

Chicago Daily Law Bulletin

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February 20, 2019

Westlaw and Pink Floyd: Is fragmented thinking really thinking?

By Christopher Garcia

Christopher Garcia is an employment law attorney practicing in Chicago and the western suburbs at Garcia Law Group, focusing primarily on workplace violence and Title VII issues. He also is an adjunct professor of law at IIT Chicago-Kent College of Law in Chicago. Garcia can be reached at cag49@cornell.edu.

We shape our tools and, thereafter, our tools shape us. — John Culkin (1967)

I put together a stereo system nearly identical to one I had in the late '70s: A Technics 1200 Turntable, a Pioneer receiver and JBL 100 speakers. It didn't take long to fall into an old pattern, regardless of the number of years that have passed.

I take the album out, hold it carefully with both hands, set it on the turntable, raise the tone arm with the cue lever and watch it lower gently onto the beginning of Side A.

No remote, nothing digital.

One is almost forced to relax and listen to an entire album instead of choosing a playlist from Spotify or iTunes with thousands of songs compiled in a loose organization of playlists. (Watching my eldest daughter hold an album with a kind of bemused wonder was both comical and profound). The '70s technology determines the process, pace and focus of its own use.

What struck me almost immediately is a renewed understanding of how one song builds upon another in a thematic and syncopated dialog. The songs tell a larger story and echo a developing theme.

Those familiar with Pink Floyd and Supertramp will understand how music, madness and political indoctrination in schools play dynamically through each track of "Dark Side of the Moon" and "Crime of the Century" — for those contemporaries, the politician, the poet and the madman were howling at one another as well as the moon.

Bouncing between hundreds of songs, from vastly different recording events, eras and traditions scrambles any sense of thematic and even musical coherence. The experience is a series of quick, sharp and distant beginnings with no sustaining theme or storyline — an echo of fragments of song-stories ripped from any historical, temporal and artistic context.

The obvious analog to listening to 30 songs by 30 different bands for between two and four minutes a song is writing all day on Twitter; experiencing what passes for thought in 280 characters or less. Agency disappears, the storytellers are silenced and the stories themselves are reduced to whatever one can say in one song instead of the storyline and theme of an entire album recording — the ideas that the band explored as they experimented in the studio. Slicing and dicing songs from their given telos may produce a new musical tradition or sound but it is one without intent, agency or history.

In more than one professional context, fields of knowledge are being reduced to fragments of text, torn from doctrines and themes developed over decades.

It has been my experience that young associates jump onto Westlaw and move from head note to head note, never reading an entire case — never experiencing the temporal and logical development of a particular doctrine through time.

Such doctrines are developed over time within a dialog between judicial circuits. But some young associates exist in a post-structural universe of intertextual echoes — pieces of opinions with no beginning or end. Without the experience, discipline (and an actual ability) to read critically an entire case and its cited precedents, their reading experience exists in hypertext — with one opinion opening out into the middle of another one outside of time, legal precedential flow and even authorship.

Many have learned to browse — not to read carefully or think critically — which is I think partially a function of reading online. Texts have become the informal mode of communication with e-mails functioning as a formal, structured communication.

In other words, many new associates are light years from writing a coherent brief for the 7th U.S. Circuit Court of Appeals or, for that matter, any court.

Has the mental habit of browsing through fragments of thought altered the way information and knowledge is perceived and understood? Does altering the modality in which information is conveyed alter the information perceived in its digital technological form?

The development of crucial legal doctrines tells a story of our nation as it has developed — or regressed into virulent tribalism. But the violent dismemberment of stories, music, legal precedent, whole fields of knowledge into fragments hacked from a coherent continuum, affects and challenges the very ability to learn.

Coherence, history, meaning and even literacy is sacrificed for speed and a barely passable “skimming” through fragments (ordered by algorithms) as quickly as possible. Memes, for example, are little more than floating thought fragments without history or context.

Technology journalist Fred Davis recently cautioned: “The technology tools that we are shaping and that are now starting to shape us are at the edges of our comprehension ... We have to understand how tools are shaping us, and how to cope with that shaping in the time of hyper-change.” ([“We Shape Our Tools and, Thereafter, Our Tools Shape Us”](#); Medium (2016)).

Westlaw now offers case briefs, so the law student or the attorney does not even have to read the actual case. In sum, Westlaw has now taken it upon itself the pretense of teaching law students and lawyers what is important about a case — how to think critically about a judicial opinion. The internal logic, the intrinsic goal of a technology — its telos — may be to do our thinking for us.

Is there another definition of illiteracy that we should consider?

We have a president who hates to read anything without helpful pictures, has no sense of history, literature or global politics. We now work with more college-educated professionals who have not read an actual book in years — rather than traces of thought online. They have never learned to dialog with a single author (forget partner, jury or judge) until they fully understood her point of view — and then moved on to another.

While technologies can make our work easier, critical study is neither easy nor quick. We must understand the how and the why of technological advances and make certain that we are utilizing the technology and the tail is not wagging the dog. But such technologies as Lexis and Westlaw are utilized uncritically. Little thought is given to how the algorithms imbedded in such databases may sacrifice depth and coverage for speed.

Program algorithms often direct the reader and not the other way around. But algorithms cannot comprehend contradiction, irony, mystery or an inherent hypocrisy between a judicial opinion and its holding.

And such algorithms governing a database will contain the biases and errors of their creators. They also replicate the mistakes of the one inputting search terms. The technology itself determines its own logic, pace and manner of use that must affect (and be reflected in) our mental processes.

Whether one is bouncing quickly from head note to head note, without knowing the actual facts of any case, or else engaged in the careful ritual of taking an album out of its sleeve or picking up a coveted first edition where the moments slow down, we must understand to what extent each technology is altering our perceptions and our own cognitive processes.

The nature of a book itself forces you to open it slowly, careful of the binding, and begin ...
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