

Junker

# U.S. Law for Civil Lawyers

A Practitioner's Guide



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A Practitioner's Guide

edited by

Kirk W. Junker

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## **Dedication**

“Travel Teaches Tolerance” read the sign on the side of the tourist bus in India. We dedicate this book to those wishing to travel—physically, mentally or both—to engage a new legal culture on its own terms as they translate it to their own.



## Acknowledgements

The areas of U.S. law presented in this book have been selected because of their applicability to U.S. legal practice but also because in the experience of the editor and many of the authors, working as U.S. lawyers outside the U.S., these areas of law present practices that a civil law practitioner might find to be most different from his or her own substantive and procedural law.

In contemplating all the authors, translators, proofreaders and editors needed to bring about this book, I am reminded of always having been struck by the peculiar subtitle of the work by classicists Hermann Diels and Walther Kranz, translated into English as *The Older Sophists: A Complete Translation by Several Hands of the Fragments in Die Fragmente Der Vorsokratiker*. Many hands indeed were needed to bring our volume to the reader. To help the civil law practitioner and scholar, we have taken the effort to translate the most important terms of art, based upon the inspired pattern established by interpreter and translator, Howard D. Fisher in his *The German Legal System and legal Language*, 4<sup>th</sup> Ed. (Routledge, 2009), and based upon concepts of translation as method suggested by Bernhard Großfeld. I would also like to thank legal comparativists Professors Guido Alpa and Robert Barker for their thoughts and ideas on law and the translation process.

To best make connections to the civil law culture, a team of translators worked the significant terms that were identified by the authors themselves, into German, French, Spanish and Italian. The translation alone required considerable cultural understanding of law on the part of the translators as well as their linguistic skill and plasticity. My long-time collaborators P. Matthew Roy and Alessandro Galli not only translated the English to Spanish and Italian, respectively, but as professional legal translators, their comments on the German and English were very insightful and welcome. Laurene Salmon of Université Paris 1 Panthéon-Sorbonne provided a sound foundation for the French, to which thereafter Marie Pflüger managed the translation with assistance from Moritz Röhrs, and Claude Ngatchou through their trilingual abilities in French, German and English, especially as chapters were expanded, replaced or edited by various authors. Ryan Kraski of the University of Cologne organized much of the copy-editing and Michelle Quindeau, also of the University of Cologne, ably coordinated authors, deadlines, and contracts. Dr. Jennifer Hülsberg patiently and skillfully worked through the long task of reading the chapters and commenting on them as they arrived. Saskia Militz provided a fresh and thorough review of the work. Luka Vihuto, Emma Shensher, and Fabian Steinmetz provided that one last, essential proofreading. I especially appreciate all the efforts of the author contributions from several countries on two continents as well as the patience of Dr. Matthias Knopik of Nomos as the book was being completed during the time of the worldwide COVID-19 pandemic.

Cologne, November, 2020

Kirk W. Junker





## Foreword

In *U.S. Law for Civil Lawyers: A Practical Reference Guide*, Kirk W. Junker is not only guiding us through the norms and practice of U.S. law: he is developing an original concept and method of comparative law. The book, as a result, is not only a *useful* reference for foreign legal practitioners, but also includes an extremely interesting *theory* of comparison. The book revisits the notion of “foreign law” and elaborates a method to allow foreign lawyers to understand and overcome the gaps between legal cultures.

The method of comparison in *U.S. Law for Civil Lawyers: A Practical Reference Guide* consists in identifying U.S. law notions that need and deserve translation, and proposing, in footnotes (that is, without making the reading of the text too difficult), translations in four of the languages in which civil law is practiced (German, French, Spanish and Italian). In this bold and very demanding enterprise, translation is taken seriously: it is thought about as a genuine comparative exercise, with the inevitable problems of bridging the gaps between legal cultures, even when translation seems impossible. The resources of cultural gaps are made visible, and accessible. As Kirk W. Junker explains, the “translation method” that is explored in the book, is “a cluster of related concepts that one must engage in order to study any foreign law system,” that includes “language translation, cultural translation, the science of comparative law and the substance and procedure of a foreign legal system.” The exercise of translation, in this conception, will seem out of reach for many. But the idea is only to warn us that “understanding foreign law is possible as a science, but it does not enable one to see other systems as a native of those systems would see his or her own system.”

With this in mind, there is no doubt foreign lawyers will learn a great deal from all the fifteen chapters of the book, from civil procedure to white collar crimes, from arbitration law to contracts, including maritime law and immigration law. In addition to synthetic but extremely comprehensive presentations by specialists, each chapter includes very useful “practice tips,” which undoubtedly serve the aim of guiding non-U.S. lawyers in their first steps into practicing U.S. law.

In summary, this is a book that succeeds in bringing together the theory of comparative law and the practice of U.S. law, as foreign law. It is worth reading for those interested in U.S. law, who will be taken way beyond general ideas about the U.S. legal system, and for comparatists, who will find in this book a source of theoretical reflection on translation and comparison in law.

*Sophie Robin-Olivier*

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## Preface

We welcome all lawyers and students of law to read our book. The audience whom we had in mind as we wrote the book is the audience of lawyers and students from civil law and mixed civil law jurisdictions of the world. Although this Handbook is intended for audiences of lawyers or law students from civil law jurisdictions, common law lawyers and students, and even U.S. lawyers and students should also profit from reading it. According to one of the basic tenets of comparative law, even a U.S. lawyer who is reading U.S. law explained as foreign law, benefits from thinking reflectively about why the practices are explained the way they are to a reader from outside the system.

## Translationalism and Comparative Law

Although the authors wrote the book in English, our desire to make it accessible, helpful and scholarly for the civil law practitioner meant that we had to pay attention to language in other ways. To do so, we enlisted the help of professional legal translators to translate the key terms, as identified by the authors into German, French, Spanish and Italian footnotes. If the term is idiomatic, we have translated it literally and marked it as [lit.]. In addition, the terms in all five languages are indexed, so that if a civil lawyer who is at home with one of those languages wishes, he or she can consult terms in the index in a native language to find where the cluster of concepts are discussed that translate into that term.

But translation is not a mechanical process of exchanging a noun from a source language for a noun in the target (also known as the “receptor”) language. When the translator is translating from a foreign source language into his or her native target language, the translator is also a cultural midwife, delivering the author to the world known to the translator. In the case of legal translation, that is not just the world that speaks that language, but the world of lawyers who practice law in that language, and whose practices are known to the translator. The task of knowing the language, comparing the concepts, comparing the words and making interpretive choices to benefit the understanding of the target audience is a creative and constructive mix of art and science.

A civil lawyer might ask, why bother with all of this work for the translation? The answer is important for understanding foreign law. To understand foreign law, one must make a cultural translation to the culture in which he or she first learned that concept of law, not as a professional lawyer, but as a citizen. Those concepts became naturalized and normalized so that without critical reflection on the process, a practicing lawyer in need of understanding U.S. law might well unconsciously default to popular culture notions of U.S. legal culture from television or film. Thus, we bring the act of translation to the fore as a method of comparative law.

According to our method of translationalism in comparative law, the acts of cultural and linguistic translations hold the keys to understanding a foreign legal culture. Therefore, I will only explain a bit of the book here, and leave it to the talents of translators to explain further thereafter. Translationalism also means that the translator is not attempting some mathematical balance, but is regarding the target audience as the audience of focus, so comparative choices are made for translation that might not be the choices a common law lawyer would make, but are a more helpful key to a civil law lawyer.

Translationalism as a method of comparative law requires the translator and the reader to compare foreign words and concepts in the context of the system from which they originate. The common law has its own sense and spirit, and the U.S. expression of common law is, within the common law world, also a particular cultural product. More can

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be said about translation, but is in fact better said by the translators, as presented in the Translators' Notes, the Introduction to the book, and Chapter 1: "U.S. Law as Foreign Law."

### The Structure of the Book

The book is arranged in three parts. The Introduction regarding translation is foundational to the entire book. Then, each part begins with its own foundational chapter and ends in a growth area of law in the United States. Part I "Basics of Private Law," presents broader concepts and practices for U.S. law that are foundational for other chapters. After Chapter 1 explains the comparative law method that is implemented throughout the book, Chapter 2, "Federal Civil Litigation" and Chapter 3, "Civil Procedure Brief Drafting Strategy" could be read together as a theory and practice pair for U.S. civil litigation. And given the prominence of arbitration in the U.S., including for foreign lawyers' practice, Chapter 4 "U.S. International Arbitration Law and Practice," presents the frequent alternative to much of civil litigation, especially commercial civil litigation. Chapters 5, 6 and 7, "Contracts—Drafting and Content," "Confidential Information and Restrictive Covenants in Employment," and "The Back-to-back Contract: The Birth of a New Contract Type," respectively, when read together, present the theory and practice of contracts, as well as two noteworthy examples of contract practice areas. The first example of employment contracts is especially applicable for foreign lawyers, and the second example of the back-to-back contract ends Part I with a relatively new and forward-thinking development in contract law.

Part II, "Selected Topics of Private and Commercial Law," turns to areas of practice with which a non-U.S. lawyer may well be confronted, and we have selected topics on that basis. With frequency of practice as the organizing concept, Part II begins with the chapter that is the most foundational, given that more intellectual property than real property or moveable property is traded in the world each day: Chapter 8 "Intellectual Property Protection and Enforcement in the U.S." Part II then moves to the select practice areas of "Income Taxation and Audits" in Chapter 9 and "Application of International Maritime Law: Issues Unique to the U.S." in Chapter 10. Part II, like Part I, closes with a growth area of U.S. law, Chapter 11: "The Charitable Sector in the U.S.: Nonprofit Organizations." Many fine treatises and articles are written to introduce a lawyer to U.S. business organizations in general, but this rapidly-expanding and growing area of nonprofit organizations merits a closer look.

In Part III, "Selected Topics of Public Law," we begin with an area of the law that has undergone considerable change in this century, especially in the most recent years, "Issues of United States Immigration Law—A View from the Inside," as Chapter 12. Chapter 13, "White Collar Crime" focuses on one of the only areas of criminal law prosecuted by the U.S. federal government, rather than individual state governments. Recent cases like the Volkswagen diesel prosecution that put two German citizens in U.S. prisons are reminders of the relevance to criminal law and procedure to all persons. Well-known comparativists Konrad Zweigert and Hein Kötz have observed that, "U.S. federalism is perhaps the most complicated legal structure that has ever been devised and made effective in man's effort to govern himself." In Chapter 14, "U.S. Environmental Law Practice as Foreign Law," the complications of "cooperative federalism" are concretely illustrated in the U.S. legal efforts to improve the environment. Some might say that environmental law in fact is not just one area of law, but combines private and public law, property law, torts and other areas under a loose set of practices. If that might be true for environmen-

## Preface

tal law, it is certainly true for the newest area of legal practice presented in this book: food law. Thus, Part III ends just as Parts I and II did, with an expanding and relatively new area of the law. In most chapters of the book, the law is presented to a civil lawyer audience as the description of an area of practice. But given the nascent nature of the field, Chapter 15, “Food Law: Implementing Food Sovereignty in Sustainable Food Systems,” outlines opportunities for the lawyer’s role as advocate in addition to its description of the field.

The Handbook is indexed in all five languages used in the book—English, German, French, Spanish and Italian, as well as Latin terms used in U.S. law. We felt that as a handbook, indexing multiple languages makes the book much more user-friendly and is an essential tool to enable our comparative law method of translationalism. The English is indexed according to common practice, in the alphabetical order of nouns, with modifiers as suborders. The German, French, Spanish and Italian (and Latin) are however uniformly indexed alphabetically by the full term as it was translated, which sometimes places the modified before the noun, and sometimes the noun before the modifier, since in fact these target languages differ in that practice in natural usage. Citations and footnotes follow the most commonly-used form in the U.S., *The Bluebook: A Uniform System of Citation*.

Finally, perhaps a “lawyerly” disclaimer. Although this book functions as a reference book or a handbook, it is not a substitute for legal advice from a practicing lawyer in the relevant field. Our goal was to provide an interested reader with enough perspective and information for the civil law lawyer to intelligently engage with a U.S. practitioner, should one be necessary, not to replace the U.S. practitioner.

Cologne, November, 2020

*Kirk W. Junker*



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## Translators' Notes

### The English-Spanish Pair

The translation into Spanish of English words and phrases highlighted in bold throughout this book often required some careful consideration. This was the case, in particular, when it came to common law terminology. Sometimes terms were translated literally; often, translations were more explanatory if this was not already done in the body of the text. And on other occasions, the most appropriate translation found was from a source published in the United States.

According to 2010 official United States census statistics, nearly 40 million people speak Spanish at home in the United States—and this number continues to rise. This makes the United States one of the largest Spanish-speaking countries in the world. It is for this reason that government agencies often publish translations in Spanish of official documents in the United States, or publish guides in Spanish intended to aid Spanish speakers in their interactions with government. The United States also has the distinction of having two predominately civil law jurisdictions, Louisiana and Puerto Rico. While Louisiana's legal materials are in English, statutes, regulations, case law and other legal commentary in Puerto Rico are published primarily in Spanish. Puerto Rico is generally considered a mixed common law and civil law jurisdiction, and much of the legal language used in its legal materials is that of the common law. Therefore, for this book, translations of many terms typical to the law of the United States—the law surrounding *discovery*, for example, were taken from Puerto Rican sources since Puerto Rico also uses these uniquely U.S. legal institutes and features these terms in its Spanish-language Code of Civil Procedure. While a Mexican or Spanish lawyer may not immediately be familiar with the specific U.S. law procedures such as *descubrimiento de prueba* or a *deposición*, the editors found it reasonable to use these terms in Spanish taken from Puerto Rican sources to reflect how the legal concepts are expressed in the United States, but in Spanish. After all, Spanish speaking lawyers in Puerto Rico and the rest of the United States use these terms among themselves and when communicating with their Spanish-speaking clients.

Moreover, English-speaking lawyers would confront the same lack of familiarity when reading English-language Civil Law materials. A common law lawyer would not be readily familiar, for example, with a *usufruct* or *emphyteusis*; and *prescription* has a wholly different meaning in Quebec or Louisiana than it does in Connecticut or Virginia. It goes without saying, therefore, that it is sometimes necessary to further inquire into the meaning of a legal concept translated from one legal order to that of another in order to fully understand it. We felt that burden was not too onerous on the reader.

With respect to other terminology, words or phrases not specifically legal in nature, a Spanish translation was selected that appeared to enjoy the broadest usage possible in the Spanish speaking world, or is a Spanish term that is widely used in the United States to express a concept or event typical to the United States or U.S. culture. In the latter case, such term may be a Spanish word or phrase essentially created in the United States, or a word or phrase from a country, such as Mexico, that has been a significant source of Spanish-speaking immigrants to the United States.

Brooklyn, November, 2020

*Philippe Matthew Roy, Esq.*

## Translators' Notes

### The English-German and English-French Pairs

Translating an entire text is a very complex task, but it is equally challenging to choose which few single terms should be translated for a non-native reader. Especially because translating English terms bears the risk of assuming the reader *should know* certain terms, for English is the most commonly spoken business and academic language worldwide.

Many legal terms describe functions, legal institutions or roles that do not exist in German or French civil law culture. The question often is whether a literal translation of them (if possible) would be helpful at all or confusing instead. Specific terms would require an explanation rather than a translation, which would exceed the scope of introductory chapters to a wide range of different legal fields in U.S. law, such as those provided by the authors in this book. It can be misleading if an English legal term is translated with the German or French corresponding technical equivalent in the German or French legal system. But it might also seem to be most helpful to make the reader understand which of his home state's institutions comes closest to the function of the body that is indicated by the English term in the U.S. legal system.

Most difficult to translate or even explain are terms that are essential to the basic political system or state structure of a certain country and its legal culture. For example, the term "U.S. Attorney General" is often elsewhere mistranslated in German as "*Generalbundesanwalt*" or "*Justizminister*" because they appear to be the equivalent German terms; however, they are not. There is none because there is no such function as an Attorney General in the German system. The best German example is the term "*Land*" for the several states of the Federal Republic of Germany. Literally translated it would just mean "country" and yet it also cannot be compared to one of the federal States of the United States of America, because German federalism is different from U.S. federalism.

The same applies to the English term "appeal" which one finds sometimes translated in German as "*Berufung*" and sometimes as "*Revision*." This choice is discussed further in the Introduction to this book. Here it only remains to be said that "appeal" is translated in this book as "*Berufung*" and not "*Revision*" so as to enable the German reader to understand the appeal as the second (or third) instance review and not only referring to third and last instance review, as "*Revision*" would mean within the German legal system.

In conclusion it should be mentioned that all translations attempt to help the reader put a certain key term into context with his familiar legal culture or make it a functional equivalent for the technical understanding of it. But these are not to be taken as absolute translations, since this would require achieving the impossible.

Cologne, November, 2020

Marie Pflüger, LL.B.

## Abbreviations

A.T.&T.	American Telephone and Telegraph
A.A.O.	Administrative Appeals Office
A.B.A.J.	American Bar Association Journal
A.D.R.	Alternative Dispute Resolution
A.G.I.	adjusted gross income
A.I.A.	America Invents Act
A.I.L.A.	American Immigration Lawyers Association
A.I.P.L.A.	American Intellectual Property Law Association
A.L.I.	American Law Institute
A.L.J.	administrative law judge
A.P.A.	Administrative Procedures Act
A.T.G.	Audit Technique Guidelines
Ala. Code	Alabama Code
Am. J. Comp. L.	American Journal of Comparative Law
Am. Rev. Int'l Arb.	American Review of International Arbitration
Arb. Int'l	Arbitration International
B.I.A.	Board of Immigration Appeals
C.A.A.	Clean Air Act
C.A.F.C.	United States Court of Appeals for the Federal Circuit
C.B.P.	Bureau of Customs and Border Protection
C.E.O.	Chief Executive Officer
C.E.R.C.L.A.	Comprehensive Environmental Response, Compensation, and Liability Act
C.F.R.	Code of Federal Regulations
C.L.C.	International Convention on Civil Liability for Oil Pollution Damage
C.O.G.S.A.	Carriage of Goods by Sea Act
C.P.A.	certified public accountant
C.R.E.A.C.	Conclusion, Rule, Explanation, Application, Conclusion
C.R.M.	Criminal Resource Manual
C.R.S.	Congressional Research Service
C.S.A.	Community Supported Agriculture
C.W.A.	Clean Water Act
Cal. Bus. & Prof. Code	California Business and Professions Code
Cir.	Circuit
Colum. L. Rev.	Columbia Law Review
D.C.	District of Columbia
D.E.A.	Drug Enforcement Administration
D.H.S.	Department of Homeland Security
D.M.R.	Discharge Monitoring Reports
D.O.H.S.A.	Death on the High Seas Act
D.O.L.	Department of Labor
D.T.S.A.	Defend Trade Secrets Act
E.E.Z.	Economic Enterprise Zone
E.I.A.	environmental impact assessment
E.I.S.	environmental impact statement
E.O.I.R.	Executive Office for Immigration Review

## Abbreviations

E.P.A.	Environmental Protection Agency
E.P.C.R.A.	Superfund and Emergency Planning and Community Right-to-Know Act
E.R.S.	Economic Research Service
E.S.A.	Endangered Species Act
E.S.I.	Electronically Stored Information
E.U.	European Union
ed.	editor
F.B.I.	Federal Bureau of Investigation
F.D.A.	Food and Drug Administration
F.F.A.	Federal Arbitration Act
F.F.D.C.A.	Federal Food, Drug and Cosmetics Act
F.I.F.R.A.	Federal Insecticide, Fungicide, and Rodenticide Act
F.O.I.A.	Freedom of Information Act
F.R.C.P.	Federal Rules of Civil Procedure
F.S.M.A.	Food Safety Modernization Act
FT.B.	Franchise Tax Board (State of California)
F.W.P.C.A.	Federal Water Pollution Prevention and Control Act
Fed. Cir.	Federal Circuit
Fed. R. App. P.	Federal Rules of Appellate Procedure
Fed. R. Civ. P.	Federal Rules of Civil Procedure
Fed. R. Crim. P.	Federal Rules of Criminal Procedure
Fed. R. Evid.	Federal Rules of Evidence
G.A.A.P.	generally accepted accounting principles
G.I.	geographical indication
G.M.L.	General Maritime Law
G.M.O.	genetically modified organism
H.H.S.	Department of Health and Human Services
Hague Conf. on Priv. Int'l Law	Hague Conference on Private International Law
Harv. Int'l L. J.	Harvard International Law Journal
I.C.C.	International Chamber of Commerce
I.C.D.R.	International Centre for Dispute Resolution
I.C.E.	Bureau of Immigration and Customs Enforcement
I.E.C.L.	International Encyclopedia of Comparative Law
I.N.A.	Immigration and Nationality Act
I.N.S.	Immigration and Naturalization Service
I.O.P.C.	International Oil Pollution Compensation
I.P.	Intellectual Property
I.P.R.	inter partes review
I.R.B.	Internal Revenue Bulletin
I.R.C.	Internal Revenue Code
I.R.E.A.C.	Issue, Rule, Explanation, Application, Conclusion
I.R.S.	Internal Revenue Service
Int. L. Rev.	International Law Review
Int'l & Comp. L. Q.	International and Comparative Law Quarterly
J. Env. L. & Litig.	Journal of Environmental Law and Litigation
J.M.O.L.	Judgement as a matter of law
L.D.	Liquidated damages
L.H.W.C.A.	Longshore and Harbor Workers' Compensation Act
L.L.C.	Limited Liability Company

## Abbreviations

La. Ct. App.	Louisiana Court of Appeals
La. Rev. Stat.	Louisiana Revised Statutes
M.A.R.P.O.L.	International Convention for Prevention of Pollution from Ships
M.F.T.	Maine Farmland Trust
M.G.L.	Massachusetts General Laws
M.L.A.T.	mutual legal assistance treaty
M.R.S.A.	Maine Revised Statutes Annotated
Mich. J. Int'l L.	Michigan Journal of International Law
Mich. J. Race & L.	Michigan Journal of Race and Law
N.C.A.T.	National Center for Appropriate Technology
N.E.P.A.	National Environmental Policy Act
N.O.D.A.	Notice of the decision of the Internal Revenue Service Office of Appeals
N.O.V.	notice of violation
N.P.D.E.S.	National Pollutant Discharge Elimination System
N.P.O.	non-profit organization
N.R.C.S.	Natural Resources Conservation Service
N.R.D.A.	Natural Resource Damage Assessment
N.Y. Rules of Prof'l Conduct	New York Rules of Professional Conduct
N.Y.C.	New York Convention
O.C.I.J.	Office of the Chief Immigration Judge
O.I.A.	Office of International Affairs
O.P.A.	Oil Pollution Act
O.R.R.	Office of Refugee Resettlement
O.R.S.	Oregon Revised Statutes
P.G.R.	Post-grant review
P.H.O.S.I.T.A.	Person having ordinary skill in the art
P.R.P.	potentially responsible parties
P.S.R.P.A.	Park System Resource Protection Act
P.T.A.B.	Patent Trial and Appeal Board
Pa. Cons. Stat. Ann.	Pennsylvania Consolidated Statutes Annotated
Pa. Stat.	Pennsylvania Statute
Pa. Super. R.	Pennsylvania Superior Court Reports
R.C.R.A.	Resource Conservation and Recovery Act
R.I.C.O.	Racketeer Influence and Corrupt Organizations Act
Rev. Rul.	Revenue Ruling
S.I.P.	state implementation plans
S.L.A.P.P.	Strategic Lawsuits against Public Participation
T.E.S.S.	Trademark Electronic Search System
T.F.E.U.	Treaty on the Functioning of the European Union
T.R.O.	Temporary Restraining Order
T.S.C.A.	Toxic Substances Control Act
T.T.A.B.	Trademark Trial and Appeal Board
T.T.I.P.	Trans-Atlantic Trade Partnership
trans.	translator
Tulsa L. J.	Tulsa Law Journal
U. Miami Inter-Am. L. Rev.	University of Miami Inter-American Law Review
U. Pa. L. Rev.	University of Pennsylvania Law Review
U.B.I.T.	Unrelated Business Income Tax

## Abbreviations

U.C.C.	Uniform Commercial Code
U.K.	United Kingdom
U.N.C.I.T.R.A.L.	United Nations Commission on International Trade Law
U.N.C.L.O.S.	United Nations Convention on the Law of the Seas
U.N.T.S.	United Nations Treaty Series
U.S.	United States
U.S. Const. amend.	United States Constitution amendment
U.S. Dep't of Just.	United States Department of Justice
U.S.C.	United States Code
U.S.C.A.	United States Code Annotated
U.S.C.I.S.	United States Citizenship and Immigration Service
U.S.D.A.	United States Department of Agriculture
U.S.D.O.J.	United States Department of Justice
U.S.D.O.S.	United States Department of State
U.S.P.T.O.	United States Patent and Trademark Office
U.S.S.C.	United States Sentencing Commission
Va. Cir. Ct.	Virginia Circuit Court
W.M.F.H.	work made for hire
W.T.O.	World Trade Organization
Wm. & Mary L. Rev.	William & Mary Law Review
Yale L. J.	Yale Law Journal