



Has UCITA been cited in a brief or other writing?

Why would UCITA be cited in briefs and other writings?

The Uniform Computer Information Transactions Act (UCITA) was drafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) as a “uniform” act to govern the sales/licenses of software and online services. It was intended to replace state law—Uniform Commercial Code Article 2 “Sales.” Since 2000 it has passed in just 2 states; in 2003, NCCUSL publicly stated that it would cease to promote UCITA. Four states have passed anti-UCITA “bomb-shelter” legislation.

Microsoft, AOL or other software producers or online service providers may therefore cite UCITA in briefs or other writing as authority for their positions.

What response should be made when UCITA is cited in briefs or other writing?

AFFECT believes that the policy choices made in drafting UCITA were wrong and has prepared an outline of arguments with supporting materials for the position that UCITA should not be given any weight as an authority for what the law should be. In addition to the many substantive concerns that by AFFECT members and others have raised, UCITA’s controversial history and the passage of 4 anti-UCITA “bomb-shelter laws” strengthen the argument that UCITA should instead be considered an authority of what the law should *not* be.

UCITA Should Not Be Given Any Weight as Persuasive Legal Authority Outline of Arguments and Materials for Opposing Briefs that Cite UCITA

To obtain a copy of AFFECT’s outline of arguments and supporting materials, submit your request to either David McMahon (wvdaavid@wvdaavid.net) or to the AFFECT Coordinator (affect@alawash.org) with an explanation of who you are and why you would like the outline and materials.