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## Museletter: September 2000

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# Museletter

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## UCITA: WHAT DOES IT MEAN TO LIBRARIES AND RESEARCHERS

BY TIMOTHY L. COGGINS

Virginia was the first state to pass the Uniform Computer Information Transactions Act (UCITA). Governor Jim Gilmore signed the UCITA legislation in March, 2000, but UCITA will not be effective until July 1, 2001. In order to get the votes necessary to pass the legislation, the General Assembly agreed to three amendments, one of which delayed the implementation date until 2001. The second amendment set up a special technical advisory committee to study the impact of the act on Virginia businesses, libraries, and consumers. The special advisory committee must report to the Joint Commission on Technology and Science before December 1, 2000. Professor Deborah Tussey and Gail Warren, the State Law Librarian (formerly an adjunct in Richmond's Lawyering Skills program), are members of the special advisory committee.

What is UCITA? UCITA is the result of a 10-year effort to craft a new legal framework for transactions in computer information and to create a uniform approach to contracts as they relate to computer software, online databases and resources, and Internet services. The legislation is controversial because of concerns that it does not protect adequately consumers and libraries, and it will permit contract law (instead of federal copyright law) to govern transactions for digital information. Supporters of UCITA suggest that it is primarily about extending the Uniform Commercial Code provisions to "computer information."

What are some issues that many consumers and supporters of libraries identify as areas of concern? A few are listed below.

- ▶ UCITA would validate terms in shrink wrap and clickable licenses that restrict uses by libraries and library users that are otherwise allowed under copyright law. Some of those otherwise legitimate uses are legally transferring the software or digital works, publicly discussing the product, or providing access to other users.
- ▶ UCITA would increase the costs for libraries of acquiring, preserving and lending information products. Libraries would need to pay close attention to preservation and archival issues, because license provisions could also eliminate or limit the right of libraries to lend information products to library users and to make archival copies.
- ▶ UCITA would allow software vendors to limit how a library may make use of information and to prevent people from donating materials to libraries. UCITA would upset the balancing of the interests of creators of information with the needs of society to use and create new information.

(Continued, page 2)

### Fall 2000 Regular Library Hours

Sun.-10:00 a.m.-  
Midnight  
Mon.-Thurs.-7:30 a.m.  
- Midnight  
Fri. - 7:30 a.m.-  
9:00 p.m.  
Sat. - 9:00 a.m. -  
9:00 p.m.

### Fall Break (Oct. 13-16)

Fri. Oct. 13 - 7:30 a.m.-  
10:00 p.m.  
Sat & Sun. Oct. 14-15 -  
8:30 a.m. -7:00  
p.m.  
Mon. Oct. 16 - 7:30 a.m. -  
6:00 p.m.  
Tues. Oct. 17 - Resume  
regular hours



*[UCITA] faces broad-based opposition, including the Federal Trade Commission staff, the attorneys general of 26 states, and the American Law Institute, which originally cooperated with the [NCCUSL] on the drafting of the uniform law.*

*(UCITA continued)*

- ▶ UCITA allows software publishers to sell software "as is." There might not be any warranty that the software will work correctly or that the consumer can get his or her money back if it does not function properly.
- ▶ UCITA would allow the software license to stipulate that the software cannot be reviewed by a magazine or newspaper *without the publisher's permission* unless and until the courts find this provision to be unenforceable. Critical reviews of software could not appear in newspapers and magazines, making it harder for consumers and libraries to find out if the software works properly before buying the software.

UCITA passed in Maryland with some amendments and goes into effect there on October 1, 2000. The legislation has been introduced in fewer than ten other states. It faces broad-based opposition, including the Federal Trade Commission staff, the attorneys general of 26 states, and the American Law Institute, which originally cooperated with the National Conference of Commissioners on Uniform State Laws on the drafting of the uniform law. ALI terminated its sponsorship because it believed that the draft was unbalanced. Other opposition comes from some trade associations representing computer programmers, large software customers, writers, photographers, consumer groups, and business groups such as the National Retail Federation. Fifty intellectual property law professors and 43 professors of contract and commercial law also have criticized or opposed UCITA.

## SEPTEMBER IS CONSTITUTION MONTH

### Presidential Campaign Raises Article II and 12th Amendment Issues

*Article II, sec.1, cl. 4: No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President. . .*

In an e-mail exchange with the *Museletter* Editor, Professor Jones mentioned a possible constitutional and electoral twist. Pat Buchanan was born in the District of Columbia. It could therefore be said that he was not born in any of the United States. Professor Jones noted that "it was widely assumed that the requirement was intended to exclude Alexander Hamilton, but careful application of the rest of the criterion to his personal

circumstances yields to the conclusion that he could have been President."

*Amendment XII [1804]: The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves. . .*

The Republican Vice-Presidential selection of Dick Cheney created a momentary "hitch," as Cheney dashed back to Wyoming to change his voter registration from Texas to avoid any constitutional obstacle prior to the announcement.

[Professor Jones coordinates a website source for information on constitutions, constitution drafts, and other documents related to national and state constitutions and constitutionalism at Confinder (<http://www.richmond.edu/~jpjones/confinder>)]



## *We Three Computer Geeks : Meet the Computer Services Staff*

By Kim Wiseman



I know what everyone is thinking. Alison, Paul, and I have a raging network in our homes, with computers in every room. You assume our idea of a good time is reading every PC magazine in the world and applying new technology to our home networks, so we can test to see what new and exciting things may await you one Monday morning when you arrive to school.

The truth is, we're not geeks at all. Really. All three of us have a lot of other interests outside of our nerdy exteriors. And none of us has ever attended a Star Trek convention (how many of YOU can say that?).

Meet Paul Birch. Paul has worked at the T. C. Williams School of Law for over ten years. He received his law degree from the University of Wisconsin (yes, he's one of you guys). Paul came here as a Reference Librarian, but fortunately for us he found his niche working with computers, and is our Computer Services Librarian. In 1994, the University of Richmond was the first law school in the nation to require laptop computers. Paul spearheaded this project, and we all enjoy the fruits of his labor.

Paul is also an accomplished musician. He plays mandolin in a local bluegrass band, Back Forty. If you like bluegrass, drop Paul a line and he'll be happy to let you know when and where Back Forty will be performing. Paul and his wife Linda also own a farm, complete with horses, chickens, dogs, cats, and, of course, a donkey and a peacock.

Eight law students  
assist the computer  
services staff with  
Help Desk hours.

Thanks for  
your help!

Brooke Brinkerhoff

Alan Gernhardt

Scott Gilbert

Nick Nicholas

Tom Payne

Julie Roscoe

Pankaj Shere

Dharmesh Vashee

Alison Merner arrived in Richmond two years ago, after growing up near Detroit, MI. Alison received her business degree from Tiffin University in Ohio. She has worked for UofR for the past year as the Network Administrator of the Law School. While in College, Alison played collegiate Volleyball. She now tears up the courts in Richmond by playing coed intramural volleyball; she even played in a "beach" league this summer. She is also an avid ice hockey fan. You can find her many a Saturday night at the Richmond Renegades games. However, she is a true-to-the-bone Redwings fan. Just don't mess with the Redwings.

I became the Law School's Computer Services Assistant in the Spring of 1998. Before that, I spent 13 years at the College of William and Mary. The two most significant accomplishments in my life include the birth of my son in 1991, and FINALLY receiving my Bachelor's degree this past May. Yes, I belong to the Class of 2000. I also coached my son's Coach-Pitch Little League this past spring/summer. He played on the West Point Rockies minor league team and we finished right in the middle of the pack. You've heard "those who can't do, coach," right? That fits me to a "T." And as if that isn't enough excitement, I also co-manage a disc jockey business. I play the part of producer. Let me know if you're ever in the market for a DJ!

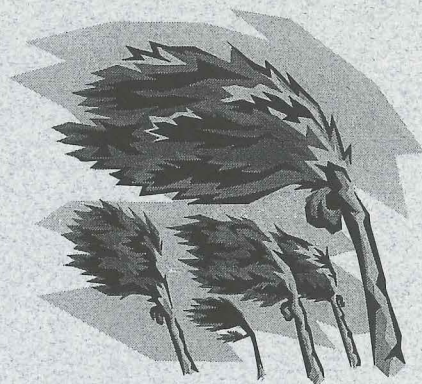
As you can see, we three geeks are not really geeks at all. We are pretty "normal" people — whatever that is. We're all very happy to be here and help you with any computer needs you may have. Let us know if you need anything.



## Website of the Month: NOAA's Hurricane Center

<http://www.noaa.gov/>

Despite mild weather conditions in the Atlantic in June, July and August, the National Oceanographic and Atmospheric Administration (NOAA) predicts a "worse than average" hurricane season. That classification includes 11 named storms, 7 of which reach hurricane levels of 75 mph, and 3 "intense" storms of category 3-5, or over 110 mph winds. Why mention this? The timing frequently interferes with online computer training. Several Lexis and Westlaw classes had to be postponed last year due to Hurricane Floyd and in the spring semester because of a large snowfall. Fortunately, this year we made it through both weeks of training without a postponement.



The season is a good opportunity to mention the University's weather hotline. Call 289-8760 to connect to the university's Inclement Weather Emergency Hotline. The Law School's official school closing will be announced on radio WRVA (1140 AM), WRXL (102 FM), and WRVQ (94 FM), as well as local TV stations. If the Law School is NOT officially closed in inclement weather, individual professors may still decide to cancel classes, and they notify the Dean's Office to that effect. Students should call the Dean's Office (289-8740) for class cancellations, which are announced via our voice mail.

The NOAA site also has valuable weather information that could be beneficial to litigators. The National Climatic Data Center (NCDC) is the world's largest active archive of weather data. The center produces numerous climate publications and responds to data requests from all over the world. It operates the World Data Center for Meteorology, in Asheville, North Carolina. Find the NCDC at [www.ncdc.noaa.gov](http://www.ncdc.noaa.gov). To search the database for available historic weather information, click on "Weather Station, City, County, and more." Enter a city or zip code and click on "search." (A new feature option is a list of stations with photographs available online.) You will retrieve a list with the date range for availability of climate information. Contact the NCDC in Asheville at 828-271-4800 or by e-mail at [info@ncdc.noaa.gov](mailto:info@ncdc.noaa.gov) for complete reports.

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The Museletter is the official newsletter of the  
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