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©3 Perspective: Balancing Rights

MGM v. Grokster: A Question of Balance?

When I've discussed "the Grokster case" (formally *MGM v. Grokster*) before, most recently in *C&I* 5:5, it was in the context of what I call ©4: Locking down technology. Most commentary on peer-to-peer networking and legal actions has focused on Big Media's apparent intent to hold technological development hostage—to prevent development and distribution of any technology that *could* be used to infringe.

Two odd things happened on June 27, 2005:

- The Supreme Court reached a *unanimous* decision in *MGM v. Grokster*. Unanimous decisions aren't that common, particularly in hotly contested cases.
- That decision convinced me to look at *MGM v. Grokster* as part of ©3: Balancing rights, rather than ©4: Locking down technology. The justices crafted a decision that strikes a balance where I would not have thought one was feasible—and where some observers on one "side" or the other continue to exclude any middle.

The Supremes did a good (not perfect) job of balancing interests within a Constitutional framework. If you're too busy to read further, my short take is the same as the far more informed Susan Crawford (who *is* a lawyer): "Today's Grokster opinion is a victory for content *and* for technology." That's a good thing—even if the details may prove messy.

Oral Argument and Earlier Comments

The Electronic Frontier Foundation put together a new version of something Ed Felten did earlier at *Freedom to tinker* (in another context): "A Betamax-protected device every (week)day until March 29." EFF's assertion as to Big Media's argument is, as usual, fairly extreme:

> In *MGM v. Grokster*, Hollywood and the recording industry are asking for the power to sue out of existence any technology that appears to be a threat, even if it passes the Betamax test. That puts at risk any copying technology that Betamax currently protects as well as any new technologies Hollywood doesn't like.

I haven't read all of the briefs in the case; maybe Big Media actually made arguments that extreme. The profiles through March 22 (when I downloaded the page) included the Xerox machine, TCP/IP, weblogs, the VCR and email. While the profiles are interesting, I question the implicit suggestion that any or all of these technologies could or would be open to infringement lawsuits.

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Doron Ben-Atar offered an interesting perspective in *The Chronicle Review* (part of the *Chronicle of Higher Education)* for April 1, 2005: "Hollywood profits v. technological progress." Ben-Atar calls the pure Big Media attitude toward P2P sharing—"every pirated version…is a net loss of the retail price for the studios and also adds to America's growing trade imbalance"—"disingenuous and shortsighted." While commercial piracy is "both illegal and immoral," there's a case to be made that some forms of infringement *fuel* demand for entertainment products. Ben-Atar notes that 2004 may have seen lots of piracy but

also saw record sales and rentals of DVD and VHS, nearly $26 billion worth. More to the point, "A decision in favor of the movie and music studios will neither halt piracy nor stop the development of P2P software"—although it would force such development offshore and reduce America's innovative lead. The article ends with a paragraph that appears to preclude a middle ground:

> Unable to go after actual violators of their intellectual property, the studios target P2P developers whose programs, among other things, facilitate some piracy. But it is impossible to contain the abuse of technology without undermining the free flow of knowledge that is the prerequisite for innovation. In order to prevent 12-year-olds from downloading their favorite movie, the plaintiffs and their allies in the Justice Department are threatening our most cherished economic assets—the public sphere of knowledge and the conditions of intellectual exchange. Shutting down software companies that develop file-sharing technologies will only push programming into other national jurisdictions. The United States can stay ahead of its competitors only by remaining the world's leader in innovation and creative entrepreneurship. Protecting the culture of innovation and allowing P2P development to take place in the United States are in the true interest of the nation.

"But it is impossible…" excludes the middle. Is Ben-Atar right? I hope not. Only time will tell.

Notes on the Argument

Consider some analyses of the oral arguments, if only as a clue to what was going on—and an indicator of how well (or badly) observers could read this court.

Technology Daily, March 29, 2005: "The justices appeared concerned that the legal test proposed by the entertainment industry would chill the development of innovative technologies like Apple Computer's iPod music player. But they did not appear copasetic with arguments made by the file-sharing companies that the justices should leave untouched the Supreme Court's 1984 decision in *Sony v. Universal City Studios*." The article goes on to say that the case is about "whether file-sharing companies should be held liable for the copyright infringement of their users." The report identified questions about active inducement as being a key issue.

Timothy K. Armstrong (blogs.law.harvard.edu/tka/) posted a "few notes" on the argument. "I would say the argument went a little better for Grokster than I would have expected it to." Armstrong found MGM's argument for looking at business models "a little odd," but said this view would not directly undermine *Sony* (which never marketed Betamax as a tool for infringement). Armstrong notes the extremity of MGM's view: "It does not matter…whether the infringing use of Grokster's system constitutes 90% or 10% of the total: because its whole business plan is geared around using the promise of infringing content to lure customers, it should be liable."

It's interesting that MGM's attorneys *explicitly* said "ripping one's own CD and storing it in an iPod" is one of "many perfectly lawful uses" for the iPod, which should (but won't) settle the extremist case that you should *not* be able to rip your own CDs for your own use. On the other hand, MGM's model appears to call for a court trial in almost every case where a copyright-holder *claims* the developer or marketer of a technology deliberately induced infringement using that technology. Says Armstrong, "This is an extraordinarily low threshold they are asking the Court to establish for getting to a jury…" Supposedly, Theodor Olson suggested a quantifiable measure to determine a "safe harbor" against lawsuits: If a *minority* of demonstrated use is infringing, the defendant should be off the hook. How do you determine the proportions of actual use? Back to a trial, I guess.

The Supreme Court was impatient with Grokster's reliance on one phrase out of a 13-page *Sony* decision—and several justices noted that Grokster seemed intentionally designed to circumvent the *Napster* decision. Armstrong also noted that the Justices were well briefed on the technological issues. Here's Amstrong's final comment:

> None of the Justices was talking as if the case could be disposed of on *Sony* alone, but there will be at least a few votes against abandoning that standard altogether. Whether the Court can craft a marginal tweak of *Sony* that does as little harm as possible is a question nobody can answer now, but we will know in a couple of weeks.

"Harold" at *Wetmachine* (www.wetmachine.com) offered "Tales of the sausage factory: My day with the Supremes," a combined commentary on *Grokster* and *FCC v. Brand X Internet Services*. Harold is a member of the Supreme Court bar and writes an interesting (if sometimes mean-spirited) commentary.

Harold says Don Virelli (for Big Media) began by asserting that Grokster's software "has no legitimate uses," which the judges found questionable and which Harold calls overselling the case. Judge Scalia asked about inventors and how they could proceed—

and Virelli said "people don't get sued just for inventing stuff," to which Harold appends "while the entire bar section rolled its eyes." He did note Court sympathy for the idea that Grokster *deliberately* built its business on illegal activity.

According to Harold's byplay, Richard Taranto (for Grokster) may have been too extreme in his argument. He equated Grokster with Sony itself, "where Sony made most of its money from the sale of tapes for illegal archiving of shows"—a questionable analogy the Court wasn't buying. He also argued that *any* non-infringing use should free companies from liability, the point at which Judge O'Conner asked why the Court needed to spend 13 pages on *Sony* "if our standard was so clear." Here's Harold's bottom line, which says he knows his stuff:

> I think the Court is likely to affirm the basic idea of *Sony* that you can't sue a manufacturer or distributor of a technology for copyright infringement if the technology has non-infringing uses. But I also think they will remand and allow the RIAA to pursue a claim for "active inducement" to infringe based on Grokster's conduct.

Oddly, Harold's "bottom line" on the *Brand X* case, one he's actually involved in, was dead wrong. Maybe it's harder to read the signs when you're too close to the action.

Finally, Alex Halderman, one of Ed Felten's grad students, commented at *Freedom to tinker* (www.freedom-to-tinker.com) on April 1, 2005. His well-written, thoughtful notes cover some of the same ground reported already, and Halderman was as surprised as others to hear "several Justices" repeatedly asking about active inducement, "A standard barely mentioned in the main briefs from either side." He notes that active inducement was mentioned in the U.S. Government amicus brief and in IEEE's amicus brief—and that IEEE called for a much higher standard of proof for active inducement than that proposed in the INDUCE Act. IEEE would require "evidence that parties committed overt acts of encouragement, not merely that they failed to do all that they could to prevent illegal copying." Notably, lawyers for MGM and the government both said "inducement would not be a sufficient remedy." Halderman's thought as to how the Supreme Court would rule (omitting portions of the long paragraph):

> …I think it is plausible that the Court will craft a narrow active inducement test resembling the IEEE proposal… Such a test would be neutral with respect to technology… It would be responsive to the worries of technologists…yet it would also allow the courts to hold Grokster accountable because of its past encouragement of infringement… Perhaps the most attractive feature of an inducement test is that both the Government, which sided with the content industry, and the pro-technology IEEE support it in some form. This is the closest thing to a compromise that we have seen in the case. Neither Grokster nor MGM would be wholly satisfied with a narrow inducement test, but it could potentially cure the most imminent harms cited by the copyright owners while causing minimal collateral damage to innovation.

Not a bad prediction.

The Decision: No. 04-480

> The question is under what circumstances the distributor of a product capable of both lawful and unlawful use is liable for acts of copyright infringement by third parties using the product. We hold that one who distributes a device with the object of promoting its use to infringe copyright, as shown by clear expression or other affirmative steps taken to foster infringement, is liable for the resulting acts of infringement by third parties.

That's the unanimous opinion (delivered by Justice Souter): the summary for a 13-page decision. The trap here is the definition of "other affirmative acts taken to foster infringement." But that's how copyright law tends to work: Rarely neat and subject to long-term refinement.

The commentary on P2P and its advantages is fairly sophisticated—and it's clear that the Justices are wary of MGM's claims as to the percentage of infringing use. But they don't need to quantify: The defendants *concede* "users employ their software primarily to download copyrighted files." For that matter, defendants "have responded with guidance" to users who send e-mail asking about playing *copyrighted movies* they've already downloaded.

> Grokster and StreamCast are not…merely passive recipients of information about infringing use. The record is replete with evidence that from the moment Grokster and StreamCast began to distribute their free software, each one clearly voiced the objective that recipients use it to download copyrighted works, and each took active steps to encourage infringement.

Souter recounts some of the evidence and notes that the business models of both companies "confirm that their *principal object* was use of their software to download copyrighted works."

MGM and others arguing against Grokster fault the lower court's pro-Grokster decision "for upsetting a sound balance between the respective values of supporting creative pursuits through copyright protection and promoting innovation in new communication technologies by limiting the incidence of liability for copyright infringement." While I get nervous whenever Big Media representatives talk about "balance," Souter continues: "The more artistic protection is favored, the more technological innovation may be discouraged; the administration of copyright law is an exercise in managing the trade-off."

After discussing *Sony*, pointing out that there was "no evidence that Sony had expressed an object of bringing about taping in violation of copyright," Souter notes MGM's desire for the Court to "quantify *Sony*"—preferably holding that any product used *principally* for infringement does not qualify for protection. While the Supreme Court agrees with MGM "that the Court of Appeals misapplied *Sony*," it is not prepared to revisit or modify *Sony*—and doesn't regard that as necessary. "It is enough to note that the Ninth Circuit's judgment rested on an erroneous understanding of *Sony* and to leave further consideration of the *Sony* rule for a day when that may be required."

Although *Sony* limits *imputing* culpable intent as a matter of law, "[N]othing in *Sony* requires courts to ignore evidence of intent if there is such evidence." Working from "active inducement" in patent law, the Court shows how it may apply here—and, just as *Sony* brought the "staple article doctrine" from patent law into copyright law, the Court now carries over the inducement rule from patent law, as stated in the last sentence of the summary finding.

> [M]ere knowledge of infringing potential or of actual infringing uses would not be enough here to subject a distributor to liability. Nor would ordinary acts incident to product distribution, such as offering customers technical support or product updates, support liability in themselves. The inducement rule, instead, premises liability on purposeful, culpable expression and conduct, and thus does nothing to compromise legitimate commerce or discourage innovation having a lawful promise.

Further analysis concludes that "The unlawful objective" of the defendants "is unmistakable" and that it is *at least* adequate to entitle MGM to go forward for claims for damages and equitable relief.

Justice Ginsburg filed a five-page concurring opinion, joined by the Chief Justice and Justice Kennedy. This opinion *does* hint at a desire to "quantify *Sony*," albeit not in so many words.

> If, on remand, the case is not resolved on summary judgment in favor of MGM based on Grokster and StreamCast actively inducing infringement, the Court of Appeals, I would emphasize, should reconsider, on a fuller record, its interpretation of *Sony*'s product distribution holding.

Ginsburg and friends would like to see *Sony* weakened on behalf of stronger protection for copyright holders. It would appear from a footnote that Ginsburg et al accept MGM's continuous disputation of *any* noninfringing uses of P2P software!

Justice Breyer (joined by Stevens and O'Connor) filed a 10-page concurring opinion, largely in response to Ginsburg's opinion.

> When measured against *Sony*'s underlying evidence and analysis, the evidence now before us shows that Grokster passes *Sony*'s test—that is, whether the company's product is capable of substantial or commercially noninfringing uses.

Breyer et al also see growing noninfringing uses for P2P software, including research information, public domain films, digital educational materials, digital photos, shareware and freeware, secure licensed works, and "all manner of free 'open content' works collected by Creative Commons."

Breyer argues that the *Sony* standard should *not* be modified or interpreted more strictly (as he believes Ginsburg is calling for), and discusses the state of the *Sony* doctrine:

> *Sony's rule is clear*. That clarity allows those who develop new products that are capable of substantial noninfringing uses to know…that distribution of their product will not yield massive monetary liability…
>
> *Sony's rule is strongly technology protecting*. The rule deliberately makes it difficult for courts to find secondary liability where new technology is at issue…
>
> *Sony's rule is forward looking.* it does not confine its scope to a static snapshot of a product's current uses…
>
> Sony's rule is mindful of the limitations facing judges where matters of technology are concerned….

[All emphasis in original.]

Breyer says a modified *Sony* rule would weaken protection of new technology and that gains to copyright holders would not outweigh the loss to techno-

logical innovation, particularly given the Constitutional bias toward encouraging innovation.

There's more here, questioning any need to change *Sony* in order to protect copyright holders. Breyer concludes, "A strong demonstrated need for modifying *Sony*…has not yet been shown." Which calls for the Ninth Circuit *not* to reconsider those aspects of its finding.

The concurring opinions reveal a three-to-three split on copyright issues; given that split, the subtlety of the unanimous opinion is remarkable.

Early Reactions

A June 27 posting by Fred von Lohmann at EFF's *Deep Links* (www.eff.org/deeplinks/) shows EFF's predictable response in its headline: "Supreme Court sows uncertainty." The bullet points are more measured: It's still not about P2P itself; the Court rejected the extreme positions of the entertainment industry; *Sony* remains intact; the Court did not buy into Big Media's theory of 'vicarious liability'; and the court "conjured a new form of indirect copyright liability, importing inducement from patent law." Since *Sony* also imported a doctrine from patent to copyright law, it's hard to read this too negatively. But von Lohmann does his damnedest: "Lawyers will be reading tea leaves here for years to come, trying to divine the precise boundaries of this new form of copyright liability… [T]he Court's opinion may lead lower courts to conclude that once you find an overt act, however small, virtually everything else becomes relevant to divine your 'intent.'"

Separately, EFF offers a six-page set of "Key quotes from the MGM v. Grokster Supreme Court decision." Although it omits quotes from the Ginsburg opinion, it's a good selection, worth reading on its own (www.eff.org/IP/P2P/MGM_v_Grokster/key_quotes.php).

Ernest Miller offered notes on an RIAA/MPAA press conference (at www.corante.com/importance/, also June 27). Despite the fact that Big Media utterly failed to narrow the *Sony* doctrine, the gist is that this was a "victory for the rule of law" and that "it can't be right under law to build a business on the basis of taking someone's property." (Unless that business relies on eminent domain, but that's a different Supreme Court decision…) Big Media apparently views this as a "terrific result." Those speaking at the press conference also considered it "doubtful that this will be rushed back to Congress"—another positive outcome, given Congress' predilection to kiss Big Media's metaphysical posterior whenever possible.

As already noted, Susan Crawford's immediate reaction is that the Supreme Court *did* offer "a balanced view" (that's the heading on her blog entry). "I was afraid that Sony would be undermined—and it wasn't. The content guys were afraid that they wouldn't be able to go after bad guys—and they've been given ammunition. What we've got is an opinion that is balanced and middle-of-the-road." She notes that the decision "says strongly that you can't impute intent to technology" and calls it "a good day for innovation." After noting that, yes, some companies who have presumed too much from *Sony* (blatantly encouraging infringement) might face litigation, she says: "[F]or the moment, tech companies can breathe easy. Distribution of a general-purpose copying device, by itself, is simply not an infringing act. And that was the right decision."

Edward Felten picked at the decision and likely next steps in several posts at *Freedom to tinker*. He argues that *any* business model for a software company will show an increase in revenue from an increase in use—but that's a far cry from explicitly encouraging infringement. He says the "scariest" part of the opinion is "the discussion of product design decisions," which comes down to the possibility that product design decisions might enter into a finding of contributory infringement *if* there is other evidence of bad intent. He's right, of course—but it's important to take into account the *whole* of his final paragraph:

> Legitimate technologists will still worry that a well-funded plaintiff can cook up a stew of product design second-guessing, business model second-guessing, and occasional failures of copyright compliance by low-level employees, into an active inducement case. *This risk existed before*, and the Court today hasn't done much to reduce it. [Emphasis added.]

The risk *did* exist before. The opinion seems pretty clear about the need for *obvious* intent to encourage infringement. Based on what's available of the evidence, Grokster and StreamCast were truly awful test cases for the pro-*Sony* side: Their encouragement of infringement seems clear. Indeed, another post begins, "Few tears will be shed if Grokster and StreamCast are driven out of business as a result of the Supreme Court's decision. The companies are far from lovable, and their technology is yesterday's news anyway." He thinks that BitTorrent may be the litmus test: It was created to support noninfringing sharing and

the creator has "said all the right things"—at least most of the time. Felten says flatly, "The music and movie industries don't want to live in a world where BitTorrent is allowed to exist." He predicts that Big Media will push for Congressional codification if they can't achieve their goals through litigation.

He also cites a joint weblog by Richard Posner and Gary Becker. That blog doesn't want to be printed out, so I guess they don't want to be quoted thoughtfully. If Felten's quoting each of the two appropriately (which I believe he is, given his fair-minded track record), I'm bemused in both cases. Posner pushes the idea of "nonremovable electronic tags"—that is, digital watermarks—as a way of providing safe harbors. But, as Felten points out, "[n]obody knows how to create the indelible marks he asks for, and in any case the system he suggests is easily defeated." Becker, who Felten calls "right on the mark," is unhappy at the thought of courts deciding which fraction of usage needs to be legitimate in order for a technology to be sheltered—but that wasn't the way I read the Grokster decision. (I'm not a lawyer, to be sure.) There was no suggestion that X% non-infringing usage (say 35%) would imply secondary liability, while 2X% (say 70%) would put the inventor or distributor in the clear. Instead, Grokster calls for a different kind of test: The express actions of the company to encourage infringement. That may be a troublesome test in its own right, but it's certainly not a percentage test—although I wouldn't be surprised if some aggressive copyright holders tried to sue on that basis.

Seth Finkelstein contributed unusual items at *Infothought*, including a great quote taken from the opinion, headed "being careful what you wish for":

> StreamCast even planned to flaunt the illegal uses of its software; when it launched the OpenNap network, the chief technology officer of the company averred that "[t]he goal is to get in trouble with the law and get sued. It's the best way to get in the new[s]."

As Finkelstein notes, "He sure got his wish!" In another post, "*Grokster* aftermath," Finkelstein concludes that even a Supreme Court of Solomons would be unable to easily resolve the filesharing conflicts in a single case.

ALA's press release on *Grokster* is upbeat: "Supreme Court clarifies *Sony* decision, fair use preserved." It calls the ruling "a victory for libraries and consumers" and says the Court "upheld the principle of fair use in the digital age." ALA had offered an amicus brief (with ACLU, the Internet Archive, and Project Gutenberg) urging the court to consider the usefulness of P2P activities in education and libraries, and the release notes Breyer's agreement "that there are substantial non-infringing uses of peer-to-peer technologies." The Library Copyright Alliance (ALA, ARL, MLA, AALL, and SLA) also issued a statement "welcom[ing] this balanced decision."

Siva Vaidhyanathan, unsurprisingly, was unhappy: "Overall, Monday's Grokster ruling is a middle-ground decision about a territory *that has no middle ground*. [Emphasis added.] Souter and the court have issued a Solomon-like decision that will do no good for the plaintiffs, do no harm to infringers—and could have profoundly negative effects on future innovators of technology." Vaidhyanathan excludes the middle and denies the *possibility* of balance, then goes on to assume a worst-case supposition: "It's not at all clear that the next big case won't completely undermine the Sony decision and retard innovation, investment and risk-taking." What is clear is that the court said repeatedly that *Sony* stood; I wonder what would have satisfied Vaidhyanathan?

Moving into July, EFF's von Lohmann continues to see every possible chilling effect, and maybe it's EFF's proper role to be an extreme voice on one side. This would be more convincing if EFF hadn't undercut itself through promotions that appeared to justify infringement on an "everyone's doing it" basis: In fact, 60 million file-sharers *can* be wrong, unethical, and illegal. A July 6, 2005 *Deep links* post, "First post-Grokster cold front?" raises this question regarding companies that enable place-shifting:

> Because these companies forthrightly promote activities that *should* qualify as fair uses, but have generally never been ruled on by a court, they are put in a potentially difficult position—if they lose on fair use, are they automatically liable for inducement?

He cites grumbling about Slingbox from MPAA and CBS as examples. He's right: There is a potential concern and Big Media doesn't usually concern itself much with Fair Use (sometimes denying that there is such a law). Here's the extreme "chilling effect" summary—worth paying attention to, but an assertion of possibilities, not certainties, and with an odd suggestion that *Grokster* reverses the rule of American jurisprudence that plaintiffs must prove their cases:

> Prior to the *MGM v. Grokster* ruling, these companies needed only to prove that *any* substantial use of their

> product is noninfringing. Today, they may be called upon to prove that *every* use that they ever promoted or advertised is noninfringing. Now there may be other defenses: courts should recognize that a good-faith belief that a use is noninfringing bars an inducement claim. But overall, this is one way *MGM v. Grokster* makes the climate chillier for innovators.

Christine Peterson saw the decision as a balancing act in a July 6 post at *Library technology in Texas* (libtechtx.blogspot.com), "Supreme Court and peer-to-peer." Her take, in part:

> This decision has solidified a tenet that we, as librarians, have always known. Copyright infringement, in whatever guise, is illegal… Although this decision is interesting in itself, what I found more interesting were the headlines in the media. They all seem to think that peer-to-peer is dead. Development of new technologies will be slowed, current technologies may be illegal (iPods, instant messaging, Internet). The sky is falling! However, if you read the actual decision, you see that it is the *intent* behind the technology that is important. iPods, instant messaging and the Internet are not "marketed" for illegal use…

While this is true, and while I echo Peterson's closing comment, "Read the Supreme Court decisions yourselves!" when the headlines seem overwrought, it's nonetheless true that increased threat of infringement actions that aren't readily dismissable *will* slow development. But many things slow development for perfectly good reasons. You can't dismiss the slowing effect, but it may be justified.

My take

American law has an unfortunate legal fiction: That corporations are people. They can't be jailed, to be sure, but they still have the rights of people—including free speech. That right is limited in the case of corporations, and I believe the Grokster finding adds to the limitation. I'm not sure that's a bad thing.

I believe a handgun company that advertises its products as "Perfect for taking out your old lady" and bases its business model on an increased rate of homicide should be liable, regardless of the Second Amendment. (That's a hypothetical case!)

I believe a crowbar company that publicly points out that its products can jimmy a front door faster than competing models should be open to suits for encouraging breaking and entering, even though crowbars are and should be legal.

I believe distilleries, wineries and breweries that advertise the virtues of their product for getting hammered and enjoying driving drunk should and probably would be liable for damages.

Peer-to-peer software should be legal. Nothing in the Grokster decision makes the software illegal.

Active *corporate* encouragement of copyright infringement, as the primary or only business model for distributing peer-to-peer software, is *not* innovation. It's encouraging people to break the law.

Grokster will pose difficulties in some cases—but, you know, people pursuing technological innovation ought not to be doing so with the avowed *primary* intent of breaking the law.

I find more to like in the Grokster decision than to fear from it. I believe it finds a reasonably sound balance among sharply conflicting motives. Perfect? Probably not—but what would be?

A few closing words about piracy

The International Federation of the Phonographic Industry, IFPI, issued a 20-page report, *The recording industry 2005 commercial piracy report*. You should be able to find it easily enough; start at www.ifpi.org. I find some recommendations alarming (new legislation for the internet, licensing and regulation of optical disc pressing facilities), but it's an interesting read—and it's almost entirely about *real* piracy.

Commercial piracy. The production of "fake recordings" for sale, in competition with legitimate commercial recordings.

If you believe IFPI's figures, there are 31 countries in which fake recordings outsell legitimate ones. The report says 85% of discs in China are pirate editions, 80% in Indonesia, 66% in Russia—and 99% in Paraguay, most shipped out to neighboring countries.

That's piracy. It's a huge problem internationally (and a relatively minor one in Canada and the U.S., as the report indicates). Quite a few pirates have been shut down; many more remain.

I don't condone copyright infringement—but I think it's *crucial* to distinguish between casual file-sharing and commercial piracy. Making such distinctions is part of finding a balance.

Trends & Quick Takes

When 60 Becomes Six Million

"Podcasting hits the mainstream." That's the headline on a little corner item in the May 24, 2005 *PC Maga-*

zine. It's not easy to read the tiny, sans serif, yellow-on-orange type, but the key statement is "more than 22 million Americans own iPods or MP3 players, and 29 percent of them have downloaded podcasts." That's accompanied by these assertions, in much larger type: "U.S. Adult Digital Music Player Owners Who Have Downloaded Podcasts: 18- to 28-year olds: 50%. 29+-year olds: 20%."

Multiply 22 million by 29% and you get 6.28 million Americans who have listened to podcasts on portable players. Admittedly, 6.28 million is just over 2% of the American population, but "mainstream" means different things at different times. The source for these numbers is the Pew Internet Project.

But then there's the *really* small type—I'm not sure whether the line is five point type like this: five point type or four point type like this: four point type, but it's small. Here's what that type says (in addition to identifying the source): "Based on 2,201 interviews and 208 player owners."

Apparently some reports have quarreled with Pew's definition of podcasting. I'm not going to do that. I'm going to restate the big numbers in more realistic terms:

"We interviewed 60 people who have downloaded podcasts: 31 people age 18 to 28, 29 people 29 and older." Sixty people.

I didn't go back to the Pew site except to note a comment that sort of admits that maybe the sample size for these claims just could be, perhaps, a mite on the small size to claim overwhelming confidence in the numbers. "Totally meaningless" would be one good statistical interpretation, but that might be harsh. Doing the algebra, I come up with 146 interviewees 29 and older with portable players (yielding 29 podcatchers) and 62 younger interviewees (yielding 31 podcatchers).

Maybe six million is mainstream. Maybe 60 can be projected to six million. Maybe not.

Big Brother Inc.

That's the title of a "science fact" essay by Laura M. Kelley in the May 2005 *Analog Science Fiction and Fact*. I like *Analog*. I like the science essays as well as the typically-"hard" science fiction: The writers don't talk down to readers and offer interesting perspectives. I was ready to like this commentary on data mining and likely excesses of government actions to mine commercial databases in the name of anti-terrorism.

Then I hit this sentence: "These days, we have to recite our social security numbers to nearly any merchant or service provider we have a monetary transaction with." Later, "It is difficult to drive on a major highway without seeing at least one neon message suspended over the road urging motorists to 'Report Suspicious Activity.'"

Between those two, I completely lost track of Kelley's argument.

Do you "recite your social security number" to merchants and service providers? I certainly don't. Other than employers, banks, the IRS, and credit card companies, I *never* provide my social security number. Nor, in my experience, do merchants and service providers ask for it.

As for her second flat statement: Maybe in Washington, D.C., there really *are* neon messages urging us to "Report Suspicious Activity." But out here on the Left Coast, things must be a bit more laidback. I have never, *ever* encountered such a "neon message"—or even a less flashy highway sign with that message.

When you're writing an argumentative piece, the first rule should be to get your facts right. Kelley fails on that count. That undermines her argumentation.

Promotional DVDs

Let's say you need to promote your business—at ALA, to give one example. You have a story to tell and you want people to remember you. There are always tchotchkes—imprinted cloth or canvas bags, or maybe pens or rulers or light-up pins or…

Those don't tell your story, but maybe they make an impression. Since you're spending a lot on that booth and the people to keep it running, what's a few thousand more for a giveaway? (Looking at a few promotional-product websites, I see prices of $1.50 each for an order of 1000 or more for the most basic imprinted canvas bag, twice as much for a nice bag.)

Or maybe, given your complex story, you'd like to tell people about it at their leisure. Say on a DVD, which could have two hours of multimedia explanation. People are still intrigued by DVDs: Good chance they'll take it home and give it a spin.

I understood why travel companies offer DVD as an alternative to VHS when sending out visual brochures: Cheaper to reproduce, higher quality, cheaper to mail. I wasn't surprised when one specialty cruise company included a DVD with their printed brochure.

I still assumed DVDs involved a substantial reproduction cost, at least in reasonable quantities (say, 1,000 to 10,000 copies). I was wrong.

Disc Makers isn't a fly-by-night "lowest price" outfit; they've been around for a while. Here's their price for DVD-5s (that is, standard single-layer, single-sided DVDs) with three-color on-disc printing and full-color jackets with high-gloss UV coatings: $1,290 for 1,000, $2,080 for $2,000, $4,900 for 5,000, $7,900 for 10,000.

In other words, less than a buck per disc for 5,000 or more—for discs with full-color labels in full-color sleeves.

Sure, you still have to prepare the content for the DVD—but that's getting easier all the time. If you have the skills to take good video, the tools to edit and prepare a DVD master are cheap.

So if you see more DVD giveaways at ALA and elsewhere, and see more bundled with specialty magazines, don't be surprised. Here, take one: They're cheap. They won't weigh down your luggage. You'll get the full story—at your leisure. And maybe even be entertained in the process.

[Postnote: I wrote this before ALA. I didn't notice many DVD giveaways at ALA—but I also didn't spend a lot of time in the exhibits. I suspect it's a growing trend, but I could be wrong.]

OpenURL 1.0 Minimized

Eric Hellman of Openly Inc. wrote an "Idiot's guide to OpenURL 1.0"—which offers the smallest amount of information you need to make correct NISO OpenURL links (for journals and journal articles). You'll find the document—all two pages of it—at www.openly.com/1cate/ig.html. You don't even need to know everything that's on those two pages, but it's a good start at demystifying OpenURL construction.

Quicker Takes and Mini-Perspectives

- Bill Machrone of *PC Magazine* believes, like most *PC Magazine* readers, that once you've purchased a piece of music, you should be able to play it on any device you own. That poses a problem with some downloaded music. In his May 24, 2005 column ("Hey, it's your music"), he discusses the remedy that works most often, if your downloaded music can legally be burned to CD: Burn the downloaded music to CD in audio CD form, then import the CD form back into your favorite music manager (directly or ripped to MP3 or whatever). You lose tagging in the process, to be sure, and the decompression:recompression cycle may involve some loss in audio quality. The column also discusses other solutions.
- I rarely even think of commenting on "Will's world" in *American Libraries*. Readers must love it; Manley goes on (and on and…). But "Cleansing our language" in the May 2005 issue was a shocker, with Manley pontificating on the "decay of public communication" and the mandate of librarians "to preserve, protect, and encourage quality literature, which comes from cultures with an elevated sense of public dialogue." Okay—but his primary example of offensive language seems to be "sucks," which he calls "one of those borderline expressions that most people today wouldn't characterize as an obscenity. That's how low we've sunk." Huh? "Suck" is only an obscenity if you have a remarkably dirty mind. It's not a "swear word" either. Slang, yes, but assuming that all slang is either swearing or obscene is, to put it bluntly, stupid and offensive. That's my general impression of Manley's column as well.
- "Rhapsody: Free music for all"—that's one of the lines on the cover of *PC Magazine* 24:10. Quite a claim—and, as the full-page review of Rhapsody 3.0 clarifies (slightly), *PC* has a new definition for "free"—"$14.95 per month." What that buys you, at $5 per month more than regular Rhapsody's streaming-music service, is the ability to download tracks that can be moved to certain specific portable players. As long as you keep subscribing to Rhapsody to Go and connect the portable to your desktop once a month to prove it, you're good. It's an interesting idea—but calling it a "free music offer" seems curious.
- Last issue, I noted an indication that the two high-definition DVD formats might get together. To date, the only evidence I have consists of an April 21, 2005 *Wired News* item that said Sony and Toshiba were in negotiations to resolve their formats, and a *Media Life* item offering much the same information.

Nothing in almost three months since then. Does this suggest a failed trial balloon?

- The *Journal of Electronic Publishing* published some valuable articles through late 2002. Then came the announcement that it was moving from the University of Michigan to Columbia University Press. And then…nothing. Now there's an announcement from the University of Michigan University Library that *JEP* will return in January 2006, back where it began. After a three-year absence, it may be tough for *JEP* to regain its stature, but I'll certainly welcome it back.
- Charles W. Bailey, Jr. posted "A look back at sixteen years as an internet electronic publisher" at *DigitalKoans* on June 29, 2005. (www.escholarlypub.com/digitalkoans/) It's *exactly* 16 years, in this case: the PACS-L mailing list began on June 29, 1989. I was there. Bailey has been a force in this field ever since. Worth a read.

Perspective

Predicting the Future of Academic Libraries

Earlier this summer, I received an invitation to speak to the librarians at a university. They wanted me to offer my predictions for the future of academic libraries. The campus is in a beautiful location and it's the kind of invitation I might have accepted on the spot a few years ago.

After thinking about it, I declined. That was partly financial, but the financial issue wasn't necessarily fatal. What stopped me was simple enough: A small amount of humility and a large sense that I *don't know* the future of academic libraries.

Talking it over with someone who is still actively speaking, I noted what I *could* have done with confidence. I could have discussed aspects of likely futures and extreme cases that strike me as improbable and dystopian futures, while urging librarians to work on building the futures they prefer. So, for example, looking at "the future" in terms of the next decade or three, I could make some projections I regard as desirable and probable, such as these:

- Every good academic library serving the humanities and social sciences will still have a substantial and growing print collection, even as the balance of digital and print, particularly in science, technology, and medicine, seems likely to keep shifting toward digital.
- Every good college and university will have libraries that serve as *places*—perhaps not in the vital "third place" role of public libraries, but certainly serving place-related functions. Simultaneously, and with no conflict, every good academic library will continue to offer place-independent services, probably more than they now do.
- Academic librarians and the vendors and others that support them will develop different tools for different users, more differentiated in the future than in the past and present. "One size fits all" never really worked very well. When the "one size" is AltaGoogleYahooMSN, which may be appropriate for undergrads and survey courses, it becomes particularly important to provide richer tools for those with more sophisticated needs and abilities.
- Academic libraries will continue to benefit from and, I hope, support cataloging and professional indexing and abstracting. Whatever the power of folksonomy and full-text retrieval, there's still a place for professional organization and taxonomy.

I could also point to some futures worth avoiding, in addition to those implicit in the preceding points. I could note some extreme cases being made, caution against treating "most" as "all" (abandoning print acquisitions because most students in most courses only want to use what's readily downloadable), point out the dangers in becoming little more than rental agencies for privately-maintained collections (as in most e-journal agreements), discuss the importance of and the questions surrounding open access, and so on.

My colleague responded that such a talk would probably satisfy the librarians who had invited me and might be just what they needed. Maybe that's true. I know that, to do a *good* job on such a speech, I'd need to put in more effort than I could justify for a no-honorarium occasion. And I'd still be wondering whether the librarians didn't want The Message.

What's The Message?

Great speeches, especially great keynotes, have a clear and generally simple message. The speaker pounds

that message home with anecdotes, examples, narrative, logic, and emotion. They start by telling you what the message will be; they provide that message in as much detail as suits the occasion; and they finish by repeating the message in different words.

I've heard The Message in several forms. One dazzling speaker is convinced that KTD (kids these days, the Millennials, whatever) are mutants who will always do everything different than we did, and offers scores of catchy examples and flashy PowerPoint slides to drive home The Message.

I've heard other messages as well, although I admittedly tend to avoid The Message-style speeches. Google is the future. Collections don't matter; only access counts. MARC is dead. Cataloging is dead. Print is dead. Integrated library systems are dead. I could emulate some of the messengers, developing my theme, becoming known as the go-to speaker for a particular shtick (oops, sorry, Message). But that's not going to happen.

By traditional standards, I do terrible keynotes. I don't have One Clear Message. I cover too many topics, offering some thoughts on each and leaving the audience to synthesize. This hasn't stopped me from doing keynotes in the past: My vita shows nearly forty of them. Fortunately, there has been room for people with mixed messages—and that's my forté. My goal in most speeches is to encourage people to think and offer them some possibly provocative points to think about. I'm not terribly interested in getting people to believe or to agree with everything I say.

Consider the messages I offered in a mere seven minutes, at a wonderful small session during ALA (put together by YBP Library Services, sponsor of *Cites & Insights)*, offering my own thoughts about technological issues relating to my own institution and others like it:

- How do institutions with million-dollar budgets meet user expectations in a time of Google and its billion-dollar capacities? Is it better to get a full answer in 30 seconds or a possible answer in five seconds? Is it acceptable for paid services to provide "some answers" with no expectation of comprehensive results? (Have you ever tried to look at all 22,000 records in a Google result? Do you know for certain that they exist?)
- Can we make the case for professional indexing in a time of free-text anarchy?
- More generally, can we find and maintain professional niches in an amateur field, and in a time when digital hotshots seem to think they know everything about librarianship?
- Working against GooYahAltaMSN isn't an option. How can we work *with* them effectively?
- Opening resources is wonderful—but we still need to pay the bills. It's unclear how this plays out for some sectors of scholarly communication.
- One clear aspect of RLG's role and those of similar institutions: Working to make good standards, make those standards understandable, and lead and support cooperative initiatives in areas where we have special expertise.

That's a lot of messages for seven minutes; it's really too many for a full hour. In this case, the intent was to spark discussion. It worked (aided considerably by two other speakers).

What's Wrong with Futurism?

I've talked and written about the future. Some variant on "future" appears in more than two dozen speech titles, with more discussing "change" and "tomorrow's libraries." I seem to remember a book or two carrying my byline and focusing on future libraries.

But I've always disclaimed "futurist" as a title. Even the full titles of those speeches show something other than a proper futurist's clarity (and assurance that nobody will look at their track record!). Consider half a dozen speech titles from 2002, 2003, and 2004:

- "Tradition and Transition: Some Notes on Survivable Libraries."
- "The Flexible Evolving Library: Complex Services for Diverse Communities."
- "Books and Beyond: Evolving Libraries and Media."
- "Shared Understanding, Complex Service: The Evolving Academic Library."
- "Plausible Futures: Finding the Ways that Work."
- "Change, Continuity, Perspective: Where Do We Go From Here?"

Notes. Complex. Evolving. Plausible. Ways (plural). Continuity. Hardly the proper elements of a clarion call to an assured future!

What did I talk about, the last time I focused on the future in a keynote for an audience composed entirely of academic librarians? I could include the

complete speaking notes (not all of which made it to the final speech), but that would be ten print pages. Here's "nine central assertions" I used at that point, noting "you might call these my current credo":

- Good public and academic libraries are both physical institutions and sets of services. They serve a variety of purposes within real communities and colleges, and some of those purposes can only be served effectively through physical libraries.
- We will continue to see revolutionary predictions based on oversimplification, bad economics, infatuation with technology, and failure to appreciate people. Librarians who fall prey to such predictions will suffer, as will their users. Librarians and library supporters must be ready to challenge unlikely projections, analyze faulty economics, and assert the need for choice and the importance of both history and the present.
- Technology and media will continue to interact in unexpected ways, but ways that will lead to more rather than fewer media. Different media serve different kinds of stories well, and new media should enable new kinds of stories—but the kinds of stories that books serve continue to be critically important for libraries.
- Print books will survive, and will continue to be at the core of all good public libraries and the humanities and social science portions of good academic libraries.
- All libraries and librarians need to deal with increasing complexity, not as "transitional" issues but as the reality of today and tomorrow.
- Libraries must serve users—but *all* users, not just today's primary users. There's a difference between being user-oriented and pandering, and it's a difference librarians should understand.
- Libraries matter, and librarians should build from strength. There are many fine public and academic libraries and many more that do remarkable work with inadequate resources. The goal should be to improve and diversify from what libraries do well, not to abandon existing services and collections in search of some monolithic futures, whether all-digital or otherwise.
- Libraries will change, just as they have been changing for decades. Good libraries will maintain live mission statements—and the missions won't change rapidly.
- Effective libraries build communities, and the need and desire for real communities will continue to grow. Libraries that work with their communities should prosper; those that ignore their communities will shrivel.

But wait! There's more! These are the section headings for sections that may have made it into this particular speech (some of them suggested by the person who invited me):

- Balancing electronic and print resources
- Providing useful and *used* resources for faculty and students
- Understanding the difference between problems and situations—and that every change has consequences, intended and unintended
- Muddied waters: The imbalance of copyright power and the "serials crisis" in access to scholarly information
- Sharing resources and how new technologies improve sharing (e.g., OpenURL, ISO ILL)
- Maintaining distinctions among libraries—avoiding homogenization
- Building shared understanding (whether you call it marketing or communication)
- Expanding your resources—and appreciating complex libraries with complex resources

Good grief. That's too many topics for a book, much less an admittedly long keynote. And if you look at those topics, you'll note one clear omission: A single vision of a single future. I don't have such a vision. I don't *trust* such visions.

Other Voices

Now that I've ruined my chances to be a hotshot futurist keynoter raking in big bucks by giving The Message, consider some commentaries by or about people who may know what they're talking about. Most of these notes come from the commendable *LITA Blog* (litablog.org) coverage of ALA Annual, with one MSNBC column preceding (and related to) ALA and one separate weblog entry following (and unrelated to) the conference.

Michael Rogers posted "Turning books into bits: Libraries face the digital future" on June 19, 2005 at www.msnbc.msn.com. He starts with a disturbing

story from a Harvard extension journalism class, where the teacher, John Lenger, asked students to write a story about a particular incident in the early 18th century.

> [A]fter a week of research, most came back with almost nothing substantial to report. The problem: They had done most of their research using the Internet, walking right past Harvard's library and archives, where the actual information could be found. When Lenger questioned their research methods, one student replied that she assumed that anything that was important in the world was already on the Internet.

Sad as that is, I'm more saddened by Brewster Kahle's response: "*For kids today, the Internet is their library.* We are giving them an instantly accessible resource that is much worse than what we grew up with." [Emphasis added.] Kahle, who styles himself a librarian of sorts, should know better: While *some* kids can't get past the internet, many young people know and love libraries. (I'm also saddened by Rogers' uncritical acceptance of Kahle's apparent claim that digitized information is inherently more dependable than physical collections, a claim unhindered by evidence.)

> When Kahle's vision comes true and books are accessible from any browser, exactly where will the neighborhood library fit in? That's a key topic at this week's 124th annual American Library Association conference in Chicago.

Whew. "When," even after stating the largely unsolvable limits that copyright places on "Kahle's vision." Some books are already accessible from any browser; many never will be. Was the place of the "neighborhood library" in this all-digital future a key topic at ALA? Maybe. Maybe not. And although Rogers notes that library visits more than doubled between 1992 and 2002 and circulation increased about 30% during that period, he dilutes those numbers with this: "Librarians, however, acknowledge that the increase in visits was in part due to the availability of Internet access—begging the question of what happens when, someday, everyone has Internet access at home." I'd love to explore the connection between library internet access and a 30% increase in *circulation*, and I'd love to see evidence for Rogers' later claim that "in the long run, [libraries] will, almost inevitably, house fewer physical books."

Moving beyond Rogers, we have notes from a range of ALA meetings. LITA's "Google and libraries" program included representatives from the five libraries participating in Google Print. None of them believes that completion of the Google project will doom physical libraries and their collections. Most see the chance for increased access. Some see the possibility for academic libraries to pay more attention to their unique resources. Google's Adam Smith stressed that the project is an indexing or finding project, not a book distribution system.

At least two sessions (one that I attended, one with notes at *LITA Blog*) looked at metasearch—and in both cases, there was clear recognition that Google is *not* a universal model. In the session I attended, each participant was working to make metasearch work better by narrowing its reach—by putting together resource clusters that work for specific groups of users, sometimes by doing brief preliminary user interviews. These projects speak to a future in which academic libraries serve the *diverse* needs of diverse groups of scholars, as they always have but with perhaps more clarity as to the ways technology can serve or hinder that diversity. The other session included projections of rapid change in the metasearch market, more use of standards, and more customization to individual campus and user needs.

LITA's Top Tech Trends panel is a frequent source of challenging predictions for the near term. Many of these are focused predictions covering small areas—but the future arrives through small changes such as:

- Disintegration of integrated library systems (into interoperable modules).
- Growing use of web services to enhance and enrich existing resources.
- Users carrying their entire computing environment with them on flash drives, and what that means for shared computers.
- Preservation, preservation, preservation: We're creating digital resources like crazy, and we probably can't preserve them all.
- Increased customization.
- Tomorrow's retirees (the Baby Boomers) who aren't retiring from life; they will be active library users, supporters, and volunteers.
- Long-term stewardship of data—data curation—will be a growing need.
- More use of data mining and manipulation.

Confessions of a science librarian

I'll close with a few notes on John Dupuis' June 30, 2005 post, "My job in 10 years—Collections" and July 4 followup, "Further thoughts on books & journals"

(jdupuis.blogspot.com). Dupuis is a science librarian at York University, so his projections are within the context of science libraries. He believes he *will* be buying some print in 10 years—specifically monographs in the history and philosophy of science. He expects most technical manuals to be online only, and points to some interesting models for online access to commercial texts not designed to be read in full.

He doesn't expect to be buying many print journals a decade from now—and in a science library, he may be right. "Perhaps I'll still get stuff like *Scientific American* and *Wired* in print because they're fun to flip through while sitting in the comfy chairs drinking a latte." In a slightly more daring prediction, he "suspect[s] that virtually all journals will have abandoned the 'issue' model and will be article-based." He expects many journals to be "overlays" that provide peer review services to articles in repositories. Dupuis expects scholarly societies to move heavily to the overlay model, where subscriptions pay for peer review and infrastructure, while commercial publishers will still be very active. He expects open access journals to multiply, but doubts they will replace traditional journals—although he suspects that expectations "that everything will be free and instantly available" will totally transform scholarly publishing beginning 10 to 15 years from now. He expects even more aggregated content, even as aggregation eliminates some of the librarians' selection role.

> The rise of blogs, wikis and other social software will start to have an important impact on scholarly publishing in the next 10 years. Important articles will start virtual conversations that will bounce back and forth. Conferences will probably see the same sort of transformations. While face-to-face networking will still be important, a lot of the true exchange of ideas will happen after the conference has ended. By then, we'll probably figure out a way for libraries to contribute to the infrastructure of this process, and that will be part of my job.

While this is from the first installment, it's a good coda for both: "I think our biggest challenge in 10 years will be marketing to students the resources that we do purchase—convincing them that we have something to offer that beats what they can get for free online."

This paragraph contains my list of flat disagreements with Dupuis' predictions. End of paragraph.

Oh, okay, I guess I'm a *little* less convinced that overlay journals will be enormously successful in the next decade and a *lot* less convinced that "virtually all journals" will have abandoned issue models. Within STM, he could be right, but "virtually all" is a tall order for a mere ten years.

Otherwise—here's an example of a sensible, thoughtful librarian providing detailed possibilities for *an aspect* of future academic libraries. ALA offered other possibilities along with the usual nonsense.

I have no clear vision of the future for academic libraries. I believe that future will be guided by John Dupuis and others like him: People who look at the specifics, pay attention to the generalities, and work toward futures that work for them and for us all.

Interesting & Peculiar Products

If you believe some pundits, the iPod Shuffle is the wave of the future—random bits of entertainment to satisfy the universal attention deficit disorder of the next generation. Some of us, maybe most of us, do wish to choose the songs we listen to. That can be tough on a 20-50GB player with thousands of tracks.

According to the March 22, 2005 *PC Magazine*, Gracenote and ScanSoft plan to solve this problem with voice command. ScanSoft makes Dragon NaturallySpeaking, the leading speech recognition software. Gracenote runs the biggest CD track identification database; iTunes uses Gracenotes information (as do other music players).

Can the companies get speaker-independent voice recognition to work well enough, on sufficiently inexpensive and compact circuitry, so that you could say, "Play a mix of Sade and INXS" and have it work? Or, as suggested in the story, could you be listening to the Meat Puppets, say "more like this," and get a mix of Minutemen and Bob Mould songs? (I have no idea who any of these groups are, but that's the example in the story). I won't say it's impossible—and the mistakes might be as interesting as the real choices.

iPoser

"Desperate to join the iPod club, but just don't have the coin to be that trendy?" That's the lead for a brief "new products" blurb for the iPoser—"its casing exactly matches the iPod's, except it's *all* casing—the iPoser is completely hollow." You can get an iPoser

Mini (in all colors) or even a fake first-generation iPod. “The ersatz iPod’s LCD screen lights up, lets you browse menus—the only catch is it won’t store or play music of any kind.” But the cavity where the works would be is “a good place to hold loose change and breath mints.”

Best of all is the price: $15 regular, $10 for the iPoser Mini.

It does pay to notice one thing: This blurb is in the bottom right hand corner of the “New products” pages in *Sound & Vision* April 2005. That feature has included a very special (and hard to find!) product in almost every April issue for quite a few years.

Big TVs

That same *Sound & Vision* had a pair of comparative reviews for different approaches to big-screen HDTV. The first comparison reviews four LCD front-projection units—like data projectors, but higher resolution—costing $2,995 to $3,999. The $3,500 Sony Cineza VPL-HS51 may be the best of the lot; it’s a 12.5-pound box with excellent picture quality.

The next article also reviews front projectors—but these are units you can buy for $1,500 or less. They’re not as bright and have fewer features and connections—and they’re all EDTV, either 800x600 or 854x480, as opposed to true HDTV (1280x720 on the $3K units). If you’re watching DVDs, that makes no difference, since they don’t deliver more than 480 pixels vertically. Of the three, the $1,299 InFocus ScreenPlay 4805, InFocus’ cheapest front projector, gets the best review. With any of these big-screen front units, you need to buy a screen as well, and should plan for a truly dark room for proper viewing. On the other hand, if you want a 100"-diagonal picture, front projection is the only way to go.

Improving Portable Audio

I’ve seen several articles full of snazzy products trying to ride the iPod’s coattails—portable speakers, FM transmitters for your car radio, wildly expensive devices so you can make the iPod the center of your home music system. One *Slate* article (from February 4, 2005) is charming: “Portable audio for snobs.” Evan Cornog notes how much he hated the sound quality of an iPod and MP3 players in general, then tries out four current players and a bunch of add-on products. The choice of player doesn’t affect the sound quality much, although that’s not entirely true: as Bill Machrone has found through serious testing, some MP3 players just can’t reproduce full-spectrum sound cleanly because of poor audio circuitry, while others—apparently including the iPod shuffle—do a great job through quality headphones. Cornog notes the need to encode music properly and choose good headphones—and more than anything, that a good headphone amp can transform a player.

He suggests using a lossless format for best sound (and says regular CDs still sound better). As with other writers, he likes Shure’s E5c ($499) and E3c ($179) in-ear-canal phones, with the $130 Sennheiser PCX250 noise-canceling phones a good approach for those who don’t like in-ear phones. He *really* likes HeadRoom’s separate headphone amps (the $269 Total BitHead and $729 Cosmic), which optionally blend channels a bit to make headphones sound more like speakers, and the BitHead isn’t all that large (larger than your player, though).

Firefox Addons

You’ve probably heard by now that Firefox isn’t vandal-proof, although its *lack* of deep integration with Windows gives it a headstart. Vulnerable or not, it’s the first Internet Explorer alternative in years to have serious market impact—and it’s also a fruitful platform for extensions, as discussed in a “First Looks” roundup in the April 12, 2005 *PC Magazine* (which notes that 20% of www.pcmag.com visitors use Firefox). Fifteen items described range from About site 0.1.1, which provides a range of site information such as Alexa traffic, Whois, Technorati references and stored copies on the Internet Archive, to Cards 0.16.1, a set of 27 solitaire games played in new pop-up windows. The list includes Firefox versions of some of the usual suspects such as GoogleBar.

Little Things Cost a Lot

Home Theater occasionally runs a “Premiere Design” piece—two pages of big photos and breathless prose about “a product that is as visually intriguing as it is technically advanced.” For May 2005, it’s the Goldmund Logos Mini speaker system, which looks like a little (10.6x7.9x8.7") blue box with some sort of black ears, suspended over a slightly larger white or aluminum box with a gold plate on it. It’s hard to tell for sure: The photographs are so artsy that they don’t communicate very well.

The text is revealing, sort of. There's a claim of reproduction from 50Hz to 22KHz, with no test results. The blue box (aluminum) has a dome tweeter and a 5.1" "woofer" while the bigger box is a powered "subwoofer" with a 9.8" woofer and a matching passive cone. OK, so it's an interestingly designed compact speaker system. **It costs $24,350.** The magazine says, "You'd better believe it's worth every franc." (It's from Switzerland, thus the currency reference.) I'd love to see test reports, particularly ones that could plausibly justify that price. Not that it matters…

TV or PC?

Sony seems to have raised the all-in-one bar with the VAIO VGC-V520G, good enough for an Editors' Choice "First Looks" review in the April 26, 2005 *PC Magazine*. It looks like a 20" widescreen Sony LCD TV, and it includes a TV tuner, but the screen's backed by a 3.2GHz Pentium4, 1GB DDR SDRAM, 250GB hard disk, nVidia GeForce FX Go5700 graphics and a dual-layer multiformat DVD burner. In addition to Wndows XP, it includes Sony VAIO Media and VAIO Zone packages, to handle media and feed stuff to other VAIO systems on your home network. Full DVR functionality comes standard. The keyboard and mouse are wireless and there's a remote control, naturally. At $2,699, it's not cheap and it's small for a TV, but if you're short of space, it looks to be a good way to combine media center and PC functions in a single stylish box.

The Photo Burner

Here's an odd one that makes sense for avid digital photographers, earning its *PC Magazine* Editors' Choice: The $299 Aleratec Digital Photo Copy Cruiser Plus (reviewed in the April 26, 2005 issue). It's a portable standalone CD burner with eight-format photo cardreaders built in; it will run on rechargeable batteries and write your photos to a CD with a single click. It's also a DVD player with NTSC and PAL (TV) output and Video CD, MP3, WAV, MPEG, and JPEG playback capabilities. Attach it to a PC, and you have a standard CD rewriter and cardreaders. It comes with a full-featured remote and a collection of software.

Media Players: Detail, Please?

I'm not in the market for a $500-$750 media player, but if I was, I'd find the situation frustrating, particularly from the best PC-related reviewing source around, *PC Magazine*. Quite apart from the continuing issue of actually *testing* sound quality, the reviews offer varying and incomplete levels of crucial detail.

Consider two media player "First Look" reviews in the May 10, 2005 *PC Magazine*—both by Bill Machrone, both earning Editors' Choice honors. The Archos PMA430 ($750) has a 30GB disk, serves as a multimedia player and recorder, PDA, wireless Web browser, and game machine. It weighs 10oz. and has a 3.6" color screen. So far so good—but what's the resolution of that screen? What's the size of the unit?

Right below that is the review for Epson's $500 P-2000. This one has a 3.8" screen with 640x480 resolution, which is remarkable (that's 212dpi, the best I've heard of for LCD). It has card slots for SD and CompactFlash memory, AV outputs so you can play back on your TV, and it can play MP3 and AAC audio. The review refers to its "heft"—but there's no weight given. There's also no indication of the hard disk capacity or size. Too bad.

Etching Your DVDs

BenQ's $119 DW1625 LightScribe is one of the new DVD burners with HP's LightScribe technology built in. That means you can etch the label for a DVD (or CD?) directly onto the disc itself, flipping the newly-burned disc over, inserting it back into the tray, and using the drive's laser to burn the image.

Maybe this is a wonderful idea. The May 10, 2005 *PC Magazine* review says the image isn't that dark, you can only get black, and it took 23 to 25 minutes to etch four lines of text with a few small graphics—and HP admits that the labels will fade.

Here's what I find odd, earlier in the review:

> …it's not nearly as easy to create a picture-perfect label for that same disc. Scrawling song titles with a marker is a primitive solution, and printing directly onto the surface of a disc requires specially designed printers and media.

Maybe I'm lucky, but I've been using Fellowes/NEATO CD labels for more than two years now and I've never had a problem with them. They take a beautiful image on a good inkjet printer, the applicator's not hard to use, and so far I haven't seen any peeling. I wouldn't use them for archival CDs, but they're relatively cheap, fast to print, and look great.

But let's assume that labels are out. Epson sells ink jet printers and multifunction printers, some as low as $100, that print directly onto the label surface

of a disc. You have to buy printable discs, to be sure, and they're more expensive than regular blank CDs and DVDs. But that also gives you full-color printing. As for "specially designed media"—well, guess what? You can't use LightScribe on just any blank; it has to be a specially-coated blank. One that's likely to be more expensive than printable blanks, since it's a smaller market.

Surround Sound from One Box

Yamaha's YSP-1 Digital Sound Projector costs $1,500, measures 40.5x7.75x4.6", weighs 28.75 pounds, should mount nicely beneath a wall-mounted big-screen TV—and contains *forty* tweeters and two "woofers," along with a whole bunch of amplifiers. It's a single box designed to provide full five-channel surround sound, handling Dolby Digital and DTS as well as Dolby Pro Logic II and DTS Neo:6 to derive surround sound from stereo recordings. The May 2005 *Sound & Vision* carries a three-page test report on the device, which uses digital signal processing on its many speakers to create "sound beams" bouncing off your room's walls to provide surround sound. Necessarily for something that replaces a surround receiver and five speaker systems, but oddly for a speaker system, it includes a remote control.

How well does it work? Fairly well, according to Ken Pohlmann's report, if you're willing to spend the time to tune it to your room. An interesting concept.

"The World's Best HDTV?"

Another *Sound & Vision* report (May 2005) asks that question about Sony's Qualia 006—and although I haven't seen it, there's some reason to believe that it sets a new standard for non-CRT rear-projection TV quality. It's based on SXRD, Sony's variant on LCoS, a display technology that should avoid the screen-door effect you can get on LCD displays and provide almost as much black and color gamut as CRTs. It's *true* high-def, with 1920x1080 resolution (1280x720 is more typical), and the test report says it's a stunner. As "thin" rear-projection sets go, it's neither that thin nor particularly light, at 273 pounds and 24.75" depth—but then, it is a 70" picture! Oh yes, there's a little matter of the price: $13,000.

Smart Water?

Huh? That's my reaction to a February 10 *Freedom to tinker* item and the Bruce Schneier comment that it comments on. Seems that there is something called "SmartWater." Each bottle has a unique tag and tagging elements (e.g., microdots) that stick to an object when you spray SmartWater on it. Theoretically, you spray your stuff with SmartWater; if it's stolen, the police can use the tags to identify you as the owner—and as "proof" that it was stolen.

Bruce Schneier had a "better idea": "paint it on *your* [that is, someone else's] valuables, and then call the police." Edward Felten noted this but goes on:

> The fact that an item has Bruce's tag on it doesn't prove that the item belongs to Bruce, but it does prove that SmartWater from Bruce's bottle has been near the object [if the tags have good anti-forgery protection]. If Bruce is your neighbor, and he has been in your house recently, then the presence of his tags on your valuables means little. On the other hand, if there is no apparent connection between you and Bruce, and an item locked in the safe in your house has his tags on it, and he was known to own an item like that which he has reported stolen, then you have some explaining to do.

The stuff does exist and has been in use in the UK for some time. You can find the website readily enough. It's not that expensive (£50 per year for a home-and-vehicle package, which works out to about $87 as of mid-July). There's a guarantee of sorts (if you post the warning labels)—but *not* to replace your stolen property. Nope: You get one year's license fee back if your marked stuff disappears.

The Library Stuff

Bell, Steven, "Don't surrender library values," *Library Journal*, May 15, 2005.

Bell objects to "Google-style librarianship, characterized by acquiescence to the popularity of Google's search system." I think it's foolish not to *recognize* Google's popularity and consider how it affects libraries, but Bell makes the point that librarians should not be too fast to "abdicate long-held library values." His "top five new platitudes" to be resisted can be categorized as opposing user education, believing that "good enough" results are good enough, that "find, not search" is a meaningful formulation, "avoid complexity" even when it means giving up sophistication, and abandoning existing methods to serve the "Millennial generation." He argues that librarians need to create

wise information consumers and that it's wrong to give up that attempt.

There's lots to argue with in this brief opinion piece—but dismissing it as old-fashioned is wrong, I believe. If Google truly is all that anyone ever needs or will use to do every sort of research, then we may as well all just close up shop; libraries and librarianship need a broader range of choices and complexity.

If you have access to *Against the Grain*, you might want to read "Group therapy: More on Google" in the April 2005 issue (pp. 82-83), which begins with the question "Why are librarians so upset about Google?" and includes four commentaries—none of which "waves the white flag" of total surrender to Google or sees it as the solution to all library problems.

Carson, J.D., "Legally speaking—the top ten intellectual property cases of the past 25 years," *Against the Grain* 17:2 (April 2005): 58-67.

Carson selects ten cases that established precedents. "Each case stood for something greater than which party won or lost, and each one has affected the fabric of our society in one fashion or another."

There's a lot of text in this article, and I won't attempt to summarize; instead, here's the list itself, with the quickest summary of the principle involved:

- 1. *2 Live Crew*, *Larry Flynt*, and *The Wind Done Gone*: Parody is protected under the First Amendment.
- 2. *Feist*: Facts can't be copyrighted; there must be something original to obtain protection.
- 3. *Tasini*: Free-lance authors must be paid for their work if it is included in databases.
- 4. *Texaco, Kinko's*, and *Michigan Document Services*: Commercial users must pay royalties.
- 5. *Eldred v. Ashcroft:* Congress has the power to extend copyright duration.
- 6. *Dastar*: You can't use trademark laws to get around an expired copyright.
- 7. Salinger and *Wright*: Fair Use for unpublished materials.
- 8. Can John Fogerty plagiarize himself?
- 9. Time-shifting and the *Betamax* case.
- 10. *Diamond v. Chakrabarty*: The Patent Law covers genetic engineering.

Well worth reading.

Dames, K. Matthew, "Social software in the library," *LLRX*, July 26, 2004 (www.llrx.com/features/socialsoftware.htm)

I continue to find social software befuddling and I've been slow with "library stuff" of late. This seven-page article offers a good overview of "key social software applications"—maybe not all of them, certainly not up to date, but with a light hand that makes it easier to understand what "social" means. I'm still not sure why blogs and RSS are social software applications more than lists and e-newsletters, particularly when they're one-way "secure" blogs, but I do see that IM and chat have "social" aspects. A good read, ignoring meet-and-greet programs in favor of tools that have clear value for libraries.

Favreau, Karen, and Helen Snow, "Bobby socks and building projects," *American Libraries* 36:5 (May 2005): 44-6.

Public libraries should be cultural centers of their communities, at least to some extent—and many good public libraries are or should be centers for local history as well. That history may include the history of the library itself, as discussed in this fascinating article. Greensboro Public Library (NC), where these two librarians work, hired its first librarian in 1901—and published *The Greensboro Public Library: The first 100 years* in 2003. "Capturing the colorful history of a 100-year-old library system is no easy task," but this article certainly makes it sound like a feasible and worthwhile project. (This book was traditionally published in a run of 2,000 copies, financed through the Friends of the Library; with PoD, the initial outlay might be much smaller.)

Liebler, Raizel, "Are libraries places to learn or engage in illegality?" *LLRX*, October 24, 2004 (www.llrx.com/features/roleoflibraries.htm), and "Institutions of learning or havens for illegal activities: How the Supreme Court views libraries," *Northern Illinois University Law Review* 25 (www.librarylaw.com/Liebler.htm),

I haven't read the longer law-review version (51 pages in manuscript form, including 350 endnotes). The 19-page *LLRX* article considers a view of libraries that had never occurred to me: "Places of illicitness" or "hotbeds of illegality." Liebler considers three major Supreme Court cases "addressing the appropriate role of libraries and the activities allowed within library premises" and the Justice Department's interest in libraries over the decades.

> The view of libraries as locations for criminal activities and librarians as dupes run through the Library

> Awareness Program, a Federal Bureau of Investigation means of preventing "recruitment" of librarians and library patrons by unwanted foreign influences, and the implementation of the USA PATRIOT Act, which authorizes the Justice Department to dig into library circulation, Internet-use, and other records.

The oldest of three cases considered is *Brown v. Louisiana*, a 1966 consideration of "whether a library could be used for a silent protest." Some libraries in the South were still segregated as recently as 1966, including "color coded" bookmobiles; five African-American men went into a branch library in 1964 to protest "what they considered the denial of their constitutional rights in a public facility." They made a book request, then sat down. They were arrested and convicted of violating a statute making it a criminal offense to congregate in a public building with "intent to provoke a breach of the peace." The majority found that the protesters "were neither loud, boisterous, obstreperous, indecorous nor impolite"—but a four-person minority argued that *entering and sitting quietly* was enough to "disturb the normal functioning of the library." Credit Hugo Black for asserting that black men sitting silently in a white library automatically breaches the peace!

As Liebler notes, libraries were not focal points of protests during the civil rights movement—but they were public places open to all, and some protests of unequal treatment were appropriate and necessary. Even in finding for the men, the plurality was disturbed that "the locus of these events was a public library—a place dedicated to quiet, to knowledge, and to beauty."

Board of Education v. Pico, 1982, concerned school library censorship—a local school board removing books as "anti-American, anti-Christian, anti-Semitic, and just plain filthy." This case established that school boards could not remove books because of their ideas or to "determine the norm in politics, nationalism, religion, or other matters of opinion." The "quiet, knowledge, and beauty" formulation appears here also—and in later cases.

Then there's the CIPA case, in which the court focused on Congress' rights to control based on funding, avoiding free speech arguments. Liebler discusses the extent to which this case turns on the mission of libraries and other issues raised in the case. The CIPA discussion takes up nearly half the article.

Finally, Liebler returns to the Library Awareness program (with the suggestion that it "may indeed still be continuing") and to Justice Department claims (related to the USA PATRIOT Act) that "Historically, terrorists and spies have used libraries to plan and carry out activities that threaten our national security."

This is an interesting article, although Liebler may overstate the extent to which the Library Awareness Program assumed that "librarians are dupes and libraries are dangerous places." I was involved (in a small way) in one of the more public Library Awareness Program situations, at the University of California, Berkeley in the early 1970s. My impression then—and my impression of the USA PATRIOT Act's Section 215—is *not* that it's based on librarians being dupes or libraries being dangerous places *per se*. Rather, both situations assume that the government can benefit by spying on certain library-related activities—that knowing who took out certain books or visited certain web sites, or conversely knowing what was taken out or visited by certain users, would be beneficial. That only makes librarians "dupes" because they (properly, in my belief) resist such efforts.

The Library Awareness Program led to the adoption of circulation confidentiality protections in California and other states. At the time we were visited by the FBI, legal counsel said that past circulation records were legally public records—but that we were under no obligation to retain them. The first part of that equation has changed, at least in part—but the second part is what we tend to act on.

Quibbles aside, this is an interesting overview, **well worth reading** in either short or longer form.

"Lust for reading," *American Libraries* 36:5 (May 2005): 32-6.

Once in a while, it's useful to remember one key and frequently-ignored fact about libraries, and particularly libraries: they "are not just about information access, but about helping people find good books to read." This interview with Nancy Pearl, action figure and author of *Book Lust* and *More Book Lust* ("reader's advisory" is such a dull title by comparison!) makes that point in delightful detail. Pearl has a great first response to the question, "What is the librarian's role in getting people to read and getting them to read the good stuff?":

> How do you define "good stuff"? I think the librarian's role is to help people find the books they will enjoy reading, whether or not you as the readers' advisor or librarian consider that book good literature.

That's the beginning of a fairly long answer, one that also notes that readers' advisory should help "broaden a person's experience with works of literature"—so, for example, Western lovers might also be interested in a biography of Wyatt Earp or a history of the War of Texas Independence, or a "non-Western" that relates to Western themes.

Oltmans, Erik, and Nanda Kol, "A comparison between migration and emulation in terms of costs," *RLG DigiNews* 9:2 (April 15, 2005) (www.rlg.org, look for "RLG DigiNews")

This clear, evidence-based discussion asserts that digital preservation requires *both* migration (converting stuff into new file formats) *and* emulation (preserving the authentic document and providing the user with tools to render that document). In the long run, emulation appears to be less expensive than migration, but that oversimplifies a paper that's **well worth reading** in full (it's only seven pages long).

Smith, Alastair G., "Citations and links as a measure of effectiveness of online LIS journals," *IFLA Journal* 31:1 (2005): 76-84.

"How important are LIS e-journals, and how can they be evaluated?" Smith (Victoria University of Wellington) considers the Web Impact Factor, suggested by P. Ingwersen as "the online equivalent of the ISI Journal Impact Factor." WIF is based on the number of links to a website compared with the size (in pages) of the website, where ISI's JIF is based on citation counts to a journal over a specified period compared with number of citable articles published during that period. This paper reports on an attempt to calculate WIFs for a sample of LIS ejournal websites—and to evaluate some of those links to see whether they're comparable to conventional citations.

Smith found ten ejournals having citations within ISI databases, although one could question whether these are all legitimately refereed journals and whether they're all within the LIS space: *Ariadne, Cybermetrics, D-Lib, First Monday, Information Research, Journal of Digital Information, Journal of Electronic Publishing, Journal of Information, Law, and Technology, LIBRES,* and *PACS Review*. I'm a bit surprised that Smith used AltaVista to do the citation study: even in March 2004, it would seem to be one of the weaker web search engines and indexes. Perhaps its robust Boolean operators made up for its shortcomings.

A short version of the results shows *PACS Review* as having the highest WIF, followed by *First Monday*, *D-Lib*, and *Journal of Electronic Publishing*—and a count of ISI citations shows *D-Lib* first, followed by *PACS-R. Information Research*, and *Journal of Electronic Publishing*. But there's more to the factors than that simple recitation, and Smith's paper goes into some of those subtler factors. **Worth reading.**

Followups & Feedback

Too Tired to Rip?

The lead item in TRENDS & QUICK TAKES just over a year ago (*C&I* 4:6, May 2004) carried that heading and discussed RipDigital, a service to convert CD collections to MP3. I made mild fun of the concept that ripping a few hundred CDs was just too much to deal with and that it was worth paying someone $1 (or so) per disc to do the conversion.

I don't know what's happened to RipDigital, but the June 2005 *Sound & Vision* discusses LoadPod and Ready to Play—two services that do much the same thing, either ripping directly to an iPod or returning DVDs full of ripped music files. LoadPod has someone pick up your stuff in person and charges $1.49 each for 50 to 99 discs, $1.39 each for 100 to 199, and $1.29 each for 200 or more; Ready to Play is $1.10 per disc for up to 200, $0.99 for each additional disc—but that doesn't include shipping (although if there's a Cambridge SoundWorks store nearby, you can drop them off there). And, sigh, here's the reviewer's final judgment: "Either service is a great idea for anyone who has better things to do than rip CD tracks. Isn't that everyone?"

Escient FireBall DVDM-300

Last July (*C&I* 4:9) I discussed the Escient FireBall DVDM-100, a $1,999 device that could control up to three DVD/CD megachangers (which can hold up to 400 CDs or DVDs each), catalog all of the discs (downloading information via an internet connection), and control them for streaming to your home entertainment center. I was a little surprised that *Sound & Vision* thought the price might be high, given the particular reviewer's penchant for digital convergence. Well, here it is almost a year later. Electronics just keep getting cheaper and the May 2005 *Home Theater* touts the new FireBall DVDM-300. It can still control three megachangers and act as "your own per-

sonal librarian" (arggh) by automatically providing information. Oh, but now it also has a 300GB hard drive so you can rip the CDs and just store DVDs in the megachangers. The new price? $4,999. Man, that's one *expensive* 300GB hard drive!

ClearPlay (and FMA)

The lead essay in *C&I* 5:7, a ©3 PERSPECTIVE, discussed the Family Entertainment and Copyright Act and viewed passage of the component Family Movie Act (FMA) favorably. FMA, briefly, legalizes software that edits a DVD on the fly, at the request of the user, as long as it doesn't produce a permanent altered copy and prominently displays a "This movie has been edited…" screen. ClearPlay is the immediate beneficiary of the act; it works with DVD player producers to offer drives that will let you skip all the "naughty stuff" or "un-Christian stuff" or whatever. It's a form of censorship, but it's *self*-censorship: The user is paying someone else to make filtering decisions for them, in the knowledge that they're seeing censored versions.

Ross E. Riker wrote to play devil's advocate, pointing out that he could completely reverse the meaning of a paragraph within *C&I* by "making imperceptible" certain words (the mechanism legalized by FMA). He believes that ClearPlay or its equivalent "*is* effectively passing this altered version off as the original" since all that's required is a warning. I disagree—and noted that, if a reader paid someone else to read out one of my articles and skip certain words, *saying that changes had been made* and not making a copy of the altered version, I would not see that I had (or needed) legal recourse. I won't quote the altered paragraph; to do so would in fact put it in permanent form, which FMA does *not* allow.

The ever-thoughtful Seth Finkelstein doesn't agree with me either (nor is he expected to), and offered a May 2 posting at *Infothought* (sethf.com/infothought/blog/) with a new argument against "anti-smut machines," this one from *Christianity Today.* The original argument was that "Censorship does not keep us from doing evil—it just blocks us from seeing it." I certainly agree, and I'm not surprised that *Christianity Today* opposes censorship. I don't plan to use ClearPlay (tempting as it might be, in a different configuration, for some movies too gory for my taste), but I believe it should be legal.

The Blogging, Journalism and Credibility Conference

Seth Finkelstein commented on my brief June 2005 comments about this conference (which was cosponsored by ALA, for reasons that continue to escape me) in a June 18 *Infothought* entry. His summary of the conference itself is terse and pointed: "A bunch of Harvard Berkman Center people, and A-listers, burnished their credentials as Experts On The Hot Topic (and in the run-up, some others got hurt). Very simple. I suspect ALA cosponsored to get a piece of the action. Why not?"

I took issue with Jon Garfunkel's commentary and his seeming assertion that it's more reasonable to assume that a single librarian speaks for [all] library users than that a single black woman speaks for all black women. While it's certainly *more* reasonable, I still found it unreasonable. "Does a journalist speak for all newspaper readers?" Finkelstein comments, "The job of a librarian has advocacy for library users in a certain professional sense." I'm not sure I can agree, except at the subtle level that professional codes of ethics should explicitly consider the needs of the users of that profession. There are many different aspects of librarianship, some of which have little or nothing to do with user services. I'm not sure (for example) that it would be reasonable to expect that a preservation specialist at an academic library will, should, or could advocate for the interests of public library users. Any professional should speak for the people who use that profession, but I would be reluctant to assume that a medical researcher with an MD speaks for patients as a whole. But go read Finkelstein's comment; he does add to my own comments in useful and significant ways.

CustomFlix

Remember CustomFlix? I wrote about this company in January 2003 and again in April 2003: a small operation designed to produce short runs of DVDs, sort of "Video PoD." I thought it was a good idea at the time, with promise for libraries considering custom videos—and it was being used as a way for international filmmakers to get into the American market.

Alane of *It's all good* posted an item on July 11, picked up from *paidContent.org*, noting that Amazon has acquired CustomFlix—three months after Amazon purchased BookSurge, a PoD operation.

> The goal is to expand Amazon's already massive catalog and carry titles that may be requested so infrequently that they don't deserve space in the company's warehouses. Also, the acquisition could give independent filmmakers a broader venue for selling their work. Amazon already sells CustomFlix titles.

While competition in this niche area might be nice, this sounds like a win-win situation—and it's good to see CustomFlix has survived.

Bibs & Blather

I don't have enough blather for a separate section this time, but a few notes are in order:

- Nobody's come forward with support for HTML versions for pre-2004 *C&I*. That's OK.
- It appears that blogs and wikis satisfy people's desire to report on ALA programs and read those reports, and maybe that's as it should be. *C&I*'s reports section goes on the back burner: Not out of the question, but no longer solicited.
- This is the first two-month issue, and if that's going to happen, summer is the best possible time. There will still be at least 13 issues this year (most likely *exactly* 13 issues). There were certainly special circumstances, but let's just say that you probably have other ways to spend your time.

Feedback: Apologies

Three email correspondences resulted in agreements that what was said—sometimes with modification—could be used as FEEDBACK in *C&I*. Unfortunately, partly because there hasn't been a lot of feedback, partly because of disorganization, I haven't run feedback in some time. One correspondence concluded on January 19; the second, February 3; the most recent, April 16. Summarizing:

- Gilles Caron (Université du Québec á Chicoutimi) offered a thoughtful commentary on my early note about Google's library project and the fact that "publishers that have posted books online have generally found that print sales increase as a result." Chicoutimi has developed an online collection of classic social sciences books, partly public domain, partly thanks to agreements with living authors and publishers. As of January, there are 1,251 items in the collection. You'll find it at www.uqac.uquebec.ca/zone30/Classiques_des_sciences_sociales/; MARC records are available. He notes that his institution has chosen to complement Google and that there's plenty of room for complementary projects—and that libraries can add real value by working directly with users, authors and publishers.
- Jakob Voß added a few points to my Wikipedia discussion: it's very international, there *are* already efforts to review Wikipedia articles (and the German Wikipedia has already appeared on CD-ROM), and the whole project is still very young.
- Ross E. Riker, commenting on the "Printability" perspective, noted his preference for reading onscreen and the advantages of doing so—easier to save things for future citation and future reference or electronic rereading, a snap to follow your own tangents, etc. Fair enough. For me, it's the other way around (if I don't print out something that would be useful as part of a *C&I* essay, it simply won't be used—and I've concluded that essayists who don't bother to check for printability on their web sites really don't *want* to be mentioned except by direct link, so I'm honoring their wishes by ignoring them).

I thank all three for their email and I'm sorry that I'm so tardy in running feedback that it no longer makes sense to use them in full.

Masthead

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