



# UTOMATOME

VOLUME 2, No. 2

DECEMBER, 1981

THE NEWSLETTER OF THE AUTOMATION AND SCIENTIFIC  
DEVELOPMENT SPECIAL INTEREST SECTION, AALL

CHAIRPERSON, 1981-82

Jenni Parrish  
University of  
Pittsburg

VICE CHAIRPERSON, 1981-82

Duncan Webb  
Michigan State  
Library

SECRETARY/TREASURER, 1981-82

Byron Cooper  
University of  
Indiana

NEWSLETTER EDITOR: Thomas M. Steele, Franklin Pierce Law Center, Concord, NH 03301

EDITOR'S NOTE:

This issue is the second of four planned for 1981-82. The editor wishes to thank those of you who contributed information and articles and to request that more of you submit contributions in the future. Deadline for the next issue is March 31, 1982.

1982 AALL AUTOMATION AND SCIENTIFIC DEVELOPMENT  
SPECIAL INTEREST SECTION PROGRAM UPDATE

The program for the 75th Annual Meeting in Detroit in June is being finalized. As it now stands the speakers and their topics will be:

- |              |  |
|--------------|--|
| James Sprowl | "The Kind of Telecommunications Standards and Capacities Required for Information Retrieval in Law Libraries," |
| Layman Allen | "The Capacity of Automated Systems To Do Reasoning"  |
| Duncan Webb  | Responsibilities of Administrators to Alert Their Funding Sources to Possibilities of Automation"              |

The program is tentatively scheduled for Tuesday, June 15, 1982 from 9 am to 11 am.

o o o o o o o o o

LAW LIBRARY AUTOMATION NEWS

Florida State University College of Law Library retired its card catalog on November 24, 1981. Users have accepted the COM catalog produced by BRODART.

o o o o o o o o o

Although not limited to law libraries, the news of NELINET's withdrawal from an active technological service and linkage role will have an impact on New England law libraries. New telecommunication linkages on informal bases and stringent budgetary circumstances reportedly forced NELINET to scaleback. Reports are that SOLINET's experience as a technological linkage and service leader are also not proving as feasible as first projected. NELINET will concentrate on OCLC provision.

CURRENT LITERATURE

Computer Programs and Data Bases: Perfecting, Protecting and Licensing Proprietary Rights After the 1980 Copyright Amendments, New York: Law & Business, 1981.

o o o

Contesting Computer Disputes: Litigation and Other Remedies in Contract, Trade Secret and Copyright Cases, New York: Law & Business, 1981.

o o o

Feinchel, Carol H. and Thomas H. Hogan, Online Searching: A Primer, Marlton, N.J. [PO Box 550], Learned Information Inc., 1981, \$12.95.

If you are starting from ground zero in trying to learn about database searching this is a good basic book, logically structured and clearly written.

o o o

Gomignani, Michael C., Law and the Computer, Boston [51 Sleeper St.], CBI Publishing Company, 1981. \$18.95 ISBN 0-8436-1604-0.

o o o

Legal Automation News.

The "unique publication in the legal field dedicated to providing comprehensive news, articles and feature stories about computer use in the legal community." Articles on systems, equipment and uses. For a FREE subscription write to:

Legal Automation News  
1720 North Lynn Street  
Suite 400  
Arlington, Virginia 22209

o o o

The Scott Report: A Monthly Research Report on the Law of Computers, Telecommunications and Information, written and edited by Michael D. Scott, published by Law and Technology Press, \$147 per year.

o o o

Symposium on Computer Law. Emory Law Journal, Volume 30, Number 2 (Spring, 1981).

The Symposium includes articles by Roy N. Freed, "Introduction -- Will Lawyers Impede Computerization?"; Robert P. Bigelow, "The Computer and the Tax Collectors;" Richard L. Rernachahi, Duncan M. Davidson and Allen R. Grogan, "Computer System Procurement;" Susan H. Nycum and William A. Lowell, "Common Law and Statutory Liability for Inaccurate Computer-Based Data;" Michael S. Keplinger, "Computer Software -- Its Nature and Protection;" Levin J. Moushin and Ronald B. Wheatley, "The FCC's Computing Devices Rules -- A Case Study on the Regulation of the Computed;" and Jeffrey A. Meldman and Sanford J. Fox, "Concise Petri Nets and Their Use in Modeling the Social Work (Scotland) Act 1968."

o o o o o o o o o

BOOK REVIEW

The Legal Protection of Computer Software. Edited by Lawrence Perry and Hugh Brett. Oxford, ESC Publishing, Ltd., 1981, iv., 197 p.

The problem of achieving a balance between the interests involved in protecting a person's creative work product, thereby encouraging further creative efforts, without impeding the use of that work product by the public, is an interesting one, and provides the basis around which our intellectual property laws have developed. The application of these laws to computer software is particularly unsatisfactory, primarily because of the various formats in which software exists. Flow charts, written

program instructions or punched tapes seem to fall rather easily into the scope of copyright protection, but the same program can also exist and be plagiarized from the electronic circuitry found in a microchip, which seems to be more a patent than a copyright problem. Opportunity for plagiarizing these programs abounds regardless of format. Protection of computer software has fallen through the cracks in laws which have not kept pace with technology. The Legal Protection of Computer Software presents a unique and timely collection of articles on the present state of the law, with suggestions for future changes in the law.

In the past, legal protection of computer software has been pursued with varying degrees of success under patent laws, copyright laws, trade secret laws and unfair competition laws. There are problems with each approach. Applicants have had little success in obtaining patents for computer software because it is difficult to prove that each particular program is novel or unique or nonobvious. Protection under unfair competition laws has been fairly successful in the United States, although less so elsewhere. The main problem with this approach is that in the United States the doctrine can be pre-empted by the federal patent or copyright laws. The trade secret laws have also been used successfully in the United States; one must only establish a confidential relationship of trust between parties and a breach of that trust. However, this approach is contractual in nature, and is effective only against the parties to the agreement, so the protection is limited. The protection can also easily be destroyed by disclosure of the program.

Protection under the copyright laws is the most promising approach to the software problem. United States courts have made computer software copyrightable under certain conditions under the old law since about 1964. The new copyright act does not preclude protection of software, but rather sidesteps the issue, leaving protection as under the old act, until the National Commission on New Technological Use of Copyrighted Works (CONTU) completes a study on the subject. This study is now completed, and both CONTU and the World Intellectual Property Organization (WIPO) recommend copyright revisions as the best approach to the computer software problem.

The Legal Protection of Computer Software presents articles written on this subject by several authors from various perspectives. Articles include an introduction to the technological and legal background, patentability under the International Patent Treaties, patent and trade secret protection in United States Law, common law treatment in the United Kingdom, copyright protection in civil law countries, current United States copyright law treatment, a review of various proposed systems of controlling the software problem, and gives WIPO model provisions, with an analysis. The book also includes portions of the Patent Cooperation Treaty and the European Patent Convention.

The present need for legal protection of computer software is compelling; it may be compared to the need in the last decade for legal protection of sound recordings. The law has changed to protect the piracy of sound recordings, and hopefully the law will be amended soon to include some specific provisions dealing with computer software. It is an interesting area of developing law, and the editors of the book have presented articles which provide a useful background for an understanding of this topic within the international arena.

o o o o o o o o o

REPORT ON THE 44TH ANNUAL MEETING OF THE  
AMERICAN SOCIETY FOR INFORMATION SCIENCE

October 25-30, 1981 - Washington, D.C.

This was the first ASIS conference I have ever attended and I found it to be quite a contrast from the AALL and AALS annual conferences. One of the major differences lay in the fact that at any given time at least six programs were going on so that choosing programs to attend was often a difficult matter. It was also, of course, not a law-oriented conference although there are certainly applications to be found by the imaginative lawyer or law librarian. There is a special interest group in ASIS on Law and Information Technology which sponsored two programs at the conference, one on litigation support technology and the other on computer crime. For anyone interested in more information about ASIS, the headquarters' address is:

American Society for Information Science  
1010 Sixteenth Street, N.W.  
Washington, D.C. 20036

-- Jenni Parrish

CALENDAR

DATE	PLACE	EVENT
March 15-16, 1982	Boston	Legal Automation News (LAN) Seminar Series on Computer Selection, Acquisition and Use in the Legal Profession Phone: (703) 521-6209
March 29	St. Louis	National Association of College and University Business Officers (NACUBO) Fundamentals of Computer Management for Smaller Institutions Phone: (202) 861-2520
March 30-April 1	New York City	National Online Meeting, 3d Annual Phone: (609) 654-6266
-----		
April 5-6	New York City	LAN Seminar Phone: (730) 521-6209
April 26	San Francisco	NACUBO Fundamentals of Computer Management for Smaller Institutions Phone: (202) 861-2520
April 26-27	Philadelphia	LAN Seminar Phone (703) 521-6209
-----		
May 3-4	New York City	LAN Seminar Phone: (703) 521-6209
May 17-18	New York City	LAN Seminar Phone: (703) 521-6209
-----		
June 7-10	San Francisco	Legal Info Exposition '82 Phone: (702) 521-6209
June 12-16	Detroit	AALL Convention Phone: (303) 939-4764

FRANKLIN PIERCE LAW CENTER

2 WHITE STREET

CONCORD, NEW HAMPSHIRE 03301