

their copyrighted or copyrightable IP had been secured under a UCC filing was clearly resolved, and not a matter of litigation in a variety of circuits. The value of these assets can wither quickly if they are not being utilized in the fast-moving technology sector, but that is just what will happen if ownership is contested through long court battles. That will be to the detriment of all parties in interest to these insolvency proceedings.

Second, some of these firms can avoid insolvency, even in an emerging era of tightened equity financing, if they can borrow against their copyright assets: but their ability to do so is clouded by the current legal uncertainty.

Finally, many firms may find that a developing market for IP-secured loans offers an attractive alternative to equity financing, both in regards to total borrowing costs as well as to retention of ownership in valuable assets.

Until a decade ago, it was the general legal view that copyrights, like other intellectual property, were within the general intangibles category under the Uniform Commercial Code, and could be secured as loan collateral through a UCC-1 filing with the Secretary of State in which a borrower resided. However, several 9th Circuit bankruptcy court decisions have put this whole area under a cloud. The 1990 Peregrine Entertainment decision held that the Copyright Act preempts all state law, including the UCC. Then, in 1997, the Avalon Software decision held that a security interest in copyrightable material, even if it had not been registered with the Copyright Office, could only be secured by a Copyright Office filing. Even within the 9th Circuit, the law has become more unsettled with the 1999 World Power decision, in which a different bankruptcy judge held that a loan could be secured in copyrightable but unregistered material through a UCC filing, directly contradicting the Avalon decision. However, even the World Power decision offers little comfort to lenders, since their lien would be lost if the material's owner registered it with the Copyright Office.

There are many reasons why utilizing the copyright registration system is inappropriate and ill suited to the perfection of a security interest. The fundamental reason, of course, is that the UCC and the Copyright Act address disparate and largely incompatible goals. But there are many other practical reasons, including:

- A UCC filing quickly provides notice to other parties that a security interest has been taken in the material, whereas it can take months before the Copyright Office provides such public notice to third parties.

- A UCC filing is easy for others to locate, as it filed under the debtor's name in their state of doing business; whereas copyright filings are listed under the name or number of the registered work and are consequently difficult for lenders to locate.

- Commercial law has long incorporated the concept of a "blanket lien" so that, for example, a lender that, through a single UCC filing, has secured a lien on version 1.0 of software will see that lien carry over to a subsequent version that enjoys marketplace success. Copyright law, however, requires a separate registration for each version and, consequently, a separate filing by a lender on each separate copyright.

- Borrowers may wish to obtain credit against material so that it can be developed to a state in which it is ready to be copyrighted and then marketed. Or they may wish to avoid registration so that, for example, they do not have to reveal a significant portion of software source code. Yet, since a lender can only register a lien with the Copyright Office against material that has already been copyrighted, their access to debt financing will be cut off in these scenarios.

Mr. Speaker, last year my esteemed colleague, Rep. Coble, held a hearing in his Courts and Intellectual Property Subcommittee on a predecessor, draft version of the bill that I have introduced. Certain objections were raised against that earlier version, primarily on the grounds that it could have been interpreted to allow state law to prevail over the Copyright Act in certain instances. This new proposal has been narrowed and perfected to avoid such a result. Under H.R. 4351, the UCC will only govern a priority contest between a UCC security interest and a lien creditor. That is, creditors who have perfected a security interest in copyright material via a UCC filing will prevail over lien creditors or a trustee in bankruptcy, but will remain subordinate to the rights of other transferees of interests in copyrights under the Copyright Act. This will return the system to its pre-Peregrine state and provide the same means of securing interests in copyrights that currently exists for patents and trademarks.

The wisdom of this carefully targeted approach was attested to at last year's hearing. For example, Marybeth Peters, the Register of Copyrights, testified that "It may make sense to recognize perfection of security interests in copyrights at the state level for the limited purpose of allocating rights among lien creditors."

Mr. Speaker, while this is a simple bill, it addresses the complex intersection of Federal copyright and bankruptcy law, as well as state commercial law. It also affects both the entire secured lending industry, both bank and nonbank, as well as those industries with substantial copyright interests, including the software and motion picture industries. My purpose in introducing this bill is to stimulate a productive dialogue that, hopefully, will lead to a near-term resolution of this matter.

I know that other groups, including a task force of the American Bar Association, have proposed to address this issue in the context of far more complex, comprehensive, and controversial legislation that would substantially revamp the Federal intellectual property laws and alter their relationship to state commercial law. I do not know if such an ambitious project is required, but I certainly know that it is not the kind of undertaking that can be accomplished in this Congress, and perhaps not even in the next.

My goal is simple: To avoid years of needless litigation while resolving a problem that prevents owners of copyright material from leveraging its value as a source of financing. It is my hope that, working with my colleagues and all the affected industries, we can reach quick agreement on a means of achieving that goal.

HONORING THE FAST PITCHING GIRL'S SOFTBALL TEAM, THE GAINESVILLE GATORS FROM NORTH CENTRAL, FLORIDA

### HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 7, 2000

Mr. STEARNS. Mr. Speaker, I want to bring to the attention of the House a great achievement by the Gainesville Gators, a girls fast pitch softball team from North Central Florida. The weekend of May 27th and 28th, the Gainesville Gators won the "Commotion by the Ocean" National Softball Association Tournament. This victory qualifies the Gainesville Gators for this year's National Softball Association National Tournament. I would like to congratulate the Gators and all of the other teams that provided such fierce competition in this tournament.

Mr. Speaker, a constituent of mine, Barry Adams, wrote an article describing the Gainesville Gators' win, which I will make part of the record at this point.

THE GAINESVILLE GATORS RIDE THE WAVE TO A WIN IN THE COMMOTION BY THE OCEAN NSA TOURNAMENT.

The weekend of May 27 and 28th saw the start of the summers first fastpitch softball tournaments. The winner from this tournament would qualify for this years National Softball Association National tournament. The day started out at 9:00 a.m. on Saturday, with the first game between the Gainesville Gators traveling Softball Team and the North Florida Beach All-Stars. The game was won by the Gainesville Gators 3-2. The next game would pit the Gainesville Gators against the Noreasters, the local host for this tournament, and started at 12:00 p.m. This game was won by the Noreasters 4-3.

This now had the Gainesville Gators at 1-1 for the tournament. The third game started at 4:30 p.m. between the Gainesville Gators and Tsumani, who the previous week won their first tournament. The Gainesville Gators would prevail with the score being 5-2. The Gainesville Gators record was now 2-1 and would seed them as number 3 for the Sunday tournament Championship games. Sunday started early for the Gainesville Gators, the first game would be at 9:00 a.m. and would pit the team against the NF Beach All-stars, whom the Gainesville Gators had defeated in their first game. In this action the Gainesville Gators again prevailed by defeating the All-stars and would advance to the second game of the day. In this type of tournament if you lose you go home, so the mood of the team was to win one game at a time. Their toughest competition would be the next game. This would pit the Gainesville Gators against the undefeated Jax Attack team and the number one seed in the tournament, based on the previous days performance. This would be the second game of the day for the Gainesville Gators and the first for Jax Attack. In getting to the number one seed the Jax Attack had allowed less than 4 total runs in their previous 3 games.

This would be a challenge for the Gainesville Gators. They accepted the challenge in defeating the Jax Attack 5-2 and would advance to the Championship Game between them and the Noreasters, the home team and the only team to defeat the Gainesville

Gators during the tournament. The game was played with the results being in favor of the Gainesville Gators who would win 6-5 and in doing so assure themselves the Tournament Champions and an automatic bid to the NSA National Tournament. The Gainesville Gators had outstanding pitching by, Cassandra Sparks, Miranda Lovvorn, Annie Voyles and Kerri Stroh. The infield was stingy in giving up hits, with third base being covered by Jessica Howell and Shanna Gearer, Shortstop by Dana Osborne, and Montie Adams, Second base was bolstered by Jena Rowland and Cassandra Sparks, with First base being covered by Annie Voyles and Rekeesha Duncan. The outfielders provided many great plays and kept the Gainesville Gators in most of the games with their fielding. Right field was staffed by Alicia Gray, Melissa Fairbrother, Center field was covered by Melissa Fairbrother and Tiffany Goode, Left Field was covered by Montie Adams and Shanna Gearer. Catching was handled by Tiffany Goode, Alicia Gray and Annie Voyles. The coaching Staff, Head Coach Teresa Kraus, Assistant Coach David Sparks and Kelly Stroh were proud of the accomplishments of the team with the playing, hitting and overall skills displayed over the weekend.

Rekeesha Duncan became the power during two of the games, with a fence clearing home run that sealed the victory over the number 1 seed, Jax Attack and a hit to the fence in the Championship game.

All the players were successful in getting hits at critical times and stealing bases. Overall the team provided the hitting and fielding at the critical times. The Gainesville Gators finished the tournament with a record of 5-1. The team consists of girls from all over the surrounding areas of Gainesville. They run from Lawtey, Lulu, Starke, Gainesville, Bronson, Inglis, Williston, Archer, Providence and Lake Butler, Florida.

The team Coaches: Head Coach, Teresa Kraus; Asst Coach, David Sparks; and Asst Coach, Kelly Stroh.

Players:

Montie Adams, Redeeshia Duncan, Melissa Fairbrother, Alicia Gray, Shanna Gearer, Tiffany Goode, Jessica Howell, Miranda Lovvorn, Dana Osborne, Jena Rowland, Cassandra Sparks, Kerry Stroh, and Annie Voyles

TRIBUTE TO WILLIAM G. MOLL

**HON. ROB PORTMAN**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 7, 2000*

Mr. PORTMAN. Mr. Speaker, today I pay tribute to William G. Moll, a good friend, who will receive the 2000 Silver Medal Award from the American Advertising Federation on June 13, 2000. Bill has been selected for this prestigious award for his outstanding contributions to the advertising industry. Bill's accomplishments have advanced the standards for creative excellence and social concern.

Bill graduated from Southeast Missouri State University, where he received a Bachelor of Science in Education. He went on to earn his Master of Arts from the University of Texas at Austin, where he studied Communications and Education.

Since 1992, Bill has been President and General Manager of W-KRC-TV, Cincinnati.

I've had the opportunity to work with him through the Coalition for a Drug-Free Greater Cincinnati, where he has been a leader in developing one of the most aggressive anti-drug local media campaigns in the country. From 1989-1992, Bill was the President and General Manager at WINBC-TV, New York. From 1987-1989, he was President and Chief Executive Officer at the Television Bureau of Advertising, the television industry's marketing trade association. Bill also served at Harte-Hanks Communication, Inc. as President and CEO; State Mutual Broadcasting Co., Inc. as Vice President and General Manager; and as Station Manager at Southwest Texas Educational Television Corporation. He began his broadcast work as a radio announcer in 1954. From 1958-1961, he worked as a television news anchor and morning show host.

Bill is very active in the community. In addition to his work with the Coalition for a Drug-Free Greater Cincinnati, he continues to dedicate time as Chairman of the Board of the Dan Beard Council of the Boy Scouts of America; as a Member of the Board of Directors for the National Conference for Community and Justice; as Chair of the Advisory Panel for the University of Cincinnati College-Conservatory of Music, Electronic Media Division; as President of the Board for the Neediest Kids of All; and as a Member of the Board for the Cincinnati Arts Association. Bill has also helped to support Big Brothers and Big Sisters; Scouting for Food and Clothing; Family Cancer Care; and the United Negro College Fund, among others.

Bill and his wife, Marilyn Lewis Moll, have two sons and two grandchildren. All of us in the Cincinnati area appreciate Bill's contributions to our community, and we congratulate him on receiving the 2000 Silver Medal Award.

HONORING THE MAKE-A-WISH  
FOUNDATION

**HON. ALBERT RUSSELL WYNN**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 7, 2000*

Mr. WYNN. Mr. Speaker, in today I salute an organization that has been making wishes come true for two decades. This year marks the 20th Anniversary of the Make-A-Wish Foundation, an organization that fulfills the wishes of children fighting life-threatening illnesses. This organization's sole purpose is to bring happiness to children who confront harsh realities.

Eighty-thousand children worldwide have had their wishes fulfilled by the Make-A-Wish Foundation. In Maryland alone, more than 1,200 children have had wishes fulfilled. This organization understands the fragility of life, and the wishes they grant are a true gesture of humanity.

I think fondly of the way they helped one of my own constituents. Chris Palmer of Cheverly, Maryland was diagnosed with Sickle Cell Anemia as a baby. The Make-A-Wish Foundation of the Mid-Atlantic, fulfilled a wish for Chris in November, 1998. I, along with Chris and his family are very grateful to the Make-A-Wish Foundation for all they have given him.

I am proud of Chris Palmer's courageous fight with his illness. I commend the Make-A-Wish Foundation's devotion in bringing happiness to children like him. I also salute the many volunteers and donors who support and make up the backbone of the Make-A-Wish Foundation.

I invite those interested in learning more about the Foundation to contact them at 1-800-722-9474 or on the internet at [www.wish.org](http://www.wish.org).

DAY OF PORTUGAL

**HON. GARY A. CONDIT**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 7, 2000*

Mr. CONDIT. Mr. Speaker, today I honor a very important community in the 18th Congressional District. On Saturday, June 9, 2000, the Portuguese community will celebrate the Day of Portugal in Hilmar, California.

The Central Valley of California has long been a home for many from the Azores region of Portugal. Our communities have been enriched by the contributions of the Portuguese community. In honor of this distinguished celebration, three mayors from Portugal will be in attendance to participate in honor of the Portuguese culture. The mayors—Jorge Manuel Perira Rodrigues, President-Camara Municipal da Madalena; Manuel Joaquim Neves da Costa, President-Camara Municipal das Roque do Pico; and Eng. Claudio Gomes Lopes, President-Camara Municipal das Lajes do Pico—have traveled to the Central Valley of California for this celebration.

Many families have immigrated from Pico to the Merced County area over the years. Many have achieved prominent status in the areas of business, education, and politics. These families have maintained close ties to Pico and the Azores.

I consider it an honor and privilege to recognize the Day of Portugal and the special guests who have traveled so far to share it with our community.

HATE CRIMES PREVENTION ACT

**HON. RICHARD A. GEPHARDT**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 7, 2000*

Mr. GEPHARDT. Mr. Speaker, I join my colleagues today in calling for the prompt scheduling of the Hate Crimes Prevention Act.

It is unconscionable that two years to the day since the shocking murder of James Byrd, Jr., we still have not been able to consider legislation that will help us better prosecute and, more importantly, help prevent the commission of hate crimes. Sadly, since the senseless murder of Mr. Byrd, the news has continued to be filled with stories of terrible crimes being committed against people just because of who they are—the murder of Matthew Shepard, a gay college student, the murder of a Filipino-American postal worker, Joseph Illeto, and the wounding of children and