

Product Review by John A. Lingl

Westlaw® Patents

Unless you've been living under a rock, you are no doubt familiar with Westlaw's excellent legal research tools. Westlaw has now developed a set of patent-specific tools to assist attorneys working on patent matters. The Westlaw tools allow attorneys to quickly find U.S. and foreign patents, patent file histories, cited references, motions, *Markman* orders and briefs, and other related filings. These tools are so complete, they can even generate profiles of patent examiners, judges, and, yes, attorneys too.

If you've used Westlaw, you know about KeyCite, which is Westlaw's citation-checking service. Now, you can use KeyCite on patents. Similar to using KeyCite for a case citation, one simply types in the patent number and information relating to references and court documents including verdict and settlement summaries, appellate petitions, motions, and related filings are shown. No doubt, this will greatly reduce the amount of work patent litigators must undertake in leaving no stone unturned in reviewing prior litigation matters involving a specific patent.

As to *Markman* orders and briefs, Westlaw has now placed *Markman* orders and related briefs in one place, allowing one to search by patent number or even keyword. For example, if one was looking for any *Markman* orders relating to portable ultrasound machines, one can simply type in "portable ultrasound" and any *Markman* orders relating to those terms are provided.

The Westlaw tools also can generate a graphical tree representation of a patent's family members. In many cases, patent family trees are fairly simple and linear in structure. However, there are some patents that have dozens and dozens of members in their family. Westlaw has constructed a very logical patent family tree display structure. Moreover, Westlaw's tree structure places the oldest members of the family on the left side, while newer members of the family appear to the right. Further, the branches of the tree structure also indicate the relationship of family members to each other. For example, a divisional patent branching from a parent patent may be indicated by a dotted line, while a continuation-in-part patent may be indicated by a dashed line. One drawback to this structure is that *only* U.S. family members are shown.

As all patent attorneys know, the U.S. Patent and Trademark Office (USPTO) has a website that allows one to view complete patent file histories. Westlaw has incorporated approximately 75,000 U.S. patent file histories into their database. One extremely useful part of Westlaw's file history database is what Westlaw calls "claims versioning." For the 75,000 patents for which Westlaw has file histories, Westlaw provides a complete listing of each and every version of the claims from filing to allowance.

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While this can be determined from the USPTO's website, Westlaw's presentation is excellent and very convenient. Each version of the claims is in chronological order and any changes from the previous version are clearly shown. Additionally, as to the patents not part of the 75,000 patents for which Westlaw has compiled a file history, Westlaw provides a version showing the differences between the originally filed claims and the actually allowed claims, just not any changes in between.

Westlaw also provides the ability to search foreign patent offices in China, Japan, Korea, and a select group of European countries. While this search function works as advertised, the search function does not indicate if any of these foreign patents have any U.S. or foreign family members. Further, Westlaw does not provide the file histories of any foreign patents.

For the patent litigator, Westlaw has added *Matthew's Annotated Patent Digest*. If you're not familiar, this publication provides case summaries of all Federal Circuit and notable U.S. District Court decisions. Westlaw also has incorporated an IP Filing Rules database containing documents integrating local practice rules, state statutes, United States Code, and Code of Federal Regulations provisions with the Federal Rules of Civil Procedure, the *Manual of Patent Examining Procedure*, and practice guides to assist attorneys with filing pleadings, appeals, motions, requests, notices, plans, and applications. New associates will rejoice, as this tool is especially useful in situations where you are filing in an unfamiliar jurisdiction.

Finally, Westlaw also has created a profiler system that allows one to see a profile of a patent or trademark examiner, judge, or even an attorney. While the examples provided to me by Westlaw displayed excellent information regarding certain patent examiners, several examples that I ran were not as fortunate, as they did not disclose much of a profile. Obviously, Westlaw is working on adding more profiles, making this tool more useful.

In conclusion, Westlaw's efforts are indeed worthy and their patent tools are powerful, efficient, and user-friendly. As stated earlier, Westlaw includes the file histories of about 75,000 patents. If your litigation matter includes one of these 75,000 patents, Westlaw's tools are a significant help—maybe all the help you'll need. However, if your litigation matter concerns a patent not on Westlaw's list, you'll have to perform some additional steps to make sure your research is complete. Either way, these tools will no doubt be of great assistance to any attorney performing patent-related research. ■

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