Legal Due Diligence/Business Research

George Mason University
Law Library
Spring 2015
What are we looking for?

► Company Profile

► SEC Filings, Financial Statements & Annual Reports, Trademark Registration

► News Articles, Press Releases

► And anything else – this is a hunt for as much information as you can find.
Where do we look for it?

- Company Web Sites
- SEC’s EDGAR database
- Commercial Databases
  - Mergent
  - Bloomberg Law
  - LexisNexis and Westlaw
- Other Government Resources
  - State Agency Web Sites
  - USPTO Trademarks search (‘‘TESS’’)
- News
- Internet
Company Web Site
SEC Web Site (EDGAR*)

http://www.sec.gov/edgar.shtml

EDGAR = Electronic Data Gathering, Analysis, and Retrieval system = SEC’s filings database
Using the SEC website is **free**. It is clunkier than the commercial sites, but it is available to you if/when you don’t have access to a commercial database. Also, you can only search full text for the past 4 years.
Mergent Online

Law Library Homepage → Law Related Databases → Mergent Online
Begin entering ticker symbol or company name. Mergent will autocomplete.
Helpful tabs and sub-tabs with company details.
In the **Equity Pricing** tab, you can use the **Controls** on the left to determine the stock price for a period of time or on a specific day.
Mergent provides you with the last 90 days of SEC filings. Click on the Edgar Search to find more SEC filings and to search full text back to the late ‘90’s.
Begin typing company name in the Go bar.
Choose what company info you want to see.

You can also generate reports and add to your watchlist (top, circled).
The SEC filings are easy to work with at Bloomberg Law. You can search, filter, download, etc.

The most recent SEC filings are shown. You can “modify” the search to add additional criteria and to search the full text of the SEC filings.
In this EDGAR search, you are searching the full text of SEC filings.

Enter keywords to search here.
Click here to find historic stock price.
Use “Custom” to see the stock price on a particular date or in a range of dates.

Use “Table View” to see a list of stock prices, rather than a chart.
EDGAR search at WestlawNext

- Full coverage of electronic EDGAR (from the SEC) filings since 1996
  - Full text searchable

- Good search template

- Type “Edgar” into main search bar to get to the database
  - See screenshot of search template at next slide
Lexis Public Records Search

Real Estate

Business Filings

FEIN
Use the **Public Records in Lexis Advance.** Public Records is hidden in a tab on the upper, left portion of the screen.
There are many helpful resources here, including the FEIN finder, Real Property records, and the Corporations Filings. The Corporations Filings aims to collate state Secretaries of State's business records in one place, allowing you to search for a business across all other states at once (excludes DE). Delaware is separate. Good idea to verify information in an official document, like 10K or the state Sec. of State website.
USPTO’s TESS
Search Trademark Database

Although not required prior to filing an application, you are encouraged to search the USPTO’s trademark database to see if any mark has already been registered or applied for that is similar to your mark and used on related products or related services. If your search yields a mark that you think might conflict with your mark, you should then check status to see if the application or registration is still "live," since any "dead" mark cannot be used to block a new application.

A complete search is one that will uncover all similar marks, not just those that are identical. In this regard, searching for trademark availability is not the same as searching to register a domain name. A domain name search may focus on exact or "dead on" hits, with no consideration given to similar names or use with related products and services. Basically, a domain address is either available or it is not. The trademark process, on the other hand, is more complex. As part of the overall examination process, the USPTO will search its database to determine whether registration must be refused because a similar mark is already registered for related products or services (i.e., even identical marks may co-exist if used on goods or services not considered to be related in any way). Please note that the USPTO does not offer advisory opinions on the availability of a mark prior to filing of an actual application.

Depending on what trademark material you are looking for, there are a number of different areas to perform a Search:

Trademark Electronic Search System (TESS)

Use TESS [This is a direct link to the search system] to conduct a free online search of the USPTO database. TESS provides access to text and images of registered marks, and marks in pending and abandoned applications. The USPTO cannot provide guidance as to how you should search, beyond the HELP provided within the TESS site.

Design Search Code

If your mark includes a design element, you must search using a design code. The USPTO assigns all marks containing designative elements a 6-digit numerical code(s) for searching purposes. A design code search is also conducted using TESS.

For assistance in searching with a design code, access the Design Search Code Manual. This manual indexes the categories, divisions, and sections that make up these codes. For example, a five-pointed star would be coded in category 01 (celestial bodies, natural phenomena and geographical maps), division 01 (stars, comets) and section 03 (stars with five points), resulting in a complete design code of 01.01.03.

US Registration Certificates

Registration Certificates show or determine the ownership of a mark, the date first used in commerce, the registration and serial numbers, and the purposes the mark may be used in. The registration certificate may also be used to determine terms not claimed by an owner.

Public Search Facility

Contact the USPTO for more information regarding public search facilities.
Welcome to the Trademark Electronic Search System (TESS). This search engine allows you to search the USPTO’s database of registered trademarks and prior pending applications to find marks that may prevent registration due to a likelihood of confusion refusal.

**WARNING:** Before conducting your search, you must understand the following: (1) what the database includes; (2) how to construct a complete search; and (3) how to interpret the search results. Click TESS TIPS for detailed information on these and other important search topics.

### Select A Search Option

- **Basic Word Mark Search (New User)**
  This option cannot be used to search design marks.

- **Word and/or Design Mark Search (Structured)**
  This option is used to search word and/or design marks. **NOTE:** You must first use the Design Search Code Manual to look up the relevant Design Codes.

- **Word and/or Design Mark Search (Free Form)**
  This option allows you to construct word and/or design searches using Boolean logic and multiple search fields. **NOTE:** You must first use the Design Search Code Manual to look up the relevant Design Codes.

### Additional Search Options

- **Browse Dictionary (Browse Dictionary)**
  This option browses all fields in the database unless you limit to a particular field. Results are returned in a dictionary-style (alphabetic) format.

- **Search OG Publication Date or Registration Date (Search OG)**
  This option searches the Official Gazette for marks published or registered on a particular date.

**NOTE:** Click here for a description of changes to word mark entries for standard character marks submitted via both TEAS Plus and “regular” TEAS that you may wish to consider when constructing your TESS searches.

**Update Information:** TESS was last updated on Thu Feb 20 03:10:26 EST 2014 Select our News button for the latest complete filing date available on TESS.

**Access to TESS:** TESS is intended for use by the general public. Due to limitations of equipment and bandwidth, TESS is not intended to be a source for bulk downloads of USPTO data. Bulk data may be purchased from USPTO at cost (see the USPTO Products and Services Catalog). Individuals, companies, IP addresses, or blocks of IP addresses who, in effect, deny service to the general public by generating unusually high numbers of daily TESS accesses (searches, pages, or hits), whether generated manually or in an automated fashion, may be denied access to these servers without notice. On Monday through Saturday, TESS will not be available for one hour from 4:00 to 5:00AM (EST) for database update.

**TESS Assistance:** Please do NOT contact the Trademark Assistance Center for assistance in constructing or executing searches on TESS. If you have thoroughly reviewed the TESS online help (accessed through HELP link, above) and still have a question (or comment or suggestion), you may e-mail TESS@uspto.gov. While we cannot promise to answer all messages, your feedback will be considered and may lead to future improvements on TESS.
Domain Name Search
WHOIS lookup

► Use ICANN’s WHOIS lookup tool

► Be careful! Verify ownership in discovery or negotiations.
  ▪ Domain ownership research is limited
  ▪ WHOIS records are not 100% accurate
    ► No administrative or legal ability to enforce accuracy
    ► Some domain owners prefer privacy

► You can use any WHOIS service
  ▪ None are 100% accurate
News and Internet Searching
News Databases

► Try to find News about your company, its executives, the industries, etc.

► Good sources:
  - Internet
  - Lexis Advance → News
  - WestlawNext → News
  - Bloomberg Law → News
  - Factiva (law-related database)
Internet

► You are trying to find any and all information about your company and its industry.

► Use the Internet
  - Then, try to verify information at official sources (EDGAR filings, Sec. of State filings, etc.)

► Investopedia (www.investopedia.com)
  - Has helpful information about businesses and stocks.
  - E.g., can look up “EDGAR”, “proxy statement”, etc. to get definitions and explanations.