

Partial Listing of Articles and Papers Commenting Favorably on UCITA

<u>Date</u>	<u>Description</u>	<u>Comment</u>
January 2005	“Virginia and Maryland UCITAs Filling a Legislative Void” by Carlyle C. Ring, Jr. <i>Journal of Internet Law</i>	“Tangible product transactions to a large degree form the foundation of our current statutory and common law dealing with commercial transactions. Both licensors and licensees of software and information products are looking for clear, consistent rules for the information highway. UCITA provides uniform rules essential for the global economy evolving in the Information Age.”
June/July 2003	“UCITA: The Current State of Commercial Information Law” by Lorin Brennan <i>UCC Bulletin</i>	“The purpose of a commercial code is to support commerce by reflecting normal practices... UCITA does that. It supports information commerce by reconciling state commercial law to federal intellectual property law. It accurately reflects modern case law and commercial practices in the information economy. Even UCITA’s critics have long given up any pretense that UCITA does not do that.”
March 2003	“UCITA and Reverse Engineering” David Syrowik <i>Michigan Bar Journal</i>	“New Section 118 of UCITA establishes “bright line” test or “safe harbor” that software developers can follow in the course of reverse engineering the computer program as others. While not a particularly broad exception, it does re-strike a balance between software developers and should promote some measure of interoperability and competition in the software industry” (p. 34)
January 2003	“Contracts and Electronic Commerce: UCITA” Kent Lassman <i>The Progress & Freedom Foundation</i>	“The standardization and uniformity achieved by UCITA... is likely to bring far greater benefits to the digital market place, increasing certainty and clarity... It would enhance overall welfare by reducing information and transaction cost...as compared to the current legal regime.” (p. 10)

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November 2002	<i>UCC Bulletin</i> Article by Professors Miller and Henning and Michael Kerr entitled "UCITA Revised"	"The 2002 amendments to UCITA address most valid concerns with UCITA. . . When information transactions can occur in electronic form ... almost anywhere ... for our country to continue to prosper and expand productivity ... there must be uniform rules in every state. If that does not occur, it may occur by federal rule ... which will introduce the added complexity of interrelating the federal law with the underlying body of state contract law."
August 2002	Clipping from <i>Richmond Times-Dispatch</i> by John Farmer, IP lawyer	"38 Amendments may be Recipe for Success."
July 2002	<i>UCC Bulletin</i> Article by Gene J. Riccobini entitled "UCITA: Catalyst for Electronic Contracting of Electronic Agents"	"UCITA is truly a blessing to modern day enterprises. However, unless state legislators are willing to accept that fact, the fruits of this man made blessing may never be realized."
July 26, 2002	Memo of Professor George L. Priest, Yale Law School	"I believe UCITA is a worthy first step in trying to address these issues (though I think it is widely misunderstood) and there is good reason to allow it to be tested over time."
April 1, 2002	Martin Carrara Purchasing Law Report	"If you allow the agreement to be silent on the issue [electronic self help], then, absent UCITA, the licensor may resort the use of electronic self help as a remedy."
June 1, 2002	Institute of Management & Administration	"As adopted, the law [UCITA] allowed electronic repossession as long as the software agreement approved its use.... However, on December 20, 2001, the law was amended so electronic repossession is prohibited.... The UCITA safe harbor is not current law in most states. Therefore, most users are vulnerable..."

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November 2002	Article in 77 N.Y.U.L. Rev 429 entitled “Standard Form Contracting in the Electronic Age” by Professors Robert A. Hillman & Jeffrey J. Rachlinski, Cornell Law School.	Article concludes that standard forms are prevalent in both the paper world and electronic form. “The Uniform Computer Information Transactions Act (‘UCITA’) ... follows the model of the U.C.C. for enforceability of standard-form contracts.... UCITA goes further to define ‘opportunity to review’ as existing if the term is ‘made available in a manner that ought to call it to the attention of a reasonable person and permit review’.... The key feature of this aspect of UCITA is reasonableness of the presentation method.... In short, despite some alarmist claims about UCITA in the popular press, UCITA maintains the contextual, balanced approach to standard terms that can be found in the paper world.”
November 9, 2001	“An Economic Assessment of UCITA” <i>AEI – Brookings Joint Center for Regulatory Studies</i> Robert W. Hahn Anne Layne-Farrat	“Just as UCC was beneficial in clarifying contract formation law for mass – manufactured products, UCITA holds potential for benefiting licensors and licensees of computer information products. We find that UCITA is likely to reduce contractual uncertainty for both consumers and businesses”.
Fall 2001	<i>Commercial Law Journal</i> , Vol. 106, Number 3, article entitled “An Overview of the Uniform Computer Information Transactions Act” by Jerry T. Myers	“UCITA attempts to provide for computer information transactions the uniformity and predictability that UCC Article 2 provided for the sale of goods. As this article has shown, UCITA represents a careful blending of law drawn from a variety of sources. The drafters of UCITA have combined concepts and principles taken from common law ... with those found in copyright and other intellectual property traditions using the UCC Article 2 model familiar to most commercial lawyers...”
April/May 2001	PLI Symposium, “Understanding Electronic Contracting” No. 649, G0-00MV	Articles as follows: Raymond T. Nimmer – Law at a Lightning Pace

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		Raymond T. Nimmer – Series of Papers on UCITA issues
		Carlyle C. Ring – UCITA: Contracting Rules for Information Commerce
		Thomas J. Smedinghoff – Creating Enforceable Electronic Transactions.
		Thomas J. Smedinghoff – Moving Your Business Transactions Online: The Impact of E-Sign & UETA.
		Roland E. Brandel – The Federal E-Sign Act New Legal Foundations for E-Commerce.
		Raymond T. Nimmer – Contracts and Online Content Providers.
		James R. Maxeiner – The New Commercial Law and Public Information Policy: The Libraries and UCITA.
		Lorin Brennan – The Public Policy of Information Licensing.
Winter 2000	Duquesne Law Review Symposium “Approaching Ecommerce through Uniform Legislation”, Vol. 38 No.2	<p>Articles as follows:</p> <p>Mary Jo Dively – “The New Laws that will Enable Electronic Contracting.”</p> <p>Raymond Nimmer - : Through The Looking Glass” (Scope of UCITA)</p> <p>Carlyle C. Ring, Jr.” Uniform Rules for Internet Information Transactions.”</p> <p>Holly K. Towle – “Mass Market Transactions” (in</p>

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		UCITA) Lorin Brennan – “Why Article A Cannot Apply to Software Transactions.”
February 2000	Report of Delaware Bar Association	UCITA <ul style="list-style-type: none"> • "Provides a uniform body of law governing the commercial aspects of computer information licensing • Provides substantial new protections for consumers. • Supports freedom of contract and commercial expansion • Provides clear rules that must be followed for shrink-wrap contracts be enforceable, including a cost-free right of return in favor of consumers.” (Executive Summary).
Summer 2000	Alvin C. Harrell, 25 Oklahoma City U.L. Rev 333	“UCITA is largely codification of contract law, and is consistent with the UCC.... UCITA is a lot like the UCC, it recognizes the primacy of party autonomy, provides gap filling rules and sets some outer parameters for private agreements.... [I]f one’s goal is to make current law work better, to simplify, clarify modernize and make more uniform the traditional legal principles currently governing electronic transactions, UCITA has much to offer. UCITA is subordinate to federal law, state consumer protection laws, standards of reasonableness and unconscionability, and basic restraints of public policy.... UCITA can now smooth the way to an information-based electronic economy.... It deserves a chance to show what it can do.” At pp 349-50)
June 29, 2000	Washington State Bar Association, Law of Commerce in Cyberspace Committee	[UCITA] is needed “to supply suitable intellectual background laws of parties that contract for computer information and for judges who interpret those

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		contracts. Such suitable background is not supplied by U.C.C.”
April/May 2000	PLI Symposium “The UCITA Revolution” Course Book G-600 G0-00D9	<p>Articles as follows: Article 2”</p> <p>Ray Nimmer – Public Policy and Contract Law in an Information Society.</p> <p>Lorin Brenann – The Public Policy of Information Society.</p> <p>Holly K. Towle and A. Brian Dengler – Contract Formation: Electronic Contracts and Online Terms.</p> <p>David Mirchin – Mass Market and Consumer Contracts.</p> <p>Holly Towle – Mass Market and Consumer Contracts in Computer Information.</p> <p>Terrence P. Maher – Mass Market and Consumer Transaction.</p> <p>Lois F. Wasoff – Association of American Publishers Copyright Committee Policy Paper on Contractual Licensing, Technological Measures and Copyright Law.</p> <p>Jeff C. Dodd and Brian Martin – A Preliminary Analysis of Certain Default Rules in Uniform Computer Information Transactions Act.</p> <p>David Bender – Choice of Law and Choice of Forum.</p> <p>John W. Woodward – Contracts and Choice of Law and Forum.</p>

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		Mary Jo Howard Dively – Warranties, Disclaimers, and Remedies.
		Micalyn S. Harris and Carol A. Kunze – Alternative Methods of Third Party Financing for Licensees Under UCITA.
		Mycalyn S. Harris and Carol A. Kunze – Small Software Companies and Contract Law.
1999	Houston Law Review Symposium, Vol. 36 No.1	Articles as follows:
		Raymond T. Nimmer – “Images and Contract Law Applies to Transactions in Information.”
		Lori Brennan – “The Public Policy of Information Licensing”.
		Holly K. Towle – “The Politics of Licensing Law.”
		Robert W. Gomulkiewicz – “How Copyleft Uses License Rights to Succeeds in the Open Source Software Revolution and the Implications for Article 2B.”
		Jeff C. Dodd – “Time and Assent in the Formation of Information Contracts: The Mischief of Applying Article 2 to Information Contracts.”
		David A. P. Neboyskey, Comment, “A Leap Forward: Why States Should Ratify the Uniform Computer Information Transactions Act.”
November 1999	12 No. 9 Software L. Bill. 216 (November, 1999) (16 Andrews Computer & Online Indus. Litig. Rep. 10 1999).	George L. Graff – “The Evolution of the Uniform Computer Information Transactions Act.”

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16 Computer L. Strategist (no. 4) (1999).

George L. Graff- "Controversial Computer Act Offers Major Innovations."