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Bluebook accommodation release forthcoming

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There has been a development around "Baby Blue's Manual of Legal Citation" [1] that will force a small update to Juris-M. The update will come out tomorrow. For now, here is the back-story.

The Bluebook editors have been making nuisances of themselves by insisting, through legal channels and surrogates, that Professor Sprigman and Carl Malamud not include the word "Blue" in the title of their work. It may seem a laughable claim, but it is backed up by an earnest threat of ruinous litigation in federal court from one of Boston's finest law firms. Correspondence from this truly Carolinian exercise in unreason is available from the PublicResource project folder (see especially page 2 of the Ropes & Gray letter of 24 December, and the final PublicResource response in the series, dated 31 March):

<https://law.resource.org/pub/us/code/blue/>

Hair-splitting over a miniscule fragment of the English language is irrelevant to the core aim of "Baby Blue": to make the method of citing laws readily available to people affected by them. Sprigman and Malamud have sensibly opted to protect their important work from destruction by changing its title. Sing it:

"The Indigo Book"

I have updated the Juris-M website to reflect the new title. There is no substantive change to the guide itself, and it will remain our standard reference in Juris-M for implementing US citation forms. To make that amply clear, I have removed references to "Bluebook" everywhere, and deleted the legacy MLZ style of that name, which no one should be using anyway.

Changing the style name in desktop clients will be handled automatically. Tomorrow I will push a fresh Juris-M version that renames and updates the relevant style file, and removes the old version. After updating, you will find a "JM Indigo Book Style" in place of "JM Baby Blue," but apart from the name change, everything

will work exactly as before.

I'll close with a few observations of my own on the "Blue Wars." [2]

My own clash with the Bluebook editors (in 2009) was not over copyright or trademark. I wrote to them about my plan to automate their style in free software, and possibly to market a book explaining its use. I requested confirmation that this would be acceptable under the Terms of Use attached to their website. Their response, confirmed repeatedly, was that it would not be.

Several people have told me that I should have just gone forward without contacting the editors---citing as evidence the several republications of Bluebook rules, including Professor Martin's excellent guide, [3] that have not raised the slightest controversy. Asking permission, on this view, was a foolish mistake: do not put your head in a lion's mouth, and do not ask a lawyer the scope of his client's rights. I am sure that is sound business advice, but in this case it is entirely beside the point.

Complex styles like the Bluebook have edge cases. When questions arise, authors naturally rely on guidance from the style's editors. This is particularly important when mechanizing a style, because many users and documents will be affected. Such feedback is a collegial thing. Or it should be. Strong language in the Terms of Use suggested that the Bluebook editors might not behave professionally, and leave me marooned (so to speak); I wrote to them in large part to test the waters; and I found the waters to be infested with sharks. [4]

There was an immediate cost, in that the forum for posting Bluebook style queries sits behind the same paywall as the online edition. I was left to code one of the world's most notoriously difficult styles without any communication with its editors, and with certain knowledge of their hostility toward the effort. Was this a strategic error? Given the ferocious response to Indigo-B née Baby Blue, I suspect that I saved myself a load of aggravation by abandoning all thought of collaboration early on. Given the choice, I would not do anything differently.

So my second point is that the pointed refusal by the Bluebook's editors to cooperate was more damaging than any claim to finely crafted proprietary rights would have been. It belies any intention to advance the accuracy and efficiency of legal research (assuming that the 20th edition again makes declarations of that kind). Anyone with the slightest experience in information technology understands the wilful refusal to communicate to be a supreme act of hostility,

because it is supremely destructive to the coordination from which value arises.

To be honest, I have to wonder how long the Bluebook will persist as a recognized resource. In Juris-M, we have the capacity to accurately capture citation patterns across multiple domains---not only rules for the scholarly realm served by the Bluebook, but also rules imposed by specific courts. It's early days yet, but the repository of open-access machine-readable citation "knowledge" will grow in due course to a scope, quality and practical utility that cannot be fully captured in a single written text. With the right community behind it, an open project can be nimble enough to explore the possibilities of building atop such infrastructure. On the other hand, a project staffed by transient editors, wedded to an antiquated business model, and mentored by a legal team that values legal claims to the exclusion of trust...who knows, maybe that works too.

Indigo-B has only just come out, but as a public domain work it will not go away. It would be very good to see a strong editorial process emerge to maintain it. I believe the groundwork for that is in progress; if you have thoughts in that line or would like to be involved in some capacity, Carl Malamud <carl@media.org> may like to hear from you.

That's it for this evening---update tomorrow!

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[1] <https://mail.law.nagoya-u.ac.jp/mailman/private/jurism-announce/2016-February/000011.html>

(archive link, needs list ID and password)

[2] Carl Malamud, "The Blue Wars: A Report from the Front," Harvard Law Record, Mar. 21, 2016, <http://hlrecord.org/2016/03/the-blue-wars-a-report-from-the-front/>.

[3] Peter W. Martin, "Introduction to Basic Legal Citation," Cornell LII (2015), <https://www.law.cornell.edu/citation/>.

[4] The full story is laid out in Frank Bennett, "The Bluebook: A Plot Summary," CitationStylist (May 16, 2014), <http://citationstylist.org/2014/05/16/the-bluebook-a-plot-summary/>.