

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

FRANK D. SMITH, JR.,

Plaintiff,

v.

Case No.: 4:02-CV-280

CORNELL UNIVERSITY;

NATIONAL SCIENCE

FOUNDATION;

LOS ALAMOS NATIONAL

LABORATORY;

UNIVERSITY OF CALIFORNIA;

UNITED STATES DEPARTMENT

OF ENERGY;

and

PAUL GINSPARG, Professor of

Physics and Computer Science,

Cornell University, Individually and

in his Official Capacity;

SIMEON WARNER, Research

Associate, Computer Science

Department, Cornell University,

Individually and in his Official

Capacity;

SARAH THOMAS, University

Librarian, Cornell University,

Individually and in her Official

Capacity;

and

JEAN POLAND, Associate

Librarian, Cornell University,

Individually and in her Official	:
Capacity;	:
	:
and	:
	:
RICHARD LUCE, Administrative	:
Director, Los Alamos National	:
Laboratory, Individually;	:
JOHN C. BROWNE, Director, Los	:
Alamos National Laboratory,	:
Individually;	:
and	:
ROBERT L. VAN NESS, University	:
of California Assistant Vice President	:
for Laboratory Administration,	:
Individually;	:
	:
Defendants.	:

AFFIDAVIT OF FRANK D. SMITH, JR.

STATE OF GEORGIA

COUNTY OF BARTOW

Comes now your Affiant, Frank D. Smith, Jr., and makes oath as follows:

1. I am over the age of 18 and competent to provide the testimony contained in this affidavit.

2. This Affidavit is made of my own personal knowledge and I am competent to testify as to all matters stated herein.

3. I am Plaintiff in the above captioned cause of action.

4. I am a citizen and resident of Bartow County, Georgia.

5. I am, and have been since my birth, also known as Tony Smith.

6. ArXiv (The term “arXiv” is used here instead of “e-print archive” because Cornell uses it in its memorandum in support of its motion to dismiss.) is a public forum that was established in 1991 on government facilities at Los Alamos National Laboratory, which was and is operated by The Regents and which was and is funded by a branch of the U.S. government, the Department of Energy (“DOE”), and which at some times was and is funded by another branch of the U.S. government, the National Science Foundation (“NSF”), as is evident from material on the arXiv web site, and also from the Memorandums of Cornell and The Regents in support of their Motions to Dismiss the Complaint in

the above-stated case.

7. Plaintiff expects that relevant details of the relationships among NSF, DOE, The Regents, the State of California, Cornell, and the State of New York with respect to arXiv during the period from 1991 to the present will be discovered during the discovery phase of this case.

8. During the period from 1991 to September 2001, using government facilities and funding, the arXiv public forum grew to achieve its unique position as the dominant electronic archive and distribution server for research papers in physics (as well as some other fields), to the extent that, as Defendant Paul Ginsparg said in a 1996 statement on the arXiv web site at <http://arXiv.org/blurb/pg96unesco.html>: "... These archives .. In some fields of physics ... have already supplanted traditional research journals as conveyers of both topical and archival research information ...", and as is evident from material on the arXiv web site, and also from the Memorandums of Cornell and The Regents in support of their Motions to Dismiss the Complaint in the above-stated case.

9. In September 2001, administration of the arXiv public forum was transferred from The Regents to Cornell, but arXiv continues to receive

funding from NSF and The Regents and DOE continue to be involved with arXiv because Los Alamos National Laboratory continues to be intimately connected with arXiv as its primary back-up site. Further, Cornell has connections with the State of New York, as is evident from material on the arXiv web site, and also from the Memorandums of Cornell and The Regents in support of their Motions to Dismiss the Complaint in the above-stated case.

10. arXiv has declared a policy of open authorship in connection with the Open Archives initiative by stating on the arXiv web site “... Description of submission policy ... Open but with some moderation of appropriateness to archives and subject classes. Restrictions on size and format; submissions required to be complete. ...”.

11. On 8 August 2002 Plaintiff Smith transmitted from his e-mail address fdtsmith@mail.alumni.princeton.edu his paper TS-QM03-1 entitled “Penrose-Hameroff Quantum Tubulin Electrons, Chiao Gravity Antennas, and Mead Resonance” to gen-ph@arXiv.org at the e-print archives.

12. On 8 August 2002 Plaintiff Smith received an e-mail from no-

reply@arXiv.org saying:

“Your put request has been rejected.

Ordinarily we require an appropriate institutional affiliation, so if you are trying to submit from a public access provider, please use instead (for example) your university account.

(Otherwise it may be because you have tried to put the same paper multiple times either to the same or to different e-print archives [instead of using the replace or cross-list commands], or because an automated referee has determined that you put papers to the wrong e-print archive.) In the event that you have received this message in error, please send a message to register-query@arXiv.org explaining the situation.”

13. On 8 August 2002 Plaintiff Smith sent an e-mail message from his fdtsmith@alumni.princeton.edu address requesting that he be registered as an author on the Cornell arXiv e-print archive.

14. On 10 August 2002 Plaintiff Smith sent an e-mail message from his tsmith@innerx.net address to register-query@arXiv.org and LIBGATEWAY-L@cornell.edu stating:

“As you can tell by checking correspondence files over July and

August 2002, I have had complications with respect to attempts to put papers on the e-print archives. Eventually my put of <http://arXiv.org/abs/physics/0207095> was accepted, as was my replacement to correct some material about the Kobayashi-maskawa phase. However, my attempt to put my paper TS-QM03-1 entitled Penrose-Hameroff Quantum Tubulin Electrons, Chiao Gravity Antennas, and Mead Resonance was rejected, and even though I sought reconsideration, and as far as I know it still stands rejected. In order to resolve the matter of my status with clarity, and to avoid future complications and perhaps to expedite your reconsideration of my paper TS-QM03-1 I am sending this my request that I be registered as an author on the e-print archives.

I did attempt to do so, in connection with my attempt to put my paper TS-QM03-1, but I received a rejection reply that said, in part: "... Your register request has been deferred. Ordinarily we require an appropriate institutional affiliation ... please use ... your university account. If you are trying to register from an e-mail account with a research employer that officially sponsors your work ... If you have no suitable institutional affiliation, then please find someone with such an affiliation, and with expertise in the relevant subject matter, to sponsor your activities. ...".

I do have a university e-mail account which is fdtsmith@mail.alumni.princeton.edu (In fact one reason that I obtained it in July 2002 was to try to comply with your request that I "use ... [my] university account".) and I did use it in my attempt to put up my paper TS-QM03-1 but since that attempt was rejected, it must be that for some reason you do not consider it to be a "university account".

I hereby request that you state your position with respect to that university account clearly and explicitly.

I am self-employed, and do not have a third party "research employer".

I do not understand exactly what you mean when you say that I should "find" "someone with such an affiliation" who is "with expertise in the relevant subject matter" to "sponsor [my] activities".

More particularly:

Exactly what would "someone" have to do to "sponsor [my] activities" ?

Exactly how much "expertise" would that "someone" have to have with respect to each paper that I might want to put on the e-print archives ?

For instance, would that require such a "someone" to read in detail,

understand, and effectively referee each such paper ?

Exactly what is "such an affiliation" ?

For instance, would a professorship at an accredited physics department in a USA university be sufficient, or might there be other and/or further requirements ?

Exactly what would be involved in my effort to "find" such a "someone" ?

Especially, would I be required to pay such a "someone" for time and effort expended to "sponsor [my] activities" ?

I think that my history of putting papers on the e-print archives is relevant, so here it is:

When I had the e-mail account gt0109e@prism.gatech.edu at Georgia Tech, I put up the following papers from Georgia Tech:

<http://xxx.lanl.gov/abs/hep-ph/9301210>

<http://xxx.lanl.gov/abs/astro-ph/9302008>

<http://xxx.lanl.gov/abs/hep-th/9302030>

<http://xxx.lanl.gov/abs/hep-th/9306011>

<http://xxx.lanl.gov/abs/hep-th/9402003>

<http://xxx.lanl.gov/abs/hep-th/9403007>

<http://xxx.lanl.gov/abs/hep-ph/9501252>

<http://xxx.lanl.gov/abs/quant-ph/9503009>

<http://xxx.lanl.gov/abs/quant-ph/9503015>

<http://xxx.lanl.gov/abs/hep-ph/9512438>

After I no longer had a Georgia Tech e-mail account, I had for a time the account fsmith@pegasus.cau.edu at CTSPS at Clark Atlanta University, from which I put up the following papers:

<http://xxx.lanl.gov/abs/hep-ph/9708379>

<http://xxx.lanl.gov/abs/quant-ph/9806023>

<http://xxx.lanl.gov/abs/hep-th/9908205>

After the CTSPS - Clark Atlanta University account ceased to be used regularly by me, I had an e-mail discussion with the people at xxx.lanl.gov which resulted in their telling me:

> -----

>

> Delivered-To: tsmith@innerx.net

> Date: Wed, 8 Sep 1999 07:52:32 -0600

> From: www-admin@xxx.lanl.gov (www admin for
xxx.lanl.gov)

> To: tsmith@innerx.net

> Subject: RE: register

> Cc: www-admin@xxx.lanl.gov

>
> > ould you please tell me why my request to register as
> > an author at gen-ph@xxx.lanl.gov was not accepted ?
>
> No registration is required. Just submit by e-mail
> To: gen-ph@xxx.lanl.gov
> Subject: put
> when you have a new submission to make.
>
> -----

That arrangement, suggested by the people at xxx.lanl.gov, was
at that time satisfactory with me and pursuant to it I put up the
following papers:

<http://arXiv.org/abs/physics/0006041>

<http://arXiv.org/abs/physics/0102042>

That brings my history to the time of the complications that I have
encountered during July and August 2002.

Since the complications that I have encountered during July and
August 2002 involve whatever policy that you may have with respect
to registration, and since your web page at <http://arXiv.org/> states in
part "... \$This archive is based upon activities supported by the U.S.

National Science Foundation under Agreement No. 0132355 (7/01-6/04) with Cornell University. I hereby formally request to be registered as an author on the e-print archives and that I be given an author username and password that is as effective as are most such author usernames and passwords, and I also hereby formally request that you send to me a complete statement of any policy or policies that you may have with respect to registration, as well as copies of all documentation in your possession or control (including electronic documentation) relative to such policy or policies and the formulation of such policy or policies.

I further formally request that you preserve all such documentation for at least the balance of the calendar year 2002, and perhaps longer if circumstances warrant.

Since the web page at <http://campusgw.library.cornell.edu/cgi-bin/manntom2.cgi?section=networked&URL=gateway.html> lists the CU Library Gateway e-Reference Collection as including "... arXiv.org e-print archive ..." I am sending a copy of this message to LIBGATEWAY-L@cornell.edu and a paper printout copy of this message by US mail addressed to:

CU Library Gateway Re: arXiv.org e-print archive

201 Olin Library

Cornell University

Ithaca, NY 14853

Frank D. (Tony) Smith, Jr. 10 August 2002”.

15. On 10 August 2002 Plaintiff Smith received an e-mail from no-reply@arXiv.org saying:

“Your register query has been received and will be given due consideration. Pending registration queries are reviewed weekly. Further action is neither necessary nor helpful to speed up the process. (In particular, e-mail to the www-admin address about registration issues will be left unattended.) Responses are unavoidably slow during this period (summer 2002) due to an ongoing reevaluation of registration policies. Thank you for your patience.”.

16. On 12 August 2002 Plaintiff Smith received an e-mail from Jean Poland <jp126@cornell.edu> saying:

“... I am responding to your note to the Cornell University Library Gateway about your submission to arXiv. At this time we are reviewing the policies for submission of material to arXiv and I will be happy to forward a copy of those to you when we they are

complete. We are also reviewing the registration process. Your submission has been deferred for review, as are all submissions from a .net address. A representative of arXiv will respond to your request within the week. I appreciate your patience in this matter. Jean Poland ...”.

17. On 12 August 2002 Plaintiff Smith, using his tsmith@innerx.net address, thanked Jean Poland for her reply.

18. On 26 August 2002 Plaintiff Smith, using his tsmith@innerx.net address, asked Jean Poland about the status of his requests.

19. On 8 September 2002 Plaintiff Smith received a message from register-query@arXiv.org stating:

“... > ...

>

> I do have a university e-mail account which is

> fdtsmith@mail.alumni.princeton.edu

Alumni addresses do not count as current affiliation.

> I think that my history of putting papers on the e-print

archives

> is relevant, so here it is:

This is no longer xxx.lanl.gov, so the history is not strictly relevant.

Moreover the nature of your former use of institutional e-mail accounts is unclear.

> When I had the e-mail account gt0109e@prism.gatech.edu at
Georgia Tech,

> I put up the following papers from Georgia Tech:

> ...

> After the CTSPS - Clark Atlanta University account ceased
to be

> used regularly by me, I had an e-mail discussion with the
people

> at xxx.lanl.gov which resulted in their telling me:

> ..

> That arrangement, suggested by the people at xxx.lanl.gov,

> was at that time satisfactory with me

> and pursuant to it I put up the following papers:

There is no evidence that any of these has been considered peer-reviewable by a conventional journal (formerly hep-th/9302030 claimed do have been published in Phys Rev D, we do not know the origin of that

error -- the erroneous Journal-ref has been removed.)

The policy here is to restrict submissions to those that would be considered peer-reviewable by conventional journals. That is what sponsorship by someone with expertise in the subject matter means in your case, without a suitable institutional sponsorship for your activities.

Do not send further messages to any address other than this one.

Any message sent to any other address will be put at the bottom of the queue, and take that much longer to receive response. ...".

20. On 9 September 2002 Plaintiff Smith, from his tsmith@innerx.net address sent a message to register-query@arXiv.org stating:

"... You say: "... formerly hep-th/9302030 claimed do have been published in Phys Rev D, we do not know the origin of that error -- the erroneousJournal-ref has been removed ...".

I do not know the origin of that error either. I did not submit that paper to any journal (including Phys Rev D) for publication, and I thank you for removing any erroneous journal references.

As I understand it, you have rejected my request to be registered as an author, but I am unclear about what you mean by "... sponsorship by someone with expertise in the subject

matter area means in ...[my]... case ... that would be considered peer-reviewable by conventional journals. ...".

Do you mean that I must have publication acceptance by a "conventional journal" prior to making any further put to the e-print archives?

Is that a uniform policy for all persons without "institutional sponsorship"?

In particular, with respect to my attempt to put my paper TS-QM03-1 entitled Penrose-Hameroff Quantum Tubulin Electrons, Chiao Gravity Antennas, and Mead Resonance on the gen-ph e-print archive, which is what led to this exchange of communications, I have contributed that paper to a meeting:

Quantum Mind 2003

Consciousness, Quantum Physics and the Brain

March 15-19, 2003, University of Arizona, Tucson, Arizona
whose organizing committee is
Stuart Hameroff, Paavo Pylkkanen, Jack Tuszynski, Dick Bierman, Nancy Woolf, Scott Hagan, Avner Priel, Fred Thaheld, Adele Behar, Pierre St. Hilaire, Paola Zizzi, Alexander Wendt, Andrew Duggins, Harald Walach, Jeffrey Satinover.

Would an e-mail message to you from a member of the organizing

committee be sufficient "sponsorship by someone with expertise in the subject" for my paper TS-QM03-1 to be put on the gen-ph e-print archive?

If so, how should such an e-mail message be addressed, and what should be its content?

Frank D. (Tony) Smith, Jr. 9 Sep 2002 ...”.

21. Other than automated acknowledgement messages, Plaintiff Smith has not (as of 8 February 2003) received any reply from the Cornell archives to his message of 9 September 2002.

22. On 11 October 2002 "Arkadiusz Jadczyk" <lark1@ozline.net>, a friend of Plaintiff Smith who was aware of some of the problems that Plaintiff Smith had with the Cornell archives, sent a message to register-query@arXiv.org with a copy to Plaintiff Smith, stating:

“... On 11 Oct 2002, at 17:27, register-query for arXiv.org wrote:

> Date sent: Fri, 11 Oct 2002 17:27:20 -0400
> From: register-query@arXiv.org (register-query for
> arXiv.org) To: lark1@ozline.net Subject: RE:
> arXiv.org policy Copies to: ajad@ift.uni.wroc.pl
>

> > I received two complaints from two different persons.

>

> We have no idea why these complaints would go to you.

Perhaps because I am trying to understand what is going on.

> > Here is my opinion: in my opinion Tony Smith papers

SHOULD be

> > allowed to be put on the server. Even if these papers would
not fit

> > the criteria of most of peer reviewed journals, there is a
sincere

> > work behind, and there are useful ideas and deep
understanding

> > behind.

>

> Then why are they not suitable for any peer reviewed
journal?

> They are all sincere.

That is a clear avoiding the issue, and also that is twisting.

I wrote, let me quote: " Even if these papers would not fit

> > the criteria of most of peer reviewed journals"

and let me stress the word MOST Now you twisted it into "ANY".

This is a clear twist of logic. I can't believe a physicist or a mathematician can twist logic that way. I would appreciate explanation why did you do it. I would also appreciate knowing with WHOM I am interacting. Knowing the person helps a lot in any reasonable communication and prevents from misjudging (perhaps I misunderstood your intentions above? Perhaps you have good intentions but have chosen clumsy words to express these intentions?)

> > Shervgi Shahverdiyev's papers show lack of knowledge of results

> > obtained by other people. They are naive and they do not deserve

> > space on the server. But the way Shervgi Shahverdiyev is being

> > treated is far from being the "right one". I know it is very

> > difficult to manage and to get rid of all crazy man and those who

> > cheat, but the way it is being handled at present is inappropriate.

>

> As was explained to all of them, the policies are currently undergoing

> revision.

What is not clear is WHO is revising? Who is in the committee?

Who is responsible? I mean personally?

> It is not clear what is inappropriate about his treatment.

Is there any person at arXiv that is REALLY interested in getting answer to this question? And who is in charge and has power to CHANGE - when such a change is warranted by the facts?

> Since you do not think the submissions appropriate, then feel free to

> tell him yourself, so we can learn what you think is appropriate

> treatment.

How can you learn when I say something to someone else?

Another twist in logic?

Sincerely,

ark ...".

23. On 14 October 2002 Plaintiff Smith received a copy of a message from register-query@arXiv.org to "Arkadiusz Jadczyk" <lark1@ozline.net> stating:

"... > From: "Arkadiusz Jadczyk" <lark1@ozline.net>

> To: register-query@arXiv.org (register-query for arXiv.org)
> Date: Fri, 11 Oct 2002 17:50:44 -0500
> Subject: RE: arXiv.org policy
> CC: Tony Smith <tsmith@innerx.net>, baez@math.ucr.edu,
ajad@ift.uni.wroc.pl
>
> > Then why are they not suitable for any peer reviewed
journal?
>
> ,That is a clear avoiding the issue, and also that is twisting.
> I wrote, let me quote: " Even if these papers would not fit
> the criteria of most of peer reviewed journals"
>
> and let me stress the word MOST. Now you twisted it into
"ANY".

Specify in what journal "any" have been published.

Or conjecture in what journals "any" could be published, and
encourage the author to submit to those journals.

> > As was explained to all of them, the policies are currently
undergoing
> > revision.

>

> What is not clear is WHO is revising?

By a committee coordinated by the Cornell University Library.

You find the two authors distinguishable in some direction, others with direct subject matter expertise find them indistinguishable. (We note that you are not a regular hep-th contributor.)

They appear as but two of a large pool here -- typically flagged by reader complaints -- encouraged to find alternate outlets.

We are instructed that this system was never intended as an outlet of last resort for marginal authors.

> How can you learn when I say something to someone else?

> Another twist in logic?

Most users have learned how to copy or retransmit messages for informational purposes. ...”.

24. On 15 October 2002 Plaintiff Smith replied to the 14 October 2002 message from register-query@arXiv.org, stating:

“... Possibly in accord with your request that he "... copy or retransmit messages for informational purposes. ..." Arkadiusz Jadcyk has forwarded to me comments by you, register-query for arXiv.org, that concern me.

You say that I am in "... a large pool here - typically flagged by
reader complaints - encouraged to find alternate outlets. ...".

Please tell me who has complained about me, and exactly what
they have said about me, and please give me a reasonable opportunity
to reply to any such complaints.

With respect to my posts on the e-print archives since 1993,
you demand specification of "... in what journal "any [of my papers
on the e-print archive]" have been published. ...".

I have NEVER submitted ANY of my papers that are on the e-print
archive to ANY journal, therefore it is IMPOSSIBLE to determine
how they might have been treated. Not only is it impossible for me to
show that they might have been reviewed favorably, it is also
impossible for you (or anyone else) to show that they might have
been reviewed unfavorably, because no such articles have been
submitted.

The reasons that I have not submitted those papers for publication
include:

1 - I am self-employed, and do not need citations of publications
for grants or tenure;

2 - I have seen some evidence of arbitrariness in refereeing processes, and do not wish to get involved in such processes if I do not have to do so, which I do not because of (1).

3 - Even an optimal journal refereeing and publication process results in substantial time delay in publication, compared to the nearly instantaneous posting of papers on the e-print archives;

4 - Most journals require assignment of copyright, which I find objectionable if I can avoid it, and I can avoid it by posting on the e-print archives;

5 - My experience as a regular reader of the e-print archives for many years indicates to me that archived e-prints get a far wider readership than ANY journal.

I have made no secret of the fact that I have not submitted any of my archived papers to any journal, and lack of submission has NOT been a problem for ANY of the over a dozen papers that have been posted by me to the e-print archive from 1993 to July 2002.

Do you now require that ALL papers posted to the e-print archive be submitted to refereed journals for publication?

What about contributions to conferences that are not submitted to journals?

In that connection, I note that the paper that you rejected in August

2002 when I attempted to post it has in fact been contributed to a conference, which is Quantum-Mind 2003 at the University of Arizona, which conference has web site at

<http://www.consciousness.arizona.edu/quantum-mind2/>

Frank D. (Tony) Smith, Jr. 15 October 2002 ...”.

25. Other than automated acknowledgement messages, Plaintiff Smith has not (as of 8 February 2003) received any reply from the Cornell archives to his message of 15 October 2002.

26. Despite request by Plaintiff Smith, the e-print archives have failed and refused to tell Plaintiff Smith who, if anyone, complained about him, or what is the content of any complaints, or why he was put on the blacklist, and have failed and refused to provide a reasonable forum for him to contest his placement on the blacklist, or to plead his case that he should be registered as an author and that his paper TS-QM03-1 should be put on the e-print archives.

27. According to material on the arXiv web site, and also from the Memorandums of Cornell and The Regents in support of their Motions to Dismiss the Complaint in the above-stated case, and according to the

knowledge, information, and/or belief of Plaintiff, the business of arXiv is:

i. receiving papers submitted by third party authors located anywhere in the world (including Georgia U.S.A.) over the internet using such data transfer methods as e-mail, web browser, ftp, etc.. Statistics on this activity, called submission rate statistics, have been maintained by arXiv.

ii. permanently posting and indexing such papers and their abstracts on the arXiv web site, the Los Alamos National Laboratory primary back-up site, as well as on other sites acting as mirror sites.

iii. allowing viewing and downloading of such papers and their abstracts by anyone anywhere in the world (including Georgia, U.S.) with an internet connection using such data transfer methods, usually by web browser.

Statistics on the web browser component of this activity, called HTTP server usage statistics, have been maintained by arXiv in terms of both number of connections and number of hosts connecting.

iv. being paid for i., ii., and iii.,

in lieu of direct payments by third parties who submit
papers and/or view and/or download papers and/or
abstracts,

by, in substantial part, the National Science Foundation using funds from U.S.A. taxpayers (including U.S.A. taxpayers who are citizens of and reside in Georgia, U.S.A).

As arXiv has stated on its web site: “..... \$\$This archive is based upon activities supported by the U.S. National Science Foundation under Agreement No. 0132355 (7/01-6/04) with Cornell University.\$\$...”.

28. Discovery of all the terms and conditions of the Agreement between Cornell and NSF should provide more detailed relevant facts. For example, discovery will be necessary to determine the extent to which NSF funding depends on the levels of arXiv activities including, but not limited to, those described above as 27.i., 27.ii., and 27.iii.

29. In the course of its web site business, as is evident from the arXiv web site, arXiv solicits business (as described above) from anyone viewing its web site from anywhere in the world (including Georgia, U.S.A.) by such means as, for example, stating on its web site general information help page <http://arXiv.org/help/general>

“... General Information About the Archives

“Started in Aug 1991, arXiv.org (formerly xxx.lanl.gov) is a fully automated electronic archive and distribution server for research papers. Covered areas include physics and related disciplines, mathematics, nonlinear sciences, computational linguistics, and neuroscience.

“Users can retrieve papers from the archive either through an on-line world wide web interface, or by sending commands to the system via e-mail. Similarly, authors can submit their papers to the archive either using the on-line world wide web interface, using ftp, or using e-mail. Authors can update their submissions if they choose, though previous versions remain available.

“Users can also register to automatically receive a listing of newly submitted papers in areas of interest to them, when papers are received in those areas. These listings are sent by e-mail.

“In addition, the archive provides for distribution list maintenance and archiving of TeX macro packages and related tools. Mechanisms for searching through the collection of papers are also provided. ...”.

30. A few examples of papers submitted from Georgia, U.S.A., and posted by arXiv on its web site during the year 2002, as is evident from the arXiv web site, are:

<http://arXiv.org/abs/hep-th/0206036> from gatech.edu

<http://arXiv.org/abs/cond-mat/0204530> from gatech.edu

<http://arXiv.org/abs/cond-mat/0204327> from gatech.edu

<http://arXiv.org/abs/cond-mat/0204213> from gatech.edu

<http://arXiv.org/abs/cond-mat/0203571> from gatech.edu

<http://arXiv.org/abs/math-ph/0208021> from cau.edu

<http://arXiv.org/abs/math.AG/0207287> from gatech.edu

<http://arXiv.org/abs/math.AG/0203260> from gatech.edu

<http://arXiv.org/abs/math.AG/0203241> from gatech.edu

<http://arXiv.org/abs/physics/0207095> from Plaintiff Smith's

computer in Cartersville, Bartow County, Georgia, using his

princeton.edu address (which is the last paper that Plaintiff

Smith has been permitted to put on the Cornell archives)

<http://arXiv.org/abs/hep-ph/0201039> from berry.edu

<http://arXiv.org/abs/astro-ph/0004252> from berry.edu

Frank D. Smith, Jr.

Sworn to and subscribed before me

this ____ day of _____, 2003.

Notary Public

My Commission Expires