



Public Policy
Committee
Update 2000
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Public Policy Committee Update May 24, 2000

UCITA ENACTED IN MARYLAND: Gov. Parris N. Glendening signed into law the Maryland Computer Information Transactions Act (UCITA) on April 25th and it became

UCITA NEWS ELSEWHERE: In Virginia, the appointment of the special UCITA study committee is pending; their report is due in December 2000. The Virginia law will take effect in 2001. UCITA has been introduced recently in the District of Columbia (13-607), Delaware (S.B. 307), and New Jersey (S.B. 1201). In Louisiana, the bill may be brought into action next year. UCITA has been tabled in some states and delayed in others, including California, Hawaii, Illinois, Maine, and Oklahoma. (Information provided by Ms. Washington Affairs Representative, American Association of Law Librarians)

SHRINKWRAP DECISION UPHELD BY WASHINGTON STATE SUPREME COURT: The Uniform Computer Information Transactions Act (UCITA) is pending legislative action in many states. The Washington State Supreme Court has ruled that the Uniform Computer Information Transactions Act (UCITA) is pending legislative action in many states. The Washington State Supreme Court has ruled that the Uniform Computer Information Transactions Act (UCITA) is pending legislative action in many states. The Washington State Supreme Court has ruled that the Uniform Computer Information Transactions Act (UCITA) is pending legislative action in many states.

The Supreme Court of the State of Washington ruled that "not our fault" language contained in a shrink wrap license for software was valid, even if the customer never knew about the defect before the product was sold. In the Washington case, a construction company made a \$1.95 million error in a bid it submitted because of a defect in the software. The construction firm discovered the error only after the bid had been accepted. The construction company sued the software developer to recover the \$1.95 million and the court ruled that a liability waiver in the shrink wrap license provided complete protection to the software company.

UCITA would make the Washington Supreme Court's ruling law in every state that adopts the legislation. According to Skip Lockwood, director of 4CITE (For a Competitive Technology Economy), "UCITA takes away software firms' incentive to pre-test their software in order to distribute bug-free programs. Software companies can ship programs secure in the knowledge that UCITA will shield them from liability."

In another case, Microsoft has demanded that Slashdot.org remove postings on its web site about a Microsoft security product. Microsoft contends that when the users click on the Microsoft site, they clicked on a confidentiality agreement. Therefore, users are unable to publicly comment on the software.

UCITA would render this click-on confidentiality agreement (and many other onerous provisions) completely enforceable. "UCITA will allow software vendors to bind people to secrecy. Consumers and competitors will not be able to comment on or criticize the vendor's products." according to Lockwood.

4CITE is a 29 member profit partnership actively supporting the expansion and competitive use of e-commerce by addressing the many legal and public policy inadequacies. [ARLIS/NA is a charter member of 4CITE.]

The majority opinion can be found at:
<http://www.courts.wa.gov/opinpage/opindisp.cfm?docid=677964MAJ>.

The dissent is at:
<http://www.courts.wa.gov/opinpage/opindisp.cfm?docid=677964DI1>

A related article by Julie Cohen (The New Republic) is at: <http://www.tnr.com/online/cohen052300.html>

COMPULSORY LICENSING AND INTERNET STREAMING/TELECASTING: The following story discusses the topic and reports a House Copyright Subcommittee hearing on May 10, 2000. <http://www.law.com/cgi-bin/gx.cgi/AppLogic+FTContentServer?pagename=law/View&c=Article&cid=ZZZCEGXF7C&live=true&cst=1&pc=0&pa=0&s=News&ExpLn>

"FREENET" SOFTWARE FACILITATES ANONYMOUS EXCHANGE OF DIGITAL INFORMATION: The following New York Times article (May 10, 2000) describes a copyright development: "The Concept of Copyright Fights for Internet Survival" CONGRESSIONAL SUBCOMMITTEE PROPOSES CUTS TO US GOVERNMENT PRINTING OFFICE: The following New York Times article (May 10, 2000) describes a congressional cuts in funding for its own agencies, including the Government Printing Office, have brought a rain of criticism down on U.S. congressional Republicans on the matter 5/9/00, and you can view the report at www.abcnews.com. Search their video files for "congressional cuts." (Information provided by John Crosby, SLA G and Skip Lockwood, Digital Future Coalition)