Is ONE Keyword Adequate for a Search?
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Magistrate Judge Facciola's *Asarco, Inc. v. United States EPA,* 2009 U.S. Dist. LEXIS 37182 (D.D.C. Apr. 28, 2009) dealt with a very brief issue:

Was one keyword adequate for the search of electronically stored information?

Short answer: No

In *Asarco,* the Plaintiff opposed a summary judgment motion and sought leave to take discovery. The Plaintiff claimed the Defendants had acted in bad faith and claimed Defendants only used the search term "recontamination" in their ESI search. *Asarco,* 7.
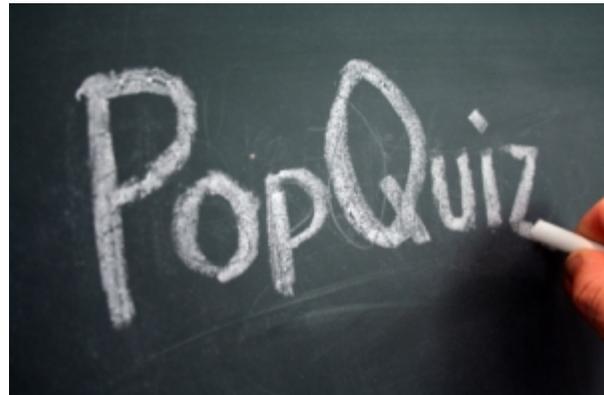
Judge Facciola ordered the Defendants to perform another key word search using the Plaintiff's four keywords: 1) "recontaminate," 2) "recontaminat," 3) "recontamination," and 4) "contaminate again." *Asarco,* 7-8.

Ironically, the search terms derivative of the term "recontamination" should have positive results in a Pre-Discovery tool such as Clearwell or a litigation support database with the search term "recontam*".

This raises a fundamental question when searching electronically stored information: What are an adequate number of search terms?

Answer: Totally depends on the case.

In *William A. Gross Constr. Assocs. v. Am. Mfrs. Mut. Ins. Co.,* 2009 U.S. Dist. LEXIS 22903 (S.D.N.Y. Mar. 19, 2009), one party proposed a few basic search terms to search a non-party's email system.

The other party provided several thousand terms.

The non-party understandably only wanted to produce emails that related to the subject matter of the litigation.

Magistrate Judge Peck ordered the parties to use the "narrow" terms, variations of the parties names and the names of the personnel involved in the construction. *William A. Gross Constr. Assocs.,* 10.

In another case out of Kansas, a Court ordered search terms to include first names, abbreviated first names and last names of the parties in the lawsuit. *Patterson v. Goodyear Tire & Rubber Co.*, 2009 U.S. Dist. LEXIS 34585, 17-18 (D. Kan. Apr. 23, 2009).

On the other extreme, in a Copyright & Computer Fraud and Abuse case between Oracle and SAP, the parties were in a dispute to limit discovery to 165 custodians on an ancillary issue in the case. The estimated discovery cost for the 165 custodians was $16.5 million. One can imagine the number of terms, names and dates being employed as search terms in such litigation. *Oracle Corporation, et al., v. SAP AG, et al.,* 2008 U.S. Dist. LEXIS 88319.

The number of search terms required for a search to be "adequate" will turn on the facts of each case. There will not be a bright line rule, other then being diligent and understand the technology your law firm and experts are using.