Cites & Insights

Crawford at Large

Volume 3, Number 4: April 2003 ISSN 1534-0937 Walt Crawford

Perspective

A Zine is Not a Weblog

Cites & Insights is not a weblog—but it's been mentioned in that category more than once. That bothers me. One or two people responded to my rant about LITA communications by offering the obvious solution: Instead of resurrecting the *LITA Newsletter*, LITA should establish a weblog. Maybe LITA should establish a weblog—but the idea that this is *the* solution to a communications problem bothers me.

There's a connection. It's the same connection that had some early innovators believing that the Internet would become Gopherspace by the mid-1990s—because Gophers are (or were at the time) *the* solution to organizing messages for accessibility over the Internet.

Some of My Best Sources are Weblogs

I read several weblogs five times a week. I use them as filters and inspirations for reading and writing. Most weblogs I check aren't online diaries or journals. They're topical blogs, less intensely personal and sometimes with multiple contributors. They're not all library-related; I check several weblogs on copyright, censorware, access, and journalism.

Herewith, comments on various weblog-related interchanges and documents. Then, some perspective on why *Cites & Insights* isn't a weblog and why I don't do a weblog. Most people mentioned here *do* produce weblogs—and these are all people whose work I admire and respect.

Edward Felten (weblog: Freedom to Tinker)

Felten (Princeton—remember music watermarking and the DMCA?) established this weblog a while back. It's primarily personal commentary that sometimes includes links, sometimes doesn't.

In a brief email "conversation" (related to the December 2002 "Crawford Files"), he noted that he's been thinking a lot about the distinction between unfiltered blog postings and polished "official" writing. "For many purposes, blog writing is the preferred medium. True, the content would be improved by editing; but sometimes the best course is to toss the ideas out there quickly and see how people respond. Blogging works best as a sort of conversation and as an outlet for ideas that aren't big enough or good enough to merit the investment of full-on editing."

Felten is a scholar who *does* publish scholarly papers and other edited work—and "tosses ideas out there" with a style and elegance that few of us reach *after* editing. Freedom to Tinker combines deep thought and a conversational tone. He doesn't feel the need to post every day—and he does include casual essays that border on the length limits for online reading. Freedom to Tinker is a blog—but it's a blog in the zine mode. If *Cites & Insights* was a weblog (and if I was a much better writer and thinker) it might be in the style of Freedom to Tinker.

Inside This Issue

Guy Aron (weblog: eprintblog)

When Aron confirmed that I could use his comments on librarians and self-archiving ("Feedback & Following Up," *Cites & Insights* 3:3), he added notes that generated a brief to-and-fro about weblogs.

He noted "subscriptions" to weblogs using a bloglet sending out email notes when weblogs are updated, which he found to be "an incredibly powerful aspect of blogging." I noted that I *personally* prefer to use weblogs as a "pull" medium—I go check on them—but that this bloglet and RSS feeds (as I understand them) turn blogs into sort of a push medium…and that *Cites & Insights* is a "push-pull combo" (with list notifications but pulled issues).

Aron explained the difference between the notification bloglet and RSS. He also recognized a difference between newsletters and weblogs: "The former are updated all in a chunk, whereas the latter are updated incrementally (for want of a better word). Discussion lists are something else again… Of course weblogs with a commenting facility are blurring the distinction here."

Steve Bowbrick (*The Guardian*, February 4, 2003)

Steve Bowbrick wrote "Secret of their success" with the tag line "The best blogs are written with conversation in mind." Bowbrick "blog(s) a great deal, and I read other people's weblogs all the time." He thinks of good blogging as a kind of conversation—invitations "to start a dialogue."

Bowbrick believes such conversations can be "of the highest quality, fuelled by the open-mindedness of the blogger and continually refreshed by provocation from readers." He regards bloggers who "permit this kind of participation" as "pretty special people"—they "need enough self-confidence to let someone else have the last word and to admit that there is nothing finished about their ideas." He expects open-ended weblogs with lots of gaps to fill in to become more popular and "closed or dogmatic blogs" to "struggle and fade."

Steven Cohen (weblog: Library Stuff)

Steven Cohen changed the focus and software for "the Stuff"—moving to Movable Type and deliberately reducing the flow of links-with-brief-comments to focus on his own thoughts. He felt that there are enough library weblogs doing similar things, with LISNews doing the "library news" thing best. So far, so good—Cohen had been and continues to be a contributor to LISNews, and his changed approach makes the Stuff more distinctive.

There was a formatting problem with the change, which I grumped about (and which Cohen changed). When I thanked him for the change, I also commented that I'd stepped into Jenny Levine's "Shifted Librarian" epiblog (epic weblog?) after a long absence. One of her many posts that day was a paean to RSS along her usual lines of "everybody *must* do this because it's the only way things should work." She bragged that she'd scanned postings from 192 different sources in less than an hour, only possible because RSS aggregates all her chosen sources and topics into a single stream.

Here's what I said to Steven: "My first response to being able to look at 192 sites in an hour is, 'That's about 170 sites too many to draw any coherent conclusions or to actually read, as opposed to glimpse.' But what do I know?"

Cohen responded that he firmly believes in RSS but always advocates not using it exclusively—and believes that only a few librarians do so. He agrees that it makes sense to read a limited number of professional weblogs (15 to 20 in his case); he also reads personal weblogs because he enjoys online reading and taking a break from librarianship.

Steven Cohen uses RSS, *as one of several methodologies*, because it suits his needs, habits, and styles. I don't use RSS because—*at the moment*—it doesn't suit mine. In other words, as usual, we're both right.

Blake Carver (weblog: LISNews) and Brian Kenney (*Library Journal* and *netConnect*)

I recommended Blake's "Is it time to get blogging?" article in *Cites & Insights* 3:3, citing it as appearing in the January 15, 2003 *Library Journal* and taking issue with the subhead "A new alternative media." Within a day, I'd heard from Blake and from Brian Kenney, who edited the article. Kenney noted that Blake's article actually appeared in the *netConnect* supplement and took the blame for using "a…media." "What I was thinking about was how weblogs relate to 'the established media.'" (In particular, how library weblogs relate to *American Libraries*, *Library Journal*, etc.)

In email conversation, Blake noted that "C&I is quite blog-like…the format and frequency don't quite fit, but the content is bloglike. Of course, fitting what you do into the blog definition is probably backwards…" One note within the email was particularly interesting, since it relates directly to the different styles and philosophies of weblogs. Paraphrasing, Blake suggests that (some) weblogs are more like email than articles—the bloggers just keep typing and think about what they've typed later. That's clearly true of many weblogs—but few of those that I check regularly, I believe. While I have the greatest regard for Peter Suber's thought processes and depth of understanding, there's *no way* that his FOS weblog entries, or Edward Felten's gems, come about because they "just keep typing…" (If I'm wrong in either case, I might give up writing altogether because of overwhelming inferiority.)

David Bigwood (weblog: Catalogablog)

Bigwood was one who suggested, based on *Cites & Insights* 3:3, that a weblog might be a better way for LITA to improve communication. I commented on why I didn't agree and, through an email interchange, why we might both be right—that is, why LITA might benefit from a collaborative weblog *and* from a "publication" that brings together longer reports. In his response, Bigwood noted that "long essays do not work in 'blogs" and that "I'd not wish C&I to change format, for example." The next day, the following essay appeared on Catalogablog. I asked and received permission to quote portions:

> Web logs, what are they good for? Steven M. Cohen recently addressed the issue of why we write them, but why do we read them? In what instances do they work?

> Here are my views. First, they are one-to-many or a few-to-many format. Topics that require give and take, a conversation, would not work well on a 'blog. A message board, Wiki, phone or other method would be a better method if discussion was required. The tag boards and comments features are not enough to carry on a discussion. Everyone is a broadcaster on a Web log.
>
> 'Blog items are arranged in a chronological order. That is a valid method of accessing information in some circumstances. We have accession books (or used to) and chronologies in our collections. However, much information requires a different structure and presentation. Some 'blogs do have categories; The Shifted Librarian has posts by categories. That is not how we approach the site, that is an added tool. A text with an index is not an index. A book that arranged words by the date of usage would be interesting but not much use as a dictionary.
>
> Web logs are on the Web. Reading a screen is not conducive to long passages. I'm currently working my way through *The Nature of a Work* by Richard P. Smiraglia. I would not read that as a Web page. It challenges me as a book, if I had the additional challenge of reading on a screen, it would be totally beyond me. The Web does provide the benefit of adding links and most 'blogs take advantage of that.
>
> So 'blogs are useful to communicate short items presented in a chronological order, from one-to-many. News items jump to mind, or as pointers to more in-depth information. They have the advantage of being available as RSS feeds or e-mail. That is user friendly. That is why I read them. I'll not give up going to meetings and conferences, reading book and magazines, watching TV, movies and DVD.

This is another case where I find it hard to believe that Bigwood "just kept typing." It's almost tempting to scrap the rest of this commentary, take Bigwood's five paragraphs (336 words—a "long" weblog entry, but well within screen-reading limits), and add "Exactly. That's why *Cites & Insights* isn't a weblog—and much of what's wrong *and right* with weblogs."

Bowbrick regards weblogs as conversational. Bigwood does not. They're probably both right.

Geoffrey Skinner ("Filters and rogue librarians: weblogs in the library world.")

This lengthy piece (21 print pages from www.stanford.edu/~gskinner/mlis/289/weblog/weblog.htm, plus an eight-page appendix) is a student paper (San Jose State MLIS program) that shows thorough research and considerable thought. I **recommend** it if you're thinking about using weblogs in your library—and maybe you should be. Skinner notes the brief history of blogs and some fundamental disagreements among weblog "gurus." He notes key library-related articles on the topic and some varieties of weblogs, discusses technology basics and some existing library blog uses. (Skinner considers Marylaine Block's "Neat new stuff I found on the Net this week" to be a weblog; I don't.) The heart of the paper, to my mind, is in the second half: A thorough discussion of planning for library weblogs and a case study.

Dana Blankenhorn (weblog: Moore's Lore)

Blankenhorn's weblog concerns new technology; a February 24 entry is entitled "What's a blog?" The most relevant sentences:

> Blogs can be journalism… They can be opinion. They can be links… I should add they can also be groupware—blogging is great for closed groups. Blogging is a tool, like word processing or HTML. (It combines both, along with others.) Time will tell what it really is, what it ends up being. But to say it's anything, even journalism (the career I revere) is to limit it. And it shouldn't be limited. Because it belongs to you.

Blankenhorn also has a new book out—which indicates he considers blogging to be *a* tool, not *the* tool.

So What?

So this. *Cites & Insights* is not a weblog. Portions of it could be done in weblog form, but those are—to my mind—the least valuable portions. *Cites & Insights* adds value through delay, connection, and synthesis: Letting things sit, putting them together, and finding perspectives from the combinations.

I mentioned a key tool during the Midwinter Top Tech Trends discussion: Folders. Plain old manila third-cut folders. One folder has scrawled on it "filtering." One says "ebooks." One says "copyright." One says "CICAL feedback." A recent one says "Schol. access." There are also miscellaneous folders.

I see things that might be worth noting or that might play into a larger discussion. If they're on the Web, I scan them—printing perhaps one of ten. Then I drop the printout in the appropriate folder. If they're in a journal or magazine I plan to keep, I enter notes into the appropriate Word document immediately or, if I'm recycling the issue, rip out the pages and drop them in the appropriate folder.

Then I let them sit—until the folder gets fat enough or I think it's time to review its contents. For the general folder(s), that means scrapping most items after rereading them and commenting on the remainder. For the special folders, it means scrapping some, arranging others in ways that seem valuable, and forming essays around them. I try not to deal with anything until at least a week after I first see it.

What I do is the *opposite* of weblogging, where you comment on and link to an item as soon as you see it and get that posting up *right away*. I think that's an enormously valuable service. But it's not what I do. Yes, *Cites & Insights* has the personal approach of many weblogs. That makes it more of a zine than a newsletter. It doesn't make it a weblog.

Could I produce a weblog? Probably. Would it be as good as, say, LISNews, Library Stuff, Scholarly Electronic Publishing weblog, FOS Weblog, Freedom to Tinker, or Catalogablog? Probably not. More to the point, it wouldn't be my style—and it *would* interfere with my writing and thinking. For me, starting a weblog would be a bad thing (I believe) for now. Will I ever produce a weblog? Who knows?

I'm not putting down weblogs. They're great tools for some purposes. I am suggesting that they're no more universally appropriate than any other tool. When all you have is a hammer, everything needs pounding. weblogs may add a screwdriver—but that doesn't magically turn everything into screws.

LITA Communications

In the case of LITA's communication problem, what I want—as a reader and former editor—is a *package* that tells me what LITA members are up to. That package would include reports that exceed the "one screen" limit of most weblogs (not a technological limit, but a reading limit), although it would also include reports in the 100- to 500-word range. A weblog might be useful for LITA, but the revived equivalent of the *LITA Newsletter* serves a different purpose (although a weblog could replace some of the other functions of the old *Newsletter*, just as LITA's Website handles some of those functions more elegantly).

Here's my promised summary of additional responses regarding LITA communications:

- Seventeen people responded directly.
- Ten appear to favor a new, presumably electronic *LITA Newsletter*. Four were unsure. It's hard to categorize the other three—but it's worth noting that two were quite downbeat about LITA.
- Five volunteered to help in some way.
- I'll quote one key sentence from Pat Ensor's LITA-L message: "I think…it is safe to say that the Board appreciates the same need for information and thinks that if it's to be done, LITA needs to make it an official thing—we're just not sure what the 'thing' would be and who would do it!"

Given that "LITA needs to make it an official thing" and the relatively low level of feedback (17 out of more than 1,300 members on LITA-L and more than 4,000 LITA members), I'm stepping back. I do *not* intend to pursue the silly "*Not the LITA Newsletter*" idea. I'll pass along the volunteers' names and notes to Pat. And leave the future of LITA communications up to the division's officers and volunteers.

The Library Stuff

Bates, Mary Ellen, "Are we overloaded yet?" *EContent* 26:2 (February 2003): 17.

A sound, informal one-page discussion of "information" overload as it effects everyone—including the tendency of professional searchers to pass too much stuff on to their clients. It's not a new problem, as Bates points out, but in some ways it's gotten easier to succumb.

Block, Marylaine, "Show off your library as a place," *Ex Libris* 168.

Marylaine gets it—which won't surprise anyone who reads *Ex Libris*. She "was exploring library web sites recently while researching an article on libraries as public spaces" and was surprised that, although quite a few sites showed pictures of building exteriors, very few showed people *using* the library. Additionally, the sites tended to focus on web pages and remotely available databases: "Very few library web sites mentioned library resources that were only available within the building."

"A library is a physical thing." She goes on to provide some examples, both of services that only make sense within the library itself and of *people*, the librarians, staff, and users. Read this essay. Think about it. Think about your own library's website. "Does your web site give people any reason at all to make the effort to come to the library? If it doesn't, you could be in more trouble than you know the next time you ask for better tax support."

"Rejected workshops for library conferences," LISNews, February 14, 2003.

LISNews maintains archives so you should still be able to find this gem, begun by Tony Doyle on LM_NET. More than two dozen titles and (usually) brief descriptions, and I feel as though I've attended one or two of these. Consider "Preserving Print Resources the Easy Way," on using misshelving, reserve, circ system outages and other methods to prevent wear-and-tear on your print collection. I'd swear that thousands of people (and quite a few vendors) have attended "The New Library Standards: How to fake it," where they learn how to talk

the talk without walking the walk. And, of course, there's always "Weblogs, the answer to, and the cause of all our problems."

Bibs & Blather

The Web is Not the Net

Here's a quotation—a real one, from a library publication: "Technically speaking, the Internet and the World Wide Web are two different species of the same or similar beast."

If I heard that from a talk-show host, I'd laugh it off. I expect a little more rigor from librarians. The statement is comparable to saying that somewhat similar to saying that highways and automobiles are two different species of the same or similar beast. Or maybe that a printing press and a magazine are two different species of the same or similar beast.

The Internet is a network of networks that transmit data in packets based on the Transport Control Protocol and Internet Protocol: TCP/IP. The most common use of the Internet is email.

The World Wide Web is a collection of *pages*—content—accessible via HyperText Transport Protocol (http) and using Uniform Resource Locators (URLs) as addresses.

One is hardware and supporting control software. The other is content and a much higher level of supporting software.

Most email uses the Internet but not the World Wide Web. Many large file transfers use File Transfer Protocol (FTP), which also has nothing to do with the World Wide Web—although web files are commonly loaded to servers (computers) using FTP. There's still a lot of telnet activity on the Internet—not the web.

PS: The Alaska Library Association conference was remarkable. I'll remark on it next month. You just avoided a truly terrible pun to save space.

The Filtering/Censorware Follies

CIPA and the Supremes

The Supreme Court's hearing of the CIPA appeal took place in early March. A slew of briefs appeared before the hearing; I started preparing this section as those briefs emerged. All briefs are available either at ALA's CIPA site or from a pro-CIPA site that ALA links to. For a change, I'm commenting on pro-CIPA briefs first. ALA's site also links to the three-volume joint appendix filed by both parties, containing selected testimony and documents from the District Court trial. I skimmed the 700-odd pages of these appendices, but didn't print them out. I did find the "rebuttal arguments" of the two pro-CIPA experts from library schools fairly startling, particularly the attempt to undermine the testimony of *other* librarians because they don't work in public libraries. (Both pro-CIPA experts are in library schools, for what that's worth. One of them, as far as I know, has *never* worked in a U.S. public library.)

It may be useful to note my own complex bias on this issue:

- I believe the U.S. government has no business dictating that libraries use censorware on all Internet devices (subsidized or not) in order to receive an Internet subsidy that's essentially a passthrough from telecommunications firms, not a government subsidy.
- I believe censorware fundamentally doesn't work—that it *inherently* fails to stop a substantial amount of "bad stuff" and blocks a significant amount of "good stuff" in the process, much of it not "gray area" material but stuff accidentally trapped through censorware methodology. I don't believe that advances in so-called artificial intelligence can solve that problem either for text or, particularly, for images.
- I believe libraries *should* be able to make locally-appropriate and age-appropriate decisions to use either protected systems ("whitelists," where children can only reach approved sides) or censorware as needed—and that those decisions should be local.
- I believe *some* use of censorware is appropriate on *some* Internet computers in *some* libraries—*even though…*
- I believe that censorware in a library not only inhibits most patrons from asking that blocked sites be unblocked, but also explicitly labels such sites as being "bad" by that library's standards, as the patron has no way of knowing (a) that censorware frequently overblocks for no apparent reason and (b) that libraries don't know what's being blocked.

Favoring CIPA

So far, I've looked at the government's brief and half a dozen amicus briefs. A few notes on key points follow, avoiding detailed discussion of the quality of the briefs. It's hard to miss the semi-hysterical tone of some pro-CIPA briefs, particularly in contrast to the cool, clear logic of the anti-CIPA briefs. Assume that *italics* represent added emphasis.

Brief for the United States

There's an *enormous* amount of pornography on the Internet, popping up all over the place. The volume

of pornography is huge. That's the message you get from the background that makes up the first ten pages of this brief. It goes on to equate censorware with collection development, to assure us that the mission of public libraries is "to facilitate *worthwhile and appropriate* research, learning, and recreational reading and pursuits," and that "libraries collect material from the Internet" for the same reasons that they collect books and other resources. What's that? You say you don't regard Internet access as "collecting material from the Internet"? And, as with every librarian involved in the case—even the government's "expert" witnesses—you recognize that public libraries will attempt to provide *any* legal material desired by a patron, through ILL or other means? The government knows better.

If you want more surprises, read the substantial portions of the brief that insist on *local* decision-making—and try to square them with CIPA's *Federal* imposition of rules on all libraries. You could use much of this brief as an anti-CIPA broadside, once you dispose of the "Let them eat cake" argument. (That is, Congress has every right to determine what speech it will subsidize and libraries can damn well turn down the subsidies if they don't like it—obfuscating the *undenied* fact that censorware does much more than remove narrowly-tailored speech and the *denied* fact that most censorware does not appear to be viewpoint-neutral.)

According to this brief, "there is no allegation of viewpoint discrimination here," but if there isn't, there should be. Every test of censorware I've seen shows that it discriminates more heavily against gay-friendly sites, safe sex sites and (by the way) sites that criticize censorware.

The brief almost entirely ignores the distinction between illegal material (obscenity and child pornography) and legal "pornography." It asserts flatly that pornographic material "falls outside of a public library's traditional collection boundaries." (Didn't realize that the DoJ should be determining your local library's collection policies and that *no* public library collects sexually explicit material, not even Boston, Cleveland, or NYPL? Welcome to the brave new world. But then, this is a world in which one of the government's library 'experts,' Don Davis, testified that public libraries would not collect extremist materials—that only research libraries would do so.)

What do you do with statements such as "Public libraries may reasonably conclude that it best furthers their missions to use a resource that is effective in keeping out pornography…" when it's in defense of a law that prevents libraries from drawing any other conclusion?

The brief flatly asserts, *with no evidence whatsoever*, that censorware is "the least restrictive method to further that compelling interest" (restricting access to online pornography). In fact, the brief entirely omits alternatives such as age-dependent filtering or censorware used based on parental consent. The brief also regards public libraries as government agencies and having no First Amendment rights as such (ignoring any distinctions between *local* government and the Federal government in the process). Patron access to legally protected materials? Since CIPA "does not impose any conditions on library patrons" there's no First Amendment issue. Now there's an argument you can extend all over the place…you can impose whatever laws you want on a provider and ignore the consequences on the customers, because you're not imposing the laws on them directly.

One argument is that overblocking isn't an issue because patrons can find "the information they need" somewhere else—thus explicitly saying that anything other than information (literature, argumentation, etc.) is of no consequence.

Here's Donald Davis' claim that a complete collection, if possible, would be "detrimental to users trying to find what they want to find and *really need*." We see "very few" public libraries collecting pornography turned into a universal: What "most" public libraries do (without statistical evidence) is justification for universal fiats. Here's a Will Manley column cited as expert evidence. Here's the Kaiser study, *never* introduced into the lower court proceedings (it appeared after the District Court trial), misquoted to support CIPA—quoting the overall conclusion that censorware at its least restrictive setting blocks 1.4% of legitimate health sites in general, not the far more negative effects on *sensitive* health sites. And, of course, "any information that may be erroneously blocked can *often* be found on another web site." So what's the problem?

An earlier case overturned a Congressional limitation on legal services funding because those lawyers were frequently advocating against the government, and restricting such advocacy would distort their functions. "Public libraries…have no comparable role that pits them against the government." Does your library have materials that argue against current government policies or in other ways disagree with the government? Watch out—we're now told that public libraries don't *ever* serve functions that pit them against the government.

An astonishing brief, full of distortions and overreaching assertions about the role of public libraries, and one that—at times—seems to sweep all public libraries into the Federal government. At the same

time, a brief that argues so extensively for local control that it is a fine argument against CIPA.

Greenville, Kaysville, and Kenton County Public Libraries

Most of this discussion deals with one possible unintended consequence of the district court's decision: The possibility that *any* library use of censorware would be unconstitutional. The *amici* are public libraries (in South Carolina, Utah, and Kentucky respectively) that want to be able to use censorware on their own Internet browsers without threat of lawsuit or judicial regulation. I find myself in sympathy with that desire and with the legal argument.

It gets tougher when the brief throws in "shortsighted request for judicial intervention that has been adopted by the ALA." If ALA had not sued, *all* CIPA provisions would be in force—eliminating any choice *except* that favored by these libraries. Here's another problematic sentence: "Internet filtering involves the acquisition process, not the removal of information that has already been acquired."

The second, shorter major section is difficult: "Public libraries have a *duty*, not merely a right, to filter Internet pornography to avoid facilitating the felonies that are committed when patrons access obscenity or child pornography in a public place." CIPA goes beyond material that's already illegal (and doesn't need a new law!) and the discussion throws in a bunch of anecdotal "evidence" and issues not addressed by censorware.

It seems that these three libraries are hotbeds of pornography, unlike Midwestern libraries such as Hannibal, where unfiltered terminals don't seem to cause problems. "The sole interest of a significant number of patrons appeared to be pornography." "The library believes a possible pedophile has used the terminals for contacting potential victims"—which can only be addressed by forbidding instant messaging, chat rooms, and email, not by censoring certain pictorial sites. "A library staff member estimated that 20-25% of patrons used the Internet to access pornography and/or obscenity."

We're told that ALA's position is "precisely" equivalent to the suggestion "that a library has a responsibility to provide not only information on drugs, but also the means for patrons to make drugs in the library." The second section of this brief undermines the reasonableness of the first section to an alarming degree—and does make me wonder why these three libraries have such dirty-minded patrons.

Cities, Mayors and County Commissioners

The "public libraries" brief includes the "Center for the Community Interest." This brief appears to come from the Liberty Legal Institute. This 26-page brief raises four principal arguments (quoted exactly, in bold):

- **Citizens have no constitutional right to compel the government to subsidize and provide access to particular Internet websites**. But CIPA *followed* the provision of subsidized Internet access; it was not part of the original offer. At its extreme, this argument says that the government can favor any speech it wishes—and the brief explicitly says that the *Federal* government can "recognize" that some content is inappropriate for public libraries. (This section also includes a suggestion that public libraries are part of the Federal government, although I may be misreading that.) "It can be assumed without question that Congress knew that filtering Internet access would undoubtedly lead to the blocking of websites containing valid educational materials." How many readers believe "without question" that most members of Congress have that depth of understanding of how censorware works or that CIPA hearings brought forth that clarity?
- **Municipalities cannot effectively fund and provide libraries to their citizens if strict scrutiny is to be applied to their decisions over what goes into the library.** While that's another version of the first brief's first argument—that forbidding censorware eliminates local control—it's also a direct argument *against* CIPA, which removes local control. Note an interesting argument here—it's *municipalities* that should decide what goes into libraries, not professional librarians.
- **Municipalities and local communities, not courts, should make the decisions about what materials should be in their local libraries.** That's pretty much the same argument as the second and would also appear to argue against CIPA, but note the first subargument: "This case is an attempt *by libraries* to use courts to override the local authority of municipalities that create, fund, and set policies for the libraries." Get the sense that the 14 municipalities involved in this brief don't much care for uppity librarians? Those librarians want to "advance their views and agenda on the unwilling populace and local governments who have authority over them." And, later, "If citizens are unhappy with their decisions, such as the decision to filter Internet access in the library, the citizens are free to choose another leader or set of leaders through the democratic process." But *not if CIPA stands*—not without

abandoning subsidies. In that same argument, we read that these cities will turn off Internet access altogether if they can't have filters. That'll teach those filth-loving librarians and their sex-happy patrons!

- **There are numerous rational bases for keeping pornography out of the public libraries.** This one's a hodgepodge of claims, including the questionable statement that "the federal government agrees" that there are empirical connections between illegal pornography and violent sex crimes, based on the DoJ's *response* to the government-commissioned pornography commission report (which found no proof of such a link). But there's that *illegal* pornography phrase again—if it's illegal, why would CIPA be needed?

I'm an innocent. I use the Internet a fair amount and I have *never* stumbled across child pornography, obscenity, or legal but "hard core" pornography—and almost never anything close. So I wondered about a lament regarding a child just wanting to see Bush's dog Barney romping around the White House and accidentally typing www.whitehouse.com instead of .gov. She's in for "an extremely vulgar surprise" when she reaches this "hard-core pornographic website extremely harmful to minors." I visited that site, exploring the pages available without a credit card. I saw bare breasts, bare legs, bare bellies. Beyond the home page, I saw stars and white spots covering what might have been sexual activity. I saw nothing more than soft-core pornography. The *protected* portion of the website might or might not be "extremely harmful to minors," but the only portion a child could stumble across without deliberate exploration, the home page, is pretty tame. If that's the definition of "hard core pornography," get those fashion magazines and medical books off the shelves… Whitehouse.*org* is much more interesting than whitehouse.com—but that's irrelevant to a CIPA discussion.

State of Texas

This brief deals primarily with a single issue: Is it *legitimate* for libraries to use censorware—and, beyond that, can Texas mandate or encourage such use "as an exercise of its police powers"? Texas explicitly avoids addressing CIPA's mandate for filter use.

"Indeed, accidental exposure to sexually explicit websites can be difficult to avoid." Yet I've managed to avoid such websites without even trying. "Parents should not be afraid to send their children to the library, either because they might be exposed to such materials or because the library's free, filterless computers might attract people with a propensity to victimize children." Think about that one, and where the assertion leads as a legal principle. Later, the point is repeated differently: "Public libraries are not appropriate places to view material that is indecent or harmful to children." Given the broad definition of "harmful to children" that tends to be used, and given that *any* library material may be viewed within a library, there's a lowest-common-denominator argument here. Sex education books? If they have sexually explicit illustrations, *they don't belong in Texas libraries.*

As with every brief concerning the constitutionality of *any* filtering, this one raises good points, most also raised elsewhere. This is the only brief that explicitly states that libraries "require a quiet atmosphere with minimal distractions."

National Law Center for Children and Families (and others)

Dig around on the web and you find that the groups in this brief are "Biblical principles" anti-choice "pro-family" groups.

We read of "The unavoidable and overwhelming presence of commercial and public pornography." *Unavoidable and overwhelming!* The brief manages to rewrite CIPA (a library is perfectly free to have unsubsidized and unfiltered terminals alongside filtered and subsidized terminals!). It minimizes the rate of overblocking and engages in fascinating two-sided statistics: The court should *not* be allowed to extrapolate the overall number of overblocked sites based on the half-million-page sample tested by Benjamin Edelman, but it *should* extrapolate the overall number of nasty sites. Here's a statement that begs rational analysis: "Less than one percent [overblocking] is truly minimal compared to the enormous amounts of illegal material that are effectively blocked." But what percentage of web sites contain illegal material? (As explained in another brief, Edelman's sample deliberately excluded site categories that were *likely* candidates for overblocking and legitimate blocking.)

Later on, the brief gets the numbers *entirely* wrong, claiming, "Less than one percent of what the filters blocked was assumed by Plaintiffs' experts to be protected speech and therefore erroneously blocked." Not so. The claim is that roughly one percent of *protected* speech was *blocked*, not that one percent of blocked pages was protected speech. Even the government experts admitted that 6% to 15% of blocking was erroneous, not 1%. One percent of the web sites indexed by Google, for example, would be 30 *million* pages—and no evidentiary finding showed more than 100,000 freely-available "pornographic" web sites. Thus, even accepting the 1% figure (but

recognizing that the settings that yield 1% overblocking also pass 13% of pornographic pages), the numbers may show that filters at their lowest setting are likely to block 30 million protected pages in order to block 87,000 "nasty" pages. Or not.

David Burt is quoted as though he's an independent expert, not an employee of a censorware company and long-time censorware activist. Burt's reading of 26 "published laboratory tests" of censorware in consumer publications is that they show Internet filters to be largely effective (with no comment about overblocking). I've read a few of those tests, and they're not as glowing as Burt suggests.

The brief lumps in "harmful to minors" soft porn with obscenity and child pornography as speech "lacking constitutional protection." The brief seems to assume that the only way anyone gets to web sites is through search engines. Portions of the brief are almost silly. We learn that "CIPA would create a market for filter technology that private industry can compete for and fill." Why? CIPA mandates filters whether they're any good or not, and most censorware revenue comes from corporate sales in any case. We also learn that libraries using any alternative to filtering foster "harassment, assault, stalking, public masturbation, exposure to disease and harmful exposure to children of graphic sexual images." Wow. 93% of American public libraries are cesspools of evil. And we never knew.

American Center for Law and Justice (and others)

At least here you know what you're getting: ACLJ, the anti-ACLU. Two arguments: The primary one (libraries are nonpublic fora, so use of censorware should be legal) and an argument that there is no First Amendment right to access materials immediately and anonymously. ACLJ supports "family-oriented law"—that is, Constitutional freedoms when those freedoms support traditional families. As opposed to ACLU, which treats the Constitution as reasonably self-contained—there's no asterisk on the Bill of Rights with the note "*except when it might weaken certain groups' definition of traditional family values."

While there are fascinating turns of logic in this brief and the use of the Washington *Times* as an authority for turning 40% into "nearly half," there's not much new here. Once again, CIPA is turned into a law that "encourages" libraries to use censorware. So it goes.

I admit to a certain surprise. I expected ACLJ to have the most outrageous brief, but I didn't know at the time what the four "family" groups really were. ACLJ's brief is overstated but its fundamental point is not far from the Greensville brief's first section.

Opposing CIPA

Six briefs from friends of the court and the briefs of Multnomah County/ACLU and ALA et al, again highlighting key points.

American Library Association *et al*

Who's Al? The Alaska Library Association, Freedom to Read Foundation, California Library Association, New England Library Association, New York Library Association, and several other groups and individuals. There sure must be a lot of pornography hounds in coastal library associations!

This brief responds to many of the government brief's claims (quite effectively) and raises two primary arguments: That CIPA induces unconstitutional speech restrictions and that it imposes unconstitutional conditions on funding.

This brief includes a key sequence: Nearly all public libraries—95% or more—had already opened their public spaces to Internet access (unfiltered in most cases) before CIPA was enacted. "A public library may not, consistent with the First Amendment, open that vast portal of private communication and then exclude one subset of disfavored speech using a wildly imperfect, content-based screen." That's even true of print collections: The bar for removing existing materials based on content is higher than the bar for failing to acquire them, *as it should be.* If a library hires someone to remove articles from a periodical that it's chosen to subscribe to, that removal deserves more scrutiny than the decision not to acquire the periodical. (This is a point ALA lawyers have been making for years in talking about filtering to library groups, and one that the government ignores or obfuscates.)

Note that CIPA requires libraries to *certify* that censorware "protects against access…to visual depictions that are obscene, child pornography…or harmful to minors" during access by minors. There are only two ways to make such a certification without perjury: Block *all* visual depictions or shut down Internet access. No witness has suggested that censorware could be more than 90% effective in blocking text or images without enormous overblocking—and, based on the Kaiser study, getting beyond 90% is nearly impossible in any case. So, among other things, CIPA imposes an impossible standard and exposes every library to legal risks.

ALA's brief notes that the *only* federally-sanctioned study of censorware at the time CIPA was adopted, a report by the federal Commission on Child Online Protection, "declined to endorse the

mandatory use of blocking software." It notes that only 7% of libraries nationwide mandated censorware on all terminals prior to CIPA enactment—and that all library witnesses defending censorware provided anecdotal evidence, never systematic records or quantitative comparisons to show that censorware solved problems. Additionally, none of those libraries ever tried most of the less restrictive alternatives such as optional filtering.

There's a lot more—I've only covered points from the first quarter of the 50-page brief—and much of it is embellished in supporting briefs. Since the government introduced the Kaiser report, ALA felt free to tell the truth about the report: "About 10% of nonpornographic health information sites returned from searches using the terms safe sex, condom, and gay were blocked"—consistent with other studies. (The figure for "safe sex" is 33%!)

The government may not censor speech in order to affect conduct: That's well established in case law. The state may not censor protected speech in order to suppress unprotected speech. 93% of America's public libraries concluded that less restrictive measures are sufficient. The *majority* of sites blocked by censorware will contain material that is constitutionally protected at least for some patrons. The government "may not reduce the adult population to only what is fit for children," despite the desires of some pro-CIPA *amici*. And so on.

Multnomah County and ACLU

This long brief is the second primary brief from appellees. As printed from the Electronic Frontier Foundation website, it's surprisingly hard to read (57 pages of oversize sans serif type—*justified* sans, no less), but that doesn't detract from the content.

This brief points out that censorware does not offer categories that relate directly to CIPA's definitions of material to be blocked and that it constitutes Federal censorship of local libraries. Some of Ginnie Cooper's wonderfully frank testimony is cited—as are statements from the two pro-CIPA librarian experts taken to say that libraries *should* provide patrons with any legal information they seek, through ILL or selection, a finding inconsistent with CIPA.

> Library experts testified that at least *several hundred* of the examples of overblocking were sites librarians would affirmatively select for the library's collection if traditional selection methods applied for the Internet.

There's considerable detail about the reasons for serious overblocking—blocking at the root domain level (so that, for example, all of *Salon* is blocked because a few pages talk about sex), blocking by IP address (which can block thousands of innocent pages because they're cohosted with a nasty site), loophole blocking (translation software, anonymizers, Google cached pages, etc.), and so on.

Remember Tacoma, with its custom filter? As testified at the trial, the software blocks pictures in the online version of *Playboy*, and the librarian testifying said he would be unwilling to remove that block for a "45 year old female physician"—but Tacoma also holds *Playboy* on microfilm, pictures and all, with no age restrictions on access. (I read the testimony—on p. 251 of the joint appendix submitted by both sides—and the brief's summary is absolutely correct.)

There's a *lot* more here. The brief does an excellent job of quoting Supreme Court decisions, including this gem from Ashcroft v. Free Speech Coalition (just last year):

> The argument…that protected speech may be banned as a means to ban unprotected speech…turns the First Amendment upside down. The Government may not suppress lawful speech as the means to suppress unlawful speech.

Online Public Policy Group and Seth Finkelstein

One primary argument: "CIPA's 'technology protection measure' requirement should be subject to strict scrutiny because it regulates speech in a suspect manner." The subarguments form a logical triad, two assertions and a conclusion that is essentially the primary argument. The two assertions:

- CIPA forces libraries to regulate speech through commercial blocking software.
- Commercial blocking software regulates speech in a systematically overbroad fashion and creates a significant danger of viewpoint discrimination.

If the second assertion is true, it undermines several pro-CIPA commentaries, since they rely on the principle that filtering is a time-and-manner restriction, not a viewpoint restriction.

The discussion focuses on the reasons commercial censorware tends toward overblocking and actual evidence of viewpoint discrimination. This avoids the issue of whether it's possible to build filters that would pass Constitutional muster, asserting that those available—the only ones libraries can use to meet CIPA requirements—do not do so.

It's an interesting discussion. Since censorware vendors do not provide lists of blocked pages or heuristics for determining those lists, libraries have no way to determine whether the companies discriminate based on viewpoint—but there's certainly some evidence of such discrimination.

Jonathan Wallace d/b/a The Ethical Spectacle

This short brief, from a monthly online magazine "focusing on the intersection at which ethics, law and politics meet in our civilization," focuses on one specific issue *not* settled by the District Court's decision: The appropriate analogy for the Internet. Specifically, Wallace urges the Supreme Court to "acknowledge the essential similarity between the Internet and print media"—thus offering the most complete First Amendment protections.

I could do without the assertion that the Internet is a "global library or bookstore of all human knowledge," but the rest of the discussion is, if nothing else, an interesting chronicle of how analogies have been assigned for new media in order to determine appropriate legal standards.

The Ethical Spectacle is a frequent target of censorware, blocked "in whole or in part by at least six software filters." That blocking came into the Mainstream Loudon case, and Wallace was a coplaintiff in Reno v ACLU, the CDA case.

The Heins Brief

That seems like the easiest way to refer to this brief, prepared by Marjorie Heins of the Free Expression Policy Project on behalf of eight different groups and publications from *Wiretap Magazine* to Pacific News Service. Three primary arguments and selected subarguments:

- **Digital technology has given rise to a "digital divide" that puts a number of demographic groups at a serious disadvantage in accessing the increasingly essential resource of the Internet.** It's argued that Internet access is now essential to "participatory citizen discourse, job searching, obtaining health information, learning about government programs, and day-to-day research on many other programs" and that public libraries help to bridge the divide.
- **Internet filters undermine [that progress] and hence exacerbate the digital divide**. Filters *by their nature* block large amounts of valuable information, obstruct communication, and undermine the core functions of libraries.
- **CIPA's mandate…violates the First Amendment rights of all library users, especially those on the underside of the digital divide**. This argument *supports* the "public forum" finding and objects that CIPA forces libraries to delegate decisions to private filtering companies "whose products' operation is inherently irrational."

Elements of this brief make me nervous, but that's to be expected—I admire much of what FEPP does, but that doesn't mean I follow any given party line. I wonder about the "digital divide" and the essential nature of Internet access. As with some of the "pro-CIPA" *amici*, I worry about the implications of determining that Internet access in public libraries represents a true public forum rather than a designated or limited forum. I'd be happier if the brief didn't include the claim that "44 million American adults do not have the reading and writing skills necessary for functioning in everyday life," given the profoundly questionable nature of the 1992 document from which it comes. (See *Cites & Insights* 2:5 and 2:10 and the June 2002 "Crawford Files" and "disContent.")

On the other hand, the brief makes a strong case that censorware fails even a "rational basis" test and that the disadvantaged can't simply "go look it up at some other Internet terminal." As you'd expect, the brief is well written and strongly evidence-based.

Cleveland Public Library and others

"Others" in this case include the Rhode Island Library Association and thirteen deans and directors of library science programs—obviously *not* including Blaise Cronin. (Cronin's rebuttal to expert testimony, included in the third joint appendix filed in this case, strikes me as astonishing and considerably lowers my respect for Dr. Cronin.)

This brief speaks to the mission of public libraries—ensuring that individual library patrons obtain the information they seek—and the ways that CIPA subverts library functions. It asserts that libraries *already* safeguard the interests Congress seeks to protect in CIPA, usually without mandatory filtering, and that CIPA is unconstitutional because it "induces libraries to violate the First Amendment rights of their patrons."

One key element of this argument is the point that the Internet is not subject to the spatial and budgetary constraints that restrict physical collections—in some ways a rebuttal to the Nadel paper used in pro-CIPA arguments. While libraries may have limited numbers of Internet computers, each computer can access the entire public Internet, whether that Internet includes five thousand sites or five billion.

This brief argues that CIPA and its defenders expect public librarians to act as moral guardians and censors, which is "not merely incorrect as a matter of librarianship, [but] also subverts the democracy-promoting premise of public libraries." The government brief quotes a 1930 book on book selection approvingly: "It is the aim of the selector to give

the public, not everything it wants, but the best of what it will read or use to advantage"—while this brief responds with a Bill Katz 1980 quote that librarians select on the basis of what "the library audience will enjoy reading," not "on the basis of what people *ought* to read" or "what they *ought not* to read." (This is a case of dueling Katzes—the government's brief quotes the same 1980 book thusly: "[t]he librarian's responsibility * * * is to separate out the gold from the garbage, not to preserve everything.") The brief goes on to deny that public libraries subordinate patrons' information needs to their own official agenda of promoting "worthwhile and appropriate" reading—and emphasizes that by noting that libraries routinely use ILL to provide the materials they don't own, sometimes without librarian intervention.

This brief responds directly to several pro-CIPA briefs, including the Greenville et al group and the National Law Center cluster. It emphasizes that collection decisions must be made the local level and that there's no reasonable analogy to censorware in collection development.

That's just a little of what's in this densely worded brief filled with quotes from librarians and assertions about the roles of public libraries. The direct arguments against CIPA provisions are particularly telling. A footnote notes that "*none* of the libraries that use filtering software proferred by Appellants…install filtering software on staff terminals" (which CIPA requires). The main text notes that few libraries report having difficulties with people looking at pornography. It notes the outrageousness of reducing the adult population to reading only what is fit for children. A strong brief at the core of library difficulties with CIPA.

AAP et al

This brief comes from a dozen organizations, mostly related to print media, including groups that might otherwise be on opposite sides, such as the National Writer's Union and Authors Guild, Inc. alongside the AAP and Magazine Publishers of America.

The key arguments are that the Internet furthers the purpose of libraries in fostering freewheeling inquiry, that Internet access in public libraries is a designated public forum, that the analogy of censorware to collection development is flawed, and that CIPA must (and cannot) survive strict scrutiny.

This is primarily a First Amendment brief, and clearly views print and the Internet as analogous. It calls the Internet "a modern-day publishing house." It quotes the Reno v ACLU decision to show that the Supremes already recognize the nonsense spouted by some pro-CIPA briefs: "Users seldom encounter [illegal pornography] accidentally." Here's a great quote:

> Mandatory Internet filtering is properly understood as tantamount to a library subscribing to the *New Republic* magazine but only receiving it after an outside vendor has torn out all articles that refer to Dick Armey or Dick Cheney because they contain the keyword "dick"—without disclosing why such articles were censored.

The brief points out that the Internet in public libraries as a forum considerably predates CIPA—by 1996, five years earlier, almost half of America's public libraries provided Internet access. Thanks to that devil from Redmond and other factors, that figure was up to 95.7% six months before CIPA was signed into law. Of those public libraries, "less than 10 percent used filtering software on all their computers, and only an additional 15 percent used filtering software on some of their computers."

According to this brief, the government's *own* expert concluded that "between six and fifteen percent of the blocked web sites to which library patrons sought access contained no content that met even the filtering software's definitions of sexually explicit content." That's a much more significant number than the silly "one percent of websites" being overblocked.

Again, there's a lot more here, and this brief makes good reading.

Directly-Relevant Articles and Pieces

The unionized staff at the Sault Ste. Marie Public Library is disturbed by seeing images of "sexual acts and bestiality" on Internet stations—but not enough to launch a grievance, according to a Sault *Star* article on February 19. This particular union called Ottawa Public Library "a porn palace," so it's clear where their sympathies lie. The library director says there haven't really been many problems; the union vice president says that some patrons have abandoned the main branch because gross patrons are viewing porn sites. This library clerk finds the whole situation disgusting.

Then there's that radical hotbed, Hannibal, Missouri. According to a February 18 Hannibal *Courier-Post* item, the Hannibal Free Public Library just hasn't had a big problem. The director says, "We've been real conscious of it since we put in public-access computers," and the library asks Internet users to sign an acceptable use agreement. Anyone under 18 must have parental or guardian permission to use a computer, and that permission can be restricted to the filtered computers in the children's room—in other words, the common "partial filtering" solution that the government doesn't recognize

at all. (I've been to the Hannibal library, a charming and vibrant facility.)

Just before the Supreme Court hearing, a number of newspapers weighed in with reports and editorials. The *Christian Science Monitor* offered a short, balanced article, quoting Maurice Freedman first and directly, while quoting Solicitor General Theodore Olson from the pro-CIPA brief. *USA Today* went back to two library users who served as plaintiffs in the CIPA case and augmented the news story with one of their "Pro-and-con" op-ed mini-debates. In this case, the paper's perspective argues that filters are fatally flawed (and adds an objection to spying on patrons through the USA Patriot act), while ol' Chip Pickering (R-Miss., sponsor of CIPA) pushes that word "community" a lot in defending CIPA and calls it "twisted logic" to think that the USA Patriot act threatens freedoms. Of course, any CIPA advocate who talks about community rights has fundamentally destroyed their own argument—but Pickering seems not to see that.

Minow, Mary, "Who pays for free speech?" *American Libraries* 34:2 (February 2003): 34-38.

"No one wants children to be exposed to pornography—not Congress, not libraries, not even the pornography industry." That sentence begins a sad recounting of the expensive legal battles ALA's had to undertake—and goes on to say that it's time for Congress to move on. "We could all put the money to better use finding nonlegislative community solutions."

That's the beginning and end of a fine discussion well worth reading (or rereading if you've already read the February *American Libraries).* One of the most sensible contributions to the library side of the censorware debates I've seen.

Auld, Hampton (Skip), "Filters work: Get over it," *American Libraries* 34:2 (February 2003): 38-42.

This piece immediately follows Minow's, with an unusual midpage article break. Auld, assistant director of the Chesterfield County (Va.) Public Library, doesn't argue for CIPA (he's donated to the ALA CIPA fund and, as a PLA board member, voted to approve a substantial divisional contribution). He does, however, claim that they work—at least as implemented at Chesterfield County.

To the extent that Auld argues that ALA should "revise or revoke its unwavering condemnation of blocking software," I'm inclined to agree. Am I convinced that Chesterfield County's universal-blocking system actually works as well as the article suggests? That may not matter. (A sidebar has comments from Blaise Cronin, who served as a government witness on the basis that "filtering is common sense." That interview includes a hearsay claim that a library systems administrator said "half the web sites displayed at his facility were pornographic ones"—a claim so outrageous that I'm astonished even Cronin would accept it. I'm also astonished that Cronin feels he knows better than 93% of American public libraries how their facilities should be run, and that he's so delighted to have the Federal government dictate to local agencies. That's not *my* idea of common sense!)

Edelman, Benjamin, "Web sites sharing IP addresses: Prevalence and significance," updated February 20, 2003. (cyber.law.harvard.edu/people/edelman/ip-sharing/)

More than 87% of active domain names share their IP addresses—web servers—with one or more additional domains. More than two-thirds of active domain names share addresses with *50 or more* other domains. When censorware does IP blocking, one of the common tools, that's a serious problem.

That's the summary of another careful Edelman study. It's short and excellent background for considering one major cause of overblocking. Fourteen million IP addresses represent 50 or more sites each; at least nine million sites are on hosts that serve at least a thousand sites. If one nasty site causes an IP block, there go the other 999. This study includes only .COM, .NET, and .ORG domains.

Block, Marylaine, "Night vision," *Ex Libris* 164 (January 3, 2003). (marylaine.com/exlibris/)

This brief essay considers the virtues of sending young children to librarian-selected web sites, the impossibility of thorough filtering, and one reasonable solution: Teach the kids, teach their parents. Short, pointed, worth reading.

"Fact sheet on Internet filters," Free Expression Policy Project, updated January 9, 2003. (www.fepproject.org/factsheets/filtering.html)

While FEPP still needs work on their HTML—the bullet points here print out as an odd mix of serif (probably my preferred typeface) and sans—this is a good brief fact sheet (six pages when I printed it, including two pages of endnotes). Everything's documented. I'd expect this to be updated periodically, particularly after the Supremes decide the CIPA case.

The Hearing

On March 5, the Supreme Court heard from Paul Smith from Jenner and Block (for ALA) and Theodore Olson (for the government). According to

Declan McCullagh's coverage at CNet News.com, the justices "appeared to reserve their most pointed questions" for Smith. Justice Breyer tried to extend the case to schools, even though ALA challenged only the library provisions, and suggested that schools would shut down their library computers rather than "let[ting] the worst possible pornography" into classrooms. Olson argued that librarians "are simply declining th put on their computer systems the kind of content they have *chosen* not to put on their bookshelves," again an interesting choice of words for a mandated requirement. Justice Souter seemed to understand the problem with CIPA—companies won't disclose what they're blocking—but Olson responded, "Libraries have known that they don't stock pornography." The millions of legitimate pages blocked along the way? Not Olson's problem.

ALA posted a brief press release on its website on March 5, noting that librarians care deeply about children, that the public library is the sole means of Internet access for many people, that censorware is far too blunt. Here's a fine paragraph:

> Many yearn for a "silver bullet" to absolve us of the more difficult tasks of education and vigilance, but with CIPA, Congress offers only a false promise of safety. The issue of protecting children online is complex, and it requires complex solutions with parents, librarians and community members working together at the local level. No mechanical device can replace parental guidance and values or the lifelong learning skills imparted by librarians and teachers.

Skip Auld attended the oral arguments and did his best to transcribe the arguments. He posted that admittedly-partial transcript on PUBLIB and several other lists; it's appeared on several sites and should be easy to find. Since the official transcript won't be posted for free access on the Supreme Court's website for weeks or months, Auld's attempt may be your best bet for now. Auld seems to have done a remarkable job. If he has one of Ted Olson's opening comments right, Olson may be another "war is peace" Jack Valenti: "When the library provides Internet access without pornography, freedom of speech is expanded." Later, Olson suggests that "Libraries could get together and create their own filtering system." And he appears not to understand CIPA very well, saying that staff "can disable a filter to make judgments." When Justice Souter pushes him on whether *staff* can have an unfiltered computer, his answer is "Patrons have a right to Internet access anywhere outside libraries." He also claims that overblocking might be "tens of thousands" but only "1/200th of 1%" of the Internet—which is not only without evidentiary backing but directly contradicts every study I've seen. Going on to Smith's anti-CIPA testimony, Justice Scalia jumps right in asserting that "It's not a public forum once you accept the money"—an interesting new narrowing of the First Amendment. Smith specifically separates schools from public libraries. I don't get much more out of this partial transcript—except that several judges are intent on concluding that they can ignore First Amendment issues.

Declan McCullagh of News.com posted an interview with Judith Krug on March 6, 2003; it should be easy enough to find at news.com.com or via search engines: the title is "Sex, the Constitution and the net." Krug suspects that if CIPA is struck down, Congress will try again. She uses the figure of 21% for filtering libraries but doesn't think it's accurate—and notes that, in the Fort Vancouver library where patrons are offered the choice, 78% requested unfiltered access. Worth reading.

At the Washington Post, almost immediately after the Supreme Court hearing, David McGuire moderated a live online chat with Paul Smith, the attorney for ALA's side. An edited transcript of that discussion is available at www.washingtonpost.com under the "Live Online" tab; it's much longer than the brief Krug interview and absolutely fascinating, particularly since questions came in from all over. Someone from Tampa worries about pornographic material that can "flash across a screen at any moment," which *really* leads me to believe I lead a sheltered life. An Alexandria person wonders what ALA finds so objectionable "about local communities determining what is appropriate content for public computers to access on the Internet"—which is an unintentional softball for Smith, who answers appropriately. "The law at issue here attempts to impose a single national standard of restrictiveness." A Minnesota person wondered how "besides filters" parents could insure that their teenagers couldn't get at excerpts from *Queer* or *The Soft Machine* by Burroughs—to which, naturally, Smith replied, "Frankly, filters wouldn't help with that kind of parental choice. They wouldn't be likely to filter the material at issue." Since those books are legal *and* since CIPA deals only with images, that's likely to doubly true. Someone from Maryland doesn't know much about censorware companies: "I'm not sure I buy your assertion that libraries can't view lists of blocked sites from the filtering companies. Don't filtering vendors offer their lists and/or offer you the ability to search their lists?" Not only is that not true, some of them will threaten DMCA action to prevent you from uncovering the lists. Great stuff.

Finally—for now—Dahlia Lithwick posted "Shelf-censorship" on *Slate* on March 5, part of her

ongoing "supreme court dispatches." The first paragraph:

> You really have to hand it to U.S. Solicitor General Ted Olson. The man can say absolutely anything and still keep a straight face. Here he is in the Supreme Court today, arguing for a law that conditions federal funding to public libraries on their willingness to install wildly ineffective "smut filters," and he actually manages to argue—three times by my count—that these filters will *enhance* free speech.

[Emphasis in the original this time.] Her lively discussion notes that this case "represents Congress' 2,000th (or so it feels) attempt to regulate Internet pornography" and that the Supreme Court has hated every previous attempt to regulate "Internet smut." Apparently, Olson also argued that CIPA would save librarians from being sued by authors whose books aren't purchased, because if censorware is unconstitutional, then "so are the types of decisions librarians have been making all along." Lithwick calls this "incredibly weird," which I think is kind. Lithwick believes that the Supreme Court bought into Olson's arguments. One can only hope she's wrong.

Other Censorware Items

Evenson, Laura, "Eyes wide shut," *Sound & Vision* 68:1 (January 2003): 40.

Laura Evenson has a young daughter and loves DVDs. What better candidate for MovieMask, the $35 program from Trilogy Software that sanitizes movies for your family's protection? It's better than CleanFlicks.com and CleanCutCinemas.com—those services cut pieces out of your VHS tapes for a fee. MovieMask doesn't alter the DVD (that's a little tough to do); it just alters the words or images during playback.

Movie directors don't like it: They say it violates copyright and usurps artistic control. In this case, I'm forced to agree with Trilogy (the maker of MovieMask): People should have the right to view movies however they want to in the privacy of their own homes.

So how did it work? First, of course, you have to use your PC's DVD-ROM drive to play the movie, since MovieMask is Windows software—but it will show up on some DVD players this year, supposedly. Second, Evenson found that MovieMask "interferes with the overall feel of a movie" and made discs skip and stutter, "occasionally causing the sound to get out of sync with the images."

What did it do to the movies that it could handle (some 90 when the column was written)? In eliminating "sexually suggestive dancing" in *Ocean's Eleven* (a PG-13 film!), "the cuts were so rough that it looked as if a projector had jumped to a new reel of film." Later, by deleting a particular piece of profanity, the software 'deflated a comic scene designed to break the tension of a high-stakes heist."

As with any good censorware, the work is selective: In *Gosford Park* (R-rated for reasons I still don't fully understand), some sex scenes were deleted—but a stabbing and several scenes of the victim with a dagger in his chest stayed intact. After all, violence never hurt anyone… Ditto *The Spy Who Shagged Me*: violence stays, "sexually suggestive scenes" disappear (which must have made for a *very* odd viewing).

"Using MovieMask caused me to reflect on how good intentions can go bad. Relying on this software ruined what could have been a satisfying evening of movie-watching. More important, I had let a complete stranger make aesthetic and moral decisions for me…"

Evenson notes that MovieMask would probably destroy *The Crying Game*'s pivotal scene entirely—but that's not the point. "MovieMask also makes it too easy to shirk my duty as a parent. It's up to me to do the prescreening."

Oregon Filtering Proposal

Oregon has a new proposed bill that appears to anticipate CIPA being overturned. The summary is clear enough:

> Directs public libraries to install filtering software on computer terminals that provide access to Internet in children's areas or near children's areas.

The bill defines "offensive material" as "includes, but is not limited to adult-oriented, sexually explicit Internet sites," adds the clause "to the extent technically possible" to the requirement to block such material, and defines things fairly clearly. In this case, the "or" in the summary is a Boolean "or"—that is, if there are no Internet terminals within a children's area, *then* filtering software should be present on "*the* terminal located closest to the children's area." [Emphasis added.] Another clause precludes access to unfiltered Internet computers by children under age 18 without authorization by a parent or guardian.

Lowe, Sue, "Net Nanny a part-time supervisor, says report," downloaded from www.smh.com.au (an Australian newspaper site) on March 4, 2003.

Australia wants its ISPs to offer Internet filters. The filters don't work that well. When official tests were conducted, Net Nanny 4.0 failed 38% of the time—and Cyber Sentinel failed 53% of the time.

Naturally, the censorware people say it works right when there's money to be had, as in corporate filtering. Consumers haven't chosen filtered access often—but the Australia Institute's solution is to *force* filtering, at the ISP level, for everyone 18 and under.

The Good Stuff

Crawford, Walt, "Building partnerships: Adding dialogue to professional writing," *EContent* 26:2 (February 2003): 48-49.

One advantage of traditional print publication for the author is that you get to see your work as though it's fresh, since a couple of months have elapsed since you wrote it. Sometimes the result is a mild groan; sometimes it's delight. This is one of those times—and even if I was being consistent about reprinting and updating "disContent" columns, I wouldn't get to this one for a year or two. This column was inspired by a sequence of events in *Cites & Insights* beginning last October—the colloquy regarding the Budapest Open Access Initiative FAQ. I believe this column—and, for that matter, the related January 2003 "disContent"—are particularly worth reading. Even if I did write them.

Lewis, Jim, "Memory overload," *Wired* 11:2 (February 2002), downloaded February 10, 2003 from www.wired.com.

This one-page essay in the "View" section argues that we're remembering too much thanks to cheap digital storage. It's not entirely a new phenomenon, as he notes:

> Mom and Dad buy a video camera expecting to document Junior's first years, only to find that, while they do indeed shoot anything and everything, they never get around to watching all they recorded. There aren't enough hours in the day for such marathons of consumption.

A senior scientist at Microsoft is intent on recording everything he does. I find the prospect horrifying. I believe Jim Lewis does also. It's easy to capture everything—but what do you *do* with it? With analog media, "remembering" was selective because it was expensive, and—other than text—the media themselves helped us forget: "Time takes just enough out of acetate and celluloid to remind us of the distance between now and then, while leaving just enough to remind us of the nearness of our own history."

There is value in forgetting. If we remember everything equally, Lewis' final sentence may be right: "Our culture has become engulfed in its past and can make no use of it at all."

Metz, Cade, "The great interface-off," *PC Magazine* 22:3 (February 25, 2003): 100-110.

There are finally a fair number of peripherals using FireWire (IEEE 1394) or USB2.0 connections. Which works better? This long article and set of tests offers some clues. For digital videocameras, the choice is easy: FireWire or nothing. I wouldn't buy a new home PC that didn't have multiple USB2.0 ports *and* at least one FireWire port, but the latter is still the exception.

Technically USB2.0's maximum speed is slightly higher than FireWire (480Mbps—that's bits, not bytes—for USB2.0, 400 for FireWire), but FireWire can deliver 15 times as much power. In tests, FireWire outperformed USB2.0 slightly in some tests and vice-versa; most results were nearly identical.

Miller, Ron, "Publish or perish," *EContent* 26:2 (February 2003): 28-33.

This article discusses "enewsletters"—newsletters delivered via email—and includes excellent commentary on the "ongoing relationship" generated by a delivered newsletter. That's something I've discussed about magazines—the relationship with subscribers—and it doesn't require delivery. Even if I find one or two of the "experts" quoted here annoying, this is interesting material. It's true that an outreach newsletter lacking "good and relevant" content can do more harm than good and that a good newsletter, as with any good periodical, builds a relationship.

Rosenzweig, Vicky, "The anti-phonetic alphabet," www.panix.com/~vr/alphabet.html.

"You know: Cites—cue, irrupt, tsar, ewe, see." The subheading here is a little tribute to Tom Lehrer: "3 as in Hen3ry." You could argue with some choices, and she invites submissions. I particularly like "Q as in quay"—if you know how "quay" is pronounced. ("T as in oolong" isn't bad either.)

Scott, David M., "America's CIO," *EContent* 26:2 (February 2003): 56.

This one-pager is an enthusiastic discussion of Tom Ridge and the new Information Analysis group, which "will synthesize data from diverse agencies…" to assess "the multitude of threats to America." Scott thinks it's "cool" that "we'll soon have an econtent wonk in the cabinet." I think about the possibility of true data mining done on a "synthesis" of all the personal information the government and corporations collect, much of it incorrect, done behind closed doors and with no public accountability…and, well, maybe I'm a little less enthusiastic. Read it and decide for yourself. Not that there's much you can do about it.

Shirky, Clay, "Power laws, weblogs, and inequality." Downloaded February 10, 2003 from www.shirky.com.

Perhaps this essay belongs in my weblog perspective, but it's worth thinking about on its own. Power laws are like the Pareto Principle, only more so. The pure power law distribution has a shape based on the value for the Nth position in a ranked set being 1/N: The value for second place is half that of first, third place one-third that of first, and so on. Shirky suggests that weblog traffic tends to follow the power law, and that this is entirely natural. Of course, it's not a pure power law curve—that would be almost impossible—but as a general rule, it may be sound. As Shirky says, "We are all so used to bell curve distributions that power law distributions can seem odd." But word frequency tends to follow such a curve, and so do quite a few systems involving popularity. Shirky also claims—correctly, I believe—that a growth in blogging will tend to *increase* the disparities in popularity rather than decrease them.

He also notes that weblog technology will be seen (or is already seen) as a platform for many types of publishing—a tool more than a specific kind of publication. I believe that's already true. Eventually, he says, you're likely to see the most popular bloggers joining the mainstream media in one way or another, while most bloggers become conversationalists, "talking with" a handful of readers. "Blogging Classic"—what you and I may think of as typical weblogs—may stay in the middle in terms of popularity but are likely to be a minority of all weblogs.

Smith, Steve, "The afterweb," *EContent* 26:2 (February 2003): 22-27.

"The World Wide Web is *so* 2001. Forward-looking publishers are, well, looking forward…and beyond a digital platform that often proved to be a wildly popular place for users to engage with content, but a disastrous business proposition." Those are the lead sentences of this cover story, which had me spluttering but also thinking.

I could pick nits galore—the "decade of development" of *Web*-based digital distribution, for example. I'd love to see facts backing the assertion that "*millions* of users now routinely download content to their Palms and PocketPCs" or that users have "surprised even the digimag technology providers with their *hunger* for downloadable versions of print products." [Emphasis added in all cases in this paragraph.]

On the other hand, it's hard to argue with the assertion that PDF is an "undisputed success story in offline digital content formats"—although that's a little tricky, because so much PDF is acquired via the web and quite a few people *read* PDF documents within their browsers. And I do appreciate articles that draw a clear distinction between the Internet and the web, even if this one does so in a rather muddy fashion.

PC Magazine has 6,700 readers paying for the downloadable digitized versions. That's a hard number; publisher Tim Castellis' belief that 15% of the 1.2 million print subscribers *might* convert to that format is, of course, pure speculation.

Worth reading—carefully. (The whole February 2003 *EContent* strikes me as exceptional; I marked almost everything in the issue for possible discussion.)

"Special 20th anniversary issue," *PC World* 21:3 (March 2003).

PC World began in March 1983, a year after David Bunnell started *PC Magazine* and a few months after it was sold to Ziff-Davis. According to the editorial that begins this "special" edition, Bunnell much preferred IDG and decided to compete against his own creation through a new magazine. To my mind *PC World* has always been the lesser of the two, but it claims a larger circulation. That may be true; the detailed coverage that makes *PC Magazine* (at its best) a superior product also demands more of the reader than *PC World*'s formulaic "top 20" and once-over-lightly approach.

The issue leans on the "20" theme a little too heavily but includes some interesting aspects. "20 things you didn't know your PC could do" is an odd set of curiosities; "20 years of hardware," "20 years of software" and "20 years of online" are all fascinating and deserve a lot more than one page each; "20 products we love" is an interesting hodgepodge; and "20 tools for trouble-free computing" is just another utilities roundup with no particular surprises.

The best piece in this issue is "20 days without a PC," in which Scott Spanbauer (a technophile of the first water) gives up PCs and the Internet for 20 days. Some of it's just sad: "Day 04… I realize I've been downloading music faster than I can enjoy it"; "Day 16. I'm at the library for the first time in eons." Spanbauer begins to understand that constantly being connected and doing everything possible on the PC and online "accelerates the pace of life" in ways that aren't always positive, and that PCs also *rob* people of time, particularly when they go nuts with them. (Spanbauer watches old *Sopranos* episodes by downloading pirate copies from the Internet—"trolling newsgroups, tracking down files, and stitching them into a watchable video." "Buying a DVD wouldn't just be more legit; it would be a lot simpler." Will the lesson take? For example, five

days out of the 20 were a family trip, and he'd normally haul along his laptop to write and check email while supposedly on vacation. Will he figure out that "vacation" and "online" may be mutually exclusive, if you're to get the most out of a vacation?

Trends & Quick Takes

If most of these seem more like "quicker takes," well, maybe I'm getting more succinct or maybe the items are getting less interesting. It's your call.

Segway's Breakdown

That's the title of a March 2003 *Wired* article by Gary Rivlin that contrasts the early bravado of Dean Kamen and backers of the Segway Human Transporter with reality. Kamen forecast that, by the end of 2002, his factory would be producing 10,000 Segways a week. While the company won't release sales figures, the best outside estimate is that the forecast is off by *three* orders of magnitude—that the factory's producing ten a week. Even the ever-enthusiastic Paul Saffo regards the Segway as three times too expensive and 40 pounds too heavy—without enough battery life to make it worthwhile.

An interesting sidelight to Segway's impassioned lobbying to get the 80-pound scooters made sidewalk-legal: The company promises to require four hours of hands-on coaching for each user. If it's so safe, why should people need coaching—and how do you do it when people buy Segways via Amazon? (There's an answer: Before Segway will ship your unit, you have to go to one of their regional monthly training sessions, at your own cost.)

That's part of a long, interesting story. For example, Kamen came up with the Segway idea after inventing the Ibot wheelchair and thinking that a scooter would have a much larger market. The difference, of course, is that the Ibot (which allows users to climb stairs and come up to standing height) can significantly improve the lives of people unable to walk—where the Segway is mostly a way for lazy people to be lazier. Given that thought, maybe it's surprising the Segway *hasn't* been a huge success.

I wondered just how well the US Postal Service tests were going, and this story offers some clues. The first carrier to deliver mail on a Segway liked the device "but it didn't save him any time: He couldn't sort the mail between homes as he could when walking his route. And if it rained, it was impossible to carry an umbrella, because you needed both hands to steer." The Segway's a fair-weather device? And, in another round of tests, carriers found themselves changing batteries in 45 minutes to two hours. A Segway engineer's response to that problem: "You pull out eight bolts, put in two new batteries, tighten up the eight bolts, and continue on your route." No big deal if you have an electric screwdriver—and aren't postal carriers *supposed* to be mechanics on the side?

The Segway attitude is very much "Drink the Koolaid." They respond to all critics by saying that they just haven't tried one yet—an attitude that has led several companies to failure. Here's a Segway employee's response when Rivlin notes that the Segway is awfully heavy to lift in and out of a car. "'It's easy,' Smith chirps. 'I grab one side and get a friend to lift the other.'" Right. And, of course, there's no *way* an 80-pound scooter plus 200-pound person going 11 miles an hour could possibly harm another pedestrian: Whenever carefully prepared employees have crashed into alert pedestrians at slow speeds, it's been OK.

It's always astonishing to see a skeptical article in *Wired*. Segway's Brian Toohey: "If we thought there was a reasonable possibility of this causing harm as opposed to solving a problem, we wouldn't sell it." To which I say: What problem does the Segway solve? Inadequate fat among America's pedestrians? Excess savings accounts? Too much raw material lying around? OK, maybe the 13,000 mail carriers that use backpacks rather than minitrucks could find them useful if the batteries lasted longer—but Kamen's looking for *billions* of dollars of sales, and 13,000 times $5,000 doesn't make it. Kamen's earlier inventions save lives and make lives better. Not this one.

The End of Books Déjà vu?

Two unrelated items I encountered a week apart: A book review by Geoffrey Skinner and an article from *Scribner's Magazine Illustrated*, July-December 1894.

The first, "The end of books, the end of print style," takes on Jakob Nielsen's *Designing Web Usability*—which I have not read (although I've skimmed portions). According to Skinner, Nielsen "predicts printed books could go away by 2007, to be fully replaced by online information (and warns publishers print books *will* go away)." The usual arguments: Good old technology will solve the readability problems and "readers will become increasingly comfortable with non-linear presentation of information." Skinner doesn't buy it—and I'm afraid it colors my already-dark view of Nielsen even more deeply. The brief review goes on to consider the implications of Nielsen's guidelines. But once a self-proclaimed guru proclaims the death of printed books, I start to lose

interest. That train has left the station, with almost nobody on board.

Then there's "The end of books," by Octave Uzanne, ill. A. Robida—which is either a remarkable century-old article or a magnificently-done hoax (www.uiowa.edu/~obermann/endofbooks/). The theme is that printing is threatened with death thanks to "the various devices for registering sound which have lately been invented." The phonograph will replace the book, and we can stop wearing ourselves out through the reading of texts. Writers become Tellers; libraries become phonostereoteks, "containing the works of human genius on properly labelled cylinders…" (For after all, cylinders were the recording media of the time; discs came later.)

There's much more, all charming. Read and consider how we have survived this continued onslaught of wearying books, "the majority of which contain only the wildest extravagances or the most chimerical follies, and propagate only prejudice and error." And here's a century-early prediction that could cover spam and talk radio alike: "Our social condition forces us to hear many stupid things each day."

Quick Takes

3G in Japan: Maybe Not So Inevitable

As the marketing pundits proclaim the inevitable success of all things wireless, one constant claim has been that in Japan, everybody uses their wireless phones for everything possible (with the implicit argument that backward Americans will eventually get our act together). Steve Fox's "Plugged in" column in the February 2003 *PC World* offers an interesting counterpoint: DoCoMo revealed that it's only signed up 320,000 subscribers to its "3G" networks. It's hard to argue with Fox's comment: "If 3G isn't soaring in phone-crazed Japan, it won't be taking off in the United States anytime soon."

Making It Up As You Go

Remember when technology journalists knew what they were talking about? Well, no, neither do I—but Andrew Shalat's February 2003 *Macworld* piece on scanners still shocked me. It's largely about the fact that Mac OS X 10.2 includes support for TWAIN, the Technology Without An Interesting Name that's been the *lingua franca* for scanners in Windows for many years. But here's Shalat's lead paragraph: "It gets its name from the Rudyard Kipling poem 'The Ballad of East and West.' It's an image-input technology that's included as part of the core of Mac OS X 10.2. It's called TWAIN, an acronym that doesn't actually stand for anything." He repeats the absurd claim that TWAIN takes its name from a Kipling poem at the end of the piece. I guess *Macworld*'s editors will, in fact, stand for anything.

No Comment

Bwahahah… Andy Ihnatko has taken over the end-of-issue column in *Macworld*, and Ihnatko appears to be as pure a Macthusiast as they come. But his February 2003 column, about the dangers in free/bundled software, has an odd twist. He wanted to capture a few frames from a DVD to send to a friend of his. Apple's DVD Player won't do it. "The next day, I threw in the towel: I hooked up a PC and had my frame grabs in seconds." Geez, Andy, I thought the Mac was how you just got things done.

Living Without a Tablet PC

Some times, the "coming attractions" blurbs are as much fun as the articles. Here's one in the February 2003 *Computer Shopper*, quoted verbatim: "**Take a Tablet.** Behold the latest innovation in portable computing: the Tablet PC. We test the flat-out hottest (and coolest) models to show you why you won't be able to live without one." Wanna bet?

When the article appeared, it was a lukewarm set of reviews beginning with an admission that these devices weren't really quite baked yet—although vertical applications alone might justify IDC's projection that 1.5 million Tablet PCs would be sold "by 2005" (which could be a cumulative total, not an annual rate). If that's the most optimistic projection, it's fair to say that 99% of computer users can live without tablet PCs.

Absurd Claims

Phony numbers on parade: Here's a chart from the same *Computer Shopper*—claiming that "ink cartridges outsell desktops." If you believe the upper graphs, ink cartridge sales for 2002 (U.S.? Worldwide? Not a clue) totaled about $3.3 billion, while desktop PC sales totaled around $2.7 billion and notebooks only accounted for something like $2 billion. The numbers are, of course, absolute, utter nonsense. Gateway and Apple *each* sold $5 billion or more worth of desktop and notebook computers in 2002; Dell sold at least four or five times as much. I can't imagine what those numbers really mean—they can't be units in millions (still too low for PCs, and *far* too low for cartridges). Perhaps retail store sales in the U.S.—or perhaps office supply retail store sales in the U.S.?

DVD-on-Demand and International Films

I've mentioned CustomFlix before. The company, "an innovator in on-demand video and DVD publishing," now offers international services, a great way for overseas filmmakers to make titles available

in the U.S. Media One Pty Ltd., "an award-winning Australian media company," is already using CustomFlix as a way to enter the U.S. market.

Playing an LP without a Turntable

The story appeared on Wired News, February 25, 2003: Ofer Springer's Digital Needle. It's the work of a 22-year-old student at the Hebrew University of Jerusalem, and I believe it works—just about as well as Springer claims (and demonstrates). You take four scans of an LP on a high-res flatbed scanner (which isn't big enough to scan the LP in one pass), stitch the sections together, and run the program—which follows the image of the groove as it spirals around the scan, generating sound based on the pattern within the groove.

It's a stunt (as Springer admits) but an interesting one. The resulting sound is recognizable as a particular piece of music, barely. As one audio engineer pointed out, looking at lateral motions doesn't do much good for most LPs: each channel is encoded on the diagonal, combining vertical and horizontal changes.

In fact, there is a non-contact turntable—it's been around for years and must sell one or two a year, maybe. ELP's Laser Turntable costs $10,000 and up and uses five lasers to read the walls of a groove and guide the laser assembly. (Yes, they're still making turntables—some of them absurdly expensive. Vinyl sales have actually picked up over the last couple of years.)

Go find the Wired News story; it will point you to Springer's site, which includes samples of the results and offers Digital Needle as a free download.

Taubman v Webfeats: Winning One for Malcontents and Free Speech

Let's say a company starts building a big new shopping mall near your house—call it "The Stores at Running Sore." You think it's interesting and register "storesatrunningsore.com" as a domain. Your website has a map of the mall, links to websites for future tenants—and a prominent disclaimer that this isn't an official site, with links to those sites (thestoresatrunningsore.com and storesrunningsore.com). The site also has links to your girlfriend's shirt company and your web design business.

Have you violated the law—specifically the Lanham Act, which deals with trademark infringement? Bigmall, the builder, says you have and demands that you remove the site, sues, and asks for an injunction. You get peeved and register some new domains: bigmallsucks.com, thestoresatrunningsoresucks.com, and so on. Those sites all link to a page documenting your legal battle with Bigmall—and Bigmall wants *those* sites shut down as well. The court says, "Sure, we'll issue injunctions."

The fascinating Sixth Circuit Court of Appeals decision at pub.bna.com/ptcj/012648.htm deals with just such a case (I changed the names)—and this isn't a "Mcanything" decision. Somehow, the judges don't believe that anyone's going to confuse "bigmallsucks.com" with Bigmall's own site—and, by the way, trademark infringement under the Lanham Act involves *commercial* use. You're not trying to sell anything, you're just trying to gripe about Bigmall's heavy-handed tactics. (You get smart enough to remove the two personal business links from the original site before the court enjoins you.) The lower court's injunctions were dissolved, with the finding that Taubman (Bigmall) was unlikely to succeed in its lawsuit against Webfeats (you). Score one for freedom to gripe—and for fan sites as well, possibly.

There's More than Google

Google's founders may have the grandiose idea that they can achieve a state where once you've done a search on Google, that's it—you're done. Librarians and database builders would disagree on one side—and on the other, at least for now, you need to remember that Google isn't the only game in town.

As noted on The Resource Shelf recently, AllTheWeb has introduced some interesting new features in their search engine. Enter a URL as a search and you get a structured result that includes the equivalent of Google's "link:" search—and more, including a one-click WHOIS lookup and one-click link to the Internet Archive for that URL. There's also a new "query rewrite" feature that attempts a "do what I mean" rewriting of your search query, for example putting quotes around Abraham Lincoln.

The Details

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