# EXHIBIT A

# Another Word For It

Patrick Durusau on Topic Maps and Semantic Diversity

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« Unpaywall (Access to Academic Publishing)
Papers we Scrutinize: How to critically read papers »

## How To Win Friends – The Malamud Strategy

Last week, Judge Richard W. Story (Northern District of Georgia), ruled in favor of the State of Georgia and ordered Carl Malamud to remove the Official Code of Georgia Annotated (OCGA) from public.resource.org.

There are a number of reports circulating:

The State of Georgia wins its suit against Carl Malamud for publishing official annotations to the law of the land by Simon Reichley.

If you publish Georgia's state laws, you'll get sued for copyright and lose by Joe Mullin.

Reprinting Georgia legal code violates copyright law, US judge rules in Ars Technica.

I think fees for FOIA requests serve to suppress inquiry so you can imagine where my sympathies lie in this case.

However, to promote greater public access to law, Malamud's strategy with the State of Georgia is a lesson in how **NOT** to proceed (from Ars Technica):

> …
> In 2013, Malamud scanned all 186 volumes and supplements of the OCGA and posted copies on the website. He also sent flash drives with copies of the laws to Georgia speaker of the House, David Ralston, and other lawmakers, lawyers and policymakers.
>
> Accompanying the flash drives, Malamud wrote a letter stating his intention to make the laws available so that "*public servants, members of the bar, citizens, and members of the business community have ready access to the laws that govern them.*"
> … (emphasis in the original)

Whether the Code Revision Committee withholds the OCGA from the public out of spite, some deluded notion of competition between digital and print products, or for more nefarious reasons isn't known to me.

But taking Code Revision Committee's toy and waving it in front of them, isn't going improve the situation.

Now we have have bad case law on law + annotation. Bad case law likely to be affirmed in this circuit. (Poor forum shopping.) Reversal requires Malamud to win the Supreme Court lottery. Way to go.

Here's an alternative:

First, Judge Story lists contents of each O.C.G.A volume:

> The Agreement requires the official Code to include not only the statutory provisions, but also "annotations, captions, catchlines, headings, history lines, editorial notes, cross-references, indices, title and chapter analyses, research references, amendment notes. Code Commission notes, and other material related to or included in such Code at the direction of the Commission" [Doc. No. 29-8, p. 2]. Each O.C.G.A. volume and supplement therefore contains statutory text and non-statutory annotation text, including judicial decision summaries, editor's notes, research references, notes on law review articles, summaries of the opinions of the Attorney General of Georgia, indexes, and title, chapter, article, part, and subpart captions, which are all prepared by Lexis/Nexis under the requirements of the Agreement [Doc. No. 17, ¶¶ 3, 9, 18, and 26]. (Code Revision Commission, et al. vs. Public.Resource.Org, Inc., page 3)

You will notice that court decisions, law review articles, opinions of Attorney General of Georgia are all "facts" and not subject to copyright. That is you could not use Lexis/Nexis summaries but you certainly could provide your own.

Some other "facts" in the annotations include:

> …

> The **Official Code of Georgia's** copious annotations help you expand your research and include:

> • Decisions of the U.S. Supreme Court, the Supreme Court of Georgia, the Courts of Appeals of Georgia, and all federal cases arising in Georgia
> • Opinions of the Georgia Attorney General
> • State law reviews
> • *ALR*
> • *American Jurisprudence*
> • *American Jurisprudence, Pleading and Practice*
> • *American Jurisprudence, Proof of Facts*
> • *American Jurisprudence, Trials*
> • *Corpus Juris Secundum*
> • *Uniform Laws Annotated*
> • Cross reference notes to statutes, rules, and regulations including the *United States Code* and the *Official Compilation of the Rules and Regulations of the State of Georgia*
> • All case citations are *Shepardized®* for accuracy and relevant subsequent history.

> … (Official Code of Georgia Annotated)

The first step in production of a public access version of Georgia law would be the acquisition of LexisNexis CD – Georgia Primary Law as a comparison or proofing copy to be used against your OCR of the scanned volumes. Once that's done, use XQuery to purge the non-factual material, leaving markers where new summaries need to be added.

The second step would be to crowd-source among law students the missing summaries. Proposed summaries are critiqued by other law students. Not every student makes law review but a killer annotation in the Unofficial Code of Georgia Annotated (U.C.G.A.) could provide some street cred.

A possible third step, taking the U.C.G.A. beyond the traditional product, is to use crowd-sourcing to annotate statutes with trial judge rulings, parties and their lawyers. Facts have some relationship to outcomes in court cases but not as much as you may think. Why do so many IP cases go to the Eastern District of Texas? I promise, it's not the facts of the cases.

More complicated than scanning and posting images but public access, a value-add and a better product than is currently available.

PS: I would omit Code Revision Committee annotations as they are unlikely to grant permission and the U.C.G.A. will be valuable even without their participation. This means, of course, they would not be getting any royalties from the use of the U.C.G.A.

PPS: These principles apply to other legal publishing monopolists. I'm game if you are.

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