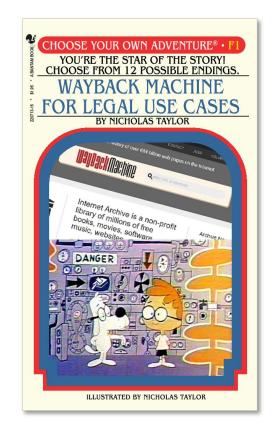
Wayback Machine for Legal Use Cases

Nicholas Taylor

American Association of Law Libraries
Annual Meeting & Conference

18 July 2022







What can you do w/ IAWM?

- find public, historical web content that's gone
- establish when information may have been publicly available on the web
 - when first published
 - when updated
 - when absent

- examples:
 - patent disclosures
 - use of marks or copyrighted materials
 - terms of service
 - advertised claims regarding products or services
 - business relationships





Internet Archive

- non-profit digital library
- "universal access to all knowledge"
- provides free public access to collections of all types of digital materials



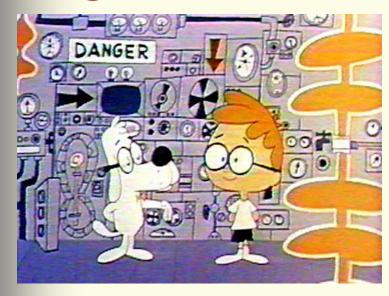


IAWM

- free, open archive of websites 1996 – present
- web content is both culturally significant + ephemeral
- IAWM referenced in:
 - a 2002 patent application
 - a 2003 PTAB proceeding
 - a 2004 U.S. federal court case

INTERNET ARCHIVE

Wayback Machine





IAWM archival coverage

- "best effort" archive
- popular + more recent content is better archived
- content of interest to cultural heritage orgs is increasingly better archived



"Irregular paving" by Stephen Edmonds under CC BY-SA 2.0





Scaling web archiving

- more web archiving since IAWM launch
- web archiving tools have also improved
- web archiving is more curated
- more dynamic + more private web



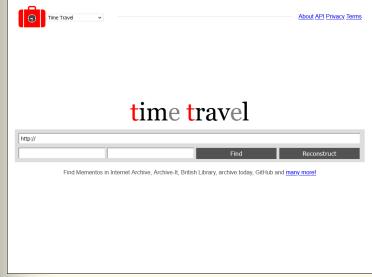
"\$72M Expansion" by tsaiproject under CC BY 2.0





Other web archives + aggregators

- IA is not the only web archiving org
- also governments + universities, w/ circumscribed scope:
 - national domains
 - topical collections
 - institutional self-archiving
- search across many web archives via the <u>Time Travel</u> service



Los Alamos National Laboratory: "Time Travel"





The journey continues...

The speaking figure pauses, as if waiting for you. The screen at the front of the room changes. You sense the possibilities open up before you...



"You are here:" by Paul Thompson under CC BY-ND 2.0





What path shall we take?

- IAWM interface
- full-text search
- other IAWM features
- IAWM in the legal context
- IAWM temporal dynamics



"You are here:" by Paul Thompson under CC BY-ND 2.0





What path shall we take?

- IAWM interface
 - calendar + resource pages
 - IAWM banner
 - IAWM web address
- full-text search
 - native full-text search
 - Collections tool + Archive-It full-text search
 - <u>crawl index API + local full-text</u>
 search

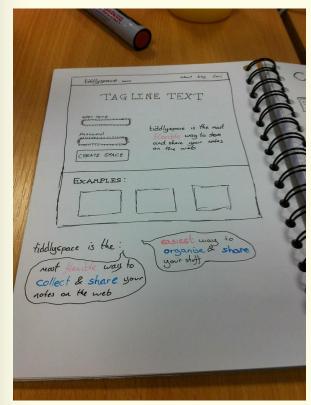
- other IAWM features
 - Changes tool
 - <u>"editing" IAWM contents</u>
- IAWM in the legal context
 - authentication + admissibility
 - patents + IAWM
- IAWM temporal dynamics
 - timestamping content changes
 - temporal (in)coherence





IAWM interface

- calendar + resource pages
- IAWM banner
- IAWM web address



"Simple Mockup" by Colm Britton under CC BY 2.0





Calendar + resource pages

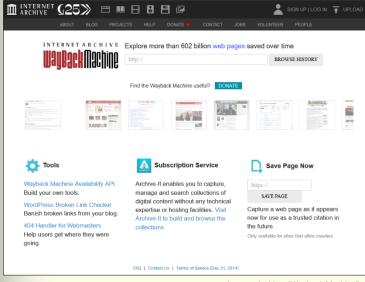


"Calendar" by Droid Gingerbread under CC BY 2.0





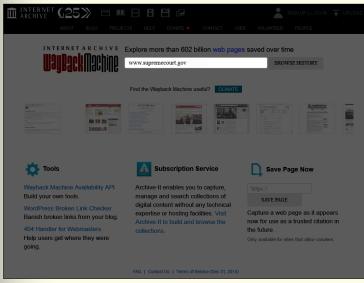
IAWM home







IAWM home: search box

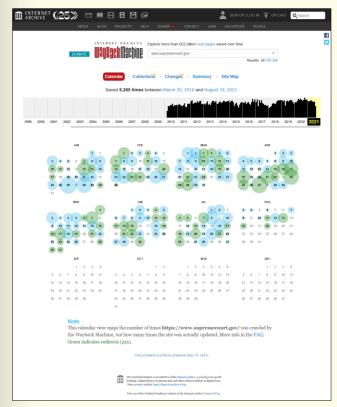






IAWM calendar page

- landing page presents archival coverage for specified web address for year selected in timeline
- bubble size indicates relative number of captures for that date
- bubble color indicates status code provided by the web server to the IA archiving agent
 - blue means <u>a successful retrieval</u>, with no errors
 - green means <u>a redirect was</u> encountered







IAWM calendar page

- click to another year in the timeline to change the calendar view below
- let's click to 2011

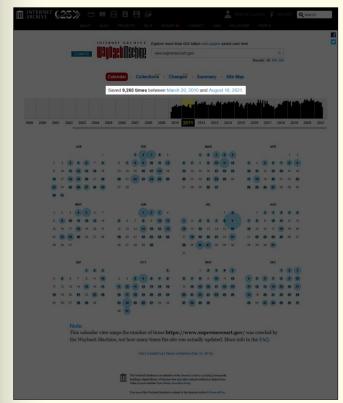






IAWM calendar page: captures range

- number of captures for the specified web address + their date range is displayed at the top
- links are provided to the first
 + last captures in the date
 range

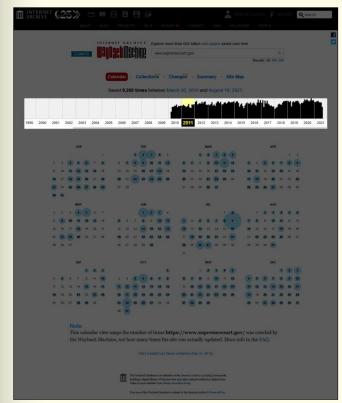






IAWM calendar page: timeline histogram

- the timeline histogram provides a visual summary of the relative number of captures over time
- each year segment has 12 columns – one for each month
- the year displayed in detail below is highlighted in yellow in the timeline

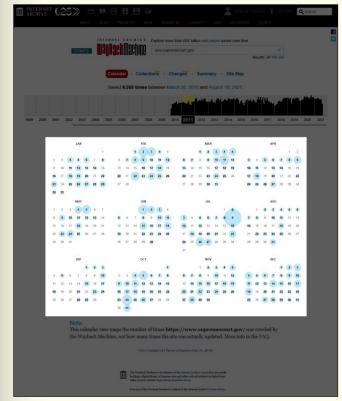






IAWM calendar page: calendar

- archival coverage for every day of the year selected in the timeline
- this is the 2011 calendar

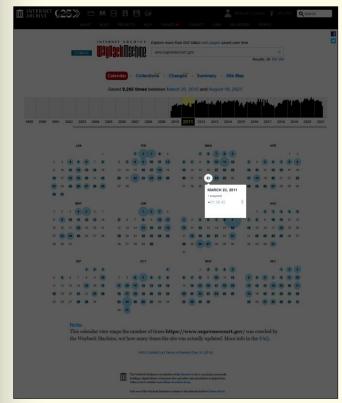






IAWM calendar page: 23 March 2011 capture

- hovering over a date for which there is at least one capture presents the number of captures + capture time(s)
- clicking on a capture time takes you to the re-presentation of the resource captured on that date at that time
- let's click through

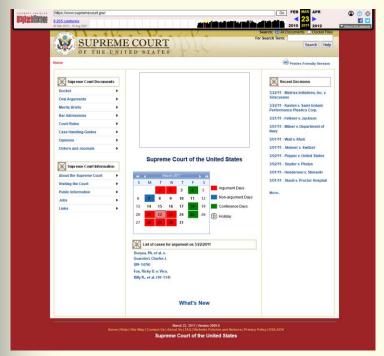






IAWM resource page

- IAWM resource page for <u>www.supremecourt.gov</u> for the 23 March 2011 capture
- note that archived webpages have a topjustified IAWM overlay banner to:
 - remind the user they're within the IAWM context
 - facilitate navigation
 - provide additional info about the current capture + other captures of the resource located at the same web address
- let's look at the IAWM banner





The path forks...

As the story reaches a turning point, the speaking figure again quiets. The screen at the front of the room abruptly changes once more. You feel a sense of déjà vu...



"You are here:" by Paul Thompson under CC BY-ND 2.0

question



IAWM banner



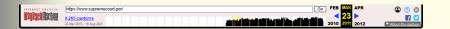
"Console de mixage" by Billy Elliot under CC0 1.0





IAWM banner

- IAWM overlay banner for the resource page for the 23 March 2011 capture of www.supremecourt.gov
- let's look at each of the interface elements







IAWM banner: IAWM logo + home link

 clicking on the IAWM logo returns you to IAWM home





IAWM banner: search box

- search box displays the web address of the web resource currently accessed in IAWM
- enter keywords to search archived home pages
- enter a web address to navigate to the calendar page showing archival coverage







IAWM banner: captures range

- total number of captures of the resource currently accessed in IAWM is displayed
- click the link to return to the calendar page, showing archival coverage
- the dates of the first + last captures are displayed below the number of captures





IAWM banner: timeline histogram

- the timeline histogram displays the relative number of captures over time
- each segment represents a year
- each black bar represents a month
- the red line corresponds to the month of the currently accessed capture







IAWM banner: timeline histogram

- yellow highlighted date is the capture date of the currently accessed web resource
- to the left and right are temporal navigation links for different intervals – from top to bottom:
 - one month ago / one month ahead
 - last preceding capture / next successive capture
 - one year ago / one year ahead
- for less-frequently captured web resources, intervals may be longer than a month or year







IAWM banner: sign in, help, hide banner, social media

- sign in button for IA user account
 - in IAWM context, provides additional features related to <u>Save</u> <u>Page Now</u>
- link to help documentation
- button to hide the toolbar
- 🚹 💟 social media sharing buttons
 - About this capture shows datetime offsets of embedded resources (to be reviewed later)







The path forks...

As the story reaches a turning point, the speaking figure again quiets. The screen at the front of the room abruptly changes once more. You feel a sense of déjà vu...



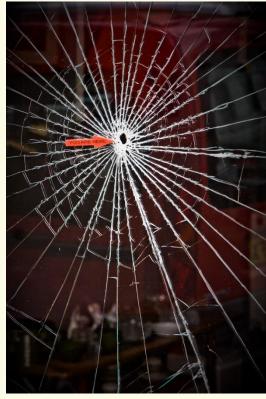
"You are here:" by Paul Thompson under CC BY-ND 2.0

questions





IAWM web address



"You Are Here" by Garry Knight under CC BY 2.0





IAWM resource page

 let's take a look at the IAWM web address for the first capture for <u>supremecourtus.gov</u>, from 20 May 2000



Internet Archive: "Supreme Court of the United States"





IAWM web address structure

 web.archive.org – base web address of the IAWM software application

web.archive.org/web/20000520031109/supremecourtus.gov/





IAWM web address structure

web.archive.org/web/20000520031109/supremecourtus.gov/

- web.archive.org base web address of the IAWM software application
- web the web content collection index or context
 - in IAWM, the "web" index includes all publicly accessible archived content, but other orgs' Wayback access points may be configured differently



IAWM web address structure

web.archive.org/web/20000520031109/supremecourtus.gov/

- web.archive.org base web address of the IAWM software application
- web the web content collection index or context
 - in IAWM, the "web" index includes all publicly accessible archived content, but other orgs' Wayback access points may be configured differently
- 20050520031109 an ISO 8601-conformant datetime string, in format YYYYMMDDhhmmss (UTC), reflecting the precise date + time of capture of an individual web resource





IAWM web address structure

web.archive.org/web/20000520031109/supremecourtus.gov/

- web.archive.org base web address of the IAWM software application
- web the web content collection index or context
 - in IAWM, the "web" index includes all publicly accessible archived content, but other orgs' Wayback access points may be configured differently
- 20050520031109 an ISO 8601-conformant datetime string, in format YYYYMMDDhhmmss (UTC), reflecting the precise date + time of capture of an individual web resource
- supremecourtus.gov original web address of the archived resource





The path forks...

As the story reaches a turning point, the speaking figure again quiets. The screen at the front of the room abruptly changes once more. You feel a sense of déjà vu...



"You are here:" by Paul Thompson under CC BY-ND 2.0

question





Full-text search

- native full-text search
- Collections tool + Archive-It full-text search
- <u>crawl index API + local full-text search</u>

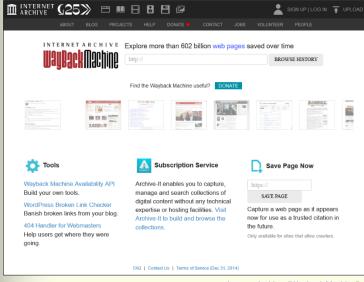


"Letters" by Susanne Nilsson under CC BY-SA 2.0





Native full-text search

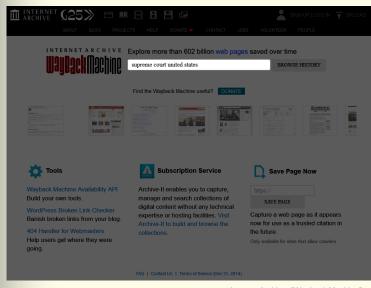


Internet Archive: "Wayback Machine"





Native full-text search

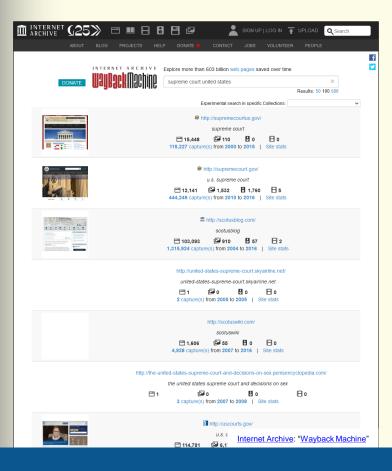


Internet Archive: "Wayback Machine"





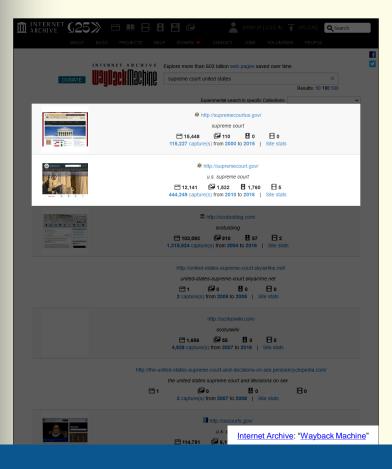
Native full-text search: search results







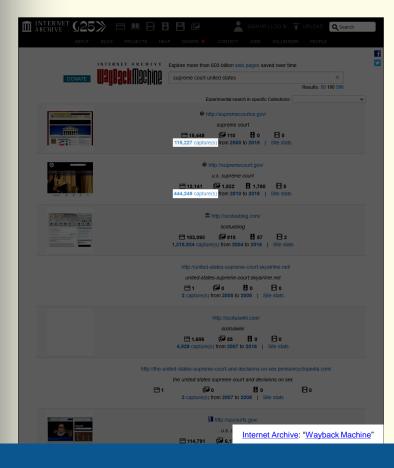
Native full-text search: top two results







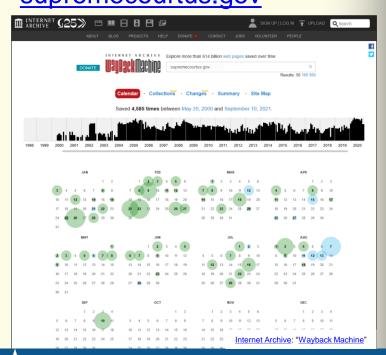
Native full-text search: top two results



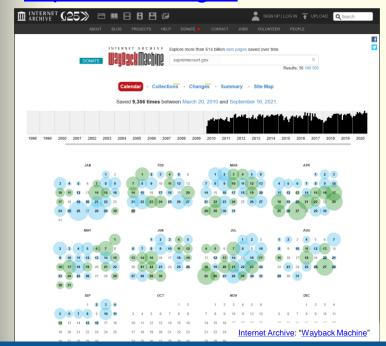




IAWM calendar pages supremecourtus.gov



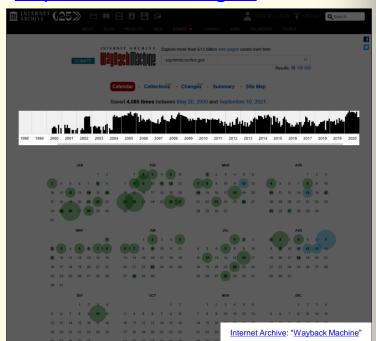
supremecourt.gov



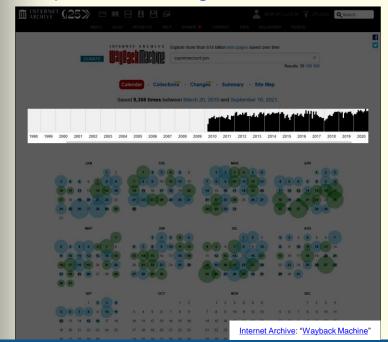




IAWM calendar pages supremecourtus.gov



supremecourt.gov







 this is the first capture for <u>supremecourtus.gov</u>, from 20 May 2000



Internet Archive: "Supreme Court of the United States"





The path forks...

As the story reaches a turning point, the speaking figure again quiets. The screen at the front of the room abruptly changes once more. You feel a sense of déjà vu...



"You are here:" by Paul Thompson under CC BY-ND 2.0

question





Collections tool + Archive-It full-text search



"sealed seeds" by by littleyiye< under CC BY 2.0





Collections tool

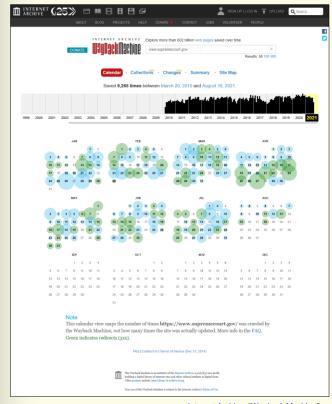
- IAWM captures have diverse provenance
 - web-wide crawls
 - contract crawls
 - Archive-It crawls
 - Alexa donations
 - ArchiveTeam crawls
 - Save Page Now

- Collections tool shows sources of captures
- why does provenance matter?
 - some sources have more focused crawls, indicating quality
 - some sources offer additional search + discovery options





IAWM calendar page

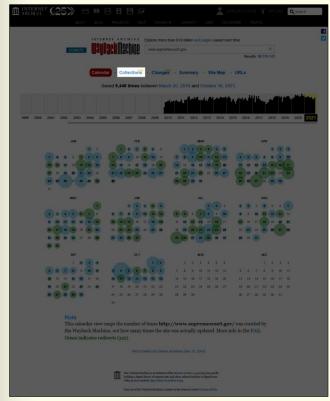


Internet Archive: "Wayback Machine"





IAWM calendar page

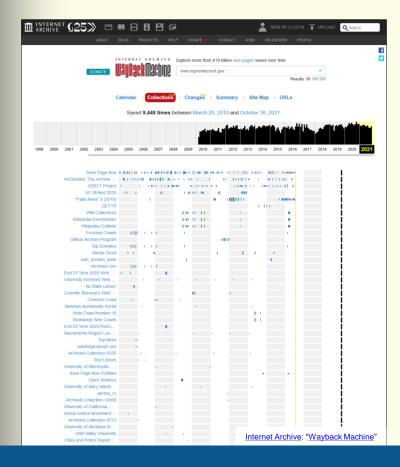


Internet Archive: "Wayback Machine"





Collections tool

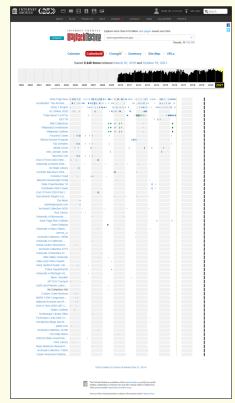






Collections tool

- hover over individual collection names
- look for string in link target web address: ArchiveIt-Collection
- Archive-It is IA's subscription web archiving service
- used by 100s of orgs to run selective web crawls + curate topical collections
- has <u>its own discovery portal</u> w/ <u>full-text search</u>

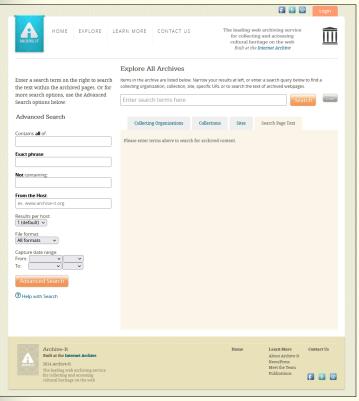


Internet Archive: "Wayback Machine"





Archive-It full-text search

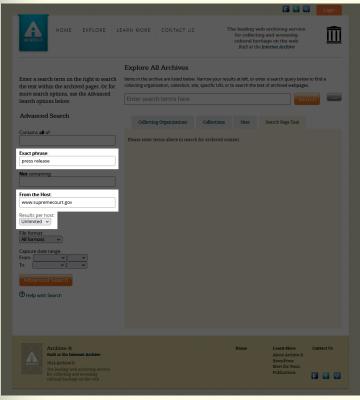


Archive-It: "Explore Archived Content"





Archive-It full-text search

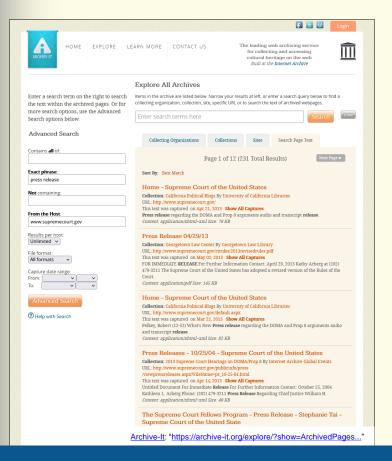


Archive-It: "Explore Archived Content"





Archive-It full-text search







The path forks...

As the story reaches a turning point, the speaking figure again quiets. The screen at the front of the room abruptly changes once more. You feel a sense of déjà vu...



"You are here:" by Paul Thompson under CC BY-ND 2.0

question



Crawl index API + local full-text search



"External Memory - Analog saved me" by Christmas w/a K under CC BY-SA 2.0





 let's pick up again w/ the 20 May 2000 capture of supremecourtus.gov



Internet Archive: "Supreme Court of the United States"





 let's look at the web address path for the *Opinions* section of the website



Internet Archive: "Supreme Court of the United States"







www.supremecourtus.gov/opinions/opinions.html



Internet Archive: "Supreme Court of the United States"





Retrieving a selective IAWM index of archived resources

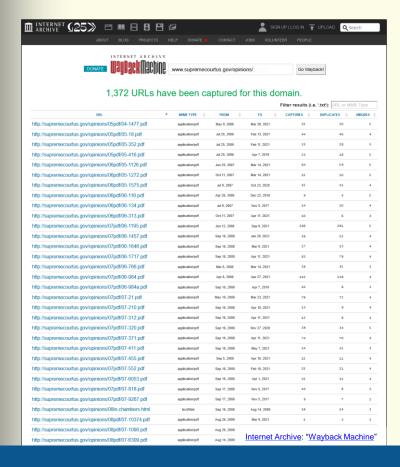
web.archive.org/web/*/www.supremecourtus.gov/opinions/*

- "*" character functions as a wildcard operator (i.e., match any)
- wildcard in place of the datetime string tells IAWM, for any capture date
- wildcard suffix to the original web address path tells IAWM, for any archived resource below this path
- combined, this asks IAWM to show all archived web resources in its index, for any date, below the path: www.supremecourtus.gov/opinions/





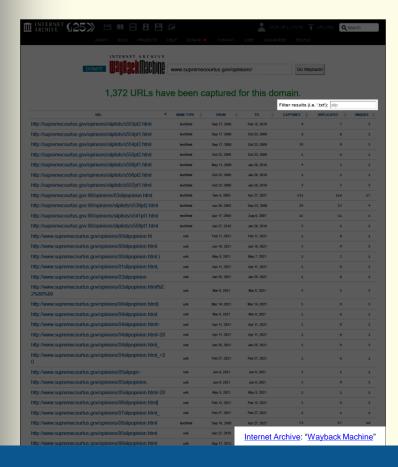
Retrieving a selective IAWM index of archived resources







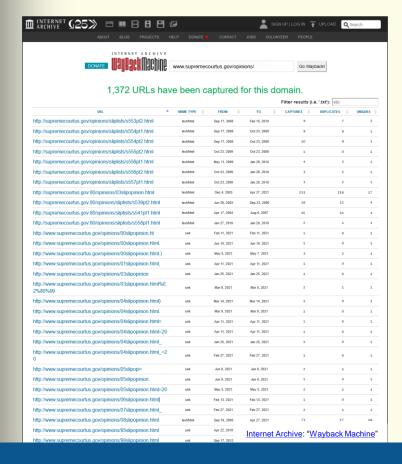
Filter by string ("slip") found in web address







Filter by string ("slip") found in web address







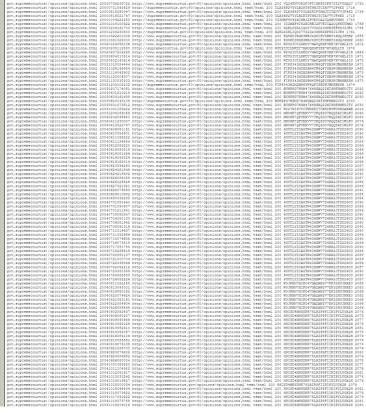
Machine-readable indexes via Wayback CDX Server API

- CDX = Crawl inDeX
- metadata about IAWM contents
- structured data, for machine processing
- filter + retrieve with specially-formatted web address, described in API documentation
- output can be reformatted into a download manifest for bulk retrieval (e.g., using <u>wget</u>)
- full text of downloaded webpages can be searched locally (e.g., using <u>DocFetcher</u>)





Machine-readable indexes via Wayback CDX Server API



Internet Archive: "https://web.archive.org/cdx/search/cdx?url=supremecourtus.gov/opinions/opinions.html"





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As the story reaches a turning point, the speaking figure again quiets. The screen at the front of the room abruptly changes once more. You feel a sense of déjà vu...



"You are here:" by Paul Thompson under CC BY-ND 2.0

question



Other IAWM features

- Changes tool
- <u>"editing" IAWM contents</u>

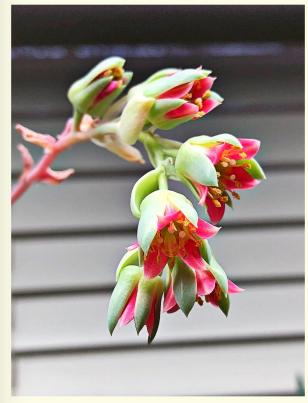


"ancillary dreams" by mandam under CC BY 2.0





Changes tool



"Getting my succulents and cacti on the path to being outdoors this summer. Pachyphytum in bloom." by Ron Frazier under CC BY 2.0





Changes tool

- flags differences in text b/t 2 captures of same web page
- caveats:
 - doesn't consider non-textual elements
 - doesn't account for intermediate changes
 - changes may not matter for legal issue

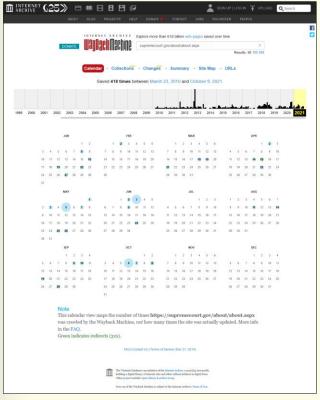
use to:

- identify when a web page changed
- quickly visualize the text changes over time
- establish when web page text was substantially identical





IAWM calendar page

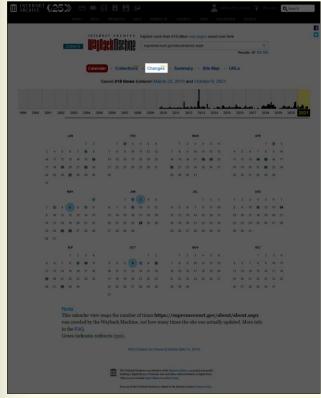


Internet Archive: "Wayback Machine"





IAWM calendar page

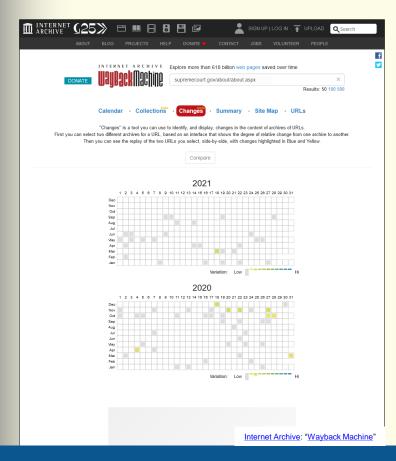


Internet Archive: "Wayback Machine"





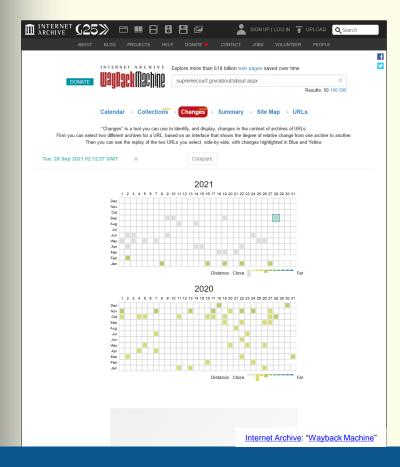
Changes tool







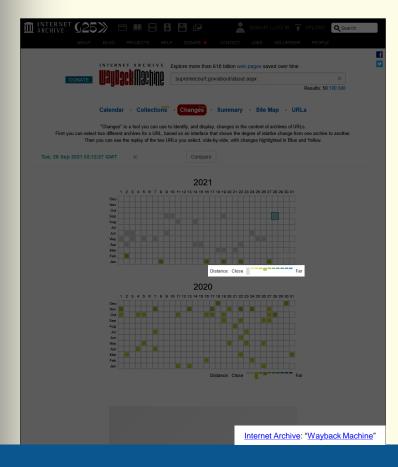
Changes tool: choose 28 September 2021 capture







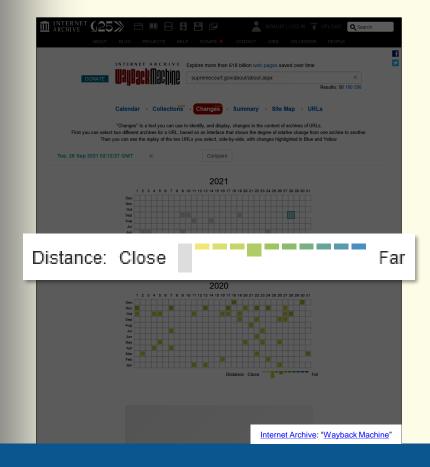
Changes tool: degree of difference key







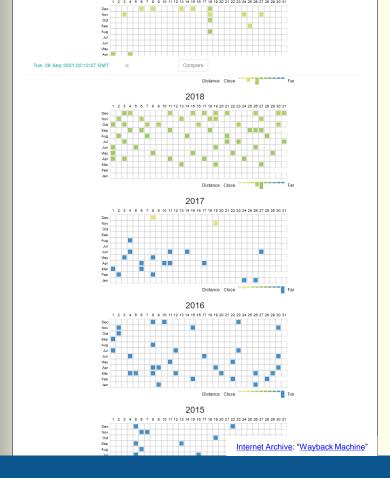
Changes tool: degree of difference key







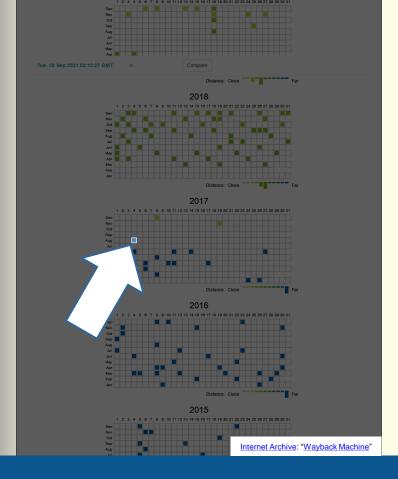
Changes tool: difference from 2017 captures







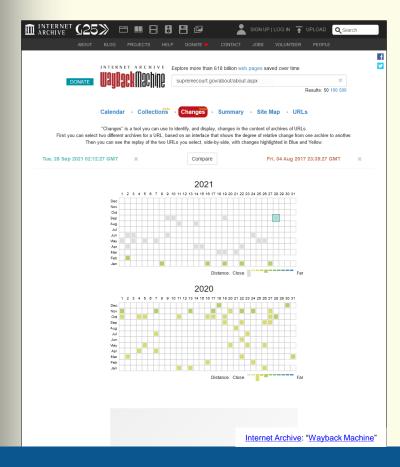
Changes tool: compare w/ 4 August 2017 capture







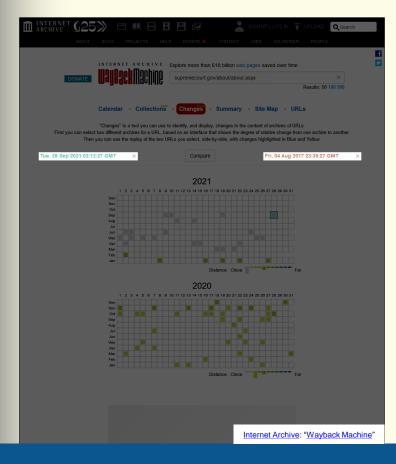
Changes tool: two captures selected







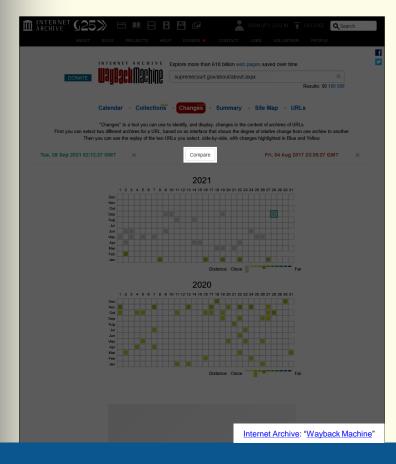
Changes tool: two captures selected







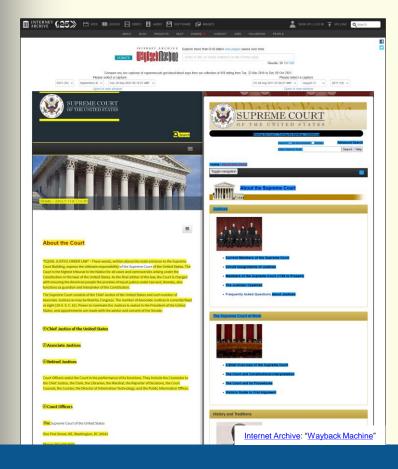
Changes tool: click Compare







Changes tool: compare 28 Sep. 2021 + 4 Aug. 2017 captures







Changes tool: comparing captures

- yellow highlighted text was deleted
- blue highlighted text was added
- note that the website design has changed significantly, but this isn't specifically detected by the Changes tool
- however, major text changes often accompany major website design changes

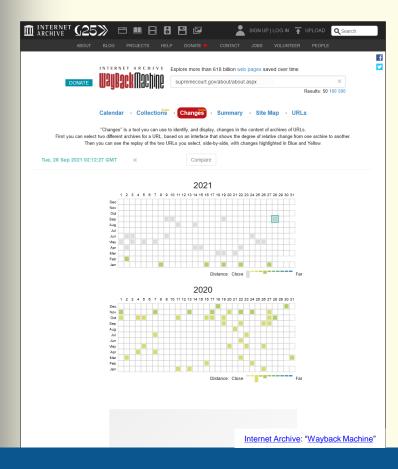


Internet Archive: "Wayback Machine"





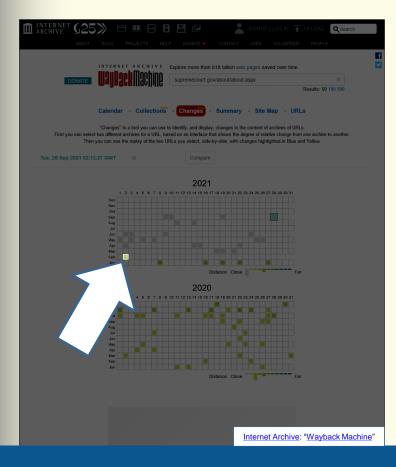
Changes tool: choose 28 September 2021 capture







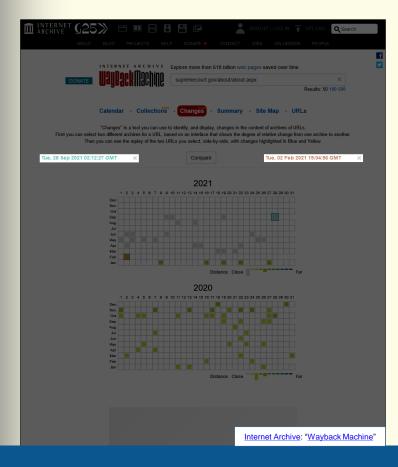
Changes tool: compare w/ 2 February 2021 capture







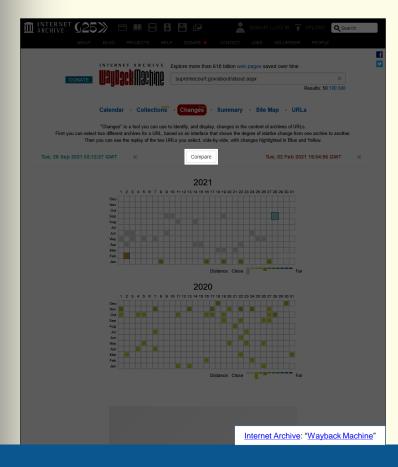
Changes tool: two captures selected







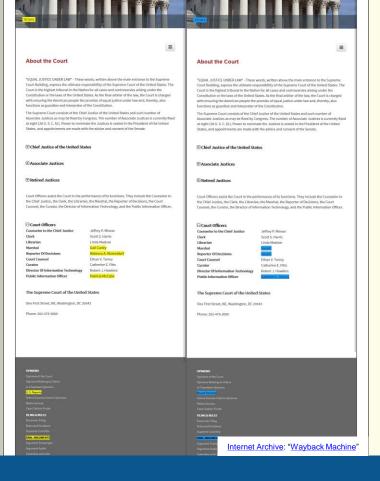
Changes tool: click Compare







Changes tool: compare 28 Sep. 2021 + 2 Feb. 2021 captures







The path forks...

As the story reaches a turning point, the speaking figure again quiets. The screen at the front of the room abruptly changes once more. You feel a sense of déjà vu...



"You are here:" by Paul Thompson under CC BY-ND 2.0

question





"Editing" IAWM contents



"Punakaiki Pancake Rocks" by Ruth Hartnup under CC BY 2.0





Can IAWM contents be edited?

- not as such; archive is appendonly
- missing content may be captured later
- content can be excluded from access
- IA has made no public claims that content is ever deleted
- individual webpages or web resources can be manually archived



"Stone engraving" by Jinx McCombs under CC BY-ND 2.0





Exclusion requests + crawler directives

exclusion requests

- domain owner can <u>request</u> <u>exclusion</u> of their content from IAWM
- criteria unclear, but IA exercises discretion
- if granted, IAWM access to content will be disabled + IA archiving will cease

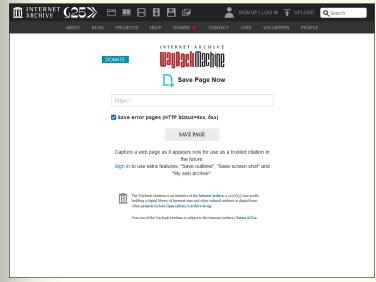
crawler directives

- domain owner can <u>configure a robots.txt file to</u> <u>ward off</u> IA archiving agents
- again, <u>IA exercises</u> discretion
- updates to robots.txt directives can restore access



IAWM Save Page Now feature

- manually archive to IAWM a real-time webpage snapshot
- good habit when relying on live web evidence
- works for error pages (i.e., document absence)
- when signed in, can archive current webpage + 1 hop out



Internet Archive: "Wayback Machine"





The path forks...

As the story reaches a turning point, the speaking figure again quiets. The screen at the front of the room abruptly changes once more. You feel a sense of déjà vu...



"You are here:" by Paul Thompson under CC BY-ND 2.0

questions





IAWM in the legal context

- <u>authentication +</u>
 <u>admissibility</u>
- patents + IAWM



"Columns" by Joe Campbell under CC BY-SA 2.0





Authentication + admissibility



"Dollar" by Images Money under CC BY 2.0





Authentication + admissibility overview

- IAWM cited in 300+ U.S. federal court cases
- harder to authenticate than other web content
 - archived vs. live site discrepancies
 - IAWM reliability disclaimers
 - IA is NGO
 - third party providing first party records (hearsay)

strategies include:

- judicial notice
- IA affidavit
- witness w/ personal knowledge
- expert witness
- mutual stipulation





Judicial notice (FRE 201)

Wikipedia

"Judicial notice is a rule in the law of evidence that allows a fact to be introduced into evidence if the truth of that fact is so notorious or well known. or so authoritatively attested, that it cannot reasonably be doubted...Facts and materials admitted under judicial notice are accepted without being formally introduced by a witness or other rule of evidence"

Wikipedia: "Judicial notice"

FRE 201

Judicial Notice of Adjudicative Facts

- b. Kinds of Facts That May Be Judicially Noticed. The court may judicially notice a fact that is not subject to reasonable dispute because it:
 - can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

Legal Information Institute: "Rule 201. Judicial Notice of Adjudicative Facts | Federal Rules of Evidence"





Authentication via judicial notice

- efficient but inconsistent + jurisdiction-sensitive
- judges may themselves introduce IAWM evidence
- more likely to prevail in absence of specific assertions of unreliability



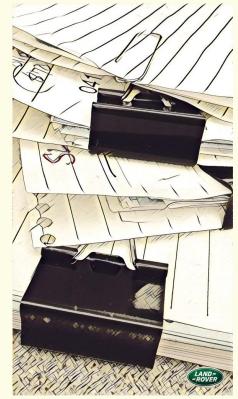
"Earthrise" by Bill Anders under Public Domain





Authentication via IA affidavit

- reliable + efficient
- has only failed when incorrectly applied
- works best for simple cases
- but less ideal when conclusions require interpretation



"Paperwork" by Damian Gadal under CC BY 2.0





IA affidavit guidance

Do I really need an affidavit from the Internet Archive?

No. Please consider alternatives to an affidavit from the Internet Archive. Judicial notice and stipulation to a document's authenticity are two typical and straightforward options that might be used instead of an affidavit. Since our resources are limited, we urge you to pursue these alternatives before coming to us with authentication requests.

Does the Internet Archive's affidavit mean that the printout was actually the page posted on the Web at the recorded time?

The Internet Archive's affidavit only affirms that the printed document is a true and correct copy of our records. It remains your burden to convince the finder of fact what pages were up when.

Internet Archive: "Legal FAQ"





Witness w/ personal knowledge – FRE 901(b)(1)

Authenticating or Identifying Evidence

- b) Examples. The following are examples only not a complete list of evidence that satisfies the requirement:
 - Testimony of a Witness with Knowledge. Testimony that an item is what it is claimed to be.

Legal Information Institute: "Rule 901, Authenticating or Identifying Evidence | Federal Rules of Evidence"





Authentication via witness w/ personal knowledge

- more effective when leveraging witness w/ personal knowledge of historical web content
- less effective when instrumentally entering into record a comparison performed by a random person



"One year + of journals" by Pain Chaud under CC BY-ND 2.0





Expert witnesses – FRE 702

Testimony by Expert Witnesses

- a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
- b) the testimony is based on sufficient facts or data;

- c) the testimony is the product of reliable principles and methods; and
- d) the expert has reliably applied the principles and methods to the facts of the case.

Legal Information Institute: "Rule 702. Testimony by Expert Witnesses | Federal Rules of Evidence"





Frye + Daubert standards

Frye standard

- established in <u>Frye v. United</u>
 <u>States</u>, 293 F. 1013 (D.C. Cir. 1923)
- "...the thing from which the deduction is made must be sufficiently established to have gained general acceptance in the particular field in which it belongs."

Legal Information Institute: "Frye Standard"

Daubert standard

- established in <u>Daubert v. Merrell</u> <u>Dow Pharmaceuticals, Inc., 509</u> <u>U.S. 579 (1993)</u>
- "...the trial judge...must make a preliminary assessment of whether the testimony's underlying reasoning or methodology is scientifically valid and properly can be applied to the facts at issue."

Legal Information Institute: "Daubert Standard"





Authentication via expert witness

- reliable but more involved + less-used mechanism
- use when interpretation, explanation, or qualification needed
- expert witnesses have included:
 - digital forensics specialists
 - patent examiners
 - web archiving professional(s)



"Test tubes and other recipients in chemistr lab" by Old Photo Profile under CC BY 2.0





Admissibility trends summary

U.S. federal courts

		cial ice	IA standard affidavit		pers	ess w/ sonal ledge	expert witness	
admitted?	yes	no	yes	no	yes	no	yes	no
U.S. district court	44	11	12	2	6	3	7	0
U.S. circuit court	1	2	2	0	1	1	2	0



The path forks...

As the story reaches a turning point, the speaking figure again quiets. The screen at the front of the room abruptly changes once more. You feel a sense of déjà vu...



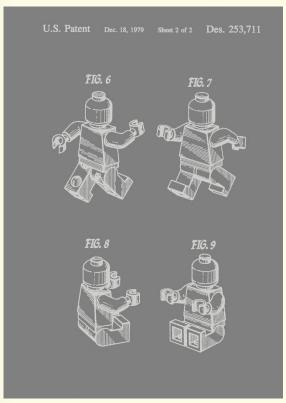
"You are here:" by Paul Thompson under CC BY-ND 2.0

question





Patents + IAWM



"US patent 253711 - Toy figure" by Vera de Kok under CC BY 2.0





Patents + IAWM

- IAWM referenced in 200+ PTAB decisions
- regularly used for citations of prior art in issued patents
- USPTO doesn't apply FRE
- useful for timestamping patent disclosures

- patentability voided by description of invention in a "printed publication" prior to filing date
- reference qualifies as a printed publication if it, "has been disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art, exercising reasonable diligence, can locate it."
 - In re Wyer, 655 F.2d 221 (C.C.P.A. 1981),
 quoting I.C.E. Corp. v. Armco Steel Corp., 250 F.
 Supp. 738 (S.D.N.Y. 1966)





Manual of Patent Examining Procedure (MPEP) guidance

"Prior art obtained via the Wayback Machine® sets forth a prima facie case that the art was publicly accessible at the date and time provided in the time stamp. The burden then shifts to the applicant should they wish to challenge the authenticity, reliability or accessibility of such information."

<u>United States Patent and Trademark Office: "2128 </u>
'Printed Publications' as Prior Art [R-10.2019]"

Manual of PATENT EXAMINING PROCEDURE

Original Ninth Edition, March 2014 Latest Revision June 2020 [R-10.2019]

U.S. DEPARTMENT OF COMMERCE



United States Patent and Trademark Office

Rev. 10.2019, June 202

United States Patent and Trademark Office: "Manual of Patent Examining Procedure (MPEP)"



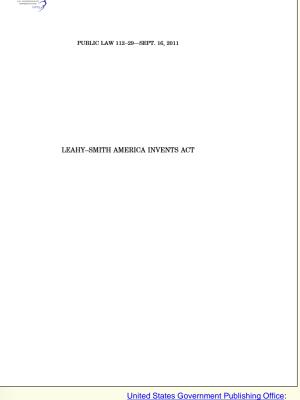
America Invents Act FAQ

Question: "For Web references, does the USPTO use archive.org (aka, 'The Wayback Machine') to get the actual pblication [sic] date rather than printout date of the Web reference? (Question: FITF1058)"

Answer: "Yes, examiners use 'The

Wayback machine' as a source of
information to determine when a Web
reference was first made available to the
public."

United States Patent and Trademark Office: "America Invents Act (AIA) Frequently Asked Questions"



<u>United States Government Publishing Office:</u>
"PUBL029.PS - PLAW-112publ29.pdf" (PDF)





The path forks...

As the story reaches a turning point, the speaking figure again quiets. The screen at the front of the room abruptly changes once more. You feel a sense of déjà vu...



"You are here:" by Paul Thompson under CC BY-ND 2.0

question





IAWM temporal dynamics

- <u>timestamping content</u>
 <u>changes</u>
- <u>temporal (in)coherence</u>



"clock world" by Mathanki Kodavasal under CC BY-SA 2.0





Timestamping content changes



"Tree rings and Arlington Estate history - Arlington National Cemetery - 2013-08-24" by Tim Evanson under CC BY-SA 2.0





Sources of temporal info

conspicuous

- (system-generated) datetime string in webpage text
- IAWM capture timestamp

less obvious

- (system-generated) datetime string in webpage source code
- Google <u>before: operator</u>
- Twitter <u>until: operator</u>
- IAWM capture datetime of webpage w/ inlinks
- web server

 client network
 headers (e.g., X-Archive-Orig-lastmodified)
- timestamps in embedded image metadata (e.g., <u>Exif</u>, <u>XMP</u>)





- when was the webpage for the oral arguments live audio stream first made available?
- press release said it would go live at the start of October Term 2021
- link would be published on the home page



Supreme Court of the United States: "Press Releases - pr_09-29-21"

















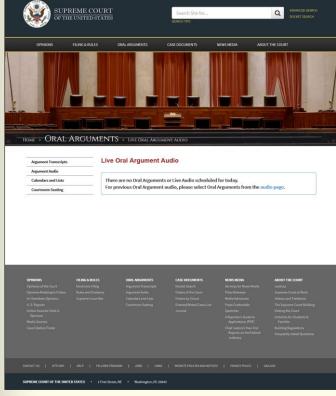


www.supremecourt.gov/oral_arguments/live.aspx









Supreme Court of the United States: "Live Oral Argument Audio"





When did link appear on home page?

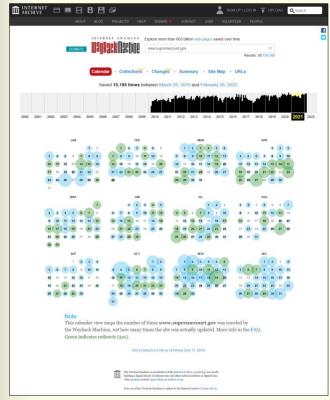






When did link appear on home page?

- brute force (i.e. try insideoutside dates, then narrow down)
- use <u>Archive-It</u> to <u>search for</u> <u>"live audio"</u>
- use <u>CDX Server API</u> to bulk retrieve captures, then run local full-text search for "live audio"



Internet Archive: "Wayback Machine"





When did link appear on home page?

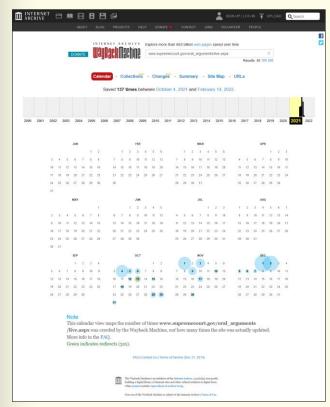






Captures of webpage itself

- timeline histogram only shows captures for calendar years 2021 + 2022, up to current date
- click back to 2021
- IAWM calendar page shows captures dating back to 4 October 2021

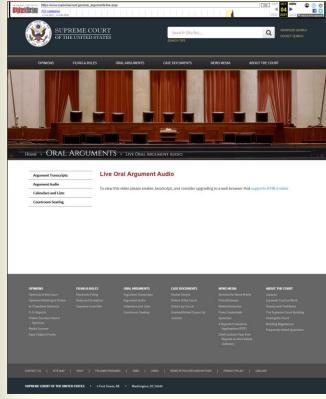


Internet Archive: "Wayback Machine"





First capture of webpage: 4 October 2021



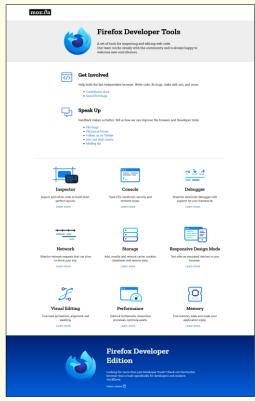
Internet Archive: "Live Oral Argument Audio"





Browser web developer tools

- IAWM can re-present original network communications b/t archiving agent + web host
- most modern browsers have built-in "developer tools" enabling review of these communications
- communications sometimes include metadata related to content datetimes



Mozilla: "Firefox Developer Tools"





Network panel shows response headers

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Network panel shows response headers







Network panel shows response headers



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Timestamping content changes

when first published

- this example was amenable to multiple approaches
- traces via diverse services increase precision + confidence
- more typical to be working w/ fragments
- key limitations on assertions:
 - generally only establish no later than
 - don't necessarily establish the moment when

when continuously available

- use similar techniques to document availability across successive short intervals
- continuous intermediate availability more reasonable to assume than up-down-up
- can get complicated for content situated deep in a website across redesigns or platform changes
 - content may persist, but specific web address (which is what IAWM keys off of) may change





The path forks...

As the story reaches a turning point, the speaking figure again quiets. The screen at the front of the room abruptly changes once more. You feel a sense of déjà vu...



"You are here:" by Paul Thompson under CC BY-ND 2.0

question





"Jumble of Clocks Gare St Lazare - L'Heure de tous Arman" by Amaury Laporte under CC BY 2.0

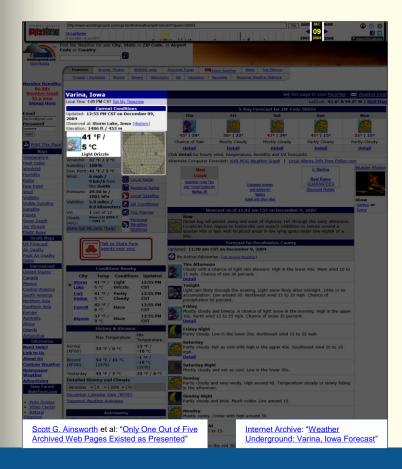






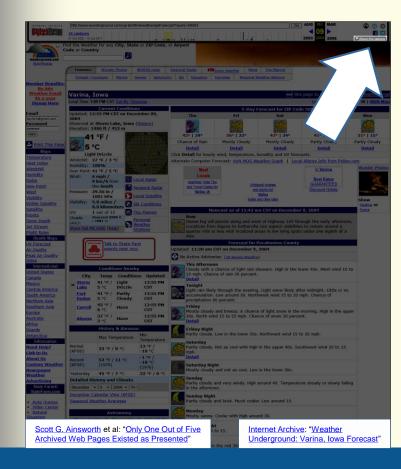


















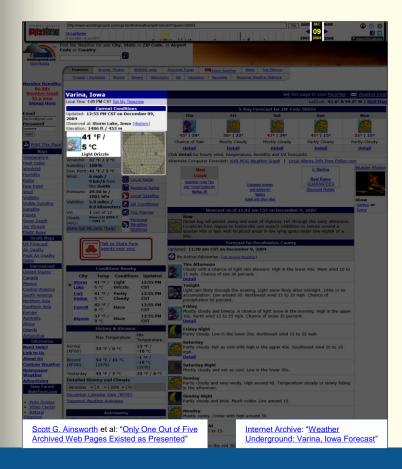
























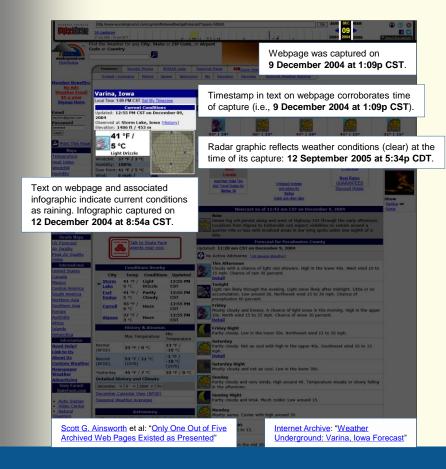
















What conclusions does this page support?







What conclusions does this page support?

- it was raining in Varina, Iowa at 12:55p CST on 9 December 2004
- 2. the sky was clear in Varina, Iowa at 12:55p CST on 9 December 2004
- no definitive conclusions are supported, because different parts of the page suggest inconsistent weather conditions
- the question is moot, since an observant judge or opposing party will highlight the page's unreliability, resulting in it being deemed inadmissible
- 5. IAWM evidence is inherently unreliable, due to issues of temporal incoherence





What conclusions does this page support?

- it was raining in Varina, lowa at 12:55p CST on 9 December 2004
- supporting text (i.e., "Light Drizzle") is in webpage HTML
- rain infographic is displaced in time, but file name (i.e., "rain.GIF") still indicates rain
- content presentation is consistent w/ IAWM behavior
- temporally violative image can be qualified + discounted



"11NOV2015 Following The Storm" by Carl Wycoff under CC BY 2.0





What's going on here?

- archiving of web resources is timestaggered
- IAWM reconstitutes archived webpage w/ most temporally proximate elements
- IAWM may therefore re-present fictitious web pages
- examine capture dates + assess materiality of temporal incoherence



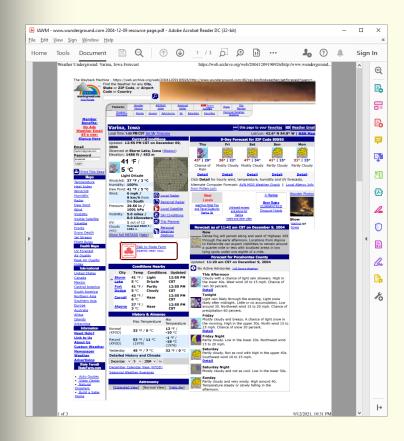
"chaos" by jenny downing under CC BY 2.0





Problems w/ PDF

- IAWM evidence submitted as PDF screenshots
- temporal variations no longer apparent
- if temporal coherence is an issue, provide supplementary info







Problems w/ PDF

- IA will still provide an affidavit
- however, this IAWM evidence is more easily contested
- or viewed as less credible by judge
- consider an expert witness



"Door Ajar" by Jenn Turner under CC BY 2.0





The path forks...

As the story reaches a turning point, the speaking figure again quiets. The screen at the front of the room abruptly changes once more. You feel a sense of déjà vu...



"You are here:" by Paul Thompson under CC BY-ND 2.0

question



Questions?

The speaking figures evidently conclude their soliloquies. The image on the screen is still. You reflect on your journey, wondering what they meant when they said...



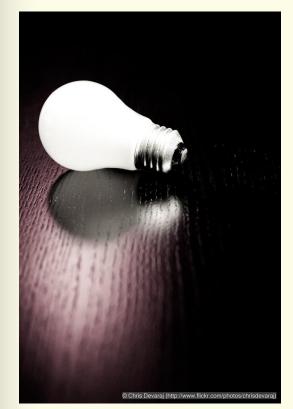
"Big blue bear looking in" by Tim Wilson under CC BY 2.0





Parting...

The figures give their thanks, bid you farewell. You rise to your feet and go forth, confident in newfound knowledge...



"IMG 1039" by Chris Devaraj under CC BY 2.0



