Cites & Insights

Crawford at Large

Volume 3, Number 3: March 2003 ISSN 1534-0937 Walt Crawford

Perspective

Midwinter Musings

Cold. So cold. Where am I? Must keep moving. Find open door. What do you mean, use the door on the opposite corner of the block? Can't feel face…

Yes, I'm a weather wimp. No doubt about it. Saying I'm a Northern California native doesn't explain it—and isn't quite right. The true Northern California, up in the Sierra Nevadas and near the Oregon border, can get pretty cold. Actually, I'm a native of Central California—Modesto, if you care.

Growing up in California's Great Central Valley means I get along just fine with heat. Summers in Modesto average 90 days over 90°, 30 over 100°, and typically 10 over 110°—and we didn't have air conditioning when I was growing up. As apologists for desert climates always say, "but it's a dry heat"—humidity is rarely above 20%-30% in the summer. But I also get along just fine at ALA Annual in New Orleans, and I could (barely) tolerate Dallas in June.

Cold is another matter. A matter of degrees, I suppose you could say. I bundled up for Philly and although it was very cold on Friday, I managed—even walking from the exhibit reception to receptions at the Free Library and Ritz-Carlton. Saturday and Sunday were better. Late Saturday afternoon, it seemed only natural to walk 14 blocks from my hotel to the one great group dinner I joined at Midwinter—and Sunday afternoon was fairly pleasant, with sun, very little wind, and temperatures in the 30s.

Then came Monday. I really wanted to attend the LITA Town Meeting, starting at 7:30 a.m., at the Marriott—a mere four blocks from my hotel, only three of those blocks outside. TV warned us: 10 to 16 degrees, with a wind-chill factor down around zero to four Fahrenheit.

I managed. Barely. But my memories of the Monday meeting (other than the notes I took) and of lunch later with my editor at ALA Editions boil down to the first paragraph of this grumpy little essay. Cold. So cold…

I'm sure Buffalo was colder, as were a great many other places. This was Philadelphia's coldest day of the weather year to date, but there weren't great drifts of snow as there were the first time ALA Midwinter was in Philadelphia. And yet, I don't remember that as being horrific—maybe because I was a young 49 at the time? I was healthy going into Midwinter 2003 and healthy coming out of it; no lasting harm was done.

Looking at the long-range conference calendar, I see that Midwinter 2005 is scheduled for Boston, 2008 Philadelphia, and 2010 back in Boston. I've only missed one Midwinter conference in 28 years. My guess is that record won't be nearly as good in a few years. While it was great to see some of the people I only see twice a year, participate in the Top Technology Trends group, see the exhibits, go to one wonderful dinner, and try out a couple of LITA interest groups—well, I'm not sure it was worth it.

Miscellaneous Notes

My impression of exhibits was that there were more publishers than usual for Midwinter and perhaps fewer technology exhibits, or maybe I just didn't find them all that interesting.

Inside This Issue

As usual, I marked various LITA Interest Group sessions for possible participation—but I'm finding it more and more difficult to determine how the matrix of LITA Interest Groups works. That may be a necessary consequence of the healthy anarchy of LITA IGs, which are self-organizing and make LITA the most "bottom-up" ALA division. I would never suggest that IGs should be governed in some manner that prevents overlap. Sometimes, there's a sheet (or Web page) listing all the probable discussion topics, which helps attendees understand the IG foci. If such a sheet or page was available, I missed it. Maybe the problem here is just one aspect of the LITA communication problem I discuss below, or maybe it's my own "tired old has-been" problem.

The lack of clear focus is not universal and my comment is not a condemnation. Quite a few LITA IGs have clear senses of what they're about. The Human-Machine Interface group seems to be on the ball, for example, and may have an interesting focused discussion this summer. I know that some other IGs maintain solid, centered activities.

The Top Technology Trends "trendspotters" or "experts" are supposed to have a freewheeling discussion at Midwinter, fairly long and not designed as a program or presentation panel. It is, of course, an open meeting, since neither awards nor personnel decisions are being discussed. There have usually been a few visitors along with the trendspotters and committee members (anywhere from five to ten of the former, something like five of the latter).

This time around, only five trendspotters were there, along with the committee—and something like 30 other people. It was an odd session. By the time this issue appears, chances are the LITA Website will include notes on what was discussed. I raised the need for libraries to do privacy and confidentiality audits—to make sure that patron borrowing records are as confidential as we say they are. My notes don't show the range of other topics (I see "Web services, mechanics are easy, semantics are hard, screen readability and offline delivery, tools to help us cope, wireless in the classroom, and balancing security and access"). I was dismayed when, during the LITA Town Forum, one person complained that TTT was at too high a level and too far out to be useful. That might be true, but the Midwinter session is specifically *not* a program, unlike the Annual Conference panel.

One phrase that came up in more than one meeting: "Best practices." Is the "p" capitalized? This isn't a new catchphrase, but I saw little evidence that most people using it had any real sense of what "best practices" means or why it's so important. I found myself suggesting "better practices" as an alternative—noting that "best" depends heavily on who and where you are, and that we should focus more on improving situations than on aiming for perfection. If you're looking at an online catalog interface, the goal of achieving 100% user understanding and success is not reachable—but you may be able to get from 50% success to 75% success by finding a set of better practices *for your situation*.

LITA has an ambitious list of programs for ALA Annual in Toronto—sixteen programs and three preconferences as of Midwinter. Preconferences deal with ebooks, library Websites, and technology disasters. Programs are, as usual, all over the map, including portals, fair use, taxonomies, Web online catalog interfaces, the worth of free resources, "digital storytelling," Unicode and authority control, libraries as e-publishers, the Top Technology Trends summer panel, and "Cliff's Notes 2003," two hours with Clifford Lynch.

The LITA Town Meeting is an open event moderated by LITA's Vice President (Tom Wilson at this conference) to get feedback on LITA issues. This time, Tom asked the 50 or so attendees what we wanted more of from LITA—and what we wanted less of. It was a vigorous, broad-ranging discussion and list, although (as you'd expect) the scribe writing down "More" ideas had to work a lot harder than the "Less" recorder.

I jotted down a few items. More: Facilitation for broader IG activities (beyond formal programs), public library involvement, regional institutes and workshops, international involvement and support, access to consultation for very small libraries, LITA Happy Hours, available information on expertise within LITA, and lots more. Less hard-core techie programming—and others I didn't note.

And one "more" issue that I raised that gets its own subheading below.

What's Happening in LITA?

Ever since the *LITA Newsletter* cut issue sizes by more than half, then converted to Web publication, then—almost immediately—disappeared altogether, I've missed it. More to the point, I don't know what happens at LITA programs I don't attend and in the two dozen or more LITA Interest Groups.

I feel out of touch with my home division.

The LITA Website provides details of the LITA Board and Executive Committee actions. You can get a list of program names. Sometimes, there are minutes from some committees. That's not enough, and it requires too much digging to see what's new.

I'm biased. During the nine years I edited the *LITA Newsletter*, I never thought of it as the glue holding LITA together, but it was a primary means of communication within the division. The pre-Midwinter issue had likely topics for half or more of the IGs, followed in the spring by informal reports on what actually happened at quite a few of those groups. Details on formal programs and focused discussions appeared before Annual—and the lengthy post-Annual issue let us all know what happened at the programs and discussions we couldn't attend. Nobody can make it to more than about a quarter of LITA's programmatic activities during an annual conference, and many of us don't do that well. We found out about the rest when *LITA Newsletter* arrived, and a few of us saved those issues to review the division's progress.

I don't question the reasons for shutting down the print *LITA Newsletter*. At the time, LITA was in a budget crunch. You can argue that ALA's "technology division" should be using the high-tech Web instead of old-fashioned print (although the two aren't incompatible). For a brief period, the Web-only *LITA Newsletter* managed to present a reasonable view of the division. Then it faded away—and it's been gone for quite some time.

What were the high points of LITA's programs during the 2002 Annual Conference? I haven't the vaguest idea, and I don't know where to find that information. What was discussed at LITA IGs at Midwinter and Annual 2002? I would have reviewed that (and their current plans) before selecting IGs to visit at Midwinter 2003—but no reports are available. Nor will there be reports from Philadelphia, at least not ones that are easy to access.

I miss them. I miss the sense of continuity, variety, and overall context that the *Newsletter* provided. I don't take personal credit for the breadth and depth of the *Newsletter* during the best of the years I was editor. I didn't hound people to write; I did make it a welcoming environment, with enough editing to assure coherence but with real effort to let each contributor's own voice be heard. With one simple call for volunteers before Midwinter, another before Annual, I had all the reporters I needed.

I believe LITA needs the equivalent of the *LITA Newsletter* so we know what we're doing. Not necessarily publishing and mailing 5,000 copies of a print newsletter: That may be too expensive and may repulse the technophiles in LITA. I believe there are or should be volunteers within LITA who could do a better job using Web-based methods than I did with the print *LITA Newsletter*, as long as the focus is on content rather than elaborate presentation. That could mean a PDF publication such as *Cites & Insights* or a table of contents with links to HTML documents. I believe fairly regular appearance is significant, and I believe a combination of push and pull communications may be needed—e.g., announcements of new issues on LITA-L and a variety of library lists, combined with an easy way to gather the components of a quarter's issue. At least for my tastes, this isn't a case where pages showing up on a Web site as they're ready will work well. The context of an issue turns a set of individual reports into an overall sense of LITA's activity.

Maybe my brain hadn't thawed yet: When there was discussion of how a *LITA Newsletter*-equivalent could be [re]started, I said it was possible—barely—that I could help. Only under the right terms (which may be the wrong terms for a healthy publication), and only if there aren't people better equipped to do it. I do not believe I'm the best one for the job. I *know* I'm running just about at maximum load for non-work activities, which means I can't (or won't) show much flexibility as to what I could offer.

The only way I could or would do it is as a supplement to, or last portion of, some issues of *Cites & Insights*—possibly a second PDF, possibly part of a single PDF. No photos, no graphics, no special typefaces; just a separately organized set of articles from LITA contributors, with the same minimal editing I did a decade ago. "Some issues" would probably be four a year—December, February or March, May, and a month or two after ALA Annual (depending on how quickly contributors bring in reports). If people report on Annual sessions with the vigor and variety of the early 1990s, that issue might be an entirely separate piece.

Let's be clear about this. I don't think it's the ideal way to proceed. It may be so suboptimal that it's not worth pursuing. I don't have the time or energy to volunteer for a more appropriate methodology. There must be at least a hundred LITA members who could do this better. Some of them need to make their voices heard.

Some of you don't care about LITA, although I believe you should. Some of you will regard this suggested methodology as absurd. You may be right. Get in touch with the LITA Office and suggest a better way—with, of course, the volunteer(s) to make it work. I don't really want to edit the *LITA Newsletter* again; I just want to read it!

Bibs & Blather

Getting Chunky, Getting Personal?

Who cares?

Maybe that's the best answer to my ongoing puzzlement as to whether *Cites & Insights* is a zine, a newsletter, or something else entirely—just as it's apparently your answer to the question at the end of "Bibs & Blather" in *Cites & Insights* 3:2.

That's also been my internal response when, on one or two occasions, someone's suggested that I keep my own history and personality somewhat hidden in my writing. Who cares? I'm not reticent about offering my own opinion within the ever-widening sphere of *Cites & Insights* topics.

Outside that sphere—do you really *care* how I grew up, what foods I prefer, what my taste is in music, TV, or movies, or what I like to do on vacation? I can't imagine why most of you would, particularly since my life lacks the drama that makes for good

diaries or memoirs. No childhood traumas, no divorced parents, not even any therapy.

If I get the sense that you want "more Crawford" in these pages, you may get it. But really, who cares?

Getting chunky? That's a quick description of this issue compared to the previous two, each of which had ten articles. This issue has fewer, bigger "chunks," because that's the way things worked out. Given that several elements of *Cites & Insights* include multiple subthemes within an article, I think the ten articles in 3:1 and 3:2 may have been too many. This issue's seven is average for last year (when each issue had six, seven, or eight articles, with one nine-article exception). "Who cares?" may be an appropriate response to that as well.

Glancing Back: 1, 2, and 5 Years

March 2002

The traditional "plan or take a vacation" essay, extolling the need for real breaks and lamenting the near-demise of the Delta Queen Steamboat Company. I'm delighted to say that all three Queens are or will soon be back on the river, operating under the same company name (although the ownership's different).

There was a *lot* of blather that month—two full pages—including an appreciation for some of my sources and deliberate decision to use "they" for "him or her." The biggest themes of the issue were Text-e (including the fun of watching True Futurists jumping all over Jason Epstein for predicting the continued health of printed books) and ebooks, specifically focusing on a special issue of *Library Hi Tech*. It's almost sad to see how little positive has happened since then.

The only "And it's only been a year…" note worth mentioning is a discussion of "Why hard disks survive," where I comment *approvingly* on a prediction that you'd be able to buy a one gigabyte CompactFlash card "in a few months" from late January 2002, for about $799. I noted that $799 would buy at least 320GB of hard disk storage at that point. I haven't seen single 1GB CompactFlash cards (but I haven't been looking hard), but that's about the right price for two 512MB cards—and you can get four 256MB cards for considerably less. Hard disks? $799 buys about 400GB of high-speed (7200RPM) ATA disk storage.

March 2001

The "Top Midrange" PC Value for March was a Dell Dimension 4100—a Pentium III running at 1GHz with a 40GB 7200RPM hard disk, CD-RW drive, 128MB RAM, 32MB graphics RAM, 16"-viewable display, and a good speaker system—for $1,599. In a March 2003 *PC Magazine* ad, Dell's $1,399 Dimension 8250 has a Pentium-4 running at 2.4GHz, 256MB RDRAM, 60GB 7200RPM hard disk, 64MB graphics RAM (and an nVidia GeForce4 card), and both a CD-ROM and a DVD+RW/DVD+R/CD-RW burner.

I lamented the death of MusicMaker, a "build your own custom CD legally" service that still hasn't been replaced. "The Convergence Chronicles" discussed the new *[INSIDE]* print magazine (which didn't last for long), a skeptical look at the wonderful future of interactive TV, the low-quality Terapin CD Audio/Video Recorder, and a discussion of MP3 sound quality that's still relevant. I noted polymeric LED displays as a bright new technology but wondered when they'd be available at consumer prices—a question that's still valid. *PC Magazine* gave a rave review to a 20" LCD display selling for $5,500; those prices have come down a *lot*. DataPlay was a hot new product that I didn't think made sense (now apparently defunct)—and I *really* doubted the concept of "personal lockers" on homes so that Webvan and its ilk would work better. (*Cites & Insights was* mostly technology back in those days.)

March 1998

"Crawford's Corner" started with a blast at DivX, that ill-conceived notion that cost Circuit City a small fortune and a lot of good will, tracked the slow emergence of DVD (and even slower emergence of DVD-ROM), had lots of PC-related article citations, and reviewed "The Complete National Geographic" CD-ROM set, "the most seriously flawed CD-ROM that I've ever given an excellent rating."

Wonder what a good value was in midrange PCs back then—when "midrange" meant under $2,000? Another Dell Dimension—this one a Pentium II at 233MHz, 32MB RAM, 4.3GB hard disk, CD-ROM drive, 16" (viewable) display, and 4MB display RAM—plus decent speakers and a 56K fax/modem.

Copyright Currents

Copyright doesn't last a day longer now than it did a year ago—and it's highly unlikely that another act to extend copyright will be passed *unanimously* by the Senate, as CTEA was. Those are two realistic messages to draw from the endless array of commentaries on the Supreme Court's 7-2 decision to uphold CTEA. That's all I'm going to say about the CTEA decision here (if only because there's *too much* to say). See my separate CTEA perspective. There are several other active strands in the copyright web.

Ed Foster at *InfoWorld* worries that 2003 will be "the year we lose what remains of our digital rights." The Berman bill and the continued threat of CBDTPA can encourage such pessimism, as can the FCC hearings on the Broadcast Flag (CBDTPA without legislation). Foster (in a January 10 piece) even raises UCITA as an issue—and eternal vigilance against UCITA continues to matter, for librarians and for those who believe in first-sale and fair-use rights. I'm more optimistic, but that's my nature.

That optimism comes in part from a number of early-February analyses, almost unanimously agreeing that there *won't* be any new copyright law this year. That means DMCRA is unlikely to pass—but also that CBDTPA, the Berman bill and the Broadcast Flag are probably dead in the water. (The Eric Eldred Act is an idea at this point, probably years from serious consideration.)

It appears that Jack Valenti and a number of other Big Media folk need to be reminded about Section 107 of Title 17 of the U.S. Code, since Valenti was recently quoted as saying "What is fair use? Fair use is not a law. There's nothing in law."

> Sec. 107. - Limitations on exclusive rights: **Fair use**
>
> Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include -
>
> (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
>
> (2) the nature of the copyrighted work;
>
> (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
>
> (4) the effect of the use upon the potential market for or value of the copyrighted work.
>
> The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors

It may not be much, but I believe most lawyers consider U.S. Code to be law. But what do I know?

DMCA Fallout

The drama of the Elcom/Sklyarov trial overshadowed another significant post-DMCA trial, this one in Norway. As noted in *Cites & Insights* 3:1, Jon Johansen, still a teenager and one of the creators of DeCSS, was on trial in Oslo for sharing the code that decrypts CSS, the "content scrambling system" used on almost all commercial DVDs. The complaint originated with the MPAA. It's fair to say that it was a show trial: The prosecutors wanted a 90-day *suspended* sentence—but also wanted court costs and confiscation of Johansen's computer equipment.

As the local *Aftenposten* put it in its January 7 report on this "David vs. Goliath" case, "David clearly won." The judges ruled unanimously in Johansen's favor on every count. There was no evidence that he or anyone else used DeCSS for illegal purposes—and it's not illegal (at least in Norway) to play a movie you've purchased, even if you want to play it on a Linux PC and no authorized DVD playback program is available. There was also no evidence that Johansen intended to contribute to illegal copying—which is what he's said all along. "Johansen felt strongly that since he owned the DVDs, he should be able to view them as he liked, preferably right on his own computer." Norwegian laws protect what a consumer can do with their own property—in the U.S., similar protections (to the extent they still exist) fall under the First Sale doctrine.

In Norway, for now, "As long as you have purchased a DVD legally then you are allowed to decode it with any equipment, and can't be forced to buy any specific equipment." Along with the ElcomSoft decision, these are favorable signs that judges and juries have some respect for *individual* property rights as well as the claimed rights of Big Media.

The MPAA hoped that Norwegian prosecutors would appeal the decision (in Norway, it's possible to appeal an acquittal). Which they did or at least planned to do, according to a January 20 *Wired News* story.

(Additional information from January 8 News.com and January 13 *Wired News* stories.)

Boucher, Pseudo-CDs and DMCRA

Rep. Rick Boucher (D-Va.) did indeed reintroduce legislation to protect fair use. The Digital Media Consumers' Rights Act (H.R. 107) is cosponsored by John Doolittle (R-Ca.). It explicitly protects research and permits circumvention of copy-protection measures in order to exercise fair use rights—and explicitly permits hardware and software with substantial non-infringing use. The bill also directs the FTC to prepare a regulation requiring proper labeling for copy-protected pseudo-CDs.

Computer companies and associations typically support Boucher's bill, as do consumer advocates and the Consumer Electronics Association. The

Business Software Alliance doesn't like it because the bill could "make it harder for software companies to take action against pirates."

The bill itself is brief—nine double-spaced pages—and has an interesting structure. To wit, the fair use provisions (the meat of the bill for most purposes) are the fifth and final section of the bill, the rest of which is *entirely* devoted to pseudo-CD issues. That section is short enough to be worth quoting in its entirety (taking some liberties with spacing, and noting that Title 17 Section 1201 is at least partly DMCA):

> **SEC. 5. FAIR USE AMENDMENTS**.
>
> (a) SCIENTIFIC RESEARCH.—Subsections (a)(2)(A) and (b)(1)(A) of section 1201 of title 17, United States Code, are each amended by inserting after "title" in subsection (a)(2)(A) and after "thereof" in subsection (b)(1)(A) the following: "unless the person is acting solely in furtherance of scientific research into technological protection measures."
>
> (b) FAIR USE RESTORATION.—Section 1201(c) of title 17, United States Code, is amended—
>
> (1) in paragraph (1), by inserting before the period at the end the following: "and it is not a violation of this section to circumvent a technological measure in connection with access to, or the use of, a work if such circumvention does not result in an infringement of the copyright in the work"; and
>
> (2) by adding at the end the following new paragraph:
>
> "(5) It shall not be a violation of this title to manufacture, distribute, or make noninfringing use of a hardware or software product capable of enabling significant noninfringing use of a copyrighted work."

That's it—and those few words would *substantially* swing the balance back in favor of fair use and first-sale rights.

The bulk of the bill is an amendment to the Federal Trade Commission Act "to provide that the advertising or sale of a mislabeled copy-protected music disc is an unfair method of competition and an unfair and deceptive act or practice"—the DMCA-related Section 5 being "and for other purposes." The rest of the bill uses quotes around "copy-protected compact discs"—correctly, since copy-protected discs aren't properly compact discs at all. It's a clear and detailed bill, and not insignificant even without Section 5.

As reported at dc.internet.com on January 8, Boucher predicts that the bill will pass—but notes, "It took six years to pass the DMCA." (One of the other stories about both DMCRA and the CBDTPA, at News.com, raises interesting questions about the Cato Institute's supposed free-market/libertarian stance. Wayne Crews of the institute commented that CBDTPA is "a bad idea, as is, on the other side of the coin, the extreme interpretation of Boucher's 'fair use' legislation…(Some people) will use it as a lever later to target all copy protection as violations of 'free speech.' That's as big a mistake as mandating copy protection." Try as I might, I can't find a word in Boucher's bill that deals with free speech or outlaws copy protection—but then I'm not blessed with Cato's pure view of Corporate Rights.)

Hilary Rosen: Going Out with a Bang

Hilary Rosen is apparently leaving RIAA. An odd lengthy profile in the February 2003 *Wired*, "Hating Hilary," doesn't include that likelihood but does show a supposedly-conflicted person who seems truly to believe that file-swapping is the one and only cause of dropping record sales. We learn a lot of what Rosen's willing to share about her past and life, most of it irrelevant to her work but likely to make us liberals feel guilty about disliking her. You might find the profile interesting.

See if you can find *Wired News*' January 22 report on Rosen's keynote address at France's Midem music conference—where she proposes that ISPs should "be held accountable" for all that money that the music industry loses. She wants ISPs to pay the music industry a fee, presumably based on what RIAA believes would be adequate sales, then pass that fee along to customers. She says ISPs are profiting from the high demand for broadband connections (someone tell AOL Time Warner about those massive profits!), and of course the only reason for broadband is to steal music more rapidly. Notably, even DMCA doesn't hold ISPs liable for the data passing over their networks. The news report has some of the "printable reactions" to the proposal.

And, although you can't directly blame Rosen for this one, U.S. District Judge John D. Bates issued a memorandum opinion and order on January 21 granting RIAA's motion to enforce a subpoena on Verizon to determine the identity of a particular user who "allegedly downloaded more than 600 songs in a single day." The decision, which may be the first decision to cite the Supreme Court CTEA ruling, is available at www.dcd.uscourts.gov/02-ms-323.pdf. It runs 37 double-spaced pages and includes a fair amount of discussion on DMCA's ramifications. Verizon is appealing the decision.

More DVD Copying

Maybe you've seen ads for DVD X Copy. It's a $100 program from 321 Studios that allows you to copy a DVD on your own PC (assuming you have a DVD

burner). It can split a dual-layer DVD into two DVDs (since there's no such thing as a dual-layer recordable). Copies begin with a message that the copy is for personal use only, you can't copy a copy, and each copy has a watermark identifying the specific copy of DVD X Copy used to make it. The copy loses some minor features of the original DVDs but will theoretically offer the same quality. (An earlier program, DVD Copy Plus, copies to Video CDs with a substantial loss in quality.)

According to a January 13 *Business Week Online* report, 321 Studios took preemptive legal action after MPAA asked the FBI to investigate the company for criminal violation of DMCA. The company sued eight movie studios seeking a declaration that the software does not violate DMCA and that its distribution is protected by the First Amendment. After initially trying to get the case dismissed, the studios, MPAA and Justice Department agreed to let the case proceed—and asked for an injunction against sale of the software while it proceeds. That could take years. If DMCRA was law, DVD X Copy would appear to be unquestionably legal.

Edward Felten (the catalyst for a portion of DMCRA) offered a good clarification on CSS and copy protection January 13 at his Weblog, Freedom to Tinker (www.freedom-to-tinker.com). He agrees with Maximillian Dornself that CSS *cannot* prevent copying, since it's just a bunch of bits. A bit-for-bit copy of a commercial DVD is at least theoretically possible and would not be affected by inclusion of CSS. Felton notes the subtleties: CSS offers an indirect form of copy protection because it aims to control who can build DVD players and effectively acts to assure that DVD players won't pass pure bitstreams of a DVD's content. Incidentally, if you really care about DMCA and related issues, I **recommend** that you look at Freedom to Tinker once in a while—just as the Copyfight weblog at Corante and Seth Finkelstein's Infothought weblog are valuable sources.

Unintended Consequences: Four Years under the DMCA

That's the title of an Electronic Frontier Foundation (EFF) report. The ten-page two-column PDF I downloaded in mid-January was version 2.1, dated January 9; you can always find a current version at www.eff.org. I **highly recommend** this discussion of the actual effects of DMCA—which has been used less to combat piracy than to chill free expression and scientific research, jeopardize fair use, and impede competition and innovation. (No originality here: Those are the three bold headings in the report's executive summary.)

This is an evidence-based report, citing actual cases and generally offering URLs for more information. I wasn't aware that the White House Cyber Security Chief had called for DMCA reform because it's chilling computer security research or that HP, for a while, was trying to quash a report on security flaws in Tru64 UNIX through DMCA action. For that matter, I would never have guessed that N2H2 would claim DMCA protection for its encrypted list of blocked Websites, undermining Benjamin Edelman's censorware research. (If you're a copyright junkie who doesn't read "Filtering Follies," it's worth noting that N2H2 is where David Burt ended up and that N2H2 may be one of the least objectionable censorware companies—which should not be considered an endorsement.) At least one security systems analyst will not publish the results of his investigations for fear of DMCA prosecution. It's not just Felten, in other words, as bizarre as that case was; it's a pattern.

There's more, an astonishing and varied set of instances for such a short document. I'm particularly charmed by Lexmark's attempt to prevent other companies from competing for laser toner sales by putting "authentication" chips in its own cartridges and using DMCA to sue when those chips were reverse-engineered. And, of course, Sony, the conglomerate whose founder must be spinning ever more rapidly in his grave, used DMCA to prevent PC emulation of Playstation games and for various other anticompetitive purposes. Even Apple, the people's computer company, used DMCA to prevent another company from making it possible to use iDVD (free software, remember) with an external DVD burner rather than buying a new DVD-burner-equipped Mac.

A sordid document—that is, a well written, fully documented report on sordid activities—and one that deserves ongoing attention.

The Big Deal and CBDTPA

The big deal? A one-page statement issued January 14 by the Business Software Alliance, Computer Systems Policy Project, and the RIAA: "Technology and Record Company Policy Principles." You can find the page itself without much trouble. It offers a set of "principles" organized into public awareness, consumer expectations, enforcement, technical protection measures, actions by rightholders, mandates and improved public dialogue. The key provisions—certainly for CBDTPA, DCMRA, and the Broadcast Flag—may be these:

> Legislation should not limit the use or effectiveness of [unilateral technical protection measures that

limit unauthorized access, copying or redistribution of products].

Technology and record companies support technical measures to limit illegal distribution of copyrighted works, subject to requirements that the measures be designed to be reasonable, are not destructive to networks, individual users' data or equipment, and do not violate individuals' legal rights to privacy or similar legally protected interests of individuals.

Technology and record companies believe that technical protection measures dictated by the government…are not practical. The imposition of technical mandates is not the best way to serve the long-term interests of record companies, technology companies, and consumers. … The role of government, if needed at all, should be limited to *enforcing compliance* with voluntarily developed functional specifications reflecting consensus among affected interests. [Emphasis added.]

The first selection (from section 4) is a flat-out argument against DCMRA: "Don't do anything that would limit our ability to restrict copying." The second (also from section 4) is interesting for what it does *not* include: Any mention of fair use. It's interesting that the word "similar" rather than "other" was used in that clause.

The third set of selections, all from section 6, is a classic half-full/half-empty situation. The first sentence (I omitted a long parenthetic clause) and the second essentially argue against CBDTPA and the audio equivalent of the Broadcast Flag. But note that third sentence: If the groups, entirely composed of big corporate interests, voluntarily agree on technical restrictions, it's reasonable for government to enforce compliance with that agreement (on all parties that weren't part of the voluntary agreement).

The page also lists members of the associations. Apparently RIAA only represents the Big Five record publishers, not all the smaller "indie" labels. The other two groups include Dell, HP, Intel and IBM (in both) and a number of other software and hardware firms—but notably not Gateway, which is taking a pro-consumer stance on copying.

I downloaded nine stories in all and I'm sure there have been dozens more. Three showed up January 14, from *The Guardian*, Washington *Post* and Dan Gillmor's Weblog. *The Guardian* called it a "landmark compromise" so that electronics companies would work against broadening consumer rights while RIAA worked against CBDTPA-equivalent legislation. That story notes that the MPAA has "aggressively supported" CBDTPA equivalents and was not part of this agreement. The *Post* noted that the agreement might be an attempt to improve RIAA's public image—and that Rick Boucher was particularly interested in who was *not* part of the agreement, including the Consumer Electronics Association and MPAA. Dan Gillmor called the agreement "baffling"—and notes that consumers had no role in this agreement, and that "nothing here proposes to change, even slightly, the current system under which customer freedoms and the public interest have been stomped."

January 15 stories included items from the New York *Times*, *Wired News*, Declan McCullagh at News.com, *The Recorder* (at law.com), and commentaries at *Salon* and LawMeme. A few highlights:

- Jack Valenti was predictable: "We are not prepared to abandon the option of seeking technical protection measures via the Congress or appropriate regulatory agency, when necessary." On the other side, Gary Shapiro of the Consumer Electronics Association continues to "believe that legislation is required to strike the necessary balance between protecting copyrights and consumers' fair use rights"—in other words, DMCRA and the like.
- Wendy Seltzer of EFF noted that the compromise "is not good news for the consumer" and that consumers *do* need "Congress to step in and undo the mess that has been created by [DMCA]."
- McCullagh notes that all parties to the compromise were DMCA supporters, and that, unlike MPAA, RIAA never endorsed CBDTPA. He believes the compromise should help keep the Berman bill bottled up in committee. For some reason, McCullagh specifically includes Gateway and Philips in a short list of companies that had endorsed Boucher's 2002 version of DMCRA, then goes on to say "some of those same groups" are in the associations involved in the new statement. Neither Gateway nor Philips is part of any such association. I've heard of guilt by association, but this seems excessive or incompetent.
- The *Salon* article is an interview with Fred von Lohmann of EFF, who raises fair use issues and—bless him—mentions "the library community" as one of many interested parties not invited to participate. (He also mentions EFF and Consumers Union.) He refers to RIAA's giving up on CBDTPA as "an example of horse-trading somebody else's horses," since CBDTPA is primarily an MPAA initiative. He notes that fair use and other legitimate rights "are being eroded" and that the statement, in ignoring those issues, overlooks "the most important thing for the people who are most directly affected." And, to be sure, "The last time

I checked it was not up to a bunch of industries to get together and decide the public's rights." He also notes that the tech associations don't speak for the industry.

- LawMeme offers an analysis of the seven principles that's **well worth reading** and certainly forthright. It's a little odd, as there's no name attached but "I" pops up fairly often; perhaps "LawMeme" is known to be a one-person operation and I'm just ignorant. (I'm suggesting you read the LawMeme analysis, not saying I agree with every word of it.)

Summing up? The agreement was mostly PR and an attempt to preempt DMCRA, with window dressing that could help defeat the Berman bill and CBDTPA. The agreement leaves out the public, the ones the government is theoretically of, by, and for. It probably doesn't deserve this much coverage.

Creative Commons and Other Matters

Again I'll refer back to the January issue, which included a description of the new "Some Rights Reserved" licenses from Creative Commons. I believe the effort to be worthwhile; that's why I adopted a Creative Commons license for *Cites & Insights*. So do quite a few others.

A January 3 piece on the O'Reilly Network, "Returning creativity to the commons," describes a San Francisco party celebrating the rollout of Creative Commons (www.oreillynet.com/lpt/a/3070). It sounds like quite a bash. It also summarizes the point of Creative Commons nicely: "Creative Commons is trying to build, or rebuild, the enabling of the public domain." With the defeat of Eldred v. Ashcroft, *voluntary* ways to allow creators to be compensated and also contribute to the public domain become more important. I discussed and use the CC licenses, but there's also the Founder's Copyright, an explicit agreement to limit copyright to 14 years renewable to 28—a commitment that O'Reilly is making for many of its technical books and all future books. (As Tim O'Reilly notes, 28 years is far longer than the life of any singe edition of a computer book, so "it's not a very hard choice.")

Brewster Kahle made a boast that I don't think he's in a position to assure: "The Internet Archive will provide *unlimited* storage and bandwidth—forever—for all video and audio media made available as Creative Commons-licensed or public domain content." Unlimited, forever: Those are big words. Text, apparently, isn't as important to Kahle.

Strangest item in the report: Two video clips from people supporting Creative Commons licenses. One from John Perry Barlow isn't all that surprising—but Jack Valenti? "Creative Commons strikes a marvelous balance between copyright protection and copyright material that people want to make available." OK—and I suspect Lawrence Lessig was right in claiming that this was the first time Barlow and Valenti agreed on anything substantive.

Somehow, Arnold Kling decided that the Creative Commons licenses are dumb ideas. His essay at Tech Central Station carries the title "Content is crap" and argues that anything that hasn't been through the filter of editors isn't worth a damn. That's a simplification, but after reading not only the essay but also some of Kling's other thinking, I was unwilling to print them out and react thoughtfully to them. I believe in editing, but I regard it as arrogant nonsense to say that anything that hasn't been edited is inherently worthless.

But then, I'd have to say that, wouldn't I? I may use "Bibs & Blather" as an alternate name for this publication, but if I believed this was *all* crap—or thought that reasonable readers would regard it that way—I wouldn't be doing it. As with many other supporters of Creative Commons, I regularly publish paid material vetted by editors and publishers and I believe in the worth of editing. I also believe—no, I *know*—that there's worthwhile free, unedited content out there. My December 2002 "disContent" column, "The end of free content," argues that a considerable number of "unfiltered" messages have real value. If 99% of Weblogs are worthless online diaries—a percentage I suspect is too high—that would still leave thousands of worthwhile Weblogs, just to name one element of the circle of gifts.

Dan Gillmor—who publishes through a *very* large publisher, Knight-Ridder—doesn't agree with Kling either. He calls the view that "there's likely to be no value in what anyone would want to publish with a Creative Commons license" entirely wrong. He also addresses one of several Kling assertions that undermine his whole argument (Kling imputes a lot of motives and attitudes to anyone supporting Creative Commons). Here's the Kling statement:

> The Commons enthusiasts believe that content publishers earn their profits by using copyright to steal content from its creators and charge extortionary prices to consumers.

That, incidentally, is one of several statements that convinced me not to try to deal with Kling seriously—and certainly convinces me that *some* content is crap. Gillmor's response: "No, that's not what I believe, though it does happen on occasion." He

goes on to summarize his beliefs—copyright is a good thing, it's been abused by the copyright industry, some balance is needed, and the filtering role of publishers is vital.

I believe in the worth of copyright to reward creators and encourage new creation and in the value of editors (as witness my occasional apologies for the quality of the unedited writing you see here). Yes, some intermediaries charge excessive prices and treat creators badly, but that's certainly not the norm in print publishing, and I wouldn't even call CD prices "extortionary" (which my dictionary defines as an archaic synonym for *extortionate*, and which an editor should have caught and corrected), even though I believe lower CD prices would benefit all parties involved. Yes, some scholarly journal prices are absurd, but there's very little link between Creative Commons and STM publishing. No, Kling's arguments make no sense to me.

Edward Felten labels Kling's article "an odd little op-ed" and notes, "Most readers are pretty good at finding the good stuff" among the good and bad free content. He cites a prefatory item for Gillmor's quote, where Kling calls this belief "a striking naïve 60's-retro ideological view." There are times when I wouldn't mind a little more 60's-era ideology. Lest we forget, the Free Speech Movement was a focused attack on a UC Berkeley campus policy that fundamentally undermined the First Amendment—not just in the classroom, but everywhere on that enormous campus. (Sorry; my 60's-era Berkeley roots are showing. I was there through all of it, though not an active participant.) The FSM participants played by the rules of civil disobedience—expecting arrest—and achieved their goals. And, as Felten notes, the CC licenses are just tools. Some of the licenses can be fairly restrictive.

Siva Vaidhyanathan at NYU also notes that Kling misunderstands the purpose of Creative Commons, asserts beliefs among its supporters with no evidence for such assertions and strong evidence against them, and otherwise disassembles Kling's house of cards.

As you're considering Creative Commons' projects (and I suggest one more project in my CTEA perspective), you might want to visit Imaginative Pastures (www.fishrush.com/imaginativepastures). Imaginative Pastures notes that Creative Commons' work "was simply, er… too *common*." So this new site offers an Incensing Project and Flounder's Copyright—and, with it, a "Some grape preserves" logo as an alternative to "Some rights reserved." With this stunning new development, you'll be able to identify your works "using a unique digital smell"—all, of course, variations of grape flavored incense. The FAQ is a delight, the site a not-too-subtle spoof of (and blatant steal from) Creative Commons. As you might expect, Creative Commons has already sued Imaginative Pastures for outrageous theft of intellectual property…no, actually, CC has noted that the spoof site is clever.

Canadian CD-R Royalties

January's "Copyright Currents" included notes on a somewhat startling proposal by the Canadian Private Copying Collective, which collects royalties or levies on blank CD-Rs. CPPC wanted to raise the levy from an already-high CN$0.21 per CD-R to CN$0.59 per CD-R (roughly US$0.38 in late January). The levy applies to *all* CD-Rs, unlike the 3% U.S. royalty on audio CD-Rs. CPCC also wants to add levies to any device that can store music.

A January 8 *Wired News* story by Michelle Delio adds some commentary on the dispute. CPCC may be overreaching: "Much of Canada's technology and retail industry is now calling for the levy's repeal." This story clarifies the rapid rise of the CD-R levy: It was CN$0.052 in 2000, quadrupling in 2001.

What's CPCC's basis for nearly tripling an already-high levy? Surveys indicating that "almost half of all recordable CDs purchased are used to copy music." Which, as the digital access coalition points out, means that CPCC wants an extreme penalty on *most* CD-R uses, which are *not* for copying music.

By now, presumably, both sides have been heard by the Copyright Board of Canada. According to this article, the anti-levy people are likely to point out an interesting fact: CPCC has collected more than CN$28 million since 1999—and, to date, has distributed *nothing* to musicians. So who's gaining from a system that assures that CD-Rs are far more expensive in Canada than in the U.S.? The employees of the CPCC, of course—and U.S. businesses, those near the border and mail order alike, where blank CD-Rs purchased in modest quantity rarely cost much more than US$0.25 each (and even "audio" CD-Rs are down to US$0.35 or less).

Compulsory Licensing as a Copyright Alternative

Terry Fisher of Harvard suggested at a recent Future of Music conference that there were better ways to handle music royalties than copyright law. His suggestion: Compulsory licensing based on watermarks. Here's how Donna Wentworth summarized it in Copyfight:

> Fisher's first choice, he said, would be to recognize that copyright law is increasingly dysfunctional for handling music royalties and to (1) Authorize artists to insert simple watermarks in their creations, (2)

> Tax, at the multilateral or national level, things such as ISP access and various technologies upon which music is performed, (3) Count the frequency with which each digital product is consumed, (4) Distribute revenue from the taxes in the proportion in which the various products are accessed.

I've seen two commentaries, one from Seth Finkelstein and one from Edward Felten. Finkelstein likes the general idea but notes, "The devil is in the details." Specifically, the only way to count consumption would be to require every player to recognize the watermark—and "That would of course require non-watermark-responding players to be illegal." There's one more step that Finkelstein misses, I think: Given that a digital-analog-digital cycle will obliterate any watermark that is not intrusively audible, you would *also* need to reject any music that lacked a watermark. I'm going to do something unusual—**highly recommend** that you read my own December 2002 "Crawford Files" (non-ALA members can read it at ALOnline) if you haven't already done so. I've yet to hear any suggestion that my extreme position is wrong, unfortunately.

Edward Felsen doesn't assume that Finkelstein's fear is correct. He believes that users will *want* their usage counted so the artists they like will be rewarded, which is a good point, but notes that users will tend to over-report or mis-report, possibly even obliterating or substituting watermarks to that end. He suggests further thought.

Articles Worth Noting

Besek, June M., "Copyright issues relevant to the creation of a digital archive: A preliminary assessment," CLIR. (www.clir.org/pubs/reports/pub112/)

A caution: If you want to print this and start from the contents page, it may appear that you'll need to print multiple sections. *Don't*. The entire body of the report—sections 1 through 11 and Endnotes—comes up when you click the link for section 1. My copy is 19 print pages (of which 6 are entirely endnotes); all sans, unfortunately, but there you are. If you click on each section and send it to a remote printer without paying attention, you'll have many copies of a relatively brief report.

If you're looking for fire and brimstone, look elsewhere. This report sets out a clear, nicely worded summary of the rights held by copyright owners, exceptions to those rights, the impact of DMCA, and related issues, with appropriate brief commentary about the impact of each area on nonprofit digital archives. It's a fast read with documentation for every point made—62 endnotes in all. These days, it's unusual to see a non-argumentative discussion of DMCA; the one here is clear and valuable. **Highly recommended** if you're concerned with copyright compliance in digital archives.

deCarmo, Linden, "Changing of the guard," *EMedia* 15:11 (November 2002): 34-9.

Here's another industry-oriented discussion, this time of HDTV and copy protection. It may not be a necessary read for you, but it's useful to see the coloring given to what could be a factual discussion of possible uses of the broadcast flag (or, rather, the DVI digital connection equivalent). Right up front, we hear that "consumers and engineers are excited" about the wonders of HDTV (although sales don't show that excitement), and then that content "creators" are distressed about the "gaping security hole" of analog component video connections "that pirates can easily exploit."

Note that word: "Pirates." Not, presumably, the actual pirates that take camcorders into movie screenings, "borrow" prints from studios and theaters, or use other techniques for large-scale piracy. No: Unless I'm very much mistaken, the "pirates" here are you and me, consumers who might wish to save a copy of a high-resolution broadcast. Note also the wording: As long as there's *any* analog output, there's a "gaping security hole."

There are a number of other little problems here—for example, the assumption that there are practical ways for casual pirates to record "uncompressed HDTV streams." The suggestion also seems to be that HDTV isn't compressed when it's broadcast, which is nonsense. The article even states the potential bitrate of uncompressed HDTV: 5Gbps (or five gigaHertz, if you like). Great—but the spectrum allocation for a digital TV station is 6MHz and the *entire* TV broadcast spectrum occupies less than one gigaHertz. In fact, there is no plausible way to record an uncompressed HDTV signal with consumer equipment. As noted in the article, even FireWire won't pass that much data, and a 200GB hard disk would fill up in—well you can do the math: 320 seconds or just over five minutes. How long would it take a "pirate" to retransmit that five-minute movie (!) to friends and colleagues? At typical broadband connection rates (1.2Mbps or less, or about 150KBps), you'd be able to transmit the first minute in a little over a day.

Most of the article is about various ways to prevent "pirates"—that is, consumers—from "stealing" content using protection flags. It's insider stuff. Good reading for pirates, to be sure, since for a serious industrial pirate, cracking these protective

measures should be trivial. For honest people, it just means further erosion of fair use: No surprise there.

Flynn, Mary Kathleen, "Tech bill of rights," *PC Magazine* 21:22 (December 24, 2002): 26.

It's not an article, just a one-column squib on the Technology Consumer Bill of Rights being proposed by Senator Ron Wyden (D-OR) and Representative Chris Cox (R-CA). The bill "aims to ensure that consumers can use digital media as freely as analog media for home use."

Pretty revolutionary, right? Let's hear from Jack Valenti, that defender of all that's right: "The spirit of these resolutions, disguised as pro-consumer, is actually anti-consumer. These measures, if enacted into law, would pave the way for legalized hacking so that every movie would be fair game to copy without limits and without penalty."

Peace is war, slavery is freedom, and Jack Valenti is pro-consumer.

Rose, Frank, "The civil war inside Sony," *Wired* 11:2 (February 2003), downloaded from wired.com.

An interesting story about Sony's bizarre internal conflicts. As the only major international firm that's both a leading "content" distributor—one of the biggest movie studios and record labels—and a leading producer of consumer electronics and personal computers, Sony's on both sides of most copyright issues. "As a member of the RIAA, Sony railed against companies like Sony that manufacture CD burners"—and Sony ships copy-protected pseudo-CDs that won't play on Sony PCs. So it goes.

Soules, Aline, "Copyright for writers, readers, and researchers," *eBookWeb*, part 1 posted January 15, 2003.

Aline Soules is AUL at Cal State Hayward and a member of ACRL's Copyright Committee and ALA's Subcommittee on Intellectual Property. It's a short piece and incomplete without Part 2. It's also an interesting perspective from a knowledgeable writer. Note that eBookWeb offers a first-rate printer-friendly format for old fogies who like to read from paper; this partial article ran three crisp pages.

Feedback and Following Up

Third Time's the Charm?

Following up on a following up…Marjorie Heins informs me that "FEPP isn't actually part of NCAC, though we're affiliated (and NCAC is the fiscal sponsor)." See this issue's CTEA perspective for another fine contribution from FEPP.

Harrison Bergeron and Stupid Typist Tricks

Dorothea Salo was the first to inform me that the short story I was referring to in February's "Library Stuff" is "Harrison Bergeron" by Kurt Vonnegut. Others followed. I would never have guessed Vonnegut; I was assuming Sturgeon, Ellison, or one of those. Live and learn!

Harry Kriz was one of the "others" and also offered a fix for my numbskull mistake of printing 40 pages in Word when I actually meant to paste in some copy. "Try customizing the Print icon on the Word toolbar so it brings up the File Print… dialog box instead of the default action as installed, which simply prints the current document (a terrible choice for a default action on Microsoft's part in my opinion, but people seldom ask my opinion." Here's the procedure (which I've followed, with thanks):

Go to Tools/Customize, select the Commands tab, select File in the left pane, scroll in the right pane until you see Print… [That is, "Print" followed by three dots.] Drag that command and drop it on the toolbar. Drag the *default* Print icon off of the toolbar. Close the customization dialog.

As Kriz notes, "I wish more programs, including some of Microsoft's, were so easily customizable." I've frequently appreciated the ease of customizing Word, particularly XP. Here's one I discovered almost by accident, and I'm pretty sure it's XP-specific. If you count words a lot, you use the Tools/Word Count option. XP adds "Show toolbar," which doesn't seem to do much—it just leaves a miniature version of the dialog box on the screen, not maintaining a dynamic word count. *But* if you drag that toolbar up to your formatting toolbar (or any other toolbar you usually use), it becomes part of the toolbar—making it much handier.

Librarians and Self Archiving

Guy Aron of the Royal Melbourne Institute of Technology Library (Australia) replied to my offhand parenthetical question in *Cites & Insights* 3:1 (p. 19), commenting on a *Chronicle of Higher Education* article, "(And since when did *librarians* become the key movers in self-archiving movements?)"

> I remember the article in question, and I take your point that it was pretty silly. But I would like to take issue with your contention that librarians aren't "key movers" in self-archiving movements. They certainly are key movers in setting up eprint archives in universities. In fact, I would take a guess that most of the university eprint archives have been set up by librarians. Examples? One only has to look at the list of universities on the DLF home page (http://www.

diglib.org/about.htm) for starters. As well I could mention the following institutions (not a comprehensive list, just the ones I could readily find):

National Digital Library Program (NDLP): Library of Congress
Pubmed (and others): National Library of Medicine
DSpace: MIT Libraries and Hewlett-Packard
CODA: Caltech Library System
California Digital Library: University of California
UMER: University of Melbourne
ANU E-print repository: Australian National University Library
Project Euclid: Cornell University Library
Nottingham ePrints: University of Nottingham Library
Glasgow eprints service: University of Glasgow

Of course there is also the DCMI (Dublin Core Metadata initiative) hosted by OCLC.

So okay, the movement may have gotten going as the result of agitation by academics like Stevan Harnad and Peter Suber, building on the work of the founders of SPIRES HEP and others. But librarians are instrumental in maintaining and broadening that momentum. I know RMIT's proposal to initate an eprint archive at that university was the brainchild of librarians, and I know of several other university libraries in Melbourne who are considering building, or have opened an archive. And this is quite possibly happening all over.

Interestingly, there doesn't seem to be a comprehensive list of eprint archives, but that's another story.

Best wishes for the new year.

In granting permission for me to use part or all of his letter, Aron added this postscript:

You obviously know about Peter Suber's Weblog FOS News (http://www.earlham.edu/~peters/fos/fosblog.html). I also compile a Weblog about eprint archives, but looking at them specifically from the library angle. Mine is called eprintblog (http://eprintblog.crimsonblog.com/); it has about 40 subscribers from around the world. As well as news items eprintblog has some links to related Weblogs and discussion lists.

While I could argue that DLF participants aren't all librarians, Aron's point is well taken: Librarians *are* significant participants in self-archiving programs. My off-hand question reflected my ignorance. If you're interested in eprint archives, note his Weblog.

Platform Wars and Optical Mice

Steve Oberg (Zondervan Library, Taylor University) commented on one of the product notes in *Cites & Insights* 3:2. In granting permission to use his comment, he added a note on "Platform Wars."

A quick comment on the most recent issue of *Cites & Insights* and the brief mention on p. 17 of the new Logitech MX700 mouse. I got the less-expensive MX500 (not cordless, but otherwise identical in functionality to the MX700 model) as a Christmas present to replace the nice-looking but less-than-functional standard optical mouse that came with my flat panel iMac G4 at home. In just a few hours of operation, I was really hooked. It is a fantastic tool, comfortable and useful. I convinced my boss to buy one for shared use at our reference desk PC at my library also. Got it for $36.

The Logitech OEM optical mouse that came with my Gateway may not be as fancy as the MX500, but I would agree that it's a comfortable, useful, first-rate mouse. (Some day a Mac user will defend the default iMac mouse—but I have yet to see such a defense, and I've seen a lot of replacements.)

The follow-up:

I totally agree with your comments about *Macworld*'s testing and its obvious predilection for anything Apple. However, as a user/owner of the new iMac, I must sing its praises. It is far more nicely featured and integrated in terms of functionality than any Windows system I've ever used. Mac OSX Jaguar is a dream system. While I haven't used it much, I love the Unix underpinnings as that is something I have worked with for a long time, especially while a systems analyst at Endeavor. Almost a year later I am still discovering neat new functionality in the system. Claims of interoperability with Windows are also true, by the way. E.g., I routinely use Jaguar's built-in VPN software to securely connect to Taylor's Web server to do maintenance on my library's Website and the like from home. It also connects via SMB, and Office for OSX is bidirectional with Office 2K or XP.

There's a little more, but that's the heart of it. My response (in part), was that everything I've read and the people I've talked to suggests that:

- OS X finally brings modern OS underpinnings to the Mac, if through a rather odd route
- As always, the Mac is better integrated than any open-architecture/open-competition system could ever be
- The iMac, particularly with the 17" display, is a remarkable piece of engineering.

I don't doubt any of those. The Gateway Profile 4 is unquestionably clunky-looking by comparison.

Ebooks and Etext

"There is no longer room for doubt: the literature of our immediate future will be electronic. Our scientific and technical writing, our journalism, and our

stories: all will be written and read on screens." That blast from the past was downloaded from www.eastgate.com on January 2, 2003. It's not dated and the byline is a graphic signature that I can't quite read. The essay, "Electronic reading," is a useful reminder that true believers are still around.

According to this writer, "There is no longer a credible argument against electronic books, and the arguments in their favor are clear, compelling, and overwhelming." He goes on to belittle the "no longer credible" arguments against ebooks as universal replacements. We learn that "300-dpi screens with laser-printer resolution are already available." Simply untrue in the real world (no consumer-price screen has more than 140dpi resolution), and today's laser printers all resolve at least 600dpi. "The difference between reading on screen and reading on the page is modest—too modest to make a real difference to the future of serious writing."

A bit later, we learn that "Blake inhabited in a compact literary world" (the odd "inhabited in a" probably resulting from on-screen editing) and that "millions of Web readers have answered [the concern that hypertext is confusing] definitively." So much for linear narrative. "The challenge for today's writer is to get linked into the web of discourse before their work is lost; once forgotten, it is unlikely that the library catacombs will save us." Library catacombs? We're told that hypertext has proven itself even for novels, memoirs, and poetry. That explains the many hypertext best-sellers, such as… This writer argues that fixed narrative is undesirable, and sees hypertext as being a dialogue between reader and writer, "expanding the familiar dialogue of writing in new, subtle, and exciting ways."

How about this thoughtful argument on screen usability: "Nothing is less usable than shlepping across town to buy a book, or across the world to find a copy in the library." And the closing line: "Besides, don't have better uses for trees?" [Sic]

Eastgate Systems has been around for some time as a purveyor of "serious hypertext." When you're pushing hypertext as a replacement for linear narrative, you have to use extreme arguments—and it is likely that if hypertext is what we want, then electronic reading is how we'll get it.

"The literature of our immediate future"? Not "some of," "most of," or even "the most interesting," but *the*. If "immediate" means, say, "within this century," this is a ludicrous article.

Ebook Libraries

Boulder's *Daily News* for December 9, 2002 has an interesting business article on "netLibrary: The sequel." netLibrary started with $109.8 million in venture capital; OCLC paid $10 million to pick up the remains. Rich Rosy, head of netLibrary (in Boulder), notes that the ebooks "aren't excerpts" and follows that with a finding that people spend "an average of 20 minutes with the text"—which means they're *using* excerpts from full-text books. The story notes that the consumer market never did gel, making OCLC a natural fit for library distribution. Rosy blames netLibrary's bankruptcy on the economy. One curious point in the story is that it mentions the peak employee roster at netLibrary (500) and OCLC's total employment (about 1,350)—but never mentions how many people currently work in the netLibrary division.

In January, netLibrary sent out calls for libraries to participate in "a pilot project to test alternative eBook models," working with Taylor & Francis and Digital Publishing Solutions. In this model, libraries provide bibliographic access to 1,200 Taylor & Francis titles. Patrons could browse a title "for a short period of time" and would then be offered options to continue—purchasing the ebook, renting for a period, or (for a fee) printing or copying portions. Libraries pay $1,000 to participate and, at the end of the pilot, get $1,000 towards netLibrary purchases. I have mixed feelings about this one, and so might some libraries. It appears to put the library in the position of promoting fee-based services. "We weren't willing to buy this book, but we'll tell you about it and *you* can pay for it." Hmm.

Questia's still around, barely. The only mention I've seen recently is in another "true believer" piece on ebook.com, "School libraries tap eBooks to maximize resources." This enthusiastic story says, "Librarians are quickly adopting ebooks" and cites two high schools as examples. Franklin High School in Massachusetts offers 38,000 netLibrary ebooks through the Metrowest Regional Library System; Sun Valley Charter High School (Ramona, CA) offers Questia's "70,000 books and journals." (The piece also quotes Christopher Warnock of ebrary, but doesn't cite an ebrary customer.) In Sun Valley's case, they've gone whole-hog: "Our library is the size of a desktop computer." The article says, "Librarians' selecting eBooks helps instructors as well"—but that's not the real message. That comes a bit later. "It turns out the school doesn't even have a traditional librarian as a result of its eBook initiative. 'My teachers and I select the eBooks we would like to use.'" There's the trend for you: No space wasted on libraries, no money wasted on librarians.

In a January 21 press release, ebrary defines itself as "a leading provider of information distribution and retrieval services." The collection size is

now touted as "over 20,000 books and other documents." The release provides some details on a mix of business models ebrary seems to be trying. A set of database descriptions adds clarity to "over 20,000"—it includes more than 5,000 sheet music titles and more than 4,000 items from the Society of Manufacturing Engineers.

With the huge success of ebook libraries to date, perhaps it's not surprising that another player wants in. Make that *two* of them—OverDrive and Libwise. (Is this like library automation, where each time a vendor or two disappear another vendor or two arise out of nowhere?) Cleveland Public will be circulating titles offered by OverDrive (replacing a previous netLibrary service), using a checkout/checkin system that allows downloads to a user's PC or PDA for offline reading.

Libwise, a product of Fictionwise.com, "one of the top eBook retailers in the world," also offers universal downloadable ebooks with a twist: The library pays a monthly fee based on anticipated total circulation, with override amounts for additional circulations. Fees range from $29.95 per month for 250 checkouts ($0.12 for each additional checkout) to $139.95 per month for 5000 checkouts ($0.04 for each extra). All I've seen is a Midwinter brochure that lacks certain key points—specifically, how many ebooks are available (all it says is "thousands of titles") and what kinds of books are they?

Other Items

A January 7, 2002 press release from the University of California's California Digital Library announces availability of more than 500 UC Press books as "eScholarship editions." More than three hundred of these are openly available (start at escholarship.cdlib.org/ucpress/). For the rest, you can see citations, abstracts and tables of contents, but only UC faculty, students and staff can access the full content. By this fall, more than 1,500 UC Press titles will be available, with more than 400 fully available to the public.

Given the excellence of UC Press titles, this is worth investigating—even if you won't want to read the books in full on screen. CDL and UC Press will monitor use of online books and sales of print editions. If their experience is similar to that of Baen Books and the National Academy—offering high-quality texts online improves print sales—they might make the entire collection openly available.

None of the ebook Websites has had much new material of late, other than reviews of new ebooks and Sam Vaknin's blather, but eBookWeb did have an interesting piece on November 15, 2002: "The future of book history research" by Ed Vermue of Oberlin College. He discusses the tendency to lose the raw material that makes history interesting—the papers and archives that rarely appear in published form. That tendency is much worse with digital information (and as an author, I'm not at all unhappy that my rough drafts will never be seen or collected). This eight-page article considers recent losses in the nascent history of the ebook field. There are editorial problems (e.g., "mother load") and I think Vermue is a little too upbeat about ebooks and particularly ebook appliances. He quotes one comment from eBookNet (before Gemstar shut it down): "Everyone should realize that the Rocket eBook of today is the slowest, ugliest, and most expensive it will ever be." Perhaps true of the soon-dead Rocket eBook itself, but certainly not true of ebook appliances, which have since been (in some cases) more expensive, uglier, or (probably) slower. But that quote is part of the history being lost, and the article makes good points.

A Copyright Perspective
Thinking about Eldred v Ashcroft

Copyright doesn't last a day longer now than it did a year ago—and it's highly unlikely that another act to extend copyright will be passed *unanimously* by the Senate, as CTEA was. Those are two realistic messages to draw from the endless array of commentaries on the Supreme Court's 7-2 decision to uphold CTEA. If you recognize those sentences from "Copyright Currents," you're paying attention.

The Supreme Court's decision in Eldred v. Ashcroft was the most-discussed copyright-related activity in the last few months. "Lessig lost"—the Sonny Bono Copyright Term Extension Act of 1998 (CTEA) was upheld.

Was this decision the most important copyright-related activity in early 2003? I'm not so sure it was, except indirectly. I don't need to repeat my own complex stance on copyright. Between *Cites* & *Insights* and my paid publications, I've made those opinions fairly clear. But you should be aware that I'm an optimist by nature, a "Pollyanna" by some reckoning. That colors my thinking on this issue.

The Decision

If you need a refresher on the case, its background, and the briefs filed, you'll find summaries at several sites including ARL's Federal Relations CTEA site (www.arl.org/info/frn/copy/extension.html), or you

can read my comments and coverage in the April, May, July, September, November, and December 2002 *Cites & Insights.* In essence, Eldred v Ashcroft asserted that the 20-year retroactive copyright extension in CTEA was unconstitutional, violating the "limited time" provision of the Constitution's copyright clause and the First Amendment. The majority decision and two dissenting opinions are readily available on the Web, running to 32, 22, and 29 6x9 (that is, 4x6.5" text area) pages respectively; so are the primary briefs and many supporting briefs filed in the case.

Justice Ruth Bader Ginsburg prepared the majority opinion, finding that Congress acted within its authority. The Court does not determine whether laws are good or bad (at least when it's being conservative in its readings), only whether they're constitutionally legitimate. The argument that continuing extensions of copyright (including those for existing works) effectively makes the "limited time" clause meaningless did not persuade Ginsburg or six other justices. (Ginsburg notes that the Songwriters Guild actually pushed for eternal copyright.) "Those earlier acts did not create perpetual copyright, and neither does the CTEA." Would another 20-year extension in 2018? Would a 50-year extension after that in 2068? Presumably not: "Life plus 140 years" is still a "limited time." (Footnote 17 is a remarkable exercise in tricky numbers, somehow concluding that life-plus-70 years is less than life-plus-21-years. I'm sure lawyers understand that footnote. I don't.) As to the case that substantial extensions on already-published works fail to meet the test of promoting the progress of science and the useful arts, the court basically says "If Congress says it does, that's good enough for us," and backs that up with an argument that essentially says that failure to challenge the 1976 copyright law affirms the validity of the 1998 extension.

Several footnotes slap Justices Stevens and Breyer about the head and shoulders for daring to file dissenting opinions. Justice Stevens concludes that Congress has no business extending the life of an existing copyright beyond its previously existing expiration date (using a patent case as precedent), making that portion of CTEA invalid. He notes that copyright promotes the progress of science and useful arts in part by guaranteeing that works *will* enter the public domain after a known, limited time—and, as a non-lawyer, I agree that this particular argument rests too heavily on patent-related issues that don't arise for copyright. (Patents protect the *facts* of an innovation; copyright does not protect facts.)

Justice Breyer focuses on the "virtually perpetual" issue and his belief that such protection tends to inhibit, rather than promote, the progress of learning or knowledge (his gloss on "Science" in the Constitution). He asserts that there are limits to the broad power granted to Congress by the Copyright Clause and that CTEA falls outside those limits. It's a lengthy, detailed, heavily economic discussion. He does note that Mary Bono stated in Congress that Sonny Bono "wanted the term of copyright protection to last forever" and that Congress may be intentionally testing the limits of the Constitution. Breyer argues that the claim that CTEA harmonizes U.S. law with European law is false and that extension of *existing* copyrights can't possibly create economic incentives. There's much more, to be sure, as there is in Justice Stevens' dissent, although Breyer's is both broader-ranging and (in my reading) a much sharper dissent. But they're both dissents.

Feedback and Discussion

How many newspapers, online fora, Weblogs and other media have reported, rehashed, and opined on the decision? I can't imagine. I've looked at a couple dozen commentaries, and those just scratch the surface—and that in the first week following the decision itself. You'll find loads of material at Corante's Copyfight Weblog (www.corante.com/copyfight) and elsewhere. A few notes, taken almost at random.

- DigitalConsumer called it "Bad for consumers, bad for innovation, and ultimately bad for America. Public pressure should now turn to having our elected officials legislate a more equitable balance between copyright holders and consumers, as the courts have said clearly that they will not intervene in this debate."
- The Consumer Electronics Association's CEO expressed disappointment and calls the 'limited term' clause "almost meaningless." "It is simply unfair that companies who made their fortune taking works in the public domain and reformatting them for new technology are now preventing others from following the same business model. Congress took from the public and gave to Disney."
- Jack Valenti, of course, applauded the decision: "Copyright, whose aim it is to provide incentive for the creation and preservation of creative works, is in the public interest." The longer the term, presumably, the greater the benefit to the public—at least as "the public" is defined by MPAA. He also said he was "pleased that the court reaffirmed the *absolute* authority of Congress to set copyright terms"—which the court did not do.

- ALA's Miriam Nisbet suggested a possible positive benefit: "If we can figure out better ways to encourage people to put their works in the public domain, make it less onerous to track down copyrights."
- Marjorie Heins contributed "The frozen public domain" at the Free Expression Policy Project site (www.fepproject.org). It's a good tight summary, not disinterested but fair. She characterizes Ginsburg's opinion as "dry, legalistic" and notes that the Court's avoidance of policy arguments is selective—but she also notes the "salutary effect" of bringing public domain out of the shadows. She hopes that the coalition that worked for the Eldred case "might be able to persuade Congress to revisit the issue of our frozen public domain" and notes that allowing copyrights with no commercial value to lapse would free up thousands of historical documents and other works.
- Chris Sprigman (an antitrust and intellectual-property lawyer) wrote a strong commentary at FindLaw calling the decision "a Mickey Mouse ruling" and concluding that it's another example "in which law is trampled by conservative politics even on the Supreme Court."
- Dan Gillmor wasn't happy either, titling his January 15 article "Supreme Court endorses copyright theft." He calls CTEA "a brazen heist" by robbing the public of works that should be entering the public domain.
- Most reports noted that the defeat was not unexpected. Few observers thought Eldred v Ashcroft had much chance of success—which doesn't lessen disappointment in seeing the case defeated. A number of lawyers noted that the Eldred decision may have been sad, but the finding was not outrageous—Ginsburg's opinion wasn't over the top.
- Lawrence Lessig's own Weblog (cyberlaw.stanford.edu/lessig/blog/) offers his stream of reactions. He views it as "Larry lost Eldred, 7-2," quoting a lawyer. As Gillmor and others have argued, that's too harsh. Lessig didn't take more than an hour or two to move from disappointment to urge that people organize to restore balance in copyright—and his later actions have affirmed that positive slant. There's a lot of negativity in his blog, as you might expect from a fairly young legal superstar who spent four years in a losing battle—but not necessarily in a losing cause, as I think he's coming to realize. As days wear on, Lessig is commenting on other analyses of the decision and putting together a set of ruminations that may serve future advocates well.
- Speaking of legal superstars, Siva Vaidhyanathan at NYU (*Copyrights and Copywrongs*) seems to be all over the media and has his own Weblog. The Weblog includes *way* too much italic type and seems to offer more uncommented links and quotations than commentary, but that may suit its primary purpose (to serve his NYU classes).Vaidhyanathan does say "the courts are no longer our friends"—but in the realm of copyright, I don't know when they ever were. One excellent point: Given Ginsburg's heavy reliance on fair use as a built-in protection within copyright, fair use needs to be pushed as a primary weapon against DMCA and even worse legislation. Vaidhyanathan also contributed a *Salon* piece making some of the same points.
- Gigi B. Sohn of Public Knowledge made the link between the CTEA decision and DMCRA as a limit on DMCA's restrictions on fair use. As with many others, Sohn's sense is that the public domain is no longer relevant; fair use is the only public defense against absolute Big Media power. Sohn highlights BOAI and Creative Commons as useful balancing initiatives.
- The *Economist* weighed in on January 23 with "A radical rethink," calling the dissents "blistering" and noting that even the majority's opinion "hinted that Congress's decision may have been 'unwise.'" At first read, the short editorial appears to be a call for a return to relatively brief copyrights (e.g., 14 years renewable once). But the devil here is in the details, specifically those at the end of the piece: "To provide any incentive at all, more limited copyrights would have to be enforceable, and in the digital age this would mean giving content industries much of the legal backing which they are seeking for copy-protection technologies." In other words: If you want limited-term copyright, you must accept CBDTPA or its equivalent. The *Economist* says, "Such a concession would clearly be in the interests of consumers." I say that's the public interest as defined by Jack Valenti, and although I'm no "cyber activist," it's too big a price to pay.
- In a bizarre turn, some commentators suggested we should all find *new* forms of creation—that it's a weakness to do *any* derivation from other works. Walt Disney and the Disney companies would surely find such a view odd, since it would eliminate most feature-length animations in the company's history. So would

> Johann Sebastian Bach, Igor Stravinsky, and Elton John. Nearly all music builds on other music. Essentially all of my writing builds on the views of others. Perhaps the greatest novels are entirely original (although I doubt it), but derivative and sequential works give us great pleasure. To a great extent, derivation is a fundamental part of creativity.

What does it all mean? Your guess may be better than mine. Lessig, at least for a while, was possibly too disturbed by the fact that six Supreme Court justices chose not to provide their own opinions—but that's neither novel nor, on its own, interesting. The decision was neither a surprise nor so outlandish as to be shocking, according to most experienced observers. And, of course, the decision did *not* extend copyright: Congress did that, more than four years ago. The Supreme Court chose not to overturn the law that Congress passed.

Moving On

Vaidhyanathan's *Salon* piece and a few other commentaries make important points that many of us recognized independently. To wit:

- CTEA was passed with little public attention or discussion. The EFF existed (barely) in 1998. PublicKnowledge did not. Neither did DigitalConsumer. There were no legal Weblogs commenting on the likely consequences of extending copyright.
- A multifaceted movement now strives to correct some of the inequities of current copyright law and practice. That movement is not likely to go away. Lessig seems resigned to another 20-year extension come 2018 or thereabouts. I'm not so sure.

Beyond that, Lessig and most supporters are finding other ways to address the real problems.

Disney retaining control over Mickey Mouse past 2004 is not the real problem. Maybe it's a problem, but it's trivial in comparison with the hundreds of thousands of books, films, and other media that remain protected by copyright even though nobody can trace owners to get permission for reproduction.

Creative Commons with its set of "some rights reserved" licenses represents one positive step—as Lessig puts it, a move to build rather than sue. The DMCRA represents a positive step to address some attacks on fair use. Many other steps are needed. Some will fail. Some will succeed in improving a complex situation.

The Eric Eldred Act

Here's one such step—beginning with a Lessig op-ed piece in the New York *Times* (which I have not read because I refuse to fill out the stupid registration) and continuing with an FAQ at cyberlaw.stanford.edu/lessig/blog/archives/EAFAQ.html.

This proposal would sidestep the length of copyright by a simple but profound change, which of course would require congressional action. After fifty years, a "published" work (however that's defined) could only remain protected by copyright if the owner registered the work and paid a modest copyright tax. Initially, Lessig suggested $50 per year for the tax; later, he says it could be as low as $1. I would suggest that it should be a multiyear tax, say $5 every five years.

If the copyright owner doesn't pay the tax for three years in a row (or, with my suggested alteration, for three years after the end of a five-year period), the work enters the public domain. If the copyright owner *does* pay the tax, there's a registered copyright owner, which means that other people know who to contact in order to license the work or derivative works. The Copyright Office would have to make the listing of paid taxes and copyright agents freely available on the Web (or whatever replaces the Web).

Lessig's proposal doesn't address unpublished works for reasons that make some sense. Defining publication broadly enough should cover the territory: If it isn't public, it isn't at issue.

Read the FAQ. It's an interesting proposal. There will be updates.

I wrote the section just above immediately prior to the ALA Midwinter Meeting. While I was freezing in Philly, the digital-copyright list was abuzz with discussion. One European observer took issue with the "absurd idea that rights stretching beyond an author's life cannot impel creativity" and separately calls the proposed tax "an act of expropriation," "unethical" and a terrible burden on "typically impecunious authors." Another observer suggested that the Eldred Act should also contain a clause imposing a statutory royalty fee for works out of print but still under copyright, so that a new publisher or user could legally reprint or reuse the material. Another says that publishers obtain copyright "as a standard practice" (which, in my experience, is simply not true) and that those publishers would just keep paying the fee as a form of insurance.

Needed: A Public Domain Registry

Here's a project I believe Creative Commons should undertake, perhaps in conjunction with the Internet Archives. I've sent email providing the suggestion.

The "Some Rights Reserved" Web pages already include a public domain assignment option. That's

not enough—particularly for the form of public domain dedication I regard as possibly most interesting: Explicit abandonment of rights in already-published and now out-of-print works.

When a creator dedicates a *new* creation to the public domain and includes that notation with the item (on the Web or in physical form), someone who wants to reuse part or all of the material knows the situation. Of course, most authors, composers, and filmmakers who believe they've created something deserving compensation are unlikely to be so public-spirited right off the bat. I know I'm not charitable enough to abandon copyright in the books and columns I write—or, for that matter, even in *Cites & Insights*—with no likelihood of payment.

Sensible authors who understand contract language never assign copyright in books or paid articles. One of the incongruities of contemporary publishing is that it's primarily *journal* publishers, where the authors aren't paid, who succeed in taking copyright. Appropriate practice for books and similar works is typically to assign some or all rights to the publisher for an indefinite period that usually ends a few months after the item goes out of print. For magazine articles, the rights assignment is usually much more limited, typically amounting to a single publication use (and associated online uses), possibly with exclusivity for a limited period (e.g., six months to a year).

Thousands of authors hold rights to works that are no longer earning income. For example, I've regained all rights to my ten books published prior to 1995, and I own the rights to nearly all of my columns and articles (excluding those published in the last few months).

What if I want to dedicate the books (or some of the articles) to the public domain? I can do so, but it will have no real effect. If an author wants to incorporate, say, half of *MARC for Library Use* in a new book on bibliographic formats and the author's unable to find me (which, for most one-book or two-book authors, is quite likely 10 or 40 years later), there's no easy way for the author to determine whether they can legally use the material.

Thus the need for a registry—a freely available database with robust bibliographic and full-text searching that allows authors to register new or old works as *now* being in the public domain. You'd need some form of signature or verification as well, so that a hacker couldn't file dedications for Harlan Ellison's works, and that's a tricky issue.

I don't have solutions. I don't know who would host such a registry. I do believe that, properly maintained and with appropriate safeguards, such a registry could do more to build the public domain than any near-term lobbying efforts.

The Library Stuff

Bell, Steven J., "Is more always better?" *American Libraries* 34:1 (January 2003): 44-6.

Most of you read *American Libraries* (or you should), and you've probably already read this or skipped over it. If you haven't read it, do. Bell (Philadelphia University) questions whether full-text article aggregations meet user needs—and, specifically, whether adding billions and billions (OK, "another 100—or 1000") of full-text journals will necessarily improve student research. He believes that, in some circumstances, adding huge quantities of additional full-text resources may *harm* research.

Maybe—and maybe there are other issues.

I agree entirely with these explicit or implicit points in Bell's article:

- If the only path to articles is full-text keyword searching, then search effectiveness will decline as databases grow beyond a certain point, with result sizes swamping any possibility of useful "relevance" ranking.
- Library patrons who won't use anything but online full-text resources "will readily pass up valuable information to their own detriment." Pseudo-researchers produce pseudo-research. "Full-text fixation" is a form of partial literacy and willful ignorance.
- Sheer size of full-text database is a lousy measure of aggregation quality *if* the only route to articles is full-text keyword searching.
- Art, architecture, most other humanities and many social sciences are under-represented in full-text databases.
- Subject-specific searching works better (in many cases) than heterogeneous searching, field searching needs to be available in most systems, and full-text shouldn't always be the default search.

What's the problem? First, I have problems with the suggestion that a search interface should *refuse* to yield a result above a pre-set size limit. What size limit? FirstSearch cuts off result sorting (but not display) at 200 items; Eureka stops sorting at 250. I'd guess that either limit is more than enough for 95% of users, perhaps 98%.

Does that mean it would be *advantageous* to prevent the other 2% or 5% from plowing through 300, 500, 700 items? I don't believe so. It's great to pro-

vide straightforward ways to narrow or subdivide a large result—but I question the desirability of barring large results. A couple of other notes:

- In my utterly biased and self-interested opinion, the best way to search subject domains is through appropriate citation indexes, using OpenURL to get to full text when it exists. Anthropology students are better served by Anthropology *Plus* (in Eureka) and OpenURL than by any full-text aggregation, particularly since typical result sets will span many different full-text sources. Bigger full-text aggregations don't reduce search effectiveness in such cases because the aggregations are just targets.
- "Under-represented" fields are under-represented for many reasons, including journals where issue context influences article content and journals where visual presentation is important. Willing such journals to become full text even if it does not suit them *or their readers* is not a winning strategy.

Steven Bell heads an academic library and is a clear thinker and writer. I'm not in a library. I may be wrong about my criticisms—and, from modest acquaintance with Steven Bell, I'm certainly not convinced I'm right! Read the article. Draw your own conclusions.

Carver, Blake, "Is it time to get blogging?" *Library Journal*, January 15, 2003 (downloaded 1/15/03).

When I included Weblogs in my *American Library* trilogy on the circle of gifts, it was from the perspective of an interested outsider. Carver offers an insider's view, as proprietor of the best-known collaborative Weblog in the library field, LISNews.

This piece notes some forms of Weblog and how they can serve different functions within libraries and for librarians. I **recommend** it—worth reading and thinking about. I enjoyed the article and learned a few things from it. As I would expect, Carver doesn't have a missionary's "everyone *must* blog" zeal: There's no sense here that the new medium is ideal for everyone and every purpose. He does note library functions for blogs that might not seem obvious, particularly if your primary exposure to Weblogs has been to diaries and personal rants.

"A new alternative media" appears as a subhead, and I'll blame *Library Journal*'s editorial staff for this unfortunate usage—I don't believe "medium" has ceased to be a useful (and preferred) term for a single, well, medium.

I assume that his comment about Slashdot having screened submissions only applies to original postings, which seem to get lost in the maze of commentary. I find that whenever I hit a Slashdot topic outside Unix, the stream of invective and other commentary varies from embarrassing to idiotic, with the occasional useful comment so infrequent I'm rarely willing to try to dig it out. There may be a pony in there, but it sure is hidden in a big pile of…

But that's Slashdot. LISNews has its trolls and Johnny One-Notes, but it's also one of the best and most interesting Weblogs in the library field.

Janes, Joseph, "Authority by community," *American Libraries* 34:1 (January 2003): 92.

After you read Bell's article, skip over to this "Internet librarian" installment. It's definitely worth rereading. Is *Cites & Insights* a significant resource? If so, it's because of an offshoot of Janes' "authority by community" concept.

Janes is *not* saying, for example, that peer review can logically be replaced by link counting (one appalling suggestion I've seen elsewhere). He is saying that, for some situations, authority arises either because a community acts to correct errors within a resource or because the resource becomes *known* as authoritative. He doesn't suggest that this is simple and does say that authority-by-community raises "lots of issues"—some of which he notes.

I've written a couple of paragraphs here several times, each time deleting them. That says to me:

- Janes is on to something here, and it's something that deserves serious thought.
- The set of implications is interesting and, to me, extremely vague.

Not bad for a one-page column.

The Details

Cites & Insights: Crawford at Large, Volume 3, Number 3, Whole Issue 31 , ISSN 1534-0937, is written and produced at least monthly by Walt Crawford, a senior analyst at RLG. Opinions herein do not reflect those of RLG. Comments should be sent to wcc@notes.rlg.org.

URL: cites.boisestate.edu/civ3i3.pdf