

The Computer and Hong Kong Legal Research

Hong Kong is slowly beginning to wake-up to the electronic age in law — Jill Cottrell takes a look at the various electronic legal resources currently available to the practitioner

The electronic age in law dawned rather late in Hong Kong, and is still less advanced than in some other jurisdictions. Basically we now have available to us (assuming in some cases that we have the requisite depth of pocket) the following case and statutory material (see table below):

Kong Law Reports and Digest, followed by the cumulative index in the most recent monthly issue of the combined HKLRD. I am dependent upon the quality of the index compiled by someone else when using this approach (I may feel that pursuing citations of a particular case will best

these two publications merged). The publishers promise that before long they will be issuing quarterly looseleaf updates of the *Consolidated Index of All Hong Kong Reported Decisions*, which is good news.

So how much better is the situation taking into account electronic resources? We do not have one grand all-in-one CD, but we do have the whole of *Hong Kong Cases*, most of the *Hong Kong Public Law Reports* plus, at the time of writing, 1564 unreported judgments on one CD, and all the *Hong Kong Law Reports* plus the whole of the *Hong Kong Law Digest* on another. We can if we wish use the indexing skills of others, for a search for a concept will turn up the catchwords at the top of a reported case or in a digest, but we can also use our own ingenuity to look for conjunctions of words in the full text. We can even capitalise on those half-remembered things like 'I am sure there is a relevant case in which Hunter J said something about economic loss.'

This is not the place to give detailed suggestions for searching. It is worth spending a little time understanding the possibilities which each tool offers. You will probably be able to do most of the following:

- Use boolean searching, specifying that you want items where certain words OR others appear, or certain words AND others. Sometimes you can specify how near.
- Use a 'wild card' search where a symbol such as * or ! substitutes for one or more letters in the middle of or at the end of words. For example — of both these — I have tried libel or slander or defam* and ridicul* which meant I wanted every case in which there occurred either libel or slander or some variant of defamation (so defame or defamatory as well as defamation) and ridicule (or ridiculing or ridiculous).

Material	Paper version	CD	On-line
Reported judgments	<i>Hong Kong Cases</i>	Hong Kong Cases	LEXIS
	<i>Hong Kong Law Reports [and Digest]</i>	Hong Kong Law Reports and Digest	
	<i>Hong Kong Public Law Reports</i>	Vols 5, 6, 7 on Hong Kong Cases CD	Vols 5, 6, 7 on LEXIS
Case digests	<i>Hong Kong Law [Reports and] Digest</i>	Hong Kong Law Reports and Digest	
Unreported judgments	Individual judgments available in some places	1996-98 Hong Kong Cases	CFA judgments at http://www.info.gov.hk/jud/guide2cs/html/cfa/judmt/index.htm
National Laws applicable in Hong Kong	Volume 1 <i>Laws of Hong Kong Looseleaf Edition</i>		BLIS at http://www.justice.gov.hk/
Ordinances	<i>Gazette Supplement No 1</i>		
	<i>Laws of Hong Kong Looseleaf Edition</i>	BLIS version included in Annotated Ordinances of Hong Kong as at fixed date (revised Quarterly)	BLIS at http://www.justice.gov.hk/
	<i>Annotated Ordinances of Hong Kong (some only to date)</i>	Annotated Ordinances of Hong Kong	LEXIS
Subsidiary legislation	<i>Gazette Supplement No 2</i>	BLIS version included in Annotated Ordinances of Hong Kong as at fixed date (revised Quarterly)	
	<i>Laws of Hong Kong Looseleaf Edition</i>		BLIS at http://www.justice.gov.hk/
	<i>Annotated Ordinances of Hong Kong (some)</i>	Annotated Ordinances of Hong Kong	LEXIS
Bills	<i>Gazette Supplement No 3</i>		http://legco.gov.hk/yr98-99/english/bills/bills.htm

Using paper resources, I shall have to look up a topic in the Subject Index in Volume 2 of *Consolidated Index of All Hong Kong Reported Decisions* which takes me up to the end of 1997 only. Then I shall have to look at the bound volumes of *Hong Kong Cases* since then individually because there is no complete index for each year, and individual issues since the last bound volume. Then the volumes of the *Hong*

locate the relevant developments, in which case I am less dependent upon others' indexing. But the 'Table of Decisions Referred To' in Volume 1 of *Consolidated Index of All Hong Kong Reported Decisions* currently covers only to the end of 1995, leaving updating to be done by reference to more bound volumes, including the separate *Hong Kong Law Reports and Hong Kong Law Digest* for 1996, before

- Specify a precise phrase rather than separate words.
- Indicate that you want to be 'case specific' — you want Hunter and not hunter.

Different databases and software approach these things in different ways. The Hong Kong Cases software (Folio Views) allows you to put a specific phrase in quotation marks. The Hong Kong Law Reports and Digest allows you to choose 'exact entry'. Often (for example Hong Kong Cases on CD or BLIS) there may be different ways of searching the same database, some which permit a search of the whole text and some which involve effectively completing a form searching specific elements, such as case names, judge's names, catchwords etc. Sometimes you may narrow your search in terms of time (as in the Hong Kong Law Reports and Digest).

Each CD seems to have its own idiosyncrasies, not to mention irritations. I find it an irritant that Hong Kong Cases tells me it has found a number of hits, when this means not cases but word occurrences (far more). Apparently an updated version of the underlying software will soon improve this situation (if you now perform your search from the 'Contents' page you will more quickly see how many actual cases are involved, especially if you click on '3' as the level of expansion of the database). The HKLRD is clearer in this respect, but the three stage process required to get to the full text of a reported case is a little tedious (enter your search words, click 'Search', see a series of brief summaries, click on one that seems relevant, get the headnote, click on 'Full' button for the full report). Neither of the CDs of Hong Kong case law is as satisfactory as some of the others now being produced, such as the Electronic Law Reports (the Incorporated Council of Law Reporting reports since 1865) or

the new English Reports on CD. But they are an invaluable tool for research. Not for reading the cases: the ideal is definitely to have both the paper and the CD versions so that you can identify cases using the CD, but actually read them in paper format.

The Annotated Ordinances on CD is basically identical with the printed version. This means that the quality of the annotations, and of the indexes, is that with which you may already be familiar, and in terms of being up to date the product is inferior to BLIS (BLIS is constantly updated whereas the CD is only issued three times a year). It might be sensible to think in terms of the CD version rather than the paper version. It is divided into two 'infobases'. One contains the text of the statutes and the annotations, and the other is called the Finder Index. The latter includes the various indexes you will find in the paper version.

I imagine that few people in Hong Kong will want to make much use of Hong Kong material on LEXIS. LEXIS searching is sophisticated, but it is expensive. There is a one-off search facility under which the search is done for you rather than the usual do-it-yourself approach, but for us in Hong Kong it would mean midnight searching since the service works US Eastern Standard time (though there is a voice mail service, too) — see <<http://www.lexis-nexis.com/express/>>.

Unlike the CDs and LEXIS, BLIS is free — and long may it remain so. It is the main item under the Department of Justice Website at <<http://www.info.gov.hk/justice/>>. A useful guide is provided, but in case you would like a quick start here are a few tips. If you know the number of the Ordinance you want you may simply fill in its number in the Chapter row box (click on the O next to Ordinances and Subsidiary Legislation if you want both) and click the 'View

Now' button. You will see a list of Ordinances beginning *approximately* with the one you want. This works especially badly towards the end of the list. I wanted a list of all 'national laws' but was quite unable to produce anything by typing 1553 (the Basic Law) in the box. Even typing 1000 did not work. When I (in desperation) typed 545 the list of laws began with one over 1000! Eventually, by clicking repeatedly on 'Next List', I got to the national laws.

Click on the blue arrow pointing to the Ordinance you want. If you have clicked Ordinances and Subsidiary Legislation you will now see a list of titles of that Ordinance and its Subsidiary Legislation. Click on the blue arrow next to the one you want, and you will see a list of sections/regulations.

If you want to search for a phrase in enactments, decide first whether you want ordinances, subsidiary legislation or both — and don't forget to click on 'View Now'. Then you may click on 'Simple Search' or 'Advanced Search'. There are various different kinds of the latter: *Search for section(s) or enactment(s)* is flexible and useful for finding the text of a specific section in a specific enactment if you know what you are looking for. *Search for word(s)* provides a form for boolean searches. *Search for word(s) in definition(s)* is a good way to find out whether a particular term has been defined in another Ordinance — the first time Hong Kong has had words and phrases statutorily defined! Note that it finds not only words actually defined but all words used in definitions.

It is perhaps worth mentioning that as well as Bills, which are readily available in paper form, you might find it useful to locate the LegCo discussion of a Bill, especially since Hansard is rather slow appearing these days. You can find LegCo at <<http://www.legco.gov.hk/>>. And you may be lucky enough to find not

only Hansard, in its final or a preliminary version, but even the minutes of a Bills Committee.

If you deal regularly with a particular government department you may already be familiar with its website. As a sample I have found the following which might be useful to a practitioner:

<<http://www.wb.wpelb.gov.hk/circular/>> — Planning Environment and Lands: among the documents there I found 'Procedures for Environmental Impact Assessment of Development Projects and Proposals'.

<<http://www.info.gov.hk/cr/>> — Companies Registry: you may have access to (and pay for) a commercial service for searching the registry.

At the Lands Registry, you will find, *inter alia*, The Direct Access Service (DAS), described as an 'on-

line search facility which enables subscribers to use computer terminals at their own office, to make direct on-line searches of computerized land registers; to place order for copies of land records; to place orders for certified copies of land records; and to collect imaged copies of land records by fax' (go to <<http://www.info.gov.hk/landreg/service.htm#dir>>).

The Securities and Futures Commission at <<http://www.hksfc.org.hk/eng/index.htm>> has lists of licensed schemes and persons under various ordinances, and copies of its Codes and Guidelines.

There is a good way to go before legal practice in Hong Kong is really revolutionised by electronic means. In other jurisdictions you may find all or most decisions available on the Internet; we have only the Court of

Final Appeal. On the other hand, the searching facilities for BLIS are better than on many Internet legislation services, and it is amazingly up to date (to the day before I am writing this). The size of the Hong Kong market may dictate that we shall never have available some of the facilities one finds elsewhere: e-mail current awareness services, electronic newsletters and the like.

I have concentrated on Hong Kong resources, though it is arguable that (BLIS aside) the main value of electronic resources, especially of the Internet, is likely to be the facility to find things out from outside Hong Kong.

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電腦與香港法律研究

Jill Cottrell 介紹現時在香港可供使用的各類電子法律資源

香港電子法律紀元的誕生稍遲，其先進程度亦遜於一些其他的司法管轄區。基本上，現時香港有以下的案例及法例資料可供使用（縱使當中某些產品只供有足夠財政實力的人士使用）：

為尋找某案例的引稱，便可跟進其近期發展而毋須倚靠其他人編製的索引。可是，《香港經彙報的判決：綜合索引》第一冊內的案例列表，現時只刊載截至 1995 年年底的案例，而要尋找其後的案例，我便要

資料	印刷品	光片	網頁或網址
經彙報的判決	《香港案例》	《香港案例》	LEXIS
	Hong Kong Law Reports [and Digest]	Hong Kong Law Reports and Digest	
	《香港公共法彙報》	第五、六及七冊存於《香港案例》光片	LEXIS (第五、六及七冊)
判決摘要	Hong Kong Law [Reports and Digest]	Hong Kong Law Reports and Digest	
未經彙報的判決	個別判決可在某些地方找到	《香港案例》1996 至 1998 年	終審法院判決：見 < http://www.info.gov.hk/jud/guide2cs/html/cfa/judmt/index.htm >
適用於香港的全國性法律			雙語法例資料系統：見 < http://www.justice.gov.hk/ >
條例	《憲報第 1 號法律副刊》		
	《香港法例》活頁版	《香港條例注解》下的雙語法例資料系統版本 (每季作出修訂)	雙語法例資料系統：見 < http://www.justice.gov.hk/ >
	《香港條例注解》(部分)	《香港條例注解》	LEXIS
附屬法例 / 法規	《憲報第 2 號法律副刊》		
	《香港法例》活頁版	《香港條例注解》下的雙語法例資料系統版本 (每季作出修訂)	雙語法例資料系統：見 < http://www.justice.gov.hk/ >
	《香港條例注解》(部分)	《香港條例注解》	LEXIS
條例草案	《憲報第 3 號法律副刊》		< http://legco.gov.hk/yr98-99/english/bills/bills.htm >

就印刷品而言，若我想尋找某個題目，我便須翻查《香港經彙報的判決：綜合索引》一書第二冊內的題目索引，但該索引只包括截至 1997 年年底的資料。要尋找 1997 年年底以後的案例，我便要逐一翻閱《香港案例》精裝本，因為並沒有年度索引，繼而再逐一翻閱最近期精裝本以後的定期平裝書冊。接著我便要逐本翻查 Hong Kong Law Reports and Digest，以及 Hong Kong Law Reports and Digest 最近期月度平裝本內的累積索引。我運用這方法時，只得倚賴其他人士編製的索引的素質。我以

翻查各精裝本，包括 Hong Kong Law Reports 和 Hong Kong Law Digest 合併前的 1996 年書冊。有關出版商已答應每季以活頁形式出版《香港經彙報的判決：綜合索引》的更新資料，這的確是好消息。

電子資源出現後，情況是否有所改善呢？當然我們並沒有一張把所有有關刊物內容集於一身的光片，但我們確實可使用一張包含整個《香港案例》內容、《香港公共法彙報》大部分內容及 1,564 份未經彙報的判決書（數字截至撰寫本文為止）的光片。我們亦可使用另一張包含整個

Hong Kong Law Reports 及 Hong Kong Law Digest 內容的光片。我們可選擇使用其他人士的編製索引技巧，若找尋某一個概念，便可得到某個經匯編的判決或判決摘要的關鍵詞句。但我們也可運用自己的智慧，在判詞原文中找尋字句的不同配搭。我們甚至可利用那些我們不能完全記起的東西（例如「我肯定在某個案例中 Hunter J 就經濟損失這點說了一些話」）作為找尋資料的起點。

本文目的並非就找尋資料方式提供詳細意見。然而，花點時間了解每項找尋工具提供的可能性，亦是值得的。我相信大家已經懂得使用至少大部分下列工具：

- (一) 使用布爾邏輯體系的找尋工具，並指明你希望找尋某些字眼及其他字眼一併出現或某些字眼或其他字眼出現的項目。有些時候你亦可指明近似項目的範圍。
- (二) 使用「百搭」方式的找尋工具，即是說一個字眼的中間或完結部分被例如 * 或 ! 等符號取代。舉例說，我曾嘗試找尋 'libel or slander or defam*' 及 'ridicul*'，即是說我想找尋曾經出現「永久形式誹謗」或「短暫形式誹謗」或某種「誹謗」('defamation') 的變體 (包括 'defame' 或 'defamatory' 及 'defamation' 本身) 以及 'ridicule'、'ridiculing' 或 'ridiculous' 的案例。
- (三) 指明一句而非某些個別的單字。
- (四) 指明你想在某程度上非常確切，例如你想找尋 'Hunter' 而非 'hunter'。

不同的電腦資料庫與軟件對上述項目有不同的處理方式。《香港案例》的軟件 (Folio Views) 容許你輸入放在引號內的確實字句，而 Hong Kong Law Reports and Digest 則容許你選擇「準確的輸入項目」。很多時候（例如就《香港案例》光片版或雙語法例資料系統而言）我們可以使用各種不同方法去找尋同一資料庫，當中有些容許我們找尋整段原文，有些則要求我們像填寫表格一般輸入某些指定的項目，例如案例名稱、法官名稱、關鍵詞等等。有些時候（例如就 Hong Kong Law Reports and Digest 而言）你可把所找尋的

項目限制至某個特定時間。

每張光片既有本身的特性，亦有令人煩惱的地方。比方說，《香港案例》會告訴我「命中」了若干數目，但這並不是指案例數目，而是指所找尋字眼出現的次數，這便叫我感到非常煩惱。若有關的軟件得到更新，情況理應可望得到改善。（現時若你在「目錄」頁上進行找尋工作，特別是把資料庫的擴展水平定為「三」時，你便可更迅速地知道有關案例的數目。）在這方面，*Hong Kong Law Reports and Digest* 較為清楚，但該軟件要求使用者經過三個階段才可得到一個案例的整個文本（輸入找尋的字眼、啟動「找尋」功能、看見一系列的撮要、選擇並按動看似有關的撮要、取得提要、按動「全文」功能以取得案例全文），這便稍嫌冗長了。上述兩張有關香港案例的光片，與現時在英國生產的一些光片（例如《電子法律彙報》（自1865年的法律彙報立案理事會的彙報）及新的英國彙報光片版）比較起來，還未臻完善。縱是如此，這些光片是有助進行法律研究（但並非閱讀案例）的寶貴工具。最理想的做法，便是同時擁有印刷品及光片，你便可先透過光片識別所找尋的案例，繼而翻閱相應的印刷品。

《香港條例注解》的光片版，基本上與該書的印刷版相同。這即是說，注釋及索引的素質與你可能已相當認識的沒有分別。論到法例的更新程度，此產品不及雙語法例資料系統（該系統經常被更新，但光片每年只出版三次）。以光片版而非印刷版作為考慮點可能較為明智。《香港條例注解》光片分為兩個「資料庫」，一個包含了法例的原文及注解，另一個名為「尋找索引」，包括了我們在印刷版中見到的各類索引。

我想在香港經常使用 LEXIS 資料的人為數不多。LEXIS 的找尋工具毋疑相當精密完善，但同時使用該工具是頗為昂貴的。這系統備有可一次過做妥的找尋工具（找尋工作由專人負責，你不用親手進行），亦備有留言信箱服務；但從香港角度去看，我們便可能要在深夜時分進行找尋才可，原因是這找尋工具是按美國東岸標準時間操作的。詳情可參閱以下網址：<http://www.lexis-nexis.com/express/>。

說到雙語法例資料系統，它與上述光

片和 LEXIS 不同的地方，在於它是免費的（希望情況一直如此）。雙語法例資料系統是律政司的電腦網址（<http://www.info.gov.hk/justice/>）內的主要項目。它備有完善的使用指南，但如果你已經躍躍欲試的話，不妨參考以下的簡單提示。假如你知道所找尋的條例的章號，你便只須在章號方格內輸入有關的號碼（若你要同時尋找主體條例及附屬法例，你便須按動‘Ord & Sub Leg’ 隔鄰的「O」擊），然後按動「即時視看」（‘View Now’）擊。你會看見一列大概以你尋找的條例為首的條例。（情況在列表末部更糟。）我曾嘗試尋找一個包括所有「全國性法律」的列表，但我在方格內輸入 1553（《基本法》）後並不能找到任何東西。我甚至輸入 1000，但亦不成功。在情急之下，我輸入 545，而螢幕上竟然出現了一個由第 1001 章開始的法例列表！最後，我要不斷地按動「接下列表」，才找到有關的全國性法律。

找到了所需的條例後，你應按動指向該條例的箭咀。若你已按動主體條例及附屬法例，你現在應可看見載有該條例及附屬法例標題的表列。你接著按動指向所需項目的箭咀後，便會看見有關條文 / 規例的表列。

若你想尋找成文法則內的某個句子，你應先決定所需的是條例、附屬法例還是兩者兼備；你亦不要忘記按動「即時視看」擊。接著你便可按動「簡單尋找」或「進階尋找」擊。後者分為多種：（一）「尋找條文或成文法則」頗具靈活性，若你的目標清晰明確，該功能可助你尋找某特定成文法則內某特定條文的原文。（二）「尋找字詞」乃布爾邏輯體系找尋工具的一種。（三）「尋找定義內字詞」可助你找出某字詞有否在另一條例內被定義（這在香港還是首次出現的！）。這工具不但能找尋被定義的字詞，亦能找尋定義內出現的所有字詞。

值得一提的是，除了條例草案本身（它們已透過《憲報副刊》出版）外，你也可以找尋立法會對草案作出的討論。立法會的會議過程正式紀錄（Hansard）近來出版速度頗慢，因此你可從立法會的網址著手（<http://www.legco.gov.hk/>）。運氣好的話，你不但可找到會議紀錄的初稿或最終版本，更可能找到某草案委員會的

會議紀錄呢！

若你經常與某個政府部門合作，你可能已相當熟悉該部門的網址。不論如何，我找到了下列的樣本，希望這些對律師們有幫助：

- (1) <http://www.wb.wpelb.gov.hk/circular/>：這是規劃環境地政局的網址。我在該網址內找到的文件之一，是「發展項目及建議的環境影響評估程序」。
- (2) <http://www.info.gov.hk/cr/>：這是公司註冊處的網址。你可付款得到查察的商業服務。
- (3) <http://www.info.gov.hk/landreg/service.htm#dir>：在土地註冊處的網址內，你可找到的其中一項服務，名為「直接取覽服務」（Direct Access Service），根據內裡介紹，這是一項「電腦網上尋找設備，讓使用者可透過本身辦公室內的電腦終端機直接尋找土地註冊處的電腦化土地紀錄、訂取土地紀錄的副本、訂取土地紀錄的核證副本、及以傳真方式收取土地紀錄的影像副本。」
- (4) <http://www.hksfc.org.hk/eng/index.htm>：這個屬於證券及期貨事務監察委員會的英文網址，內容包括了在各有關條例下註冊的計劃及人士的列表，以及委員會各類守則及指引。

總括來說，香港法律實務在達至真正電子化前，還要走一段漫長的道路。在其他司法管轄區，我們可從電腦互聯網取得大部分（若非所有）案件判決，但在香港我們只可取得終審法院的判決。然而，另一方面，雙語法例資料系統的尋找設備比很多互聯網上的類似服務都要優勝，而資料亦更新至撰寫本文前一日，新近程度相當驚人。鑒於香港市場有限，我們可能永遠沒有機會使用其他地方具備的一些設施，例如電子郵件時事傳送服務及電子新聞通訊等等。

在本文中，我集中討論了香港境內的資源。但我們可以說，除了雙語法例資料系統外，電子資源（特別是電腦互聯網）最寶貴的地方，是讓我們尋找到香港境外的資料。

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