



CONDUCTING A LAW REVIEW / LEGAL JOURNAL PREEMPTION CHECK

H. DOUGLAS BARCLAY LAW LIBRARY

What is a preemption check?

Before you initiate research on a journal article topic, you must determine whether your topic has already been covered (e.g., preempted) by another article. The process is called a preemption check.

If your topic has not been addressed in a previously published substantive article, you can safely pursue the topic for your law review note. Even if the issue has been covered elsewhere, you may be able to pursue the topic if you present a new perspective or distinguish your research in a meaningful way from other publications.

What kind of research tools do you use to conduct preemption search?

To conduct a thorough preemption search you will use a number of print and electronic journal indexes and full-text databases

Full-text databases

Full-text databases, such as Lexis and Westlaw, search complete texts of articles for journals available in the database. These databases generally cover a specific period of time and may not include all articles published in the print volumes.

Indexes (print & electronic)

Indexes, such as the Index to Legal Periodicals, provide citations to journal articles, not the full-text of articles. You can use the information from indexes to locate the full-text and determine whether the article preempts your topic.

Steps for a thorough preemption search

1. Plan ahead: construct a list of terms and synonyms to describe your topic

Use *Burton's Legal Thesaurus* to help you identify alternative language
 Use the thesauri on Westlaw and Lexis to expand your term list
 What subject headings could your topic fall under?

2. Develop a system for maintaining documentation and use it throughout the process

- Create a file for each database you search
- List all of the search terms and/or queries that you run in each resource
 - A spreadsheet works well for this process
- Maintain a record of all journal citations located and search
 - Again, if you enter citations and titles into a spreadsheet you will avoid duplication and have a manageable file of your search results

3. Search Westlaw law review database and Lexis law review database.

Limited in historical depth (mid-1980's forward)
 Not all articles available from all journals
 Lexis and Westlaw coverage overlaps, but each contains unique holdings
 Run multiple searches using your term list and use the database thesauri

4. Search the Index to Legal Periodicals Database ("ILP"): 1980 - <http://www.law.syr.edu/lawlibrary/electronic/periodicals.asp>

One of the two major legal journal indexes
 Run multiple searches using your term list
 When you find a good 'hit,' look at the 'Subjects' in the record, then click on that link to search all articles listed for that subject

5. Search the Legal Resource Index on Westlaw (LRI Database)

Covers 1981- present. Similar coverage to the Index to Legal Periodicals, but not exactly the same, so use both if you can.

You can search for materials relating to a specific jurisdiction
 You can search for articles relating to a specific case name, statute name, subject heading or keyword
 You can limit by date range

Note: LRI is also available on Westlaw (LRI) and Lexis (LAWREV: LGLIND)

6. Fill in the gaps with the Current Index to Legal Periodicals (CLIP)

<http://www.law.syr.edu/lawlibrary/resourcelinks.asp?what=periodicals>

More current than other journal indexes
 Timely topical access to over 500 legal publications
 Complete tables of content of all journals indexed
 Articles are indexed within 100 relevant subject headings.

Note: The most recent 8 weeks is also on Westlaw (CLIP)

Other Law Databases & Indexes

If your topic was covered in articles published prior to 1980:

Hein Online, dates vary

Select title from the “Electronic Resources – Full-text database” page of the library web site at: <http://www.law.syr.edu/lawlibrary/electronic/fulltext.asp>

Access is within the College of Law only

Full-text access to SELECT older, difficult to find, historical collections, as well as current issues
 Browse journals alphabetically by title, author or article title.
 Search titles, authors and full-text
 Exact page images are displayed, with full ability to cut-and-paste.

Index to Legal Periodicals (print volumes, 1886-) REFERENCE INDEX TABLE,
Floor 3

Index: use for law review and legal journal articles published on your topic prior to 1980
Annual volumes and monthly supplements
Search each volume through 1980: the set is NOT cumulative
Organized by broad subject headings
Search SUMMIT for holdings; request ILL if not owned at SU

Index to Foreign Legal Periodicals, 1985 –

<http://www.law.syr.edu/lawlibrary/electronic/periodicals.asp>

Indexes articles as well as book reviews from more than 450 legal periodicals
Covers international law (public and private), comparative law, and municipal law of countries other than the United States, British Isles, and British Commonwealth.
Updated quarterly.

Index to Foreign Legal Periodicals (print volumes, 1960 -) REFERENCE INDEX TABLE
Floor 3

Index: use for English and foreign language legal journal articles
Annual volumes and monthly supplements
Search each volume; the set is NOT cumulative
Organized by broad subject headings
Search SUMMIT for holdings; request ILL if not owned at SU

Non-Law Databases/Indexes

Normally, you need only establish that your topic has not been addressed in law review literature. However, if your topic embraces interdisciplinary research, you may want to see what has been published in non-law, scholarly journals in the sciences, medicine or social sciences.

SU Library provides access to hundreds of full-text databases and indexes.

To view databases by topic, see:

<http://libwww.syr.edu/research/database/index.html>