Find It Free and Fast on the Net: Strategies for Legal Research on the Web

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How to Search Like a Pro

What is the Difference Between a Search and a Directory?

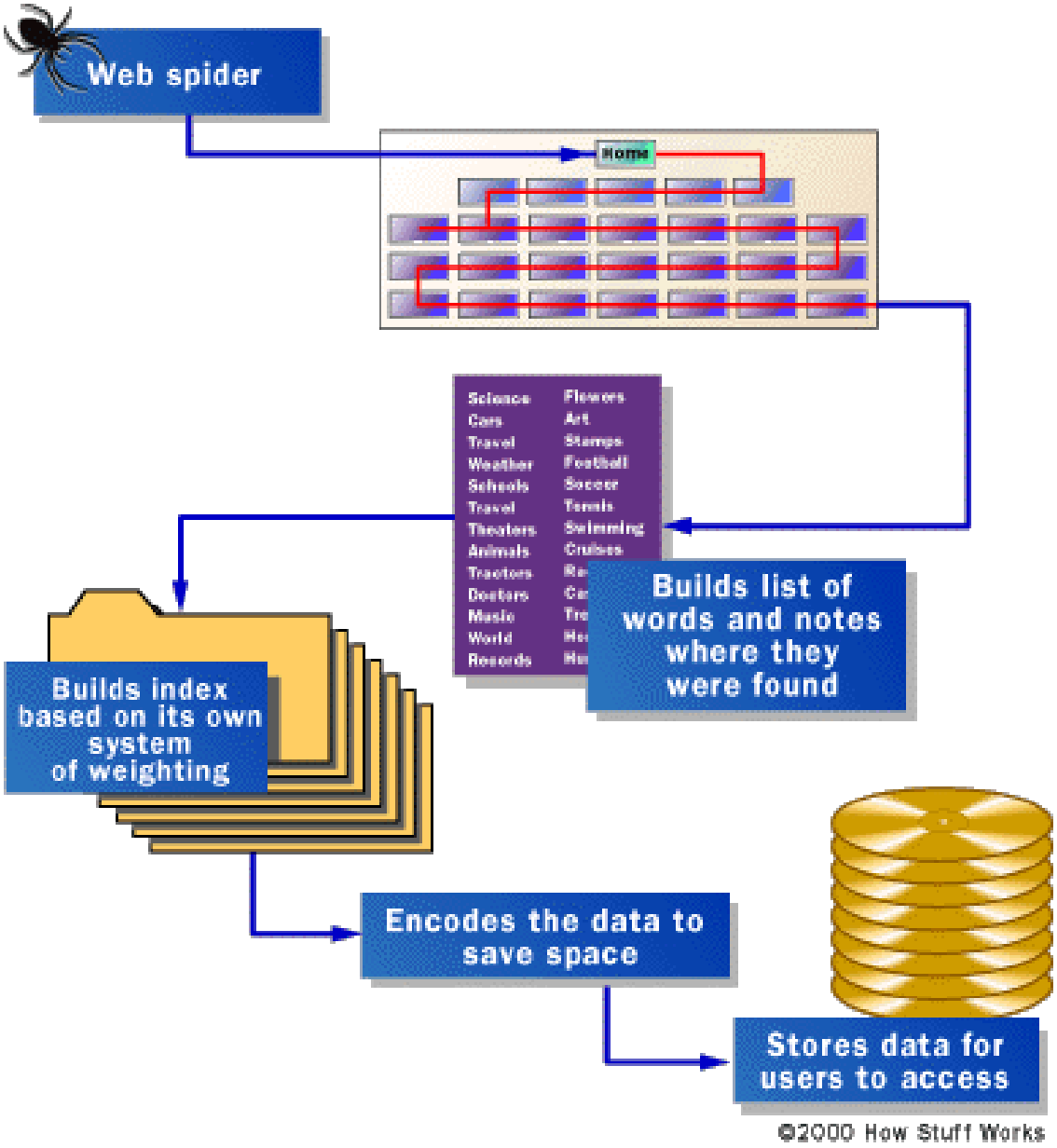
- According to Yahoo! Help
- Additional clarification provided by DirectoryOne.com
  - Some search engines and directories include both types of indexes, and are known as "hybrids".
  - Some examples of search engines are Google, Gigablast, and Alltheweb.
  - The best known directories are Yahoo, Business.com, Dmoz.org, and Looksmart.
  - Directories, unlike search engines, use a tree hierarchic structure to organize their database.
- Levitt and Davis provide additional information about portals and directories versus search engines as it relates to legal research

How Do Search Engines Really Work?

- Franklin provides a nice description of how Internet search engines work.
- Internet search engines are special sites on the Web that are designed to help people find information stored on other sites. There are differences in the ways various search engines work, but they all perform three basic tasks:
  - They search the Internet -- or select pieces of the Internet -- based on important words.
  - They keep an index of the words they find, and where they find them.
  - They allow users to look for words or combinations of words found in that index.

How Do Search Engines Really Work?

- Early search engines held an index of a few hundred thousand pages and documents, and received maybe one or two thousand inquiries each day.
- Today, a top search engine will index hundreds of millions of pages, and respond to tens of millions of queries per day.
- "Spiders" take a Web page's content and create key search words that enable online users to find pages they're looking for.
- When a spider is building its lists, the process is called **Web crawling.**


Web spider
Home
Science
Cars
Travel
Weather
Schools
Travel
Theaters
Animals
Tractors
Doctors
Music
World
Records
Flowers
Art
Stamps
Football
Soccer
Tennis
Swimming
Cruises
Builds list of words and notes where they were found
Builds index based on its own system of weighting
Encodes the data to save space
Stores data for users to access
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Learn Boolean Logic

- Franklin describes the various options for creating search strategies using Boolean logic:
  - Searching through an index involves a user building a **query** and submitting it through the search engine.
  - The query can be quite simple, a single word at minimum.
  - Building a more complex query requires the use of Boolean operators that allow you to refine and extend the terms of the search.

Learn Boolean Logic

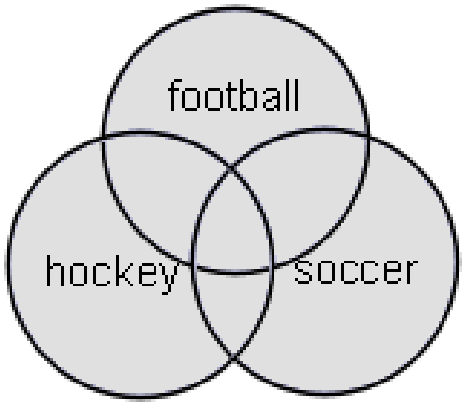
- The Boolean operators most often seen are:
  - **AND** – All the terms joined by "AND" must appear in the pages or documents. Some search engines substitute the operator "+" for the word AND.
  - **OR** – At least one of the terms joined by "OR" must appear in the pages or documents.
  - **NOT** – The term or terms following "NOT" must not appear in the pages or documents. Some search engines substitute the operator "–" for the word NOT.
  - **FOLLOWED BY** – One of the terms must be directly followed by the other.
  - **NEAR** – One of the terms must be within a specified number of words of the other.
  - **Quotation Marks** – The words between the quotation marks are treated as a phrase, and that phrase must be found within the document or file.

Learn Boolean Logic

- Some databases and search engines may substitute symbols and numbers for words:
  - Proximity connectors
  - Wildcards can be indicated by a question mark (?) to replace one character before, within or after a search term and the asterisk symbol (*) to replace one or more characters before, within or after a search term.
  - Parentheses should be used when creating complex searches.
  - Many databases and search engines will use field code or tags that let you restrict your search to just author, title, etc.
- Whatever search engine or database you are using, you will want to become familiar with the particular words, abbreviations and symbols it uses so that you can effectively increase the relevance of your search retrieval.

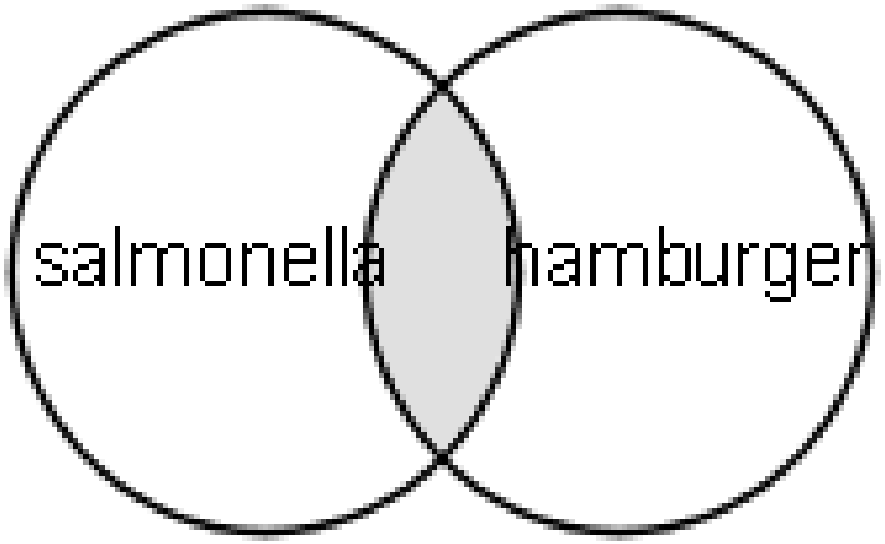
Boolean Operator OR

- Used to retrieve a set in which each citation contains *at least one* of the search terms.
- Use OR when you want to pull together articles on similar topics.
- **Example:** *football OR hockey OR soccer*



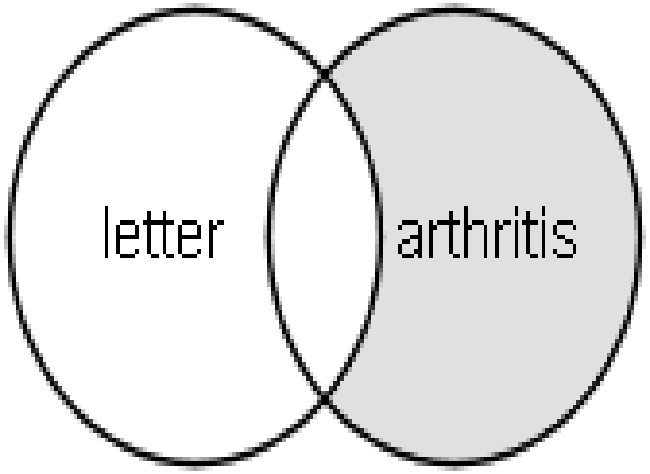
Boolean Operator AND

- Used to retrieve a set in which each citation contains *all* search terms.
- **Example:** *salmonella AND hamburger*



Boolean Operator NOT

- Retrieves a set from which citations to articles containing specified search terms following the NOT operator are eliminated.
- **Example**: *arthritis NOT letter*



Which Search Engines Are the Best?

- Gil provides an interesting article on titled The 10 Best Search Engines of 2014:
  1. Dogpile
  2. Ask (aka “Ask Jeeves”)
  3. Duck Duck Go
  4. Google
  5. Bing
  6. Yippy (formerly “Clusty”)
  7. Webopedia
  8. Yahoo!
  9. The Internet Archive
  10. Mahalo

Search Engines That Think: The Future of Searching

- On the other hand, there are newer types of search strategies being developed to more accurately capture what the user is searching for.
- Franklin reports on two opportunities that show promise in the future:
  - Concept-based searching
  - Natural-language queries.

Search Engines That Think: The Future of Searching

- Massive amounts of information are now being generated in digital form in a wide variety of formats and file sizes.
- The era of "big data" is clearly upon us. And that is where we will turn to technology to help solve the problem.
- Data mining, algorithms, tags, etc. are all being developed and tested, by entrepreneurs and vendors as well as by faculty researchers in my own school. (*See* Mathew Palakal, Ph.D., http://soic.iupui.edu/people/mathew-palakal/, accessed 11/13/14)
- Some articles about big data in the context of law are listed in your seminar materials.

Mathew Palakal, Ph.D.

http://soic.iupui.edu/people/mathew-palakal/

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Research Interests

Biomedical Text Mining: The biomedical literature databases continue to grow rapidly with vital information that is important for conducting sound biomedical research. BioMap is an attempt to create a scalable knowledgebase of biological relationships extracted from vast amount of biomedical literature data. The development of BioMap system addresses several innovative research issues related to knowledge discovery from literature documents and real-time, interactive access of this knowledge. Specific problems that are being investigated are: discovering ***explicit***, ***implicit*** and ***directional*** relationships among biological entities from abstracts and full text documents; discovering both explicit and implicit protein-protein interactions and computationally validating these interactions; and, obtaining novel pathways associated with specific diseases in question. Protein-protein, gene-protein, disease-drug interactions are examples of biological associations that are automatically discovered from large number of literature documents. BioMap can discover interactions in user specified biomedical problem domains such as inflammatory diseases, regenerative biology, cancer, etc., and provide a user-centric view of the knowledge that are discovered.

Intelligent Information Management Systems: There is a critical need for innovative information management and knowledge discovery tools to sift through vast volumes of heterogeneous data from various information sources. This project looks into developing Intelligent Software Systems that can integrate information resources and extract embedded knowledge from these information sources.

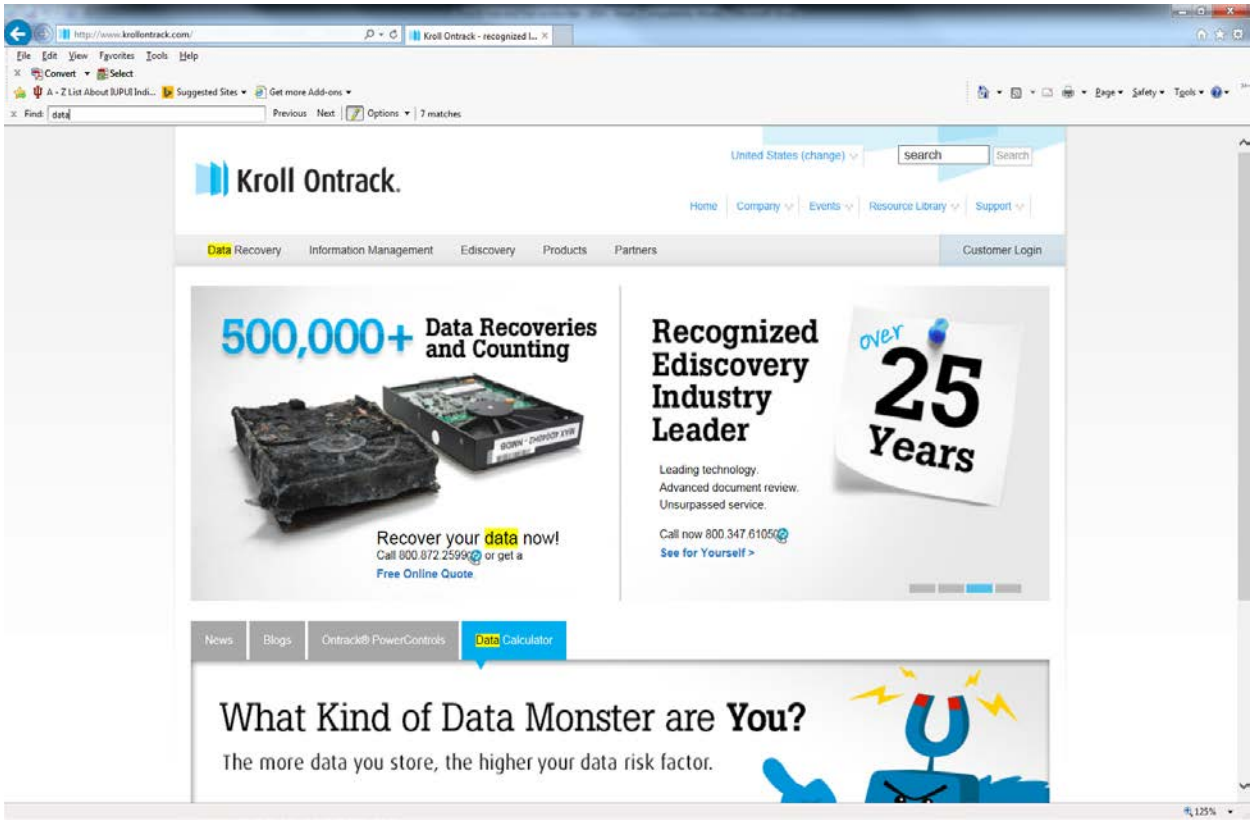
Related News

- October 8, 2013
  Dr. Davide Bolchini Receives Google Faculty Research Award

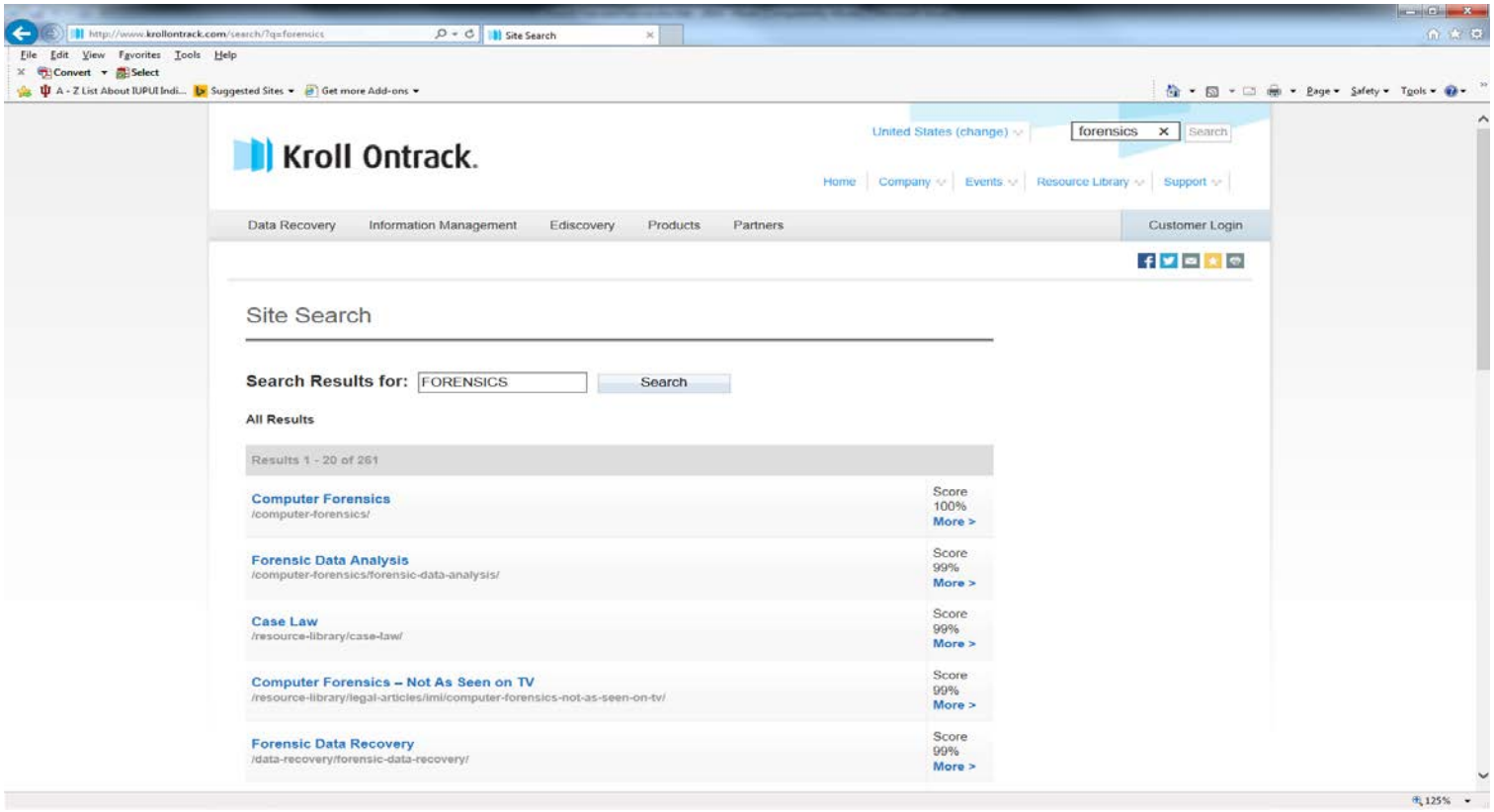
125%

The Power of the "Find" Function to Scan Web Pages Quickly

- The Find command [CTRL] + [F] can be a powerful tool because it enables you to search for information within a specific website.
- The process is very easy.
- Once you have located a website that you believe may have the information you want, simple use the pull-down menu under Edit and select Find on this page.
- You will be provided with a search box to type your keywords.

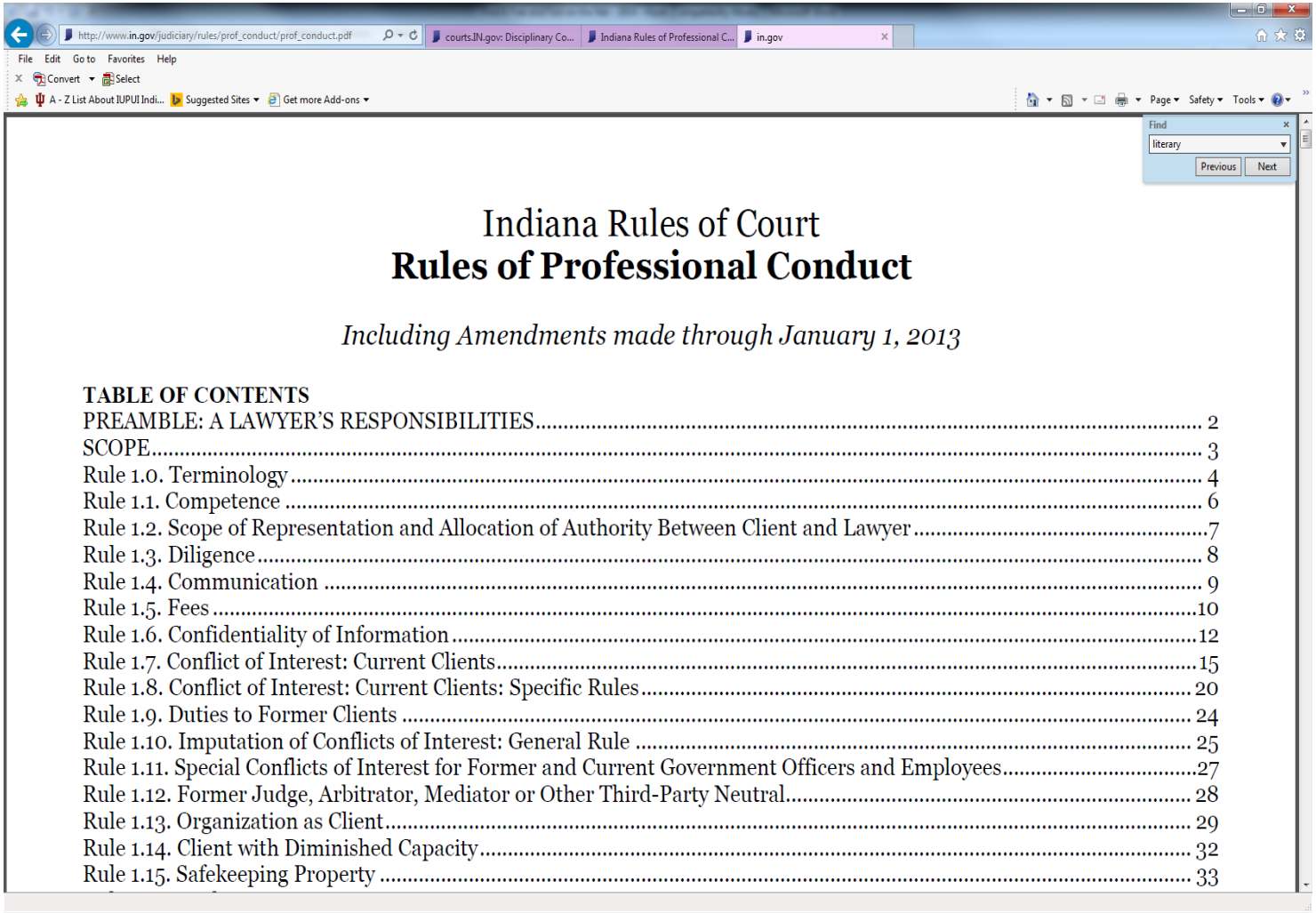


You can see that the word I searched for, “data,” is highlighted in yellow. This can be a quick way to scan large amounts of information. It is a great device for finding that “needle in a haystack”. Fortunately, most websites now provide their own search boxes (typically at the top right of the screen), which is even more convenient, and it will search the entire website, rather than just one page at a time.



If I search “forensics” on Kroll Ontrack, here is what I locate.

The equivalent of a Find command is also available in other software. Rather than print and review an entire PDF document, you can use the Find feature on the top left side of the screen. For example, if I have a question about whether a lawyer can benefit from a client's literary rights, I will open the PDF version of the Indiana Rules of Professional Conduct. I merely use the pull-down menu under Edit, select Find and then fill out the text box at the top of the screen. I can then then see all instances of the keyword "literary" within the document and move seamlessly to each of them by clicking on Next or Previous.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Suggested Sites
Get more Add-ons
Page Safety Tools
Find
literary
Previous
Next
Indiana Rules of Court
Rules of Professional Conduct
Including Amendments made through January 1, 2013
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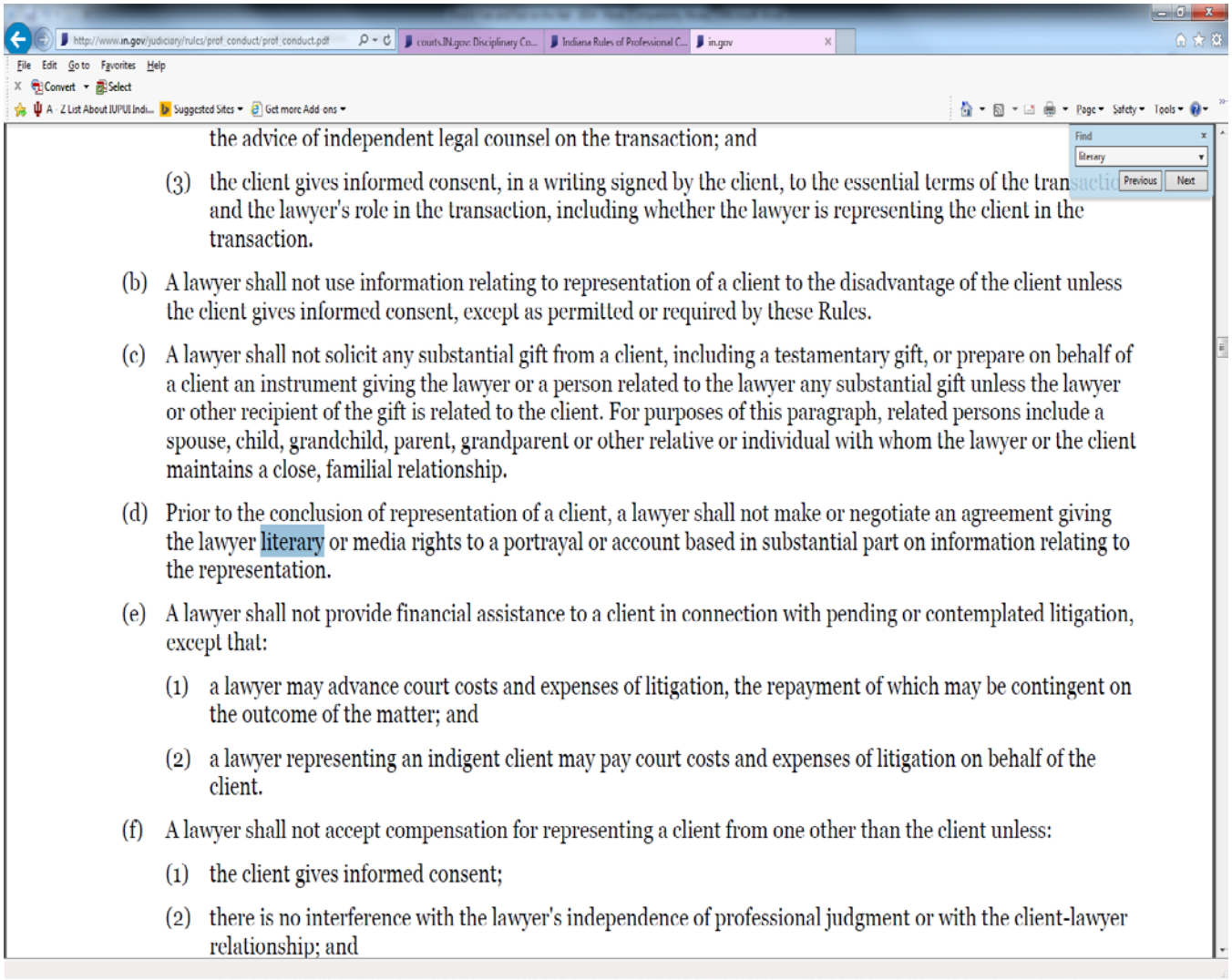


the advice of independent legal counsel on the transaction; and

(3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

(b) A lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these Rules.

(c) A lawyer shall not solicit any substantial gift from a client, including a testamentary gift, or prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift unless the lawyer or other recipient of the gift is related to the client. For purposes of this paragraph, related persons include a spouse, child, grandchild, parent, grandparent or other relative or individual with whom the lawyer or the client maintains a close, familial relationship.

(d) Prior to the conclusion of representation of a client, a lawyer shall not make or negotiate an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

(e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

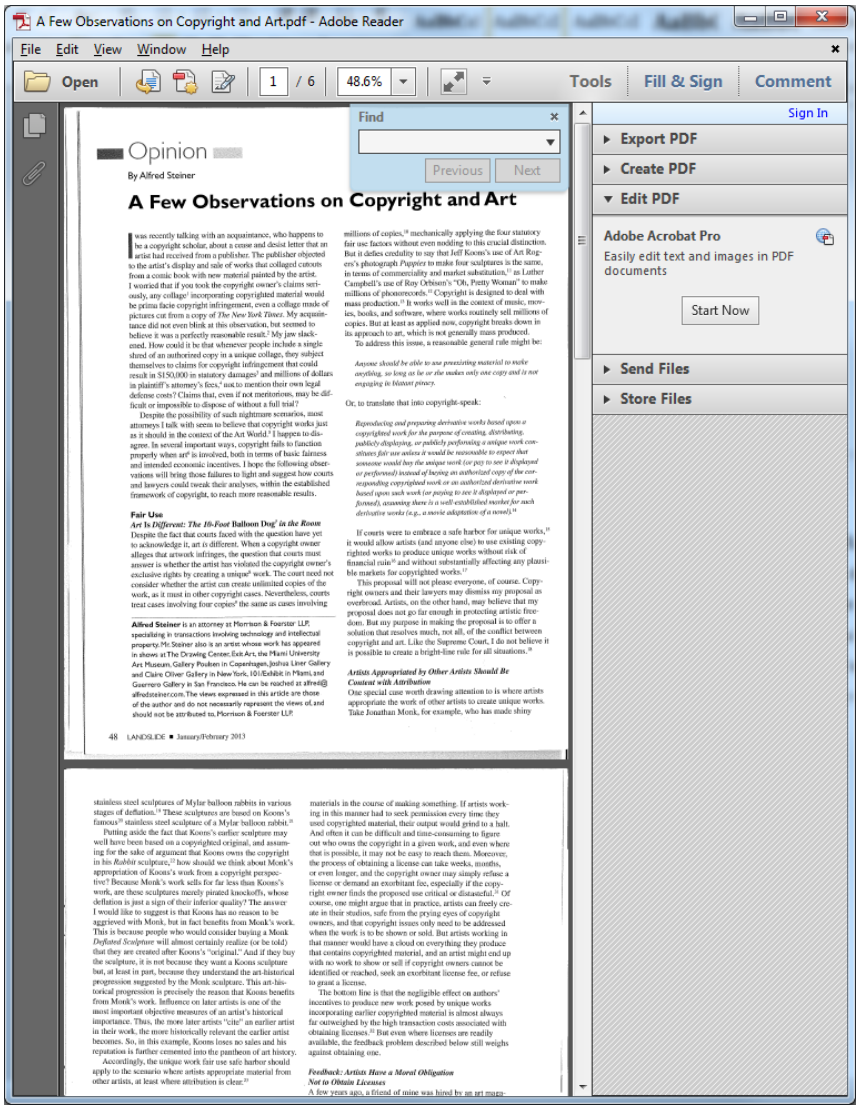
(1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and

(2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

(f) A lawyer shall not accept compensation for representing a client from one other than the client unless:

(1) the client gives informed consent;

(2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and



Other versions of PDF readers may use a binoculars symbol on the left-hand side or the document or a pull-down menu at the top.

Managing Bookmarks

- There is no need to continually re-invent the wheel when conducting legal research or competitive intelligence on the Internet.
- One of the best tools available is the “bookmarks” or Favorites (Microsoft Explorer) feature of website browsers.
- If you find a website that is useful, simply add it to your list.
- You can organize bookmarks into a variety of categories or folders, which is particularly helpful when your list contains more websites than you can easily remember.

Managing Bookmarks

- As time goes on, you may notice that you have accumulated a long list of bookmarks or Favorites.
- It is useful to periodically weed through and delete bookmarks that you are no longer using.
- It is also a good idea to periodically go through your list and make sure all of the websites are still in operation.
- Delete those that are no longer active or update your list when the URLs change.
- Re-alphabetizing your list is also a good habit to get into.
- You can also place your most-used bookmarks onto a Favorites bar.
- Another strategy is to have two separate lists.
  - The top list can be for websites that you will use again and again.
  - The bottom list can be for websites that you are only using for a short-term project that can be deleted later.
- You can also organize your bookmarks into folders.

Managing Bookmarks

- To keep my list of Favorites at a manageable size, I try to find very comprehensive websites that are likely to have links to other sites I might be most interested in.
- For example, if I can get to chapters of an organization through its national headquarters website, I will add the national headquarters website to my Favorites.

Effectively Using RSS Feeds, Blogs and Podcasts

- Free RSS reader programs are available on the Internet.
- See the following websites for information, free RSS readers and reviews:
  - Heinz Tschabitscher, *Top 8 Free Windows RSS Feed Readers / News Aggregators*, About Technology, http://email.about.com/od/rssreaderswin/tp/windows_free.htm, accessed 11/13/14/
  - RSS Reader, http://www.rssreader.com/, accessed 11/13/14.
  - http://www.dmoz.org/Computers/Software/Internet/Clients/Web/Feed_Readers/, accessed 11/13/14.

Some helpful RSS feeds covering legal topics include:

- Automobile recalls listed by the National Highway Traffic Safety Administration
- from http://auto-recalls.justia.com
- RSS Mojo – http://www.rethinkip.com/rssmojo/ (intellectual property law)
- U.S. government provides dozens of RSS feeds, arranged under categories such as defense and international relations, education and employment, environment, energy and agriculture, family, home and community, health, money, public safety and law, and science and technology – see http://www.usa.gov/rss/index.shtml, accessed 11/13/14.
- Through the Legal Information Institute (LII) at Cornell University, http://www.law.cornell.edu/nyctap/subscribe.html, accessed 11/13/14.
  - Daily decisions: http://www.law.cornell.edu/nyctap/rss/nyctap_today.rss
  - Recent decisions: http://www.law.cornell.edu/nyctap/rss/nyctap_recent.rss
- LeapLaw's 50 State Blawg: http://www.leaplaw.com/blawg/pub/pubHome.cfm?tid=1, accessed 11/13/14.
- Legislative developments: http://www.govtrack.us/
- Law journal articles: http://law.wlu.edu/library/feeds/index.asp
- CIO (IT related information: http://www.cio.com/feeds, accessed 11/13/14.

There are a number of search engines for blogs. For example:

- BlogSearchEngine: http://www.blogsearchengine.org/, accessed 11/13/14.
- IceRocket blogs: http://blogs.icerocket.com/?&q=, accessed 11/13/14.
- LiveJournal Seek: http://www.ljseek.com/, accessed 11/13/14.

There are also blogs for law, sometimes referred to as blawgs.

- An index of blawgs is available through Justia's BlawgSearch. (http://blawgserach.justia.com, accessed 11/1314)
- Another source for blawgs is through the ABA Journal's Blawg Directory. (http://www.abajournal.com/blawgs, accessed 11/13/14)
- In addition, you can try the following websites:
  - beSpacific: http://www.bespacific.com, accessed 11/13/14.
  - Law Blogs: http://www.nolo.com/law-blogs, accessed 11/13/14.
  - USA.gov: http://blog.usa.gov/, accessed 11/13/14.

Blawgs

- *See also* the ABA's Blawg 100, the annual ranking of that year's top legal blawgs:
- The 2013 ABA Journal Blawg 100, http://www.abajournal.com/blawg100, accessed 11/13/14, and also the Hall of Fame, http://www.abajournal.com/magazine/article/2013_blawg_100_hall_of_fame, accessed 11/13/14.
- The nominations for the 2014 ranking were due in August.
- The 2014 Annual Blawg 100 was just published in the November 2014 *ABA Journal*.
- One blawg that is always at the top of the list is myShingle.com, by Carolyn Elefant, who is also an excellent speaker. (http://myshingle.com/, accessed 11/13/4).

Podcasts

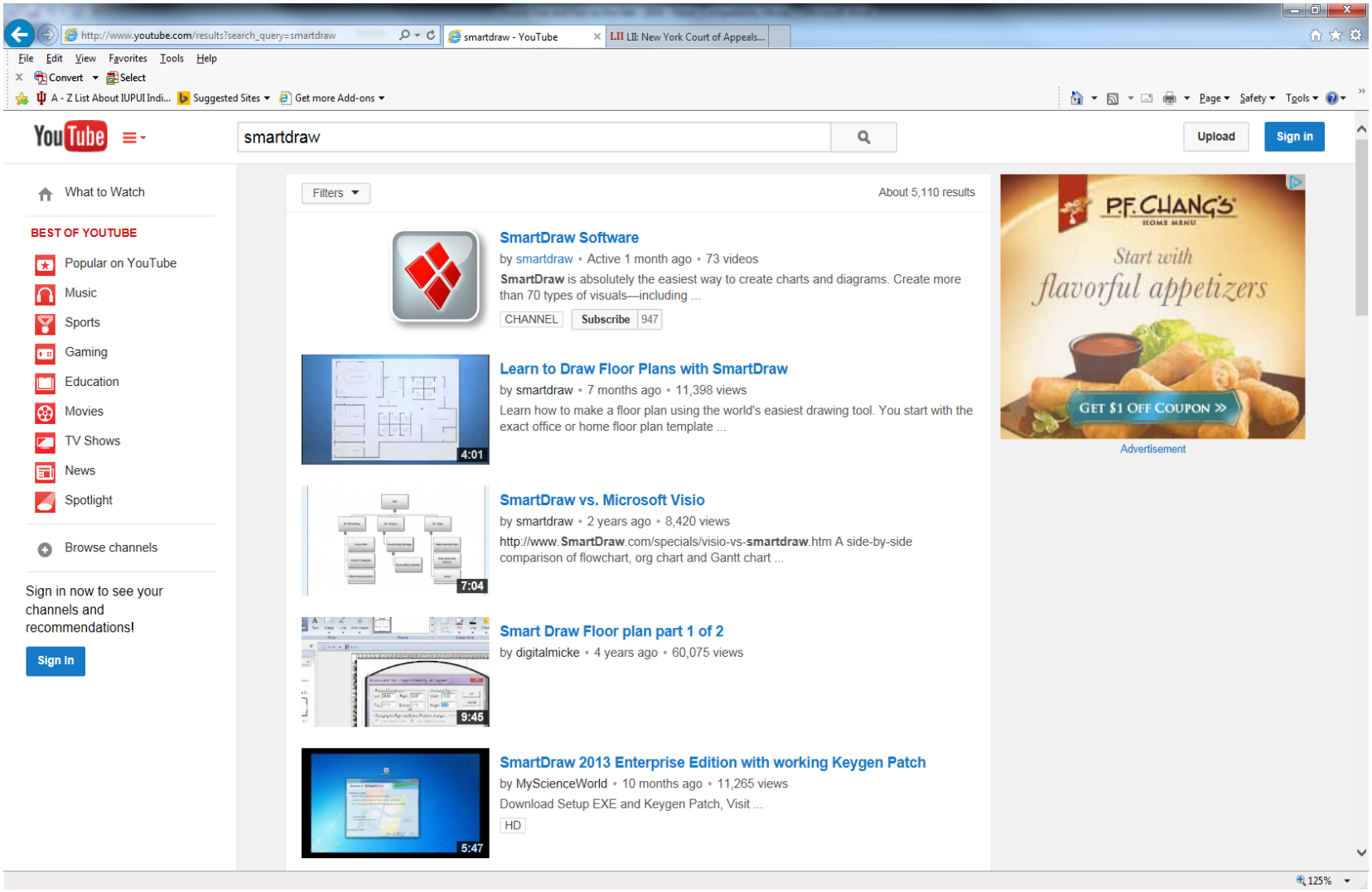
- According to Wikipedia, '[a] podcast is a digital medium consisting of an episodic series of audio, video, radio, PDF, or ePub files subscribed to and downloaded through web syndication or streamed online to a computer or mobile device." (Podcast, Wikipedia, http://en.wikipedia.org/wiki/Podcast, accessed 11/13/14)
- Podcasting is very popular in educational settings, especially with the increased use of mobile devices.
- I record and upload a weekly podcast for all of my courses at the School of Informatics and Computing, which students really enjoy and which is a nice complement to text-based information.

Law-Related Podcasts

- Allpodcasts.com: http://www.allpodcasts.com
- Podcast Directory: http://www.podcastdirectory.com/podcasts.html, accessed 11/13/14.
- Podcasts from the American Bar Association through many of its sections, for example: http://www.americanbar.org/portals/solo_home/cle/podcasts.html (for solo practitioners)
- LegalTalkNetwork: http://www.legaltalknetwork.com/modules.php?name=News&new_topic=15
- Government podcasts: http://freegovinfo.info/node/174
- Nolo podcasts: http://www.nolocast.com/
- U.S. Supreme Court: http://www.oyez.org/cases/2014, accessed 11/13/14.
- Openculture – Podcasts from Top American Law Schools: http://www.oculture.com/2007/03/podcasts_from_t.html, accessed 11/13/14.
- Legal Talk Network: http://legaltalknetwork.com/podcasts/, accessed 11/13/14.

Other Information Sources

- Of course, there are additional opportunities to follow trends and capture up-to-the-minute information and events through Twitter and other social media sites.
- Also, many people may prefer to watch a video rather than read or listen to information.
  - Thus, YouTube can be an excellent source of information.
  - YouTube may be especially useful for training, for example, if you are trying to learn a new piece of software.
  - In one of my legal informatics courses, we teach SmartDraw software for use in courtroom presentations.
  - YouTube has many tutorials available on how to use this software.


http://www.youtube.com/results?search_query=smartdraw
smartdraw - YouTube
LII: New York Court of Appeals...
File Edit View Favorites Tools Help
Convert Select
A - Z List About IUPUI Indi... Suggested Sites Get more Add-ons
Page Safety Tools
YouTube
smartdraw
Upload
Sign in
What to Watch
BEST OF YOUTUBE
Popular on YouTube
Music
Sports
Gaming
Education
Movies
TV Shows
News
Spotlight
Browse channels
Sign in now to see your channels and recommendations!
Sign In
Filters
About 5,110 results
SmartDraw Software
by smartdraw • Active 1 month ago • 73 videos
SmartDraw is absolutely the easiest way to create charts and diagrams. Create more than 70 types of visuals—including ...
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Learn to Draw Floor Plans with SmartDraw
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Learn how to make a floor plan using the world's easiest drawing tool. You start with the exact office or home floor plan template ...
4:01
SmartDraw vs. Microsoft Visio
by smartdraw • 2 years ago • 8,420 views
http://www.SmartDraw.com/specials/visio-vs-smartdraw.htm A side-by-side comparison of flowchart, org chart and Gantt chart ...
7:04
Smart Draw Floor plan part 1 of 2
by digitalmicke • 4 years ago • 60,075 views
9:45
SmartDraw 2013 Enterprise Edition with working Keygen Patch
by MyScienceWorld • 10 months ago • 11,265 views
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FINDING FREE LEGAL RESEARCH SITES AND FREE CASE LAW

Roper's Classification of Search Engines

- Individual search engines, such as Google
- Specialty search engines, such as FindLaw
- Metasearch engines, such as Metacrawler or Dogpile
- Subject directories, such as Yahoo
- Library gateways, such as Infomine (http://infomine.ucr.edu/, accessed 11/13/14) or the Internet Public Library (http://www.ipl.org/, accessed 11/13/14)
- Subject-specific databases, such as PubMed (http://www.ncbi.nlm.nih.gov/pubmed, accessed 11/131/4) or any of the databases offered through INSPIRE. (http://www.in.gov/library/inspire/faq.html, accessed 11/13/14).

Levitt and Davis

- Justia: http://www.justia.com
- FindLaw: www.findlaw.com
- Law.com – http://www.law.com
- HR.org (formerly Hieros Gamos) http://hg.org
- LLRX.com: http://www.llrx.com
- Nolo Press: http://www.nolo.com
- Zimmerman's Research Guide: http://law.lexisnexis.com/infopro/zimmermans
- VISALAW.com: http://www.visalaw.com

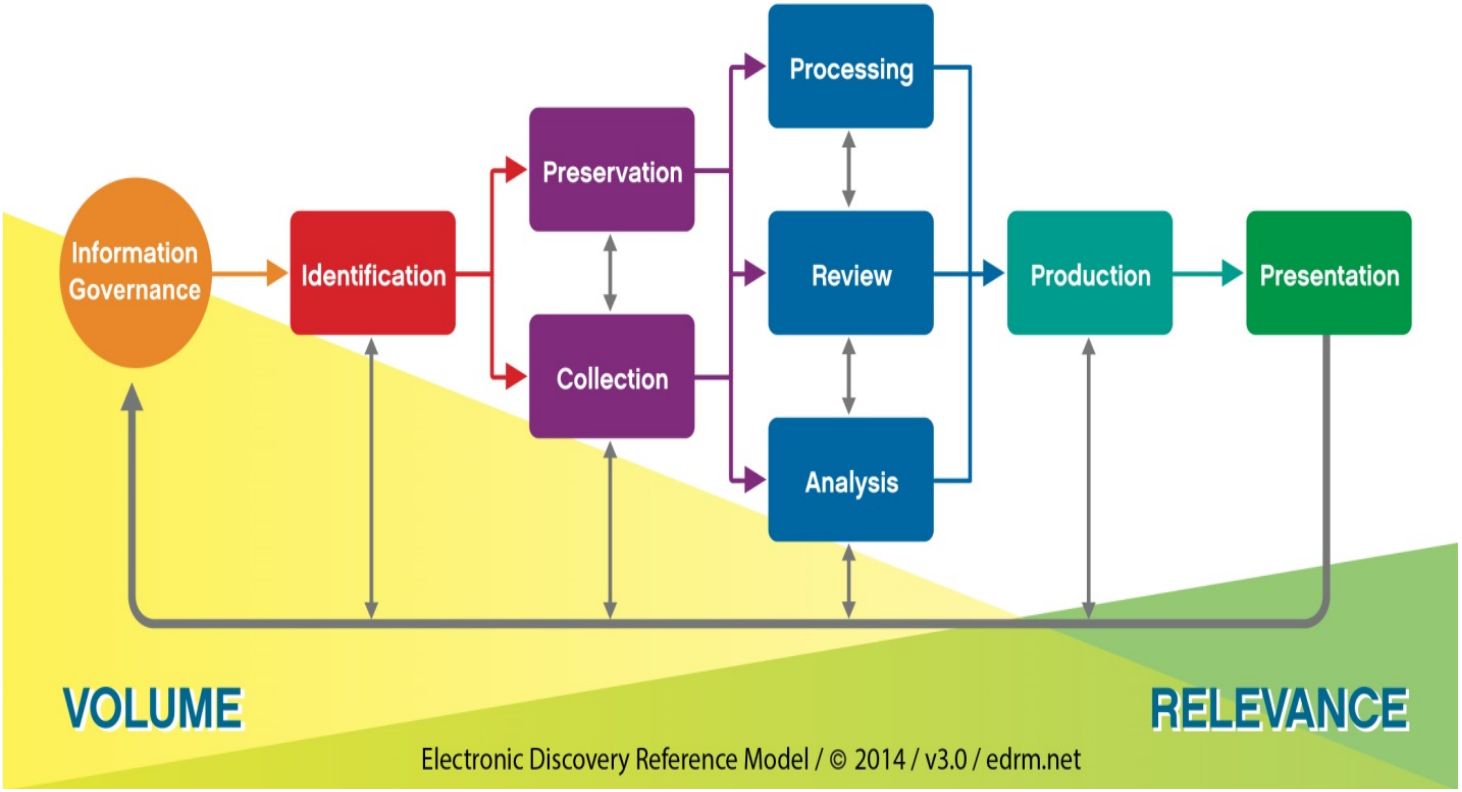
Additional Options

- **One of my favorites is the Legal Information Institute: www.law.cornell.edu
- Washburn University's WashLaw: www.washlaw.edu
- CataLaw: www.catalaw.com
- Public Legal – Internet Legal Research Group: www.ilrg.com
- WWW Virtual Library: http://vlib.org/admin/AboutVL
- Virtual Chase: http://www.virtualchase.com
- All Law: http://www.alllaw.com
- Law & Politics Institutions Guide: http://www.lpig.org/
- TheLaw.net: http://www.thelaw.net

Electronic Discovery

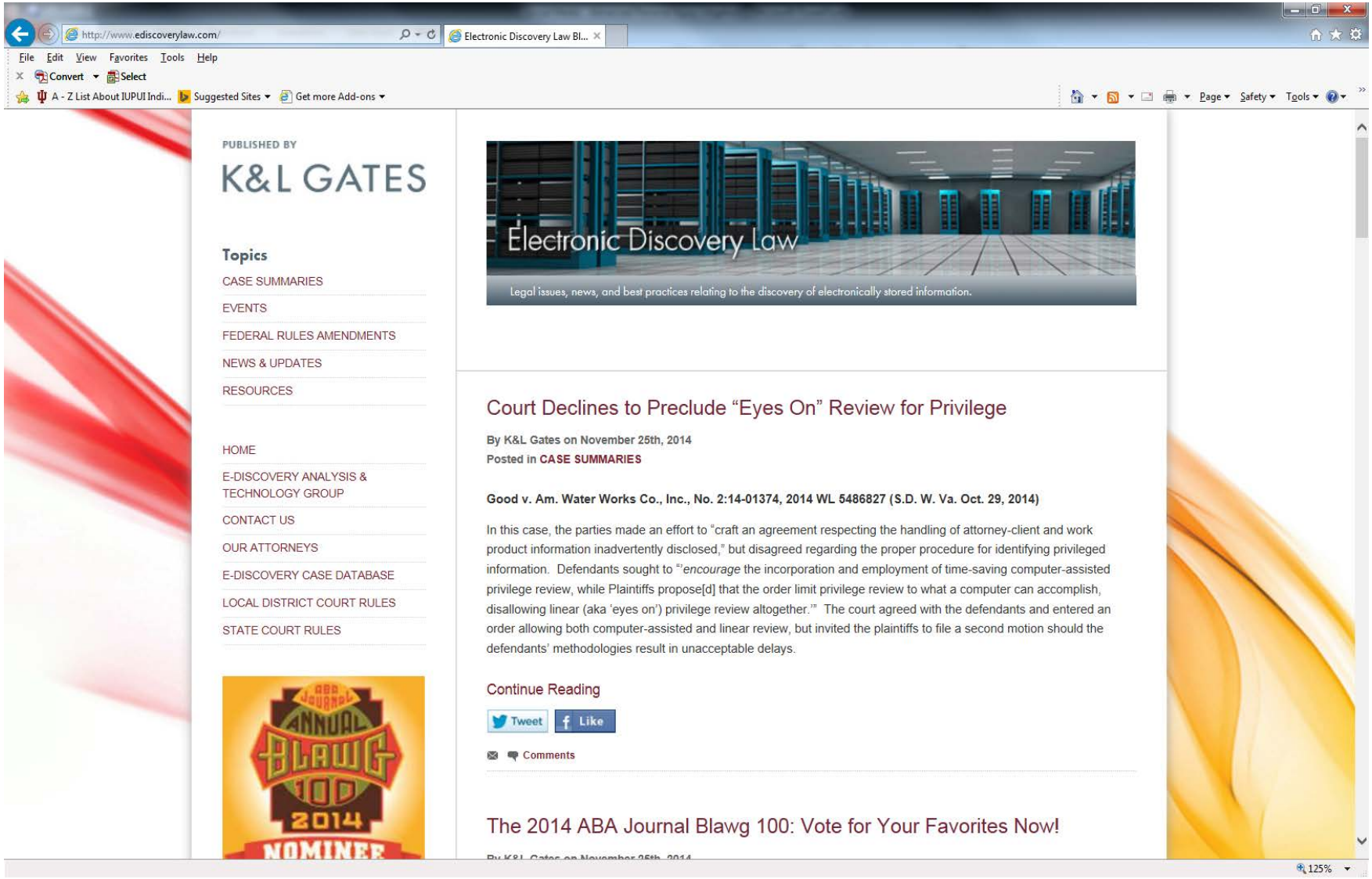
- Many of my research projects for presentations and publications involve electronic discovery.
- Whenever I have a question regarding electronic discovery, the first place I start is a review of the Electronic Discovery Reference Model (EDRM) and the information provided on the EDRM website. (EDRM, http://www.edrm.net/, accessed 11/12/14)
- By visualizing the steps in handling a piece of electronically-stored information (ESI) from the left-hand side of the model (which starts with proper information governance) to the presentation of the ESI in court, the EDRM also reminds me of the potential for ethical breaches at each step.

Electronic Discovery Reference Model



K&L Gates

- Another excellent resource for cases, statutes, guidelines and other materials for electronic discovery is the K&L Gates Electronic Discovery Law website. (http://www.ediscoverylaw.com/, accessed 11/12/14)
- The website contains a very helpful database of over 2000 cases that is searchable by keyword as well as having a number of pre-determined case attributes. (http://www.ediscoverylaw.com/e-discovery-case-database/, accessed 11/12/14)
- Many of the cases have very short summaries that include the case citation, the nature of the case, the electronic data involved, the electronic discovery issue and searchable attributes.
- A number of the cases have more robust summaries that also may have links to additional materials.


http://www.ediscoverylaw.com/
Electronic Discovery Law Bl...
File Edit View Favorites Tools Help
Convert Select
A - Z List About IUPUI Indi... Suggested Sites Get more Add-ons
Page Safety Tools
PUBLISHED BY
K&L GATES
Topics
CASE SUMMARIES
EVENTS
FEDERAL RULES AMENDMENTS
NEWS & UPDATES
RESOURCES
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E-DISCOVERY ANALYSIS & TECHNOLOGY GROUP
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Electronic Discovery Law
Legal issues, news, and best practices relating to the discovery of electronically stored information.
Court Declines to Preclude "Eyes On" Review for Privilege
By K&L Gates on November 25th, 2014
Posted in CASE SUMMARIES
Good v. Am. Water Works Co., Inc., No. 2:14-01374, 2014 WL 5486827 (S.D. W. Va. Oct. 29, 2014)
In this case, the parties made an effort to "craft an agreement respecting the handling of attorney-client and work product information inadvertently disclosed," but disagreed regarding the proper procedure for identifying privileged information. Defendants sought to "'encourage the incorporation and employment of time-saving computer-assisted privilege review, while Plaintiffs propose[d] that the order limit privilege review to what a computer can accomplish, disallowing linear (aka 'eyes on') privilege review altogether.'" The court agreed with the defendants and entered an order allowing both computer-assisted and linear review, but invited the plaintiffs to file a second motion should the defendants' methodologies result in unacceptable delays.
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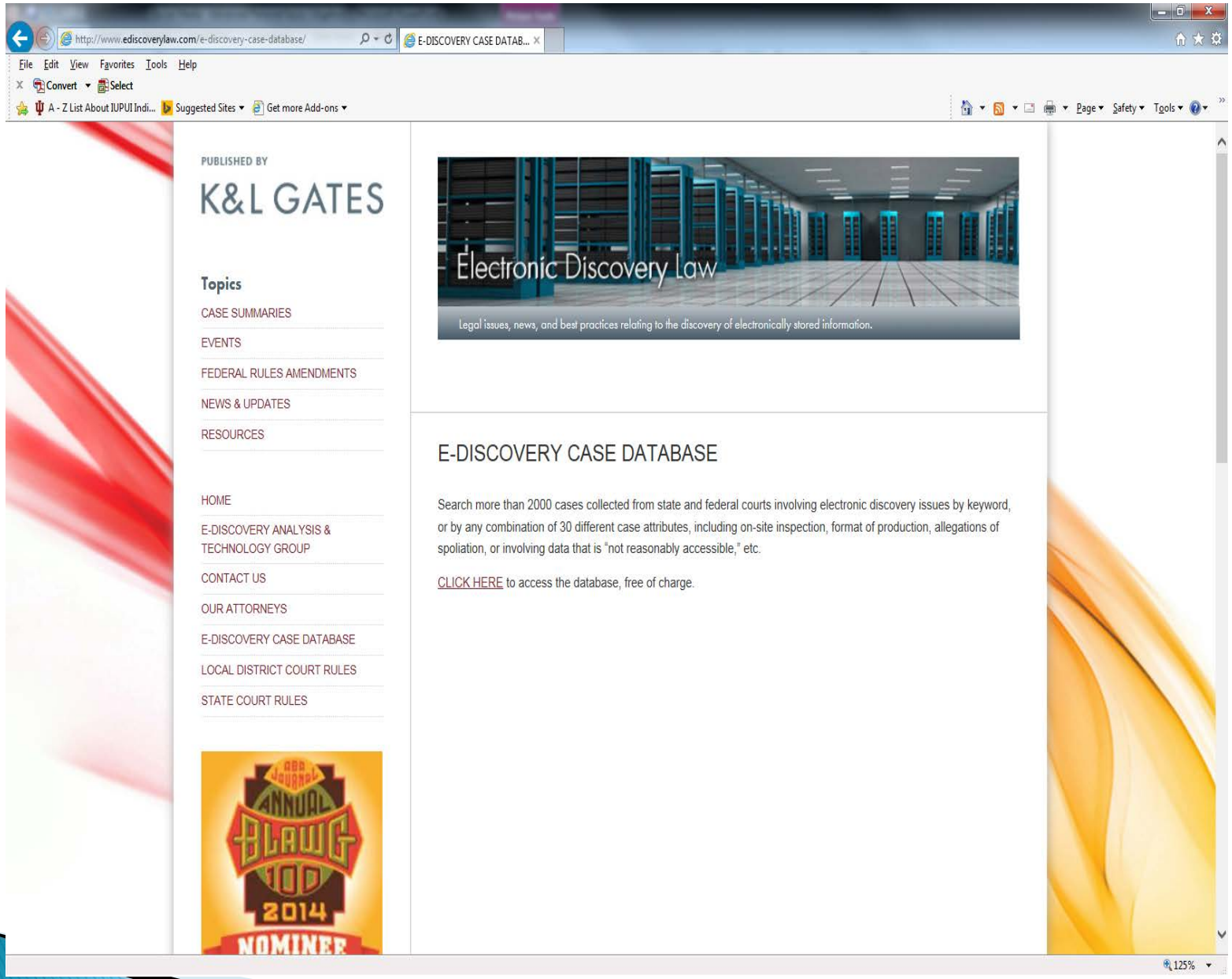
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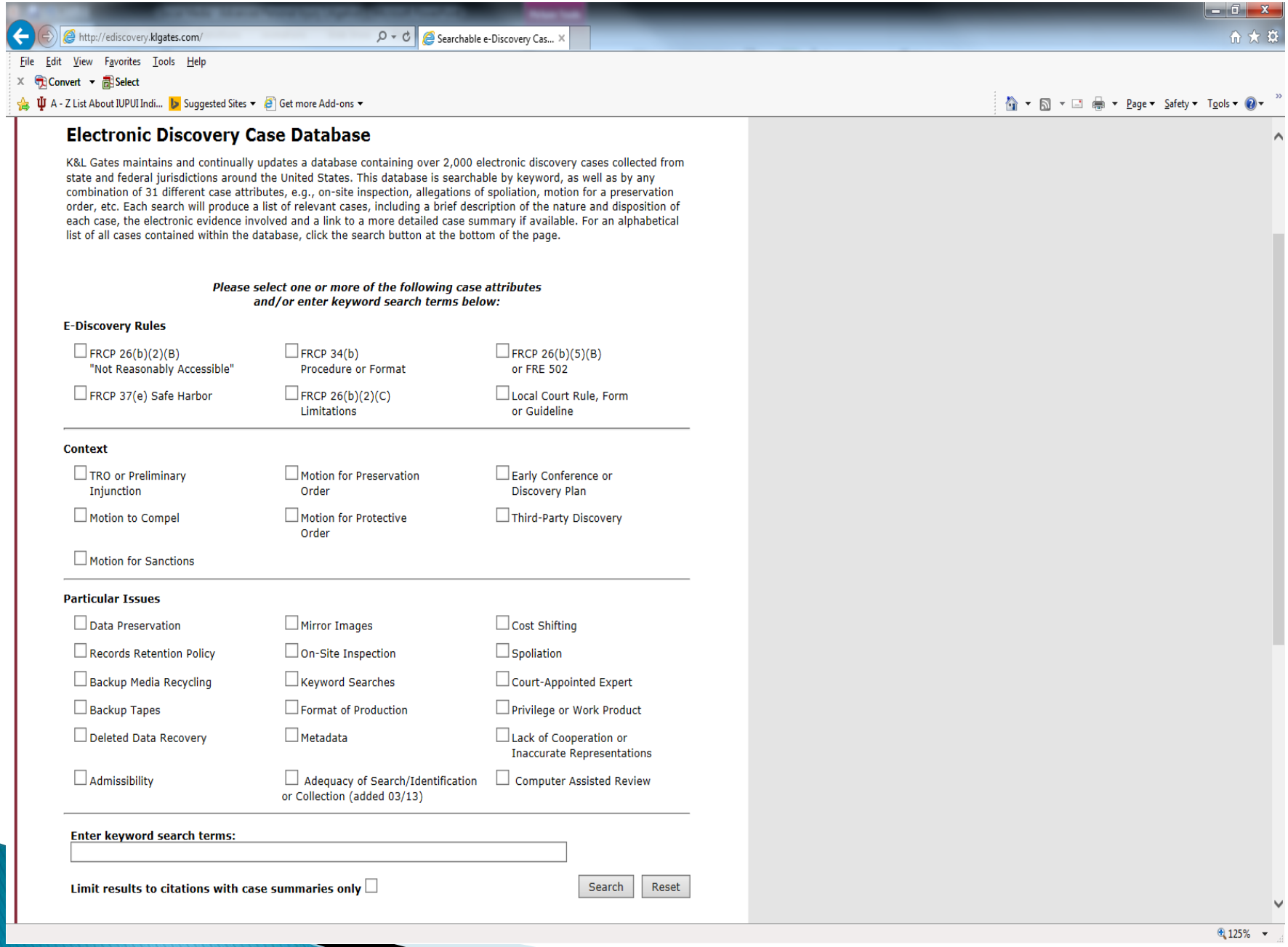
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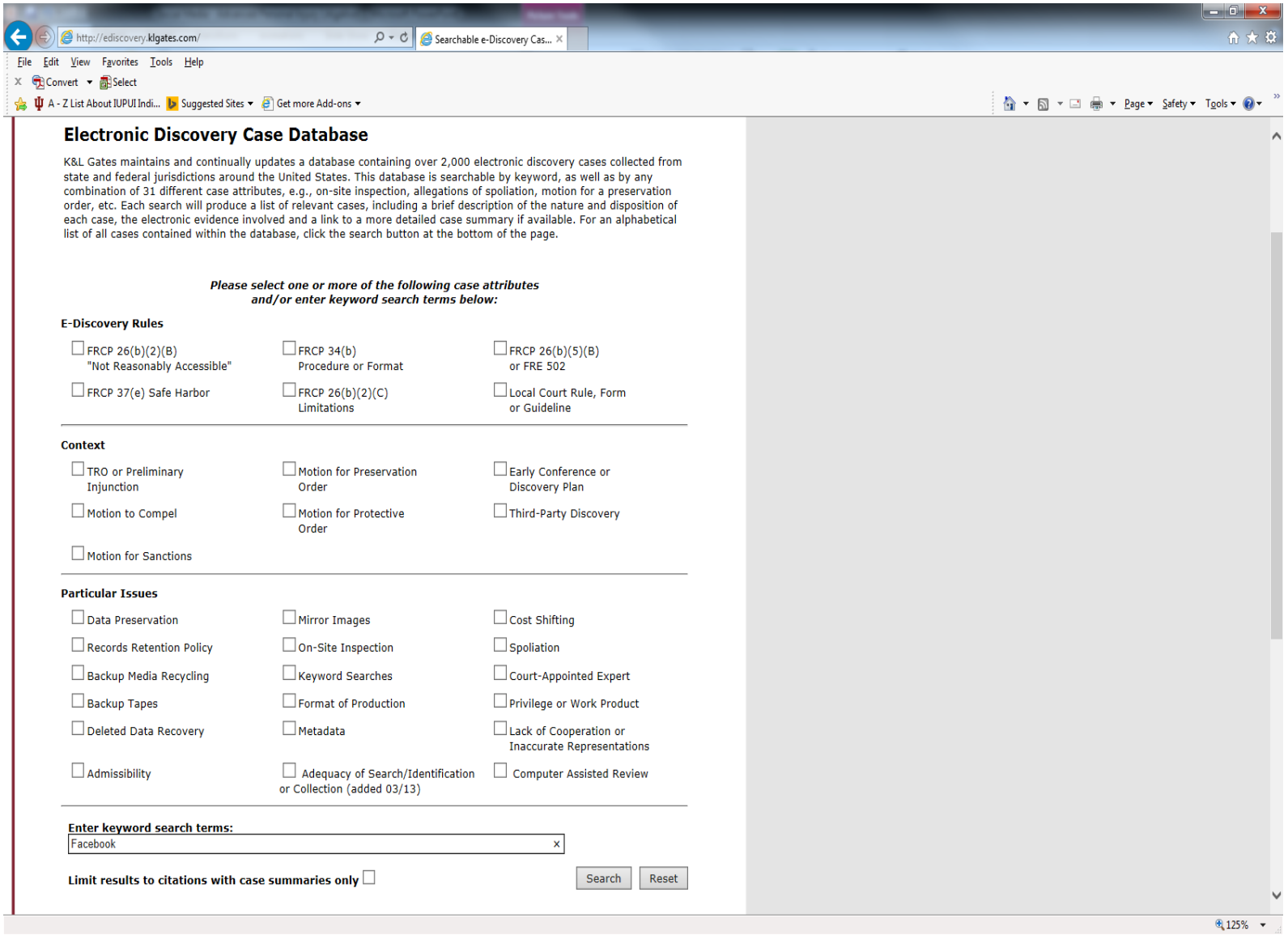
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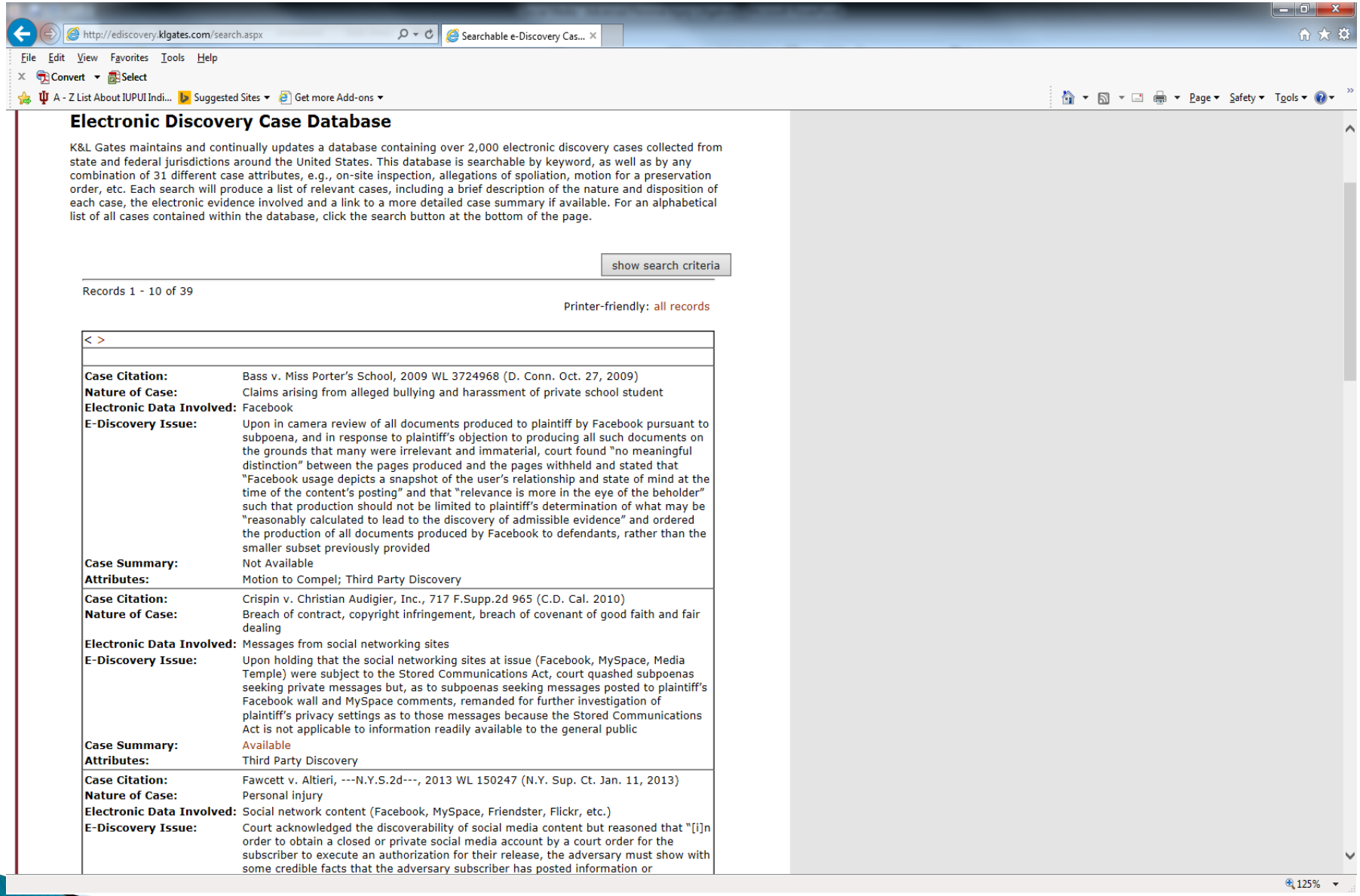
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Case Citation: Bass v. Miss Porter's School, 2009 WL 3724968 (D. Conn. Oct. 27, 2009)
Nature of Case: Claims arising from alleged bullying and harassment of private school student
Electronic Data Involved: Facebook
E-Discovery Issue: Upon in camera review of all documents produced to plaintiff by Facebook pursuant to subpoena, and in response to plaintiff's objection to producing all such documents on the grounds that many were irrelevant and immaterial, court found "no meaningful distinction" between the pages produced and the pages withheld and stated that "Facebook usage depicts a snapshot of the user's relationship and state of mind at the time of the content's posting" and that "relevance is more in the eye of the beholder" such that production should not be limited to plaintiff's determination of what may be "reasonably calculated to lead to the discovery of admissible evidence" and ordered the production of all documents produced by Facebook to defendants, rather than the smaller subset previously provided
Case Summary: Not Available
Attributes: Motion to Compel; Third Party Discovery
Case Citation: Crispin v. Christian Audigier, Inc., 717 F.Supp.2d 965 (C.D. Cal. 2010)
Nature of Case: Breach of contract, copyright infringement, breach of covenant of good faith and fair dealing
Electronic Data Involved: Messages from social networking sites
E-Discovery Issue: Upon holding that the social networking sites at issue (Facebook, MySpace, Media Temple) were subject to the Stored Communications Act, court quashed subpoenas seeking private messages but, as to subpoenas seeking messages posted to plaintiff's Facebook wall and MySpace comments, remanded for further investigation of plaintiff's privacy settings as to those messages because the Stored Communications Act is not applicable to information readily available to the general public
Case Summary: Available
Attributes: Third Party Discovery
Case Citation: Fawcett v. Altieri, ---N.Y.S.2d---, 2013 WL 150247 (N.Y. Sup. Ct. Jan. 11, 2013)
Nature of Case: Personal injury
Electronic Data Involved: Social network content (Facebook, MySpace, Friendster, Flickr, etc.)
E-Discovery Issue: Court acknowledged the discoverability of social media content but reasoned that "[i]n order to obtain a closed or private social media account by a court order for the subscriber to execute an authorization for their release, the adversary must show with some credible facts that the adversary subscriber has posted information or
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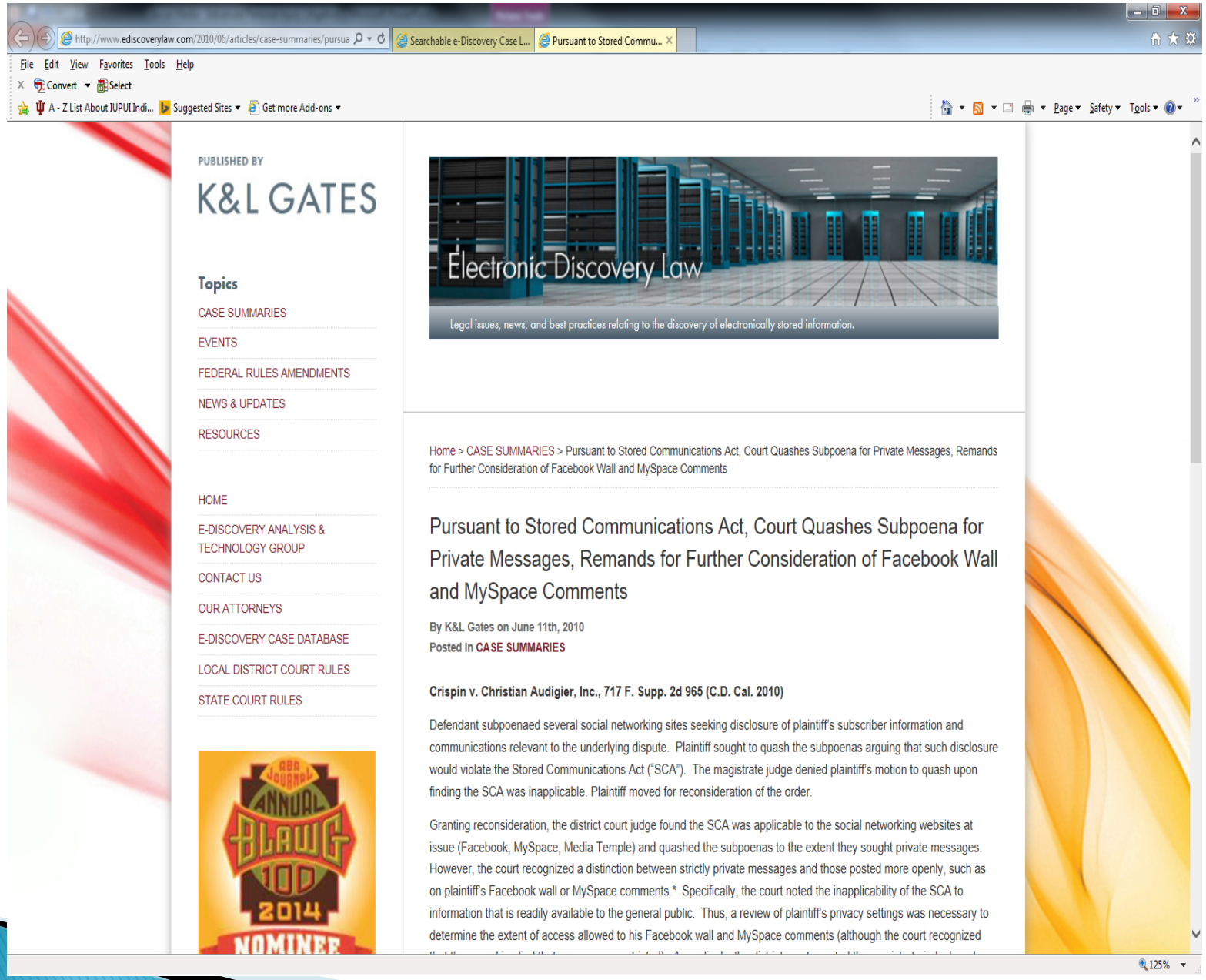
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Pursuant to Stored Communications Act, Court Quashes Subpoena for Private Messages, Remands for Further Consideration of Facebook Wall and MySpace Comments
By K&L Gates on June 11th, 2010
Posted in CASE SUMMARIES
Crispin v. Christian Audigier, Inc., 717 F. Supp. 2d 965 (C.D. Cal. 2010)
Defendant subpoenaed several social networking sites seeking disclosure of plaintiff's subscriber information and communications relevant to the underlying dispute. Plaintiff sought to quash the subpoenas arguing that such disclosure would violate the Stored Communications Act ("SCA"). The magistrate judge denied plaintiff's motion to quash upon finding the SCA was inapplicable. Plaintiff moved for reconsideration of the order.
Granting reconsideration, the district court judge found the SCA was applicable to the social networking websites at issue (Facebook, MySpace, Media Temple) and quashed the subpoenas to the extent they sought private messages. However, the court recognized a distinction between strictly private messages and those posted more openly, such as on plaintiff's Facebook wall or MySpace comments.* Specifically, the court noted the inapplicability of the SCA to information that is readily available to the general public. Thus, a review of plaintiff's privacy settings was necessary to determine the extent of access allowed to his Facebook wall and MySpace comments (although the court recognized
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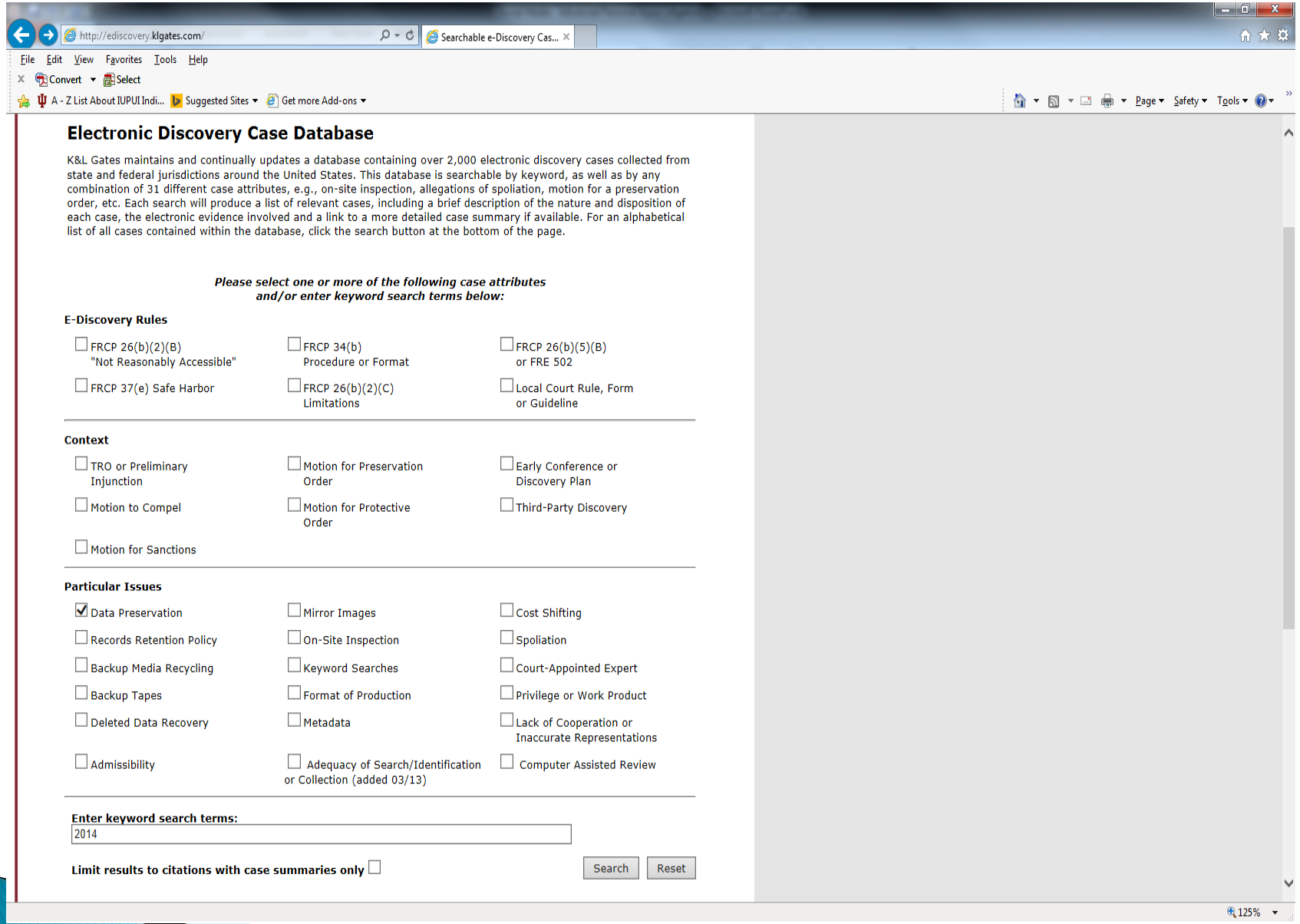
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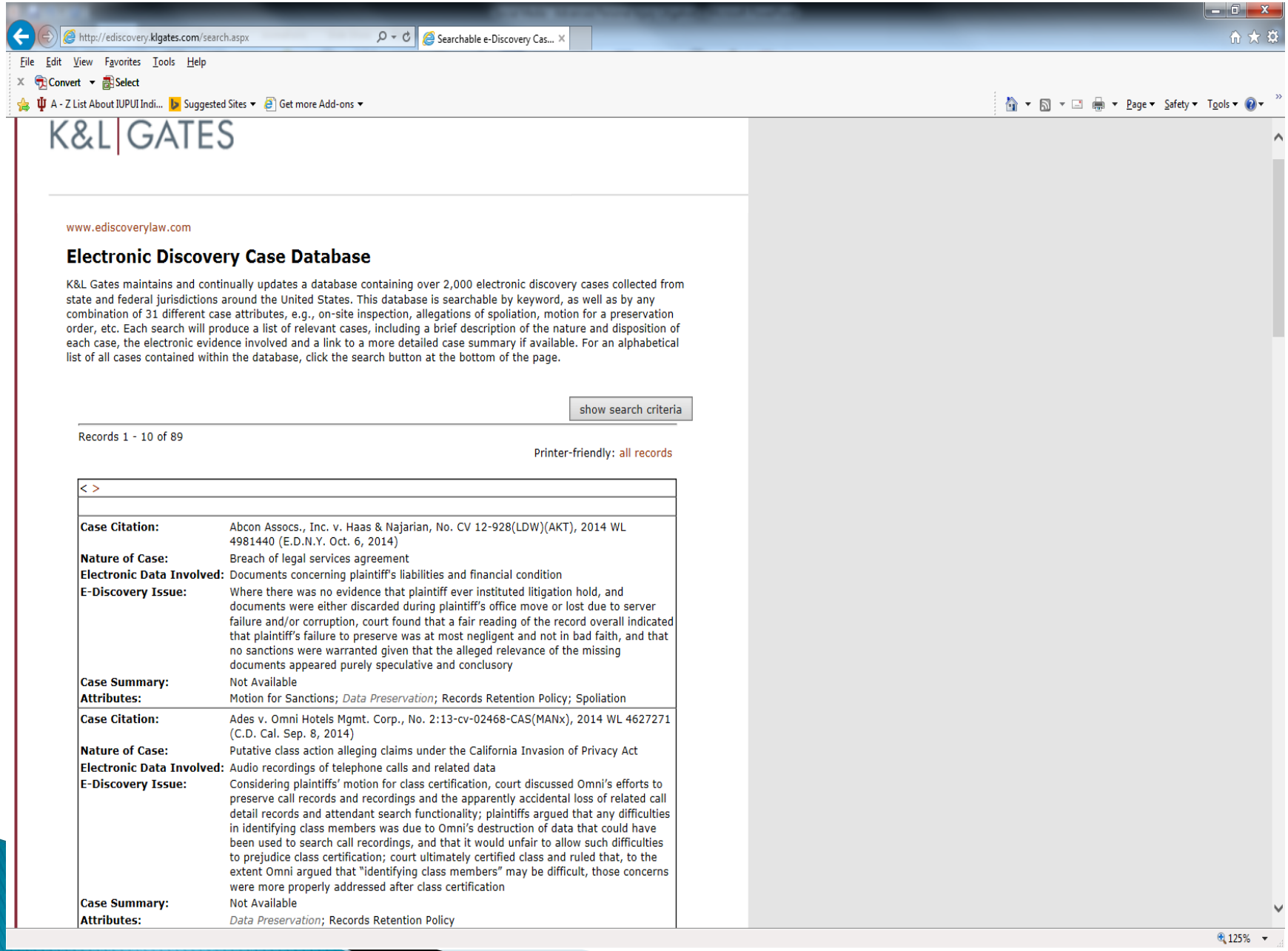
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Case Citation: Abcon Assocs., Inc. v. Haas & Najarian, No. CV 12-928(LDW)(AKT), 2014 WL 4981440 (E.D.N.Y. Oct. 6, 2014)
Nature of Case: Breach of legal services agreement
Electronic Data Involved: Documents concerning plaintiff's liabilities and financial condition
E-Discovery Issue: Where there was no evidence that plaintiff ever instituted litigation hold, and documents were either discarded during plaintiff's office move or lost due to server failure and/or corruption, court found that a fair reading of the record overall indicated that plaintiff's failure to preserve was at most negligent and not in bad faith, and that no sanctions were warranted given that the alleged relevance of the missing documents appeared purely speculative and conclusory
Case Summary: Not Available
Attributes: Motion for Sanctions; Data Preservation; Records Retention Policy; Spoliation
Case Citation: Ades v. Omni Hotels Mgmt. Corp., No. 2:13-cv-02468-CAS(MANx), 2014 WL 4627271 (C.D. Cal. Sep. 8, 2014)
Nature of Case: Putative class action alleging claims under the California Invasion of Privacy Act
Electronic Data Involved: Audio recordings of telephone calls and related data
E-Discovery Issue: Considering plaintiffs' motion for class certification, court discussed Omni's efforts to preserve call records and recordings and the apparently accidental loss of related call detail records and attendant search functionality; plaintiffs argued that any difficulties in identifying class members was due to Omni's destruction of data that could have been used to search call recordings, and that it would unfair to allow such difficulties to prejudice class certification; court ultimately certified class and ruled that, to the extent Omni argued that "identifying class members" may be difficult, those concerns were more properly addressed after class certification
Case Summary: Not Available
Attributes: Data Preservation; Records Retention Policy
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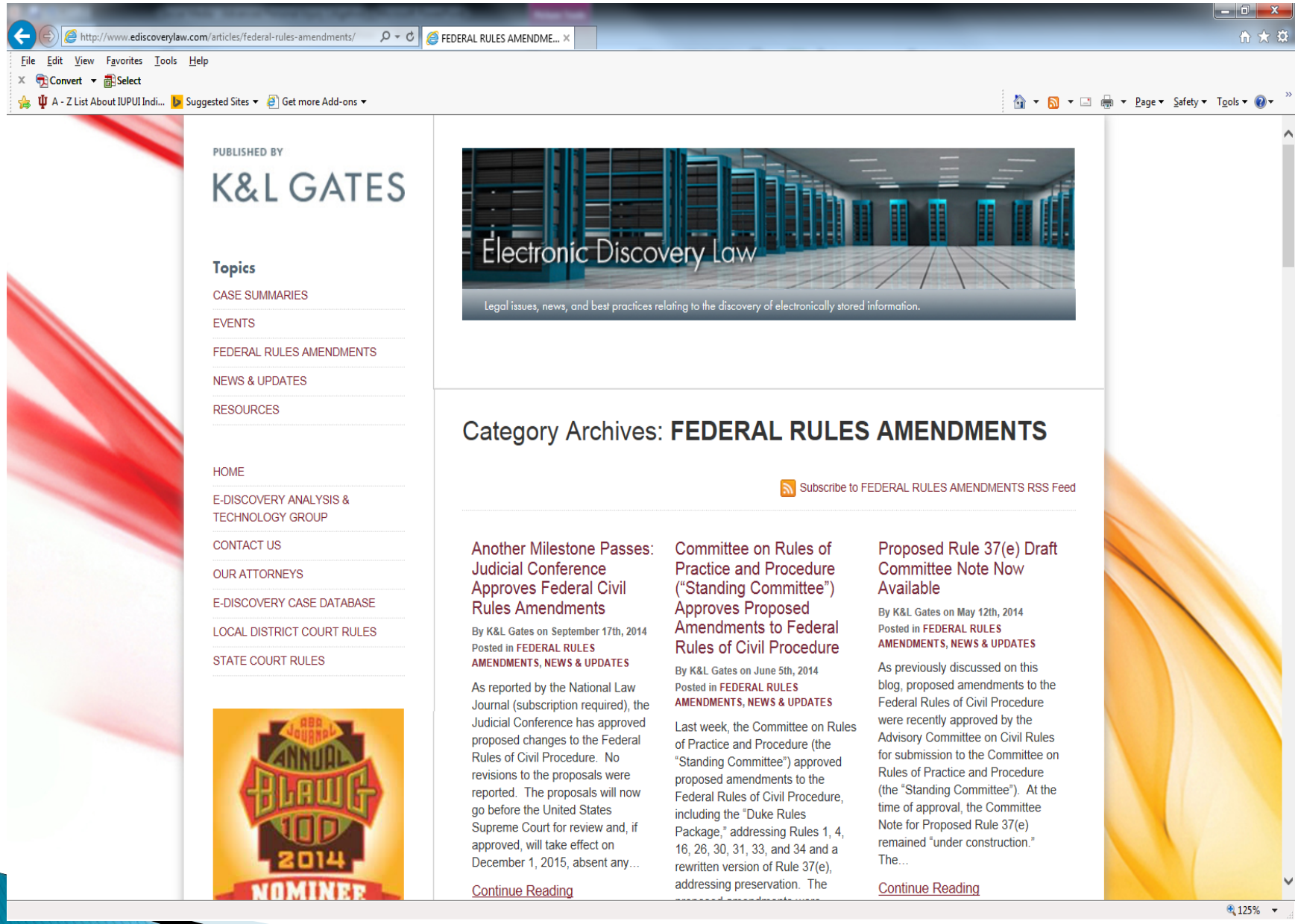
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Another Milestone Passes: Judicial Conference Approves Federal Civil Rules Amendments
By K&L Gates on September 17th, 2014
Posted in FEDERAL RULES AMENDMENTS, NEWS & UPDATES
As reported by the National Law Journal (subscription required), the Judicial Conference has approved proposed changes to the Federal Rules of Civil Procedure. No revisions to the proposals were reported. The proposals will now go before the United States Supreme Court for review and, if approved, will take effect on December 1, 2015, absent any…
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Committee on Rules of Practice and Procedure ("Standing Committee") Approves Proposed Amendments to Federal Rules of Civil Procedure
By K&L Gates on June 5th, 2014
Posted in FEDERAL RULES AMENDMENTS, NEWS & UPDATES
Last week, the Committee on Rules of Practice and Procedure (the "Standing Committee") approved proposed amendments to the Federal Rules of Civil Procedure, including the "Duke Rules Package," addressing Rules 1, 4, 16, 26, 30, 31, 33, and 34 and a rewritten version of Rule 37(e), addressing preservation. The
Proposed Rule 37(e) Draft Committee Note Now Available
By K&L Gates on May 12th, 2014
Posted in FEDERAL RULES AMENDMENTS, NEWS & UPDATES
As previously discussed on this blog, proposed amendments to the Federal Rules of Civil Procedure were recently approved by the Advisory Committee on Civil Rules for submission to the Committee on Rules of Practice and Procedure (the "Standing Committee"). At the time of approval, the Committee Note for Proposed Rule 37(e) remained "under construction." The…
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Local Rules, Forms and Guidelines of United States District Courts Addressing E-Discovery Issues

Many United States District Courts now require compliance with special local rules, forms or guidelines addressing the discovery of electronically stored information. Below is a collection of those local rules, forms and guidelines, with links to the relevant materials. Please note also that many individual judges and magistrate judges have created their own forms or have crafted their own preferred protocols for e-discovery. These are generally available on the website of the individual judge or magistrate judge and care should be taken to ensure you are aware of any such forms or guidelines in any court you may appear in.

District of Alaska
Local Rules (Civil)
Local Form 26(f): Scheduling and Planning Conference Report
Local Rule 16.1 Pre-Trial Procedures (requiring use of Local Form 26(f) or one substantially similar)

Eastern and Western Districts of Arkansas
Local Rule 26.1 Outline for Fed. R. Civ. P. 26(f) Report

Northern District of California
Guidelines for the Discovery of Electronically Stored Information
ESI Checklist for use during the Rule 26(f) meet and confer process
Model Stipulated Order Re: the Discovery of Electronically Stored Information
Standing Order for All Judges of the Northern District of California

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Kroll Ontrack

- A second excellent resource for materials on electronic discovery is the Kroll Ontrack. (http://www.krollontrack.com/, accessed 11/12/14)
- This website includes blogs on electronic discovery and data recovery, white papers, case studies and industry news.
- It also offers a searchable database of electronic discovery cases that complements what is provided by K&L Gates and is searchable by keyword as well as by e-discovery-related topics and jurisdiction. (http://www.ediscovery.com/pulse/case-law/, accessed 11/12/14)
- I find it comforting when both of these databases provide summaries of the same case, but also they may cover different cases, which broadens my collection of cases.

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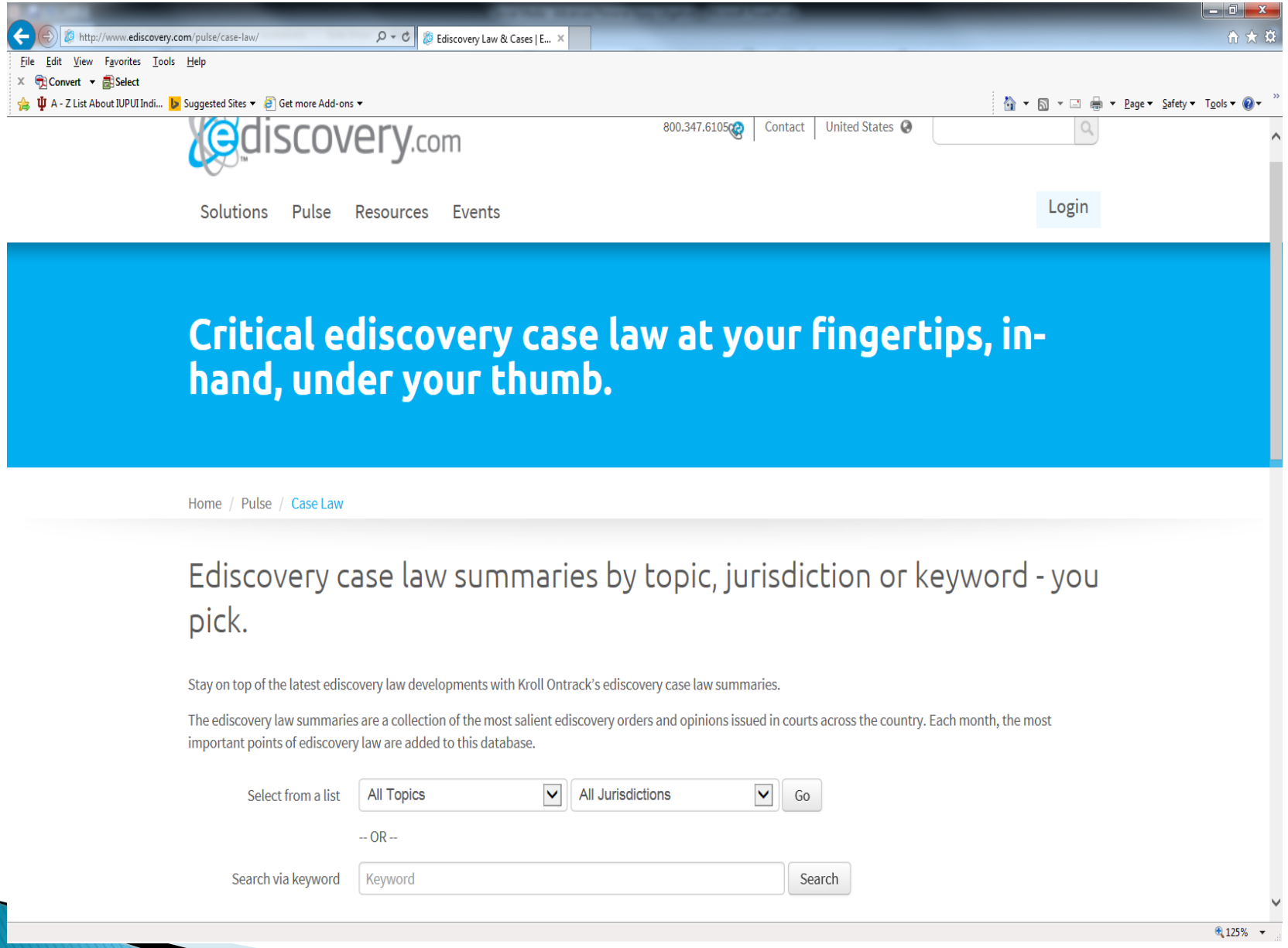
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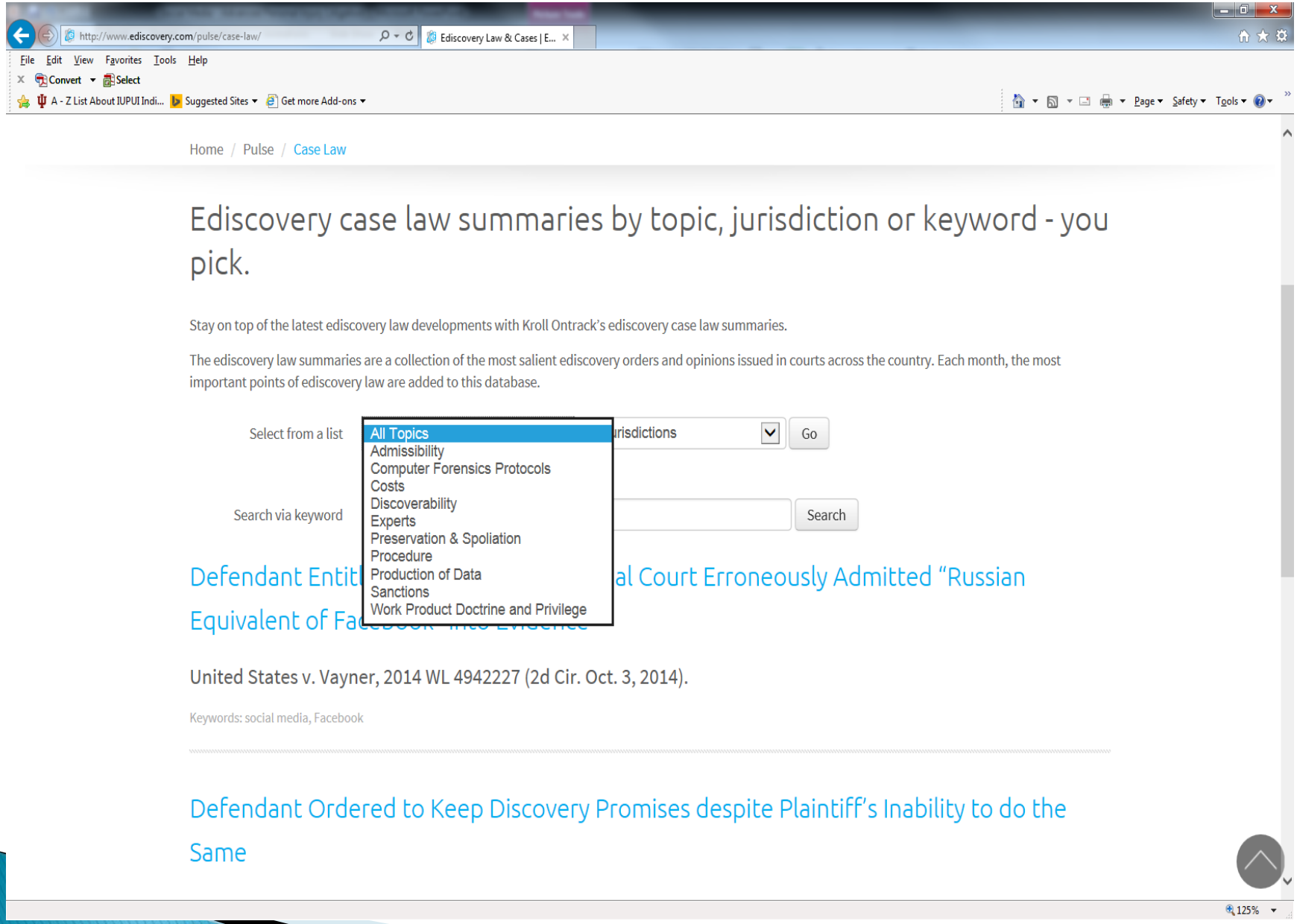
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United States v. Vayner, 2014 WL 4942227 (2d Cir. Oct. 3, 2014).
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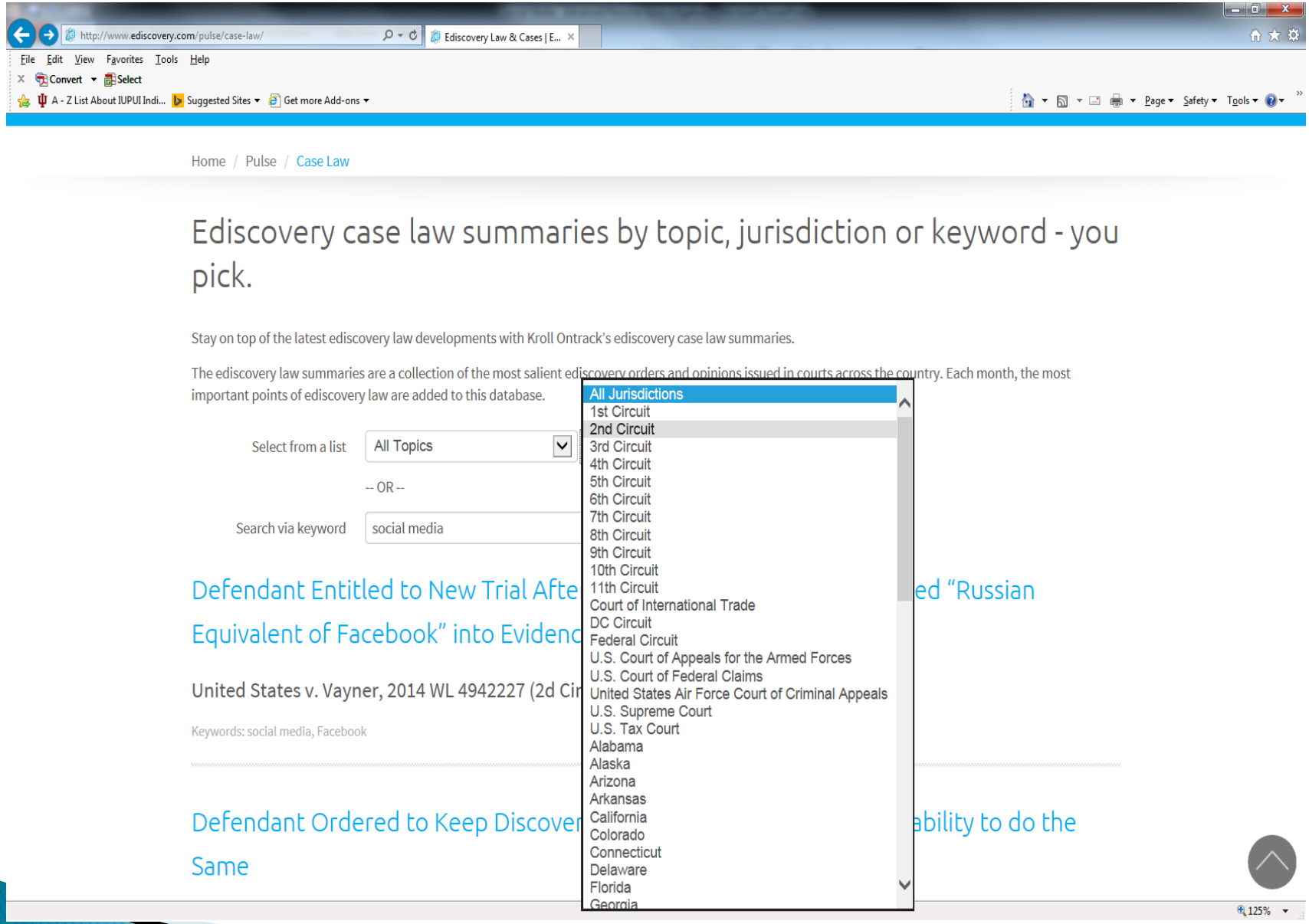
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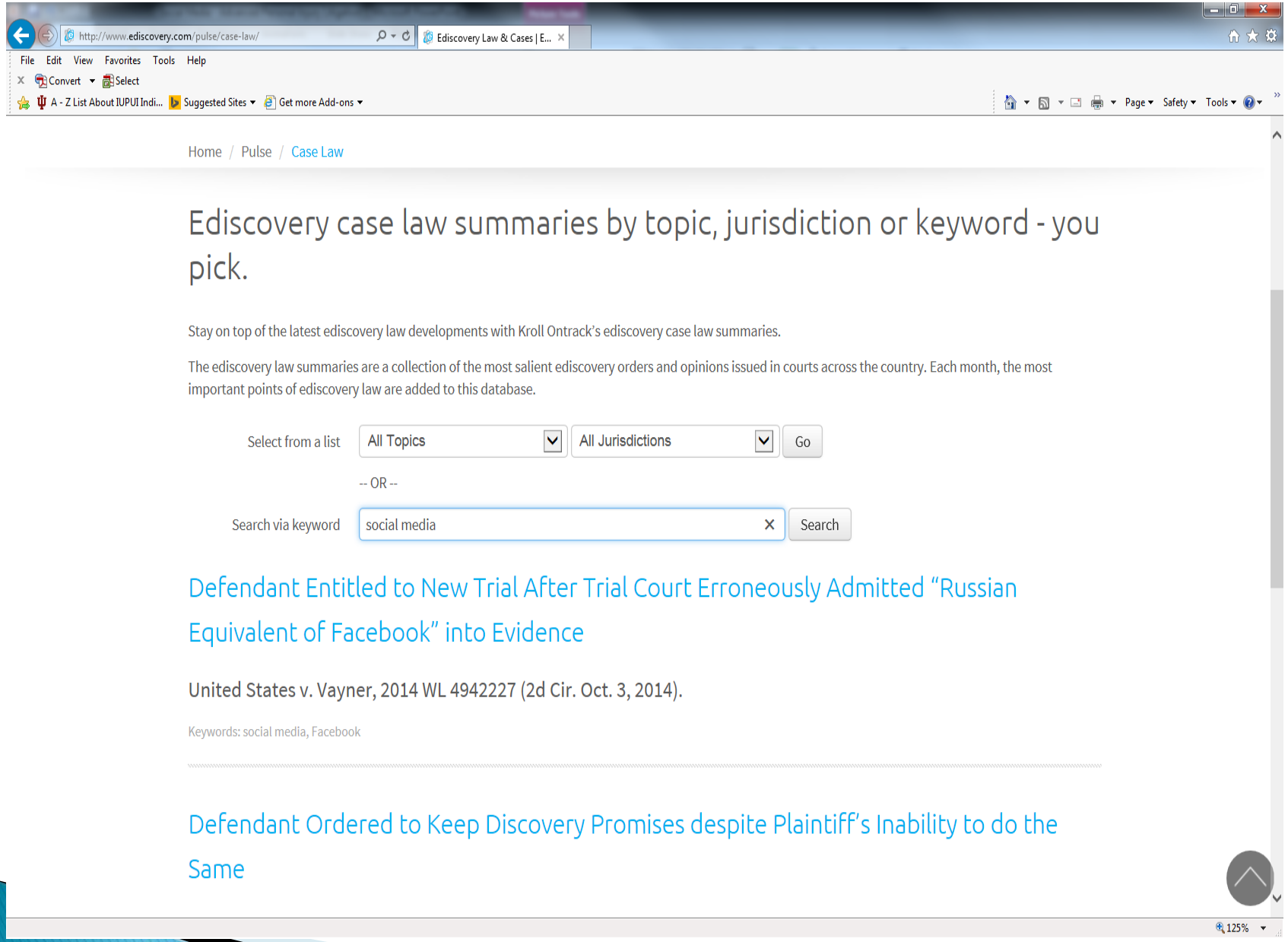
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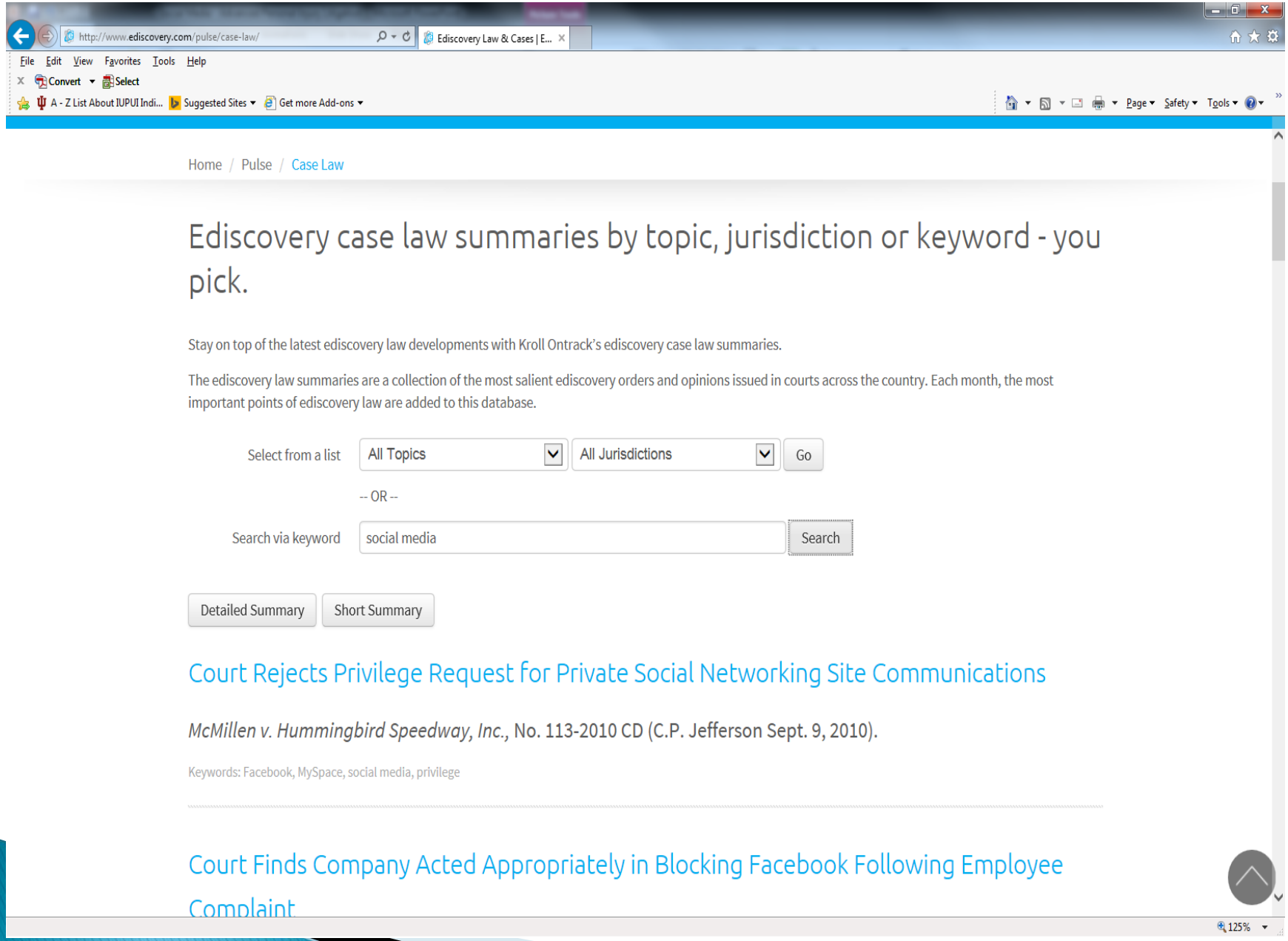
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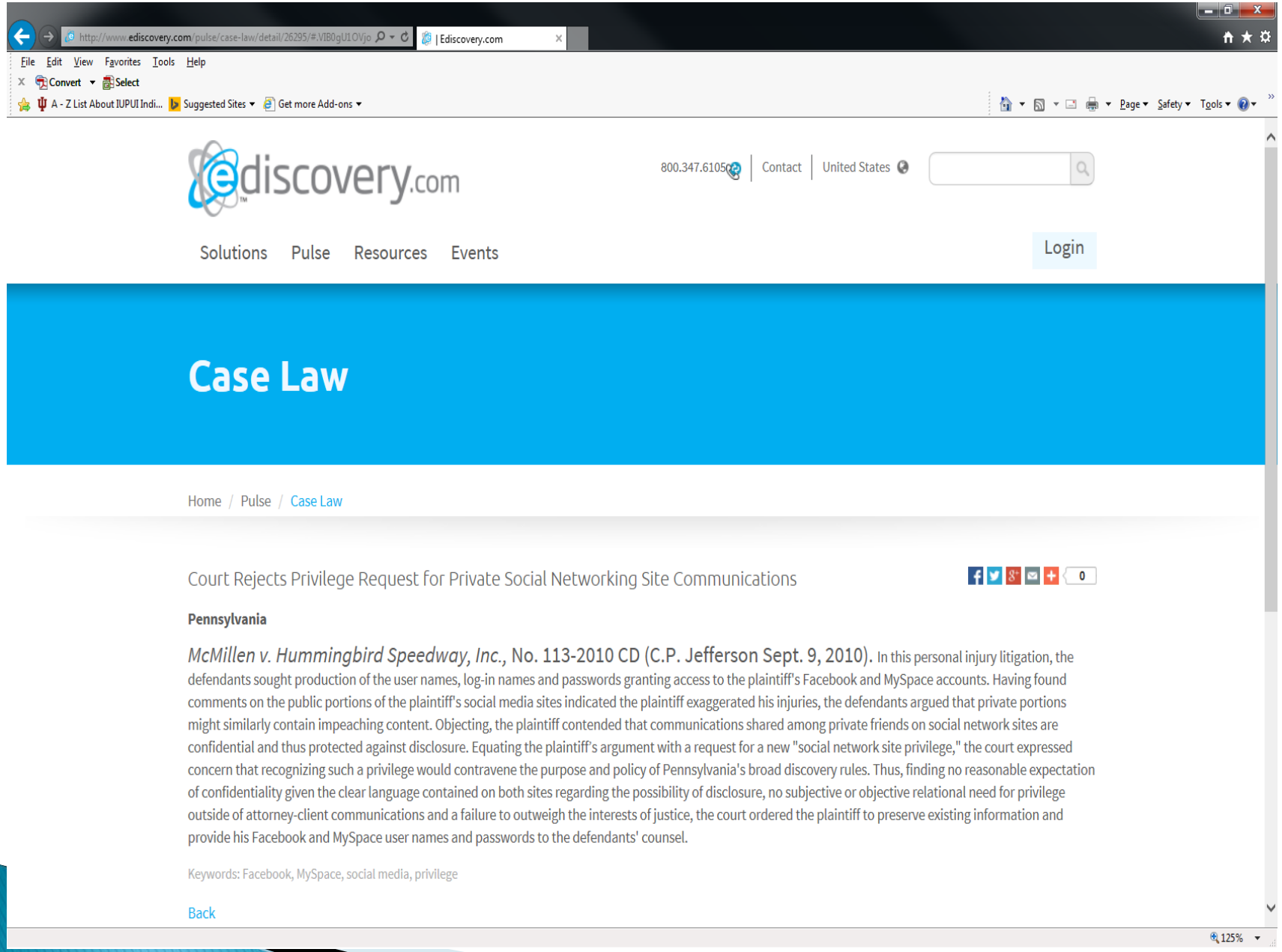
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McMillen v. Hummingbird Speedway, Inc., No. 113-2010 CD (C.P. Jefferson Sept. 9, 2010). In this personal injury litigation, the defendants sought production of the user names, log-in names and passwords granting access to the plaintiff's Facebook and MySpace accounts. Having found comments on the public portions of the plaintiff's social media sites indicated the plaintiff exaggerated his injuries, the defendants argued that private portions might similarly contain impeaching content. Objecting, the plaintiff contended that communications shared among private friends on social network sites are confidential and thus protected against disclosure. Equating the plaintiff's argument with a request for a new "social network site privilege," the court expressed concern that recognizing such a privilege would contravene the purpose and policy of Pennsylvania's broad discovery rules. Thus, finding no reasonable expectation of confidentiality given the clear language contained on both sites regarding the possibility of disclosure, no subjective or objective relational need for privilege outside of attorney-client communications and a failure to outweigh the interests of justice, the court ordered the plaintiff to preserve existing information and provide his Facebook and MySpace user names and passwords to the defendants' counsel.
Keywords: Facebook, MySpace, social media, privilege
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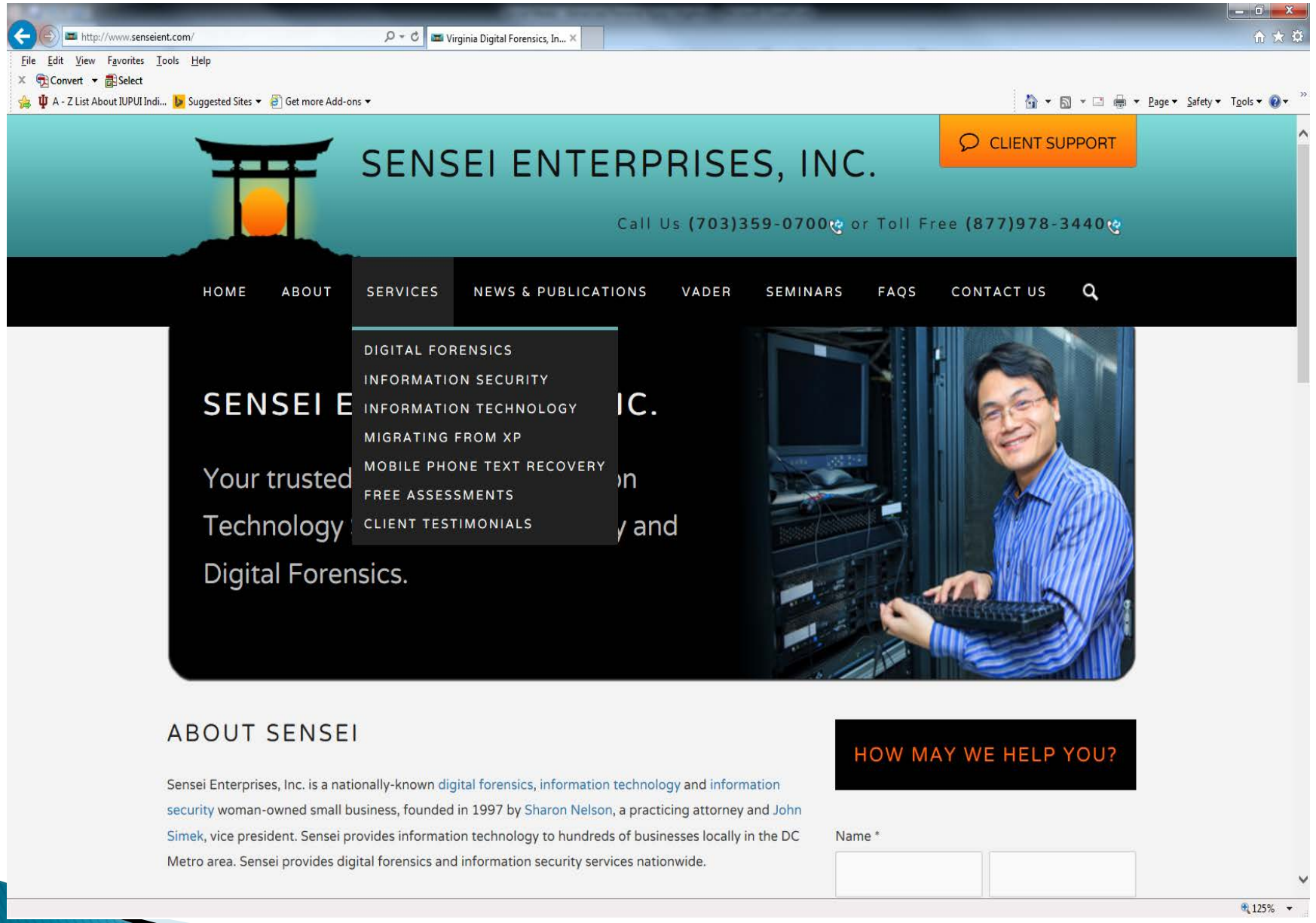
Another Excellent Resource

- Two of my favorite authors are Sharon Nelson and John Simek, who have been on the cutting edge of security, digital forensics, electronic discovery and legal technology for many years through their company, Sensei Enterprises.
- One suggestion is that all lawyers register for Sensei's free article distribution service.
- A recent article by Nelson and Simek covers the preservation and harvesting of social media evidence as well as authentication, which is available from the Sensei Enterprises website.
- In this article, they discuss the benefits and risks of outsourcing the preservation process versus trying to handle it in-house, with special concerns raised about the danger of spoliation which often results in significant sanctions.
- They also provide practical suggestions for how to harvest the information without going through the social media vendor, who are only allowed to provide basic subscriber information, but not content, because of the Stored Communications Act.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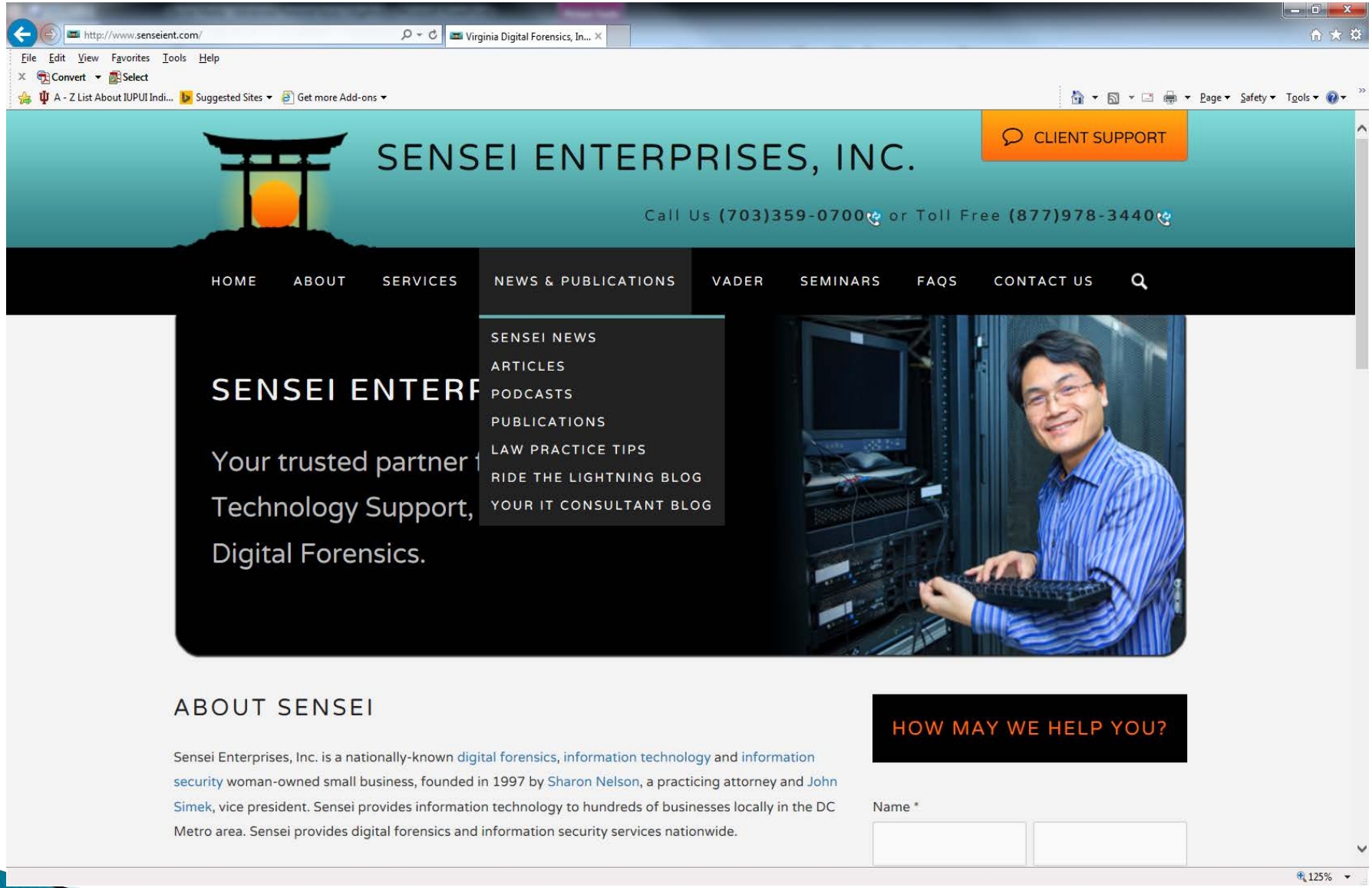
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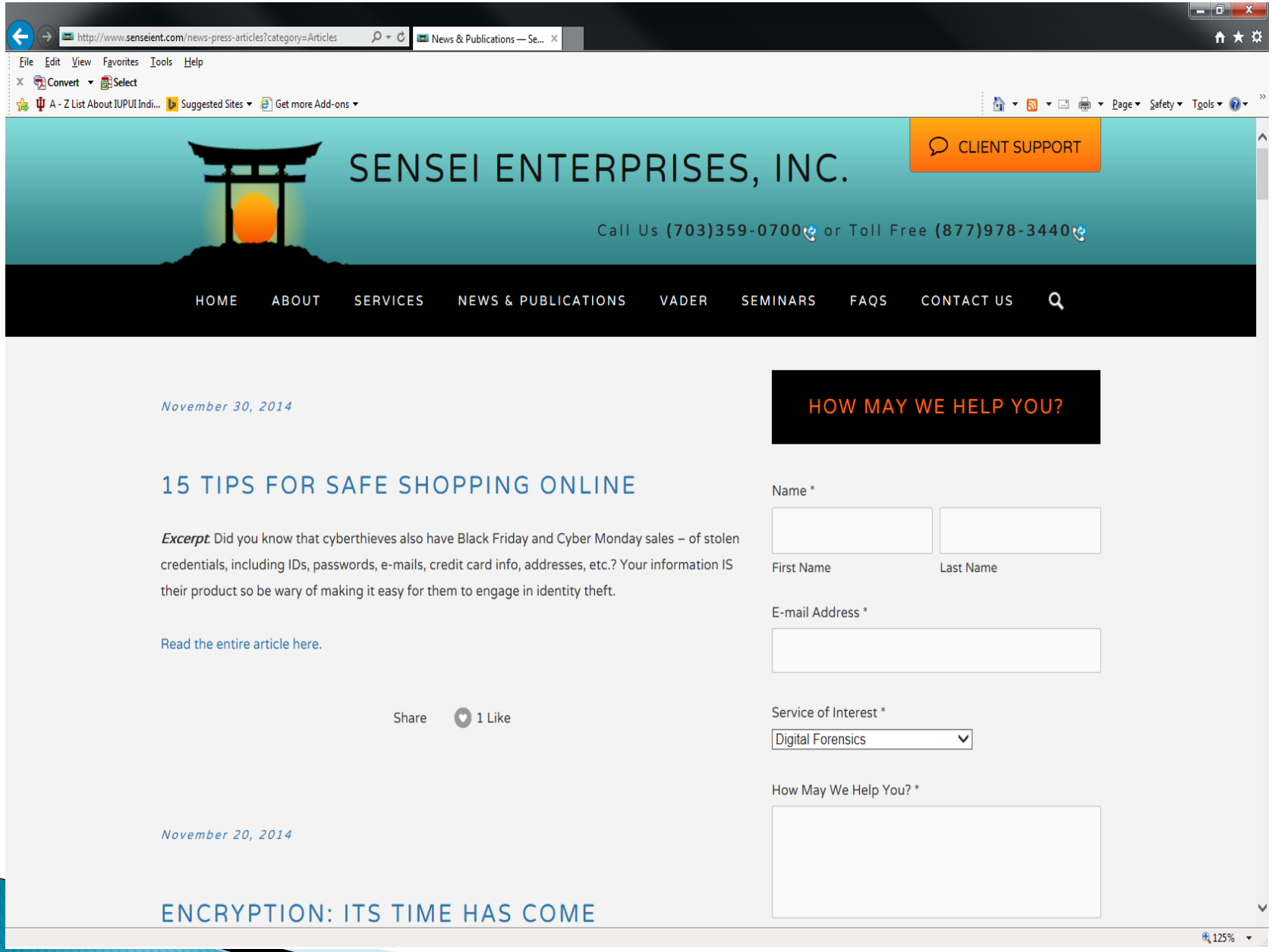
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Intellectual Property Law

- Depending on the area of law you practice in – or have research questions about – there are excellent websites with free databases available.
- For example, the U.S. Patent and Trademark Office provides a wonderful website with information about how to apply for patents and trademarks, manuals and guides, law and policy, and other helpful material, including information for the general public and for kids. (http://www.uspto.gov/, accessed 11/13/14).
- From this website, you can also search the patent database) and the trademark database.
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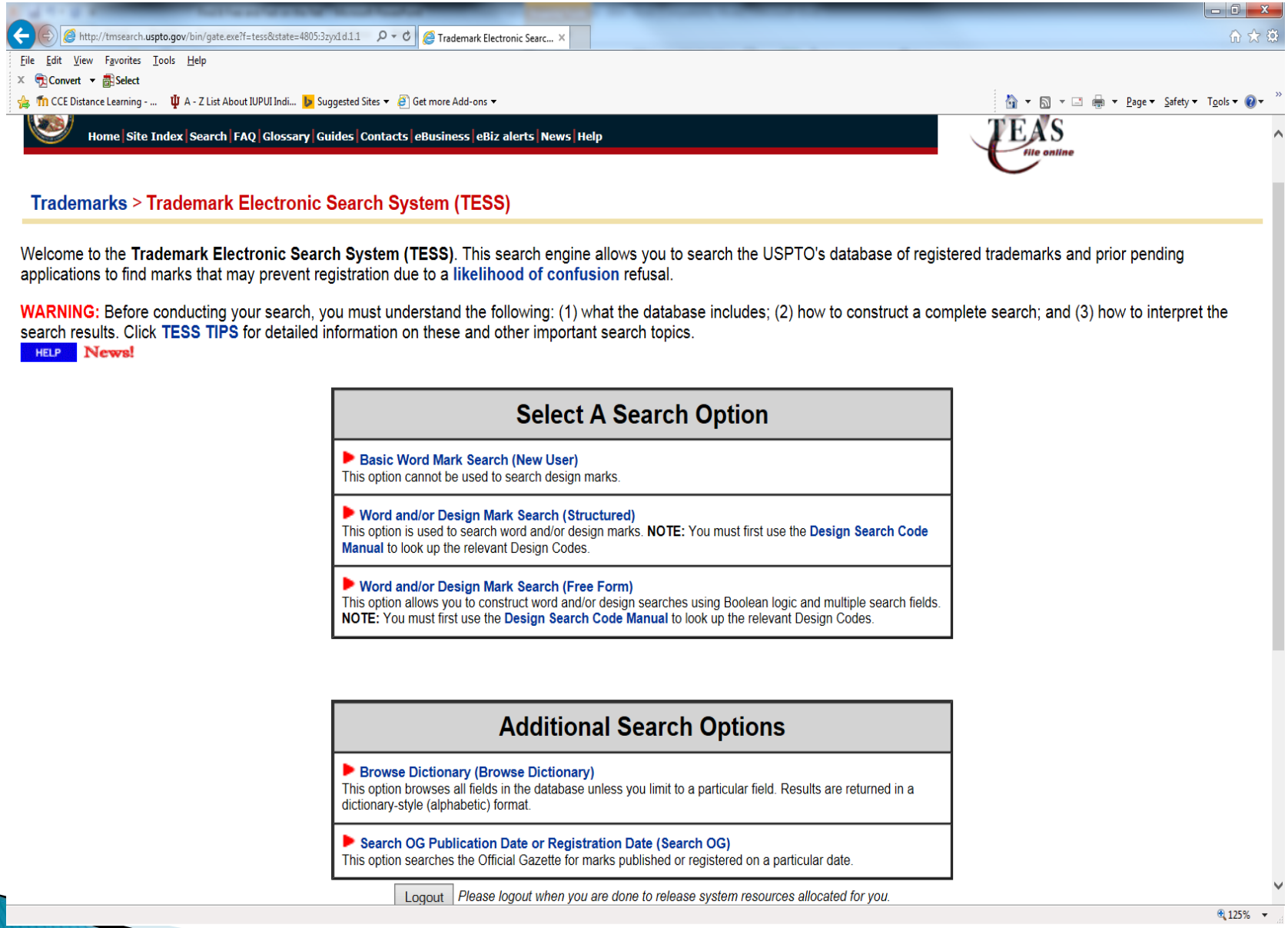
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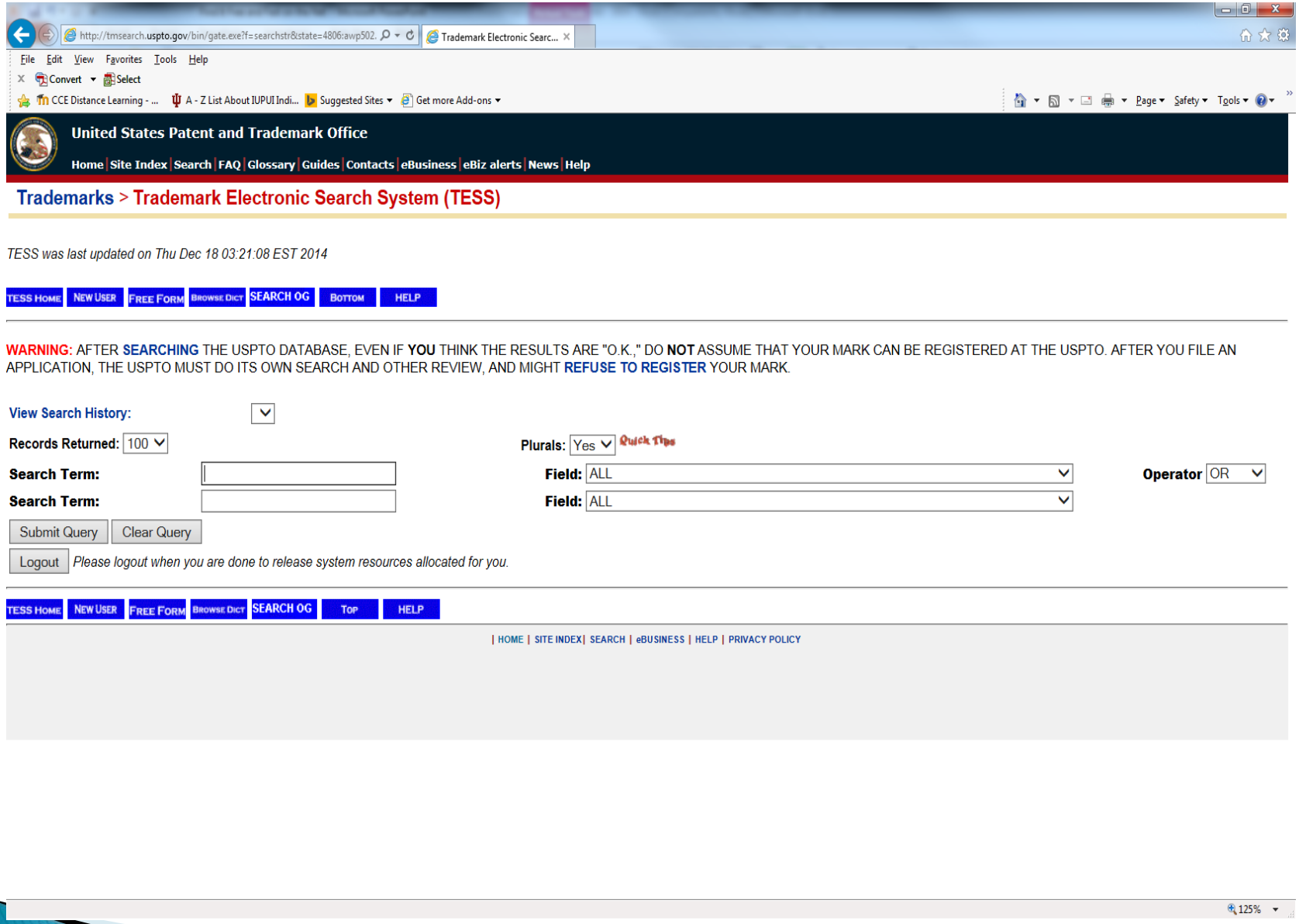
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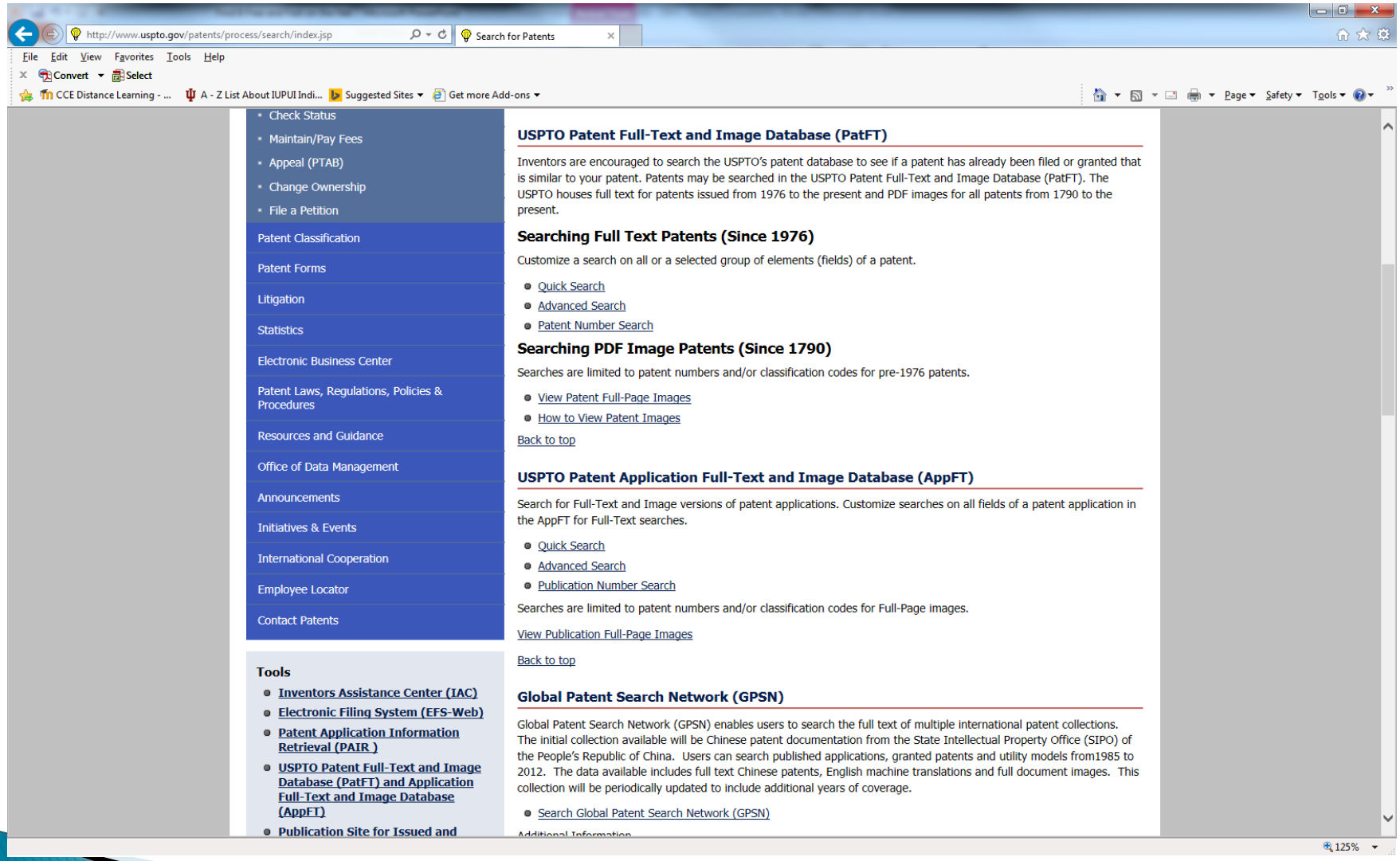
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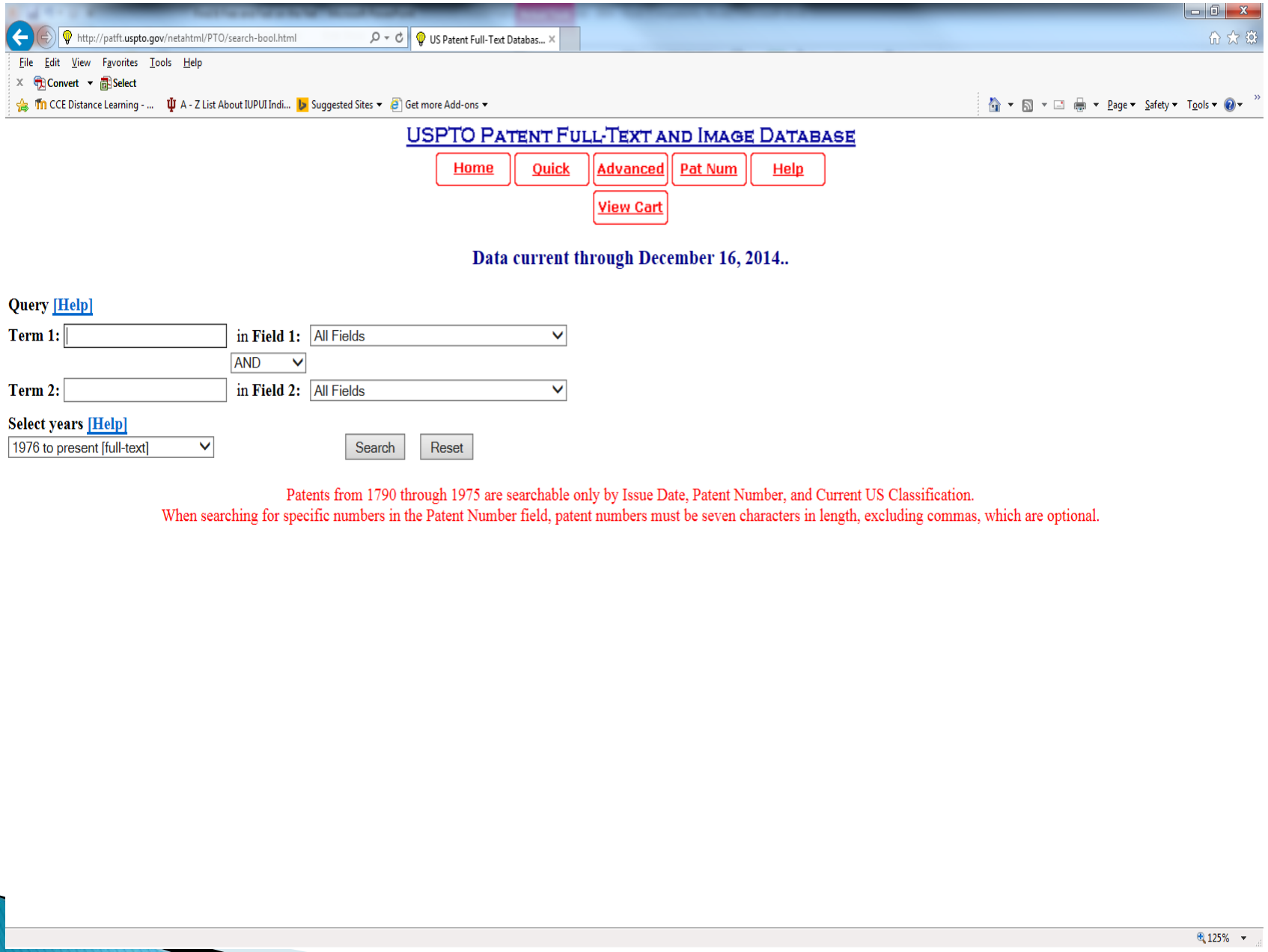
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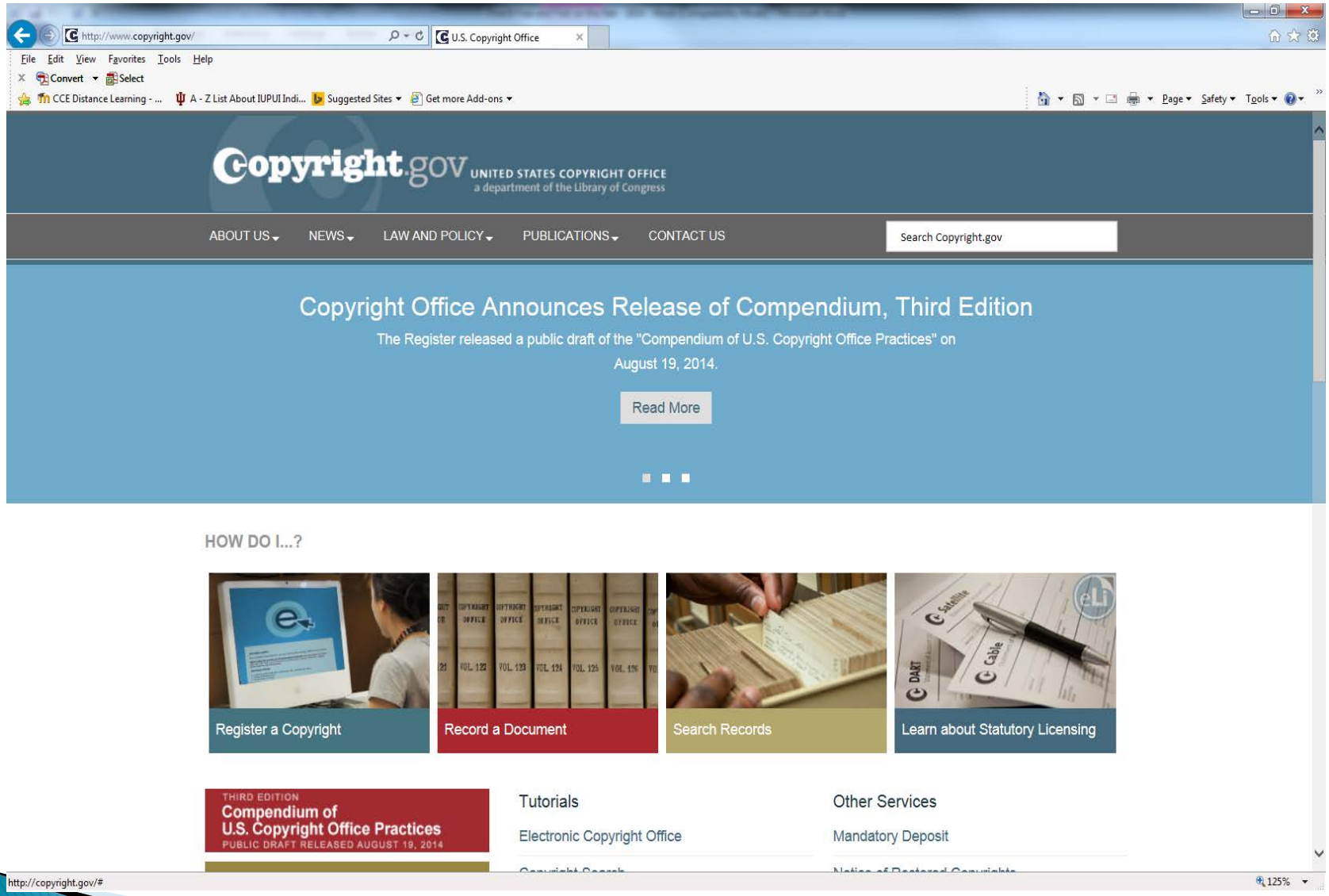
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- Another outstanding source of information can also be found on the websites of professional organizations devoted to specific areas of the law.
- American Intellectual Property Law Association (AIPLA)
- International Legal Technology Association (ILTA)
- Organization of Legal Professionals (OLP)

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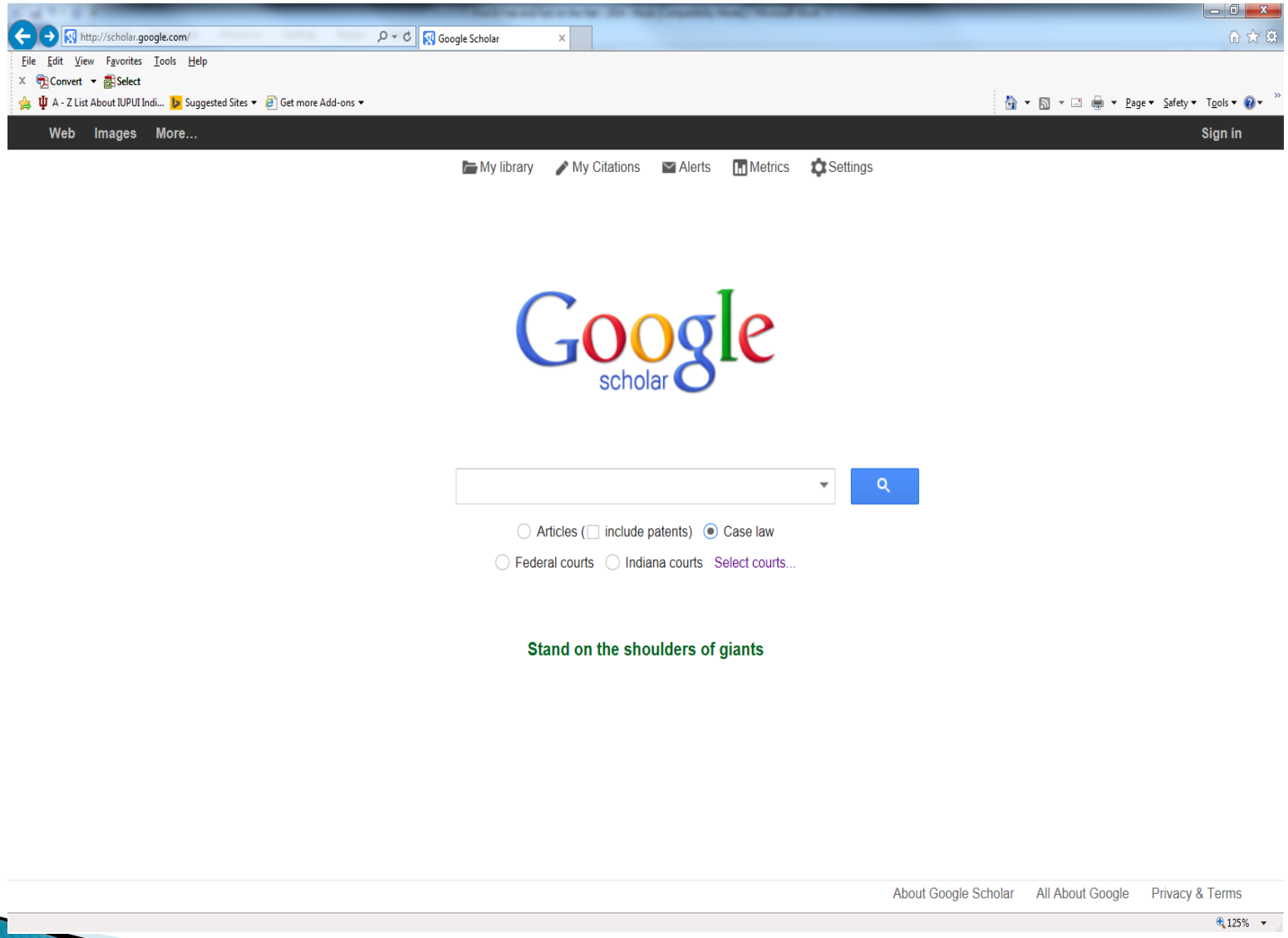
- Casetext (a "crowdsourced" case law database): https://casetext.com
- Supreme Court of the United States: http://www.supremecourt.gov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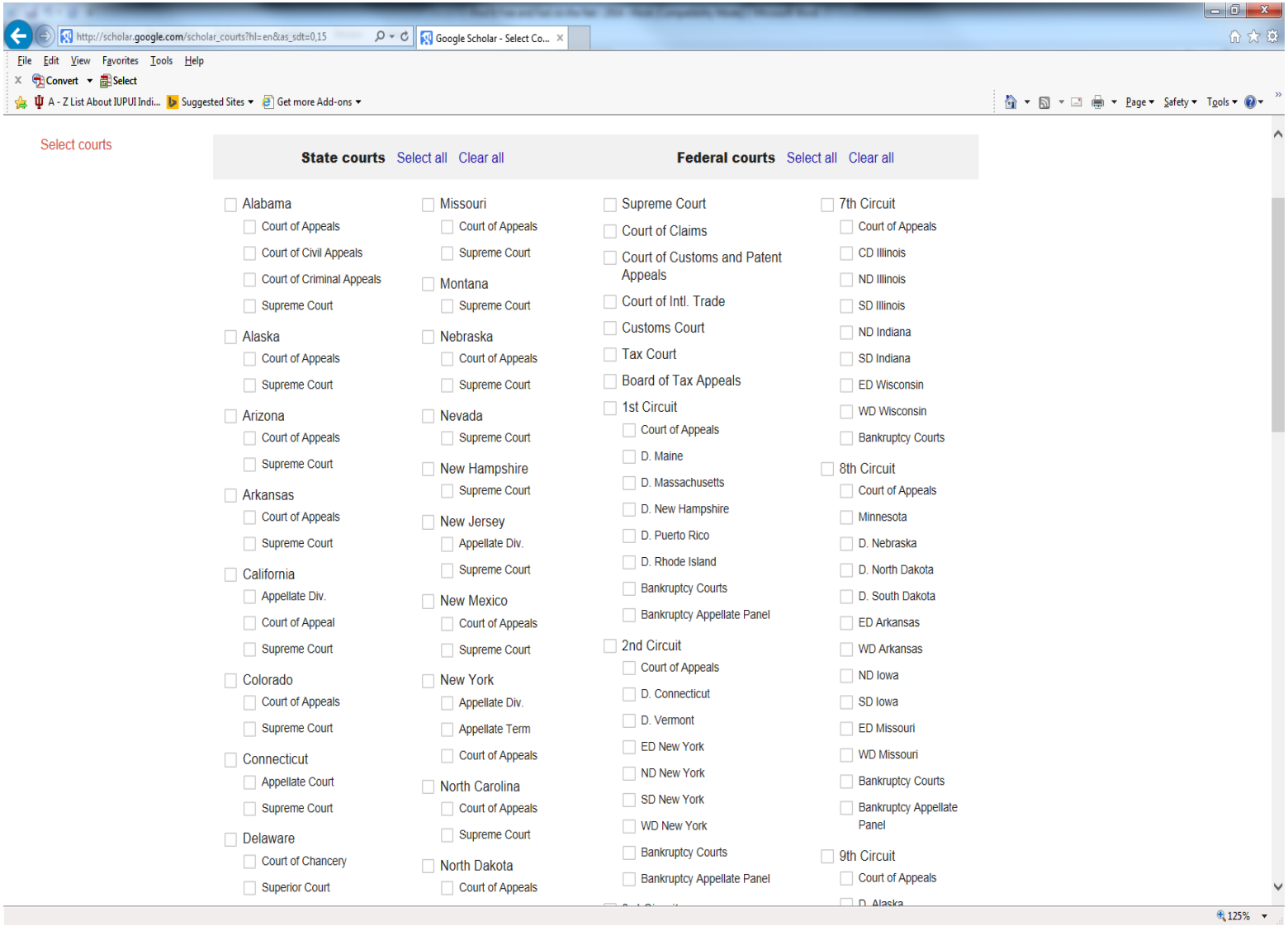
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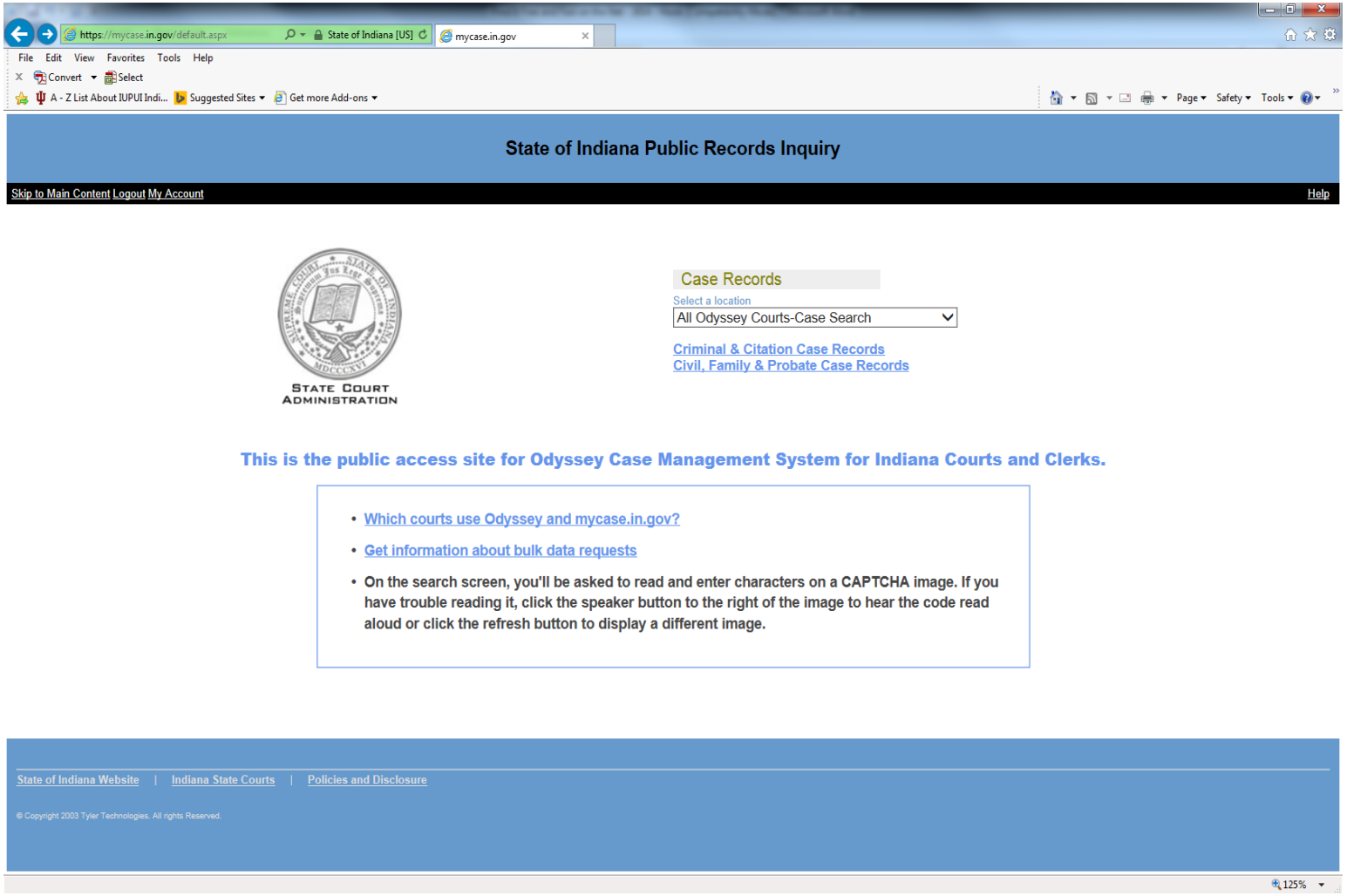
Other Websites

- Other websites that are useful when doing legal research are:
  - Administrative Offices of the U.S. Courts: http://www.uscourts.gov
  - Seventh Circuit (1993-present): http://www.ca7.uscourts.gov/
  - National Center for State Courts: http://www.ncsc.org/
  - United States Federal & State Courts, Internet Legal Research Group: http://www.ilrg.com/caselaw
  - American Law Sources Online: http://www.lawsource.com/also
  - Legal Dockets On-line: http://www.legaldockets.com
  - LLRX Court Rules, Forms and Dockets: http://www.llrx.com/courtrules
  - SunEthics.com: http://sunethics.com
  - Southern District of Indiana: http://www.insd.uscourts.gov
  - Northern District of Indiana: http://www.innd.uscourts.gov/
  - Indiana Courts: http://www.in.gov/judiciary/

State Court Records – Indiana

- In terms of Indiana, more of the state court case records are available online, depending on when the county and its courts begin using the new electronic filing system called the Odyssey Case Management System. (https://mycase.in.gov/default.aspx, accessed 11/13/14)
- For a list of the courts that use Odyssey and how far back their records go, see http://www.in.gov/judiciary/jtac/3147.htm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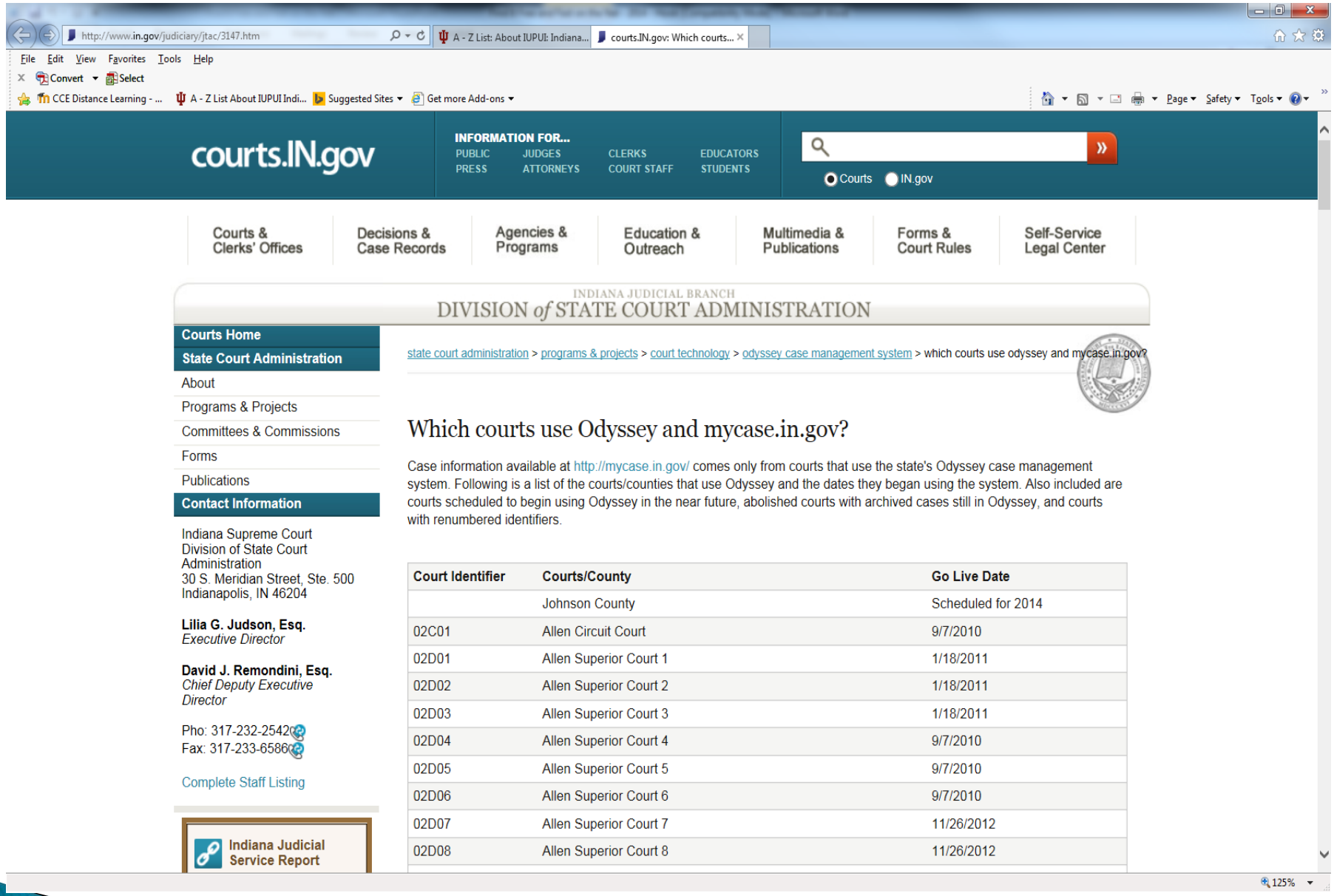
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Which courts use Odyssey and mycase.in.gov?
Case information available at http://mycase.in.gov/ comes only from courts that use the state's Odyssey case management system. Following is a list of the courts/counties that use Odyssey and the dates they began using the system. Also included are courts scheduled to begin using Odyssey in the near future, abolished courts with archived cases still in Odyssey, and courts with renumbered identifiers.
Court Identifier | Courts/County | Go Live Date
Johnson County | Scheduled for 2014
02C01 | Allen Circuit Court | 9/7/2010
02D01 | Allen Superior Court 1 | 1/18/2011
02D02 | Allen Superior Court 2 | 1/18/2011
02D03 | Allen Superior Court 3 | 1/18/2011
02D04 | Allen Superior Court 4 | 9/7/2010
02D05 | Allen Superior Court 5 | 9/7/2010
02D06 | Allen Superior Court 6 | 9/7/2010
02D07 | Allen Superior Court 7 | 11/26/2012
02D08 | Allen Superior Court 8 | 11/26/2012
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Learn About the Free (Poor Man's) "Shepard's"

- Shepardizing is an important step in legal research.
- See the explanation from the LexisNexis website in your seminar manual.
- The importance of taking this step in legal research is explained on the website for the E.H Butler Library, Buffalo State University.
- However, Shepardizing requires either consulting bound volumes or an online service through LEXIS for a fee.
- It can be a tedious and expensive process.
- *See also* Westlaw's KeyCite feature.

Definition of the Poor Man's Shepard's

- Back in 2006, Hilyerd commented that "in some circles an even lower cost alternative is mentioned for checking to see if a particular opinion is still part of the law of a jurisdiction.
- This method is known as the 'poor man's Shepard's.'
- It consists of using free case law databases such as LexisOne to determine if the courts in a jurisdiction are still relying on a particular opinion in their newer opinions.
- This is done by using the name of the opinion the researcher wishes to check as a search term in the database and seeing if new opinions can be located.
- While this method is available, it is very sloppy research and should only be used if no access is available to other methods."

A Hybrid Strategy to Save Costs Without Sacrificing Retrieval

- Rather than relying totally on a poor man's approach, a hybrid strategy may be in order.
- Use the Internet and free case law databases as a first step.
- If more recent cases or materials are located, utilize the Shepard's service, either online (through LexisNexis or using Westlaw's KeyCite) or through the printed volumes.
- This will save costs and time without sacrificing the unique information and peace of mind that Shepardizing or using Westlaw's KeyCite feature can provide.
- Levitt and Davis devote Chapter 18 to several free alternatives to using either LexisNexis or Westlaw.
- Among these options are Google Scholar and FindLaw as well as a party name or case number as a keyword search.
- In terms of my electronic discovery research, this is often the first thing I try after I have located a case summary through either the K&L Gates or Kroll Ontrack case database.

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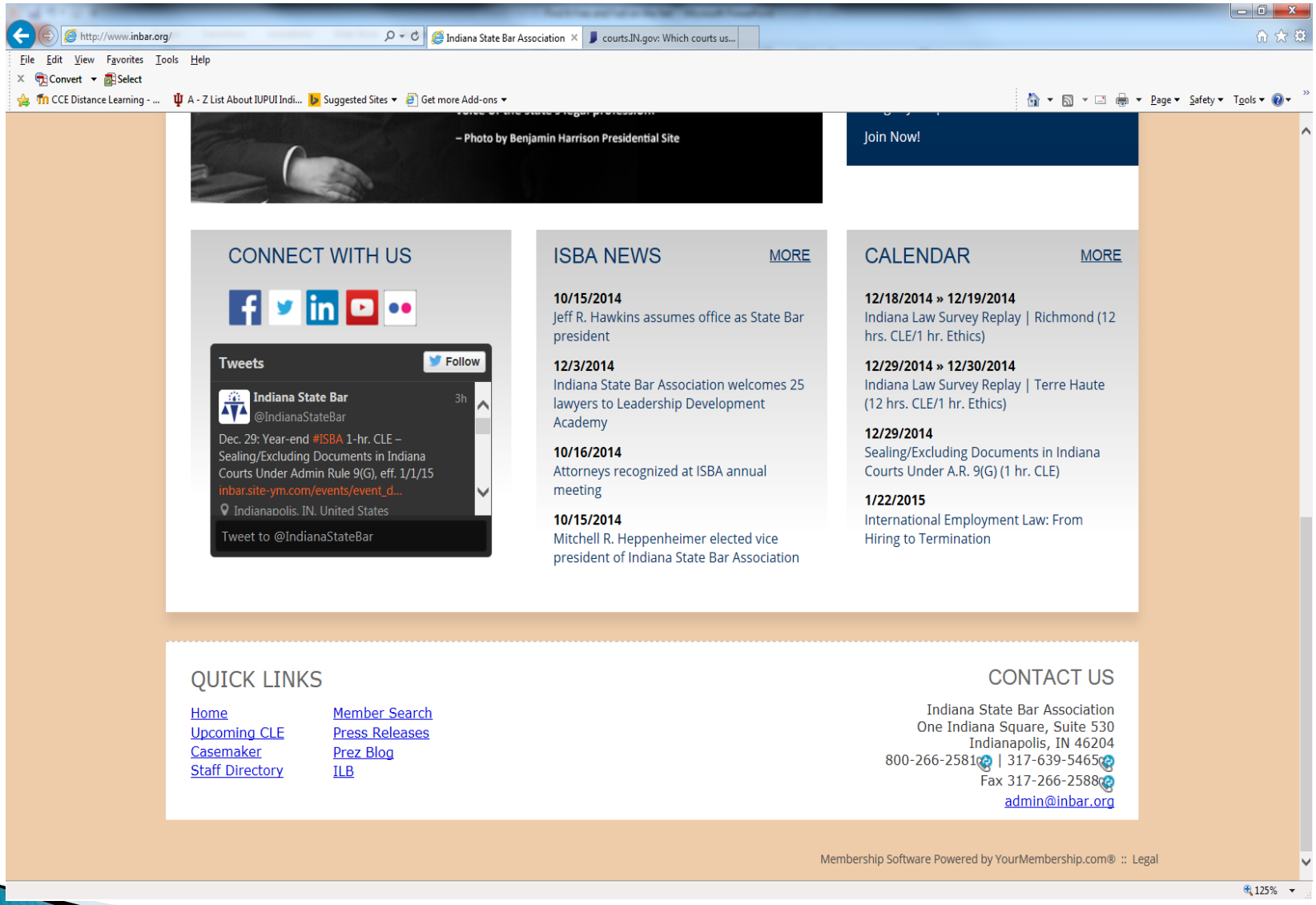
- Members of the Indiana State Bar Association have free access to Casemaker. When the most recent contract for Casemaker was negotiated, the ISBA was able to add a number of premium features at no additional cost to members.
- Per the Casemaker marketing flyer, these features include:
  - CaseCheck+: a negative citator system that lets you know instantly if the case you are reading is still good law. CaseCheck+ returns treatments instantly as you search. It allows you to link to negative treatments and quickly review the citation history for both state and federal cases.
  - CiteCheck: If you upload a brief or pleading, within 90 seconds Casemaker will provide a report stating whether your case citations continue to be good law.
  - Casemaker Digest: A daily summary of appellate decisions for all state and all federal circuits, categorized by subject. Casemaker Digest will email or send you an RSS feed of the latest cases in your selected jurisdictions and subject areas of interest.
- To learn more about Casemaker and the tools available to you as an ISBA member, you can call Customer Support at 877-659-0801.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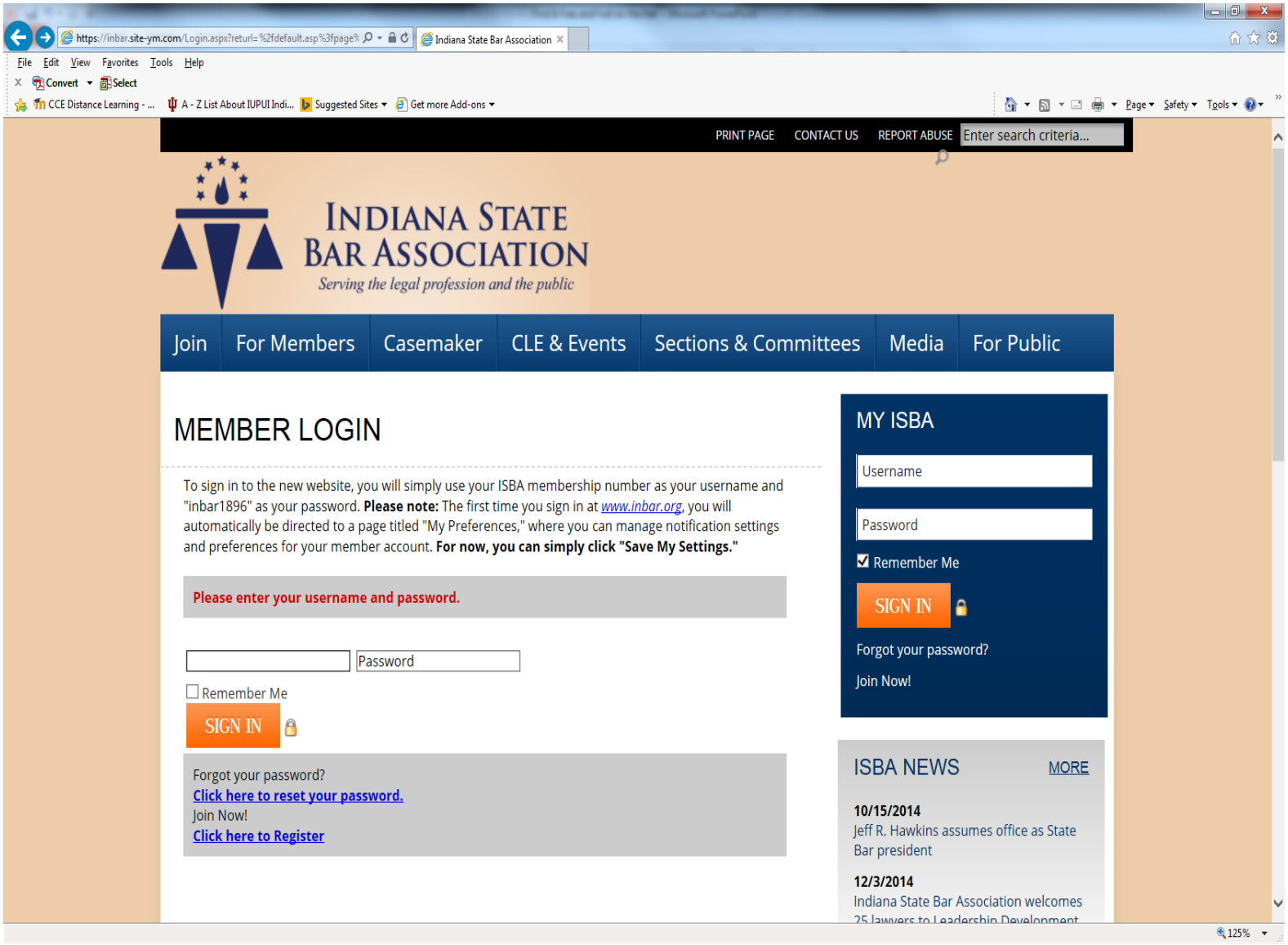
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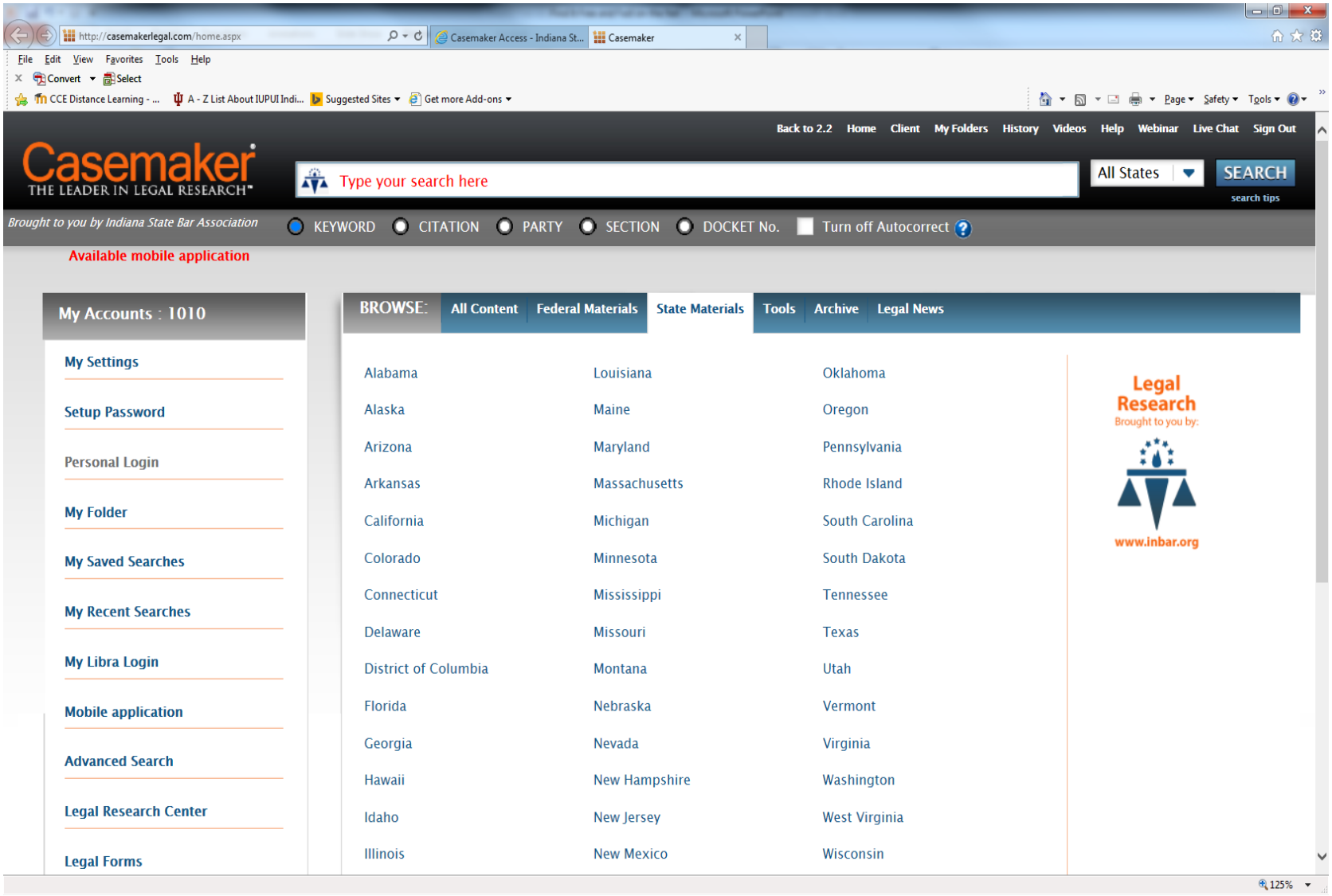
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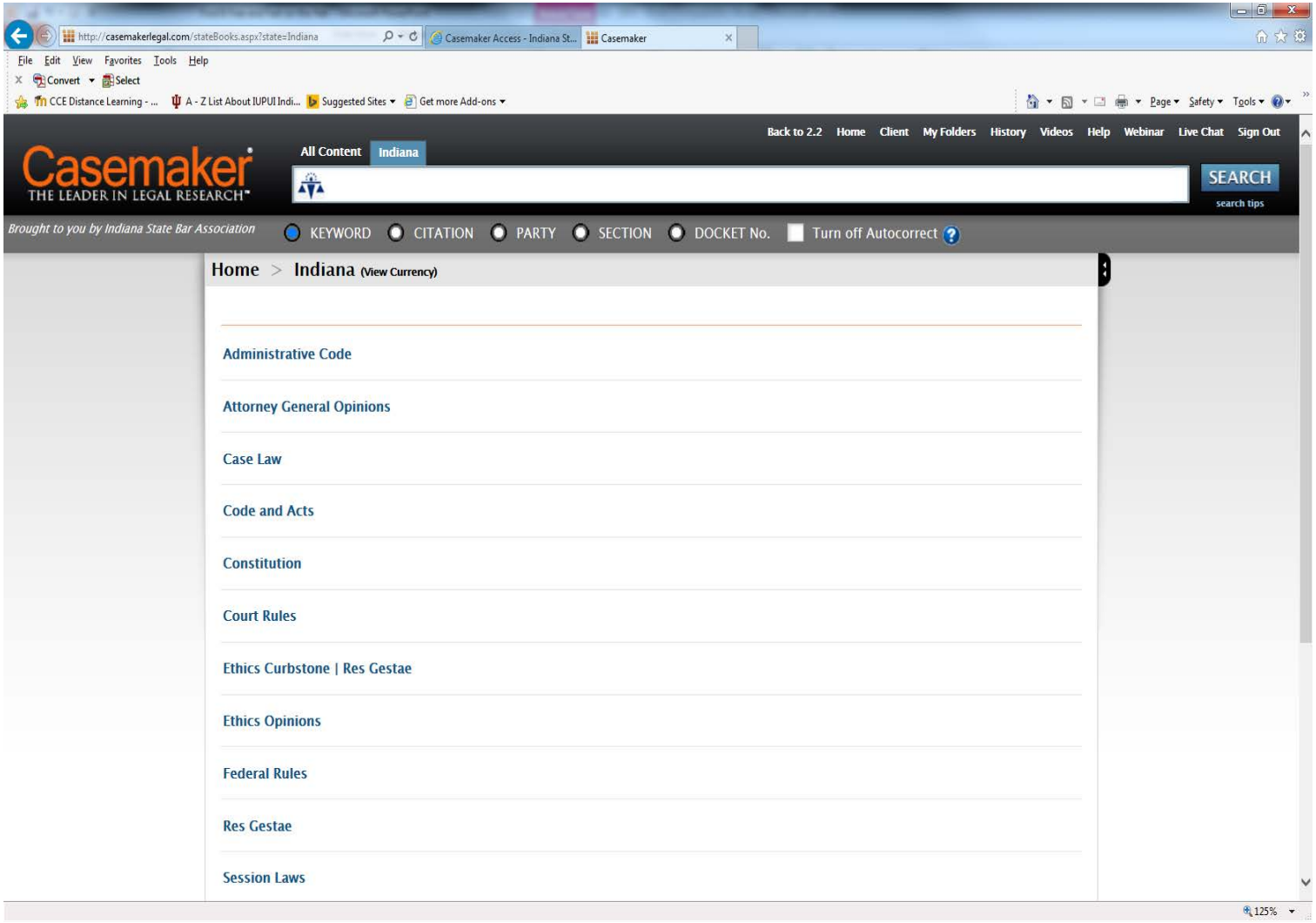
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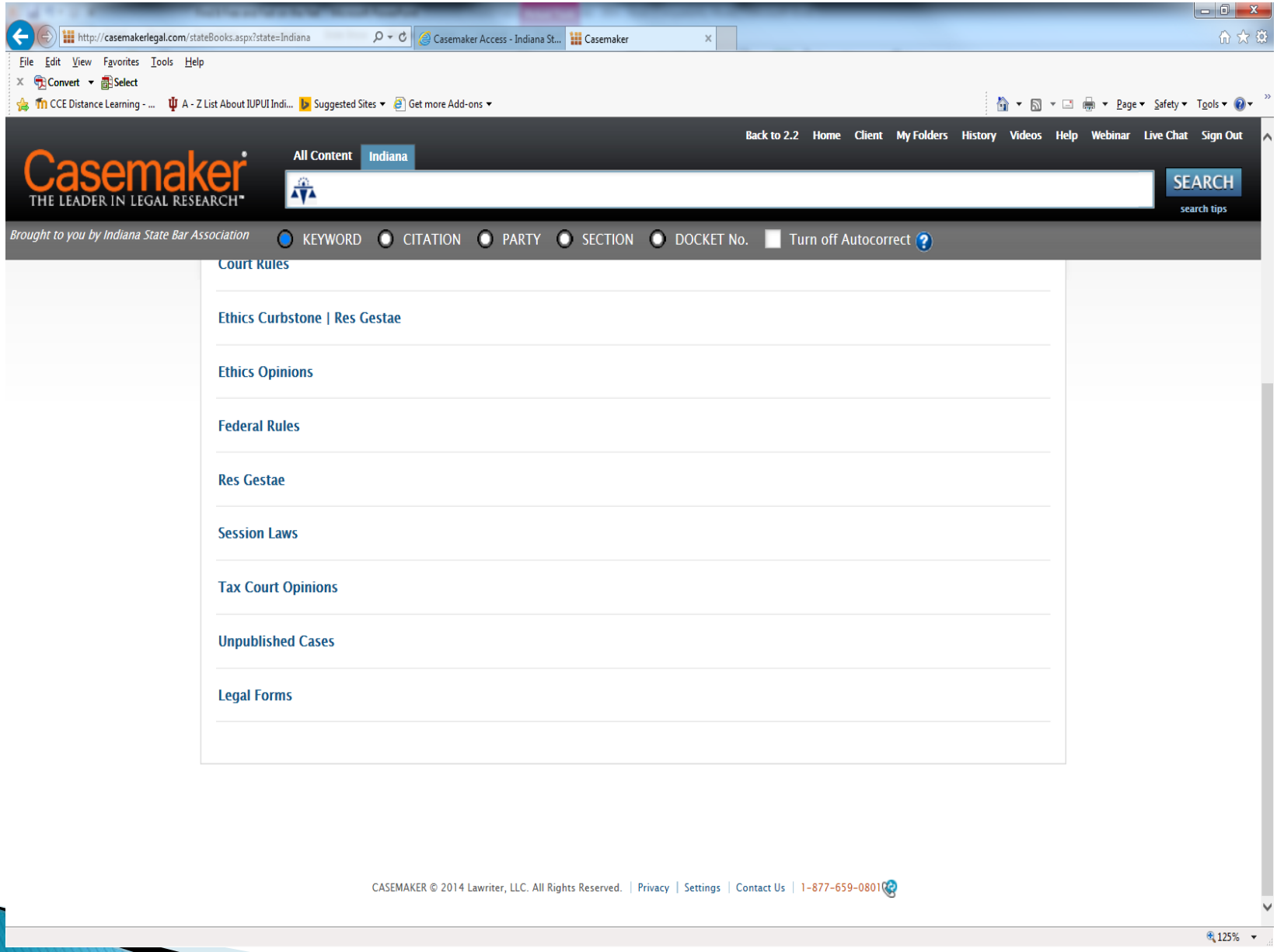
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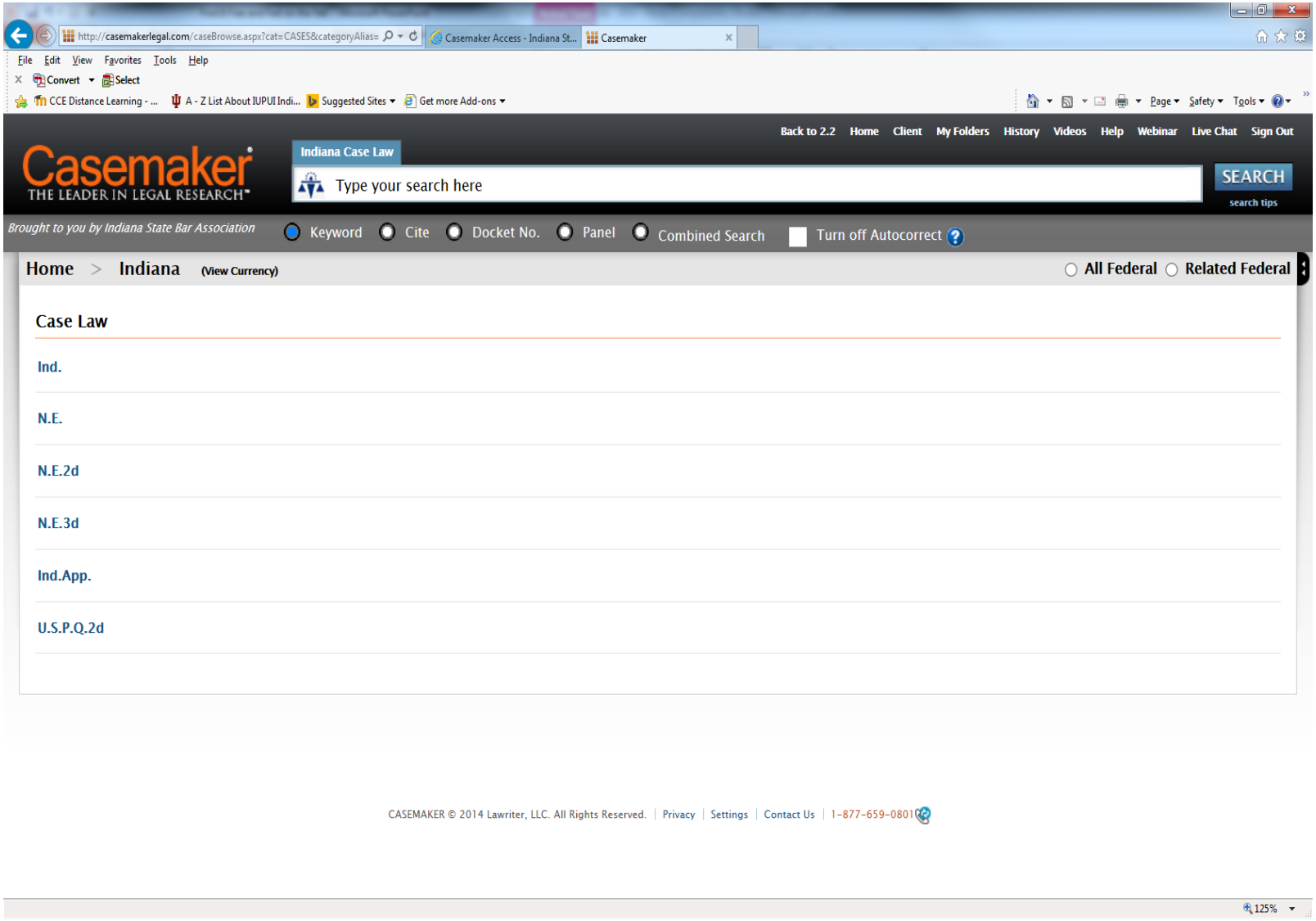
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