

# Cites & Insights

Crawford at Large

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## Bibs & Blather

### Interdependency

If you read *Cites & Insights* with any regularity, you might also want to subscribe to *Walt at random*, my 9-month-old blog (<http://walt.lishost.org/>).

I wouldn't have made that suggestion last April, particularly given the blog's description: "Libraries, music, net media, cruising, policy, and other stuff not quite ready for *Cites & Insights*."

But I've already seen some interdependency between the blog and the ejournal, and I plan to build on that, partly for space reasons, partly for immediacy.

- Analysis of most popular themes and issues, and of how space has been used in previous volumes, is more likely to appear on the blog than in the journal.
- Some themes that begin in the journal continue as discussions in the blog (and in other blogs), sometimes making the round trip to a later journal article. Even though I continue to invite feedback and have a "publishable feedback" email address ([citesandinsights at gmail.com](mailto:citesandinsights@gmail.com)), "letters to the editor" in a journal can't be as conversational as comments on a semi-moderated blog.
- I'm more likely to toss out trial balloons in the blog than in the journal.
- If I do start offering specialized print-on-demand books, and maybe even tchotchkes, they'll be announced first in the blog.
- Light and personal items are *much* more likely to appear on the blog (although I'm trying to add a little lightness here—see "My Back Pages" below).

I say "subscribe" advisedly. Posting at *Walt at random* is erratic (putting it charitably). I aim for two posts a

week on average. That can mean four posts in one day, none for three weeks, whatever. I don't post because I feel a need to post—at least not often. I blog because I want to say something that isn't appropriate in this journal or isn't quite ready for *Cites & Insights*.

If RSS wasn't easy and widely accepted, I wouldn't have started *Walt at random*. I knew from the start that it wouldn't be regular enough to be a bookmark. Drop by every day and you'd unbookmark it in a week or two. I can guarantee you won't be flooded with posts, although some posts do run long.

If my numbers and guesstimates are right, *C&I* has four to six times as many readers as *Walt at random*. That may be the right ratio. I don't think the blog belongs in the pantheon of very widely read library blog. But I do believe *regular* readers might find it worthwhile to read both.

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## My Back Pages

This may be another planned initiative that stalls, as some earlier planned sections in *C&I* have stalled, but I'll give it a try. Beginning with this issue, and continuing whenever it makes sense and I have material and space, there will be a new *PDF-only* section—a bonus for those who read *C&I* in its entirety.

MY BACK PAGES includes some of the items that might previously have appeared in Quicker Takes. It will include some items that would otherwise appear in BIBS & BLATHER, particularly those not directly concerned with *C&I*. I anticipate many of the items will

be pointing out silly or humorous situations elsewhere, some will be pointing out truly interesting things that don't justify more than a paragraph or two or just don't fit into any other section, and a few will be brief editorial comments thrown into the mix. Some of these items could appear at *Walt at random*, and some of them *may* appear first in the blog.

No item in MY BACK PAGES should be more than half a page long (400 words or so); I'm aiming for 100 to 200 words as an average. Nothing in MY BACK PAGES will be terribly important. The section is leavening of a sort, something I feel more necessary as *C&I* increasingly tends to be dominated by big thematic essays.

The name and inspiration come from the final editorial pages in so many magazines (e.g. *Consumer Reports* and *PC Magazine*)—dessert for front-to-back readers, appetizer for back-to-front readers.

It's MY BACK PAGES because it won't predictably be just the final page; I did that in the first few years of *Trailing Edge Notes*, and it's a pain. It *will* be the final section in any issue in which it appears—and there *won't* be an HTML version.

It won't *predictably* appear in each issue any more than any other continuing section. Cynics among you might suspect one reason for the new feature is to make it easier to copyfit—there's nothing like lots of one- to three-paragraph items, mostly not time-sensitive, when you need to get the issue to drop back to an even-numbered set of nearly-full pages. Cynics would be right: That is a reason, but not the only one.

Enjoy.

## No Year's Resolutions

It's been a long time since I made personal New Year's Resolutions and I don't plan to start now. But I have had a tendency to offer blather about where *C&I* is going at the start of each new volume. How has that turned out?

- Volume 2 (2002): I planned to aim for 16-page issues, hoped to cite important articles as soon as possible, and planned to include “at least one ‘PC-related’ feature each issue” while doing REVIEW WATCH, PRODUCT WATCH, and PC VALUES less frequently. Results? I managed four 16-page issues—but published 15 issues that year to make up for it. REVIEW WATCH and PC VALUES became PC GROUP REVIEWS which became PC PROGRESS,

and PC VALUES disappeared. About two-thirds of the issues had something related to PCs. Call that about 50% success (or less).

- Volume 3 (2003): A serious reader survey yielded 95 responses. Based on those responses, I aimed for a “baker's dozen” of issues (13 rather than 15), planned to have THE GOOD STUFF, THE LIBRARY STUFF, BIBS & BLATHER, at least one PERSPECTIVE, and TRENDS & QUICK TAKES appear in most issues, and planned to continue strong copyright coverage while cutting back on ebooks/etext and filtering and *way* back on the frequency of PC GROUP REVIEWS. Results? 14 issues; 9 THE GOOD STUFF; 8 THE LIBRARY STUFF; 12 BIBS & BLATHER; at least one PERSPECTIVE in 13 issues; 8 TRENDS & QUICK TAKES; at least one copyright-related piece in 8 issues; 2 ebooks/etext; one censorware; one PC PROGRESS (replacing PC GROUP REVIEWS). The best I've done carrying out a volume plan—but it was difficult to sustain, made it difficult to do in-depth perspectives, and couldn't last.
- Volume 4 (2004): I suggested more variable intervals between issues and “lumpier” issues, abandoning the 20-page limit (held throughout 2003) as too restraining. I planned monthly issues plus thematic special issues. Other than that (and hoping to restore “more personal essays”—I wasn't ready to start a blog), no particular promises. Results? 100% success—because I didn't promise much.
- Volume 5 (2005): I invited conference reports as an ongoing feature, noted why I was avoiding a formal commentary on Google Library Project, and called this the “end of the experiment” (*C&I* had been labeled as an experiment up to that point). No promises as to changes in emphasis, length, frequency or anything like that. Results? Three issues had conference reports, but never many; it appears that direct conference blogging serves people's reporting needs. I dropped that initiative. And, of course, I certainly did wind up commenting on Google Library Project, but within a broader context. Zero out of two—but a strong year that saw net media come on strong as an ongoing theme.

For this volume I'm taking the only course assured of reasonable success: No year's resolutions. I plan to keep doing *C&I*, and hope to keep making it better. These aren't promises, but modest expectations: No fewer than 12 and no more than 30 pages per issue; no fewer than 12 and no more than 16 issues; continued foci on copyright and net media without abandoning other interesting areas. Maybe another reader's survey toward the end of the year; maybe not.

Six years seems to be Crawford's Guideline for the longevity needed to consider a refereed ejournal to be a success (even if it ceases after that point). While this will never be a refereed or scholarly journal, I do plan to exceed Crawford's Guideline.

### YBP at ALA Midwinter

If you're a GOBI user, remember there will be a meeting at 4 p.m. on Saturday during ALA Midwinter, followed by a reception. YBP will send you location information or have it at their booth. I plan to be at part of the reception; see you there!

### C&I at ALA Midwinter

If you're still around Monday evening, there will be a very informal get-together of a few *C&I* readers at 5 p.m. on Monday. I should have a location posted on *Walt at random* some time in early January, certainly before Midwinter itself. (Maybe the historic bar at the Menger?) No-host drinks (that is, you buy your own); a little conversation. No program. No pressure.

### Library 2.0 and a Midwinter Issue

As I write this, it's December 16, 2005. I've said elsewhere that I didn't plan a January issue until very late in the month, probably the last week of the year—and that, as a direct consequence, I didn't plan an extra Midwinter issue coming out just before the ALA Midwinter Meeting.

Also as I write this, I've been increasingly interested in the fuss around "Library 2.0"—a term I don't remember reading before a month or two ago. Interested enough that a special "Library 2.0" folder sitting on my desk at home has 42 (count them, forty-two) printouts relating to that term (one of them indirectly). A **head's-up for Library 2.0 gurus**: If you're pushing open models and alternatives, one thing you might do is either choose blogging software that supports printing of long posts on Firefox, not just IE, or tweak your IE-centric software (think Six Apart's

products, but also Blogger) so it's less hostile to alternative browsers and people who like to *reflect* on your essays. (Yes, Michael S., I *do* mean you among a shrinking number of others. If the "collected principles" are hot stuff, shouldn't it be possible for *all* browser users to print them without cutting-and-pasting into Word or NotePad?)

You *know* I'm not going to read, annotate, and absorb that much material without saying something about it. I just trashed several months of collected THE GOOD STUFF candidates because I find such isolated annotations a lot less interesting these days. I'd rather spend the energy and space on something that combines notes on other sources with added value from my own thoughts and synthesis. I suspect Library 2.0 is such a case. I also suspect I'll need quite a few hours to make sense of it all and relate it to history as appropriate (even the great Roy Tennant didn't really mean we should *ignore* history, just that we shouldn't be trapped by it). (I also think I may already have commented on what's now being called Library 2.0; that's another question.)

Here's the thing: As I write this, I have just over 19,000 words of first-draft material in seven different sections. My experience is that I can usually cut about 10% of the text during editing, maybe a little more during copyfitting. That leaves a 22 to 24 page issue *without* Library 2.0.

So it's possible that I'll be wrong on all counts: That the first 2006 issue will appear before Christmas, that it won't include anything about Library 2.0 (other than this blather), and that there *might* be a pre-Midwinter issue. Isn't planning wonderful?

### Followup/Feedback Perspective

## OCA and GLP Redux

I was mistaken in dismissing Project Gutenberg as nothing but etext. Although etext—plain ASCII with none of the appurtenances of books—continues to be Michael Hart's thrust and most prominent in descriptions of Project Gutenberg (including those on the site itself), there's more to it than that.

Bruce Albrecht sent a careful explanation:

I would like to take exception to the several places in the December 2005 edition of *Cites and Insight* where you dismiss the Project Gutenberg as merely a library of e-texts as opposed to e-books, which are clearly better.

In the lowest common denominator form, PG texts are, as you say, only etexts. However, many, if not most of the new works contributed to PG these days from Distributed Proofreaders also include a secondary HTML version which include all the features of an e-book that Karen Coyle claims work from PG lack. For example, consider *A Study of Pueblo Pottery* by Frank Cushing, <http://www.gutenberg.org/etext/17170>. The HTML edition has a linked table of contents, page markers, illustrations (with links), an index (with links), in short, everything most scholars want and/or need in an e-book. The catch, however, is that not everything produced by DP and the other PG contributors include an HTML edition with these features.

The trend at DP is to require HTML editions, as well as retain the publication information from the original source material. There are also projects at DP to replace early PG editions with new editions with illustrated HTML editions when illustrated sources are available to the DP volunteers.

You make it clear that you consider the typography and layout of your e-journal to be an integral part of it. That is certainly your prerogative. However, in most instances, the author of a book (maybe more so than the editors of a magazine or journal) is really at the mercy of the publishers, and has little or no say in the layout of the published book. Rarely do subsequent editions of a printed book retain the layout (and often the illustrations) of the earlier edition. With the PG HTML editions, selection of the fonts used are at the discretion of the reader, and the HTML is hopefully sufficient to accommodate the selections by the reader, including, for example, large type for the visually impaired.

There are volunteers at PG working on a standard, PG-TEI, based on TEI-LITE, which would provide a master file that would be able to generate multiple formats, including straight ASCII, HTML, PDF, and various mobile reader formats. This format would retain all the information about the original source book except perhaps the typography. There are already a few books in the PG library in this format, and converters to several of the formats listed above.

My only disagreement with this letter is “several” in the first paragraph. I would say that I referred to PG in that manner once, or maybe 1.5 times. Otherwise—well, I was wrong. I find Michael Hart so gratifying that I’d simply ignored PG, and a quick look at the home page did nothing to uncover the 3,000 or more HTML versions (there are also a few PDFs). There is a note on HTML deep within the FAQ, but it’s certainly not obvious.

Tonya Allen also wrote to inform me of PG’s expanded set of formats, noting of my “etext” claim:

While this was the status quo perhaps five years ago or more, it is not true now. All PG texts these days come in

plain ASCII, but most recent additions (last several years) also are also available in 8-bit text and HTML. All versions include chapter headings (and footnotes if in the text); HTML versions naturally provide links from chapter headings, indexes, and footnotes, and include illustrations and figures, as well as “pleasant fonts”; and many HTML versions also include page numbers.

Ms. Allen suggests that I point you to the Project Gutenberg catalog at [www.gutenberg.org/catalog/](http://www.gutenberg.org/catalog/) and adds that major classics are more likely to come from PG’s early years, and be available only in ASCII.

### *Is it an ebook?*

Is a typical Project Gutenberg HTML version a full digital representation of a particular edition? No.

Is it an ebook? In most ways that matter, yes—particularly when it includes pagination sufficient to allow precise citations.

Am I saying etexts are useless? Of course not. They can be particularly useful for data mining and various sorts of text analysis, and there are tools to turn PG’s plain text into a fairly pleasant reading experience (if you find reading from the screen pleasant under any circumstances).

So let’s say that Project Gutenberg includes some unknown number of true digital replicas of books (in PDF or other form), several thousand ebooks (in HTML), and many more thousand etexts.

Is a digital replica in downloadable form better or worse than an HTML or XML-based ebook? Neither. It’s different. It’s better for some purposes, worse for other purposes. A downloadable combination of digital replica (probably in PDF/A form) and XML, with the option to download one or both formats, might be ideal. For all I know, OCA and other projects could result in such combinations.

## Open Content Alliance

I missed this in the big essay: By October 31, OCA had added *dozens* of new members, including libraries such as those at Columbia, Johns Hopkins, Virginia, and Pittsburgh, as well as Smithsonian Institution Libraries and others. As reported by Barbara Quint in *Information Today*, there’s also some detail on the scanning process. The Scribe system used by the Internet Archive for OCA scanning involves a book cradle with a spine-friendly 90° angle, a glass platen to hold the page flat, manual page turning, and full-color scanning at “about 500 pixels per inch.” Digitized collections are triply replicated in overseas locations as safeguards.

Roy Tennant's December 15, 2005 *Library Journal* column discusses OCA (Tennant's employer, California Digital Library, is a member; my employer, RLG, is a partner). He stresses that digitized files with associated metadata will be available for complete downloading, so you could build your own interfaces, and that the whole process is as open as possible (for example, the agreement between UC and the Internet Archive was made available to the library press "days after the initiative was announced"). OCA "is based on respect for collections." The column is a fine short summary of OCA, and includes this paragraph:

It's unclear whether the OCA project will rival the Google Library project in size. Since it is easier for organizations to participate, the OCA will easily have more participants, but the Google project may lead in the number of digitized volumes if it fulfills its promise. Only time will tell. In any case, more digitized content is likely a better thing overall.

Although this is as closely related to GBS as to OCA, I'll note it here. A number of libraries and consortia have replicated a finding that turns out to be true in many studies: When you study the overlap among real-world groups of libraries, roughly 60% of the holdings are unique (that is, held by only one library within the group). For the MOBIUS union catalog, it's 63.5%; for CARLI, 63.8%; for OhioLINK, 58.5%; for Prospector, 65%. As reported last issue, for the Google 5 it's 60%. **Conclusion:** It would take a *lot* of libraries to digitize "everything."

## Google Book Search

The November 21, 2005 *New York Times* has a Katie Hafner article on Sidney Verba (Harvard University Library director) and Google. Verba's reading of Google Book Search for copyrighted books: "The thing that consoles me is Google's notion of showing only the snippets, which have everything to do with what's in the book, but nothing to do with reading the book." If I read that correctly, he's saying it's all about finding, not displacing the books themselves. Pat Schroeder of the AAP is consistent—in an odd manner: "Look, people should be able to search all this stuff, but it should be the author's choice and not Google's." Two points there: AAP speaks on behalf of *publishers*, not authors, and it seems unlikely that typical book contracts would leave the choice up to the author. More significant is this wholly new concept: that you need the permission of a copyright holder to *index* a published product.

Verba's not too worried about displacing libraries: "[W]hat this does is take you to Google, which takes you to the library." He wasn't an instant convert to the project: He wanted details and got them. (There's a little journalistic misstep later, saying that Google "had built its own scanners, which capture the image of the page using optical character recognition technology." That's nonsense: The scanner captures the *image* using scanning technology; the *searchable text* is prepared using OCR.)

## *The Ethicist via ACRLog*

I was surprised to read on *ACRLog* that "The Ethicist" on *All Things Considered* likened Google's opt-out offer to "a burglar requiring you to list the things you don't want stolen." The Ethicist was talking with Tony Sanfilippo, who in a November 28 essay states that the Google Library Project "is being done outside the scope of traditional copyright protection," dismissing the *possibility* that fair use applies. Sanfilippo says the project "may irrevocably hurt the production of knowledge in the future" and has this to say about the contract (which returns a digital copy of the library's scanned books to the library): "Using an unauthorized full copy as a payment is clearly a copyright infringement." Interesting, given that the libraries—which *own* copies of the books—would arguably be justified in making their own digital copies. Is it suddenly illegal because the libraries subcontract the actual scanning to a third party?

It turns out that Sanfilippo's making a different case: His employer, Penn State Press, wants to sell *its own* digital copies of books to libraries that already own the print copies. If it can't do that, "many new books won't get published," which turns into this clarion cry: "Do we want to chuck the whole commercial model for the production of scholarship?" (That's an interesting question, but rhetorical overkill given the situation at hand.) And, of course, Sanfilippo uses the term "theft" to describe the situation. (The person posting the *All Things Considered* entry found it impossible to believe that the University of Michigan would illegally distribute its digital copies, then went on: "What Google might someday do...well, that's harder to predict." One would presume that the contract and copyright law would help guide Google's future plans: A successful corporation seems unlikely to risk near-*certain* copyright infringement suits with ruinous statutory damages by making the actual pages of in-copyright books avail-

able without prior agreement. Unless, of course, Google is suicidal, which seems highly improbable.)

I posted a comment on the ACRLog post offering a different analogy from that offered by The Ethicist: “I’ll make a photocopy of that poster you printed up to sell, *borrowing it from someone you sold it to*. I’ll index that poster online, telling people where they can buy or see a copy—but I won’t show a significant portion of the poster to anyone.” As I said then, I care about ethics as much as anyone, and darned if I can find an ethical problem with that proposition.

### *Morris says fair use...and other voices*

A surprising voice *in favor* of GLP being fair use: Sally Morris of ALPSP. Morris says Google agreed with ALPSP and others that “it was absolutely the case that it is not allowed to [digitize in-copyright material from libraries] in Europe.” Fair use isn’t part of European copyright law; “fair dealing” is narrower. So far so good, but Morris went a little further, in a quote which will no doubt endear her to AAP:

The fact Google recognizes they can’t do this without permission in Europe gives us a threshold to work out a way for them to get permission. *In America, they have the law on their side*. Here, they accept they don’t. [Emphasis added.]

One publishers’ association has gone on record, in the person of its CEO, saying fair use *does* apply in this situation: Google has the law on their side. Amazing.

An odd commentary appeared November 28 in *Times Online*: “Help, we’ve been Googled!” by William Rees-Mogg, “non-executive chairman” of Pickering & Chatto. P&C is an “academic publisher” that primarily publishes collected editions of major authors, edited and indexed, sometimes with original material added. In other words, they’re taking public domain text (at least in some cases) and adding value. Now P&C’s “sturdy, early 19<sup>th</sup>-century business model” is “threatened by a giant 21<sup>st</sup>-century business model, the omnivorous Google.” You could stop right there and say that *many* two-century-old business models have required revision or abandonment in the 20<sup>th</sup> and 21<sup>st</sup> centuries. But no. After calling Britain’s copyright deposit requirement a “subsidy” by the publisher to the deposit libraries, Rees-Mogg says this, referring to “books that are still in copyright and will remain so for 70 years or more” (albeit books that consist predominantly of public-domain text, which he doesn’t bother to mention):

If Google can scan these books, without the permission of the publisher, and include them in its database, then

most libraries will not need to buy them. And if librarians do not buy them, they cannot be published. The whole world of learning will be damaged, and academic publishing will cease to be a viable business.

Set aside the notion that academic publishing as a whole will disappear if P&C has trouble selling edited public domain works and claiming copyright because of the editing and indexing. This statement makes no sense unless Google is displaying the full text of in-copyright books. Never in the essay does Rees-Mogg state the clear, publicly available, flatly stated truth: That no more than three tiny snippets of any in-copyright book will be displayed without prior permission from the publisher. It’s possible that he’s ignorant, but that seems unlikely. More likely, he’s assuming that most newspaper readers won’t be aware of what Google’s actually doing; it’s a pure scare tactic.

Here’s Rees-Mogg’s assertion of the purpose of AAP’s suit: “The purpose of this application is to force Google to charge for viewing a copyright book, and to share the profit.” Interesting. In his closing statement, he says that the very “survival of the book” (not just academic publishing, not just collected editions of the work of dead writers) “depends on” Google “accept[ing] the rights in intellectual property.” Which, of course, it does; thus the snippets. (Peter Suber has a briefer and probably entirely adequate comment on Rees-Mogg’s assertions: “But this is just wrong.”)

Keith Kupferschmid of the Software & Information Industry Association, another hard-line copyright group, wrote a “Viewpoint” in the December 2005 *Information Today*, “Are authors and publishers getting scroogled?” That’s one of those questions that answers itself. My copy of the article has so much red and marginal scribbles from my first read-through that I hardly know where to begin; my comments would be nearly as long as the article. Go read it yourself ([www.infotoday.com/IT/dec05/Kupferschmid.shtml](http://www.infotoday.com/IT/dec05/Kupferschmid.shtml))—but read “Google’s side” in a later issue as well. I’ll let it go with Kupferschmid’s judgment as to the results of Google winning on its claim of fair use: “In essence, the rights of writers and publishers would likely cease to exist in the online world.” No hyperbole here!

Susan Crawford (no relation and she is a lawyer) reports briefly on a December 14, 2005 panel talking about GBS; she was a participant. The current argument of publishers is that Google’s Library Project can’t be fair use because it could affect *potential* markets. That’s a pretty good way to eliminate fair use

entirely, since almost anything *could* be a potential market. Her comment:

The world is sufficiently unpredictable that anything could happen, right? So fair uses that threaten any possible secondary market can't exist, according to the publishers. In effect, they'd like to use copyright law to protect against network effects and first-mover advantages that they can't personally monetize.

I very much hope that Google won't settle this case. We need these issues decided.

### *Partners and mythbusters*

The University of Michigan and Stanford University have both issued recent memos on their relationship with Google. In Michigan's case, it's a "Statement on use of digital archives" dated November 14, noting what the library intends to do with the digital copy of its books that it receives back from Google: preserve the copy in a digital archive, a "dark archive" at least initially (that is, not accessible but there for long-term archiving); define use by the nature of the work (respecting copyright); *secure* the archive for long-term use. It could be used for natural disaster recovery (working with copyright owners), access for the disabled, and possibly computer science research on the aggregate full text. The library will *not* reduce acquisitions because of the digital archive, use it as an excuse not to replace worn/damaged works, or use it to provide classroom access to in-print works. In other words, Michigan will respect copyright, just as you'd expect. "Merely because the Library possesses a digital copy of a work does not mean it is entitled to, nor will it, ignore the law and distribute it to people who would ordinarily have access to the hard copy."

Stanford issued "Stanford and Google Book Search statement of support and participation" on December 7, 2005. The memo says why Stanford's participating in the Library Project (in short, "to provide the world's information seekers the means to discover content") and clarifies that for in-copyright books "this project is primarily supportive of the discovery process, not the delivery process." Google has been scanning works from Stanford since March 2005, starting with federal government collections (inherently public domain). After those are scanned, Stanford will focus its contributions on works published up to 1964 that are believed to be in the public domain (works between 1923 and 1964 for which copyright was not renewed are in the public domain). The memo also makes clear that "Stanford's uses of any digital works obtained through this project will

comply with both the letter and spirit of copyright law." Stanford expects the files to support preservation, better discovery tools, links to Stanford's online catalog, and delivery of full-text digital content *when such delivery is legal*. Stanford does *not* intend to "violate the legitimate rights of content owners to control the distribution and exploitation of works under copyright." The memo goes on to discuss litigation against the Google Library Project, expressing the belief that courts will find Google's project to be fair use. It's a substantial discussion; a piece of it deserves direct quotation:

Historically, copyright law has allowed the copying of works without permission where there is no harm to the copyright holder and where the end use will benefit society. Here, there could be nothing objectionable under copyright law if Google were able to hire a legion of researchers to cull through every text in the Stanford University Libraries' shelves to ascertain each work that includes the term "recombinant DNA." There could be nothing objectionable with those researchers then sharing the results of their efforts and providing bibliographic information about all works in Stanford's libraries that include this term. Through the application of well engineered digital technologies, Google can simulate that legion of researchers electronically through algorithms that can return results in seconds...

Let's wrap up this piece of a continuing story (except for a teeny-tiny extra below) with Donna Wentworth's refreshingly sensible December 5, 2005 at *Copyfight*, "Copyright mythbusters: Believe it or not, fair use exists." I frequently disagree with at least some of the people at *Copyfight*, but I certainly can't find fault with this post, which I recommend. She's mostly citing other people's "mythbusting" (yes, including mine, in brief) and noting "the usual heaping helping of copyright disinformation." The first two paragraphs:

One of the more frustrating things about debating copyright issues is that copyright mythology sounds a lot more like the truth than the truth. For instance, many people believe that copyright law gives the copyright holder absolute, immutable control over a work, lasting into perpetuity. The truth—that copyright has built-in limits to protect free speech, scholarship, research, and innovation (the "progress of science and useful arts")—sounds like a lie. Surely all of that stuff is just bleeding-heart liberal, mushy-minded nonsense?

Oh, well, actually—no. Fair use exists, and for very good reasons.

As some continue to seek a middle ground on copyright issues, it's useful to remember that fundamental copyright law in the U.S. *implies* the need for balance.

### *Sivacracy: A risky gamble with Google*

There is one more thing, and it turns out to require extended commentary. Siva Vaidhyanathan published a fairly long essay in the *Chronicle of Higher Education*, also posted on his blog ([www.nyu.edu/classes/siva/archives/002445.html](http://www.nyu.edu/classes/siva/archives/002445.html)): “A risky gamble with Google.” While there are elements of the essay that I agree with, and I *certainly* agree that Google should be treated with caution (as should almost everybody), I find the essay as a whole troubling and unconvincing. Portions of it seem to suggest that private corporations are *inherently* bad; I may find that disconcerting because I work for one (albeit a nonprofit). Come to think of it, New York University (Siva Vaidhyanathan’s employer) is *also* a private corporation...

Vaidhyanathan summarizes, “It pains me to declare this: Google’s Library Project is a risky deal for libraries, researchers, academics, and the public in general. However, it’s actually not a bad deal for publishers and authors, despite their protestations.” I agree with the second sentence. As to the first—well, life is a risky deal, and there’s some risk in any arrangement. Is GLP unusually risky and unwise? I don’t believe Vaidhyanathan makes the case.

He says millions of bound books will be digitized from “five major English-language libraries” and goes on to say it will make available “excerpts from works still in copyright.” The first note is an odd one: Less than half of the books in the Google 5 libraries are in English. The second is misleading albeit factual: Yes, the sentence or two that makes up a Google snippet is an excerpt, but most of us would take “excerpt” to mean something more substantial.

After saying he’s “thrilled and dazzled” by the potential of the project, he says:

But, as we all know, we should be careful what we wish for. This particular project, I fear, opens up more problems than it solves. It will certainly fail to live up to its utopian promise. And it dangerously elevates Google’s role and responsibility as the steward—with no accountability—of our information ecosystem. That’s why I, an avowed open-source, open-access advocate, have serious reservations about it.

Depending on what “utopian promise” you believe Google is making, I’m inclined to agree that it may fail to reach that utopia. So what? Let’s say Google gives up after digitizing half of Michigan’s collection and a total of 100,000 books from the other four libraries: How will this *harm* anyone?

How does GLP “elevate Google’s role and responsibility”? Who makes Google *the* steward “of our information ecosystem”? Is there no room for complementary projects—such as, say, for example, OCA, the Million Books Initiative? Has Google arranged a deal that requires shutting down the rest of the “information ecosystem”? I find no answers to those questions that turn Google into a threat.

Vaidhyanathan notes *correctly* that, although Google has become a “ubiquitous brand,” it still handles less than half of Web searching in the U.S. That would seem to be *less* reason to fear Google as “*the* steward of our information ecosystem.” But somehow, Google “must continue to convince the world that it is the anti-Microsoft,” a case I’ve never heard Google try to make. Vaidhyanathan offers Google a very backhanded compliment: “The damage Google has done to the world is minimal.” Google “seems to provide users a service at no cost” and “we are led to believe that Google search results are determined by peer review” (that is, PageRank). I’m a bit astonished by the apparent view that the net benefit of Google’s index (and the improvements in Yahoo!, MSN Search, and others brought about by competition) is “minimal damage to the world.”

Then he lets loose after quoting two of the admittedly more extreme statements from Google and its cofounder (you all know the first one, and most of you’ve read Sergey Brin’s “The perfect search engine would be like the mind of God.”)

Both quotations should worry us. Is it really proper for one company—no matter how egalitarian it claims to be—to organize all the world’s information? Who asked it to? Isn’t that the job of universities, libraries, academics, and librarians? Have those institutions and people failed in their mission? Must they outsource everything? Is anyone even watching to see if Google does the job properly?

Now I see why I launched into a torrent of unanswered questions above: It’s catching! My responses to Vaidhyanathan’s questions—well, you can guess. Google neither has nor claims *exclusive* rights to organize information. As to the third question—should LexisNexis, Dialog, and every other abstracting and indexing company be attacked for not being a university or library? In practice, no, it’s not the job of universities and libraries to “organize all the world’s information”—at least I don’t believe it’s a realistic expectation. “Must they outsource everything?” They’re not. And if you’re one of us Luddites who be-



lieves full-text indexing doesn't replace good cataloging, libraries aren't "outsourcing" *anything* to Google. Google has ambitious and (I believe) unreachable goals. That doesn't automatically turn it into either the devil or the sole organizer of anything or anyone except the Google index.

Vaidhyanathan claims to "examine the Google Library Project in depth" and you'll have to come to your own conclusions as to whether he does. I'll point out a few troubling items. He says "you can't do much good research" if you're not part of a university community, which is a slap in the face of public libraries and their licensed databases (and, for that matter, some ambitious statewide database licenses). He says "we could solve each of the problems...without Google" if only there was sufficient commitment (read money). He says privacy has been a problem with Google not so much because of the supposed "access to all our search histories" but because people can *find out things* about other people using Google. You put your "long-lost sappy poems" on the internet and are later outraged because Google indexes them.

He says Michigan "abrogated its responsibility" on patron confidentiality by failing to demand a stronger pledge than is in the contract, a serious charge against a major university library. He goes on about the dangers of privatization and connects this to the cost of full-text databases. "Rapid privatization" simply isn't involved: Those databases are made up of in-copyright material published by private publishers.

Here's one where I say, "Perhaps true but so what?": "The long-term risk of privatization is simple: Companies change and fail. Libraries and universities last." Well, the second isn't necessarily true; the first is (frequently) true. He cites the possibility that Google won't be around a century from now as making it "imperative that stable public institutions take the lead in such an ambitious project."

I don't get it. If Google goes under or stops the project halfway through, Michigan (and other participants) have digitized copies of the books they own and still have the print books. *Who's been harmed?* And where does Vaidhyanathan believe the money for a university-led digitization project of this scope and speed will come from? After all, Michigan probably does more and faster book scanning than any other university library—and it *welcomes* the Google project as turning a thousand-year nightmare into a six-year possibility.

There are more what if/what then questions, none of which suggests that any *harm* is likely. If Google Book Search ceases to exist, it has resulted in lots of reasonably high quality scanning: Not a bad thing. Put simply, "the public" is *not going to fund* a Google Book Search equivalent, at least not any time in the near future. If it did, it could be wonderfully complementary—there's a lot of stuff out there.

Vaidhyanathan makes it simple: **Google can't win.** "Beware any corporation that pretends to speak for the public interest." This is in connection with Google's new lobbyist, part of whose portfolio is to defend the notions of internet neutrality and fair use. I think it's clear that Google is lobbying for principles that are in its own interest *and* the public interest, and I fail to see an inherent contradiction in such a notion. I'm sorry if this is offensive, but the U.S. is a mixed economy based on private enterprise. To assert that private enterprise is *always and in all cases* at odds with the public interest is just as absurd as "What's good for General Motors is [automatically] good for the USA."

Then Vaidhyanathan gets to copyright itself. He talks about the "efforts of millions of people to use their own culture as they see fit" and asserts that Google's plan "further destabilizes the system." Apparently, actually *fighting* for fair use is a bad thing, because it could destabilize a system that Vaidhyanathan calls "absurd." Given his feelings about copyright, it's interesting that he says opt-in copying "has worked fairly well in the real world." Really? He then claims that the Google suit has to do with "the norms of the Web (opt out)" versus "the norms of the real world (opt in)."

But that's nonsense. Google is *not* claiming that it has the right to make unlimited use of copyright print materials. It is claiming that it has fair use rights to index the full text of copyright materials, necessarily making a digital copy in the process, as long as that digital copy is not made available to anyone other than the original owner of the material. That's quite a different matter—and I believe Vaidhyanathan knows this to be true.

Vaidhyanathan pushes the badly-decided MyMP3.com case and the sensibly-decided Tasini case as examples to give Google pause, and says it comes down to this: Google shouldn't take the case to court because, if it loses, "the principles of Kelly" (the Arriba Soft case that allowed thumbnail copies of copy-

right photographs) “are in danger. So are future similar initiatives, whether they come from libraries or the private sector.” Later, “A bad loss in the Google case could blow a massive chilling effect across all sorts of good ideas.”

There it is: Fair use is too precious to actually be defended in court. It’s like one of those designer gowns: Lovely on the rack, but if you wore it you might get it dirty. Of course, if fair use is never defended (we might lose, and that would have a chilling effect) then fair use ceases to exist—which is its own chilling effect. Vaidhyanathan says a bad ruling might “frighten university counsels” giving advice on fair use—but it’s hard to see how people could behave *more* timidly in this area! As he notes, “university counsels are already skittish enough.” There’s a circularity here...

Vaidhyanathan is concerned that “Google’s power to link files to people will displace the library from our lives.” But GBS as it applies to copyright materials *will not link files to people*—it will show them what books might be of interest, which they can then pursue in (ahem) libraries. I agree that Google’s indexing power does not “come close to working as a library.” So does Google.

Vaidhyanathan wants “services like that provided by Google Library”—but only if they’re “Library Library” projects. So much for Dialog. Kill off Ebsco Expanded Academic Index. Deep-six all the rest of those evil private indexes: *If libraries don’t do it, it should not be done.* That seems to be the theme here. And here’s the threnody:

Libraries should not be relinquishing their core duties to private corporations for the sake of expediency. Whichever side wins in court, we as a culture have lost sight of the ways that human beings, archives, indexes, and institutions interact to generate, preserve, revise, and distribute knowledge. We have become obsessed with seeing everything in the universe as “information” to be linked and ranked. We have focused on quantity and convenience at the expense of the richness and serendipity of the full library experience. We are making a tremendous mistake.

Someone not nearly as wise or important as Siva Vaidhyanathan once said “and, not or.” He—OK, I—believed that private and public institutions could *and must* work together, and recognized that libraries have *always* worked with private institutions. Google neither demeans nor threatens libraries (unless, of course, librarians say that ‘everything should work just like Google’ and abandon their own principles—

which is not Google’s fault). Google *supports* libraries through word and deed. So do lots of other corporations, to be sure.

“We” have not universally become obsessed with information. “We”—the majority of the public, who use public libraries—have not abandoned the library experience. I dare say many of us have *not* lost sight of the ways people and institutions interact—and *some* of us recognize that some of those institutions are and have always been private for-profit institutions. Was the use of Dialog by libraries “a terrible mistake”? Perhaps. If not, can’t we do a little better than this dismissal of private enterprise as inherently dangerous, unworthy, and—let’s be honest here, “evil”?

An ACRLog post on November 29 responds to that final threnody:

Well...I don’t know about that. We haven’t seen our libraries empty out as information goes online. I think libraries are as likely to be discovered as books are by their collections being searchable. Books will remain a viable format for sustained reading and engagement with ideas even if their contents can be found in snippets online.

But when it comes to the core values libraries have surrendered in order to let Google represent them in court—that’s certainly worth thinking about.

It is—but first I’d like clarification as to how Google is representing libraries in court. It’s defending fair use as defined by its own project. That’s not the same thing. Are libraries surrendering core values? I don’t believe so.

I would like to see more transparency in Google’s confidentiality policy as it applies to GBS. For that matter, if I worked for Google, I’d argue that more transparency in *all* of the Library Project (e.g., making the other four contracts public knowledge if the libraries agree) would serve Google well.

Tom Peters added a charming and elegant footnote in a December 5, 2005 post at the *ALA Tech-Source blog*, “Sinners in the hands of an angry search engine.” Accompanied by an illustration of that thundering preacher Jonathan Edwards (1703-1758), he notes the extent to which “deeper, inchoate fears” seem to be lurking. He finds four such fears made manifest in Vaidhyanathan’s essay:

- **More problems, fewer solutions.** Peters wonders whether that’s a bad thing: “Most developments of this type eventually create more problems... Civilization itself creates more problems than it solves.”

- **The innocent bystanders have the most to lose.** This is a crisp summary of the “defending fair use could damage fair use” theme.
- **Google will kill libraries.** As Peters points out (and Vaidhyanathan says along the way), there’s a lot more to the value of a library than the sum of its books. And, to be sure, GBS won’t *replace* those books, but more likely increase demand for them.
- **Google is the Devil in the guise of God.** There it is, never directly said by Vaidhyanathan but a theme I also picked up: *Beware the corporation that says it does not do evil.* Peters’ last note in this theme: “Perhaps Google is a manifestation of humankind’s hubris.”

This post is another of those cases where I say “I wish I could write like that.” Peters ends:

I find it fascinating that the moral and fear-based facts of this project are frequently hinted at in this debate, but rarely openly addressed. This controversy may reveal—in more ways than we care to imagine—who we are, who we think we are, and who we want to become.

Indeed.

## Interesting & Peculiar Products The Really Big Shew

I’m sure one or two *C&I* readers have *true* home theaters—rooms with proper acoustical treatment, carefully-chosen sound systems, 9 foot screens, controlled lighting and high-end ceiling-mounted front projectors. I’m guessing \$100,000 as a reasonable price, although that may be on the low side. Dozens of you probably have big-screen TVs, at least 50" diagonal, combined with a good surround sound system to give that true cinema feel (without the sticky floors). After all, you can do that for \$5 or \$6 grand, maybe less.

What if you’re not ready to turn over that much cash and—perhaps equally important—don’t *have* that much dedicated space? *PC World* 23:10 (October 2005) offers one example of a solution: Optoma’s \$1,499 MovieTime DV10. It’s a digital projector with 854x480 resolution, which isn’t high definition but should reproduce everything a DVD can deliver. What makes it interesting, though, is that it includes a DVD player and built-in speakers. It’s not as small as some business digital projectors, but it’s only 14.5x4.6x10.7" (and while weight isn’t given, I’d be surprised if it’s more than 10-15 pounds).

When it’s time for a movie, pull it out of the closet and set it up: At a seven-foot throw distance, you get a 74" diagonal 16x9 image. A white wall may do, although a good screen will provide a better picture. You’re not going to get theater-class sound, to be sure—but the image will be “movie-sized” without dominating your room when it’s not being used.

### A Terabyte for Gaming?

According to the Editors’ Choice review in *PC Magazine* (October 4, 2005), the Dell Dimension XPS 600 is a great game machine—but it appears equally suitable for other top-of-the-line uses. It comes with 1GB SDRAM and *two* 256MB nVidia GeForce 7800 GTX graphics cards—but also two 500GB hard drives. (There’s also a dual-layer multiformat DVD burner, a DVD-ROM drive, top-of-the-line Sound Blaster Audigy sound card, and a solid 5.1-channel Logitech Z5500 speaker system.) The machine comes with Windows XP Media Center and two TV tuners (but only standard definition/NTSC), and the 24" wide-screen LCD monitor may do pretty well as a TV. The price is \$4,999, which may not be bad for this variety of übercomputer.

### But How to Back it Up?

Internal hard disk storage may be absurdly cheap and capacious—but external storage isn’t doing badly either. *PC Magazine* (October 4, 2005) gives an Editors’ Choice to Seagate’s External Hard Drive—which costs \$399 but has 400GB capacity. It includes BounceBack Express backup, allowing one-button backup of an internal hard drive to the Seagate (for \$49, you can upgrade to BounceBack Professional, providing automated restore and other advanced and time-saving facilities). Sure, it’s a great way to do fast, capacious backup—but if you’re running out of space on a PC you otherwise like, and you’re nervous about installing another internal drive, it should take you some time to use up an extra 400GB.

### Really Cheap DVD Players

Another in Jim Louderback’s stunning series of “really cheap component” columns in *PC Magazine*, this one (October 4, 2005) recounts his need to buy a cheap DVD player for the bedroom Toshiba TV—a TV he purchased with a built-in DVD player, which went south “barely minutes after the warranty expired.”

He set a \$50 limit and wound up with units from four chain stores—including WalMart but (surprisingly) not including Target. All the players offer progressive scan, all play a variety of recordable DVD formats, MP3 CDs, and others, but they weren't identical in performance. The no-name brand went bad quickly; the Polaroid delivered lousy progressive-scan output. The other three—from companies with some history in home electronics—did just fine. Best of the lot was the \$50 Toshiba SD-K750. So he replaced a defective internal player with a new player from the same company, and probably made the right decision.

### ...and Printers

Jim Louderback's November 8 column looks at ink jet printers that cost roughly the same as the ink cartridges themselves—truly the razor/blade model in action. Extreme cases ship with only a color cartridge and need another \$22 black cartridge to work well. Lexmark's Z611 costs \$30 at Target, \$24 at shop.pcmag; HP's DeskJet 3740 costs \$27 at shop.pcmag and \$29 at CompUSA. Figure \$23 for a Lexmark replacement color cartridge, \$22 for the HP. While Canon's Pixma iP1600 costs \$45 to \$50, that includes *both* black and color cartridges, which will set you back \$45 to replace (for both). The Canon's a better printer than the others. In all three cases, you're basically getting the printer for free.

### Framing Your Plasma

You bought a lovely plasma TV and you don't mind the power bill (plasmas are power hogs). But that 50" display with the sleek silver or black surround doesn't suit your traditional décor—particularly if you have antiques. Eli Wilner & Co. has a solution: A custom frame! Eli Wilner is an art gallery “that specializes in American and European frames from the 19<sup>th</sup> and early 20<sup>th</sup> centuries” and has “nearly 3,000 styles [of frame] available,” according to a blurb in *Sound and Vision*. Once you've paid for the frame, the plasma TV will seem like a bargain: Frames big enough for plasma TVs start at a cool \$10,000.

### Update on the Escient FireBall SE-80

I've mentioned Escient's FireBall controllers previously, mostly as peculiar products: The DVD-100, which cost \$1,999 in July 2004 and mostly served as a controller for DVD/CD megachangers and streaming center, and the DVD-300 (July 2005), which added

a 300GB hard disk so you can rip the CDs—and cost \$4,999. As I noted last July/August, “Man, that's one expensive 300GB hard drive!”

The October 2005 *Sound & Vision* reports on a somewhat less ambitious device, the FireBall SE-80. It includes an 80GB hard disk, a CD-R drive, and various connectivity options. It's for storing, organizing and streaming music, not movies, but the price is a little more rational: \$999. On the other hand, even though it gets the magazine's seal of approval, the reviewer's aware of the reality: “Though \$999 may still seem pricey for what amounts to a modest hard drive and the software to control it...” You think?

### Update on Oakley Thump

There's an error in the Midwinter 2005 snarky comment on this sunglass/MP3 player combo: “\$495 (\$256)” should say “\$495 (256MB).” There's another review, this time in the October 2005 *Sound & Vision*. The capacity has gone up: \$495 now buys 512MB flash memory. The sound is apparently OK, and it's certainly convenient to have earbuds connected to your sunglasses (if you don't need prescription glasses) rather than dangling cords. Three buttons on the right frame control power, pause, and track change; volume controls are on the left.

That's a pricey 512MB MP3 player—but that's not really the issue. I guess style is an individual matter, and both reviews comment on how stylish the glasses are. I'm sure they're somebody's style, but the new picture still shows some of the ugliest sunglasses I've ever seen. Your taste may vary.

### Radius: Back to the Scroll

If you want a true “pocket ebook”—one you can drop into *any* pocket—rollable displays may be key. Philips' Concept Radius is a flexible display that rolls up to fit inside a tiny casing and unroll to be a 5" 320x240 display based on e-ink. The whole device is “a little bigger than two side-by-side packs of gum,” according to a November 8, 2005 *PC Magazine* writeup. The resolution of the prototype is nothing to write home about—figure 80 dpi, way too low for print-equivalent readability—but there's presumably room for improvement.

### The \$100 Laptop

You've certainly heard about it—Nicholas Negroponte is nothing if not a master of publicity for his ideas.

And, as an established prophet, *he's never wrong*—no matter how much reality may differ from his previous inevitable futures. His big deal these days is the \$100 laptop for third-world children: 500MHz processor, 1GB flash drive, WiFi, a modest screen, enough RAM to run Linux—and a hand crank for power. He says it's ready to go as soon as governments order them in million-computer lots.

Cyrus Farivar says “Don't hold your breath” in a November 29, 2005 *Slate* piece. Right now, one issue is the plausibility of the price. Negroponte claims the screen costs \$35; Farivar estimates \$70 for a 1GB flash drive, \$25 for WiFi, \$50 for RAM, and certainly something for the case, the crank, the battery, plus labor, distribution, and all that. He doesn't see how it could be produced *anywhere* for much less than \$300 at today's prices—and, to be sure, even if it can, someone has to support the system.

Negroponte's got a natural out: Only governments can order the machine, they have to order at least one million, and manufacturing begins when five to ten million machines have been ordered *and paid for in advance*. In other words, here's MIT's promise: “Front us a billion dollars for promises and a prototype, and we'll give you cheap notebook computers.” As Farivar says, “Does the Thai Ministry of Education really have a couple hundred million dollars sitting around?” Will *any* government, particularly in countries where this could make a difference, kick in \$100 million or more for unproven devices—machines that *don't exist* except in prototype? If it fails, Negroponte wasn't wrong; governments just weren't courageous or farsighted enough.

As Farivar notes, this isn't the first time a dirt-cheap computer has been marketed. Netpliance marketed the i-opener for \$99—but you had to buy their internet service for \$20 a month. The Simputer was introduced in India in 2001, planned to be a \$200 computer for India's rural poor. “But according to the Associated Press, the brains behind the Simputer have sold only 4,000 of an expected 50,000 units in 2004 and 2005. In addition, only about 10 percent of Simputer buyers live in rural areas. Why? Probably because they have more important things to do than write e-mail.” Farivar also wonders how much good built-in WiFi will do without WiFi access points, likely to be the case in most target markets.

Of course component costs will come down. One still has to wonder. If these laptops really made educa-

tional sense for the third world and could actually be produced at that price or anything close to it, there's someone who *could* front a billion dollars and who obviously cares deeply about making life better in the third world, deeply enough to be spending quite literally billions of dollars.

## Akimbo Video On Demand Player

Apparently, good Americans can never have enough TV. You've got your 80-channel expanded basic cable (“hah!” you scoff, “I've got 250 channels with digital and premium!”). You've got a TiVo or three so you can be seeking out programs while you're asleep and watch them whenever you want. But, you know, *that's not enough*—what if there was an hour when you didn't have eye candy available and had to (gasp) read, or converse, or think (/gasp)?

Never fear! Akimbo's here! For a mere \$200 (plus \$10 a month or \$200 “lifetime”—presumably Akimbo's lifetime or yours, whichever comes first), you get *another* set-top box with an 80GB hard disk and a LAN connection. What does it do? Download DRM-heavy Windows Media 9 files from Akimbo, giving you a “wide variety of content” that you can watch when you don't have enough other TV. You can't do anything with it except watch it—and of the four dozen “channels,” only about half are covered by that \$10 a month. For others, you might pay an extra \$5 a month or \$1.99 per program (Turner Classic Movies, for example).

This isn't high-def TV—in fact, the box doesn't even have component or HDMI connections, only composite and S-Video. It's plain old standard resolution (assuming the WM9 compression wasn't pushed too hard) with stereo sound (no 5.1 here!).

According to the seemingly favorable review in *Home Theater* (December 2005), “The programming is more about eclecticism than, well, favoritism”—in other words, it's a bunch of stuff that Akimbo could lay its hands on. The compression rate is indeed heavy, mostly 1.5 to 2 megabits per second. On a full screen, that's likely to be, shall we say, somewhat less than DVD quality. Although you “could” download video in less than real time, that's not what the reviewer found: A 12-minute cartoon took about an hour to download, and other downloads took about twice as long as the program itself. So it's not *really* video on demand; it's like TiVo but with a more obscure set of content choices, probably lower video

quality—and did I mention that the DRM means some programs will simply disappear after 30 days?

The silliest part of the review: A comment in the “Value” portion of the summary ratings: “Heck, the hard drive alone is worth two bills.” The reviewer needs to get out more: it’s been quite a while since an internal 80GB hard disk was worth \$200. (One computer chain hereabouts is selling 120GB Seagate drives for \$40, with no rebate required. Even external drives don’t go for more than a buck a gig these days.)

## Following Up and Feedback

# Sony BMG and DRM

Most of what’s happened since the last installment is fairly predictable and the best place to follow it is Ed Felten’s *Freedom to tinker* ([www.freedom-to-tinker.com](http://www.freedom-to-tinker.com), “FTT” here). A few brief notes:

- The *other* copy-protection software used by Sony BMG, SunnComm MediaMax, also has characteristics of spyware (FTT November 12, 2005). It installs without meaningful consent or notification—leaving files installed *and active* even if you decline the agreement. The discs include either no uninstaller or a defective uninstaller that leaves the protection driver installed and active. MediaMax transmits information to SunnComm without your notification or consent—even though the EULA explicitly says it doesn’t “collect any personal information.”
- Sony still doesn’t seem to understand the Johnson & Johnson lesson: The best way to minimize problems from a mistake is to react promptly, publicly, and without trying to deny the problem or deflect responsibility. Sony has bought itself a whole lot more bad will than the cost of the pseudo-CDs it’s belatedly recalling because it’s ducking the issues. (*USA Today* November 18, 2005.)
- XCP contains elements of open source programs protected by GPL or LGPL, which suggests that there’s a copyright infringement (since the discs don’t follow GPL/LGPL license requirements). As noted (FTT November 21, 2005), the scale of Sony’s apparent infringement far exceeds the infringement of those file-sharers Sony’s helped to sue (as one of the few large RIAA members).

- The Texas Attorney General and EFF have both sued Sony for violating various state laws (FTT November 22, 2005). The same article notes that MediaMax is troublesome in other ways: It requires that you run Windows XP with administrator privileges to play a CD, and security experts say you shouldn’t do that if you can avoid it.
- How effective is MediaMax? (FTT November 23, 2005) Not very: You can defeat it by holding down Shift while you’re inserting the CD, turning off autorun, or using Linux or a Mac—or, for that matter, by *telling Sony* that you want to move the music to iTunes or an iPod, at which point they tell you how to defeat MediaMax (by burning an unprotected copy of the CD). “The bottom line: MediaMax makes your computer less secure and your music less available for lawful use, while achieving very little against pirates.”
- Sony BMG and First4Internet apparently knew about the rootkit issue before it became public (FTT November 30, 2005) and chose to do nothing about it.
- FTT December 9, 2005 includes “CD copy protection: The road to spyware,” a discussion of why DRM for CDs is prone to problems.
- There’s a *lovely* piece by J. Alex Halderman at FTT December 15, 2005: “Make your own copy-protected CD with passive protection.” In five easy steps, Halderman shows how you, too, can make a “copy-protected” audio CD. All you need is Nero, CloneCD, *two* recordable CDs and a computer with a recent version of Windows. “[W]ho wouldn’t enjoy finding a homemade copy-protected CD in their stocking? They’re a great way to spread holiday cheer while preventing anyone else from spreading it further.”

## Feedback Correction

Fiona Bradley writes *Blisspix*, not *explodedlibrary*. Sure, they’re both Australian, but that’s no excuse...

## ©2 Perspective

# Will Fair Use Survive?

Marjorie Heins and Tricia Beckles of the Free Expression Policy Project (FEPP, a project of the Brennan

Center for Justice at NYU School of Law) have written *Will fair use survive? Free expression in the age of copyright control*. In print form, it's a 67-page 7x10" "saddle-stitched" publication, two columns of conservatively designed, highly readable print, published December 2005. (It's 29 signatures or 76 pages including cover; the text occupies 58 pages, followed by 258 endnotes.) You can order copies by sending email to kafayat@nyu.edu or you can download it as a PDF file and print it yourself. You can also reprint it (it's covered by a Creative Commons license), preferably letting FEPP know if you do.

The report is first rate. **Every library should have a print copy.** Any librarian who cares about fair use—which should be almost any librarian—should at least glance through it, and should probably read it in full. I might differ with the authors on their interpretation of a couple of the incidents noted, but not on any of the major themes or the situation as a whole. This is good stuff—a well-researched, well-documented study of what's actually happening in the area of fair use. Maybe you should skip the rest of this essay and go download the report instead.

### Setting the Stage

That's the short version. The longer version follows. I was flattered by Marjorie Heins' cover letter, which ends, "I hope you see fit to mention the report in *Cites & Insights*. Your commentaries are always tough and thought-provoking." (Two sentences from a four-paragraph letter, included for the purpose of commentary and with no conceivable commercial impact on Marjorie Heins...classic, if trivial, fair use.)

I have a history with FEPP. In September 2004 (*C&I* 4:11) I commented on *The information commons: A public policy report*, taking considerable issue with Nancy Kranich's approach and conclusions. On the other hand, I've mentioned their work quite a few times, usually favorably, sometimes with caveats.

I don't have any serious caveats this time around. My personal sense of *ethical* use might differ from FEPP's sense of what might be *fair* use in one or two of the real-world cases that constitute the bulk of this report. Those are matters of opinion, too minor to even mention here.

The report, prepared in conjunction with the Chilling Effects Clearinghouse, discusses what's happening with fair use—the abuse of cease and desist letters and tendency to avoid uses that may be legally

and ethically appropriate for fear of infringement suits. It's not just theory; it's real-world examples.

If you believe in *balanced* copyright, copyright that serves the needs of creators, users, and would-be creators of new material—copyright that serves "to promote the progress of science and useful arts"—fair use helps maintain that balance. If would-be users must request permission every time they wish to use *any* portion of *any* copyright work, new creations will be crippled.

At the other extreme, if copyright ceases to exist (if anyone can quote or reuse any portion of any published item for any purpose without permission or compensation), many worthwhile new articles, books, and other creations will never be prepared in the first place. Fair use is a key part of the balance, and it *can* be stronger in the United States than in many other nations—but only if it is used and defended.

### Once Over Lightly

A one-page executive summary notes one major purpose of fair use and its trademark equivalents: To assure that "the owners of 'intellectual property' cannot close down the free exchange of ideas." You could say that's not quite right, since ideas aren't copyrightable, but the reality is that as soon as ideas are *expressed* they enter the realm of copyright. "These safeguards...are at risk today" because of cease and desist letters and, perhaps worse, "take-down" notices to ISPs pressuring them to remove online speech without any court ruling of illegality. Additionally, many creative industries push for a "clearance culture"—the idea that *any* quotation requires permission, no matter how small—and educational "fair use guidelines" are probably narrower than they should be.

The summary describes what went into the report: An analysis of more than 300 cease-and-desist and takedown letters; an online survey; focus group discussions; telephone interviews with people involved in fair use situations. They conclude that almost half of the cease-and-desist and takedown letters from the Chilling Effects website "had the potential to chill protected speech."

The introduction includes a brief history of fair use, offers more detail on the practices that endanger free expression and fair use, and discusses activism and alternatives. After a chapter on the legal landscape come chapters on the focus groups, Chilling Effects controversies, telephone interviews, the online

survey, three pages of conclusions, and six specific recommendations.

Here are the recommendations in full:

- 1 Create a clearinghouse on fair use and other free expression issues in IP law, with information that is easily comprehensible and gives practical guidance. Include clear explanations of the DMCA take-down and counter-notice provisions.
- 2 Survey ISPs on their DMCA take-down procedures; then work with them to assure that anyone whose online speech is targeted gets adequate information and help in preparing a counter-notice.
- 3 Create a national legal support backup center, with a network of *pro bono* attorneys and IP law student clinics, and a clearinghouse of legal pleadings and other resources.
- 4 Work with bar associations to assure that educational outreach campaigns deal evenhandedly with fair use. Investigate the possibility of sanctions against lawyers who send frivolous cease and desist letters.
- 5 Work with arts service organizations to investigate possibilities for alternative errors and omissions insurance and for statements of best practices.
- 6 Investigate opportunities for amending IP law to reduce penalties, to eliminate money damages against anybody who reasonably guesses wrong about a fair use or free expression defense, and to create alternative dispute resolution mechanisms whose decisions, if obeyed, would relieve an accused infringer of money liability.

If some of those recommendations don't make a lot of sense, you need the background provided by the report itself. If they do, you need the report to provide evidence to back the recommendations.

I'm not going to go through the whole report chapter-by-chapter or point-by-point. There's too much here and you can read the report a lot faster than I can write such a detailed discussion. I learned quite a bit from the brief history—and even more from the other chapters. (You gotta love Groucho Marx and his response to Warner Brothers, producers of *Casablanca*, when they threatened to sue if he didn't change *A Night in Casablanca*: “Up to the time that we contemplated making this picture, I had no idea that

the city of Casablanca belonged exclusively to Warner Brothers.” The Marx Brothers picture was released; WB didn't sue.)

Just a few notes and anecdotes:

- Most filmmakers today get permission for *everything*, no matter how small, because the Errors & Omissions insurance required before commercial distributors will handle movies doesn't allow for fair use.
- Although specific limits in published classroom-use guidelines are stated as *minimums*, they are often regarded as *maximum* limits for classroom duplication, thus narrowing the scope of fair use.
- Courts are inconsistent in their fair-use rulings.
- Some faculty members believe they can pretty much do anything they want. That isn't helpful—but neither is the idea that every quotation used in a book requires prior clearance.
- One filmmaker wanted to use 10 seconds from *The Wizard of Oz* for an experimental document—and found that the minimum fee was \$5,000 for one minute. “Any more than that, a lot more.” Given the situation with E&O insurance, unfortunately, this person's comment makes sense: “I never even learned that expression fair use. I just thought: copyright—call right away.” The same person wanted to copy from a documentary that turned out to be government work, thus automatically public domain—but it cost \$250 to get a lawyer to *prove* it was public domain before PBS would use the results. That's pretty cheap for legal help, actually.
- One scholar told about not using reproductions of specific works that might have fallen under fair use—because she asked for permission, and when it was denied she didn't feel she had a choice.
- Most takedown letters received by the Chilling Effects Clearinghouse in 2004 came from Google (which removes the challenged listings and replaces them with a link to Chilling Effects). Of 320 letters analyzed, FEPP concluded that 17 had a strong fair use or First Amendment defense; 37 involved weak trademark or copyright claims (if there's no legitimate trademark or copyright, fair use



isn't an issue); 13 involved "reasonable but not strong" fair use/First Amendment claims; and 86 items *might* be defensible based on fair use, but there's not enough information to tell. Roughly a quarter of the letters pretty clearly potentially chilled protected free speech, and another quarter might have.

- When people fight back, they frequently win. Of 17 letters where FEPP believed there was a strong fair use or First Amendment defense, ten people did *not* remove their sites (or temporarily removed and later restored them). In a number of interviews, FEPP found that people who responded clearly frequently got corporations to back off—particularly if they had legal assistance, *pro bono* or paid.
- Some infringement claims border on the bizarre. Remember when *Village Voice* was a radical organ? More recently, the owners sent a cease and desist letter to the *Cape Cod Voice*, asserting trademark infringement and dilution—and saying it had *succeeded* in getting Bloomington, Dayton, and Tacoma *Voice* newspapers to change their names. The *Cape Cod Voice's* managing editor called it "an absurd claim"; the publication kept its name. There's Pet Friendly, Inc., a maker of rope chew toys, which asserted trademark infringement by Pet Friendly Travel and started sending invoices of \$7,000 per week for unlicensed use of the name. Fortunately, various "Pet Friendly" businesses were in touch with each other and ignored the invoices.

The report also includes the perspectives of copyright owners. It draws four major conclusions:

- Artists, scholars and others are aware of fair use—but many are vague about what it means or believe that there are actual numerical limits on what can be borrowed. "There is an urgent need for accurate information."
- Prevailing practice affects the ability to use fair use. In the film world, a "clearance culture" and E&O insurance "have nearly obliterated fair use." At the other extreme, some students, activists and artists "freely appropriate copyrighted or trademarked material for creative purposes." While the report correctly says "more support for fair use and free expression is needed in the communities where

these principles are most threatened," I would add that education and balance are needed where fair use and copyright are abused.

- Substantial numbers of cease and desist or takedown letters state weak claims or seek to suppress material that may be protected by fair use or the First Amendment. "The disconnect between prevailing law and the claims made in many cease and desist or fair-use letters is striking."
- Many recipients of cease and desist letters who resist are not sued—but many recipients *do* acquiesce, possibly chilling protected speech. Unfortunately, with DMCA-based takedown letters, there's little chance to resist or negotiate. Better information might help.

Publications such as this landmark study may help more people to understand the nature of fair use and the need to protect and defend it. Congratulations to Marjorie Heins and Tricia Beckles; a fine job.

## Trends & Quick Takes

# Walking for Watts

That's the headline on a "Pipeline" writeup in the November 8, 2005 *PC Magazine*—and it's a great idea if they can make it work. The University of Pennsylvania has created a power-generating backpack—converting mechanical energy created by walking into 7.4 watts of power. That may require a 40- to 80-pound pack, and it's worth noting that the research was pushed by the Office of Naval Research looking to "assist soldiers in powering portable high-tech equipment during the war in Afghanistan." Note that cell phones and night-vision goggles only require a watt or less.

## Cutting Off Analog TV

The report's half a year old and Congress has since taken action, but it's still worth a quick look: "The digital TV transition: A brief overview," a CRS report for Congress (Congressional Research Service, Order Code RS22217, August 12, 2005). It's about the *legal* transition to digital TV: The point at which TV stations lose the double helping of spectrum they've enjoyed since the U.S. embarked on digital TV, so that spectrum can be auctioned off for other purposes.

TV broadcasters would be delighted to keep the double helping, of course. "We" give them the air-

waves free, and twice as much means making more money. Congress requires that TV stations use the new spectrum allotment for *digital* TV—but that doesn't necessarily mean HDTV. It could mean several channels of standard-resolution DTV or one TV channel and a bunch of other revenue-makers.

When the initial work took place, December 31, 2006 was the deadline for the transition—but with a King Kong-sized loophole: 85% of households must be able to receive digital signals before broadcasters are required to turn over their analog channels. That's just not going to happen by that deadline; not even close. People haven't rushed out to buy HDTV—and many of the HDTVs didn't include ATSC (digital) tuners anyway. (Those are the "HDTV-ready" sets.) That's changing, thanks to a government mandate. Still, while millions of people *have* purchased sets with digital tuners, most people haven't.

If you get cable or satellite, the government can pretend it's not an issue—and for satellite it isn't. You'll just need a new set-top box, if your current one doesn't already have digital support. If you use a cable box, same thing applies—but I'd guess millions, maybe tens of millions of cable users *don't* use set-top boxes, relying on cable-ready TV tuners.

How big is the problem? The National Association of Broadcasters says there are 280.5 million analog TVs in the US, 73 million of them relying on over-the-air broadcasting. That doesn't mean 73 million households, of course: Many of those are second sets.

The GAO estimates that 19% of U.S. households don't use cable or satellite. The FCC estimates 15% of "TV households" (roughly the same thing). The Consumer Electronics Association says 13% of TV households. In other words, "lots"—Consumers Union's estimate of 16 million households that would lose TV reception without analog broadcasting is probably about right. The same paragraph quotes the study (a joint project of CU and the Consumer Federation of America) saying that, assuming an estimated \$50 price for a set-top converter, the "direct government-imposed costs on consumers to preserve the usefulness of [analog TV sets] would be \$3.5 billion or more." Running the figures, that can't be for 16 million households—but that's *just right* for 70 million TV sets.

Most charming quote in the six-page report comes from the National Association of Broadcasters: "NAB's priority continues to be the prevention of cable

companies from blocking consumer access to local TV programming." What NAB *means* is that they continue to give priority to *forcing* cable to carry all local over-the-air programming, digital or otherwise. I've never heard of a cable company "blocking" someone who wants to use an antenna.

## The Gartner Hype Cycle

As technology research firms go, Gartner's one of the more sensible ones. I like their "Hype Cycle" series, even if I only see it indirectly. The Hype Cycle Model follows five stages:

- **Technology Trigger**, where a demo, launch, or the like generates press and interest.
- **Peak of Inflated Expectations**, a "phase of over enthusiasm and unrealistic projections" where "the only companies making money are conference organizers and magazine publishers." (Anyone else old enough to remember Microsoft's CD-ROM conferences before there were enough CD-ROMs to make an industry? *Microsoft* made money—from the conferences.)
- **Trough of Disillusionment**: Since it doesn't live up to absurd promises, people shun it.
- **Slope of Enlightenment**: For developments that *have* a future, "focused experimentation and solid hard work" by diverse organizations "lead to a true understanding of the technology's applicability, risks and benefits."
- **Plateau of Productivity**: When real-world benefits are accepted and organizations adopt a technology.

Of course, 80% of hyped thingies never make it past the Trough of Disillusionment because they don't have enough benefits to outweigh the costs—but that magic 20% keeps us moving forward.

The press release on the 2005 Emerging Technologies Hype Cycle doesn't label the 13 specifics as to where they are on the cycle, but seems to be saying that these are ones to be watched. They fall into the areas of collaboration, next generation architecture, and the "real world web."

There are interesting notes of caution within the bullets on the 13 items. Gartner seems to believe that podcasting "will lead to a massive shift in radio, and ultimately TV content delivery" (really?) and that PwP VoIP will be important—but notes that desktop search hasn't caught on with consumers all that

widely, corporate blogging is more hype than reality at this point, and RSS is only starting to be tapped in corporations. “Gartner predicts that RSS will be most useful for content that is ‘nice to know’ rather than ‘need to know’”—an interesting distinction. Gartner’s strong on wikis.

Moving to next-gen architecture, Gartner thinks SOA (service-oriented architecture) is at the Trough stage and expects it “to mature as a technology within ten years.” Web services-enabled business models are “potentially transformative” but “have to wait for more-mature standards and clearer examples.” I’ll skip over Extensible Business Reporting Language (XBRL) and Business Process Platforms as too arcane for my feeble brain.

“Real-world web” examples include location-aware applications (fleet management, worker tracking, etc.), passive RFID (“somewhat over hyped in recent years” but with growing uses), and mesh sensor networks.

Jackie Fenn of Gartner looked back at a decade of Hype Cycles, considering the technologies discussed in 1995. It’s an interesting perspective, worth quoting in its entirety (all this is excerpted and paraphrased from a Gartner press release, but it’s a good one):

“Wireless communications have exploded into hundreds of underlying technologies, standards, and applications, and the information superhighway has manifested itself through the Internet and World Wide Web to drive ubiquitous information access, new forms of community and whole industries built around online commerce. However, some technologies didn’t fare so well; video-conferencing, handwriting recognition and speech recognition are still featured ten years later on the 2005 Emerging Technologies Hype Cycle as they struggle toward mainstream adoption.”

## The Final Triumph of Convenience over Quality?

If you ask Peter Adderton of Amp’d, as reported by Adam L. Penenberg in *Wired News* (August 25, 2005), “the future will be composed of mobile entertainment at 60mph,” given that the mutant KTD really and truly want to do *everything* on their cell phones. Don’t they? Amp’d calls itself “the first mobile service to target young adults.” Addison says “everything you can do at home—watching TV, viewing movies, listening to the radio or your iPod, downloading music, accessing MapQuest or global positioning systems—you’ll be able to do on a bus, in your car or walking down

the street.” On a cell phone. Somehow, this also involves WiFi and satellite radio to “create an unbelievable social device.”

I’ll skip over the thought of idiot drivers being even *more* distracted watching TV or movies on their cell phones while rolling down the road at 60mph (probably in a 35mph zone, the way phone-using drivers seem to pay attention). I’m astonished by the idea that people believe it makes sense to watch TV (other than maybe news) and movies on a cell phone. I assume these are the same people who think 96k MP3 has all the sound quality anyone could want.

Adderton thinks we’ll all use “wireless entertainment devices” to waken us up (alarm clocks are so 19<sup>th</sup> century). The device will be voice-activated so you can say “play some Nelly” after you’ve offered appropriate comments about the alarm. That same device will turn on your TV (won’t it *be* your TV?) and “surf the internet on your computer (won’t it *be* your computer?). There’s lots more in this convergence-happy story.

Bizarrely, Penenberg says that “anyone who has set up a wireless network at home” won’t find this vision far-fetched. Really? I set up a wireless network, I guess: After all, my broadband router supports 802.11g and my wife connects from her notebook wirelessly. I sure find this vision far-fetched...

We’ll be linking *all* WiFi networks so that the cell phone can work everywhere. Security, presumably, won’t be a problem. Of course, you’ll have to subscribe to get any of that content—and if you note that ringtones cost two or three times as much as music downloads (which is also a little bizarre), you can guess that the mobile subscription rates might not be dirt-cheap.

Maybe that old network guru Barnum is right, and these new services will find 1,440 willing new customers coming along every hour—people who don’t care about quality, security or price as long as they can get it all on that magic handset.

## Personalization or Privacy

Alane at *It’s all good* has argued that libraries should offer more personalization and responds “Bull-pucky” to the argument that protecting privacy is more important. She suggests research into “what amount of privacy our communities expect from library OPACs”—to which I’d respond that this may be the wrong question, since librarians should understand

the reasons for that privacy better than the patrons do. “I’ve said many times that the data show people will give up privacy for personalization features”—which, I would say, does *not* justify doing so.

In any case, she reports in an August 16 posting, the 2005 National Personalization Survey says she’s wrong—which I find refreshing (not that Alane’s wrong, but that consumers are increasingly unwilling to provide personalization information because they fear loss of privacy).

Ah, but, Alane continues, the same survey finds that about a third of consumers would buy more music or videos if they find more that they like, so businesses (and libraries?) need to find ways to personalize “while visibly ensuring the safety and security of consumers’ information.” She does note that the company doing the survey is in the personalization business.

Most companies that personalize don’t do that great a job of reassuring me that my preferences are private. In principle, I have nothing against personalization as long as confidentiality and privacy can be assured—although there may be other issues with *extreme* personalization. So I’m with Alane on this being “the sort of challenge librarians should accept.”

### The Downside of Collaborative Filtering

That’s the title of a September 27, 2005 post at *hangtogether.org* by Merrilee Proffit (a colleague at RLG). She notes an article in the *San Jose Mercury News* (originally from the *LA Times*) on such downsides and considers some of them.

“The first downside is dumbness.” So, for example, if you use Amazon mostly to buy things for other people, chances are the recommendations look pretty dumb. Another kind of dumbness: You’re going somewhere and buy travel guidebooks. You come home—and get lots more guidebook recommendations for the same place. Merrilee thinks the first kind of dumbness doesn’t apply much to scholarly research (most people don’t do research for other people that often), but the second would (once a student’s done with a paper, they don’t need more recommendations on that topic).

The other side is the one that bothers me about personalization as well as collaborative filtering: Narrowness, which when taken to extremes or used in areas such as “MyNewspaper,” becomes a sort of solipsism. The newspaper article talks about “society

[balkanizing] into groups with obscure interests”—which is OK up to a point, but leaves out the other side, serendipity, the rest of the world, and all that.

“How do we interject chance and opportunity into recommending systems?” That’s a good question, and it’s a question that applies to some if not most personalization systems as well.

### Speaking of Filtering...

Remember back when the Rhode Island ACLU reported that libraries were overfiltering and failing to unblock sites on request? Some of us hoped this would result in an as-applied challenge to CIPA, but ACLU chose not to mount such a challenge (which might not have been feasible: If at least one library *was* handling it properly, the suit would be against the libraries and their censorware options, not against CIPA itself).

There’s been some progress. The Cooperating Libraries Automated Network (which includes most Rhode Island public libraries) made its filtering/censorware policy less restrictive and sent public libraries instructions on how to turn off the filters. Unfortunately, according to the ACLU, four libraries chose to *add* blocks beyond CLAN’s minimum option, which would appear to be a direct and deliberate censorship case. Some good news, some bad news.

### What Feeds Matter

Energy. No, sorry, it’s not a question—or at least it’s not *that* question. Jim Lanzone of Ask Jeeves did an October 7 update on “blogs that matter” based on the number of subscriptions in Bloglines (owned by Ask Jeeves). As noted by Gary Price at *SearchEngineWatch*, here are the three-month-old numbers. Since then, the numbers have changed, but probably not all that dramatically. Consider these numbers in light of estimates of the overall number of blogs at anywhere from 20 to 100 million:

- 1.3 million feeds (which represent *fewer* than 1.3 million blogs, since some blogs have multiple feeds and there are RSS feeds other than blogs) have at least one Bloglines subscriber. Those are the “feeds that matter.”
- 36,000 feeds “really matter”—they have at least 20 subscribers.
- 14,363 feeds “really, really matter” with 50 or more subscribers.

- 437 are “totally sweet” (Lanzone is joking about all the terms) with 1,000 or more subscribers.
- 60 have at least 5,000 subscribers—the “A list” by most reckonings.
- The most subscribers: more than 50,000—and that’s Slashdot, which I don’t think of as a blog.

I’d guess a current count would find a hundred or more library-related blogs that “really, really matter.”

## Tracking Your Color Printouts

Feeling a little paranoid? If you own a color laser printer or use one at work, maybe you have reason. According to the Electronic Frontier Foundation, as reported by Ed Felten at *Freedom to tinker* on October 18, some color printers put hidden marks on the pages they print, making it possible to track a print-out to a particular printer.

Xerox DocuCode printers, for example, print an array of very small yellow dots “all over the page.” Felten says you can see the dots using blue light and a 10x magnifier. It’s not just paranoia: The U.S. Secret Service admitted that it struck a deal with “selected color laser printer manufacturers” to print tracking information, ostensibly to identify counterfeiters. Xerox admitted providing tracking dots, “but indicated that only the Secret Service had the ability to read the code.”

That simply wasn’t true, at least for Xerox DocuColor: The code looks to be pretty straightforward. As Felten notes, once you know it, you could probably forge the marks—that is, add marks providing false information using a printer that *doesn’t* do its own marking. Felten wonders why the codes don’t at least use minimal cryptography.

At [www.eff.org/Privacy/printers/list.php](http://www.eff.org/Privacy/printers/list.php) you’ll find a list of printers that “do or do not print yellow tracking dots,” although “do not” just means that EFF couldn’t find any yellow dots (there may be other “forensic marking”). Xerox admits to the marks on Xerox (but not Xerox/Tektronix) and Xerox DocuColor and WorkCenter color lasers. Toshiba also admits to the marks. Experimentation shows tracking dots on printers from Brother, Canon, Dell, Epson, Konica/Minolta, Kyocera, Lanier, Ricoh, and *some* models of HP and Lexmark.

You probably already know that many image-manipulation programs (and some copiers, I believe)

won’t handle images of currency (U.S. dollars and some other key currencies); that’s also by agreement with government agencies to deter counterfeiting.

## What’s the Matter with KTD?

Jack Shafer comments on a November 7, 2005 *USA Today* story about “Generation Y” in the November 8, 2005, under the heading “Stupidity on parade.” The story says GenYers are “young, smart, brash.” Shafer notes, “of course they’re young,” since they were born after 1977! “But to assert that all Gen Yers are ‘smart’ and ‘brash’ defies reason. If they’re *all* smart and brash, they’re the first generation in human history to defy the bell curve and realize such uniformity.”

He goes on to quote a few of the generalizations for these mutants:

This generation...is different from any that have come before... This age group is moving into the labor force during a time of major demographic change... They have financial smarts... Work-life balance isn’t just a buzz word... Generation Yers don’t expect to stay in a job, or even a career, for too long... They believe in their own self worth and value enough that they’re not shy about trying to change they companies they work for... And then there’s Gen Ys total comfort with technology... Nearly half of employers say that younger employees are dismissive of the abilities of their older co-workers...

Heard any of this before? Applied to GenXers ten years ago, perhaps? Applied to Baby Boomers by the previous generation? (Well, I don’t know about “financial smarts,” but are GenYers the same people paying \$2.95 for ringtones?)

I’m not sure I buy one of Shafer’s comments: “What rising generation *didn’t* hate the previous generation?” That’s as slick and phony a generalization as any of those in the *USA Today* article. Otherwise he’s right: The article could have been written about most any generation—and most of those generalizations are wrong *as generalizations*.

Tell me there are no 22-year-olds who are in serious financial trouble or who have problems using technology or who are more interested in making their own way than changing their companies or who work way too hard to maintain life balance. For that matter, tell me no 22-year-olds value the opinions of their elders. I don’t buy it, any more than I buy the similar generalizations made about—and sometimes by some members of—GenX.

## Some Technologies will Annoy

That's the title on a November 8, 2005 *Wired News* piece by Joanna Glasner, based on interviews with various "professional futurists." This time around, the futurists are noting "things that sound better suited for a *Jetsons* set than a real-life home or workspace" and "technologies that sound neat, but probably won't inspire us to open our wallets." See if you agree:

- **Smart refrigerators.** "[D]on't expect even hard-core gadget lovers to be lining up to buy them." "Few people see much need for a refrigerator that does things like monitor groceries and self-create shopping lists," and most refrigerators last a lot longer than most operating systems. Ian Pearson has a better solution for "info addicts": Attach a pad to the refrigerator door. (That's what we've done: Even cheap Highland self-adhesive pads stick just fine.)
- **The networked home.** This seems to be a constant dream or projection—every switch and device with its own internet address! "It all sounds good until you envision downloading the latest security patch and having to worry about whether a virus will simultaneously shut down your PC, stereo and toaster." Pearson, again, imagines a parent trying to get three kids ready for school and finding that the home network that controls *everything* needs an upgrade: "You're going to go straight to your garage and get a sledgehammer."
- **Mobile video phones.** They're here—but do most people really want them? Why?
- **Light revolution.** Yes, OLEDs have significant uses—but nobody knows *how* long it will take before they're ready to replace home or car lighting or big-screen TVs. The efficiency would be wonderful, but it's not going to happen this year or next.
- **RFID.** Yes, it's here already—but it won't reach ubiquity for quite a while, maybe a decade or more.
- **Security.** What are you willing to spend or do to feel secure?

I'm so glad to see "futurists" saying that maybe smart refrigerators and wholly networked homes aren't inevitable successes or necessarily desirable.

## Quicker Takes

As his editorial in the special *PC Magazine* "20 years of Windows" issue (24:19/20), Michael J. Miller offered a list of "what Microsoft has done right...and wrong." It's an interesting list, partly because it's easy to forget how much it's done right.

**Right:** Creating a standardized platform; supporting developers; encouraging software innovation; and "being stubborn" (sticking with difficult projects until they're done). **Wrong:** Not paying enough attention to security; not making Windows stable enough (although XP is much better); making Windows too complex (DLLs and the Registry sound great in theory, but in practice...); stifling innovation (yes, Microsoft both supports and stifles innovation); and taking its time to release new features.

- This is probably so late as to be useless, but in case you didn't know, ACRL has started a group blog, *ACRLLog* ([acrlblog.org](http://acrlblog.org)—yes, the domain and blog name aren't spelled the same). It started in mid-October 2005. Steven J. Bell appears to be the driving force and is one of several bloggers, along with Barbara Fister, Kevin S. Clarke, Marc Meola, and Scott Walter. It's off to a promising start.
- University libraries don't care about books any more—or do they? According to the University of Chicago *Chronicle* 25:4 (November 3, 2005), a poll of 5,700 students' library usage habits shows that use of electronic resources is *not* "crowding out use of libraries for research using conventional stacks, reference materials and other physical resources." The planned expansion of the Joseph Regenstein Library will add *on campus* space for 3.5 million (additional?) volumes, creating "one of the most voluminous collections of library resources under one roof in the United States." Sure, most use of journals is online—but usage of other physical materials is up, and "the survey tells us very clearly that heavy digital media users are heavy physical media users and vice versa."
- When I grouched about epaper (specifically a thin *plastic* sheet with display capabilities) being suggested as a way to make cereal boxes more enticing, I was hoping it was a joke. No such luck. A December 15, 2005 *Wired News* story says it all: "E-paper's killer app: Packag-

ing.” Siemens says “in less than two years” we’ll have cereal boxes with flashing pictures thanks to their photochromic material; ultra-thin batteries will supply the power for the ever-changing wrapping. Maybe even *color* at 80dpi (nowhere near book resolution, but enough to make for thoroughly annoying consumer goods). I’m delighted to see that some other knowledgeable people don’t buy Siemens’ assurance that this stuff can be manufactured consistently and cheaply—and at least one observer suggests that the whole idea of flashing cereal boxes is nuts. Siemens claims a 1x2" display would cost \$0.30 (so at least only a *little* of the box would be flashing), a cost that would certainly be passed along in the cereal. Nobody commented on what a plastic/battery/chemical/paper laminate does to recycling. The city I live in already beats California’s 50%-waste-diversion standard and this sort of hyperconsumerist crap won’t help matters. “What ebooks? We’re *selling cereal!*”

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## My Back Pages

Silly comments. Quicker takes. Stuff that could be on *Walt at random* but isn’t. Noteworthy items that don’t fit elsewhere—noteworthy for good, bad, or just plain ridiculous reasons. Mostly short (I hope), some a little longer. The occasional helpful hint. Ideally, the kind of stuff that makes back pages special in so many magazines. And it’s just for you, the readers of *Cites & Insights* in its integral form: MY BACK PAGES will not appear in HTML form.

### 20 things they don’t want you to know!

Wowzer. Now *there’s* a cover story—suitable for *National Enquirer*, *The Star*, or...*PC World*? Yup, that’s the big-type cover for October 2005, with three smaller sub-headlines: “Undocumented Windows tips,” “Surprising money-savers,” and “Insider upgrades.”

With such a wonderfully paranoid attention-grabber, I really want to know who *they* are and why *they* don’t want me to know this stuff. It must be hot! The contents page blurb tells us who “they” are—

“tech companies” and their motive: to keep us from saving money. “We reveal some things they hush up.”

The contents page provides one of those deep dark secrets: “Extended warranties rarely pay for themselves.” *What?* You mean after all those years of *Consumer Reports* telling us that most extended warranties are high-profit wastes of money...they were right? Why didn’t they tell us? (Oh, wait, they did: Over and over and over again, as has pretty much every consumer advice column around.)

Other deep dark secrets: “Most CPUs can be overclocked” (but you might damage your computer and lose your factory warranty). “You never have to pay full price” (a wildly misleading headline that boils down to “if your time isn’t worth much, you can save a little money”). “Faster shipping isn’t always faster” (using the example of Reno or Fernley, Nevada to San Francisco: *of course* USPS regular mail or UPS ground will usually take two days!). Digital zoom doesn’t work as well as optical zoom—as nearly every review source has said repeatedly. Most LCD display manufacturers won’t replace a display with one or two dead or stuck pixels. Cell phone service providers deliberately lock discounted/free phones to their service.

A real shocker: “High-end manufacturers don’t always make their products.” For years, *PC Magazine* noted the *actual* makers of notebook computers (rarely the name on the box)—and, surprise surprise, Dell doesn’t actually own an LCD panel factory! Most PC speaker wattage ratings are meaningless. (*All* PC speaker wattage ratings are meaningless, since you can’t separate the speaker from the amplifier. 50 watts into an inefficient speaker won’t provide as much sound as 10 watts into a highly efficient speaker.)

*They* don’t want us to know this stuff? There might be three or four tips in the whole article that represent new information. But paranoia sells magazines, I guess.

### Name that process?

I’m not piling on *PC World*. That same October 2005 issue has a truly helpful hint in Harry McCracken’s Up Front: How to identify all those mysterious processes in Task Manager. You need Process Explorer, a freebie from Sysinternals (a name you may recognize if you’ve been reading about the Sony BMG rootkit situation). Go to <http://www.sysinternals.com/Utilities/ProcessExplorer.html>. It won’t tell you everything, but it will attach each active process to an application and give

active process to an application and give you more details than you might want to know.

## Dvorak Strikes Again

John “I’m never wrong” Dvorak scores another blow for rampant ridiculousness in his October 4, 2005 *PC Magazine* column. He demonstrates conclusively that cheap, massive disk storage is “driving laziness and global stupidity.” (His evidence: People don’t clean up their disk drives when they can’t possibly fill them, TiVo means “you don’t have to pay close attention to your TV anymore,” and “reading has become more difficult” because podcasts can be replayed instantly. Right.) Actually, Dvorak may have a point: His new PC has 1.2TB capacity, and the level of stupidity in his column seems to be rising rapidly.

## John Dvorak is Never Wrong

The “I’m never wrong” line above comes from another incident, recounted at *Walt at random*. Excerpting from that post:

John Dvorak’s July 18 *PC Magazine* column, titled “Creative Commons Humbug,” began with the question “Will someone explain to me the benefits of a trendy system developed by Professor Lawrence Lessig of Stanford?”

Dvorak proceeded to say, “This is one of the dumbest initiatives ever but forth by the tech community. I mean seriously dumb. Eye-rolling dumb...” “Creative Commons actually seems to be a dangerous system with almost zero benefits to the public, copyright holders, or those of us who would like a return to a shorter-length copyright law.” He ends, “Will this nonsense ever end?”

Someone called him on it, explained how difficult it is to voluntarily reduce your copyright rights (without abandoning them altogether), and so on. And here I quote Donna Wentworth’s October 28 post at *Copyfight*:

“So will Dvorak write another column admitting that he was wrong? Not so fast. Explains Dvorak: ‘My column was never wrong, my column was questioning...I was saying ‘I don’t get it, will somebody explain it to me, please?’...Sometimes you’ve got to go public with your bafflement, which I do...’”

Isn’t that wonderful? You can attack something outright, call it nonsense, belittle it, and so on—and as long as you include at least one question somewhere—“What is this all about anyway?” should do as an all-purpose question—you never have to admit you’re wrong. You were “questioning.”

## Paying for Pipes

The always-interesting Ed Felten had a post on net neutrality and competition at *Freedom to tinker* on Oc-

tober 31, 2005. He notes that Ed Whitacre, CEO of SBC (or is it AT&T now?), offered the following comment about “Internet upstarts like Google, MSN, Vonage and others”:

How do you think they’re going to get to customers? Through a broadband pipe. Cable companies have them. We have them. Now what they would like to do is use my pipes free, but I ain’t going to let them do that because we have spent this capital and we have to have a return on it. So there’s going to have to be some mechanism for these people who use these pipes to pay for the portion they’re using. Why should they be allowed to use my pipes?

The Internet can’t be free in that sense, because we and the cable companies have made an investment and for a Google or Yahoo or Vonage or anybody to expect to use these pipes [for] free is nuts!

As Felten points out, Whitacre shows “amazing disrespect” for all us SBC customers *already paying* for SBC broadband. “SBC says I’m paying for access to the internet—which presumably means *I’m paying* for the portion of the pipe that Google or MSN or whoever’s using when I’m on their site.

Felten’s conclusion: Whitacre wants to extract payments because he can—or, rather, he *thinks* he can. So far, I’d rather deal with SBC than Comcast, but if this nutso proposition went forward, I could switch pretty fast...not because I’m in love with Google, but if this kind of both-ends ripoff proceeds, *everyone* gets hurt.

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## Masthead

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