

Why Lawyers Should Test Search Terms Before Agreeing Them

Lawyers must test search terms to avoid signing a list they have not run, transforming search negotiation from adjectives into arithmetic. This guide covers hit counts, sampling, elusion testing, and using the numbers for refinement and PD 57AD negotiation.

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SEARCHTERMTESTING · A GUIDE FOR UK LAWYERS Why Lawyers Should Test Search Terms Before Agreeing Them Hit Counts, Sampling and the Two Hours That Save Six Figures
COMPUTER FORENSICS LAB

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Speak to a forensic examiner, not a salesperson. INSTRUCT THE LAB
NEW ENQUIRIES EMAIL - DISCOVERY

Questions and answers

How long does proper term testing actually take?

The count tables run in hours on an indexed corpus; material-term sampling is typically a few focused reviewer- days at most; a working elusion pass adds another. Against review budgets and renegotiation costs it rounds to free: Example 1's whole exercise fitted between a Thursday and a Friday letter.

Can we test before the DRD is agreed: is that allowed?

Not only allowed but expected: testing runs unilaterally on your own data and needs nobody's consent, and PD 57AD's cooperation duty is served, not offended, by arriving at the negotiation with evidence. What you exchange is a choice; that you tested should not be.

What is a "good" precision figure for a search term?

There is no universal number: a 60% term is a workhorse, a 2% term is a problem unless its hits are few or its unique finds are vital: the judgement weighs precision against volume, unique contribution and the issue's importance, which is why the table shows all three. The discipline is having the figures; the art is reading them together.

Do we have to disclose our test results to the other side?

Strategy varies: counts and sample summaries are routinely exchanged because they shorten negotiations and build credibility (Example 1's letter), while full protocol files usually surface only if methodology is challenged. What is unwise is having nothing to disclose: the untested party's position, under PD 57AD's cooperation lens, reads as the unreasonable one.

Our elusion sample found responsive documents. Is the search in defensible?

The opposite, if you act: elusion exists to find misses while they are fixable: the finds are routed (new terms, new sources, per §8), the cycle re-runs, and the eventual certificate recites the exercise: Example 2's sequence. Indefensibility is the mirror image: the party that never looked, explaining later why it preferred not to know.

The other side refuses to test and insists on their list. Now what?

Run their list yourself (§7), against your data and the known-responsive corpus, and put the results in correspondence: their untested insistence against your measured counter is exactly the record a CMC decides on, and usually the insistence softens before it gets there: Example 3's one-sentence ending. The refusal to engage with arithmetic is itself evidence, and courts read it fluently. cflab. u k · e-disc ove r y. u k ©2026 Computer Forensics Lab Ltd ·cflab.uk ·e-discovery.uk ·info@cflab.uk ·+44 (0)20 7164 6915 Page 15 of 17

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