

**From:** "Bridy, Annemarie (abridy@uidaho.edu)" <abridy@uidaho.edu>  
**To:** Jordan Stott <jordan.stott@gmail.com>, "Schumacher, Randi (randi.schumacher@vandals.uidaho.edu)" <randi.schumacher@vandals.uidaho.edu>  
**Cc:** Carl Malamud <carl@media.org>  
**Subject:** Idaho Code Project  
**Date:** December 15, 2014 at 11:23:24 AM PST

Jordan and Randi,

I'm attaching some additional background materials for the project, including the packet that Carl sent to Idaho officials following receipt of the DMCA takedown notice from Hawley Troxell and a sheaf of materials produced by the state in response to an open records request from Carl. I was surprised (though, on reflection, I'm not sure why) to discover that Lexis-Nexis is at the bottom of the push for exclusivity.

Have you both registered for Directed Study credits for Spring? If not, please do so when you get past finals.

Let's plan to meet during the first week of classes and to set a time for semi-weekly meetings thereafter. It will be a push to get a preliminary briefing together by mid-February. Given that classes don't start until the second week in January, that's an aggressive timeline. We should use Representative Rubel's letter as a template for the report. She asked some specific questions that you will need to be prepared to answer. Think of how that letter might translate into a structure for the report/white paper.

Happy holidays!

AB

-----Original Message-----

**From:** Carl Malamud [mailto:carl@media.org]  
**Sent:** Tuesday, November 25, 2014 11:57 AM  
**To:** Bridy, Annemarie (abridy@uidaho.edu)  
**Cc:** Jordan Stott; Schumacher, Randi (randi.schumacher@vandals.uidaho.edu); Ball, Katherine (ktball@uidaho.edu); Adams, Mark (marka@uidaho.edu)  
**Subject:** Re: Idaho Code Project

Hi Jordan and Randi -

Very pleased to meet you! Professor Bridy asked me to put together some pointers for you if you want to start reading early. I sent a few of my pamphlets to her Moscow address, so those should be waiting for you as well.

The core resources are the letters back and forth between me and the various state officials. I've posted the state codes for several states. Only a few (Idaho, Georgia, Mississippi, and DC) have sent me letters. In addition, we're pressing the State of Delaware on the issue of their purported jail sentence for copying the corporate code without permission.

Note that I'm going to give you \*way\* more pointers in this email than you're going to want to read. Don't feel you need to necessarily read everything. :)

Finally, I'm always on email. Don't hesitate to ask me questions!

Best regards,

Carl

The first resources are on my system. The thing to pay attention to are the letters back and forth.

1. All the state codes are on my system and on the Internet Archive (where they are much easier to read)  
<https://archive.org/details/govlaw>

2. Delaware  
<https://law.resource.org/pub/us/code/de/>

3. District of Columbia  
<https://law.resource.org/pub/us/code/dc/>

4. Georgia  
<https://law.resource.org/pub/us/code/ga/>

5. Idaho  
<https://law.resource.org/pub/us/code/id/>

6. Mississippi  
<https://law.resource.org/pub/us/code/ms/>

The other resources you might find useful from my system are some speeches and testimony I've given on the general subject of "Edicts of Government":

1. Congressional Testimony  
<https://public.resource.org/edicts/>

2. My international manifesto about why the law must be available.  
<https://law.resource.org/pub/12tables.html>

3. We had a similar tussle with Oregon a few years back. The paper trail might be useful for you. The legislature unanimously voted to waive enforcement of any copyright assertions. What's particularly impressive about that is a Lewis & Clark law student then took the Oregon Revised Statutes and made a much, much better version. The pamphlet I published goes over some of the legal background (there is one of those in the mail for you)

<https://public.resource.org/oregon.gov/>  
[http://www.oregonlaws.org/oregon\\_revised\\_statutes](http://www.oregonlaws.org/oregon_revised_statutes) (compare to the official site!!)  
[https://public.resource.org/oregon.gov/3revolutions\\_pamphlet.pdf](https://public.resource.org/oregon.gov/3revolutions_pamphlet.pdf) or  
[https://archive.org/stream/ThreeRevolutionsInAmericanLaw\\_284/3revolutions\\_pamphlet#page/n0/mode/2up](https://archive.org/stream/ThreeRevolutionsInAmericanLaw_284/3revolutions_pamphlet#page/n0/mode/2up)

<http://blogs.law.harvard.edu/infolaw/2008/04/16/can-states-copyright-their-statutes/>

4. If you want some more background about promulgation of the law in Roman times, this is a lecture I delivered at Harvard:  
[https://archive.org/stream/org.public.resource.tables/tables\\_pamphlet#page/n3/mode/2up](https://archive.org/stream/org.public.resource.tables/tables_pamphlet#page/n3/mode/2up)

In terms of external resources, there are two people I'd start with:

1. Erika Wayne is Deputy Law Librarian at Stanford and headed the “National Inventory of Legal Materials” effort which looked at copyright assertions on state resources. The AALL took that over from her and sort of screwed it, so I’d start with Erika.

<https://aallwash.wordpress.com/2012/12/12/update-on-the-national-inventory-of-legal-materials/>  
<http://www.aallnet.org/Documents/Government-Relations/2011-2012-Preliminary-Analysis-of-AALLs-State-Legal-Inventories.pdf>

Erica is Erika Wayne <evwayne@stanford.edu>

2. Peter Martin is the founder of Cornell’s LII and the former Dean of Cornell Law School. He’s a leading expert on citation.

<https://legalinformatics.wordpress.com/tag/copyright-in-statutes/>  
Peter Martin <peter-martin@lawschool.cornell.edu>

Finally, you may find some of the journal articles useful. A couple at random (I’d search on SSRN for the topic or use Hein or Google Scholar):

<http://slr.oxfordjournals.org/content/27/3/185.extract>  
<http://heinonline.org/HOL/LandingPage?handle=hein.journals/uclalr36&div=29&id=&page=>

(Anything by Craig Joyce is wonderful ... especially this history of Wheaton v. Peters:

[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=801226](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=801226)



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July 11, 2013

Hon. Ben Ysatis  
Secretary of State  
State of Idaho  
PO Box 83770  
Boise ID 83720-0880

Hon. Brent Hill  
President Pro Tempore of the Senate  
Idaho State Legislature  
1010 South 2nd East  
Reynolds, Idaho 83440

Hon. Scott Bedke  
Speaker of the House  
Idaho State Legislature  
P.O. Box 88  
Oakley, ID 83345

Idaho Licensure Commission  
P.O. Box 988  
Boise, ID 83701

Dear Secretary Ysatis, President Pro Tempore Hill, Speaker Bedke, and Members of the Idaho Licensure Commission:

Public Resource Org. is a recipient of the communication of July 10, 2013 from Mr. Bradley R. Hizer of Hawley Troxell Linn & Lawley LLP concerning your notice under 17 U.S.C. § 512(c)(3) of the Digital Millennium Copyright Act. Your notice claims copyright infringement for the publication of the Idaho Code without having received from you first a Creative Commons license to reproduce and display the native, underlying statutory code to its site. In addition, your letter claims additional rights, for which you apparently will not give any license, for all materials both outside of the Idaho Code you draw on the Idaho Code, constituting what was describe as "analyses, commentaries and reference materials."

We respectfully decline to remove the Idaho Code and respectfully reject the distinction between "native" code and additional materials, as both are integral parts and parts of the only official Idaho Code such materials constituting the official laws of Idaho as published by the state.

