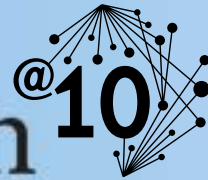




Berkman



The Berkman Center for Internet & Society
at Harvard Law School

*Berkman@10: a decade of exploring cyberspace,
sharing in its study, and pioneering its development*



This academic year, 2007–2008, the Berkman Center celebrates its tenth anniversary. The occasion provides us opportunities to reflect on the work we have done together over the past decade, and to look ahead to what we hope to accomplish collectively in the next decade.

The Berkman Center was founded at a time when the future of cyberspace seemed to be both boundless and overwhelmingly positive. Our belief was, and is, that there are values embedded in the openness of the Internet.

At the same time, we understand that new configurations give rise to new problems. The reaction of societies to these problems will determine how much of technology's potential can be realized. Mapping the open and the proprietary in cyberspace and modeling its special virtues, while being sober about its dangers, are at the heart of our shared inquiry.

Our primary activities are teaching and learning, as is true of any traditional university-based research center. But we also seek to elaborate upon that tradition using the technologies that we study. We have committed to build out into cyberspace as we study it. We have developed code that supports teaching, learning, and self-expression and have participated in erecting new kinds of institutions that seek – although with mixed results – to lend order to a space that appears at first glance to be ungovernable.

We have been, with great pride, a research center located within Harvard Law School. In this coming decade, we will complete our goal of becoming a truly interdisciplinary research center within Harvard University, while retaining our grounding and heritage in the field of law.

The promise of cyberspace is just as great as it was ten years ago, if not greater. Some of the challenges we face in studying it, and in building out into it, have changed; others persist. The more we learn, from one another and from our colleagues who study and build this space, the more our excitement for our work grows.

The impact of our efforts in the first decade derives in no small measure from the talents and dedication of those who have worked with us, including our students, staff, fellows, faculty colleagues, and a growing network of alumni, affiliates, and partners. If we are able to build upon our success during our second decade, it will be for the same reason. We look forward to working together for the common good as we study and explore another decade in cyberspace.

Terry FISHER

Faculty Director

Yochai BENKLER

Faculty Co-Director

Charles NESSON

Founder and Faculty Co-Director

Jonathan ZITTRAIN

Co-Founder and Faculty Co-Director

John PALFREY

Executive Director

Colin MACLAY

Managing Director

The Berkman Center for Internet & Society is a collective consciousness. We are faculty fellows students staff friends and colleagues who sense together that connectedness is the direction in which we are moving and welcome it. We learn about Cyberspace by building it, conscious that we make the game we play. We are architects and characters, programmers and avatars. Our process is integral to our substance. We are committed to civil discourse that respects and engages the interests of those who disagree with us. We seek to express our warmth and intelligence mixed with a little mischief to keep things lively.

[I founded the Berkman Center because I came to see that cyberspace is an open rhetorical space. It is a space in which collective consciousness can form.](#)

Cyberspace challenges us at both individual and institutional levels. At the individual level, we live in an increasingly open information environment. This environment forces us to deal with, or be hurt by, any discontinuities that we maintain in separate spaces. It pushes us toward living lives in which our truth is consistent in all our different spaces. My mentor, Fred Friendly, counseled me: "Tell the truth. It's easiest to remember."

At an institutional level, communication is no longer necessarily a function of capital. Through the net we are now learning how to aggregate and integrate huge amounts of willing human energy. It is up to us to envision new ideas for organizing our energy, and to create the structures to make them real. I am optimistic about the ways in which we can aggregate collective power through the net. In the grand battle of good and evil I feel there is divinity in the open net, not driven by war or wage, that allows good will to aggregate more easily than evil.

We need a solid business plan for the open net so that the people and institutions who benefit from it come increasingly to see its openness as a source of education and participate in building and protecting it against the forces that would disaggregate it. I hope you will join all of us at the Berkman Center in making this dream come true.



Charles NESSON
(a.k.a. eon, dean of cyberspace)
Founder

Founder's Letter

The Berkman Center's mission is to explore and understand cyberspace; to study its development, dynamics, norms, and standards; and to assess the need or lack thereof for laws and sanctions.

We are a research center, premised on the observation that what we seek to learn is not already recorded. Our method is to build out into cyberspace, record data as we go, self-study, and share. Our mode is entrepreneurial nonprofit.

The Berkman Center represents a network of faculty, students, fellows, entrepreneurs, lawyers, and virtual architects working to identify and engage with the challenges and opportunities of cyberspace.

1969 • ARPANET, developed by the Defense Advanced Research Projects Agency of the US Department of Defense, first links a four-computer network.

1984 • William Gibson popularizes "cyberspace" in his novel *Neuromancer*, which he writes on a manual typewriter. Apple rolls out the Macintosh computer.

1986 • First Internet Engineering Task Force (IETF) meeting held. In 1992, MIT Senior Research Scientist David Clark will describe the IETF: "We reject kings, presidents and voting. We believe in rough consensus and running code."

1993 • Mosaic, the first popular Web browser, released by the National Center for Supercomputing Applications at the University of Illinois.

1994 • John Perry Barlow's 1994 essay in *Wired*, "The Economy of Ideas: A framework for Patents and Copyrights in the Digital Age," piques interest on the Harvard Law (HLS) campus.

1994 • *Law, Technology and Society*, a seminar on cutting-edge Internet issues organized by Professors Charles Nesson and Arthur Miller and students David Marglin, Heidi Messer, Tom Smuts, and Jonathan Zittrain, HLS graduate Steve Weiswasser '66 contributes seed funding for travel. The course connects the people and incubates the ideas from which Berkman will eventually grow.

1995 • JANUARY Charles Nesson and Terry Fisher collaborate with other HLS colleagues to create *The Bridge*, a project that uses technology to teach legal reasoning and theory.

1995 • Dot-com bubble begins. Amazon.com is launched, eBay is founded, along with a host of others that weren't as successful.

- 1 | Directors' Letter
- 2 | Founder's Letter
- 3 | Mission

The Entrepreneurial Nonprofit in the Network

- 7 | A Brief History of the Berkman Center
- 9 | Mode: Learning By Doing
- 10 | Building and Sustaining Our Human Network
- 12 | Selected Partners, Collaborators, and Sponsors

Scholarship with Impact

- 15 | Areas of Inquiry
- 18 | The 2006–2007 Year in Research and Scholarship
 - Digital Natives • Innovation and ICT Interoperability • Innovation and Life Sciences • Noank Media • Project VRM
 - Social Physics • StopBadware.org • Chilling Effects • Center for Citizen Media • Citizen Media Law Project
 - Global Voices Online • Internet and Democracy Project • Principles on Free Expression and Privacy • OpenNet Initiative
 - Net Dialogue • Jamaica Project • New Skills/New Learning • H2O • Selected Individual Scholarship
- 32 | Teaching
 - Recent Course Offerings • Clinical Program • Online and Global Venues
- 37 | Events, Communications, Media

The Future of the Internet

- 41 | Where We Are Going
- 43 | Co-Founder's Letter

Appendices

- 45 | Selected Forthcoming and Recent Publications
- 46 | The Berkman Center Team
 - Leadership • Staff • Fellows • Students • Selected Alumni and Affiliates
- 48 | Acknowledgments

1996 • Center of Law and Technology (COLT) established by Charles Nesson and HLS '95 and Kennedy School graduate Jonathan Zittrain. In 1997, COLT officially becomes the Center for Internet and Society.

1996 • JANUARY HLS campus offices fully wired. That spring, HLS launches first website, and classrooms are soon fully wired. Faculty immediately demand that the Ethernet ports be shut down to prevent students from web-surfing during class. Special software is developed to let the ports be turned on and off for different classes, but eventually they are left on continuously, paving the way for student feedback tools later developed by Berkman.

1996 • FEBRUARY Future Fellow John Perry Barlow publishes "A Declaration of the Independence of Cyberspace," announcing to the world's governments that the Net is exempt from their rule, and inspiring a generation of Internet pioneers.

1996 • FEBRUARY The Communications Decency Act (CDA) signals an attempt by Congress to police online pornography. The law is partially overturned in 1997 by the Supreme Court in *ACLU v. Reno*.

1996 • MAY Harvard hosts first Internet & Society conference, chaired by Harvard Division of Engineering and Applied Sciences Professor H.T. Kung with keynotes from Bill Gates, Scott McNealy, and others.

1997 • JANUARY Jonathan Zittrain becomes Lecturer on Law and teaches HLS's *Internet & Society*; the student becomes the teacher. Four years later, he is named Berkman Assistant Professor of Entrepreneurial Legal Studies.

1997 • JANUARY First online courses offered by the soon-to-be Berkman Center: Terry Fisher and a team of HLS Teaching Fellows, including Jack Lerner, offer *Intellectual Property in Cyberspace*; Arthur Miller teaches *Copyright*. Three years later, the Chalk.edu Project is launched, giving new teachers a better understanding of the Internet and its potential uses in the classroom.



The Berkman Center for Internet & Society began as an "entrepreneurial nonprofit" devoted to pursuing the highest-quality teaching and scholarship and focused on Internet technologies, their use, and their impact on society. *We were chartered to identify, study, and engage the most difficult and fundamental problems of the digital age, and to share in their resolution in ways that advance the public interest.* Even as the technology and the way people use it continue to change, this core mission has remained constant throughout our growth and will continue to guide us through our next ten years.

A Brief History of the Berkman Center

In 1996, in the corner of an office in Harvard Law School's Hauser Hall, Professor Charles Nesson and Jonathan Zittrain, 1995 Harvard Law School graduate, established the Center on Law and Technology. A year later, a gift of \$5.4 million from the Berkman family — Jack N. and Lillian R. Berkman and their son Myles — underwrote Nesson's grand vision to create an organization that would research and pioneer development in cyberspace, a vision that, even in its early stages, was characterized by the dynamic collision of multiple fields — technology, law, business, politics, social and cultural studies. In March 1998, the newborn Center for Internet & Society changed its name to the Berkman Center for Internet & Society at Harvard Law School. Lawrence Lessig, who was at the time planning his groundbreaking *Code and Other Laws of Cyberspace*, was awarded Berkman's endowed chair, the Jack N. and Lillian R. Berkman Professor of Entrepreneurial Legal Studies. "Harvard is becoming a center for addressing the policy implications of cyberspace," Lessig commented in the *Harvard Law Bulletin* that fall. The upstart start-up took off from there.

At the time of its launch, the Berkman Center comprised a few computers cobbled together on a makeshift network that, by all accounts, befuddled the law school's IT department. Precariously perched on Nesson's vision, the Berkman Center's mission already encompassed its entrepreneurial mode, knowing as doing: we would build a commons in cyberspace. A fifth floor hallway in Pound Hall, where the Center moved from its original Hauser office corner, provided the physical start for that commons. Nesson and Zittrain were joined by a couple of staff and a handful of students, starting with Wendy Seltzer (the founder of Chilling Effects and now a law professor) and Alexander Macgillivray (now a senior lawyer at Google), who collaborated on the original website and "rotisserie" code for teaching during their 2L and 3L years, often prompting incredulous calls from the Financial Office about their hours. Soon, students and researchers overflowed in the Pound hallway. Despite its limited space, the Center became a haven for faculty, students, and staff with technical skills, who often spent as much time coding as they did on legal matters.

"Harvard is becoming a center for addressing the policy implications of cyberspace..."

—Lawrence Lessig

1997 • APRIL Professor Lawrence Lessig presents "The Law of the Horse: What Cyberlaw Might Teach," at Boston University Law School Faculty Workshop. The paper challenges the notion that there is no law of cyberspace.

1997 • JUNE Fellow David Isenberg publishes "The Rise of the Stupid Network," a foundational text for net neutrality advocates.

1997 • JULY Senior Fellow and Executive Director of the Center for Internet and Society, Jonathan Zittrain publishes "The Rise and Fall of Sysopdom" in the *Harvard Journal of Law & Technology*, examining the nexus of law and online communities.



Baker House

In the summer of 2002, the Center took up residence on Massachusetts Avenue in Baker House, a creaking but homey grey Victorian. It seemed perfect, with the School's newest center in one of its oldest buildings, one that blended form and function befitting of the Berkman Center. Beloved Baker House sheltered Berkman's burgeoning community in a three-story stack of oddly shaped rooms that terminated in the low ceilings and swelter of the "Geek Cave." Its diminutive conference room frequently overflowed during Berkman's weekly luncheons. Interns and research assistants could be found in every nook and cranny, on sofas, on the floor. Time to move again!

The Center's current location, the second floor of a newly renovated wood-frame house, 23 Everett Street, has been Berkman's home since July 2006 and situates us right on the edge of campus – an opening between the university and the world. Baker House has since been hoisted off its foundation and literally moved up the street.

Over the course of our first decade, the Berkman Center has developed rapidly in every sense, but in none greater than our community. We have six core faculty directors who teach at Harvard Law School, four faculty directors from other schools at Harvard, several faculty fellows from other schools, a full-time staff of 20, roughly 30 fellows each academic year, and more than 100 students each year from a range of schools and disciplines. Our classes reach hundreds of students each semester at Harvard. Our conferences and teaching programs go beyond the walls of the university to thousands of people from dozens of countries. Our various web presences reach tens of millions of visitors per year from around the world. *The Filter*, the Center's monthly newsletter on Internet law and policy, has a growing readership of more than 17,000 subscribers. In 2008, our faculty and fellows will publish at least three books in the field, in addition to the community's academic research papers, policy papers, and innumerable blog posts.

Myles Berkman, our founding benefactor and continuing supporter, once described the center that bears his family's name as a "water cooler" around which students interested in issues of technology and the future might gather. From the start, we have attracted community members who are young (whether chronologically or in spirit), ambitious, and open to taking risks. *We have sought to create an environment conducive to thinking big and pursuing ideas that would have a great positive impact – or fail in ways from which we and our students could learn.*

"The Berkman Center embodies much of what is great about Harvard Law School: it's a passionate community of students and faculty devoted to serious scholarship, on a globally relevant topic, in the public interest."

—Elena Kagan
Dean, Harvard Law School

The Internet was still something of a small club for tech aficionados in those early days. After one policy discussion meeting, we herded the group into a Pound elevator on our way to dinner. As we crowded in, I realized that if the elevator cable snapped we'd lose half the founding fathers of the Internet in one swoop. The Internet was a very intimate experience when there were so few people online, and it was easy to reach them directly. One could email total strangers, such as high-ranking government officials or the editor of a major newspaper and receive a direct response almost immediately.

Diane CABELL
Berkman Fellow

1997 • AUGUST Charles Nesson edits *Borders in Cyberspace: Information Policy and the Global Information Infrastructure*, a collection of essays tackling questions posed by the Internet on intellectual property, commerce, security, privacy, and censorship.

1998 • MARCH Arthur Miller creates Berkman's first interactive free and open lecture and discussion series "Privacy in Cyberspace; Fellow Molly Shaffer Van Houweling is the course's lead Teaching Fellow. Berkman hosts the *Privacy in Cyberspaces Conference* in May, examining issues surrounding government databanks and the collection of personal information.



Wendy Schatz, Charles Nesson, Lawrence Lessig, Jonathan Zittrain, Alexander Macgillivray

With almost predictable regularity, Charlie Nesson can be depended on to have a gleam in his eye which achieves brilliant luminance. Such is the case for what became the Berkman Center.

As a social scientist whose work focuses on science-and-technology driven issues, I was delighted to be swept up in the first course that Professor Nesson and Professor Arthur Miller taught in 1994, *Law, Technology and Society*. By then it was becoming clear that despite the insistence of those who claimed that this was but one more "tool," that the Internet would bring about uncharted changes in just about every aspect of society as we knew it.



Dorothy ZINBERG
Berkman Affiliate

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Baker House

It did not take long for the first change to make itself evident. In the middle of one of Professor Nesson's first lectures, he made a statement, but quickly looked up to the back row of the auditorium where a skinny student was listening intently and asked, "That's right, Jonathan, isn't it?" In my many years at Harvard, this was the first time I had seen a professor look to a student for validation. The roles had been reversed: Jonathan, a law student and the Sysop of Sysops at Harvard, knew more about the subject than even his well-informed teacher. Jonathan grew up to be Professor Jonathan Zittrain of Harvard and Oxford Universities, and when I reminded him of this incident, he remarked that he now relied on a nineteen-year-old undergraduate to keep him up-to-date.

Doing away with boundaries – social and intellectual – to enhance learning has been a goal of the Berkman Center's founders since its inception. They have succeeded on both counts.

Dorothy Zinberg is a Lecturer in Public Policy and a Research Associate at the Belfer Center for Science and International Affairs at the Kennedy School of Government

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Wendy Seltzer, Charles Nesson, Lawrence Lessig, Jonathan Zittrain, Alexander Macgillivray

Mode: Learning by Doing

Just as we seek intersections between substantive areas of inquiry, we take an analogous approach in our own operation and in our collaborations with others. The Berkman Center is exceptional in our willingness to participate actively in the shaping of the technological and legal environments we study. This commitment to experiment with the medium and to engage meaningfully with the issues, a gift from Charles Nesson and Jonathan Zittrain, has always been part of our ethos and is ingrained in our institutional culture. This approach has proven useful in this field of study, in which the most interesting questions lie ahead, results are difficult to predict, and active participation is the surest path to learning.

We provide advice to litigants, NGOs, and lawmakers, both in the US and in other countries. We conceptualize and build systems for freely exchanging music, video, and other creative work while compensating authors and publishers. We assist in the operation of a cyberschool in Jamaica. These ventures are united by a desire to understand and promote the public interest while emphasizing the creation and dissemination of knowledge. We have found that many of the most useful and important insights emerge when different social sectors and academic disciplines are introduced to one another.

"The Berkman Center has changed a lot over the last ten years. It's still a truly amazing place... where hard questions get asked. It's still a place where eon haiku drives part of the debate. But in the first few years it was a real startup. The Center had two offices and one hallway... At its peak I think perhaps there were ten workstations in that hallway, a situation that led to both lots of students and lots of mice... Wendy Seltzer used to sleep in the basement server room when there was a heat wave."

—John Wilbanks

The establishment of *Global Voices Online* typifies the entrepreneurial spirit of the Berkman Center. When fellows Ethan Zuckerman and Rebecca MacKinnon convened a group of international bloggers on the margins of the 2004 Internet & Society Conference: Votes, Bits and Bytes, they were pursuing a collaborative approach towards achieving a better understanding of the role of the Internet in the developing and transitioning world. Within two years, the project had garnered a million dollars of support, a million unique visitors per month, and two of the most prestigious awards in the field. Today it is on its way to becoming an independently run NGO.

Another prominent example of the enterprising and innovative outlook of the Berkman Center is the Digital Media Project, which gave birth to *Noank Media*, an alternative compensation mechanism for creators that leverages digital distribution through licensing. The idea was proposed by Professor Terry Fisher in his field-shifting book *Promises to Keep*. With support from fellows on strategy, technology development, and a seed grant from the MacArthur Foundation, the project has become a for-profit entity, has received millions in venture capital, and is poised to launch in China, among other countries.



Building and Sustaining Our Human Network

A core element of our philosophy is the approach that we take with faculty, staff, fellows, and students. Seldom stated, but universally understood, is the respect afforded each member of the community and the corresponding opportunity for everyone to contribute in any setting, based not on her title, but on her capacity and degree of interest. This is particularly powerful for student researchers, who have a role in most projects and take on tasks ranging from background research, writing, and coding to making large public presentations. Students are an essential element of the Center's identity and have a huge influence on nearly every aspect of the work we undertake, learning by doing.

Indeed, the success of our mission rests upon our community-building efforts, starting with students and building from there. The community has expanded tremendously over the past ten years as Berkman friends and alumni build bridges out into the world. *We don't simply study networks – we consciously and deliberately create them, linking students, faculty, fellows, affiliates, alumni, staff, researchers, funders, other nonprofit and academic organizations, for-profit ventures, government entities, and the public we serve.* We connect in physical space, through events such as our weekly luncheon series, and in virtual space, through our practice of making our work and discussions freely available online, and through liberal linking (hyperlinking and otherwise) to organizations and sites exploring similar spaces and problems. The Berkman Center's network is perhaps our most lasting contribution and the one that is hardest to measure or describe. It animates our research from the ground up and sustains us in our daily work.

“‘Berkmania,’ as I like to call it, is a state of mind. It is also an amazing network – now stretching around the globe – of people working at the cutting edge of Internet and politics, law, media, education, and culture. Being part of this network does more than just enhance my professional work; the Berkmanite community gives me moral support to keep on pushing the boundaries of scholarship, journalism, education, and activism.”

—Rebecca MacKinnon

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The Berkman Center started in a windowless basement office (along with the Pound Hallway), but even then, we sensed that an open network could provide wider views than mere panes of glass. When the Center advertised for its first webmaster and sysadmin, I had the audacity to think that running a web server under my desk qualified me for the post; in a sign of the times, they agreed. As law students, Alexander Macgillivray (now IP counsel at Google) and I became the new Center's chief technologists.

Berkman founders and faculty understood that the magic of the Internet was not the machinery, but what its users could build upon it. They infused the Center's research with a build-it spirit and commitment to openness: open code, open law, open access, open education, open governance. Students were full participants: if the tools we needed didn't exist, we'd create them, test them in real-time, and deploy them – whether it was classroom discussion software, online teaching, or open-source law.



Wendy SELTZER
Berkman Fellow



Jake Shapiro (on screen), Colin MacLay, Mary Rundle

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That windowless office provided an expansive view of an Internet through which almost anyone could connect, create, and combine. Not everything succeeded, but lots did, often in ways a central planner couldn’t have anticipated. Classroom assignments became conversations between the class and the outside world; webcasts opened conferences to distant participants; new copyright licenses helped artists invite remixing of their works. We didn’t just ask what technologists and lawyers could learn from one another – we built a forum to discuss how our respective codes are made. Through the Net, we shared experiments.

Yet even then, and especially once I’d graduated from law school, I could see that not everyone saw the virtues of the open Internet in the same way. Open code threatens proprietary platforms; open access threatens business models built on exclusivity; open content challenges those who thrive on enclosure. Under these forces, the malleable code of the Internet could easily be changed to resist openness and to thwart tinkering and building-upon.

I left law school determined to help others to experience the open Net as I had from Berkman’s basement office. Through the Chilling Effects project, I’ve tried to help keep free expression safe from unwarranted legal threats; in my teaching, I aim to give students a similar sense of adventure... on a Net that’s still open to it.

This last year Wendy Seltzer was a Visiting Assistant Professor at Brooklyn Law School, teaching copyright, Internet law, and information privacy. She spent Trinity term at the Oxford Internet Institute, researching the international dimensions of takedown demands to ISPs and teaching “Media Strategies for a Networked World” at Oxford University’s Said Business School. Now visiting at Northeastern University School of Law, she has continued to lead the Chilling Effects Clearinghouse and has participated in numerous conferences and public events. In early 2007, Wendy’s blog and YouTube posting of the National Football League’s overreaching copyright warning in a video clip from the Super Bowl telecast earned her two Digital Millennium Copyright Act takedown notices – and brought public attention to the problems of the DMCA and overreaching copyright claims.

Our faculty, fellows, staff, and students are leaders and emerging leaders in our field, doing important work while at the Berkman Center and often later achieving greater heights in subsequent endeavors. They publish innovative books and timely articles; teach classes at Harvard and other universities; consult with businesses and nonprofits; advise governments; guide doctoral students; and lead corporations. Our graduates are among the finest academics, lawyers, policymakers, activists and entrepreneurs in our field.

Fellows play a crucial role in discovery, learning, and engagement and will continue to be a driver of our success and a foundation of our community. [Fellows are essential to the Berkman Center’s network as nodes of intelligence, insight, energy, and knowledge-sharing; they help to drive projects from within and to bring fresh ideas and skills into our community.](#) Our weekly Fellows’ Hour and our fellows’ mailing list have become hubs for honing ideas, making connections, and spawning new initiatives. The fellows’ constant physical and virtual travels guarantee that we remain porous and open both to the public and to the diverse organizations in this space. Their connections and activities underwrite the intellectual life of the community, as they collaborate with faculty, mentor students, participate in and enrich events, and inspire staff. As alumni, they enliven our network as ambassadors and brokers, connecting us to new people and ideas, and as ongoing contributors, providing valuable guidance and intellectual support. The Berkman Center’s growth, as well as that of the organizations it has incubated, owes much to this expanding family.

While most university research centers are driven almost exclusively by their faculty, Berkman’s unique model combines faculty participation with the drive, vision, and skills of its fellows and students. Their contributions to Creative Commons, the Digital Media Project, OpenNet Initiative, StopBadware.org, and many other Berkman efforts have had tremendous influence on the use, understanding, and policies of cyberspace. Fellows’ independent efforts have been equally prodigious, as exemplified by recent books like David Weinberger’s *Everything Is Miscellaneous* and stand-alone projects such as Global Voices Online.

1998 • MAY Lawrence Lessig writes "What Things Regulate Speech: CDA 2.0 v. Filtering," which considers a model for re-envisioning traditional views of speech regulation and applies it to the problem of filtering speech on the Internet.

1998 • MAY Harvard's second Internet & Society conference *Will the Net Inevitably Drive a Deeper Wedge Between Rich and Poor?* chaired by Professors Charles Nesson and Charles Ogletree. (The two would go on to co-chair four subsequent Internet & Society Conferences.) Capitalizing on interest from the first Internet & Society conference, with a who's who of keynoters from AOL, IBM, Microsoft, Oracle, Sun, and others, this year's conference proves to be a major event for Berkman and for the University.

1998 • JUNE Internet Public Media Project begins, signaling a collective effort by media professionals, artists, and civic leaders to create a unified network of online programming and events dedicated to public service, education, cultural affairs, independent journalism, and civic discourse.



Learning Day, Berkeley, Principles on Free Expression and Privacy

Selected Partners, Collaborators, and Sponsors

In order to produce the most robust and comprehensive research, the Berkman Center seeks to form meaningful partnerships with other institutions doing related and complementary work. We also rely on the generous support of numerous sponsors, including foundations, businesses, governments, NGOs, and individual donors.

HARVARD RESEARCH CENTERS

Center for International Development (CID),
Harvard University

Center for Research and Computation in Society (CRCS),
School of Engineering and Applied Sciences,
Harvard University

Harvard University Library,
Harvard University

Charles Hamilton Houston Institute for Race & Justice,
Harvard Law School

Human Rights Program,
Harvard Law School

Institute of Politics,
Harvard University

The Joan Shorenstein Center on the
Press, Politics & Public Policy,
Kennedy School of Government

OTHER UNIVERSITY RESEARCH CENTERS

Advanced Network Research Group,
Cambridge Security Programme,
University of Cambridge

Center for Internet & Society (CIS),
Stanford Law School

Center for Internet Studies,
University of Washington

Center for Social Media, School of Communication,
American University

Citizen Lab, Munk Centre for International Studies,
University of Toronto

Comparative Media Studies Program, and the Media Lab,
Massachusetts Institute of Technology

Graduate School of Journalism, and Samuelson Law, Technology,
and Public Policy Clinic, Boalt Hall Law School
University of California, Berkeley

The Information Society Project (ISP),
Yale Law School

Institute for Democracy, Politics & the Internet (IPDI),
Graduate School of Political Management,
The George Washington University

The Institute for Information Law & Policy (IILP),
New York Law School

Oxford Internet Institute (OII),
Oxford University

Research Center for Information Law,
University of St. Gallen, Switzerland

Telecommunication and Computer Networking Group (TeNeT),
Indian Institute of Technology Madras, India

1998 • JULY Inaugural issue of *The Filter*, Berkman's Internet policy newsletter, edited by Donna Wentworth. The now-monthly publication has more than 17,000 subscribers.

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Jeffrey Cunnard, Bruce Keller

Think of the ten smartest, most influential people in your field. Now imagine having lunch with a half dozen of them. The conversation extends deep into the afternoon, arguing the key points in your field, critiquing each other's research and thinking, brainstorming the paths forward.

That's what I get to do most Tuesdays.



Ethan ZUCKERMAN
Berkman Fellow

1998 • MAY Lawrence Lessig writes "What Things Regulate Speech: CDA 2.0 v. Filtering" which considers a model for re-envisioning traditional views of speech regulation and applies it to the problem of filtering speech on the Internet.

1998 • MAY Harvard's second Internet & Society conference (*Will the Net Inevitably Drive a Deeper Wedge Between Rich and Poor?*) chaired by Professors Charles Nesson and Charles Oglethorpe. (The two would go on to co-chair four subsequent Internet & Society Conferences.) Capitalizing on interest from the first Internet & Society conference, with a who's who of keynoters from AOL, IBM, Microsoft, Oracle, Sun, and others, this year's conference proves to be a major event for Berkman and for the University.

1998 • JUNE Internet Public Media Project begins, signaling a collective effort by media professionals, artists, and civic leaders to create a unified network of online programming and events dedicated to public service, education, cultural affairs, independent journalism, and civic discourse.



Learning Day, Berkeley, Principles on Free Expression and Privacy

The Berkman Center is home not just to innovative law professors, brilliant software developers, and dedicated law students, but also hosts an eclectic mix of Internet pioneers, thinkers, writers, and dreamers – fellows, who join the Center for anywhere between a semester and an eternity. (Grateful Dead lyricist and Electronic Frontier Foundation co-founder John Perry Barlow is currently closest to achieving the title of “fellow emeritus.”)

It's difficult to offer a characterization that applies to all fellows. Many are geeks who are fascinated by law, or lawyers who dream of being geeks. Some are internationally famous, like Wikipedia founder Jimmy Wales. Others are simply respected by everyone who's ever worked with them, like professor and activist Wendy Seltzer.

Some fellows use their time at Berkman to generate original scholarship, like Dr. Urs Gasser, who averaged a paper a month until his colleagues rebelled, insisting that he stop embarrassing us and return to Switzerland. Others use the Berkman Center as an incubator for new projects, launching efforts that include Chilling Effects, Public Radio Exchange, the Center for Citizen Media, Net Dialogue, and Global Voices.

In a digital age full of virtual connections, the fellows program is a reminder that sharing ideas face to face is indispensable. Ask anyone who's been lucky enough to participate. Or come join us some Tuesday. We'll save you a sandwich.

Berkman Fellow Ethan Zuckerman is co-founder of Global Voices Online.

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Jeffrey Canard, Bruce Keller

NGOS, NONPROFITS, GOVERNMENT ENTITIES, AND FOUNDATIONS

Business for Social Responsibility (BSR)
 The Lynde and Harry Bradley Foundation
 Center for Computer-Assisted Legal Instruction (CALI)
 Center for Democracy and Technology (CDT)
 The Corporation for Public Broadcasting
 Creative Commons (CC)
 Education Development Center, Inc. (EDC)
 The Electronic Frontier Foundation (EFF)
 The Ernst & Young Foundation
 The Ford Foundation
 Gartner Group
 The Philip L. Graham Fund
 Gruter Institute for Law and Behavioral Research
 Hivos
 Human Rights Watch (HRW)
 The Information for Development Program, World Bank (infoDev)
 The International Development Research Centre (IDRC)
 John S. and James L. Knight Foundation
 John D. and Catherine T. MacArthur Foundation
 Andrew W. Mellon Foundation
 The McClatchy Company Foundation
 Mozilla Foundation
 The National Endowment for the Arts (NEA)
 The National Telecommunications and Information Administration (NTIA)
 The Craig Newmark Philanthropic Trust
 The Oak Foundation
 Omidyar Network
 Open Society Institute (OSI), Information Programme
 Public Radio Exchange (PRX)
 Charles H. Revson Foundation
 Soliya
 Students Expressing Truth Foundation (SET)
 Sunlight Foundation
 The Surdna Foundation
 United States Department of State
 WGBH

CORPORATIONS AND PARTNERSHIPS

463 Communications
 Best Buy Co.
 Debevoise & Plimpton LLP
 eBay
 Edelman Worldwide
 Google
 Highland Capital Partners
 IBM
 Lenovo
 Microsoft
 Novell
 Oracle Corporation
 Outblaze
 Parity Communications
 PayPal
 Reuters
 Sun Microsystems
 TeliaSonera
 VeriSign
 Vodafone
 WilmerHale LLP
 Yahoo!

INDIVIDUAL DONORS

The Berkman Family
 John I. Forry, Esq.
 Martin H. Levin, Esq.
 John F. McQuillan, Jr.

“In *The New York Times Magazine*, Robert Boynton once referred to Berkman as ‘the intellectual hub’ of our field, and we’ve aspired to live up to that description.”

—John Palfrey

1998 • SEPTEMBER Internet Corporation for Assigned Names and Numbers (ICANN) assumes oversight of the Internet and its domain-name system from the US government. Berkman facilitates and moderates one of its first public meetings. Scott O. Bradner (Harvard), Berkman faculty members, and Fellow Andrew McLaughlin are involved in setting up ICANN.

1998 • OCTOBER Following a year of charring meetings (Virginia, Geneva, Singapore, and more) for the formation of ICANN, Fellow Tamar Frankel testifies regarding ICANN before the House Science Committee in a joint hearing of the Subcommittee on Basic Research and the Subcommittee on Technology.

1998 • OCTOBER Digital Millennium Copyright Act (DMCA) signed into law by President Bill Clinton.

1998 • NOVEMBER Jonathan Zittrain testifies before the US Senate on Internet tax – based on his co-authored empirical study with Professor Austan Goolsbee of the University of Chicago – finding that an inability to tax Internet commerce had not yet greatly affected state coffers. Zittrain also launches his National and Corporate Security Project later that month.

1999 • JANUARY Berkman's Openlaw project, led by Wendy Seltzer; experiments with crafting legal arguments in an open forum by collecting examples of public domain use and copyright misuse for *Eldred v. Reno*, later *Eldred v. Ashcroft*.

1999 • JANUARY Copyright's Commons, precursor of Creative Commons – which will be founded in 2001 – gathers advocates and promoters of the public domain and creative uses of public domain works. In May, Berkman hosts the *Open Code/Open Content/Open Law* conference, dedicated to "Building a Digital Commons." Lawrence Lessig delivers the keynote: "Reclaiming a Commons."

1999 • APRIL Cyberstate Awareness Project explores philosophical, political, and constitutional issues surrounding the development of a National ID System.



The Berkman Center enjoys a global reputation for cutting-edge work centered on the relationships between the Internet, law, and society. We have pioneered architectures to integrate Harvard's work and teaching with the world at large, led sustained university-wide discussions of Harvard's role in the digital world, chartered the first clinical program in cyberlaw, and brought a landmark copyright case before the Supreme Court.

Building upon the originality, quality, and renown of our past and present projects, we strive to accomplish much more in the coming decade and to attract ever more creative and committed participants from around the world.

Areas of Inquiry

As we mark our tenth anniversary, the need for rigorous scholarship, teaching, and carefully considered advocacy on topics related to the world of networked information technologies is greater than ever. As the growing Internet joins more than one billion people from virtually every culture in the world, both its fundamental architecture and the way people are permitted to use it are undergoing rapid change. Many forces, including corporate and government interests, threaten to control the Internet in ways that would squelch many of the social and economic opportunities afforded by an open and free network. By contrast, other forms of regulation are essential to counter security threats – to people, to the technical infrastructure at its core, and to the machines on its edge.

The Berkman Center has sought and seeks, first, to be [an honest broker in the conversations about the future of the Internet and related technologies](#). In the field of intellectual property, the need for creative solutions derived from understanding the varied motivations of the relevant players has continued to grow as the economy changes around the world. Second, we see [an enormous need to bring clarity to the conversation about the Internet's impact on democracy](#). As more and more activists are using the network as an essential set of tools to do their job – in democratic and non-democratic regimes alike – the threats to their personal security and their ability to express themselves are growing. Third, we envision [a growing opportunity to use Internet technologies to improve the ways that we teach, learn, and make information accessible to citizens around the world who are not physically proximate to our libraries](#).

1999 • APRIL Fellow David Bollier publishes "The Power of Openness – Why Citizens, Education, Government and Business Should Care About the Coming Revolution in Open Source Code Software," solidifying Berkman's link to intensifying interest around open code development models.

1999 • JULY Jonathan Zittrain testifies before House Subcommittee on Investigations and Oversight. The hearing, titled "Is ICANN Out of Control?" investigates whether the new domain name management organization is getting into the taxation business as it announces the collection of \$1 for every .com registration.

1999 • DECEMBER Digital music issues take on renewed urgency; Recording Industry Association of America (RIAA) files lawsuit against Napster. Over the next year, Berkman's "The Day the Music Died?" event sparks debate on Harvard's policy on Napster and its siblings, and Terry Fisher publishes "Digital Music: Problems and Possibilities." In 2001, Fellow Diane Cabell launches the Recording Artists Project.

1999 • DECEMBER Berkman and the Jamaican government host CyberJam '99 to develop a nonprofit open educational and commercial platform. CyberJam is the Berkman Jamaica Project, looking toward a society transforming itself from bottom up.

1999 • DECEMBER JOLT, the *Harvard Journal of Law & Technology*, goes online.

1999 • Fellow Ethan Zuckerman co-founds Geekcorps, a nonprofit seeking to build the capacity of developing countries to maximize the benefits of ICTs.

2000 • Eric Saltzman becomes second Executive Director of Berkman. During his tenure, Berkman extends its international reach by advising policy-making bodies and engaging in digital divide issues. Among projects launched from 2000 to 2002 are: Creative Commons, iLaw, Chilling Effects, Open Economies, and Greplaw.

Areas of Inquiry

LAW, TECHNOLOGY, INNOVATION, AND KNOWLEDGE

The nexus of law, technology, and innovation continues to be the focus of a number of Berkman Center projects. For example, in work funded by the Mellon Foundation, we studied the impact of copyright law on education. From that work emerged several recommendations (one of which has already been adopted) concerning ways in which the legal system might be modified so as to remove impediments to effective teaching and learning without corroding incentives for creativity. In a parallel project funded by the Revson Foundation, the Center examined the impact of patent law on the pace and direction of basic research in the life sciences. Our largest venture in this area, the Digital Media Project, identified and assessed a variety of potential mechanisms for simultaneously realizing the potential benefits of new technologies for distributing digital recording while ensuring that the creators of those recordings are fairly compensated. One of the outgrowths of those inquiries is Noank Media, which seeks to implement what we found to be the most promising of those mechanisms. Drawing on its law school roots, the Berkman Center has provided counsel or appeared as *amicus curiae* in several important cases, including *Eldred v. Ashcroft*, *Intel v. Hamidi*, *MGM v. Grokster*, and *Luck's v. Gonzales*. Our work in developing Creative Commons, a nonprofit organization that offers flexible mass licensing options for creative work, and Chilling Effects, a project to identify the prevalence of legal pressures upon online users and Internet service providers before those threats become full-fledged cases, demonstrate further the type of activities that we pursue in this area.

Creative Commons

Creative Commons is a public charity dedicated to reducing barriers to the free exchange of knowledge and culture by making it easy and efficient to obtain legal permission to reuse creative, scientific, and educational works. Taking inspiration from the open source movement, CC has developed Web applications that help people license their original works for specified uses while retaining their copyrights. CC licenses have been adopted by such diverse organizations as the BBC, MIT, and the Public Library of Science. Over 60 million documents on the Internet are offered under CC licenses.

CC was established in 2001 with the assistance of Berkman Center fellows and clinical students. CC's board includes cyberlaw faculty James Boyle of Duke, Michael Carroll at Villanova, and Lawrence Lessig of Stanford. Also serving are MIT computer science Professor Hal Abelson; lawyer, documentary filmmaker, and former Berkman Executive Director Eric Saltzman; 2007 Oscar winner Davis Guggenheim; Berkman Fellow and Wikipedia founder Jimmy Wales; public domain advocate Laurie Racine; Magnatune CEO John Buckman; and Internet publisher Eric Eldred. CC's Chairman is Joi Ito, ICANN board member and venture capitalist. Its corporate secretary is Berkman Fellow Diane Cabell. CC's first executive directors, Molly Van Houweling (now Assistant Professor at Berkeley's Boalt Hall) and Glenn Otis Brown (Strategic Partner Development Manager for Google's YouTube), are former Berkman students.

CC currently maintains offices in San Francisco, Boston, and Berlin in addition to a subsidiary in South Africa. With help from legal academics around the world, CC's International division has supervised the porting of CC licenses to 40 different jurisdictions. The Science Commons division, headed by former Berkman staffer John Wilbanks, develops tools for open access to scholarly literature and data. SciCom's Advisory Board includes Nobel Laureates Sir John Sulston and Joshua Lederberg.

This year's iSummit, an annual CC-hosted conference focused on open sharing methods and practices, attracted over 450 registrants from 74 different nations and sponsors as varied as IBM and Al Jazeera.

THE RELATIONSHIP BETWEEN INTERNET AND CIVIC ACTIVITY

One of the great hopes for the Internet is that it will promote more civic engagement, political participation, and democratic dialogue. The Berkman Center has led and participated in a number of major projects in this area. Within this zone fall our high-profile comparative studies, funded by the MacArthur and Soros Foundations and realized through the OpenNet Initiative (in collaboration with the universities of Cambridge, Oxford, and Toronto), of the ways in which governments throughout the world filter and monitor their citizens' access to the Internet; our examination of the ways in which blogs and other novel forms of individual expression are changing the methods by which news is gathered, defined, and spread; our creation of GlobalVoices Online, a system for aggregating and disseminating the views expressed in blogs in other countries; and our studies of the impact of the Internet on campaigns and elections, including those with an emphasis on the Middle East and North Africa.

TECHNOLOGY, LAW, AND DEVELOPMENT

Based on the hope that the Internet and related technologies hold great promise for addressing long-standing and complex social priorities, in particular, we examine the impact of technology and law on organized education, the lives of poor and disadvantaged people, and the vitality of developing nations. We pursue this goal by building innovative, open-source educational software (including the H2O learning platform); by developing and testing new courses and pedagogic methods (for example, in our ongoing iLaw Program and a new project to develop a curriculum on copyright law and related topics for libraries in developing countries); by contributing to the development of open-access methods of publishing new scholarship; by seeking to understand the impact of new technologies on learning, as in the Global Networked Readiness for Education survey of teachers, students, and administrators in eleven developing nations (in collaboration with the World Bank); and by exploring the rehabilitative and empowering uses of information technologies for the people in whom the least hope or expectation has been placed, including those in prison. Our aim is not simply to record others' efforts in putting technology to good use, but also to contribute and to experiment ourselves. For example, the Berkman Center and Harvard Law School are teaching institutions, and as teachers we face the opportunity – and challenge – of contending with technological change. When HLS first enabled Internet access in classrooms – at great expense – the first reaction by the faculty was to shut it off, lest students be distracted. The Internet invites us to build tools that make use of the Net, rather than existing in an uneasy standoff with it as students alternate between looking up cases and reading the newspaper during a class session. We have experimented with such tools since 1997, and some are in extensive use today.

2000 • FALL Berkman announces its Clinical Program in Cyberlaw, and engages pioneering students and clients to fill a void in an exploding area of law. Earlier this year, Berkman offers "Using ICANN's UDRP," taught by Diane Cabell, its first course certified for continuing legal education (CLE).

2000 • MAY Openlaw participants file amicus brief in *Universal v. Reimerdes*, the first DMCA anticircumvention case, arguing that hyperlinks are protected speech.

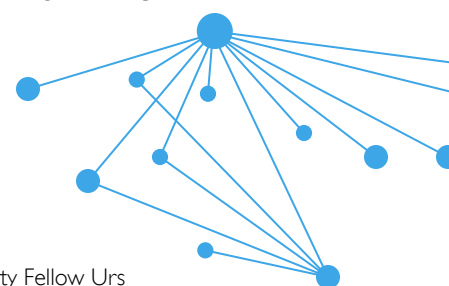
2000 • JULY Wendy Seltzer launches Annotation Engine Project, featuring an open source tool that allows readers to comment on web pages. Intended to facilitate learning and education in the classroom and online, it also engages by rebuttal the claims that proxies infringe copyright.

2000 • OCTOBER The eDevelopment conference convenes researchers, practitioners, businesspeople, community leaders, and policymakers to address the global digital divide. Sponsored by Berkman, the MIT Media Lab, and Harvard's Center for International Development and organized by Fellows Meg Smith, Mike Best, and Colin Maclay, the conference focuses on using new technologies to empower communities to solve local problems.



back row: Brandon Palmieri, Erica George, Sebastian Diaz, Corinna di Gemma, Melanie Dulong de Rosnay (standing), Stephanie Wang (standing), Colin Maclay (standing); front row: Caroline Nolan, Wendy Seltzer, David Russcol, Rebecca Tabasky; right: Chris Conley (standing); foreground: Andrew McLaughlin

LAW, TECHNOLOGY, INNOVATION, AND KNOWLEDGE



The 2006–2007 Year in Research and Scholarship

In addition to notable ongoing efforts, 2006–2007 saw the formal launches of substantial new projects that reflect our interest in expanding our research towards aspects of digital environments other than the Internet and dimensions of digital technology other than the law. We remain focused on the relationship between the Internet and the legal system, while our inquiries are simultaneously drawing us more deeply into other disciplines. More and more, we are collaborating with faculty, fellows, and students from other schools within Harvard and from other universities. Our new initiatives join a series of continuing projects that have had a powerful impact on thinking and practice in our field.

Digital Natives

Led by Professor John Palfrey and Faculty Fellow Urs Gasser, with collaboration from the Research Center for Information Law at the University of St. Gallen in Switzerland, the Digital Natives project focuses on the key legal, social, and political implications of what it means to be "born digital." With the research assistance of approximately ten students from Harvard, St. Gallen, and elsewhere, the project identifies and explores the traits that make the digital generation unique, including the emergence of digital identities, creativity in digital contexts, norms of sharing and collaboration, increasing connectedness and mobility, and new modes of civic participation. During this first year, the team formed valuable connections with others in the field of digital media and youth; launched a project wiki for educators, parents, and others; and began a series of pilot interviews and focus groups with youth about the impact of technology on their lives. By learning as much as we can about digital natives, we aim to address the issues their digital practices raise and make recommendations to help shape legal, educational, and social institutions in ways that support them and harness the exciting possibilities their digital fluency presents. The research will also be featured in a related book by Palfrey and Gasser, *Born Digital* (Basic Books, 2008).

<http://www.digitalnative.org>

2001 • 1/1/01 World still standing, to the surprise of Y2K doomsayers — and the relative indifference of the Berkman Center, which had determined that Y2K would not be an issue.

2001 • JANUARY Wikipedia launches the first public, collaborative encyclopedia. Six years later, Harvard Business (HBS) Professors Andrew McAfee and Karim Lakhani (also a Berkman Fellow) publish their Wikipedia case on how distributed communities work. HBS cases are closely guarded intellectual property, yet Lakhani and McAfee's is the only released under a GNU Free Documentation License.

2001 • APRIL US Attorneys General gather at Harvard for the 2001 National Association of Attorneys General Internet Law Institute.

2001 • JULY Inauguration of the first iLaw program, Berkman's flagship public-facing symposium on Internet law and policy. It makes its way from Cambridge to Singapore, Italy, Brazil, and Estonia, with multiple stops along the way.

Lewis HYDE
Berkman Fellow



Much of my time this year at the Berkman Center was spent writing about Benjamin Franklin's relationship to intellectual property.

If we look especially at the period when he developed his theories about electricity we can see that Franklin assumed that creative communities depend on the sharing of ideas, not on their ownership. Franklin always refused to take a patent on his inventions, a stance he explained in terms of both the Good and the True. Out of the former he offered an ethic of reciprocity: we benefit from the inventions of others and so should "freely and generously" let others benefit from ours. With regard to the latter, the nature of empirical science itself is at issue: taking a "private interest" in an invention is apt to lead to disputes concerned more with self-regard than actual fact.

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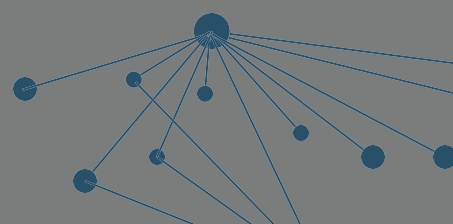
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LAW, TECHNOLOGY, INNOVATION, AND KNOWLEDGE



This communalist side of Franklin's approach to knowledge means that, if viewed in terms of modern ideas about IP, he was one of our Founding Pirates. His fabled teenage flight from Boston was an original act of piracy, for one thing: contracts of indenture (such as the one he had with his brother) were among the tools by which craft guilds guarded their trade secrets, and Franklin broke his. Years later in Paris he showed a similar disregard for attempts to confine human skill. When European artisans approached Franklin with schemes to smuggle machines and know-how across the Atlantic he encouraged them, scorning "tyrannical" European laws meant to inhibit international access to knowledge.

Piracy aside, the Berkman Center has been for me a replica of the kind of scholarly community that Franklin enjoyed in the mid-18th century. There are colleagues who give tirelessly of their time; there are endless library resources; there are conferences and meals and café meetings; down the street there is even a collection of historic scientific instruments, some of which, to my surprise and delight, were donated to the College by one Benjamin Franklin.

Lewis Hyde was on sabbatical from Kenyon College this past year, writing a book that promises a model and defense of our "cultural commons," that vast store of un-owned ideas, inventions and works of art that we have inherited from the past and that we continue to create. The book is built around an investigation into how the founding generation in the United States thought of what we have come to call "intellectual property." As a spin-off of this project, Hyde has been working on organizing a "Statement of Best Practices in Fair Use" for classroom teachers in higher education. Inspired by a similar statement created by documentary filmmakers, the project's intent is help teachers and scholars clarify and claim the full breadth of copyright law's fair use exemption.

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eInnovation and ICT Interoperability

In partnership with the Research Center for Information Law at the University of St. Gallen in Switzerland and with the support of Microsoft, this project attempts to further better understanding of information and communications technology (ICT) interoperability – that is, the ability of entities such as software, devices, or components to exchange information. Led by Professors John Palfrey and Jonathan Zittrain, Faculty Fellow Urs Gasser, and Managing Director Colin Maclay, this transatlantic project explores how interoperability interacts with innovation, competition, and other policy goals. It also studies the ways in which the various elements that influence interoperability – including standards, processes, law, and markets – affect results. For cases in which interoperability might lead to positive outcomes, the study will attempt to inform interested parties such as governments and the ICT industry by exploring different ways of achieving interoperability. The project has convened two workshops of industry experts, economists, academics, consumer advocates, and policy advisors to discuss findings and engage with the broad question of interoperability's relationship with innovation. The project has also undertaken three in-depth case studies, on digital rights management and music, digital identity, and web services, in order to understand the dynamics shaping interoperability. Interviews and workshops have informed our study and fostered an ongoing conversation about innovation and interoperability.

<http://cyber.law.harvard.edu/interop>

Innovation and Life Sciences

Funded by a grant from the Revson Foundation, Professor Terry Fisher and former Berkman Student Fellow Talha Syed conducted an extensive inquiry into patent law and innovation in the life sciences. The resulting papers synthesize and critically review the existing literature on various aspects of two major developments that have taken place over the last three decades: the proliferation of patenting activity in public-sector life sciences research and the increasing links between universities and industry in the area of biotechnology. The researchers held workshops and conversations with leading university lawyers to explore what actually happens in practice, how universities view patents in these areas, and what effect the regime ultimately has on the creation and dissemination of knowledge. Two further outputs of this project are: first, an interview-based study of university technology transfer offices' patenting and licensing practices, and second, a comparative legal study of the law, policy, and reform options related to biomedical research exemptions for patent rights in the United States and three other advanced industrial nations – Japan, Germany, and the United Kingdom.

<http://cyber.law.harvard.edu/media/projects/patentlaw>

2001 • JULY Fellow Jim Moore launches the Open Economies Project, engaging previously excluded communities in dialogue and proactive policy-making, while working closely with government and business leaders.

2001 • AUGUST Fellows Doc Searls and David Weinberger, with Chris Locke and Rick Levine, publish *The Cluetrain Manifesto: The End of Business as Usual*. In 2003, Weinberger publishes *Small Pieces Loosely Joined: A Unified Theory of the Web*, arguing that the Web is transforming not only social institutions, but also traditional understandings of space, time, self, and knowledge.

2001 • DECEMBER Berkman's Luncheon Series begins its evolution towards today's full-fledged weekly event, attracting leading thinkers from around the world. Unchanged, however, is the interactive character of the gathering and the diversity of its participants.



Dan Gillmor, Jake Shapiro, Terry Fisher

LAW, TECHNOLOGY, INNOVATION, AND KNOWLEDGE

Noank Media

Started in 2005 as part of the Berkman Center's Digital Media Project, Noank Media, Inc. – formerly known as the Digital Media Exchange – became independent of the Berkman Center in December 2006 with substantial venture funding. Noank is an outgrowth of Professor Terry Fisher's exploration of alternative compensation systems, most explicitly set forth in his book *Promises to Keep*, and developed through the MacArthur Foundation's digital media grants to the Center. Noank is a web-based, open source platform that enables the distribution and licensing of digital content and holds agreements for exclusive licensing arrangements in China. The Noank business model has been copied by other technology startups and has attracted the attention of legislatures around the world. <http://www.noankmedia.com>

ProjectVRM

Led by Fellow Doc Searls, ProjectVRM began in September 2006 with the immodest goal of inverting the "customer relationship management" (CRM) paradigm in which customers are considered "owned," or at least "controlled" by vendors. ProjectVRM's purpose is to provide customers with tools that support independence from vendors and better relationships with them. The project grew out of earlier work at the Berkman Center on digital identity in 2004. Since then, the user-centric identity movement has grown into one of the most active and constructive fields in networked technology. At the end of its first year, ProjectVRM has an active and growing community, frequent meetings at Berkman and elsewhere, a large and growing wiki, and a network of leaders from the communications, healthcare, retailing and broadcast fields. Plans for the next year include code development, marketing trials, and viability research.

<http://cyber.law.harvard.edu/projectvrm>

2002 • JANUARY Fellow Diane Rosenfeld launches online lecture and discussion series, *Violence Against Women on the Internet*.

2002 • JANUARY Led by Fellow Geoffrey Kirkman, with Fellows Colin Maclay and Michael Best, the first *Global Information Technology Report* is created at Harvard's Center for International Development. The methodology would later be used by Fellow Rohan Kariyawasam in "Readiness for the Networked World: Jamaica Assessment."

2002 • FEBRUARY Wendy Seltzer launches the Chilling Effects Clearinghouse to track the impact of cease-and-desist notices on First Amendment rights in cyberspace. Warnings are annotated and placed in a publicly accessible database.

2002 • MARCH Greplaw cyberlaw news and discussion forum begins, employing the technology behind Slashdot to develop a platform for legal discussion.

THE RELATIONSHIP BETWEEN INTERNET AND CIVIC ACTIVITY

Judith DONATH
Berkman Fellow



My introduction to Berkman came rather obliquely, through the world of theoretical biology. I have been working on adapting signaling theory, an approach to analyzing communicative veracity – first developed to understand the meaning of moose antlers and gazelle jumps – to understanding online communication.

Signaling theory shows how costs, such as the metabolic cost of carrying almost 50 pounds of antlers or the expense of buying a fast sports car, can contribute to the reliability of the message (in these cases, of the signaler's great strength or financial wealth, respectively). It is a powerful analytic tool for looking at mediated interaction.

2001 • JULY Fellow Jim Moore launches the Open Economies Project, engaging previously excluded communities in dialogue and proactive policy-making, while working closely with government and business leaders.

2001 • AUGUST Fellows Doc Searls and David Weinberger, with Chris Locke and Rick Levine, publish *The Cluetrain Manifesto: The End of Business as Usual*. In 2003, Weinberger publishes *Small Pieces Loosely Joined: A Unified Theory of the Web*, arguing that the Web is transforming not only social institutions, but also traditional understandings of space, time, self, and knowledge.

2001 • DECEMBER Berkman's Luncheon Series begins its evolution towards today's full-fledged weekly event, attracting leading thinkers from around the world. Unchanged, however, is the interactive character of the gathering and the diversity of its participants.



LAW, TECHNOLOGY, INNOVATION,
AND KNOWLEDGE

Some of my work has been adapting this theory to the human world, with our great capacity for deception and circumvention (we rent cars, get fake tans, forge credentials). And some has been applying this theory to phenomena such as how trust is signaled in social networks, how status and affiliation are signaled through fashion, how emotion and attention are signaled in faces both real and virtual, and how human-ness is signaled in a world populated with socially sophisticated computational agents.

The notions of trust and identity are central to many at Berkman, and over the last year or two, I have talked about these and related ideas with many people at Berkman. For instance, I have learned a great deal about the complexities of communication in circumstances where privacy is both imperative and elusive: reputation is central to making non-costly signals reliable, it is also incompatible with anonymity – yet anonymity is essential in repressive environments. And Berkman is nothing if not interdisciplinary. Reputation is also central to poker players – and here I have also learned a great deal about the complexities of signaling within this game. Berkman has been an extraordinary environment for helping to shape these concepts.

This last year Judith Donath wrote several papers that address the common question of how we perceive and assess what is true: "The Imperfect Observer," "Virtually Trustworthy," a perspectives article in Science, and "Signals in Social Supernetworks." At the MIT Media Lab, she has been developing a range of applications, including interactive art installations, experimental meeting designs for Second Life, and visualizations of interactions within social networks. She is continuing to work on her book, Signals, Truth and Design (MIT Press), and is interested in pursuing new directions, from simulation games for social decision-making to artistic provocations responding to the coming era of ubiquitous lie detection.

2002 • JANUARY Fellow Diane Rosenfeld launches online lecture and discussion series, *Violence Against Women on the Internet*.

2002 • JANUARY Led by Fellow Geoffrey Kirkman, with Fellows Colin Maclay and Michael Best, the first *Global Information Technology Report* is created at Harvard's Center for International Development. The methodology would later be used by Fellow Rohan Kariyawasam in "Readiness for the Networked World: Jamaica Assessment."

2002 • FEBRUARY Wendy Seltzer launches the Chilling Effects Clearinghouse to track the impact of cease-and-desist notices on First Amendment rights in cyberspace. Warnings are annotated and placed in a publicly accessible database.

2002 • MARCH Greplaw cyberlaw news and discussion forum begins, employing the technology behind Slashdot to develop a platform for legal discussion.

THE RELATIONSHIP BETWEEN
INTERNET AND CIVIC ACTIVITY

Social Physics

Led by Fellow John Clippinger, the Social Physics project examines the relationship between our identity and the emerging digital ecosystem. Building on its success with the development of the Higgins Trust Framework – an open source identity management tool that debuted during the Berkman Center's 2006 Identity Mashup Conference – the Social Physics project has had a very eventful and active year: Higgins was adopted by IBM and Novell, and was supported by Microsoft, Oracle, and the Identity Commons; it will soon become a pervasive open framework for user identity. The Higgins Project is now supported by over 25 engineers. As Higgins has taken hold, the focus has become information-sharing agreements to protect individual privacy and further social and commercial exchange. Social Physics organized a meeting for companies involved in building 3D worlds to explore interoperability, during which it became apparent that many of them support the notion of people controlling their own information – especially their virtual worlds. Collaboration with Fellows Mary Rundle and Matt Lovell prompted a project for a digital rights engine in order to make markets for different information sharing agreements. Social Physics has also been working with students on a "University Commons" project in which Higgins and a network-based reputation system would be used to develop a new collaborative research and publishing platform for students.

<http://www.socialphysics.org>

StopBadware.org

Designed as a "neighborhood watch" oriented toward finding collaborative, community-minded solutions to combat destructive applications and programs, the StopBadware initiative focuses on organizing its community's technical expertise and the public's user knowledge to identify and research "badware" and to raise public awareness. In the past year, it has expanded from its original emphasis on downloadable applications by deepening its focus on the websites that host and distribute harmful software. Using data from Google, StopBadware developed a Badware Website Clearinghouse to consolidate information about dangerous sites online. StopBadware administers an independent and impartial review process for the owners of websites that Google flags as harmful in its search results and in the Clearinghouse. As badware producers began hacking into legitimate websites, StopBadware developed educational resources for the owners of compromised sites and shined a spotlight on the poor server security practices of some web hosting providers. Under the leadership of Project Manager Maxim Weinstein, StopBadware plans to develop more tools to enable community participation in its work, accompanied by an increased focus on education for website owners, hosting providers, and the public at large.

<http://www.stopbadware.org>

2002 • MARCH After attending ICANN's September 2001 conference in Uruguay, Berkman sends team to Accra, Ghana, to develop further the Open Economies Project and to explore global media culture. The group includes Berkman affiliate Ben Walker with Fellows Chris Lydon, Sarah Guerrero, Diane Cabell, John Perry, Barlow, and Jim Moore.

2002 • MARCH Terry Fisher named Faculty Director of the Berkman Center. In July, John Palfrey, former *Internet & Society* TA, is appointed Executive Director.

2002 • JUNE Jonathan Zittrain and Student Fellow Ben Edelman co-author "Documentation of Internet Filtering in Saudi Arabia," the first of a series of studies on global filtering and censorship that would occur in 2002 and eventually lead to the OpenNet Initiative's founding in 2005.

2002 • FALL Professor Yochai Benkler writes "Coase's Penguin, or Linux and the Nature of the Firm," introducing his thesis on a third mode of production in the digitally networked environment: "commons-based peer-production."

2002 • OCTOBER US Supreme Court hears oral arguments in *Eldred v. Ashcroft*. Lawrence Lessig argues for Eric Eldred and petitioners; Charles Nesson and Jonathan Zittrain are co-counsel; Yochai Benkler writes amicus brief in support; Arthur Miller writes one against.

LAW, TECHNOLOGY, INNOVATION, AND KNOWLEDGE

THE RELATIONSHIP BETWEEN INTERNET AND CIVIC ACTIVITY

Chilling Effects

The Chilling Effects Clearinghouse celebrated its fifth year of operation in 2007, and added the 10,000th cease-and-desist notice to its database. Created and led by Berkman Fellow Wendy Seltzer, Chilling Effects tracks and studies the effects of legal threats to online expression, by posting and annotating cease-and-desist letters and providing "weather reports" on the online climate. Chilling Effects' most frequent submissions are copyright complaints spurred by the Digital Millennium Copyright Act's (DMCA) safe harbor provision, which encourages ISPs to remove material on claims of infringement. Google links to Chilling Effects when it removes results due to legal demands, and other major service providers are considering similar actions in order to increase their operational transparency. Building on data from search engine submissions of legal requests for removals, this year Chilling Effects began a global assessment of various national regimes and added a comparison tool to help Internet users gauge how their local search compares with the American version. It also works with ONI to compare demand-letter trends with filtering finds. Since its founding at the Berkman Center in 2002, the Chilling Effects Clearinghouse has grown to include eight law school clinics and the Electronic Frontier Foundation and has worked with more than 300 students.

<http://www.chillingeffects.org>

Center for Citizen Media

Formed in early 2006 and co-sponsored by the Graduate School of Journalism at the University of California, Berkeley and the Berkman Center, the Center for Citizen Media aims to expand and enhance grassroots media and its reach. It is headed by Berkman Fellow Dan Gillmor, a longtime professional journalist. In August 2006, the Center held a one-day unconference during which moderators drew out the expertise of more than 100 people, on topics such as legal issues, local blogging, tools for citizen media, citizen journalism's role in a democracy, and more. During the past year, the Center also published an in-depth report sponsored by Craig Newmark (of Craigslist fame) on how some traditional media organizations are inviting their audiences to participate more directly in the journalism process. With a grant from the Knight Foundation, it produced "Principles of Citizen Journalism," a series of online educational modules. The Center also co-founded the new Citizen Media Law Project in collaboration with the Berkman Center Cyberlaw Clinic. The Center is working on a number of mini-projects that test innovative uses of citizen media and is preparing a workshop curriculum for journalists and others interested the subject.

<http://citmedia.org>

I first arrived at Berkman in 2001 when Charlie Nesson invited Chris Lydon, Mary McGrath and myself to perch in the hallway at Pound Hall as we plotted a return to public radio in the wake of *The Connection* fiasco (a story for another time). Executive Director Eric Saltzman hired me on staff as Project Manager and I then became Associate Director, attempting to make sense of the Berkmaniacal collection of dozens of projects and activities. Among many other things I worked on the online curriculum project, and displayed a flair for acronyms by renaming OLDS (Online Lecture and Discussion Series) to BOLD (Berkman Online Lectures and Discussions).

Radio remained a theme, with Chris and Charlie's adventures in Jamaica, Ghana and Singapore (see "Parachute Radio" (www.transom.org/guests/review/200201.review.clydon.html)), and a pre-podcasting series of Internet radio programs.

So when I first caught wind of a new venture taking shape that would connect independent producers and local radio stations in a web-based content exchange, I immediately took interest and tried to bring it into the Center as a project.



Dan Gillmor (standing), Dan Bricklin



Jake SHAPIRO
Berkman Fellow

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LAW, TECHNOLOGY, INNOVATION, AND KNOWLEDGE

As it turned out the founding partners were looking to hire an Executive Director to launch the business, and I left Berkman to start building the Public Radio Exchange in the fall of 2002.

Since launching in 2003, PRX has been in the vanguard of the 'web 2.0' wave of Internet services and has become a catalyst for innovation in public radio, focused on distributing, curating, and licensing a diverse range of audio programs for broadcast and beyond. It's been great to see PRX thrive as an online marketplace as well as a growing social network and community of listeners, producers, and stations collaborating to reshape public radio.

Over 20,000 radio programs have been licensed by local stations through PRX so far, reaching millions of public radio listeners all over the U.S., and increasing internationally as well. With help from the Berkman clinical cyberlaw program, PRX is now a digital distributor for hundreds of independent producers putting their work out as podcasts as well as paid downloads through iTunes and other services.

Generation PRX – a special project area for youth media – has become a key resource for over 50 youth radio groups across the country. And this past year PRX created the first ever Public Radio Talent Quest, a participatory project helping to surface new voices for public radio. The project attracted over 1,400 contestants who submitted 2-minute audio entries for the opportunity to create a pilot show for public radio.

This has been a period of much ferment in public broadcasting, which faces many of the same challenges and opportunities as other media in transition. PRX is helping pioneer new models for embracing the web not just as disruptive distribution but in its remarkable social dimensions, many of which resonate with the public service mission of public media.

As a Fellow I've kept an active connection to the Center – working with the clinical program, playing a bit part in the birth of podcasting, helping with Beyond Broadcast conferences and conspiring on various media projects. PRX has made good use of its Berkman DNA, and found early inspiration in the idea of being "an entrepreneurial nonprofit exploring cyberspace and pioneering its development."

Berkman Fellow Jake Shapiro is Executive Director of the Public Radio Exchange (PRX).

THE RELATIONSHIP BETWEEN INTERNET AND CIVIC ACTIVITY

Citizen Media Law Project

Co-sponsored by the Center for Citizen Media and the Berkman Center, the Citizen Media Law Project (CMLP) is a new organization directed by Berkman Fellow David Ardia with the dual goals of: one, building a community of lawyers, journalists, academics and others who are interested in protecting the legal rights of those engaged in speech on the Internet; and two, providing legal training and resources for individuals and organizations involved in citizen media. In May 2007, the CMLP won a Knight Foundation News Challenge Grant to continue to develop its research and advocacy on free speech, newsgathering, intellectual property, and other legal issues related to citizen media. The CMLP is currently creating a comprehensive set of resources focused on the specific needs of citizen journalists, including a database of lawsuits and other legal threats. The CMLP will use these resources to document and analyze risks associated with online publication, and to create an online legal guide covering such topics as defamation, newsgathering, intellectual property, and business formation. Another priority for CMLP is advocacy and coalition-building, which it pursues by cultivating support for a federal shield bill. It also focuses on legal and journalism education and works with the City University of New York's Graduate School of Journalism to create an interactive online legal guide to teach citizen journalists their legal rights and responsibilities.

<http://citmedialaw.org>



Dan Gillmor (standing), Dan Bricklin

CMLP

We hope to help create a vibrant community of journalists, lawyers, academics, and others who are interested and proactively engaged in issues relating to law, new media, and journalism on the Internet.

What we are proposing to create – a comprehensive set of legal resources addressing the needs of citizen journalists – simply does not exist today. It needs to exist for citizen journalism to survive and flourish online. Unlike established media organizations that have the resources to pursue important reporting in the face of legal challenges, citizen media sites are particularly vulnerable to legal threats and coercion. They also need to understand other aspects of the law, such as the legal implications of setting up a for-profit or nonprofit business.

As citizen media sites experiment with different approaches and models, it will be essential that they have a place to go for legal help. Without legal assistance, it is easy to imagine how one threatening letter could close an important avenue of reporting or one lawsuit could shut down a promising community news site.

We are eager to see the CMLP become part of a wider effort to promote journalism generally. We want to ensure that the essential values of journalism transfer to, and take root on, the Internet. Because legal rules and norms are intimately linked to the values and ethics of journalism, a central aim of the CMLP is to ensure that our legal system fosters, rather than deters, this transfer.



Egidio Ndubagoye, Sami Ben Gharbia, Ishia N Kutesa, Akwe Amosu, Daudi Were, Ndesanjo Macha

Global Voices Online

The international citizen media community, Global Voices, was founded in December 2004 at the Voices, Bits and Bytes Conference. Bloggers from Kenya, Poland, Iraq, Iran, Malaysia, China, and Japan met with Fellows Ethan Zuckerman and Rebecca MacKinnon to brainstorm strategies for promoting citizen media in developing nations. Three months later, Global Voices Online (GVO) was launched in the form of an online "newswire" and host of blogs from around the world. Since its inception, GVO has built a team of regional editors, translators, and managing editors who provide daily links to some of the most interesting blog conversations around the world and summaries of debates and discussions taking place online.

GVO's traffic has continued to grow, and it now receives more than 1.5 million monthly visitors. In addition to the MacArthur Foundation's ongoing support, generous financial backing from Reuters has enabled the expansion of the editorial team, who, with the help of over 80 volunteer contributors, curate and translate the best blogs and other online citizen media in their countries and regions. Numerous blogs and media sites, including Reuters, promote GVO headlines and content under Creative Commons licenses. In 2005, GVO was awarded Deutsche Welle's Best of International Weblogs award, and in 2006, GVO garnered the Knight-Batten Innovations in Journalism Grand Prize. Support from the Dutch foundation Hivos has allowed GVO to launch an Advocacy Division under the leadership of free speech activist Sami Ben Gharbia, which monitors threats to online speech and helps people circumvent Internet censorship and maintain information security and anonymity so that they can be more successful at both obtaining information and speaking out. GVO was also a recipient of a Knight Foundation grant that will support Rising Voices, a project designed to encourage citizen media in communities that are unlikely to have access to these tools. GVO hopes to continue expanding its outreach activities with the aim of helping more communities who are generally underrepresented in media coverage to get their voices heard through traditional and interactive media.

By 2008, Global Voices expects to be an independent nonprofit organization, successfully incubated by the Berkman Center to the point where it is able to support operations in over 70 countries through corporate, foundation, and reader sponsorship, as well as through revenue from syndicating original content.

<http://www.globalvoicesonline.org>

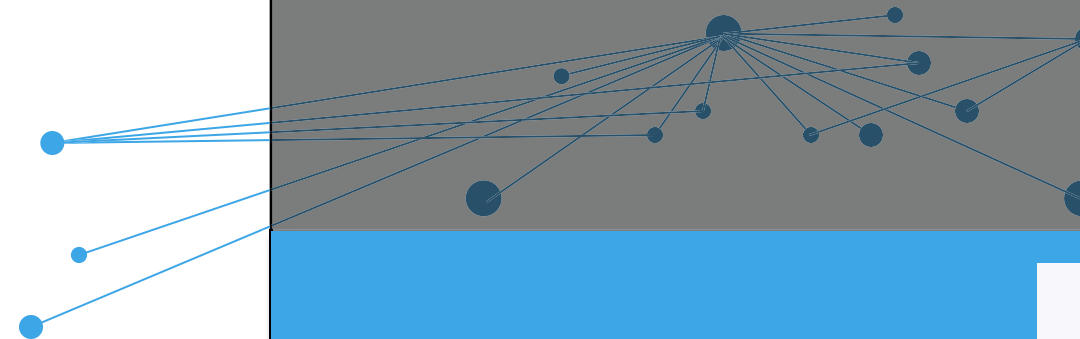
2003 • FEBRUARY Berkman launches the Blogs at Law initiative, offering free hosting to the university community. Fellow and pioneering weblogger Dave Winer initiated the project upon arriving at Berkman in late 2002, when he promptly installed a server and invited everyone to join. A surprising number did, spawning, among many other things, the Thursday Blog Group.

2003 • JULY Ethan Zuckerman starts a blog, declaring that he's being "dragged kicking and screaming into the world of user-created media." Roughly 1,500 blog posts later, he is still kicking and screaming.

2003 • OCTOBER Dave Winer hosts BloggerCon. It popularizes the "unconference" model, with participants shaping and driving conference meetings. BloggerCon II follows in April 2004, where blogger and Berkman staffer Wendy Koslow meets blogger and post-conference party-crasher Joey "Accordion Guy" deVila. They are married in 2005 by two officiants, both bloggers.

2003 • AUGUST Gartner and Berkman publish "Copyright and Digital Media in a Post-Napster World." In November, Terry Fisher, John Palfrey, and Urs Gasser write "Five Scenarios for Digital Media in a Post-Napster World," considering new business models for the entertainment industry, artists, and technology companies that enable consumers to acquire and manipulate copyrighted digital media.

THE RELATIONSHIP BETWEEN INTERNET AND CIVIC ACTIVITY



Michael BEST
Berkman Fellow

Liberia, founded in 1847 by freed African slaves from the United States, is just now emerging after more than 25 years of protracted civil conflict. The war left nearly one-third of the population displaced and has taken the lives of approximately 250,000 people. A tenuous peace was established in 2003 and democratic elections were held in the fall of 2005.



Egidio Ndabagoye, Sami Ben Gharbia, Ibtisam Katesa, Akwe Amosu, Daudi Wero, Ndesanjo Macha

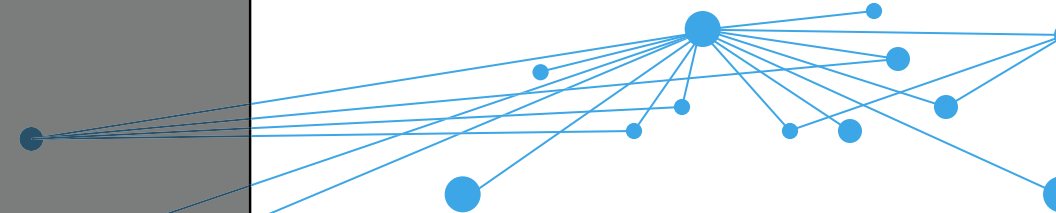
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THE RELATIONSHIP BETWEEN INTERNET AND CIVIC ACTIVITY



Internet and Democracy Project

The summer of 2007 saw the launch of the Internet and Democracy Project, an initiative sponsored by the US Department of State that builds on one of our three core areas of inquiry, Internet and civic activity. This effort explores the relationship between the Internet and foundational democratic norms, values, and modes, including civic participation, access to knowledge, transparency, social discourse, and community interaction. Original research and empirical analysis are used to assemble a platform to transfer knowledge related to Internet censorship, surveillance, and the use of citizen-generated media tools. While case studies analyzing these issues in diverse contexts will draw on examples from around the world, the emphasis of our outreach is on communities in the Middle East. Led by Project Director Bruce Etling, and Professors John Palfrey and Jonathan Zittrain, this project supports the rights of citizens to access independent sources of information, to advocate responsibly, and to debate ideas freely in an online environment. It will also identify and study the best web tools, practices, and ideas related to democracy, civic engagement, citizen media, advocacy, and networking, and build a community to debate and build on these efforts.

<http://cyber.law.harvard.edu/tce>

Principles on Free Expression and Privacy

In partnership with the Center for Democracy and Technology and Business for Social Responsibility, in addition to leading human rights groups, academic institutions, and technology firms, including Google, Vodafone, Microsoft, and Yahoo! – the Berkman Center has helped lead an initiative to protect and advance citizens' rights to free expression and privacy through the creation of a voluntary code of conduct and supporting mechanisms for ICT companies. With the rise in Internet filtering and surveillance around the world, the ICT sector frequently encounters state pressure to assist with censorship and to turn over personal information about users. Through the articulation of a broad set of common principles and the development of shared resources for implementation, this collaborative effort is working to formulate an industry-wide response to guide businesses when they encounter laws and practices that may contravene international human rights standards or are at odds with law or culture in their home jurisdiction. A primary focus of the project is collective action – shared learning, data generation, best practices, and broad support from companies, government, and civil society organizations. Managing Director Colin Maclay, Professors John Palfrey and Jonathan Zittrain, Faculty Fellow Urs Gasser, and a large cast of contributors have played a key role not only in the drafting process, but also in the development of implementation procedures to help companies evaluate their adherence to the principles and to have a better sense of the global context for censorship and filtering. Internationalization is a central tenet of the project's next stage.

<http://cyber.law.harvard.edu/home/principles>

The Liberian Truth and Reconciliation Commission is mandated to create a human rights community, establish a historical record of the conflict, and help to heal individuals by recapturing truth. Ultimately, the TRC will advise the Government of Liberia on how they might select processes of justice and reconciliation. All of us at the Berkman Center know that interaction and exploration enabled by the Internet can be deeply transformative. But can it help to heal a nation?

I have been working with Liberia's TRC to reconceptualize their online presence. This has included developing a new website that capitalizes on the interactive and generative Internet (www.trcofliberia.org). For the first time in the history of truth commissions, Liberians will be able to formally submit statements to the Commission via the Net. The site has been the outcome of a collaborative user-centered design process which has revealed a number of challenging research questions related to online community, usability, and human-computer interaction. The project also raises a number of legal and human rights questions related to the security and integrity of private statements made to a truth commission in a networked world.

Michael Best continues to study the role of the Internet and computers in developing countries. During this last year, his work centered on communications and the Internet in immediate post-conflict settings, focusing on Liberia. A similar project is planned for Rwanda. Best has also continued his work on the factors affecting the sustainability of rural community Internet centers through research in India and a new study in Kyrgyzstan.

2003 • DECEMBER RSS 2.0 Specification gifted to the Berkman Center by Dave Winer's UserLand Software.

2003 • DECEMBER Public Radio Exchange (PRX) launched with Fellow Jake Shapiro as Executive Director.

2004 • JANUARY John Palfrey authors "The End of the Experiment: How ICANN's Foray Into Global Internet Democracy Failed," making a case for an overhaul of the ICANN governance structure and a proposal for new ways to govern the technical architecture of the Internet in an increasingly networked world.

2004 • FEBRUARY John Palfrey addresses the first meeting of the Harvard-Yale Cyberscholar Working Group, organized by Faculty Fellow Urs Gasser and Yale Information Society Project (ISP) Fellow Nimrod Kozlovski upon their return from the Oxford Internet Institute's Summer Doctoral Program.

2004 • FEBRUARY John Palfrey, with Professor David Johnson of New York Law School (NYLS) and Professor Susan Crawford of Cardozo Law School, releases "The Accountable Net: Peer Production of Internet Governance," arguing that highly distributed online problems – such as spam and spyware – require highly distributed, user-driven solutions.

2004 • FEBRUARY Shorenstein Fellow and future Berkman Fellow Rebecca MacKinnon founds NKZone, a "blog-zone" dedicated to collaborative reporting on North Korea, a country she previously covered as a bureau chief for CNN.

2004 • FEBRUARY Terry Fisher writes his seminal text *Promises to Keep: Technology, Law, and the Future of Entertainment*.



John Palfrey, Steven Murdoch, Nart Villeneuve, Robert Faris, Ronald Deibert

OpenNet Initiative

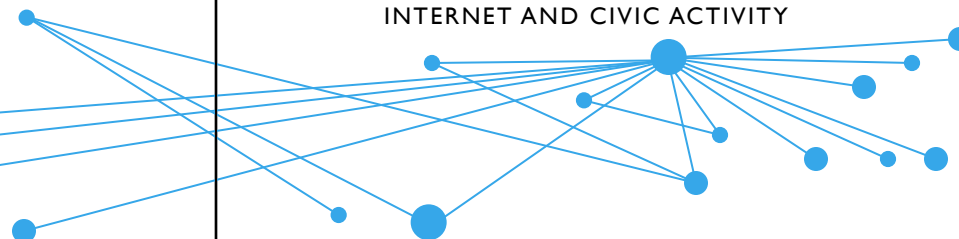
The profusion of information and opinions across the Internet has been profoundly unsettling for many users in societies around the world. In contrast to the side of the Internet that is useful, poetic, and even transcendent, there is much that is ugly and offensive, if not criminal. It is not surprising therefore that many countries and cultures have responded with policies and tools to limit access to portions of the Internet. A number of methods have emerged to remove, block, and filter content, and the number of countries that have sought to limit content is now more than three dozen. To the extent that the advent of the Internet has transformed our existence, its partitioning represents another significant point of departure for the societies and cultures around the world as countries choose how much of the Internet to allow into their offices, schools, neighborhoods, and homes. However, the partitioning of the Internet is taking place silently and almost exclusively out of public view with the writing of software and programming of routers. ONI has taken up the task of identifying and documenting Internet filtering and content restrictions around the world.

Empirical research focused on Internet filtering began at the Berkman Center in 2001 when researchers used dial-up connections to Saudi Arabia and China to investigate the blocking of websites. Building on these seminal studies and related work at the Citizen Lab at the University of Toronto and at Cambridge University, the OpenNet Initiative was formed in the following year as a collaboration between these three institutions with the support of the Open Society Institute. The Oxford Internet Institute joined in 2005. Since then, ONI has strengthened its position as the leader in the empirical study of Internet censorship and content regulation, keeping pace as the practice of filtering has spread to other countries.

The earliest ONI country studies focused on shedding light on the practices of known filtering regimes such as Burma, China, Iran, Saudi Arabia, Tunisia, United Arab Emirates, and Yemen. In 2006, with generous support from the MacArthur Foundation, ONI has embarked on expanding its global coverage to cover the growing number of states that filter the Internet. The first year of global testing carried out in 2007 covered forty countries and confirms the growth in scope, scale, and sophistication of Internet filtering worldwide. Although the purported motivations for blocking vary across the social and security spectrum, a disturbing number of countries are filtering political opposition, leaving the Internet as another platform being manipulated by states to stifle dissent and inhibit the exchange of ideas.

ONI research has received wide press coverage and provides the basis for a forthcoming book, *Access Denied: The Practice and Policy of Global Internet Filtering*, to be published by MIT Press in spring 2008. This book, compiled and written by ONI researchers, offers an in-depth examination of the political, social, and technical aspects of global Internet filtering. With Research Director Robert Faris, ONI Principle Investigators Ronald Deibert (The Citizen Lab, Munk Centre for International Studies, University of Toronto), John Palfrey (Berkman), Rafal Rohozinski (Advanced Network Research Group, Cambridge Security Programme, University of Cambridge), and Jonathan Zittrain (Berkman/Oxford University) edited the book and authored significant sections.

THE RELATIONSHIP BETWEEN INTERNET AND CIVIC ACTIVITY



This coming year, ONI will continue to expand the scope of its research into Internet controls. It will conduct more policy-relevant work, including testing for Internet disruption and tampering during elections, protests, and other critical time periods. Further research will focus on testing content filtering at "edge locations" (such as cybercafés) and through cellular networks, including SMS. ONI has also begun work on a major new topic of investigation: Internet surveillance. This study is designed to examine and provoke discussion about increasingly prevalent, though often poorly understood and highly secretive, methods of monitoring and thus influencing online activities and communications. Much work in the area of Internet filtering, surveillance, and censorship remains to be done. To meet this challenge, ONI continues to search for ways to include more people from more places in its research. The addition of local partners in Asia will enable a major expansion of ONI research in that region. ONI will also continue to design and participate in the conference series "The Internet and Politics," which has brought together academics and activists in Cambridge, Massachusetts, London, and Oxford to explore the impact of new technologies on political processes in the US and abroad, and to extend the reach of our ONI work, Global Voices Online, and related efforts in this zone.

<http://opennet.net>

"The new geopolitical battles of the 21st century are being fought not over territory or natural resources, but over the infrastructure and ideas of the global communications environment. Like a worldwide radar for human rights and civil society, our aim is to document these battles with precision and sophistication."

—Ron Deibert

"Cyberspace remains by and large an 'ungoverned space' where citizens, states, and corporations compete to rewrite the social contract for the information age. What happens there will have immense consequence for our future freedoms, and those of our children."

—Rafal Rohozinski

2004 • FEBRUARY Co-directors of Berkman's Clinical Program, Bruce Keller and Jeffrey Cunard publish the 5th edition of their *Copyright Law: A Practitioner's Guide*.

2004 • APRIL The *Speedbumps: Limiting Online Black Markets for Digital Entertainment Products* conference convenes industry reps, NGO leaders, and academics to discuss limiting piracy and to consider alternative solutions for copyright holders. That spring, the Digital Media Project team also works with Terry Fisher to write "iTunes: How Copyright, Contract, and Technology Shape the Business of Digital Media – A Case Study."

2004 • MAY Faculty and Fellows, including Terry Fisher, Charles Nesson, Jonathan Zittrain, John Palfrey, and Diane Cabell, file an amicus brief in *Capitol Records v. Alaujan*, outlining factual considerations and possible errors that can arise when using IP addresses to identify individuals. The brief also examines fair use in shared folders.

2004 • AUGUST Google goes public at \$85 a share, valuing the company at \$23 billion.

2004 • OCTOBER David Weinberger launches his Web of Ideas series. Open to the public, the discussion group has hosted several luminaries, including Joshua Schachter, founder of delicious, and Paul Graham, Internet entrepreneur, venture capitalist, and founder of YCombinator.

2004 • FALL Members of Berkman's Blog Group cover 2004 presidential candidates by blogging various regional campaign events. In fall 2006, they host local and state political bloggers and liveblog the Massachusetts gubernatorial election.



Net Dialogue

Jointly sponsored by the Berkman Center and Stanford Law School's Center for Internet & Society, and supported by the Lynde and Harry Bradley Foundation, the Net Dialogue project is guided by a conviction that governance in the Information Society should support subsidiarity, checks and balances, the separation of powers, and human rights. To shed light on international Net governance, this year the team – led by Mary Rundle and Lawrence Lessig – drafted a framework for ethical commitments in the Information Society, to provide a link between the multilateral system and private actors pledging ethical behavior; contributed a chapter on the international system and freedom of expression for the ONI's forthcoming book; and helped to found "Dynamic Coalitions" advocating fundamental freedoms in the work of the Internet Governance Forum (IGF). Net Dialogue continues to organize panels that bring policymakers together with technology audiences, and technologists to policy groups. To identify ways to build democratic mechanisms into the Internet's architecture, Net Dialogue has begun exploring how icons could enable people to signal preferences for the treatment of personal data and to protect privacy in identity management.

<http://www.cyber.law.harvard.edu/home/research/netdialogue>

Jamaica Project

Led by Professor Charles Nesson, the Jamaica Project, established in 1998, is an affirmative action project focused on learning how to help a developing nation help itself. The Jamaica project's mission centers on a developing nation's use of the Internet to shape, define, and change its own society and the wider world around it. It has explored topics from restorative justice, prison reform, and Jamaican independence, to self-expression, learning, and entrepreneurship. The project seeks to demonstrate that development starts with the self and is a learning process. We support and seek to amplify the work of Berkman affiliate Kevin Wallen, who leads the rehabilitation and restorative justice program in Kingston's prisons through Students Expressing Truth Foundation.

http://cyber.law.harvard.edu/home/jamaica_project

"And Charles [Ogletree] and I went together to Jamaica. I feel that we started the Berkman Center."

—Charles Nesson

THE RELATIONSHIP BETWEEN INTERNET AND CIVIC ACTIVITY

New Skills/New Learning

How is technology changing the way lawyers can and should practice and how law schools can and should teach? Fellow Gene Koo sought answers to these questions in a six-month study sponsored by LexisNexis and found that today's lawyers are under-prepared for modern practice, particularly in research, large-scale collaboration, and systems problem-solving, and that technology skills are wanting in smaller firms. Koo now serves as a joint fellow at the Berkman Center and CALI. This collaboration is the first of its kind for the Berkman Center. Koo will oversee projects aiming to improve legal education, including the development of eLangdell, an online commons where law instructors can create and share teaching resources. eLangdell offers a practical application of the Berkman Center's interest in open architectures that promote collective knowledge and wisdom.

http://cyber.law.harvard.edu/legaled/Main_Page

TECHNOLOGY, LAW, AND DEVELOPMENT

H2O

H2O seeks to provide teachers and the general public with high-impact, low-bandwidth, unobtrusive tools to help both in and out of the classroom. During the past year, the H2O project continued to host its Rotisserie structured discussion and Playlist syllabus exchange tools, which together represent the culmination of three years of intensive design and development used by a wide variety of teachers, students, and others from around the world. In addition, H2O developed and deployed a new question tool, which allows users to post questions for real-time discussion and collaboratively decide which of those questions should be addressed by the group. This tool has been used with great success at many Berkman Center events and courses. H2O's future lies in interconnection, whether as a Facebook plug-in, a link with the respected law school consortium Center for Computer-Assisted Legal Instruction (CALI), or as part of the Harvard University iCommons teaching platform.

<http://h2o.law.harvard.edu>

2004 • DECEMBER Berkman hosts the *Internet & Society 2004: Votes, Bits, and Bytes* conference, studying the Internet's impact on elections. Bloggers from over a dozen countries discuss "bridge blogging." With bloggers from the US military, Iraq, and Iran in attendance, it's rumored that everyone from the CIA to George Soros has sponsored the meeting. Ethan Zuckerman and Rebecca MacKinnon host conversations that presage the birth of Global Voices Online (GVO). Among other issues, GVO seeks to resolve some of the challenges raised in Zuckerman's 2003 "Global Attention Profiles—A Working Paper."

2005 • FEBRUARY With affiliate Jeff Kaplan and industry partners, Berkman co-convenes the Open ePolicy Group to develop the Forum on Open Standards and the Roadmap for Open Information and Communication Technologies (ICT) Ecosystems. The group stimulates a year-long, global dialogue between consumer groups and industry representatives and publishes a user-friendly reference for understanding what open ICT ecosystems are, why they ought to be embraced, and how to nurture them.

2005 • FEBRUARY ABC's *Nightline* visits the Blog Group for a feature about blogging. Their program includes vlogger Steve Garfield filming ABC filming the bloggers.

2005 • MARCH Terry Fisher, John Palfrey, and Jonathan Zittrain file amicus brief for the Supreme Court in support of *Grokster*, in *MGM Studios, Inc. v. Grokster Ltd.* The brief would be followed by "Catch-As-Catch-Can: A Case Note On *Grokster*," by John Palfrey and Urs Gasser in the fall of that year.

2005 • MARCH Led by Rebecca MacKinnon, Berkman organizes the watershed conference *Blogging, Journalism, and Credibility*, focusing on the emerging media environment and combining leaders from traditional and new media. Numerous Berkman Fellows and friends participate, including Dave Winer, Zephyr Teachout, Jay Rosen, Chris Lydon, Orville Schell, Judith Donath, Joe Trippi, Jimmy Wales, John Bracken, Alex Jones, Bill Buzeberg, and many more.



John Clippinger

Selected Individual Scholarship

Fellow [Diane Cabell](#) is currently serving as corporate counsel for several Berkman-incubated charitable organizations, including Creative Commons, which provides tools and practices to reduce intellectual property barriers to the free exchange of knowledge and culture on the Internet. Cabell also acts as counsel for iCommons Ltd., a UK-chartered charity that supports a variety of free culture, open access, and open source initiatives, and she continues to serve as a World Intellectual Property Organization (WIPO) panelist for domain name disputes.

In 2007, Fellow [John Clippinger](#) published *A Crowd of One: The Future of Individual Identity*, an event fêted by the Berkman Center and the Aspen Institute. He also participated in and moderated conversations on digital identity at the Berkman Center, including at the IS2K7 conference and an interoperability workshop. In collaboration with the Gruter Institute, Clippinger worked with Vermont Law School and New York Law School to draft legislation on digital forms for the state of Vermont, which is likely to be considered in the Legislature's fall session. In May 2007, he received an award on behalf of the *Interra Project* from Boston Mayor Thomas Menino, and will be working with the Mayor's office to deploy a Higgins-enabled version of the Community Change Card.

Fellow [Urs Gasser](#) has continued to focus on a number of core issues regarding information law and policy, in addition to his work on the joint Berkman Center/University of St. Gallen projects. He and his St. Gallen team published a number of papers and articles on the emerging law of search engines and the regulation of other online intermediaries, and have been studying filtering regimes across the EU. Gasser also published a series of articles on issues that arise when companies transition from a paper-based information environment to a digitally networked system, including e-compliance and e-discovery issues. In this context, Gasser also advised multi-national companies and organized two conferences. His research focus also includes intellectual property issues in the digital age, including a best practice guide to the implementation of the EU Copyright Directive, a review of national anti-circumvention legislation, and a research initiative on brain science, intellectual property law, and law and emotion. He has been a speaker at international conferences on three continents, contributed to a number of expert workshops (including the Government Pension Fund of Norway's Workshop on Corporate Social Responsibility), and given testimony to the Swiss Parliament and the US Federal Trade Commission on IP and consumer protection issues. Gasser taught courses (some of them with Professor John Palfrey) on the law and economics of intellectual property rights, legal and regulatory challenges in a Web 2.0 environment, and comparative legal methods.



Urs Gasser, Doc Searls



David WEINBERGER
Berkman Fellow

It didn't take me long after I arrived at Berkman three years ago to discard the assumptions I'd brought from my experiences at other academic institutions. There, conversations were all too frequently like people trying to move ahead of one another on line without anyone noticing. In such environments, it becomes impossible to say the words that most advance one's thinking: "I don't know."

But at the Berkman Center, the conversational norm is to find what's of value in what's been said, to praise it, and to develop it together. That makes life at the Center fruitful, warm, and delightful; and also shaped the book I worked on for three years.

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John Clippinger

The Center's conversational norm is precisely the mode of a good editor, identifying the worthy ideas and helping you to turn them into even better ideas. So, when I arrived at the Center, I thought *Everything Is Miscellaneous* was going to be about metadata. It took a year of thinking and, most importantly, discussion with my Berkman colleagues, to realize that it was in fact about the effect of a particular type of metadata – what we use to organize our ideas, information, and knowledge – on the authority of our institutions. The Center and the people it brings in as fellows, participants, and unofficial affiliates, has actually managed to stay current on the changes sweeping through our culture. I conversed with leaders of the open access movement, information architects, entrepreneurs, folksonomists, librarians, scientists, and political activists. I realized that what seemed like a narrow topic in fact touched on many of the most controversial and rapidly emerging domains in the new connected world.

The parallelism of the connectedness of the Web and that of the Center is not accidental. In an age of abundance – of pages on the Web, of the ideas and knowledge to be found within the Center's own social network – it is in embracing what's of value in a conversation that we move forward. It is through the kindness implicit in the best of conversations that we become not just smarter, but better.

During the past year, David Weinberger worked on miscellaneous projects, appropriately enough, pursuing the issues raised in Everything Is Miscellaneous (Times Books, 2007). He researched and wrote about the many developments in how we are enabling users and social groups to pull together the information and ideas they need and in how social groups pull themselves through this process, with particular attention to the effect this has on authority, experts, and knowledge. Weinberger is currently researching the nature of leadership on the web, with a special interest on the role of virtues.

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Urs Gasser, Doc Searls

Fellow [Dan Gillmor](#) has written and spoken frequently about citizen media and its development. His travels have taken him around the United States and the world, and he remains in demand as a speaker on the subject. He also serves as an advisor on a number of projects in the field, including GVO, and serves on the board of directors of the California First Amendment Coalition. In 2004, Gillmor published *We the Media: Grassroots Journalism by the People, for the People*, a book that explores the rise of citizen media and its importance.

Fellow [Karim R. Lakhani](#) is an assistant professor in the Technology and Operations Management Unit at the Harvard Business School, who specializes in the management of technological innovation and product development in firms and communities. His research and course activities are centered on distributed innovation systems and the movement of innovative activity to the edges of organizations and into communities. Lakhani has extensively studied the emergence of open source software communities and their unique innovation and product development strategies, particularly in the biotechnology, life sciences, and industrial chemicals industries. He is co-editor of *Perspectives on Free and Open Source Software* (MIT Press, 2005) and co-founder of the MIT-based Open Source research community and web portal.

Fellow [Mary Rundle](#) wrote "Beyond Internet Governance: The Emerging International Framework for Governing the Networked World," which describes how international rules, Net-related treaties, and guidelines of intergovernmental bodies point to a global framework. Rundle has written papers examining digital identity management as a case study in the intersection of law and technology at the international level. She also co-authored (with student Chris Conley, currently a Berkman Fellow) a study entitled "Ethical Implications of Emerging Technologies: A Survey." Rundle continues to lead the Net Dialogue project and to contribute to Berkman Center work on identity and privacy.

"Being a scholar at Berkman is like being a house musician at a great jazz club."

—Doc Searls



Jonathan Zittrain, Shoshana Lopatin

Teaching

Since the Berkman Center's inception, our fundamental priority has been teaching across the wide range of our areas of inquiry. Berkman faculty and distinguished visitors have regularly provided some of the most innovative and substantial Internet, technology, and intellectual property law course offerings of any law school or university. Our Clinical Program was the first of its kind. We experiment with innovative uses of technology in our teaching, and we use technology to reach distant and dispersed audiences. Our courses have synthesized complex legal, technological, social, and business issues; examined questions of both public and private law; and integrated relevant international and domestic legal considerations from a global perspective.

While the core of our teaching has been and remains courses at Harvard Law School, we also strive to reach and involve a much broader audience. Faculty associated with the Berkman Center combine to teach as many as ten courses annually as part of the curricula at Harvard Law School, Harvard College, and Harvard Extension School. We have taught a generation of future lawyers and scholars and industry leaders about Internet law, intellectual property, e-commerce, privacy, security, antitrust, and the impact of the Internet on democracy, civic engagement, development, and innovation.

These extensive offerings serve as a key means of bridging our scholarship, community-building, and educational activities. Our courses both unify and transcend these separate threads, helping to weave them into and throughout everything we do, while engaging a wide and diverse audience in the most challenging aspects of our work.

RECENT COURSE OFFERINGS

Our curriculum has included the following courses, among many others:

At Harvard Law School

Professor Terry Fisher's *Copyright*, which includes a substantial Internet law component; a course on advanced patent law, taught along with Harvard Business School Professor Josh Lerner and Bill Lee, a leading patent practitioner; a reading group on *Intellectual Property Theory*, and several versions of the year-long *Internet Law Colloquium* for advanced students of cyberlaw co-taught with Professors Charles Nesson, Jonathan Zittrain, and John Palfrey. In the coming year, Fisher will teach *Patent Law* and a seminar, *Motivation*, with new Berkman Center Faculty Co-Director Yochai Benkler.

Professor Charles Nesson's *CyberOne: Law in the Court of Public Opinion*, an innovative experimental offering that explores the creation and delivery of persuasive argument in the new integrated Internet media space and in the virtual world Second Life, with Fellow Gene Koo and Berkman affiliate and former Fellow Rebecca Nesson. A version of Charles Nesson's *Evidence* course is also taught using a virtual courtroom on Berkman Island in Second Life to conduct mock trials, including trials of jailed video blogger Josh Wolf and the real-life case of *Bragg v. Linden Labs*. There have been several iterations of his *Digital Democracy* course, including one led by Fellow Ethan Zuckerman and co-taught with MIT Professor Hal Abelson, and another led by Fellow Andrew McLaughlin, each drawing heavily on the expertise of a series of Berkman Center fellows. In the coming year, Charles Nesson will again teach *CyberOne* as well as a new course expanding on the use of mock trials in Second Life, with witnesses and jurors drawn from an Extension School class on virtual worlds and from the at-large body of participants in Second Life.

2005 • MARCH GVO begins posting links to weblogs from around the world, choosing the best posts from a collection of a thousand blogs. Fellow Zephyr Teachout takes responsibility for the site for a single day and declares the job "the most terrifying experience of my life."

2005 • MAY Ben Laurie and Fellow Mary Rundle author "Identity Management as a Cybersecurity Case Study."

2005 • MAY *SignalNoise 2K5*, a sequel to Berkman's 2000 *Signal Or Noise?* conference organized by Berkman Fellow Glenn Otis Brown. Performers, creators, activists, scholars, and technologists assess the state of digital media, showcasing the diversity of digital art and pondering its future challenges.

2005 • JUNE Berkman welcomes back the greatly expanded Creative Commons community by hosting the International Creative Commons (iCommons) meeting, attended by the global partners responsible for both the legal "porting" of Creative Commons licensing and the development of supportive local communities around the world.



Derek SLATER
Berkman Alumnus

Today, blogging and user-generated content are the buzz of the Internet, the embodiment of a new participatory culture in which amateurs can stand on the same footing as professionals.

The Berkman Center invented all that. Okay, not really, but a unique collaborative work ethic seems baked into Berkman's DNA, and that's what makes it such an amazing community to me.



Jonathan Zittrain, Shoshana Lopatin

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I came to the Center in 2002, inspired by a new blog called Copyfight. I didn't know much about the Center's renowned legal experts then, but I did follow the writing of Donna Wentworth, a staff editor whose daily posts were quietly galvanizing a mini-movement of online copyright activists. I wanted in.

It didn't matter that I was just a sophomore in college and didn't have much research experience – Berkman gave me the opportunity to dive right into its nascent Digital Media Project. As my work progressed and I contributed to a variety of papers, my many mentors always took the time to help me figure out and fulfill my goals.

From the moment I walked in the door, I felt truly comfortable at Berkman, and everyone there always made me want to learn more, ask more questions, and work harder. Partly due to the unsettled and interdisciplinary subject matter, Berkman draws in an incredible array of people who inherently have much to learn from one another, expert in some things while novice in others. What makes the community special is that everyone is passionate about everything cyber and committed to helping each other get the most out of our collective intelligence.

Wikipedia and Web 2.0 crowdsourcing are incredible indeed, but they can't compare to the Berkman Center community.

Berkman Center veteran Derek Slater was the first undergraduate to be named a Student Fellow. He currently is a policy analyst at Google.

Clinical Director Phillip Malone's co-teaching of the *Practical Lawyering* seminar and, based on his more than 20 years experience as a federal antitrust prosecutor; a seminar on *Antitrust and Innovation* in high-tech industries; both seminars are being offered again this year.

Professor Jonathan Zittrain's cyberlaw course has tracked the Berkman Center's decade of evolution. Zittrain first taught it as a seminar in the fall of 1997, including both emerging cyberlaw theory and case studies – including the puzzles of domain names and "cybertrespass." The Berkman Center's involvement in the founding of ICANN, a global nonprofit charged with managing certain aspects of Internet naming and numbering, sprang from the course, as did an effort by the Center's first clinical student, Bill McSwain, to defend an employee of Intel accused of sending dissenting email newsletters to employees without the corporation's consent. (McSwain maintained his connection to the case after graduating, arguing before the California Supreme Court – and winning). Students Alexander Macgillivray and Wendy Seltzer developed the first iteration of the Center's H2O software in conjunction with the course. Seltzer also created the Chilling Effects project as an outgrowth of the course. Cyberlaw grew to two hundred students at the height of the dot-com boom – including structured visits from course alumni who had alternately succeeded and failed in the gold rush – and was featured in *U.S. News and World Report's* annual Best Graduate Schools report. Today the course focuses on the technologies and politics of control of the Internet, introducing students to phenomena ranging from Wikipedia to the Microsoft case, including a lecture by U.S. District Judge Thomas Penfield Jackson. At times the course has been offered jointly with MIT, divided equally between law students and computer science undergraduates. Zittrain and Professor Lawrence Lessig co-taught a seminar on the Microsoft case in 1998 after Lessig's brief appointment by Judge Jackson as special master in the case. The course followed the trial on a daily basis, and its website remains a primary resource for people interested in the case.

Professor Yochai Benkler's new *Introduction to Patents and Copyrights* course, as well as a "Motivation" seminar with Professor Terry Fisher in the coming year.

Professor John Palfrey's *Internet, Law, and Politics* and *Cyberlaw and the Global Economy* courses and the most recent iteration of the *Practical Lawyering in Cyberspace* seminar; integrating doctrinal and practical aspects of litigation in the cyberlaw field, with Clinical Director Phillip Malone and Jeffrey Cunard, a partner at Debevoise & Plimpton. This year, Palfrey is again co-teaching the *Practical Lawyering* seminar with Malone, as well as two new courses, *Venture Capital and the Technology Start-up* (with leading venture capitalist and Harvard Law School graduate David Hornik) and *The Web Difference? Digital Media, Entertainment, and the Law* (with Fellow David Weinberger). Palfrey will also co-teach a *Digital Natives* course with Faculty Fellow Urs Gasser at the University of St. Gallen.

At Harvard University

Professor John Palfrey has taught *The Law of the Internet*, a freshman seminar at Harvard College, for the last two years. More than half of the students from the first seminar later joined the Berkman Center as term-time or summer research assistants. This fall, Clinical Director Phillip Malone is teaching a new freshman seminar, *Cyberspace in Court: Law of the Internet*, at the College.

For the past six years, the Berkman Center has offered its basic Internet law course through the Harvard Extension School, featuring both in-room and online distance instruction. The most recent iteration was taught by Managing Director Colin Maclay and ONI Research Director Robert Faris, both of whom will also teach the course this spring; past versions have been taught by a host of Berkman Center fellows and faculty, including Professor John Palfrey, Faculty Fellow Urs Gasser, Professor Derek Bambauer, Professor Tim Armstrong, and Berkman affiliate and former Fellow Rebecca Nesson.



John Palfrey

2005 • SEPTEMBER Colin Maclay is named Berkman's first Managing Director, quickly realizing that John Palfrey does not do the work of three people, but of five.

2005 • OCTOBER Student group Harvard Free Culture is founded, and joins Free Culture chapters around the world in the development and preservation of a participatory digital commons. The group's activities are inspired, in part, by the seminal work Lawrence Lessig publishes two months later: *Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity*. FC connects Berkman with active and inspiring students, including founders Elizabeth Stark and Matt Gline, Christina Xu, Greg Price, Rebecca Rojer, Dean Jansen, Tim Hwang, and Berkman staffer Ben Weeks.

2005 • OCTOBER Berkman first becomes involved in the State of Play series of conferences with Professor Beth Noveck at NYLS and the Yale ISP leading to State of Play V in August 2007.

2005 • NOVEMBER John Palfrey makes introductory address at meeting of the Massachusetts Joint Committee on Economic Development and Emerging Technologies and the Science and Technology Caucus, titled "An Open Forum on the Future of Electronic Data Formats for the Commonwealth." A year later, Berkman hosts a "Round Table on Open Document Format" organized by TransAtlantic Consumer Dialogue and the Consumer Project on Technology examining consumer and user views of ODF and considering challenges to its successful implementation.

2006 • JANUARY Author of *We the Media: Grassroots Journalism By the People, For the People*, Fellow Dan Gillmor, founds the Center for Citizen Media, dedicated to protecting citizen journalists and partnering Berkman with the Graduate School of Journalism at the University of California, Berkeley, under Dean Orville Schell's leadership. Gillmor later convenes a "Citizen Media Unconference" with Doc Searls, on the heels of Berkman-hosted Wikimania 2006; the one-day add-on event is subsequently incorporated into Wikimania 2007 (Taipei).



Phillip Malone

CLINICAL PROGRAM

The Berkman Center's Clinical Program in Cyberlaw started in 2000 with two of Professor Jonathan Zittrain's students in his landmark Internet law class, *Internet & Society: The Technologies and Politics of Control*. From these informal origins, the program has grown steadily and evolved into one of the nation's most highly regarded cyberlaw clinics, with a consistent (and consistently oversubscribed) enrollment of approximately 35 students each year and a rigorous, rich, and varied curriculum. Each semester, the Clinical Program engages Harvard Law students in a wide range of real world litigation, licensing, client counseling, advocacy, and legislative projects and cases, covering a broad spectrum of Internet, new technology, and intellectual property legal issues. The pedagogical and philosophical core of the program continues to be identifying and maximizing the synergies between carefully structured, practical experience and the theoretical and doctrinal learning from students' underlying substantive courses.

Fundamental to the success of the Clinical Program have been its deep ties to practice and to leading practitioners in our field. In addition to Clinical Professor of Law John Palfrey, the program has been directed since 2004 by clinical instructor Phillip Malone, a 20-year veteran of the US Department of Justice (DOJ) and the senior civil service litigator on the government's antitrust case against Microsoft. From 2004 through 2006, Jeffrey Cunard and Bruce Keller, renowned intellectual property practitioners and partners at Debevoise & Plimpton, served with Malone as co-directors. Joining the program in 2007 is Lecturer on Law Dena Sacco, a 1993 Harvard Law School graduate, former Climenko Fellow, and former federal prosecutor and counsel in the DOJ's Office of Policy Development. Clinical Fellow Renee Lloyd also joins the program this year and brings a rich background in corporate, technology, and intellectual property law in two major law firms, in-house as senior corporate counsel at RSA Security, a publicly traded software security company and most recently as Associate Director of Technology Transactions at Harvard's Office of Technology Development.

Through the Clinical Program, students earn course credit for legal work on real-world issues for clients that have included individuals, small start-ups, nonprofit organizations, groups of law professors, and government entities. Over the last several years, we have increasingly integrated the clinical work of students into the cutting edge, public policy-oriented research projects underway at the Center:

Last year, the Clinical Program consulted on a number of the Berkman Center's core projects and initiatives. Program participants have:

- regularly provided key legal assistance to our ongoing study of worldwide Internet filtering through the OpenNet Initiative (ONI), which has included traveling to Russia, Thailand, and Singapore on joint missions with members of the Harvard Law School Human Rights Clinic to examine filtering and censorship conditions and practices. The Clinical Program also worked on the drafting of US legislation related to filtering, analyzed the legal aspects of various governments' filtering practices, and authored documents supporting the Berkman Center's work on the Principles on Free Expression and Privacy project.
- played a critical role as in-house counsel for the Berkman Center's StopBadware.org project, providing advice and guidance on a variety of new initiatives, monitoring and helping minimize potential liability risks, responding to legal threats, and, this year, preparing and submitting to the Federal Trade Commission a formal complaint against the maker of a particularly dangerous malware application.
- begun a major collaboration with the Berkman Center's co-sponsored Center for Citizen Media project last fall, with students developing and providing information, education, resources, and tools to help address some of the legal challenges faced by citizen journalists and the citizen media community. That clinical effort quickly grew into the Citizen Media Law Project, which was generously supported with a Knight Foundation grant and is directed by former clinical student and current Fellow David Ardia.
- played an increasingly significant role in supporting the Berkman Center's Global Voices Online project, providing legal advice on topics related to defamation, copyright, the complexities of implementing Creative Commons licenses, and challenges posed by online syndication, as well as nonprofit entity status and governance issues.
- provided a variety of legal services for other Berkman projects, including licensing and copyright advice for the Public Radio Exchange, fair use research for Fellow Lewis Hyde's project on academic fair use, and copyright and licensing advice on eLangdell, an online commons project where law instructors can create and share teaching resources.

My introduction to the Berkman Center came in the form of a lunch table conversation at the Admitted Students Weekend with John Palfrey. We entered into a discussion about Lawrence Lessig's new book at the time, *Free Culture*, when JP told me that he was trying an experiment – to read each chapter of the book in a different medium. It was in the ensuing discussion that I realized that Berkman encompassed so many of my interests, eventually playing a major role in my decision to attend Harvard Law School.



Elizabeth STARK
Berkman Affiliate



John Palfrey

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I had been interested in technology and the Internet ever since I had my first computer and modem, and Berkman has served to provide an ideal outlet to pursue my passion. I had the opportunity to do research on projects ranging from the digital media exchange to filtering to IP in education to open access to the role of the university in the 21st century. I've had the opportunity to travel across the world through Berkman connections, take various courses offered by Berkman faculty, work on reports, articles, even books, and assist in teaching various Berkman-affiliated courses.

In October 2005, I also founded a group dedicated to promoting a freely available culture that allows others to build upon the past, known as Harvard Free Culture. Berkman has been invaluable in their help and provision of resources to the Free Culture group. We have co-sponsored various events together, collaborated in organizing conferences, and have regularly made use of the Center as a meeting space. Berkman, as it were, has become our institutional home, our connection to the broader world of academia, and a focal point for our exposure to the issues surrounding Internet and Society.

Berkman has managed to bring together an amazing group of individuals, and continually does so, one that is extremely knowledgeable, passionate, and thoughtful. One should enter the Center prepared for a variety of discussions, and one should not expect to be able to leave without engaging in several. I can't even quantify the number of connections that I've made through my involvement with Berkman. What I do know is that I'll continue to develop these ties for many years to come.

Elizabeth Stark is the founder of Harvard Free Culture and a third year student at Harvard Law School. She has been involved in the Berkman Center as a student, Research Assistant, Teaching Fellow, consultant, and all-around contributor.

2005 • OCTOBER Berkman first becomes involved in the State of Play series of conferences with Professor Beth Noveck at NYLS and the Yale ISP, leading to State of Play V in August 2007.

2005 • NOVEMBER John Palfrey makes introductory address at meeting of the Massachusetts Joint Committee on Economic Development and Emerging Technologies and the Science and Technology Caucus, titled "An Open Forum on the Future of Electronic Data Formats for the Commonwealth." A year later, Berkman hosts a "Round Table on Open Document Format" organized by TransAtlantic Consumer Dialogue and the Consumer Project on Technology examining consumer and user views of ODF and considering challenges to its successful implementation.

2006 • JANUARY Author of *We the Media: Grassroots Journalism By the People, For the People*, Fellow Dan Gillmor founds the Center for Citizen Media, dedicated to protecting citizen journalists and partnering Berkman with the Graduate School of Journalism at the University of California, Berkeley, under Dean Orville Schell's leadership. Gillmor later convenes a "Citizen Media Unconference" with Doc Searls, on the heels of Berkman-hosted Wikimania 2006; the one-day add-on event is subsequently incorporated into Wikimania 2007 (Taipei).



Phillip Malone

The bulk of the Clinical Program's clients are nevertheless outside the Center. We have carefully crafted the program to be broad-based both in its clients and its substantive and practice opportunities. Most of our cases and projects fall into a handful of key areas, including litigation and advocacy to protect online speech and anonymity; legal resources for citizen journalists; counseling and legal guidance for digital copyright and fair use; guidance and amicus advocacy for effective but balanced protection of children from child pornography and online exploitation; and software licensing and contract assistance, especially regarding Creative Commons licenses.

Former clinical students go on to clerkships, government service, private practice, NGOs, and other organizations after their time at the Berkman Center; during their time here, they are the muscle behind many of the Center's projects and events. The 2006–2007 academic year was no exception, and our successes owe much to the students involved.

"Whether in classes, through the Clinical Program, as researchers, or participants at events, students contribute at all levels of our exploration of the relationship between law, society, and the Internet, integrating what we do with the larger mission of the University."

—Phillip Malone

Among the successes of the Clinical Program this year was the clear vindication of our clients in the *Gentle Wind v. Garvey* defamation case, a favorable settlement for a defamation defendant in another case, and highly positive evidentiary rulings in a third case; assisting the Isabella Stewart Gardner Museum in Boston with copyright, Creative Commons licensing, and other legal issues in its innovative free classical music podcast series, "The Concert"; advising Creative Commons regarding updating its generic CC license as a US jurisdiction-specific license, as part of its International Commons effort; and assisting the Citizen Lab at the Munk Centre for International Studies at the University of Toronto in assessing licensing issues, including distribution of source code under a general public license for its Psiphon software, a censorship circumvention tool for Internet users in countries that censor Internet content.

2006 • JANUARY StopBadware.org (SBW) is publically launched to great acclaim, followed immediately – and totally independently – by the launch of google.cn. In 2007, SBW hosts the annual public meeting of the Anti-Spyware Coalition.

2006 • JANUARY Terry Fisher delivers "The Future Digital Economy: Digital Content – Creation, Distribution and Access" at the annual conference of the OECD's Department for Science, Technology and Industry. 350 representatives from industry, academia, and government attend. Fisher focuses on intellectual property rights on the Net and the implications for national media policies when governments no longer control the distribution channel.

2006 • FEBRUARY John Palfrey and ONI's chief technical expert, Nart Villeneuve of University of Toronto's Citizen Lab, testify on corporate responsibility and Internet censorship at the Congressional Human Rights Caucus. Two weeks later, Palfrey submits related written testimony to the House Subcommittee on Africa, Global Human Rights, and International Operations.



Erica George, Rebecca Nesson, Charles Nesson, Eric Priest

ONLINE AND GLOBAL VENUES

We are also committed to teaching to a global audience and reaching people regardless of their location or profession. We have concurrently held online courses that are free and open to the public on a similar complement of issues, reaching thousands of students around the world through innovative teaching programs led by our faculty and affiliates. The Center has helped to offer the annual Summer Doctoral Programme (SDP) with the Oxford Internet Institute (OII) since its inception in 2003. For two weeks, it brings together approximately 30 promising graduate students in Internet studies, primarily social scientists and some lawyers, students of media, law, and communications, who comprise the future generation of faculty in our field. For the first time, the 2007 SDP was held in Cambridge, Massachusetts, following previous sessions in Oxford and Beijing. Teaching over the course of the two-week program were noted faculty from Oxford, including Helen Margetts and Ralph Schroeder; MIT, including Henry Jenkins; and Harvard, including all Berkman faculty directors and a brace of Berkman fellows, including Urs Gasser, Wendy Seltzer, Ethan Zuckerman, Judith Donath, Michael Best, and more. The program was jointly organized by Berkman, OII, and the Queensland University of Technology.

Professor Terry Fisher initiated the Internet Law Program (iLaw) in 2000 to offer the public a way to learn about the essential legal, economic, and public interest debates surrounding the Internet. It is now the Center's flagship teaching effort, bringing together our faculty to focus on the Internet's most pressing issues in a manner that fosters new community and new ideas. Since its inception, whether in Cambridge, Palo Alto, Mexico City, Tallinn, Turin, or Rio, iLaw has been the venue for important debates. It has enabled participants to consider the legal and policy environment that governs online activity, to examine the Net's changing technological character, to explore the implications of Internet policy and legal reforms, and to identify how reforms affect the public interest.

CyberOne: Law in the Court of Public Opinion

Drawing on the groundwork laid by Yochai Benkler's book *The Wealth of Networks*, Professor Charles Nesson's CyberOne course studied how new Internet technologies make it possible to aggregate small amounts of willing energy to effect big change. Berkman affiliate and former Fellow Rebecca Nesson joined with Gene Koo to offer the course simultaneously through the Harvard Extension School on the Berkman Center's virtual campus in Second Life. Students enrolled through the Harvard Extension School were spread across the globe but were all able to attend classes and do projects together. This early experiment has led to several more Berkman courses being offered in the Second Life environment. In addition, CyberOne was offered freely to the public within Second Life, in an attempt by the professors to make their own argument in the court of public opinion: openness in higher education leads to greater benefits for the university, the enrolled students, and the public at large.

2006 • FEBRUARY Making use of ONI research, now Faculty Co-Director Jack Goldsmith and alumnus Tim Wu publish *Who Controls the Internet? Illusions of a Borderless World*, arguing that nation-states retain their sovereignty over the administration and policing of the Internet, despite early predictions that it would become a transnational utopia.

2006 • MAY Urs Gasser and Silke Ernst publish "From Shakespeare to DJ Danger Mouse: A Quick Look at Copyright and User Creativity in the Digital Age," arguing that copyright law has not kept pace with the creative opportunities of the Internet and must evolve to support participatory online culture.



Charles Ogleter



Yochai BENKLER
Faculty Co-Director

...It started out for me in the Spring of 1994. Charlie Nesson and I were working on a paper on evidence and somehow stumbled across this surprising overlap in our passions, leading to two or three hour long flights of imagination about where this thing could go. From then on, the story repeats.

2006 • JANUARY StopBadware.org (SBW) is publically launched to great acclaim, followed immediately – and totally independently – by the launch of google.cn. In 2007, SBW hosts the annual public meeting of the Anti-Spyware Coalition.

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Brian George, Rebecca Nesson, Charles Nesson, Eric Priest

In 1998, I had just published my first piece on spectrum commons, and came over to the law school and met Larry Lessig. We got into a long conversation that ended up in a piece in *The New Republic* and a long friendship. In 2000, I was still at NYU and wanted to organize a working group on spectrum. But most of the people I wanted to talk to were either in D.C. or Cambridge. No problem, says Terry Fisher; we can collaborate. And then there was iLaw – for several years now, Terry Fisher has brought us all together for a few days of intensive collaborative teaching. It gave us several days to spend time together, allowed us to hear what we were each thinking, how we were honing what we thought, and talk about it (as well as a good bit more). There were different resonances to our styles; but by the later sessions, we were making music. So for me, the Berkman Center is, first, a place to come, meet, and talk; a place to let the imagination fly together. More importantly perhaps, as Terry and John Palfrey gradually built up its research capacities, it has become a platform on which to collaborate in building some seriously fabulous flying machines.

Berkman Faculty Co-Director Yochai Benkler is the Jack N. and Lillian R. Berkman Professor of Entrepreneurial Legal Studies at Harvard Law School and author of the acclaimed *The Wealth of Networks: How Social Production Transforms Markets and Freedom*.

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Charles Ogletree

Events, Communications, Media

The unique interactions generated through conferences, workshops, and other events – both as process and product – are fundamental elements of the Berkman Center's *modus operandi*. Convening groups of different sizes and compositions and asking them to interact in novel settings and styles is essential for everything from identifying projects and partners, to agenda setting, research, and awareness-raising. The Center's events engage students, faculty, fellows, and affiliates, as well as policymakers, business leaders, and civil society through their unique topics, tenor, and approach. In addition to many informal roundtables and workshops, we have recently organized the following events.

EVENTS

Beyond Broadcast I and II

In May 2006, Fellows Jake Shapiro (Executive Director, Public Radio Exchange) and Susie Lindsay organized "Beyond Broadcast: Reinventing Public Media in a Participatory Culture," bringing together public broadcasters, technologists, and new media creators with help from the Center for Social Media at American University, New York University's Interactive Telecommunications Program, and the Center for Citizen Media. The goal was to create an opportunity for interaction between active participants in traditional public media and new participatory web-based efforts; to showcase and discuss the latest projects and models; and to cultivate a shared understanding of the potential and meaning of a renewed public media role. In February 2007, in conjunction with the Yale Law School Information Society Project and the MIT Comparative Media Studies Program, Berkman affiliate Steve Schultze spearheaded the organization of Beyond Broadcast II, which focused on the democratic potential of user-generated content. Approximately 400 people from traditional public media, new web-based participatory social media, academia, activist organizations, and media developers attended each iteration of Beyond Broadcast. Beyond Broadcast III will be taking place in the spring of 2008 in Washington, DC.

Internet as a Public Good Symposium

In July 2007, Harvard Business School (HBS), the Berkman Center, and the Mozilla Foundation hosted a symposium on the campus of HBS focusing on the economic, policy, infrastructural, and philosophical components of envisioning the Internet as a public good. Academics, including economists and legal scholars, entrepreneurs, technologists, and individuals from the nonprofit sector, joined the discussion.

State of Play V

The Berkman Center has been one of the core partners in hosting the State of Play conference series on virtual worlds and gaming. In October 2005, the Berkman Center, the Institute for Information Law & Policy at New York Law School, and the Information Society Project at Yale Law School co-hosted "State of Play III: Social Revolutions" at New York Law School. The focus of the conference was on social relationships within and educational uses of virtual worlds and brought together experts in the virtual worlds and more general legal and policy spheres. The first-ever international State of Play conference, State of Play V: Building the Global Metaverse was held in Singapore in August 2007.

Wikimania 2006

The Berkman Center hosted the second gathering of the Wikipedia community in the summer of 2006, hosted by Berkman Fellow and Wikipedia founder Jimmy Wales, and organized by long-time affiliate SJ Klein. This unparalleled gathering brought together more than 600 people from over two dozen countries and took on a diverse range of questions.

Internet and Democracy

In September 2007, the Berkman Center hosted the first in a series of research meetings as part of the Internet and Democracy Project with academics, regional specialists, technology experts, and activists to discuss planned research, the best technology tools available for civic engagement, and the future direction of the project.

Internet & Society Conferences

We have convened six large-scale Internet & Society conferences since our founding, held roughly biennially on the Harvard campus and chaired by Professors Charles Ogletree and Charles Nesson. Our recent conferences have focused on the changing role of the university in a digital age, including the sixth Internet & Society Conference held this past May at Harvard Law School, entitled "University: Knowledge Beyond Authority." The two-day event focused on issues of open access and fair use, alternative models to scholarly publication, and the future of libraries, and brought a correspondingly diverse range of high level participants. Two of the highlights of the event were the interview of Harvard President Derek Bok and Provost Steve Hyman by Professor Terry Fisher, and Professor John Palfrey channeling Professor Charles Nesson in a Fred Friendly-style discussion with leaders from the content and publishing industries, public media, and academia.

2006 • MAY Jonathan Zittrain releases "The Generative Internet," arguing that some aspects of the Net may need to be limited to protect it, and providing some of the thinking behind ONI and SBW, among other efforts.

2006 • JUNE The culmination of a year-long series of workshops, coding, and cajoling by Fellows John Clippinger and Mary Rundle, Paul Trevithick, and a cast of many friends, the Identity Mash-Up Conference breaks new ground in user-centric identity. Six months later, the Mobile Identity Unconference extends the conversation to the issue of mobile technologies.

2006 • AUGUST Over 600 Wikipedians from two dozen countries descend on Cambridge for the Berkman-hosted Wikimania 2006. Both an academic conference and a vibrant community event, Wikimania brings together wiki enthusiasts to share ideas on open source software, free knowledge initiatives, and wiki projects worldwide.

Blog Group

Currently led by staff member and StopBadware.org Online Organizer Erica George, with Berkman affiliate j Baumgart, Berkman's Thursday Blog Group has hosted Harvard University community members and the Cambridge public since 2002. The group was first organized by Fellow Dave Winer, who handed the reins to staff member Wendy Koslow before George and Baumgart took the lead. The blog group discusses the latest technology and citizen media developments. The group has also hosted many guest speakers, including Toby Stock, Dean of Admissions for Harvard Law School; the Digital Divide Network's Andy Carvin; Museum of Science podcaster Adam Weiss; Lisa Williams, founder of H20town and Placeblogger; Scott Johnson, co-founder of the search engine Feedster; and Reddit founders Alexis Ohanian and Chris Slowe.

Harvard-MIT-Yale Cyberscholars Working Group

The Information Society Project at Yale Law School and the Berkman Center host a monthly forum for students, fellows, and affiliates to discuss research and papers in progress. This past year, Berkman Fellow presenters included Gene Koo, Mary Rundle, and Christina Olson, who also coordinated the series.

Luncheon Series

The Berkman Center Luncheon Series is a weekly series of informal luncheons and other meetings, providing students, fellows, faculty, and anyone who reserves a seat opportunities to discuss issues relevant to their work and to engage other leading thinkers and practitioners. More than 40 guests were hosted this year, including best-selling author Matthew Pearl, legal scholars such as Mary Wong and Susan Crawford, new technology leaders like Nancy Hafkin and Ashok Jhunjhunwala, historians such as Berkman Fellow Lewis Hyde, and Harvard Kennedy School of Government Professor Viktor Mayer-Schoenberger. Each event is open to the community and webcast free online, shared through audio and video podcast, and accessible in the virtual world Second Life. Subscription to the luncheon mailing list has grown 500 percent in the last year alone.

Web of Ideas

Led by Fellow David Weinberger, Web of Ideas is a discussion series that examines the effect of the Web on how we understand ourselves and our shared world. Topics of conversation from this past year included discussions around cyber-bullying, participatory culture, and democracy.

COMMUNICATIONS

Through a steady increase in event attendance, greater community involvement, and wider circulation of our publications, the Berkman Center has promoted its growth through communications. Working with fellow research institutions, universities, business and technology leaders, governmental agencies, and media outlets, we have developed a wide community, and our network continues to expand. Following is a sampling of our efforts and achievements over the past year.

Berkman Web Publications

The Berkman Center's monthly online newsletter, *The Filter*, has increased circulation size by nearly 3,000 this year, with a total of more than 17,000 subscribers. The Center also continued publication of the weekly *Berkman Buzz*, which highlights conversations from faculty, fellow, and project blogs, and whose circulation has more than doubled this past year to over 3,700. An additional distribution list includes Reports, which has grown from 1,500 to over 3,800 subscribers. Individual Berkman projects also maintain their own distribution lists, such as the OpenNet Initiative, the Internet and Democracy Project, Global Voices' *Daily Digest*, the 1,000-strong StopBadware Discussion Group, and the soon to be released *Citizen Media Law Brief*, which will inform those interested in the Citizen Media Law Project on a weekly basis.



back row: Ellen Miller, David Isenberg, Karim R. Lakhani (standing); front row: Frank Hecker, Eric von Hippel, James Bessen, Colin Maclay (standing)

MediaBerkman

MediaBerkman, the Berkman Center's podcast blog, hosts more than 250 presentations and discussions, and has had more than 22,000 downloads over the past year. It features conversations with and talks by leading cyber-scholars, entrepreneurs, activists, and policymakers and explores topics such as the factors that influence knowledge creation and dissemination in the digital age; the character of power as the worlds of governance, business, citizenship, and the media meet the Internet; and the opportunities, roles, and limitations of new technologies in learning. Video has also been increasingly added to the content stream for each Berkman-hosted event as well as unique topical content.

Virtual Worlds

The Berkman Center launched its own "Berkman Island" in Second Life, a virtual world, for the first Beyond Broadcast conference hosted in Spring 2006. The island functions as a meeting place and open community broadcast center for audio and video material. The island was home to several events this past year, including law school courses, IS2K7, and every Luncheon Series discussion. The Center's interest in virtual worlds received press attention, including mention in the *Boston Globe*, the *Baltimore Sun*, on CBS Sunday Morning, and in numerous blogs. This year, Professor Charles Nesson and Fellow Gene Koo will broadcast courses from Harvard Law School and Emerson College into Second Life, continuing Harvard's pioneering in the space of Second Life for improved access and extension/distance education.

Webcasting

All Berkman events, including conferences, luncheon series talks, and most meetings, are webcast for the purposes of sharing knowledge with our university partners, Berkman affiliates, and the general public. Webcasts account for half of our luncheon series audience attendance and have also allowed people from around the world to participate in our conferences.

MEDIA

Our research and scholarly agenda thrive on the anticipation of future intellectual challenges, and our faculty and fellows are consistently relied upon by media outlets for comment on issues – from intellectual property dilemmas and questions regarding the legitimacy of citizen media, to the scope of privacy concerns or the organization of the Internet. Media sources as diverse as CNN, the *New York Times*, the *Harvard Crimson*, the *Boston Globe*, the *San Francisco Chronicle*, the *Associated Press*, *Wired Magazine*, the *Wall Street Journal*, *USA Today*, the *International Herald Tribune*, NPR, CNET, and numerous trade publications have often requested input from the Center on current events related to our work. The Berkman Center's faculty and fellows comment in major publications or web-based media on a daily basis.

The Berkman Center also strives to involve new media in discussions about its research. News of our research has been covered on blogs as diverse as Slashdot, BoingBoing, InstaPundit, and many others. Our immediate community also lays claim to some of the most prominent bloggers on the Net, through whom we can channel timely information for broad dissemination. Organizations such as the MacArthur Foundation, the Center for Social Media at American University, and the Center for Democracy and Technology also profile our work in their newsletters and emails.

Sparking the public debate around copyright

"Protect Harvard from the RIAA." Professor Charles Nesson and Fellow Wendy Seltzer asked of readers in an op-ed in the May 1, 2007, *Harvard Crimson*, jumping into the fray surrounding the recording industry's "pre-litigation letters" to universities. Berkman made universities' role in the war over filesharing a major theme at the May 31 IS2K7 conference, and Professors Nesson and John Palfrey reprised the theme in the June issue of *The Filter*: "Universities to RIAA: Take a Hike." This fall, Seltzer, Palfrey, and Berkman clinical student Angela Kang continued the run with another letter to the *Crimson*, "Has Sense Flown the Coop?" ripping apart the Harvard Coop's intellectual property claim on class reading lists and book prices. To complete the media sweep, Seltzer and Kang recorded a Berkman.TV piece on October 4. They are now generating briefing materials to encourage universities to fight subpoenas for user-identifying information.

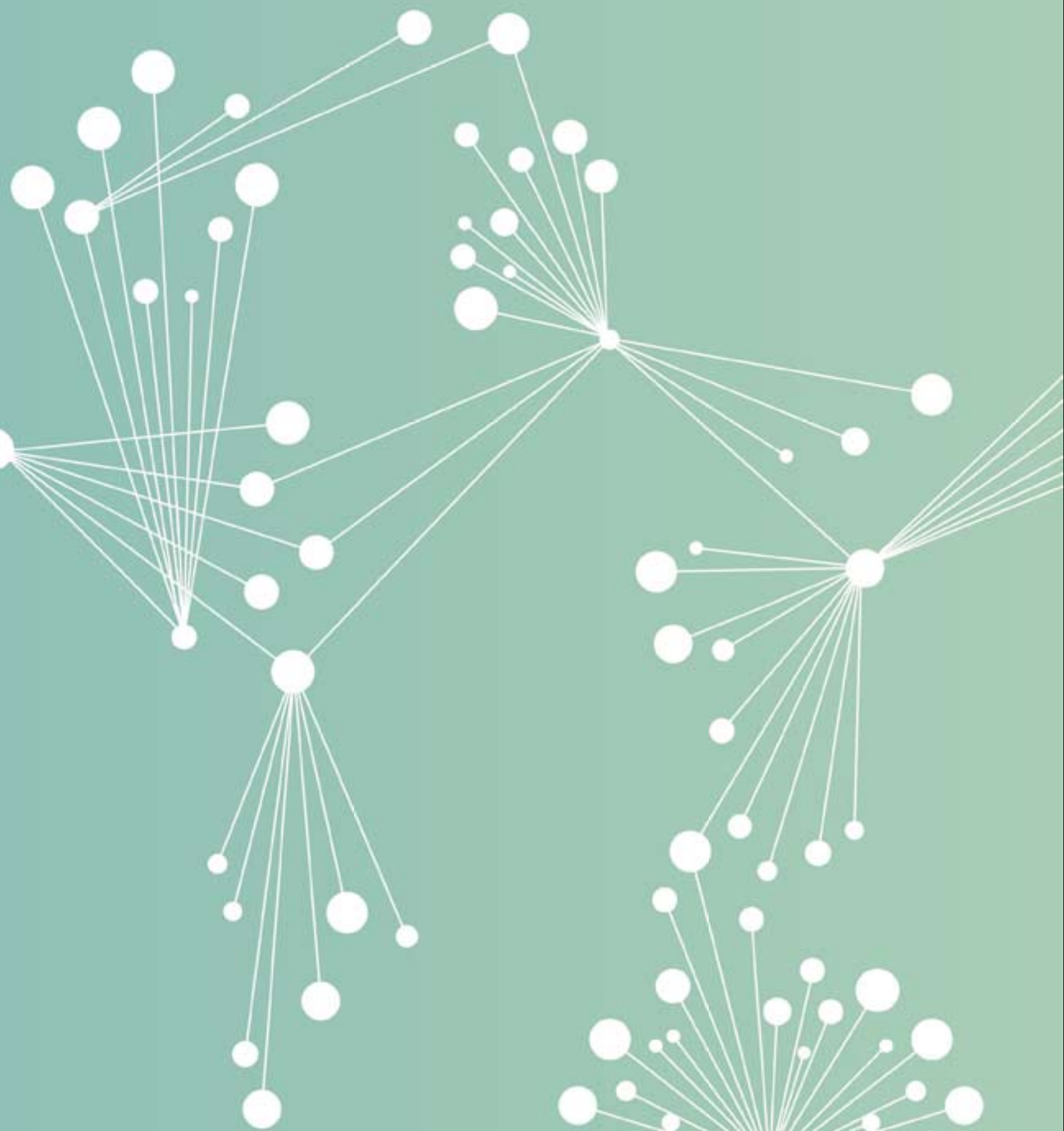
2006 • SEPTEMBER Terry Fisher and Bill McGeveran publish "The Digital Learning Challenge: Obstacles to Educational Uses of Copyrighted Material in the Digital Age," the culmination of a year-long research effort with student Fellow Jackie Harlow and many others. It quickly becomes one of the most downloaded papers in several SSRN categories – among other things, arguing against penalties "under the DMCA when DRM systems are circumvented purely to enable uses of content that are educational, legally permitted, and noncommercial." The Librarian of Congress agrees: in November six classes of works are exempted, including film clip compilations (a case in Fisher and McGeveran's paper), from DMCA section 1201's prohibition against DRM circumvention.

2006 • SEPTEMBER In collaboration with Fellows Rebecca Nesson and Gene Koo, Charles Nesson teaches *CyberOne: Law in the Court of Public Opinion*.

2006 • SEPTEMBER Terry Fisher testifies before the House Subcommittee on 21st Century Competitiveness regarding online file sharing by students, unintentionally piquing the Subcommittee's interest in what becomes Noank Media.

2006 • SEPTEMBER Berkman celebrates OneWebDay 2006, founded by Susan Crawford and guided by a board that includes David Isenberg, Doc Searls, and David Weinberger. An interesting cross-section of local Internet enthusiasts attend and create a video card thanking Tim Berners-Lee for his role in helping shape the web.

2006 • DECEMBER After a rollicking first summit in 2005 at the London HQ of new sponsor Reuters, GVO's second annual summit occurs in New Delhi, where they share a venue with a convention of snake charmers. By May, GVO had surpassed one million monthly visitors.



How do we define "the public interest"?

Our goal in all of our ventures is to understand and promote the public interest. How do we define "the public interest"? In our view, that phrase encompasses such ambitions as the efficient promotion and dissemination of informational products, distributive justice within the US and globally, and the advancement of democracy, broadly defined. How these ideals can be applied and reconciled in a given technological context is, of course, a difficult question – and one on which the faculty, fellows, and others associated with the Berkman Center often healthily disagree – but it is itself a question central to our inquiries.

Where We Are Going

We are currently in the process of expanding our field of operations in two dimensions.

First, while our primary focus is and will remain the relationship between the Internet and the law, our inquiries are drawing us ever more deeply into other disciplines as well: computer science, economics, sociology, political theory, history, theories of education, and religion. To strengthen our work in those zones, we are collaborating more frequently with faculty, fellows, and students drawn from other schools within Harvard and from other universities.

Second, we have begun to examine aspects of digital environments other than the Internet. This includes inquiries into: how repositories and indexing systems for digital records of all sorts could be improved, with a goal of access to knowledge; how both the incentives for pharmaceutical research and development and the mechanisms for distributing the resulting drugs could be improved; what privacy will mean in the future and how systems of group judgment and reputation-assignment will affect traditional individual rights; what roles trademarks will play in our evolving global economies and cultures; how curricula and pedagogy in primary, secondary, and adult education can be revitalized through technology; and finally, how to consider the evolving role and shape of the university, including changing methodologies of scholarly inquiry.



back row: Dean Jansen, Jesse Ross, Erin Judge, Kevin O'Keefe, Eric Priest, Catherine Bracy, Rebecca Tabasky, Doc Searls, Jason Callina, Ashish Dixit, Oliver Day, Christina Olson, Sean Doyle, Terry Fisher, Robert Faris, Tatiana Faris; front row: Gene Koo, Ben Weeks, Lianna Leahy, Charles Nesson, John Palfrey with Emeline Palfrey, Anthony Haddad, Phillip Malone

2006 • Yochai Benkler publishes the canonical text for the field, *The Wealth of Networks: How Social Production Transforms Markets and Freedom*. Long a close friend of Berkman, he becomes the Jack N. and Lillian R. Berkman Professor of Entrepreneurial Legal Studies and a director of the Center in fall 2007.

Convinced that these trends should continue, we recently initiated the process of transforming the Berkman Center from a research center tied exclusively to Harvard Law School to a research center of Harvard University as a whole. This transition, with the support of the university's leaders, is underway.

In our second decade of operations, we hope to strengthen this reconfigured Berkman Center in the following respects:

Expand our connections with analogous centers located in other universities and countries. We currently work closely with Stanford Law School's Center for Internet & Society, the University of St. Gallen's Research Center for Information Law, and the Oxford Internet Institute. We plan to deepen existing ties while creating more. Jointly taught courses (made possible by enhanced inter-school communications systems), joint conferences, and joint research projects are among the tools we intend to use more often, especially since some of our modes of research and expression are themselves novel – and of great interest to other institutions.

Offer interdisciplinary courses. Several of the faculty who have recently joined our ranks are eager to collaborate with us in offering courses that explore the Internet and digital technologies more broadly from several angles. Such courses would be open to students from all parts of the university.

Expand our embrace of technology and media by making the development and projection of ideas in text, audio, and video themselves cornerstones of our research. At present, we routinely webcast and disseminate recordings of our conferences and other events, but remain eager to amplify our efforts and to facilitate wider adoption of this system across the university.

Expand our existing Advisory Board and other mechanisms of outside contribution. We wish first to expand and activate the Board as a collective body, and then discuss with its members what other changes in our governance structure they would advise.

Explain, exemplify, and accomplish these extensions of our mission through a series of conferences within Harvard University. Over the course of the next few years, we will continue to hold a series of one-day conferences in collaboration with different schools within the university. These conferences are designed such that the university serves not only as the convener, but also the "client." For example, we seek to host a meeting with interested faculty from Harvard Divinity School to discuss "Divinity in the Age of the Internet." We intend to organize a similar meeting with representatives of the School of Engineering and Applied Sciences to discuss "Law, Language, and Code," to be followed by similar conferences with each of the other schools of Harvard. Professor Charles Nesson is leading this initiative, as part of the series of large-scale Internet & Society conferences that we have held throughout the Berkman Center's first ten years.

We warmly welcome those who would join us in these efforts as we enter our second decade.

Although I'm probably overly enthusiastic about the positive ways the Web is reshaping our culture, I've been quite pessimistic about the Web's future. The political and economic forces that would "tame" the Web – or from my point of view, lock it down – seem to me to be overwhelming. During my first year at the Berkman Center, three years ago, I was in such a trough of despair that I was awarded a Sony PSP at a Net tech conference as officially the most depressed person there.

Then, at a Center get-together held at Charlie Nesson's house, Charlie helped pull me out of the worst of my misery. I was going through my well-worn litany of all the indicators of doom. But Charlie wasn't buying it. There is, he said, one institution whose values are the same as the Internet's and that is in a position to act effectively to preserve those values: The University. Not just Harvard and not just the Ivy League, but the University as an institution committed to open access to knowledge and the free expression of ideas.

Ever since, I've had the sense that as the Center explores ideas in the simultaneous physical and digital publics, we're not just trying to understand the Internet. In that very act, we are also working to save it.

David WEINBERGER
Berkman Fellow

Co-Founder's Letter

The best way to understand cyberspace is to build upon it. This is the Berkman Center's essence. It is the thread that runs throughout this report's breathless and kaleidoscopic account of our activities. We aspire to make sense of a space that is simultaneously hyped and taken as unexceptional, and to discern the timeless and fundamental dynamics at work even as the Internet has continued to evolve at breakneck speed. Building is both a means to that end, and an end unto itself.

One of the features that makes the Internet different from its antecedents – from the proprietary networks that could have taken hold in its stead – is the network's standing invitation to try something new. No credentials are needed; no gatekeepers block new applications. There are still enormous interstices, fascinating problems – including those in teaching itself – where small-footprint code can have an astonishing impact. The explosion of new software tools like wikis and blogs has further opened the possibility of building beyond computer scientists and well-funded dot-com ventures. Instead of merely tracking their reach, we have opportunities to hypothesize what one tweak or another might do to these tools' use in one situation or another – and then to try them out, learning as much from failure as from success.

Understanding requires us to maintain the highest standards of academic rigor and independence, and building calls upon us to forge partnerships with those who are making a difference on and through the Internet. We recognize the unique value of being immersed in the experiments we create – and the unique role we bring to these experiments as researchers with commitments to transparency, honesty, and skepticism.

We owe a debt to our benefactors – the Berkman family first among them – and to the Harvard Law School for providing us with physical and virtual environments in which we could incubate during our first decade, and for helping us to cultivate the ethos which animates our work.

What the Internet invites of us – connection and building to improve the state of the world – we invite of you. If you have read through to the end of this report on our progress, chances are good that there is a way you might connect to the growing enterprise of the Berkman Center. Please join us.



Jonathan ZITTRAIN
Co-Founder

2007 • JANUARY Official press release for the Principles on Free Expression and Privacy project, reflecting Berkman's ongoing role in a multi-stakeholder initiative that seeks to protect and advance citizens' rights to free expression and privacy through the creation of a voluntary code of conduct for ICT companies. It directly emerges from John Palfrey and Jonathan Zittrain's work on filtering and censorship.

2007 • MARCH David Isenberg organizes second Freedom to Connect (F2C) conference, welcoming stakeholders interested in innovation and civil liberties to discuss how universal connectivity and diminishing capital requirements of information production challenge existing socioeconomic assumptions. Keynote Yochai Benkler provides focus and links discussions to the 2006 F2C conference's theme: that freedom of connection is a human right.

2007 • SPRING John Clippinger publishes *A Crowd of One: The Future of Individual Identity* and David Weinberger completes *Everything is Miscellaneous: The Power of the New Digital Disorder*.

2007 • MAY ONI hosts its first public conference, at Oxford, to discuss the results of the first ever global data set on Internet filtering, to map the ONI's future research directions, and to expand the community developed during a December 2005 meeting co-hosted by ONI and Human Rights Watch.

2007 • MAY Berkman hosts sixth Harvard Internet & Society conference, *IS2K7: University – Knowledge Beyond Authority*, discussing the new role of the university in cyberspace. Its themes and structures, including the now famous Food for Thought Dinners, link back to the 2002 Internet & Society conference, *A Community Experiment: What is Harvard's Digital Identity?*

2007 • JUNE A gang of unnamed thieves steal Berkman's beloved Baker House and transport it down a suspiciously abandoned Massachusetts Avenue. Berkman photobloggers Erica George and Phillip Malone document the crime in progress on Flickr.

2007 • FALL The John D. and Catherine T. MacArthur Foundation recognizes Berkman's accomplishments and prospects. While their confidence is sufficient to make us blush, their grant of \$4 million leaves us with unending gratitude – and a great start on creating the core financial stability to embark on another decade of scholarship with impact.

Selected Forthcoming and Recent Publications

BOOKS

The Berkman Center's tenth anniversary coincides with the publication of at least three major works:

- *Access Denied: The Practice and Politics of Internet Filtering*, by Ronald Deibert, John Palfrey, Rafal Rohozinski, and Jonathan Zittrain (MIT Press, forthcoming)
- John Palfrey and Urs Gasser's *Born Digital* (Basic Books, forthcoming)
- Jonathan Zittrain's *The Future of the Internet – And How to Stop It*, which will be released by Yale University Press and Penguin UK, as well as under a Creative Commons license. *The Future of the Internet* makes the case that the Internet's health depends on that of its endpoints – in particular, the personal computer. By this metric, the Internet is in danger, and the most obvious solutions may be worse than the original problem. The book offers ways of saving crucial generative features of the Internet by drawing from lessons of generative applications built on top of the Internet, such as Wikipedia.

Berkman faculty and fellows have written several of the leading books in our fields during their association with the Center, including scholarly texts and books for a wider audience. Chief among them are:

- Lawrence Lessig's *Code and Other Laws of Cyberspace*, now in a collaboratively revised second edition, *Code: Version 2.0* (Basic Books, 2006)
- Terry Fisher's *Promises to Keep: Technology and the Future of Entertainment* (Stanford University Press, 2004)
- Yochai Benkler's *The Wealth of Networks: How Social Production Transforms Markets and Freedom* (Yale University Press, 2006)
- John Clippinger's *A Crowd of One: The Future of Individual Identity* (Public Affairs Books, 2007)
- David Weinberger's *Everything Is Miscellaneous: The Power of the New Digital Disorder* (Times Books, 2007).

2006 Jack Goldsmith and Tim Wu's *Who Controls the Internet? Illusions of a Borderless World* (Oxford University Press) • Terry Fisher (edited) with David Kennedy, *The Canon of American Legal Thought* (Princeton University Press) • Dan Gillmor's *We the Media: Grassroots Journalism by the People, For the People*, released in paperback (O'Reilly Media)

REPORTS

In addition to voluminous blog posts and other non-conventional scholarly writings, our published works form a core output of the Berkman Center's research efforts. We have established the premier series of scholarly publications on matters related to the Internet, law, and society, known as the Berkman Publication Series, which is jointly published with SSRN. This publication series now includes more than 100 works by dozens of leading authors associated with the Center. A sampling follows.

2007 "The Principles of Distributed Innovation," Karim R. Lakhani and Jill A. Panetta, *Innovations: Technology, Governance, Globalization Summer, Vol. 2, No. 3, 2007* • "Saving the Internet," Jonathan Zittrain, *Harvard Business Review*, June 2007 • Case Commentary on "We Googled You," John Palfrey, *Harvard Business Review*, June 2007 • "If You Love Your Information, Set It Free," David Weinberger, *Harvard Business Review*, June 2007 • "Reluctant Gatekeepers: Corporate Ethics on a Filtered Internet," John Palfrey, chapter in the World Economic Forum's *Global Information Technology Report*, March 2007 • "New Skills, New Learning: Legal Education and the Promise of Technology," Gene Koo, *Berkman Center Research Publication, No. 2007-4*, March 2007 • "E-Compliance: Towards a Roadmap for Effective Risk Management," Urs Gasser and Daniel Haeusermann, March 2007 • "Ethical Implications of Emerging Technologies: A Survey," Mary Rundle and Chris Conley, *UNESCO Publishing*, March 2007 • "Interoperability in the New Digital Identity Infrastructure," Mary Rundle and Paul Trevithick, February 2007

2006 "Best Practice Guide: Implementing the EU Copyright Directive in the Digital Age," Urs Gasser and Silke Ernst, December 2006 • "The Future of Music and Film Piracy in China," Eric Priest, *Berkeley Technology Law Journal* • "Spam Works: Evidence from Stock Touts and Corresponding Market Activity," Laura Frieder (Purdue University) and Jonathan Zittrain • "Internet Filtering in Vietnam: 2005–2006," OpenNet Initiative, August 2006 • "The Digital Learning Challenge: Obstacles to Educational Uses of Copyrighted Material in the Digital Age," William W. Fisher and William McGeveran,

August 2006 • "The Move to the Middle: The Enduring Threat of 'Harmful' Speech to Network Neutrality," John G. Palfrey, Jr. and Robert Rogowski. Also published in the *Washington University Journal of Law and Policy*, June 14, 2006 • "China Internet Bulletin," OpenNet Initiative, July 2006 • "International Personal Data Protection and Digital Identity Management Tools," Mary Rundle • "Digital Rights Management and the Process of Fair Use," Timothy Armstrong, *Journal of Law and Technology*, Fall 2006 • "Local Nets: Filtering and the Internet Governance Problem," John G. Palfrey, Jr. and Jack Balkin, eds.; book chapter in *The Global Flow of Information*, Yale University Press, 2006 • "Global Innovation and Licensing Opportunities on the Internet," John G. Palfrey, Jr.; book chapter in *Licensing Best Practices*, John Wiley & Sons, 2006 • "From Shakespeare to DJ Danger Mouse: A Quick Look at Copyright and User Creativity in the Digital Age," Urs Gasser and Silke Ernst, *Berkman Center Research Publication, 2006-05* • "Legal Frameworks and Technological Protection of Digital Content: Moving Forward Toward a Best Practice Model," Urs Gasser, *Berkman Center Research Publication, 2006-04*, June 2006 • "Regulating Search Engines: Taking Stock and Looking Ahead," Urs Gasser, *Yale Journal of Law and Technology*, 2006 • "The Generative Internet," Jonathan Zittrain, *Harvard Law Review*, Volume 119, May 2006 • "A History of Online Gatekeeping," Jonathan Zittrain, *Harvard Journal of Law and Technology*, Oxford Legal Studies Research Paper No. 29/2006 • "Internet Watch Report: The Internet and Elections: The 2006 Presidential Election in Belarus," OpenNet Initiative, April 2006 • "Without a Net," Jonathan Zittrain, *Legal Affairs*, January/February 2006 • "Cool Tools for Tyrants," Derek Bambauer, *Legal Affairs*, January/February 2006

StopBadware.org In 2007, the StopBadware project released "Trends in Badware 2007: What internet users need to know," which will be followed by a technical research paper analyzing recent trends in badware distribution. The project also frequently publishes reports on individual badware applications. Recent highlights include:

- AOL 9.0 (2006) • Drive Cleaner (2006) • FastMP3Search Plugin (2006)
- Jessica Simpson Screensaver (2006) • Kazaa (2006) • Zango Easy Messenger (2006)

The Berkman Center Team

LEADERSHIP

Over the last two years, we have effected significant changes in all elements of Berkman's management structure. This includes the addition of new faculty directors from around Harvard University as part of our transition to a university-wide center.

The directors' group acts as our board, setting the Center's overall vision and making significant financial, research, academic, personnel, governance, and other overarching organizational decisions. This year the Berkman Center warmly welcomes Professor Yochai Benkler, longtime Berkman collaborator and new addition to the Harvard Law School faculty, as one of its faculty co-directors. The **full group of directors** takes on the most important and fundamental questions facing the organization. The **executive group of directors**, a subset of this body, makes substantial decisions that require greater working knowledge of the Center and generally has a deeper level of engagement with the Center's daily operations. This core group consists of Faculty Director Terry Fisher, Executive Director John Palfrey, and Faculty Co-Directors Yochai Benkler, Charles Nesson, and Jonathan Zittrain, joined by Managing Director Colin Maclay and Administrative Director Catherine Bracy. Faculty directors also participate on specific initiatives as principal investigators, project leaders, authors, peer reviewers, and contributors.

The Executive Director and Managing Director lead implementation of the vision, goals, and objectives set forth by the directors' group. They report regularly on progress and seek approval as needed on significant matters related to academic appointments, finance, administration, and so forth. A management team consults on operational matters, including staffing, work flows, events, fundraising, communications, and other core organizational elements, and consists of John Palfrey, Colin Maclay, Catherine Bracy, and staff member Seth Young.

BOARD OF DIRECTORS

William (Terry) Fisher III

WilmerHale Professor of Intellectual Property Law, Harvard Law School

• *Faculty Director, Berkman Center for Internet & Society*

Professor Fisher specializes in intellectual property law. He is the author of *Promises to Keep: Technology, Law, and the Future of Entertainment*, and many articles on copyright and patent law and theory. Fisher graduated from Amherst College with a degree in American Studies and received both a JD and a PhD (in the History of American Civilization) from Harvard. From 1982 to 1984, he clerked for Judge Harry Edwards on the Court of Appeals for the DC Circuit and for Justice Thurgood Marshall on the US Supreme Court.

Yochai Benkler

Jack N. and Lillian R. Berkman Professor of Entrepreneurial Legal Studies,

Harvard Law School • *Faculty Co-Director, Berkman Center for Internet & Society*

Professor Benkler’s work focuses primarily on the Internet, its infrastructure, and the emergence of a networked economy and society. He is the author of the acclaimed *The Wealth of Networks: How Social Production Transforms Markets and Freedom* and numerous legal articles. A graduate of Tel-Aviv University (LLB) and Harvard Law School, Benkler practiced law and clerked for Supreme Court Justice Stephen Breyer before returning to academia where he has taught at New York University School of Law, Harvard Law School, and Yale Law School. His work can be freely accessed at benkler.org.

Mark Edwards

Senior Advisor to the Dean, Harvard Divinity School

• *Faculty Co-Director, Berkman Center for Internet & Society*

Formerly Associate Dean for Academic Administration, Professor Mark Edwards is now Senior Advisor to the Dean at Harvard Divinity School. He has written four books and numerous articles on Martin Luther and the German Reformation. The most recent book, entitled *Printing, Propaganda, and Martin Luther* (University of California Press, 1994; reprint, Fortress Press, 2005), deals with the West’s first “mass media campaign” and Luther’s pivotal role as both subject and object in the struggle for the hearts and minds of sixteenth-century Christians. Edwards has taught introductory courses in computer science at Wellesley College and Purdue University, and has developed three commercial software programs, including *For Comment*, a pioneer “groupware” product that was designated one of the best products of 1987 by *PC Magazine*.

John Deighton

Harold M. Brierley Professor of Business Administration, Harvard Business School

• *Faculty Co-Director, Berkman Center for Internet & Society*

Professor Deighton specializes in consumer behavior and marketing, with a focus on digital marketing practices. Current areas of inquiry include the shifting balance between anonymity and identity in markets and the fate of brands in the hands of social media. He is Editor of the *Journal of Consumer Research*. Prior to joining the Harvard Business School in 1994, he served on the faculties of the Graduate School of Business, University of Chicago, and the Amos Tuck School, Dartmouth College. His PhD is in marketing from the Wharton School, University of Pennsylvania.

Jack Goldsmith

Henry L. Shattuck Professor of Law, Harvard Law School

• *Faculty Co-Director, Berkman Center for Internet & Society*

Jack Goldsmith specializes in international law, foreign affairs law, conflicts of law, and national security law. He is the author of dozens of articles on these and other subjects. His most recent publications are *The Terror Presidency: Law and Judgment Inside the Bush Administration* (Norton, 2007), *Who Controls the Internet? Illusions of a Borderless World* (Oxford University Press, 2006) (co-authored with Tim Wu) and *The Limits of International Law* (Oxford University Press, 2005)(with Eric Posner). Before coming to Harvard, he served as Assistant Attorney General in the Office of Legal Counsel from October 2003 through July 2004, and Special Counsel to the General Counsel to the Department of Defense from September 2002 through June 2003. Professor Goldsmith taught at the University of Chicago Law School from 1997 to 2002, and at the University of Virginia Law School from 1994 to 1997. His areas of interest at the Berkman Center are Internet governance and regulation, and Internet filtering.

Alexander Keyssar

Stirling Professor of History and Social Policy, Kennedy School of Government,

Harvard University • *Faculty Co-Director, Berkman Center for Internet & Society*

Professor Keyssar received his PhD in the History of American Civilization at Harvard and has also taught at Brandeis University, Duke University, and MIT. His 1986 book, *Out of Work: the First Century of Unemployment in Massachusetts*, was awarded several scholarly prizes, including the Frederick Jackson Turner Award of the Organization of American Historians; it was also named a Notable Book of the Year by the *New York Times*. In 2000, he published *The Right to Vote: The Contested History of Democracy in the United States*, which received the Beveridge Prize from the American Historical Association and was a finalist for the Pulitzer Prize, the LA Times Book Award, and the Francis Parkman Prize. He is a co-author of *Inventing America: A History of the United States* and has written widely on public policy issues in the popular press.

Charles Nesson

William F. Weld Professor of Law, Harvard Law School

• *Founder and Faculty Co-Director, Berkman Center for Internet & Society*

Professor Nesson charted the early field of cyberlaw in 1997 when he founded the Berkman Center. Nesson has taught Evidence at Harvard

Law School for thirty years. He now also teaches CyberOne: Law in the Court of Public Opinion. He advocates empathic argument as a new approach to dispute resolution and is the founder and driving force behind the Global Poker Strategic Thinking Society as a means for projecting his approach. Nesson graduated from Harvard College in 1960 with a degree in mathematics and received his JD *summa cum laude* from Harvard Law School in 1963. Before joining the law school faculty in 1966, he clerked for Justice John Marshall Harlan of the US Supreme Court and worked as a special assistant to John Doar in the Civil Rights Division of the Department of Justice, both of whom he honors as great teachers.

John Palfrey

Clinical Professor of Law, Harvard Law School

• *Executive Director, Berkman Center for Internet & Society*

As Executive Director of the Berkman Center, John Palfrey oversees the Center’s ambitious, public-spirited research agenda. As Clinical Professor of Law, he teaches classes on the Internet and democracy and cyberlaw in a business context. His research interests include Internet and democracy, digital natives, intellectual property, and citizen-generated media (Web 2.0). Palfrey joined the Berkman Center in 2002 after working as an intellectual property attorney at Ropes & Gray and as a special assistant during the Clinton Administration.

Stuart Shieber

James O. Welch, Jr. and Virginia B. Welch Professor of Computer Science, School of Engineering and Applied Sciences, Harvard University

• *Faculty Co-Director, Berkman Center for Internet & Society*

Professor Shieber’s primary research field is computational linguistics, the study of human languages from the perspective of computer science. Shieber received an AB in applied mathematics *summa cum laude* from Harvard College in 1981 and a PhD in computer science from Stanford University in 1989. He was given a Presidential Young Investigator Award in 1991, and was named a Presidential Faculty Fellow in 1993, one of only thirty in the country in all areas of science and engineering. At Harvard, he has been awarded two honorary chairs: the John L. Loeb Associate Professorship in Natural Sciences in 1993 and the Harvard College Professorship in 2001. He was named a fellow of the American Association for Artificial Intelligence in 2004. He was the Founding Director of the Center for Research on Computation and Society. His work at the Berkman Center is informed by his interest in and efforts towards open access to scholarly literature.

Jonathan Zittrain

Professor of Internet Governance and Regulation, Oxford University • *Jack N. and Lillian R. Berkman Visiting Professor for Entrepreneurial Legal Studies, Harvard Law School*

• *Co-Founder and Faculty Co-Director, Berkman Center for Internet & Society*

Jonathan Zittrain is the Jack N. and Lillian R. Berkman Visiting Professor for Entrepreneurial Legal Studies at Harvard Law School and the Chair in Internet Governance and Regulation at Oxford University. Professor Zittrain is a co-founder of the Berkman Center and served as its first executive director from 1997 to 2000. Zittrain’s research includes digital property, privacy, speech, and the role played by private “intermediaries” in Internet architecture. He has a strong interest in creative, useful, and unobtrusive ways to deploy technology in the classroom. His publications can be found at cyber.law.harvard.edu/zittrain, and his book, *The Future of the Internet – And How to Stop It*, will be released in 2008.

STAFF

Managing Director Colin Maclay leads the Center’s extraordinary core staff: instructors, event organizers, communications and technical teams, and financial and administrative professionals.

Full-Time Staff

Carey Andersen (*Office Manager*)

Amar Ashar (*Events Coordinator*)

Catherine Bracy (*Administrative Director*)

Jason Callina (*Senior Software Engineer*)

Sebastian Diaz (*Senior Network Administrator*)

Bruce Etling (*Project Director, Internet & Democracy*)

Robert Faris (*Research Director, OpenNet Initiative*)

Erica George (*Online Organizer, StopBadware*)

Liana Leahy (*Senior Software Engineer*)

Colin Maclay (*Managing Director*)

Phillip Malone (*Clinical Program Director*)

Patrick McKiernan (*Communications Coordinator*)

Isaac Meister (*Junior Systems Administrator*)

Erin Mishkin (*Research Coordinator, Digital Natives*)

Caroline Nolan (*Research Associate*)

Brandon Palmen (*Junior Software Engineer*)

Colin Rhinesmith (*Digital Media Producer*)

Hal Roberts (*Senior Technologist*)

Danny Silverman (*Systems Administrator*)

Miriam Simun (*Research Assistant, Digital Natives*)

Rebecca Tabasky (*Community Coordinator*)

Sally Walkerman (*Project Coordinator, OpenNet Initiative*)

Ben Weeks (*Junior Software Engineer*)

Maxim Weinstein (*Project Manager, StopBadware*)

Seth Young (*Program Administrator*)

FELLOWS

The Berkman Center’s fellows are integral to efforts across the Center. In choosing fellows, we emphasize diversity of discipline and perspective; current – and future – leaders in our field, fellows who are able to work effectively as part of an intellectual community; and entrepreneurs and practitioners as well as theoreticians, people with a shared vision for academia’s potential who are not ordinary academics. We seek a community of fellows that are able to complement the Center’s team as a whole. We aim to create a truly interdisciplinary collective that can approach our complex fields from cross-cutting perspectives.

2006–2007 and 2007–2008 Fellows David Ardia • John Perry Barlow Sam Bayard • Michael Best • danah boyd • Nolan Bowie • Diane Cabell John Clippinger • Chris Conley • Jeffrey Cunard • Corinna di Gennaro Judith Donath • Melanie Dulong de Rosnay • Urs Gasser • Dan Gillmor Oliver Goodenough • Sherja van der Graaf • Lewis Hyde • Bruce Keller Geoffrey Kirkman • Beth Kolko • Gene Koo • Karim R. Lakhani Harry Lewis • Renee Lloyd • Matthew Lovell • Andrew McLaughlin Charles Ogletree • Christina Olson • Ivan Reidel • Mary Rundle David Russcol • Dena Sacco • Pam Samuelson • Doc Searls Wendy Seltzer • Jake Shapiro • Eric von Hippel • Jimmy Wales Stephanie Wang • David Weinberger • Ethan Zuckerman

STUDENTS

No account of the Berkman Center team would be complete without mentioning students. One of the great strengths of the Center is the active involvement of an exquisitely talented group: over the course of the year, more than one hundred students actively and directly engage in our research and clinical program, and classes taught by our faculty reach hundreds more. As proud and appreciative of our students as we are, there are far too many to list here.

SELECTED ALUMNI AND AFFILIATES

Anita Ramasastry

Associate Professor of Law, Director, Shidler Center for Law, Commerce & Technology, University of Washington School of Law–Seattle

Berkman Fellow, 2001

Molly Shaffer Van Houweling

Assistant Professor of Law and Director, Berkeley Center for Law & Technology; and formerly at Creative Commons

Berkman Fellow, 2000

Zephyr Teachout

Visiting Assistant Professor of Law, Duke Law School; former National Director, Sunlight Foundation

Berkman Fellow, 2005–2006

Timothy Wu

Professor of Law, Columbia Law School

Berkman Student, 1997–1998

PRACTICING ATTORNEYS

Chris Babbitt Associate, Morrison & Foerster LLP

Berkman Student, 1999–2000

Tim Ehrlich Associate, Gunderson Dettmer LLP

Berkman Student, 1998–1999

Jeff Engerman Associate, Gunderson Dettmer LLP

Berkman Student Fellow, 2005–2006

Jackie Harlow Associate, Weil Gotshal & Manges LLP

Berkman Student Fellow, 2005–2006

Sarah Hsia Associate, Alston & Bird LLP

Berkman Student Fellow, 2002–2003

Bill McSwain Associate, Drinker Biddle & Reath LLP

Berkman Student, 1999–2000

Andrew Song Associate, Munger Tolles & Olson LLP

Berkman Student, 2003–2004



Henok MEHARI

Berkman Alumnus

BOARD OF DIRECTORS

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Everything about computers was a mystery to me. But I wanted to communicate with my friends who had recently left the camp and gone to the United States and Europe. As I was wondering to myself how I was going to keep in communication with them and maintain my friendships and relationships, I heard about the computer and email. On June 6, 2001, I created my first e-mail address and became so fascinated with the technology and so drawn by my first introduction that I sometimes sold my UN food rations in the camp to pay for access to the computer, to the Internet, and to email. At Berkman, I had the chance to learn the routes between the Internet and society, the very thing I missed.

Since I came to the Center, my love for education has grown. I had the opportunity to access not only the computer and the Internet, but also some of the greatest minds in the world just by walking from one room to the next to ask questions and get advice. I had a chance to listen to debates between Lawrence Lessig and Jack Valenti, I considered the problems of copyright law, Internet government, blocking and filtering the Net, high-speed connections for Africans, the starting of ICANN, the role of the university in the digital world, and more. I am grateful to the Berkman Center for allowing me to develop this understanding.

July 26, 2007

In 2007, through Year Up, a program that prepares urban young adults for success in professional careers and higher education, Henok Mehari joined the Berkman Center and made great contributions to the Center as a MediaBerkman producer. He is now a student at Brandeis University.

FELLOWS

The Berkman Center's fellows are integral to efforts across the Center. In choosing fellows, we emphasize diversity of discipline and perspective; current – and future – leaders in our field, fellows who are able to work effectively as part of an intellectual community; and entrepreneurs and practitioners as well as theoreticians, people with a shared vision for academia's potential who are not ordinary academics. We seek a community of fellows that are able to complement the Center's team as a whole. We aim to create a truly interdisciplinary collective that can approach our complex fields from cross-cutting perspectives.

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SELECTED ALUMNI AND AFFILIATES

Finally, the Berkman Center's alumni and affiliates, our network, constitute not only one of our most enduring contributions, but also serve as inspirations, interlocutors, fellow travelers, sounding boards, contributors, collaborators, friends. Sometimes physically, sometimes virtually, our leadership, staff, fellows, and students rely upon Berkman alumni and affiliates to keep us open, honest, and productive. The Berkman Center is unthinkable without them. While a complete listing is beyond the scope of this report, [a tiny sampling follows](#).

PROFESSORS

Tim Armstrong

Assistant Professor of Law, University of Cincinnati College of Law

Berkman Fellow and Assistant Director of Clinical Program, 2004–2005

Derek Bambauer

Assistant Professor of Law, Wayne State University Law School

Berkman Fellow, 2002–2006

Rosemary Coombe

Tier One Canada Research Chair, York University

Berkman Fellow, 2003–2004

James Fishkin

Department of Communication Chair, Director, Institute for

Communication Research, Stanford University

Berkman Fellow, 1999

Tamar Frankel

Michaels Faculty Research Scholar and Professor of Law,

Boston University School of Law

Berkman Fellow, 1998–2004

Rohan Kariyawasam

Professor of Law, University of Essex Department of Law

Berkman Fellow, 2001

Lawrence Lessig

Professor of Law, Stanford Law School; Board of Directors, Creative Commons

Berkman Faculty Director, 1998–2000

Rebecca MacKinnon

Assistant Professor, Journalism & Media Studies Center, University of Hong

Kong; Board of Directors, Tor; Advisory Board, Wikimedia Foundation

Co-Founder, Global Voices Online, Berkman Fellow, 2004–2006

William McGeveran

Associate Professor, University of Minnesota Law School

Berkman Fellow, 2004–2005

Dotan Oliar

Associate Professor of Law, University of Virginia School of Law

Berkman Fellow, 2003

Jedediah Purdy

Assistant Professor of Law, Duke Law School

Berkman Fellow, 2003

Anita Ramasastry

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Bill McSwain Associate, Drinker Biddle & Reath LLP

Berkman Student, 1999–2000

Andrew Song Associate, Munger Tolles & Olson LLP

Berkman Student, 2003–2004

LEADERS OF NONPROFIT ORGANIZATIONS

Liza Chambers Executive Director, Soliya

Berkman Affiliate

David Isenberg Freedom2Connect, OneWebDay

Berkman Fellow, 2005–2006

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ACKNOWLEDGMENTS

The report you're holding in your hands is related to the Berkman Center in the same way that a collector's pinned specimen is to the butterfly in flight.

The enormity and complexity of the project had stalled previous attempts to compile our history and to celebrate our trajectory. This summer, need, derring-do, and a peer production plan came together to make an insurmountable task seem almost possible.

We were game, but our success hinged on engaging a deeply overcommitted community. There was also the delicate matter of unearthing and gathering up a history defined by nodes, connection, and constant evolution. We needed to weave our rich and varied stories together coherently; to integrate them in the broader context of the Net's development, and to reflect the tremendous commitment and scholarship of so many students, staff, fellows, faculty, alumni, and friends. Here another Berkman-esque approach: realizing these challenges were not bugs but rather features that required this to be an open-ended work.

(And despite its printed form, this is still very much an open-ended endeavor. We welcome you to help us to improve and build on this report and our work.)

We must begin by acknowledging a few of the many close friends mentioned in the report. We simply could not be doing the work we describe without their deep support. First and foremost, our thanks to Myles Berkman and to the entire Berkman family for their ongoing generosity and substantive guidance. The MacArthur Foundation has been nothing short of tremendous, allowing us flexibility and sponsoring some of our largest research efforts, and toiling alongside us on key aspects of our work. The Open Society Institute has been a wonderful – and constant – companion on our journey. Debevoise & Plimpton – embodied for us by Jeffrey Cunard and Bruce Keller – has been a stalwart and irreplaceable supporter of our clinical efforts. Microsoft and Google, among many other private firms, stand out as much-valued collaborators on a variety of projects. Finally, our colleagues at Harvard Law School, including Elena Kagan, Fran McCrossan, Karen Pemstein, and Paul Upson, have been the truest of partners in our occasionally offbeat, always interesting academic affairs.

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As with virtually everything we do at the Berkman Center; this document was above all a product of community, garnering essential, insightful, humorous, painstaking, and otherwise amazing contributions from far and wide. We believe that the debt of gratitude we incurred in assembling this report is actually great wealth.

Colin Maclay
Managing Director

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