, attribute the growing popularity of these electronic products to the fact that researchers were dissatisfied with conventional searching tools such as digests and annotations. That some researchers may have been dissatisfied, may be the reason why Mead Data Central developed such a product and for their success in establishing a market; West's success with established WestLaw, however, shows that perhaps other reasons exist for the popularity of on-line (or in other cases CD-ROM) databases.

One reason may be that electronic products (including both LEXIS and WestLaw) solve several related problems. A fundamental problem is related to our system of common law, which relies on precedent (the doctrine of *stare decisis*):

when a court has laid down a principle of law as applicable to a given set of facts, it, and other courts under it, will adhere to that principle and apply it similarly in future cases where the facts are substantially the same.

Determining the decision of present cases on the basis of past precedents results in the literature of the law *accumulating and assuming large proportions* [emphasis mine].⁵⁰

Another factor "which has added to the extensiveness of American legal collections is the multiple systems of state and federal laws."⁵¹ The end result is a very large amount of data, one that constantly grows, and becomes more difficult to manage.

Electronic retrieval systems such as WestLaw and LEXIS alleviate storage

50 . J. Myron Jacobstein & Roy M. Mersky, *Ervin-H. Pollack's Fundamentals of Legal Research, Fourth Edition* (Mineola, NY: The Foundation Press, 1973): 3.

51 . *Ibid.*

problems that such an accumulation of data generates and the amount of time it takes to sort through that data and collate relevant material. These systems “carry out most research tasks far more quickly, accurately, and economically than the same tasks can be carried out manually.”⁵²

Publishers of electronic legal products promise users that they “can research and retrieve relevant information within seconds. . . . Users can copy portions [with some programs] into any popular word processing program.”⁵³ They may then use hypertext [with some programs] to go from an analysis of a case to the case itself.⁵⁴ WestLaw now even offers consumers a voice recognition system that makes it possible to research without touching a key.⁵⁵ Products published in electronic form, therefore, provide users with “value” because of the systemic features provided in electronic form. What the literature does not address, perhaps out of a zeal for technological wizardry, is the question of which specific types of legal materials are more suitable than others.

In examining the state of electronic legal publishing, however, we must return to a simple but an important observation made earlier: if we examine the category of legal publishing it is apparent that electronic forms have not replaced print forms completely. The two media exist together in a fairly uniform field as far as editorial products are concerned—statutes, reporters, regulations, encyclopedias, periodical literature, treatises, and so on, that serve one of three functions:

52 . Sprowl, vii.

53 . “CD News: Witkins Library Now on LawDesk,” *CD-ROM WORLD*, (October 1993) p. 20.

54 . Ibid.

55 . Cary Griffith, “West Breaks New Ground with LawTalk: Voice Recognition for WestLaw.” *Information Today* (March 1994): 10-11.

Factual Information: That is data meant to provide the user with information only. Reporters (previously tried cases used as primary documents by lawyers), statutes, and regulations would fall under this category. I shall include indices and bibliographies under this category as well.

Descriptive Text: That is text that is meant to provide the user with a synopsis of a certain text or body of literature (e.g., a synopsis of a case or a summary of a statute). Digests would fall under this category.

Critical/Interpretive Text: That is text that is meant to provide the user with insight into, or understanding of, the content of the material at hand or a certain body of knowledge. Includes text that provides insight/understanding and then proposes an alternative based on such an interpretation. Treatises fall under this category.

We might, therefore, ask what types of editorial products in the legal field are more rapidly making their way into electronic form than others and which are remaining in print, and why.⁵⁶ In answering those two questions, I believe, we may better understand how exactly “value” (at least at this point in history) is added by publishing in electronic form (or retained in print) and how knowledge is “enhanced.”

56. That is not to say that there are no other questions. One might ask any number of questions: are people in certain age groups more resistant (or more receptive) than others to the new media, are people in certain geographic areas more receptive than others (e.g., in university towns), are people with certain psychological make-ups more receptive than others, and so on.

To answer those questions, it will be necessary to go beyond merely determining which products according to legal categories (e.g., statutes or treatises) are found more often in one form or another; it will be necessary to determine which products according to the function of the editorial content (factual, descriptive, or interpretive) are more often found in either electronic or print form.

Determining these patterns would provide scholarly publishers with a theoretical framework from which to embark on electronic publishing projects.⁵⁷ Consider the following, for example:

[An] eminent humanist scholar wrote to his editor inquiring about the possibilities of electronic publication of his concordance to James Joyce's *Ulysses*. He wondered whether his material—involving backward citations to often obscure sources used by Joyce, and forward citations to demonstrate Joycean influence on contemporary literature—might best be served, not by a book, but by a freeform, updatable, and annotatable database.⁵⁸

By enlarging the literature on legal publishing and, therefore, providing that editor with substantive information concerning the types of editorial products that are working well in electronic form, the editor would be better equipped to make a decision regarding the aforementioned proposal. Considering the limited market for many scholarly books and monographs,⁵⁹ the fact that most scholarly

⁵⁷ . Scholarly publishers should consider "problems," as discussed in the literature, when approaching specific projects as well. Certain groups of researchers, for example, are faced with problems of searching and collating large amounts of data and others are not.

⁵⁸ . Czesław J. Gryz, "Everything You Need to Know About Technology," *Publishers Research Quarterly* (Winter 1991/92): 8.

⁵⁹ . John P. Dessauer, *Book Publishing: A Basic Introduction* (New York: Continuum, 1990), 82 & 85.

publishing, according to the director of Johns Hopkins University Press, "is almost by definition subsidized"⁶⁰ and that subsidies have been shrinking for almost two decades,⁶¹ an editor must carefully decide whether to proceed with that project.

To take a very simple example, imagine a scholarly editor is confronted with the decision of whether to publish electronically either a work that focuses on the relationship between ontology and emotion or a work that focuses on contemporary urban demographics and its relationship to political formations. If in our study we find that those products that fall under the category of critical/interpretive text tend to be offered less often in electronic form than those that fall under the category of factual information, that scholarly editor may proceed with the assumption that the latter is more appropriate than the former for publishing in electronic form.

Furthermore, the analysis of that body of information ought to help scholarly publishers to market such projects as well (e.g., in deciding which aspects of a project to emphasize).

60 . Paul Parson, *Getting Publishing: The Acquisition Process at University Presses* (Knoxville, Tennessee: University of Tennessee Press. 1989), 129.

61 . Jennifer K. Hannifin, "Changing Sales and Markets of American University Presses, 1960-1990," *Publishing Research Quarterly* (Summer 1991): 11. Also mentions fact that university presses are publishing more "trade-like" books to make up the difference.

Research Organization and Findings

My methodology assumes that, in general, commercial publishers' product offerings—for a given historical period—mirror the purchasing/reading habits of the public in categorical terms or genres. That does not mean that any given publisher is always correct in judging, for example, which particular romance novel, philosophy title, or legal treatise is more likely to please its customers in any given year. It does mean that a publisher who publishes roughly 38 romance, two philosophy and two legal titles each year does so because of the purchasing/reading habits of its public(s). As the historian Roger Chartier asserts, "it is clear that publishing strategies depend largely upon the extent and the character of the public that constitutes the bookmaker's potential clientele at any given moment in history."⁶² If publishers of legal products offer certain editorial products in electronic form more often than others over a ten-year period, therefore, we may assume that it is because those products are purchased more often than others in electronic form. The publishing strategies are dependent largely upon consumer behavior.⁶³

62 . Chartier, 145. The entire chapter, "Publishing Strategies and What the People Read, 1530-1660" on pages 145-182 as well as the chapter "The Bibliothèque bleue and Popular Reading" on pages 240-264 are excellent starting points for an introduction into this phenomenon. Also see pages 52-54.

63 . That is not to say, however, that publishers do not reinforce or affect customer behavior. Chartier has claimed that editorial strategies "created, and to an unsuspected extent, systems for gauging differences. Such systems categorized the products of the printing trade in cultural terms, thus fragmenting the market into clientèles presumed to be discrete and establishing new cultural frontiers (Chartier, 82)."

The goal of this portion of my research project is to determine which types of editorial products are offered by legal publishers for sale in the United States more often in electronic form than other editorial products and, conversely, which types of editorial products are more often offered in print than other types (i.e., which types are likely to remain in print).

To determine which products were offered more in one form or the other, it was necessary to select a sample from the following commercial reference directories: *Bowker's Books in Print 1993-94: Subject Guide*, *Gale Directory of Databases, January 1994: Volume I: On-Line Databases*, *Gale Directory of Databases, January 1994: Volume II: CD-ROM, Diskette, Magnetic Tape, Handheld and Batch Access Database Products*, and *Directory of Law-Related CD-ROMS, 1994*. From the law or legal products section of those reference directories, a sample of thirty titles in both print and electronic forms was selected.

For the print portion, thirty law titles from *Bowker's Books in Print 1993-94: Subject Guide* were selected in the following manner. The total number of pages listing law as a major category was 44 (Law through Law [Theology]; that is, pages 4693-4737). Each page contained four columns. I multiplied 44×4 and obtained 176, which I then divided by 30. The figure given was 5.8666667 or rounded off: 6. So every sixth column was selected. The first title from the first selected column was taken, the second title from the second selected column, and so forth until 30 titles were selected. If a title was excluded for any reason, the title immediately following the first one excluded was selected; for the next title excluded, the preceding title was selected and so on.

Only titles published during the period 1984 and 1994 were selected. I included

revised editions of previously published titles, not simply reprints of previously published titles (as the printing plates are already set, and that influences the decision to remain in print). Also excluded were school directories, LSAT exam material, and educational material for stenographers (e.g., *Speedbuilding for Court Reporters*), but not legal education or "how-to" titles for legal researchers. Excluded also were meeting/association calendars, juvenile literature, non-English titles except for dictionaries or bilingual titles, and titles listed without complete bibliographic information typically given with books such as publisher, ISBN, or publication date.

The rationale for gathering titles in such a manner was to ensure that my sample was as representative of the total number of law titles as possible. In that way I avoided the possibility of drawing a disproportionate number of titles from one part of the alphabet (e.g., titles listed under "T" and in tort or tax law).

The rationale for gathering titles from reference sources rather than from publishers' catalogues or questionnaires sent to either publishers or law firms was to ensure that the sample of works offered to legal researchers was as representative of the larger population as possible. One point about this method, however, is that not all "law" titles are published by "legal publishers." Titles listed under law in the reference sources cited, and used by legal researchers, are published by legal publishers, certain government agencies (such as the Bureau of National Affairs), and select university presses. Yet all titles fall under the rubric of legal publishing; that is, those publishers publish works that are used by legal researchers.⁶⁴

My study is limited to the years 1984 to 1994 because electronic products are

64 . An important part of the "legal publishers" market is comprised of university law schools and government agencies as well as law firms.

relatively new. On-line legal publications, as mentioned previously, have been in existence for less than 20 years. Most CD-ROM and diskette titles have for the most part only become an alternative medium for legal researchers during the last decade. Printed books listed in *Books In Print* on the other hand may have been first published in 1922 when all legal titles were published exclusively in print. Limiting my random sample of titles to those published during the years 1984 to 1994, therefore, ensures that the sample is as representative of contemporary legal publishing as possible.

Once I had a list of 30 titles, I proceeded to obtain information about content by either 1) obtaining the book from one of the New York University libraries or the New York Public Library in mid-town Manhattan, 2) calling the publisher and requesting information about the content (in several cases, the customer-service representative was able to give me the information over the phone; in other cases, the material was sent to me by mail), 3) inferring the content—where possible—from the title (e.g., book number four in the appendix: *Arabic-English Dictionary of Legal Terms*), 4) obtaining the content information from a bibliographic source.

For titles about whose content I was unable to obtain information using either method (originally titles 6, 9, 19, 23, 25, 26, 27), I selected the replacements by selecting the title immediately following the first title discarded, the title immediately preceding the second one, the title immediately following the third, and so on until all had been selected and information concerning each title's content was obtained.

For the electronic portion, ten titles from each of the following directories were selected: *Gale Directory of Databases, January 1994: Volume I: On-Line Databases,*

Gale Directory of Databases, January 1994: Volume II: CD-ROM, Diskette, Magnetic Tape, Handheld and Batch Access Database Products , and Directory of Law-Related CD-ROMS, 1994 . From the first, ten titles were selected in the following manner. There were 17 columns in the index (one is half a column, one is two-thirds of a column) of law/legal titles. The number of columns was divided by 10. The figure given was 1.7, so every second column was selected (e.g., column one, column three, . . .). The title was then looked up in the main text of the directory, where information about the title was obtained.

From the second directory, ten titles were selected in the following manner. There were a total of seven columns of law/legal titles in the index. So the first title in the first column was selected, the second in the second column, and so on until seven titles were obtained. Then the seven columns were divided by 3 to get the remaining three titles. That gave me a figure of 2.333, so rounded to two I selected every second column and picked first the 8th title in a column, the 9th, and then the 10th until all ten titles were selected from the directory. The title was looked up in the main text of the directory, and information concerning content was obtained there.

From the third source, the total number of pages was determined to be 107 pages. That figure divided by 10 gave me 10.7 which I rounded up to 11, so from every 11th page a title was selected (3, 14, 25, and so on); but because there were only about four titles to each page, I rotated through one to four and then started with one again.

The criteria for excluding a title were the same for those of print titles, except that the publication dates are not typically given. For most of the titles I could infer the publication date. I inferred, for example, that a title updated quarterly is

a revised edition. For titles that are not updated (see titles #4 & #10 in the appendix for electronic titles), I called the publishers and asked for the date that each was first published. The titles selected in electronic form, like those in print, were from the period 1984 to 1994. For all electronic products, I was able to obtain information regarding content from the directory itself.

The rationale for obtaining my sample in such a manner was identical to that of print; however, three sources were used instead of one because electronic products are published in several forms (as the names of the directories suggest), and I did not want to limit the study solely to one electronic medium. In fact there may be reasons for selecting one electronic medium over another, as I shall discuss later.

Once the titles were selected and information regarding the content of each was obtained, I then proceeded to classify each title according to one of the three categories mentioned in the previous chapter: Factual Information, Descriptive Text, and Critical/Interpretive Text. As mentioned earlier, I wanted to determine the editorial content in functional terms. The overriding criterion for classifying a title in a particular category was that title's primary function. As we shall see, a title may very well have attributes of two or even of all three categories; however, for the purposes of our study it was necessary to identify the product's primary use.

The first of the categories was that of factual information. By factual information, I mean data that is meant to provide the user with information only. As might be expected, I have included non-descriptive guides to sources (factual or not) such as bibliographies or reference directories. What I have also included in this category (the majority in fact) are what scholars in the

humanities or social sciences often refer to as primary source material. That is, material that is not valued necessarily for what it may say (i.e., for its content) but for its very existence as a document or other entity of information. Researchers may not even agree with the content of a particular document. They may even find what the document contains to be repulsive. But they accept and value the document (novel, census report, government proclamation, etc.) as an entity in and of itself. Two historians, for example, might argue about the morality of the Smith Act or a slaveholder's ledger; however, both generally value each as an item or document in and of itself (even if only to indict the original writers or writer of the documents). It is used as an object of analysis or a starting point, so to speak, for analysis. It is the raw material (or part of the raw material) or information that arguments are based on. Furthermore, this material is generally valued more than secondary sources that describe or interpret a document or body of information; hence *authority* is attributed to the document, novel, or census data.

Researchers, of course, may value the same material differently. Two scholars constructing an argument may in fact place greater importance on different parts of the same document or text. Counter arguments, however, usually focus on an argument's interpretation of the material or the omission of other important materials or documents and not on the authority of the document itself.⁶⁵

A legal researcher has "primary source material" as well: documents—cases or statutes—that are used and cited for their authority as *precedents*. These are the building blocks that legal researchers use to construct arguments. As mentioned

65. There are of course exceptions, such as arguments over the dating of historical documents, which bring into question a particular source's authority; therefore, it might be better to qualify what I have said by stating that the authority attributed to a document is contingent on that document's acceptance as a primary source within a body of scholars.

in the previous chapter, our system of law is based on the doctrine of *stare decisis*. To reiterate, that holds that “when a court has laid down a principle of law as applicable to a given set of facts, it and other courts under it, will adhere to that principle and apply it similarly in future cases where the facts are substantially the same.”⁶⁶ What this means is that the rulings on cases then become precedents that legal researchers must use in making arguments, in their opinions or court briefs, in much the way that scholars construct an argument. Whether or not the researcher values the substance of a particular ruling in a particular case, he or she cannot ignore the fact that that ruling (e.g., concerning red-lining or industrial zoning) must be taken into account when constructing a legal argument. Throughout our country’s history there have been rulings (e.g., defending separate but equal education) that legal researchers tried to have overturned by using rulings from other cases, but the authority of the precedent stood nonetheless (or until a higher court might overturn it). One had to argue that one precedent established in one case took priority over, or modified, the ruling in another case.⁶⁷ The same is true of statutes. When a legislative body such as Congress passes a law, that law or statute (unless found to be unconstitutional by a higher court) then attains authority as a primary source. Statutes and court decisions are considered “primary authority.”⁶⁸

Those titles obtained in my sample that were primarily a collection of statutes or court decisions (i.e., Reporters) were classified as Factual Information. For example, *Louisiana Cases (West’s)* and *North Carolina Reporter (West’s)* are

66 . Jacobstein and Mersky, 3.

67 . One might consider a somewhat similar parallel in scholarly arguments: one historian argues that a particular government official’s daily correspondence is indicative of her attitudes, while a second historian argues that her weekly calender over the years is more so.

68 . Jacobstein and Mersky, 7.

both classified as Factual Information though each includes headnotes (short synopses) immediately preceding the text of the case.

Regulations also fall into the category of factual information. Regulations are issued by various government agencies or departments to carry out the intent of the law, to guide their employees and to ensure uniform application of the law. They do not have the effect of law in theory, but in practice they can have an important effect in determining the outcome of cases involving regulatory activity because of the intricacies of judicial review of administrative actions.⁶⁹ Although regulations do not have the same value as statutes and the reports of court decisions, they are nonetheless used in much the same way and are sometimes referred to as Administrative Law.⁷⁰ Although several of the titles included in my random sample contained regulations, not one was primarily a regulation.

The overriding criterion for determining whether a title was to be classified as factual information was (as with the other categories) based on the researcher's primary use of that editorial product. In addition to printed or electronic products that contained the text of statutes, court decisions, and regulations, I have included other items that are sought for rulings on various legal matters (e.g., IRS letter rulings), administrative codes (e.g., rules of court procedure), indices (e.g., a social science index that covers law and criminology), and form books.

My decision to include some of those items along with the complete text of a primary source document is, of course, somewhat arbitrary. The classification is as much defined by what it is not: they are not descriptive or critical/interpretive texts. Form books, for example, are used to obtain the exact form one needs in

69. See "Regulations" in Jacobstein and Mersky.

70. *Ibid.*, 238.

preparing a particular document in a specific state of the country. In categorizing it as factual I have indicated that it is existent and inarguable. That, too, is the case for primary documents: they are inarguable as what they are used for; the court decisions contained in a reporter (a volume or several volumes) are looked upon as existent and inarguable.⁷¹

The second category that I chose for classification purposes was Descriptive Text. Descriptive Text is meant to provide the user with a synopsis of a text (whether the text is factual, descriptive, or critical/interpretive) or body of literature. In this category, I have included digests. Legal researchers consider digests secondary publications.⁷² Because the mass of primary source material such as statutes and cases has reached such voluminous proportions, secondary publications have assumed significant roles in identifying and explaining the law. Often a legal researcher will consult such publications before the primary sources. One should note, however, that not all "secondary publications" are descriptive. Treatises (which I shall address later) are considered secondary publications as well.⁷³ But treatises are not descriptive according to the categories I have set up for this study.

Why, then, did I not set up a category that included all secondary publications? The editorial products that I have included in the category of descriptive text are those which are used either (a) to provide short synopses of other texts, such as

71 . One might say that factual information is generally considered the least arguable and critical/interpretive text the most arguable of the three, with descriptive text being somewhere in the middle. In using the phrase "least arguable," I am trying to avoid epistemological arguments regarding truth. One may argue, for example, that a particular list or canon is not comprehensive or reflects a particular perspective and therefore is not "true" because it is not inclusive. An index of legal publications in a certain area *may* not be complete (though I would say reference publishers are fairly thorough), but one would be hard pressed to argue that the titles listed in a particular legal index are not what they appear to be—except, of course, for an inadvertently misplaced title.

72 . Jacobstein and Mersky, p. 309.

73 . Ibid.

digests, or (b) to provide a short description of a particular legal term, phenomenon, or body of law. Neither types of descriptive text are used to provide the legal researcher with *in-depth* knowledge or understanding to the degree that the works I shall classify as critical/interpretive do. This distinction was important in order to determine more precisely what editorial products are published more often in electronic form than others. Both descriptive texts and critical/interpretive texts might be viewed as assisting the researcher in understanding or developing arguments based on the primary sources listed under the category entitled factual. The difference, however, lies in the degree or breadth of analysis of the material. Digests provide the researcher with brief, unconnected statements of court holdings or facts of cases and they are classified by subject. For example, the *CCH Australian Case Digest Library* listed in appendix two (title #5), contains summaries of court and judicial decisions from courts in Australia. It was classified as descriptive text. The researcher consults that digest not to gain *in-depth* understanding of Australian law or even a single court case. He or she may consult it as a search tool in order to find a relevant case, in for example family law, or as a way of saving time by not having to read through irrelevant cases (or at least fewer ones) before moving on those that he or she will consider using in building an argument. *Law & Government in Colonial Australia* (title #11 in Appendix One) on the other hand provides the researcher with an in-depth analysis of Australian law and legal institutions within an historical context (covering the differences and similarities it has with British law). It was classified as critical/interpretive text.

In addition to digests I have included legal encyclopedias such as *Encyclopedic Dictionary of European Community Laws, Vol. I* (title #5 in Appendix One) in

the descriptive text category, as it contains definitions of terms and short concise definitions.⁷⁴ Also included are miscellaneous titles that provide descriptive material such as the *Arabic-English Dictionary of Legal Terms* and *The Mexico Legal System, No 1: Reference Guides to National Legal Systems*. Again the overriding criterion used for determining which category to classify a particular title was the researcher's primary use of that editorial product. The researcher is using the products in this category to gain knowledge or understanding of phenomena, albeit not in the same depth as those classified as critical/interpretive, and not as something that he or she might use as primary material in building an argument. Furthermore, the material contained in the editorial products that I have classified as descriptive text are not generally considered factual, existent and inarguable. A summary of a case or a concise definition of a European Community law is open to being contested by someone as being "not quite" what something is about or described as being "true from one point of view." That is, interpretation enters the formulation of the content to some extent, though not to the degree of those that I have classified as critical/interpretive. The titles classified as descriptive text may, therefore, be thought of as being descriptive of the vast ocean of recorded data mentioned in the preceding chapter and the critical works that analyse parts of that ocean.

The third category that I used for classifying editorial products in my study was entitled Critical/Interpretive Text. Critical/Interpretive Text is meant to provide the user with insight into, or understanding of, the material at hand. It may

⁷⁴ . Ibid. The legal encyclopedia, according to Jacobstein/Merksy, is non-critical in its approach. This particular title, as the description in the appendix indicates, includes a more detailed explanation, analysis, or description immediately following the shorter one; however, it in no way provides the breadth of analysis that the titles I have included in the category of critical/interpretive do.

describe a certain phenomenon as well, and it may even provide factual information (contain birth dates, a bibliography of a particular theorist's work, etc.), but the emphasis of the work is to provide the researcher with understanding through analysis or interpretation. That is true whether the work analyzes one case in great depth or a country's entire legal system. One might say that critical/interpretive texts are meant to provide some *order* to a variety of phenomena.⁷⁵

One of the most important types of critical/interpretive works that legal researchers use are "critical" and "interpretive" treatises.⁷⁶ They are more exhaustive in scope than encyclopedias and cover a broad subject or a segment of it. They are detailed analyses of specific areas of the law by legal experts. For example, *Bankruptcy Law Fundamentals* (title #10 in Appendix Two) provides the legal researcher with analysis of the U.S. Bankruptcy Code and Rules and coverage of major issues and cases including bankruptcy court jurisdiction. The primary purpose of the treatise is neither to provide the researcher with detailed factual information such as primary source materials (although the treatise may refer to such) nor to offer descriptive information of primary materials or other treatises. The primary function of the treatise is to provide the researcher with a better understanding of the tenets of bankruptcy law.

The primary function of those works that I have classified as critical/interpretive texts is to methodically examine, to provide order, to synthesize and to explicate legal phenomena in order to assist the researcher in composing an argument. Of course, as with scholarly researchers in the

⁷⁵ . Jacobstein and Mersky, 353.

⁷⁶ . *Ibid.*, 355. There is a third type of treatise called the expository treatise; however, that is similar to the encyclopedia in that its main characteristic is the summarization of statutory and judicial law.

humanities and social sciences, legal researchers will consult the primary sources; but—and this is especially important given the mass of material available on various legal topics—critical/interpretive texts assist researchers in *focusing* the scope of their study and therefore their arguments.

Because of the variety of research problems that the legal researcher may face, a corresponding variety of critical/interpretive works are used by legal researchers. Among those found in my sample, and classified as such, were theoretical works such as *The High Legal Road: A New Approach to Legal Problems* (title #1 in Appendix One) and guides such as *The Warn Act: A Manager's Guide to Workforce Reductions* (title #4 in Appendix Two). The former is more abstract than the latter and is designed to provide the researcher with an alternative approach to legal problem-solving; the latter is designed to assist the researcher in legal problem-solving as well, albeit in a specific area: workforce reductions. Both use analysis as a starting point for accomplishing their task, which in each case is prescriptive. Others, such as *Law, Culture, & Values*, are not prescriptive but present analyses of law or legal issues nonetheless. The analyses are meant to give researchers insight into various aspects of, or to argue a particular point of view regarding, those issues.

Once all the legal titles obtained in my sample were classified according to the criteria described, it was then possible to group them together for analysis.

	<u>Print Products</u>	<u>Electronic Products</u>
Factual Information	7 titles; 23.33%	23 titles; 76.67%
Descriptive Text	7 titles; 23.33%	4 titles; 13.33%
Critical/Interpretive Text	16 titles; 53.33%	3 titles; 10%

Table A

Table A shows the breakdown of print and electronic titles within the categories used to identify the type of editorial product. Of the 30 print products selected at random, for example, seven titles (or 23.33%) fell into the category of factual information whereas of the 30 electronic products selected at random, 23 titles or (76.67%) fell into the category of factual information. According to the chi-square Goodness of Fit test,⁷⁷ we can reject the null hypothesis of no association between type of product (print - electronic) and type of text (factual - descriptive - critical/interpretive) at a 0.01 significance level. In other words, we can be 99% certain that there is an association between print products and each of the categories (factual, descriptive, and critical/interpretive) used to classify according to text. Likewise, we can be 99% certain that there is an association between electronic products and each of the categories used to classify each work according to text.

⁷⁷ . See Appendix Three. Special thanks to Edward Rudshstein of the Department of Statistics and Operations Research at New York University's Stern School of Business for preparation of the two charts in the appendix.

Given the findings in Chart A, the 95% confidence interval for population proportions is as follows:

Print Products

Factual Information: 8.20% to 38.47% (23.33%⁷⁸)

Descriptive Text: 8.20% to 38.47% (23.33%)

Critical/Interpretive: 35.48% to 71.19% (53.33%)

Electronic Products

Factual Information: 61.53% to 91.80% (76.67%)

Descriptive Text: 1.17% to 25.50% (13.33%)

Critical/Interpretive Text: -0.74% to 20.74% (10.00%)

Table B

In other words, based on the sample size of 30 and on the sample proportion (23.33%), we can be 95% certain that the proportion of factual information in the print population⁷⁹ is between 8.20% to 38.47%; given the sample size and sample proportion (76.67%), we can be 95% certain that the proportion of factual information in the electronic population is between 61.53% to 91.80%. The difference between the percentages of factual information found in print (23.33%) and in electronic form (76.67%) corresponds roughly to the difference in the confidence interval for population proportions for each (8.20% to 38.47% and 61.53% to 91.80% respectively), in that they both show a tendency for legal electronic products to be classified as factual information to a far greater degree than those of legal print products. On the other hand, we can see that there is a

⁷⁸ . The percentages given in parentheses are those obtained in my sample and given in Table A.

⁷⁹ . That is the print population identified in my sample: titles published between 1984 and 1994. I would be mistaken, of course, to indicate that this is true of the entire print population as there are many more print titles in existence than those published between those years.

tendency for legal print products to be classified as critical/interpretive texts to a far greater degree than electronic products. Descriptive texts have a greater tendency to be found in print than in electronic form; however, the tendency is not as pronounced as those of the other two categories.

We can infer with a reasonable degree of accuracy from the two tables and the chi-square test for association, therefore, the following:

- I. Legal products offered in electronic form are more often classified as factual information than as either descriptive or critical/interpretive texts.
- II. Products classified as factual information constitute a higher proportion of electronic products than of print products.
- III. Legal products offered in print form are more likely to be classified as critical/interpretive text than as either factual information or descriptive text.
- IV. Products classified as critical/interpretive text constitute a far greater proportion of print products than of electronic products.
- V. Legal products offered in print form are more often classified as descriptive text than legal products offered in electronic form.

The most significant distinctions among print and electronic products that can be inferred are points II and IV above: products classified as factual information constitute a far greater proportion of electronic products than of print products and products classified as critical/interpretive text constitute a far greater proportion of print products than of electronic products. In Table A, works classified as factual information constitute 76.67% of electronic products, but only 23.33% of print products. Even when we use the 95% confidence interval for population proportions in Table B, the difference remains great. In Table A, we see that not only do critical/interpretive texts constitute slightly more than half of

the print products gathered in our random sample, but they constitute only 10% of those in electronic form.

Furthermore, if we examine the individual critical/interpretive titles in electronic form that were obtained in our sample,⁸⁰ we find that, although each is analytical, each can be used as a *reference* work and tends to address a specific phenomenon. Although *The Warn Act: A Manager's Guide to Workforce Reductions* (#4 in Appendix Two), for example, is critical/interpretive in nature (i.e., it provides the user with analyses of the Warn Act as well as advice on compliance), it contains a questions and answers section, a notification checklist, and a list of obligations and duties. Although one may find similar works in print, such as *Proposition Sixty Five Compliance* (#12 in Appendix One), and although critical/interpretive works also refer to primary sources, our random print sample included titles that tend to be more theoretical⁸¹ than the three critical/interpretive works found in electronic form in our study. In other words, the critical/interpretive texts in electronic form tend to be of a certain type; that is, they are more useful for solving specific problems through analysis than the more theoretical types of critical/interpretive texts found in our print sample. As for descriptive text and factual information, there appeared to be no significant difference between print and electronic forms.

Recent legal publishers' catalogues appear to confirm our findings. Factual information is offered in electronic form more often than descriptive or critical/interpretive text, and critical/interpretive text is almost always offered in print. Most electronic products in their catalogues are collections of cases, statutes,

80 . Titles 4, 10, and 17 in Appendix Two.

81 . For example, *The High Legal Road: A New Approach to Legal Problems* (title #1 in Appendix One).

and codes. A few are digests or other works of a descriptive nature, and even fewer are treatises or other works of a critical/interpretive nature. Although many factual or descriptive works found in electronic form may be purchased from the same publisher in print form, the same cannot be said of critical/interpretive works. Most critical/interpretive works are offered exclusively in print. The few critical/interpretive works found in electronic form are of the same type as those found in our sample; that is, they are more useful for solving specific problems through analysis than the more theoretical types of critical/interpretive texts found in print.⁸²

Now that we can infer with a reasonable degree of assurance that certain types of editorial products are offered in electronic form more often than others (points I to V), we may discuss why that is so before laying out a paradigm for electronic publishing in the humanities and social sciences. As mentioned in Chapter II, "The Historical and Theoretical Context," it appears that the material traditionally published in print needs to have some value added to it by virtue of its being published in electronic form if it is to be accepted. Value may be added by decreasing storage space, decreasing the amount of time necessary to search for information, and linking bits of information more easily than would be the case with print products.

Especially with our system of law, which relies on the doctrine of *stare decisis*, the literature of law—particularly primary material such as case law and statutes—assumes large proportions. Depending on the format, one writer has

⁸². Commerce Clearing House's *CCH Federal Tax Service* (CCH brochure #BR-300), for example, provides analyses of federal income tax, estate and gift taxes, and selected excise tax provisions, and it is arranged topically for easy reference.

said, one five-inch CD-ROM disc “can hold approximately 190,000 pages of text.”⁸³ A Government Accounting Office booklet on CD-ROM titles published by the United States Government compares the paper and CD-ROM versions of the 1985 Congressional Record in the following manner:⁸⁴

1985 Congressional Record

Paper Product	CD-ROM Product
43,700 typeset pages	120 page user manual
30 bound volumes	2 CD-ROMS
7 feet of shelf space	1.5 Inch of shelf space
206 pounds, 4 ounces	2 pounds, 4 ounces
\$1,485 per set	\$40.00 per set

Table C

And on-line systems such as WestLaw or Lexis only require an internal or external modem in the user’s office or library. The storage space for those electronic products, or for batch access products,⁸⁵ is even less of a concern.

Anderson Publishing Company’s *Page’s Ohio Revised Code Annotated* (see 1993 publications catalogue) is made up of 34 volumes; however, *Anderson’s Lawriter Ohio Law Library on CD-ROM* contains the *Page’s Ohio Revised Code Annotated*, *Ohio Official Reports*, and over 60,000 cases dating back to 1981 of *Unreported*

⁸³ . James Ladato and Roger M. Friedman, “CD-ROM Research Available At Nassau Supreme,” *Nassau Lawyer: The Journal of the Bar Association of Nassau County, N.Y., Inc.* 40 (7, 1992).

⁸⁴ . GAO. *Information Dissemination: Federal CD-ROM Titles—What Are Available and How They Were Priced* . GAO/IMTEC-93-34FS (June 1993): 2.

⁸⁵ . Batch access products are similar to on-line products, except that rather than staying on-line with the publisher the data is sent to a storage device at the users location periodically. This eliminates on-line fees for time spent accessing the publishers database and it eliminates the need to have CD-ROMs or diskettes shipped periodically.

Ohio Appellate Cases . LawDesk (#14 in Appendix Two) contains the complete text of 240 volumes of court rulings and decisions on CD-ROM.

Clearly the problem of storage space is eliminated, but the related problem of searching through such a large mass of data is also ameliorated. In addition to alleviating storage problems, Matthew Bender emphasizes quickness and accuracy in research when promoting its Search Master Compact Disk Libraries.⁸⁶ The search and retrieval software that accompanies *Louisiana Cases (West's)* (#27 in Appendix Two) "provides search syntax, sentence and paragraph connectors for word searches, automatic equivalences and plurals, and field searching." In other words, the ability to create links between bits of data, quickly, among a large mass of literature, is enhanced.⁸⁷

The problems of storage space and creating links among data are not as pressing with descriptive text and far less with critical/interpretive texts. It appears that this is at least one reason why critical/interpretive texts continue to remain in print. The three critical/interpretive texts found in electronic form in our sample, as mentioned earlier, could be used as reference works and tend to address a specific phenomenon. The value added by publishing those works in electronic form is that the researcher is able to obtain analyses on specific points or aspects of a phenomenon quickly. Answers to specific questions on workforce reductions (#4 in Appendix Two), for example, can be obtained with the stroke of a key.⁸⁸

⁸⁶ . Matthew Bender catalogue, 1991.

⁸⁷ . Another added value is the ability to export sections of documents directly to a word processor for incorporation into the text of one's argument. See, for example, *Environmental, Health & Safety CRRs* [i.e., Current Federal Regulations] on CD-ROM as advertised in recently released Government Institutes, Inc., *New 1994 CFRs catalogue*.

⁸⁸ . I should add that one of those titles, #17, has additional value added by virtue of being updated daily.

Critical/interpretive works are more likely than factual information or descriptive text to be in demand in their full form. As mentioned earlier, "the most important role of the new technology as a medium for the embodiment of information . . . is not in doing what print does, replacing paralleling documents, but in its capacity to bring into the public compendium vast quantities of information too detailed, specialized, or evanescent ever to be embodied in print."⁸⁹ Factual information and descriptive texts are stored and used as needed. Generally, the entire text (e.g., the accumulated Ohio court rulings or an accompanying digest) is not read from cover to cover. The researcher searches for specific information and then reads what is pertinent (or at least what he or she believes is pertinent) to a particular research problem. A critical/interpretive work such as *National Styles of Regulation: Environmental Policy in Great Britain & The United States* (#17 in Appendix One) is more likely to be read in its full form.

The introduction of electronic, critical/interpretive texts in the legal market may also be retarded because there is no pressing problem regarding storage or ease of search: it is not imperative for the user/researcher to switch to an electronic version of the work. Perhaps, too, their familiarity with the medium encourages legal researchers' preference for this type of editorial product in print.

Paul Saffo, a director at the Institute for the Future in Menlo Park, California, has pointed out that "it is a consistent pattern in our response to technologies. We simultaneously overestimate the short-term impact and underestimate its long-term impact. And the reason is simple: technologies diffuse through society

89. Steven Levy, 37.

with remarkable slowness.”⁹⁰ In a related article, Saffo “draws a parallel between the invention of the printing press. Between 1450 and 1500, he says, presses allowed a transition from mnemonics to reading skills, from a generation of scholars who used their brains as storage to a generation for whom thought was process—a different kind of youth revolution, but familiar for all that.”⁹¹ Although it is not the place of this research project to investigate the psychological phenomena underlying a reader’s reception to new technologies, it presents scholars with an interesting area for further research. One reason for preferring critical/interpretive works in print, besides the tendency for humans to slowly accept new technologies, may be that the critical/interpretive work is reflective in nature (especially the more theoretical ones); the material itself encourages the researcher to synthesize data, explore phenomena from different angles, to determine the nature of the whole or at least a specific part of the whole. Perhaps the transition to the critical/interpretive work’s acceptance in electronic form will be the new technologies’ ability to enhance researchers’ prowess to do those things. Perhaps, as mentioned in the last chapter, it will be the facility of making the associations that Taylor and Saarinen discuss. For the time being, however, it appears that books will continue to “represent our more ruminative, deliberate and thoughtful side.”⁹² What is important to our study is that critical/interpretive texts appear to be preferred in print rather than electronic form.

Now that we can reasonably infer from our study that certain editorial

90 . Edmund L. Andrews, “Slow Mo: Changing the Wiring Takes Time,” *The New York Times* (30 October 1994): Section 4, 1 & 4.

91 . Leigh Hafrey, “At Cyberspace University Presses, Paperless Publishing Looks Good,” *The New York Times Book Review* (30 October 1994): 32.

92 . Sarah Lyall, “Are These Books, or What?: CD-ROM and the Literary Industry,” *New York Times Book Review* (14 August 1994): 21.

products are offered more often than others in electronic form, we can present a paradigm for scholarly publishers who are considering entering the electronic publishing arena. Conversely, for those who do not wish to enter electronic publishing, the paradigm will serve them as well: by defining what is unlikely to be affected by electronic publishing, at least in the near future, they will be provided with a paradigm for print publishing in an encroaching electronic environment.

A Paradigm

As discussed in the Foreword, the market for electronic legal products is relatively similar to the one the scholarly publisher wishes to reach. Lawyers and scholars construct arguments in order to support a case; both the legal and the scholarly communities differentiate between primary and secondary sources, and both generally place more value on the former. Scholarly publishing is not, however, legal publishing. Legal researchers in law firms (as opposed to those in foundations, law schools and government agencies) compete directly with other law firms for profits and clients. They are willing to spend money to cut costs, to cut the amount of time it takes to perform routine research tasks, and to attract clients. Products that assist certain law firms in accomplishing those goals may then be seen as necessities by other law firms.

Scholars in the humanities and social sciences face pressures in securing tenure and grants, and gaining recognition from peers (in addition to their quest for knowledge), but those pressures are less direct. The speed with which they perform their research is not reflected—and measured—immediately in billings to a client; thus university administrators may not be as willing to spend money for products that are designed to expedite a professor's research or eliminate or make easier certain routine research tasks. If they were, I believe university administrators would have encouraged the introduction of such products into the research departments of liberal arts institutions years ago. At present, "many state institutions and community colleges lack access to the CD-ROM drives,

sound boards, and other hardware needed for hypermedia."⁹³

Furthermore, as noted earlier, certain problems exist in legal research which encouraged the introduction of electronic publishing products into that profession. It is not that clear that such problems yet exist in all disciplines in the humanities and social sciences—perhaps more in political science, fewer in English literature. Scholarly publishers, therefore, should consider my discussion of problems in legal research along with my findings on the types of editorial products more often offered (and accepted) in electronic form than other products; and then decide in which disciplines they ought to promote electronic products.

Another distinction that needs to be made is that primary material, what I have grouped together under factual information, is for the most part uniform among the legal profession. Statutes are considered primary material by virtually all legal researchers. This is not the case among scholars. For example, Michel Foucault's *The Order of Things* may be considered secondary literature to an historian of science analyzing taxonomy in the seventeenth century. To a philosopher analyzing postmodern theory, however, *The Order of Things* may be considered a primary work. It is, therefore, important to keep in mind the end use of a proposed electronic product. The value added to a product by publishing it in electronic form may not be identical to scholars from different disciplines. To the historian, little or no value is added by publishing *The Order of Things* in electronic form; for the philosopher, however, publishing it in electronic form with several dozen other postmodern works may make identifying recurring

93. David L. Wilson, "The Appeal of Hypertext: Technique links words, images, and sounds in ways that could revolutionize teaching." *The Chronicle of Higher Education* (28 September 1994): A25, A27, & A30.

themes among texts much easier. On its own, even for the philosopher, publishing *The Order of Things* in electronic form adds little value to the editorial product.⁹⁴

Before suggesting specific projects of worth in the humanities or social sciences, let us recapitulate our findings in the last chapter. We found that:

- I. Legal products offered in electronic form are more often classified as factual information than as either descriptive or critical/interpretive texts.
- II. Products classified as factual information constitute a higher proportion of electronic products than they do of print products.
- III. Legal products offered in print form are more likely to be classified as critical/interpretive text than as either factual information or descriptive text.
- IV. Products classified as critical/interpretive text constitute a far greater proportion of print products than they do of electronic products.
- V. Legal products offered in print form are more often classified as descriptive text than legal products offered in electronic form.

And, as noted, the most significant distinctions among print and electronic products that can be inferred are points II and IV above.

We can, therefore, formulate a rough schemata for scholarly electronic publishing in the humanities and social sciences:

- A. Scholarly products preferred in electronic form will more likely be classified as factual information than as either descriptive or critical/interpretive texts.

Because researchers in the legal field have more quickly adapted electronic

⁹⁴ . Unless, of course, value is added by some other means. For example, linking the original texts of those that Foucault discusses with his text. It would, therefore, become something quite different from what it is in its present form: a voluminous database of philosophical works organized by Foucault's analyses (loosely speaking; the publisher's editors would, of course, take part in the end work's organization) .

publishing to the presentation, storage and retrieval of factual information than the other editorial products, scholarly publishers in the humanities and social sciences should give priority to offering factual information in electronic form over descriptive and (especially) critical/interpretive text.

B. Scholarly products preferred in print form will more likely to be those classified as critical/interpretive text than those classified as either descriptive text or factual information. Because critical/interpretive text seems to be preferred in print more than descriptive text and far more than factual information, scholarly publishers should continue publishing critical/interpretive texts in print for the immediate future.

C. Scholarly products classified as descriptive text will more likely be preferred in print than in electronic form. Because the difference between the proportion of descriptive texts in print and electronic form is not as great as the others, however, scholarly publishers should monitor developments in this area closely.

There may, of course, be exceptions. The most important issue to keep in mind, as mentioned earlier, is that value needs to be added to the editorial product by virtue of its being published in electronic form. The value may be reduced storage space, the increased speed with which the medium enables the researcher to retrieve data, or the ability to make connections between data. As we found among our random sample of electronic legal titles, the few critical/interpretive works found in electronic form had added value in that the text could also be used as a reference work and thus the electronic media assisted in the retrieval of specific data. Added value is the single most important point to remember when publishing text in electronic form. Researchers in the humanities and social sciences, like those in the legal field, are unlikely to forego

the print version of a text if no added value exists in the electronic form.

A product from LEGI-SLATE (called LEGI-SLATE), a subsidiary of the Washington Post Company, displayed at the 1994 Annual Meeting of the American Political Science Association, is a good example of what scholarly researchers are likely to prefer using in electronic form in the future.⁹⁵ The product contains information about all bills and resolutions introduced into Congress since 1993, as well as legislative tracking of a bill's status, voting records, legislative histories and co-sponsor tracking.⁹⁶ It contains committee reports, a Congressional staff directory, voting analysis, *The Washington Post* and several other publications, daily updates of the Code of Federal Regulations, transcripts of committee hearings and press briefings, and more. The editorial product would be classified as factual information according to the classification system used in our study, although it does contain *The Washington Post* (critical/interpretive) and Congressional Research Service Bill Digests (descriptive text).⁹⁷

The product clearly has added value by being published in electronic form. Because it is online, storage (for a library, research foundation, or even an individual researcher's office) is not a problem. Value is also added in a number of other ways. Bills and resolutions can be located by subject term, "Hot Bills" directory, sponsor, chamber, type of legislation, bill number, words in the official title and words in the full text. Furthermore, the editors of LEGI-SLATE index

95 . Information about this product can be obtained from LEGI-SLATE Online, 777 North Capitol Street, Washington, D.C. 20002. As of 1 May 1994, prices for one year of unlimited usage ranged from \$500 for one workstation at one location to \$6,900 for a campus-wide site license at an institution with 20,000 or more full-time equivalent students.

96 . Other items contained in the database have longer histories. The voting records and legislative histories, for example, date from 1979.

97 . Each article in *The Washington Post* is indexed by subject, member of congress, bill number, committee, agency, vote, and public law, so that researchers may use it as a reference work.

every bill by subject. Value is added by increasing the speed with which the researcher is able to obtain relevant data and by enhancing the ability to make links between data.

The product is primarily factual information according to our classification system, though it does contain elements of the other two categories. It presents a vast ocean of recorded data that otherwise might only be mentioned in the “scattered islands of print” (volumes of descriptive or critical/interpretive text) that comment on the factual information they address. It makes access to such a large amount of data not only feasible in terms of the storage space that might otherwise be required, but it also makes inspection, tabulation, synthesis and analysis easier and less expensive than with manual methods.

Such an editorial product would be useful, for example, to researchers in political science who want to determine the voting patterns of congressional representatives from a particular region on bills that concern public-works projects or family leave. The product may be useful—and marketable—to researchers in the fields of communications, law, sociology, environmental studies, contemporary history, and the media, non-profit foundations, corporations, and other entities with an interest in government policy.

The research findings of this study clearly mark factual information as the most likely preferred and marketable in electronic form at present; however, that should not keep publishers from considering possibilities in descriptive text or (more likely in the future) critical/interpretive texts. A starting point should be the placement of all in-production text in digital form. Publishers not yet ready to plunge into the electronic publishing arena at all should strongly consider doing so as well. Not only will that make it easier for corrections or alterations to be

made while a work is in production, or being revised for a subsequent edition, but the material would also be ready for easy conversion to an electronic form at a later date.⁹⁸ Once a project has been placed (or stored) in digital form, it may be converted to CD-ROM or another electronic form at any time.

Even a work originally not intended for electronic publication may become suitable for publishing in electronic form at a later date. A book like Michel Foucault's *The Order of Things*, for example, should be published in print according to our findings. It is a critical/interpretive text. Some time later, however, the book may be published along with a number of other postmodern texts as an editorial product that is factual information according to our classification system.⁹⁹ As the example on page 49 suggests, *The Order of Things*, along with a number of other similar works, may serve as primary material to the philosopher analyzing postmodern theories. The value added by virtue of publishing that collection of texts in electronic form (in addition to reducing the amount of storage space necessary to house the collection of texts) is the ability to create links among data, identifying themes among texts, quickly and easily. References to continuity, discontinuity, Marxism, or aesthetics may be found quickly and easily; and, providing the publisher has done its work, the researcher is less likely to miss important passages among the texts.

A book like *The Order of Things* may also subsequently be published along

98 . And not only into electronic form: McGraw-Hill's Primus subsidiary has begun selling printed anthologies from a 100,000-page database (made up of about four-fifths of their editorial properties and one-fifth of non-McGraw-Hill properties). A professor requests certain materials (as he or she may have done previously with Kinko's or another copy shop) and those materials are simply downloaded from the database and a single, bound copy is made. See "Insider Publishing: Packet Rats," *Lingua Franca* (March/April 1994): 18, 20-21.

99 . For example, the important works of ten prominent postmodern theorists which may not be completely from that publisher's properties (determined, of course, by the editors and their outside readers or editorial advisors). The product may, as certain legal products do, contain a short summary of each work included (and perhaps a review or two of each).

with other histories of science (e.g., Thomas S. Kuhn's *The Structure of Scientific Revolutions*) in electronic form in chronological narrative with standard links between terms, key words, and subjects so that it remains a critical/interpretive work but may be used as a reference work. Such a product would give researchers easy access to analyses of phenomena in specific periods.

By focusing on the types of editorial products likely to be offered and preferred in electronic form, and the added value that must be included in such products, I have bypassed the issue of cost. The decision of what to publish, in any form, is a paramount decision in the publishing industry. If a product is inexpensive (both for the publisher to produce and for the consumer to purchase), it may still fail in the marketplace of ideas, entertainment, education, or information. The editorial product, ultimately, determines success in publishing.

Publishers must, however, pay attention to production costs and expected sales when considering projects in electronic form. As with print products, production costs for electronic products become less-per-unit the greater the quantity produced (or in the case of on-line and batch access, the greater the number of consumers). CD-ROM, diskettes, on-line, and batch access products require scanning or keyboarding of the text in digital format (and, of course, editing and page or screen layout). Hyperlink links must be created. Images or charts must be scanned. On-line and batch access products must recoup those costs and the fees that on-line services charge from sales. In addition, CD-ROM and diskette products will incur production costs for the manufacturing of individual pieces. For CD-ROM products, for example, a premasting copy must be made. Once approved, replication (manufacturing) and packaging of a specified number of copies will take place. The larger the number of copies produced (as with a print-

run), the lower the per-unit costs.¹⁰⁰

Low costs should not be the prime determinant in choosing the medium, however; if consumers prefer a critical/interpretive work in print, publishers should accommodate them. Otherwise, publishers may find themselves with products that are rarely purchased. The costs per sale or unit may then become much higher than they would have been in print.

The new electronic media, furthermore, make possible otherwise insurmountable projects that can become quite expensive. Scholars at the University of Cincinnati and Yale University have been working on an electronic archive on human rights entitled "DIANA" which is estimated to cost \$500,000 before it is finished.¹⁰¹ When money is not a problem, the worthiness of the project is beyond question and the product is likely to be used according to our paradigm (and it appears that this product will be), then publishers—the University of Cincinnati in this case—can proceed knowing that they will make a contribution to knowledge.

100 . Terry V. F. Brogan of Leximetries in South Bend, Indiana, was kind enough to provide me with a price quotation for developing the hypertext version of a book. If the keyboarding or scanning has been completed by the publisher, the publisher would incur the following costs for two hypothetical "print-runs": Hypertext Development (hyperlinked table of contents and indexing down to the work with standard hyperlinking in the text itself, replacing all traditional cross-references), about \$9000 (approximately 40% to 60% more for a hybrid, e.g., Mac and Windows); premastering for one disk, \$140.00 (50% more for a hybrid); replication for 5,000 discs, 2 color is \$1.18 per piece for a five-day turn around, \$1.12 for 10-day and 4 color is \$1.38 for five-day turn around and \$1.32 for 10-day; replication for 20,000 discs, 2 color is \$1.12 and \$1/08 for five-day and 10-day turnaround and 4 color is \$1.32 and \$1.22. A 5000 piece "print-run" for a 2 color project with a 10-day turnaround would, therefore, run the publisher about \$14,740. The cost per unit would be about \$2.95.

101 . Julie L. Nicklin, "Scholars at Yale and U. of Cincinnati Create an Electronic Archive on Human Rights." *The Chronicle of Higher Education* (7 September 1994): A 34. The archive, an on-going project, is available for free on the Internet.

Conclusion

The purpose of this research project was to determine the publishing patterns of legal publishers so that scholarly publishers in the humanities and social sciences would have data from which to make inferences about the products in electronic form suitable for their own market. The goal was to provide a paradigm or framework from which to make editorial and marketing decisions in an electronic publishing environment.

First we reviewed the historical and theoretical context of electronic publishing. We found that the adoption, if not the introduction, of new publishing technologies is often done to solve problems. Afterwards, the new technologies become more than mere problem solvers: they become vehicles for enhancing the pursuit of information and understanding. We reviewed the changes that electronic technologies are bringing about and the changes that theorists believe will take place in the not too distant future (some, as we noted, are actually in progress). We also noted that the movement toward a paperless future is not uniform. Specifically, in the legal field where electronic products were first introduced in the early 1970s, print products continue to be offered alongside electronic products in publishers catalogues.

The construction of this project was designed to enlarge the literature by determining precisely which legal products were being offered (and, therefore, preferred) more often than others in the new electronic media and, conversely, which legal products were continuing to be offered more often than others in the

age-old medium of print. I found that certain types of editorial products were indeed offered in electronic form more often than others, and other editorial products more often in print. Both the review of literature and my own research findings indicate that value must be added to a product by publishing it in electronic form. Value may be added by reducing storage space, making accessible that which previously was not, and facilitating the ability to create links among data and identify themes among texts, quickly and easily.

Scholarly publishers should find the research contained herein useful for the immediate future; however, the purpose of this study was to analyze change. I have reviewed the past and then taken a photograph, so to speak, of the present (1984-1994). This implies change and change will always continue. It is imperative, therefore, for publishers to continue to monitor developments in this area. I encourage the introduction of factual information into electronic forms and the retention of critical/interpretive text in print. That does not mean, however, that publishers should retain critical/interpretive text in print indefinitely. As a younger generation raised on video and computer games, perhaps more comfortable with the screen than print, comes of age, we may see the acceptance of such text in electronic form.

In the future, education and educational and scholarly publishing may merge. Arizona State University is now offering the first accredited college course on CD-ROM.¹⁰² The College of Information Studies at Drexel was recently awarded a grant to "conduct four courses electronically during the 1994-95 academic year, with only occasional use of a classroom."¹⁰³ Some predict that colleges and

102 . Kim and Sunny Baker, "Compact Curricula." *CD-ROM WORLD* (September 1994): 14.

103 . "College of Information Studies at Drexel Awarded Grant." *Information Today* (September 1994): 18.

universities "will soon be competing electronically in each other's backyard's—and that more students will be taking courses over computer networks without having to set foot on a campus."¹⁰⁴ Walden University in Minneapolis now offers an accredited Ph.D. on-line that only requires a few weeks each summer at the campus and attendance at one four-day intensive session each year.¹⁰⁵ A joint project by two companies was recently announced that would provide Internet access over cable TV to high schools.¹⁰⁶ A company in upstate New York has just published two interactive language-learning programs on CD-ROM, one for Spanish and one for French. The users hear a native speaker's pronunciation of a word or phrase and then repeat it. The speech-recognition software included on the CD-ROM lets them know how they have done.¹⁰⁷ One writer has even gone as far as announcing that schools as we know them will become obsolete and that in the future we will learn from multimedia systems or "learning tools" that will be sold commercially.¹⁰⁸

Who will publish those materials in the future—universities, book publishers, computer or communications companies or a combination of them—is not yet clear. The function of publishing, however, will continue. What the new technologies have done is affect the way publishers perceive themselves. As one acquisitions editor stated, "We've begun to think of ourselves not as people who make books, but as disseminators of information."¹⁰⁹ The editorial role of

104 . Robert L. Jacobson, "The Coming Revolution: This time, campus officials say, technology will transform academe as never before." *The Chronicle of Higher Education* (27 April 1994): A26, A28-A29.

105 . From an advertisement in *Internet World* (November/December 1994): 67.

106 . "Internet Update." *Information Today* (March 1994): 39.

107 . "Talking Back." *CD-ROM WORLD* (October 1994): 23.

108 . Lewis J. Perelman, *School's Out: A Radical New Formula for the Revitalization of America's Educational System* (New York: Avon Books, 1992).

109 . Margaret Ward, "Hypermedia Learning." *Information Today* (September 1994): 15-16.

gatekeeper will remain important for people constrained by time, and critical for certain disciplines.¹¹⁰ What I have done here, I hope, is to provide the gatekeepers of scholarly works in the humanities and social sciences with a paradigm or framework for determining which types of works should be published in electronic or print form. Determining the worth of the individual title is still the domain of the editorial department.

110. Sam Uretsky, "The Usenet sci.med.* Newsgroups." *Internet World* (June 1994): 26-27.

Appendix One
Legal Print Products

1. p. 4693, column 1, book 1:¹¹¹

Bashinsky, Sloan. *The High Legal Road: A New Approach to Legal Problems* (Birmingham: Essential Publications, 1990).

A theoretical work that presents "a radical idea: that is, jumping entirely out of legal battles by using legal problems as opportunities for spiritual healing (p. 1 of bk.)." Uses case method as a way of elucidating his approach to solving legal disputes: healing versus what he calls revenge justice.

Critical/Interpretive.

2. p. 4694, col. 3, bk. 10:

George, Joyce. *Judicial Opinion Writing Handbook: 2nd Edition* (Buffalo: W.S. Hein, 1986).

A how-to book that contains forms and structure outlines to serve as a guide in

¹¹¹. Books in Print: 1993-1994: The master subject reference to titles, authors and publishers. Volume 3, Subject Guide, L-P. (New Providence, New Jersey: R.R. Bowker, 1993). All print titles were, as noted in the text of this thesis, selected from the same source.

writing judicial opinions. Also presents a review of existing methods and styles, rules, and techniques described in numerous books and articles. Used for reference.

Factual.

3. p. 4696, col. 1, bk. 1:

Jorgensen, Delores A. & Heisinger, Barbara B., eds. *A Bibliography of Indian Law Periodical Articles (1890-1991)* (Buffalo: W.S. Hein, 1992).

A bibliography of periodical literature on the legal status of, and laws concerning, Indians of North America.

Factual.

4. p. 4697, col. 3, bk. 9:

Armstrong, Mary. *Arabic-English Dictionary of Legal Terms* (London: Royston Ltd., 1991).

Arabic-English dictionary of legal terms and concepts.

Descriptive.

5. p. 4699, col. 1, bk. 3:

Toth, Akos, G. *Encyclopedic Dictionary of European Community Laws, Vol. I* (New York: Oxford University Press, 1990).¹¹²

An encyclopedic work. "My primary intention has been to present the whole body of European Community Law in the form of a work which contains legal definitions of its terms and concepts as they are used in the Treaties and acts of the institutions and, above all, as they have been interpreted in the extensive case-law of the European Court of Justice.... [Entries are] drafted in such a way that a short and concise definition is normally followed by a longer and more detailed explanation, analysis, or description, putting the term or concept in the wider context of Community Law as a whole (from p. v of bk.)."

Descriptive.

6. p. 4700, col. 3, bk. 10

Caenegem, R.C. van. *Judges, Legislators and Professors: Chapters in European Legal History* (Cambridge, UK: Cambridge University Press, 1987).

Historical analysis of English Common Law compared to civil law on the continent. Author argues that "it is the whole approach to the law and the very

¹¹² . Note that the title actually first selected was Vol. II, 1994. The updated version was not available through either of the NYU libraries or the New York Public Library, so Vol. I was selected in its place. This should will not, however, affect the findings of this study since both would fall into the same category noted above.

way of legal thinking which is different, and not just the laws on divorce or the maximum speed on highways (from p. 1 of bk.)" that set the two apart.

Critical/Interpretive.

7. p. 4702, col. 1, bk. 9:

Bickenbach, Jerome E., ed. *Canadian Cases in the Philosophy of Law* (Peterborough: Broadview Press, 1992).

Contains material from 43 cases that were selected and edited to illustrate the application of legal principles in a Canadian context.

Factual.

8. p. 4703, col. 3, bk. 7.

Vojcanin, Sava A., ed. *Law, Culture, & Values* (New Brunswick: Transaction Publishers, 1989).

Contains essays that analyze the relationship between law, culture, and values. Essays include "The Meaning and Significance of Jurisculture," "The Chinese View of Life: the Philosophy of Comprehensive Harmony," "Analysis of Moral Values by Caselaw," and others.

Critical/Interpretive.

9. p. 4704, col. 4, bk. 19:

Wrightman, Lawrence. *Psychology and the Legal System, 2nd Edition* (Pacific Grove: Brooks-Cole, 1991).

Analyzes the psychological aspects of the administration of justice in the United States, the psychological aspects of criminal justice and the psychological aspects of the administration of law.

Critical/Interpretive.

10. p. 4704, col. 3, bk. 12:

Sutherland, Linda P. et al., eds. *Federal Law-Related Careers: A Guide to over 80 Law-Related Careers. 2nd Edition* (Washington: Federal Reports).

Outlines hiring procedures for men and women in, and gives detailed information on, specific non-designated attorney positions in Federal Government. Used as a reference source by individual attorneys, outplacement/human resource people at law firms, etc.

Factual.

11. p. 4708, col. 2, bk. 3:

Finn, Paul. *Law & Government in Colonial Australia* (Melbourne: Oxford University Press, 1987).

Analyzes Australian law and legal institutions within historical context in relation to Australian/British colonial history from the 1850s to 1900.

Critical/Interpretive.

12. p. 4709, col. 3, bk. 13:

Dufour, James T. *Proposition Sixty Five Compliance* (Sacramento: Chamber of Commerce, 1992).

Attempts to help the reader understand "this complex and confusing initiative [which] imposes many requirements on businesses that use or distribute chemicals and products known to cause cancer or reproductive toxicity (from California Chamber of Commerce Business Survival Guides promotional material)." A handbook that explains proposition 65 and shows how to comply.

Critical/Interpretive.

13. p. 4711, col. 1, bk. 13:

TLW Consolidated Digest, Vol. 9 (St. Paul: Butterworth Legal Publishers, 1990).

Descriptive.

14. p. 4712, col. 3, bk. 12:

Drew, Katherine F. *Law & Society in Early Medieval Europe: Studies in Legal History* (London: Variorum UK, 1988).

Contains collection of studies published 1952-1974, with two new studies, on the relationship between law and society in medieval Europe. Sociological jurisprudence.

Critical/Interpretive.

15. Florida Bar Staff. *DUI & Other Traffic Offenses in Florida: 1993 Supplement* (Tallahassee: Fl Bar Legal Education, 1989¹¹³).

How-to manual, it describes each step the attorney should take when representing a client involved in a Driving Under the Influence case (e.g., when client is first arrested, what to tell him/her when he or she calls). It is supported with hundreds of citations (information on content received by phone from the publisher).

¹¹³ . Title published in 1989 in looseleaf binder format, with periodic updates released as needed.

Descriptive.

16. p. 4715, col. 3, bk. 19:

Serick, Rolf, et al. *Securities in Moveables in German Law: An Outline.*

Translated by Tony Weir from the German (Boston: Kluwer Law Tax Publishers, 1990).

Summarizes conditional sales, export sales contracts, delivery of goods (law) and security (law) in West Germany.

Descriptive.

17. p. 4714, col. 1, bk. 9:

Vogel, David. *National Styles of Regulation: Environment Policy in Great Britain & the United States* (Ithaca: Cornell University Press, 1986).

"This book has three primary objectives: to provide an overview of British environmental policy, to compare the patterns of governmental regulation in Great Britain and the United States, and to explain why these two nations have adopted such divergent approaches to controlling the externalities associated with industrial growth. Its broader aim is to link the study of government regulation of business with that of comparative politics (from page 9 of bk.)."

Critical/Interpretive.

18. p. 4718, col. 3, bk. 18:

Barta, B., et al. *Fertility, Female Employment & Policy Measures in Hungary* (Washington: International Labour Office, 1984).

"Reviews current work on factors influencing fertility and female economic actuality in Hungary (from p. 1 of bk.)." Analyzes relationship between two.

Critical/Interpretive.

19. p. 4720, col. 1, bk. 13:

Malik, Surendra, ed. *Supreme Court Labour & Services Digest, 1950-1989* (New Delhi: Eastern Book India, 1989) five volumes.

Descriptive.

20. 4721, vol. 3, bk. 16:

Pawlich, Hans H. *Sir John Davies and the Conquest of Ireland: A Study in Legal Imperialism* (New York: Cambridge University Press, 1985).

Interest in legal history and economic development lead to the author's writing

this book (from p. vii of bk.). The book analyzes the role of law in the conquest and consolidation of colonial rule in Ireland.

Critical/Interpretive.

21. p. 4723, col. 1, bk. 22:

McDougal, Luther L. III. *Louisiana Oil and Gas Law, 1988-1992* (Salem, New Hampshire: Butterworth Legal Publishers, 1990).

Analyzes the complex issues involved in Louisiana's oil and gas exploration, development and production. Topics covered include mineral servitudes, oil and gas leases, implied obligations in oil and gas leases, oil and gas royalties, and state regulation of development and production.

Critical/Interpretive.

22. p. 4724, col. 3, bk. 22:

Alvos, Francisco A. *The Mexico Legal System, No. 1: Reference Guides to National Legal Systems* (New York: Greenwood, 1992).

Is a reference guide to the Mexican legal system. Summarizes legal research in Mexico. Contains indices and a bibliography.

Descriptive.

23. p. 4726, col. 1, bk. 29:

Nevada Revised Statutes, Annotated (Charlottesville: Michie Company, 1986).

Factual.

24. p. 4727, col. 3, bk. 24:

Mijeski, Kenneth J., ed. *The Nicaraguan Constitution of 1987: English Translation and Commentary* (Columbus: Ohio University Press, 1991).

This volume contains seven essays that analyze the 1987 Nicaraguan constitution in order to gain a better understanding of political life in contemporary Nicaragua. Provides analyses of the relationship between constitutional law and political life.

Critical/Interpretive.

25. p. 4729, col. 1, bk. 21:

Horle, Craig W., et al. *Lawmaking & Legislators in Pennsylvania: A Biographical Dictionary, Vol. I: 1682-1709* (Philadelphia: University of Pennsylvania Press, 1991).

Contains biographical information (including illustrations) of legislators and others involved in the making of legislation in Pennsylvania during the period 1682-1709.

Factual.

26. p. 4730, col. 4, bk. 8:

Bierne, Piers, ed.: *Revolution in Law: Contributions to the Development of Soviet Legal Theory, 1917-1938* (Armonk, NY: ME Sharpe, 1990).

Collection of essays that analyze the development of Soviet Law and the Soviet Legal System during the period 1917-1938. Analyses of Soviet legal theories, theorists, and legal developments.

Critical/Interpretive.

27. p. 4732, col. 1, bk. 24:

Taylor, Dennis & Stevensen, S. *Texas Legal Practice Forms* (San Francisco: Bancroft Whitney Co.).

Contains legal copies of legal forms used in the State of Texas for a variety of purposes. Is a four volume set.

Factual.

28. p. 4333, col. 3, bk. 28:

Reynolds, William L. *Judicial Process in a Nutshell, 2nd Edition* (St. Paul: West Publishing, 1990).

Provides an overview of the judicial process in the United States. Discusses the interpretation and construction of law in the United States.

Critical/Interpretive.

29. p. 4735, col. 1, bk. 31:

Burrows, Edwin G. *Albert Gallatin & the Political Economy of Republicanism, 1761-1800* New York: Garland, 1986).

Essentially a historical work of Albert Gallatin. Analyzes his views on public finance, his political and social views, and his relationship to the development of public finance in the United States.

Critical/Interpretive.

30. p. 4736, col. 3, bk. 29:

Schwarz, Philip J. *Twice Condemned: Slaves & the Criminal Laws of Virginia, 1705-1865* (Baton Rouge: Louisiana State University Press, 1988).

Analyzes criminal law and legislation as they related to slavery in Virginia.

Critical/Interpretive.

Appendix Two
Legal Electronic Products

1. p. 1163, col. 1, referred to p. 3, #14:114

ABA Standards for Criminal Justice (Chicago: American Bar Association).

“Contains the complete text of guidelines and standards relating to the administration and development of the criminal justice system. Includes the 2nd edition of *ABA Standards for Criminal Justice* [as laid out by ABA directives], the 1986 Supplement, and the 1987 and 1988 looseleaf additions (from directory).”
Covers U.S. Criminal Justice System. Updated as new standards are released.

Factual.

2. p. 1163, col. 3, referred to p. 248, #1501:

Department of Justice Business Review Letters (Eagan, Minnesota: West Publishing).

114 . *Gale Directory of Databases, January 1994: Volume 1: Online Databases* (Detroit: Gale Research, 1994). As mentioned in the text of this thesis, the first ten electronic titles were selected from this source.

"Contains the complete text of *Business Review Letters* issued by the Antitrust Division of the U.S. Department of Justice (DOJ). Covers rulings on business conduct proposed by business entities (e.g., associations, companies) under current current antitrust laws. Includes entity request letter soliciting the DOJ enforcement intentions, the DOJ response letter, and press release summarizing the response (from directory)." Updated; varies, weekly to monthly.

Factual.

3. p. 1164, col. 2, referred to p. 524, #3204:

Lexis Military Justice Library (Dayton: Mead Data Central).

"Contains decisions of the Court of Military Appeals (COMA) since 1951, the Court of Military Review (CMR) since 1951, and the 1969 and 1984 *Manual for Courts-Martial*. Also contains *Military Law Review* since 1982 and the *Code of Federal Regulations Title 32*. Also includes *United States Code Service Titles 10, 14, 32, 37, 38, and 50* (from directory)." Updated: within 72 hours of receipt.

Factual.

4. p. 1165, col. 1, referred to p. 863, #5348:

The Warn Act: A Manager's Guide to Workforce Reductions (Washington:

Bureau of National Affairs).

“Contains information on the Worker Adjustment and Retraining Notification (Warn) Act, which ensures that employers planning a reduction in force give employees proper notification before beginning layoffs. Provides detailed analyses of the Warn Act as well as advice on compliance. Comprises three sections: questions and answers, notification checklist, and obligations and duties. Also includes appendices (from directory). Not updated (first published in print, 1990).

Critical/Interpretive.

5. p. 1165, col. 3, referred to p. 152, #931:

CCH Australian Case Digest Library (North Ryde, Australia: CCH Australia Ltd.)

“Contains more than 13,000 summaries of court cases and judicial decisions from courts in Australia. Covers family law, taxation, corporate law, copyright, securities law, title law, equal opportunity law, consumer and credit law, insurance, social security, and High Court and Federal Court practice. Corresponds to the CCh loose-leaf reporting services (from directory).” Updated monthly, 1000 records per year (from 1969 to present).

Descriptive.

6. p. 1166, col. 2, referred to p. 385, #2345:

NPP Garant-Service (Moscow: Garant).

"Contains the complete text of some 700 laws and government regulations dealing with property, privatization, taxation, accounting, hard currency, banking, foreign economic relations, labor, and social regulations including arbitrary practices (from directory)." Updated weekly.

Factual.

7. p. 1168, col. 1, referred to 425, #2593:

House of Lords Judgments (HLJ) (Ottawa: QL Systems Ltd.).

"Contains the complete text of decisions from the British House of Lords (from directory)." Updated periodically as new data become available (1986/87 session to date).

Factual.

8. p. 1167, col. 3, referred to p. 523, #3198:

LEXIS Immigration Library (Dayton: Mead Data Central)

"Contains immigration-related decisions from the Supreme Court since 1789, the Circuit Court of Appeals since 1789, the District Court since 1789, the Court of Claims since 1940, and the Bankruptcy Courts since 1979. Also includes decisions from the Board of Immigration Appeals since 1940, the Board of Alien Labor Certification since 1987; *Code of Federal Regulations* titles 8, 29, and 42; selected material from the *Federal Register*, and selected immigration-related articles from legal periodicals (from directory)." Updated: most court opinions within 72 hours of receipt, most agency opinions within 14 days of receipt.

Factual.

9. p. 1168, col. 2, referred to p. 650, #3995:

Oregon State legislative Information System (OLIS) (Salem: Oregon State Legislative Committee).

"Contains the complete text of Oregon state legislative and legal information. Includes the Oregon Constitution, Oregon Revised Statutes and Index, current session measures status (i.e., history) and index, general legislative summary tables, Oregon Administrative Rules, and Public Records (from directory)." 1978 to date. Updated periodically.

Factual.

10. p. 1163, col. 2, referred to p. 76, #467:

Bankruptcy Law Fundamentals (New York: Clark Boardman Callaghan).

"Contains the complete text of the treatise entitled *Bankruptcy Law Fundamentals* by Richard I. Aaron. Provides analysis of U.S. Bankruptcy Code and Rules and coverage of major issues and cases including bankruptcy court jurisdiction (from directory)." First published in print 1984, electronic form in 1993.

Critical/Interpretive.

11. p. 868, col. 1, referred to p. 3, #11:115

ABC POL SCI on Disc (Santa Barbara: ABC-CLIO).

"Contains more than 90,000 citations, with table of contents data, to the current periodical literature in political science and government, as well as related

115 . *Gale Directory of Databases, January 1994: Volume 2: CD-ROM, Diskette, Magnetic Tape, Handheld and Batch Aces Database Products*. As mentioned in the text of this thesis, the next ten titles were selected from this reference source.

disciplines such as international affairs, law, sociology, and economics. Also provides a table of contents for more than 300 journals worldwide. Corresponds to *ABC PO SCI: A Bibliography of Contents: Political Science and Government*. (from directory)." 1984 to present. Updated three times per year. CD-ROM.

Factual.

12. p. 868, col. 2, referred to 620, #3273:

BNA Antitrust & Trust Regulation (Washington: Bureau of National Affairs).

"Provides comprehensive reports on legislative regulatory, and judicial developments affecting restrictive trade practice law. Covers private litigation in federal and state courts and activities of the Federal Trade Commission and the Department of Justice Antitrust Division, including advisory opinions, criminal and civil investigations, negotiations, and consent decrees. Also monitors competition law developments in European Economic Community, the United Kingdom, Germany, and Japan. Updated daily. Batch Access.

Descriptive.

13. p. 868, col. 3, referred to 291, #1453:

Social Science Index (Bronx: H.W. Wilson).

“Contains more than 376,000 citations to articles and book reviews in some 350 English-language periodicals in the social sciences. Covers anthropology, economics, environmental sciences, geography, law and criminology, planning and public administration, political science, psychology, social aspects of medicine, sociology, international relations, and related subjects. Also includes coverage of current events. Corresponds to *Social Science Index* and the the *Social Sciences Index* database. 1983 to present. Updated monthly. CD-ROM.

Factual.

14. p. 869, col. 1, referred to 196, #974:

LawDesk (Rochester: Lawyers Co-operative Publishing).

“Contains the complete text of more than 240 volumes of court rulings and decisions from the New York Official Reports, covering the New York Court of Appeals and Appellate Division (from directory).” Updated monthly. CD-ROM.

Factual.

15. p. 869, col. 2, referred to p. 394, #1995:

European Patent and Trademark Decisions and Conventions (Freiburg: IUK Information Service GmbH).

"Contains more than 600 patent and trademark decisions [full text] of the European Boards of Appeals published in the *ABIEPA*, *GRUR International*, and *BIPMZ*. Also includes more than 3000 unpublished decisions, information on more than 1000 legal recommendations and conventions, and the complete text of all *Blue Book* conventions of the European Patent Office (from directory)." 1978 to present. Updated quarterly. Languages included: German, English, French. Diskettes.

Factual.

16. p. 869, col. 3, referred to 621, #3274:

BNA Antitrust Database (Washington: Bureau of National Affairs).

"Contains information covering antitrust legislation, banking, and securities regulation. Comprises the following four databases, which are described in a separate entry: *Antitrust & Trade Regulation Report*—provides information on U.S. and international in the areas of antitrust, monopolies, and restrictive practices; *BNA Banking Daily*—contains detailed U.S. federal and state level decisions affecting the financial world; *Daily Report for Executives*—contains judicial, regulatory, and legislative activity in a broad spectrum of areas affecting business; *Securities Regulation & Law Report*—covers securities and commodities activity at the state and local level (from directory)." Updating varies by file (see previously described content). Batch Access Product.

Descriptive.

17. p. 870, col. 1, referred to p. 625, #3299:

BNA Product Liability Daily (Washington: Bureau of National Affairs).

“Contains the complete text of news articles and analyses covering judicial, administrative, legislative, and industry developments relating to product safety and liability. Covers state and federal case law and legislation, product recalls, and regulatory actions of the National Highway Traffic Safety Standards Institute, Administration, Consumer Product Safety Commission, American National Standards Institute, and U.S. Environmental Protection Agency (EPA). Articles may later appear in *Product Safety Liability Report* (from directory).” Updated daily (1989 to present). Batch Access Product.

Critical/Interpretive.

18. p. 868, col.. 3, referred to p. 302, #1513:

Supreme Court on Disc (New York: HyperLaw, Inc.)

“Contains the complete text of the opinions rendered by the United States Supreme Court during the 1990-1993 terms (from directory).” Updated annually (1990 to 1993). CD-ROM.

Factual.

19. p. 869, col. 2, referred to p. 196, #973:

LawBase (Zurich: IBIS Service AG):

“Contains the complete text of materials covering a variety of judicial and legal issues. Covers decisions of the Swiss federal court involving civil, public, administrative, criminal, and social law, as well as law of obligations and law of insolvency. Includes unpublished court decisions on insurance and product liability cases. Also includes summaries of articles and books covering computer hardware and software law. Sources include 20 international journals (from directory).” Updated quarterly or annually (1960 to date). CD-ROM.

Factual.

20. p. 870, col. 1, referred to p. 53, #260:

Casebase: The Arkansas Reports (Van Buren: Law Office Information Systems, Inc.).

“Contains the complete text of Arkansas Supreme Court and Court of Appeals case decision. Also contains statutes of Arkansas Code and session laws, rules of criminal, civil, and appellate procedure, rules of ethics and evidence, and rules of Supreme Court, Court of Appeals, and inferior courts (from directory).” Updated quarterly (1924 to date). CD-ROM.

Factual.

21. p. 3, #1:¹¹⁶

Access Russia CD-ROM: Legal and Regulatory (Albuquerque: Access Innovations).

Contains "full-text (in Russian of all laws, proclamations, and decrees from Russia. Bibliographic citations in English with abstracts (from directory)."
Updated quarterly (1991 to present). CD-ROM.

Factual.

22. p. 14, #3:

The Bibliographical Directory of the U.S. Congress, 1774-1989 (Mount Vernon, Virginia: Locator Publishing).

"Contains biographies of more than 11,000 men & women who have served in the U.S. Congress and in the Continental Congress, listings of all members of each Congress (1st -101st), listings of members of all 60 presidential cabinets. Includes

¹¹⁶. *Directory of Law-Related CD-ROMS, 1994* (Teaneck: Infosources Publishing, 1994). As mentioned in the text of this thesis, the remaining (next ten) titles were all selected from this reference source and they are all CD-ROM titles.

Guides to Research Collections, Records, and much more (from directory)."

Updated annually (1774-1989). CD-ROM.

Factual.

23. p. 25, #2:

CCH Access CD-ROM-Tax Court Regulars (Chicago: Commerce Clearing House).

"Full-text of Tax Court Regular decisions issued since 1942. May be used as precedent (from directory). Updated monthly. CD-ROM.

Factual.

24. p. 36, #4:

Current Law Yearbooks 1986-1990 (London: Sweet & Maxwell Ltd.).

"Digests every case reported by all major journals, including newspaper law reports, every statutory instrument issued in a year and every statute which receives Royal Assent. Each yearbook contains a full summary of legal developments in England, Wales, Scotland and Northern Ireland, and EC developments impacting U.K. legal practice. Searchable by name, concept, facts, legislation, keyword. Can download to word processor. Also contains photographic image of the actual yearbook pages alongside the database (from

directory)." Updated annually (1986-1990). CD-ROM.

Descriptive.

25. p. 47, #2:

Florida Administrative Code (Salt Lake City: Compass Data Systems, Inc.).

"Full-text of the Florida Administrative Code. Florida Rules of Procedure available on same disk (from directory)." Updated monthly quarterly. CD-ROM.

Factual.

26. p. 58, #2:

IRS Letter Rulings and Technical Advice Memorandums on CD-ROM
(Arlington: Tax Analysts).

"Headnoted full-text of all IRS Letter Rulings (15,000) since 1/1/90. A second disc of 58,503 Letter Rulings issued between 1/8/80 — 23/31/89 is available (from directory)." Updated quarterly (from 1990 to present).

Factual.

27. p. 69, #3:

Louisiana Cases (West's) (Eagan, MN: West Publishing).

"Contains Supreme Court and Court of Appeals cases reported in West's Southern Reporter, 2nd from 1945 - present. West's PREMISE search and retrieval software provides search syntax, sentence and paragraph connectors for word searches, automatic equivalences and plurals, and field searching. Includes headnotes synopses and West and key numbers (from director)." Updated weekly (1945 to present). CD-ROM.

Factual.

28. p. 80, #8:

North Carolina Reporter (West's) (Eagan: West Publishing).

"Contains North Carolina Supreme Court and Court of Appeals cases reported in West's South Eastern Reporter, 2nd from 1944 - present. West's PREMISE search and retrieval . . . (same as previous end description; from directory)." Updated weekly. CD-ROM.

Factual.

29. p. 91, #1:

Rhode Island Reporter (West's) (Eagan: West Publishing).

"Contains Rhode Island Supreme Court cases reported in West's Atlantic Reporter, 2nd beginning with vol. 35 . . . (from directory)." Regular disc updates and weekly advance sheets. CD-ROM.

Factual.

30. p. 102, #10:

Tasmanian Case Law (North Sydney: Infor-One International).

"Full-text of court decisions published in Tasmanian State Reports and Tasmanian Reports. Part of LAW PAC Case Law Series (from directory)." Updated annually (1970 - 1989). CD-ROM.

Factual.

Appendix C

Chi-Square test for association		
	Print Products	Electronic Products
Factual Information	7.00 (15.00)	23.00 (15.00)
Descriptive Text	7.00 (5.50)	4.00 (5.50)
Critical/Interpretive Text	16.00 (9.50)	3.00 (9.50)

Chi-Square Statistic:	18.25
Degrees of Freedom(df):	2
Chi-Sq(alpha = 0.01, df = 2):	9.21

Since $18.25 > 9.21$, we can reject the null hypothesis of no association between type of product (print-electronic) and type of text (factual-descriptive-critical/interpretive) at 0.01 significance level.

95% Confidence Interval for population proportions		
	Print Products	Electronic Products
Factual Information	23.33% 8.20% to 38.47%	76.67% 61.53% to 91.80%
Descriptive Text	23.33% 8.20% to 38.47%	13.33% 1.17% to 25.50%
Critical/Interpretive Text	53.33% 35.48% to 71.19%	10.00% -0.74% to 20.74%

Select Bibliography

Books

Bailey, Herbert S. *The Art and Science of Book Publishing*. Athens, Ohio: Ohio University Press, 1990.

Chartier, Roger. *The Cultural Uses of Print in Early Modern France*. Translated into by Lydia G. Cochrane. Princeton: Princeton University Press, 1987.

Cronin, Mary J. *Doing Business on the Internet: How the Electronic Highway is Transforming American Companies*. New York: Van Nostrand Reinhold, 1994.

Dessauer, John P. *Book Publishing: A Basis Introduction*. New York: Continuum, 1990.

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