From Oral Hearing to Opinion in The U.S. Supreme Court

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1. Introduction

This paper provide a structured analysis of US Supreme Court Oral Hearings to enable identification of the relevant issues, factors and facts that can be used to construct a test to resolve a case. Our analysis involves the production of what we term 'argument component trees' (ACTs) in which the issues, facts and factors, and the relationship between these, are made explicit. We show how such ACTs can be constructed by identifying the speech acts that are used by the counsel and Justices within their dialogue. We illustrate the application of our analysis by applying it to the oral hearing for the case of *Carney v. California*, and we relate the majority and minority opinions delivered in that case to our ACTs. The aim of the work is to provide a formal framework that addresses a particular aspect of case-based reasoning: enabling the identification and representation of the components that are used to form a test to resolve a case and guide future behaviour.

2. The Supreme Court Process

The Supreme Court receives a number of *certiorari* requests from parties who are not satisfied with lower court decisions. Normally, when the *certiorari* is accepted, the petitioner, respondent and third parties write briefs to prepare the Justices for the oral hearings. When the Justices have considered all the briefs, the oral hearings take place. The total time for the oral hearings is just one hour, thirty minutes for each party. Normally the petitioner will begin, reserving some of his thirty minutes for rebuttal. The respondent will follow for thirty minutes, and the petitioner will finish taking the remaining time for rebuttal. Following the oral hearing, the Justices meet in conference to discuss and vote on the case. Following this the opinion arguments are prepared.

As part of the Supreme Court procedure, there are three nested dialogues in the main oral argumentation dialogue. The overall goal of the main dialogue is to establish the various components, and the connections between them, expressed as clearly and unambiguously as possible, which can be used by the justices to construct the arguments they will use in their opinions. The table in figure 1 describes the initial situation and the individual goals of each dialogue in the oral hearing which will help to drive our analysis of the dialogues [1].

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3. Models of Reasoning

Modelling reasoning with legal cases can be expressed as a tree of inference with a legal decision as the root and evidence as the leaves with a number of distinct layers in between. Immediately below the decision we have a level of issues, or values, which provide the reasons why the decision is made. At the next level down there are a number of *factors*. Factors are stereotypical fact patterns which, if present in a case, favour one side or the other by promoting a social value, and so are used to resolve the issues. Below the factors we have the fact patterns used to determine their presence. At the lowest level there is the evidence, which has been already considered by the time a case reaches the Supreme Court (see [1] for more discussion). Thus a complete argument for a case will comprise a view on what can be considered as evidence for relevant facts: which facts are required to establish the presence of various factors, and how they relate; how the factors can be used to determine the issues; and, where issues and values conflict, how these conflicts should be resolved.

4. Speech Act and Argument Components Tree

To enable the tree components to be proposed, we need to define speech acts for the oral hearing dialogues together with a set of critical questions challenging the components, or seeking additional components to be posed (see [1] for fuller discussion). In this poster we briefly identify the moves, and organise the argument components identified in the speech acts as an Argument Component Tree (ACT) as shown in the poster (Figure 1). For each dialogue in the oral hearing we form one ACT for the counsel and one for the Justices. Each ACT is constructed starting with the issues and it gets updated throughout the dialogue by the assertion of new factors and facts. By the end of the dialogue, each ACT shows a *complete* representation of a perspective on the components exchanged in the course of the dialogue.

5. Illustration with *California v. Carney*: From Oral hearings to Opinion

This case is concerned with whether the exception for automobiles to the protection against unreasonable search provided by the Fourth Amendment applies to mobile homes which the living area is an integral part of the of the vehicle [2]. Using the oral hearings transcript of *Careny* we applied manual analysis to propose the speech acts and construct the ACTs. One example of a petitioner ACT is shown in the poster (Figure 1).

After the oral hearing, we get four ACTs. The task now is to merge these alternatives to produce an answer for the current case, and a test applicable to future cases. This is the role of the Justices' conference stage, and, given the (competing) ACTs, could be done by top down traversal of the trees, choosing the desired elements, and evaluating the resulting structure using the facts of the case. Thus while all four trees identify privacy and exigency as issues, all three ways of linking them are available, and must be chosen between. Having identified *exigency* as an issue, a selection from the proposed factors must be made, and so on. Different Justices may make different choices, which may lead Justices to write individual opinions, either dissenting from the majority, or expressing a

different view of the appropriate tests. From *Carney's* decision, we find that the opinions offer different navigations through the components presented in the oral hearing ACTs: *all* the components used in the opinions can be found in the ACTs. Some elements form the basis of the court opinion tests. Some of the remaining facts, although not true of *Carney*, are mentioned as potentially pertinent, and so may still provide tests in future cases. Our current work concerns automation of the ACT construction and traversal.

References

[1] L. Al-Abdulkarim, K. Atkinson, and T. J. M. Bench-Capon. Dialogues in US supreme court oral hearings. In *Proceedings of CMNA 2013*, 2013. In press, see: http://www.cmna.info/CMNA13.

[2] L. Al-Abdulkarim, K. Atkinson, and T. J. M. Bench-Capon. From oral hearings to opinion in the US supreme court. In *Proceedings of Jurix 2013*, 2013. In press, see: http://sinatra.cirsfid.unibo.it/jurix2013/.
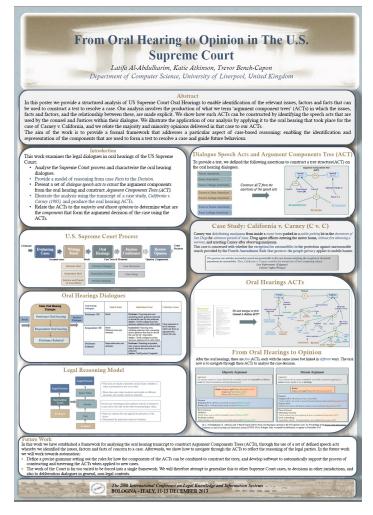
Figure 1. Poster