Something to Think About: Sometimes I Wonder?

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Recommended Citation

Massey, Mary (Tinker) (2009) 'Something to Think About: Sometimes I Wonder,' Against the Grain: Vol. 21: Iss. 1, Article 45.
DOI: http://dx.doi.org/10.7771/2380-176X.2528

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Column Editor’s Note: The theme of this year’s ACRL Conference is “Push the Edge: Explore, Engage, Extend!” How timely, then is the publication of Jeannette Woodward’s new book, Creating the Customer-Driven Academic Library. In her new work, Woodward pushes academic librarians, library technical assistants, and administrators to renovate spaces and services to address the needs of Net Gen students. I recently heard an astute observation: students are smart consumers in the experience economy. If any experience — be it in a bricks and mortar locale or an online environment — does not satisfy their needs, they can look elsewhere for satisfaction. The ACRL Conference and Woodward’s book both offer the opportunity to explore possibilities for academic librarianship in the future. Happy reading, everyone! — BV


Reviewed by Debbie Vaughn (College of Charleston) <vaughnd@cofc.edu>

In the November 2005 issue of ATG, I reviewed Jeannette Woodward’s Creating the Customer-Driven Library (ALA, 2004) and admitted that I was on the fence “concerning the practicality of libraries’ emulation of bookstores.” Since then, though, there have been changes in library and student trends: Library 2.0 has attempted to revitalize service, for example, and college students are more likely to hold jobs while attending school. In addition, my view of students’ needs have evolved as well; moving from the reference desk to academic administration and undergraduate services has given me access to a more complete picture of the numerous things on students’ plates. Woodward’s new book, Creating the Customer-Driven Academic Library, addresses both the transformations in the academic library landscape as well as the growing needs of students.

Woodward’s book is divided into ten chapters that cover staffing, library livability, “low hanging fruit” that is ripe for transformation, marketing, customer service, and evaluation of progress. Notes and references round out each chapter, and an extensive index completes the book. Initially as I read the book, there was a nay-saying voice in my head: “State funding for public institutions has dramatically decreased — how can any changes in library affairs be afforded?” Perhaps this was simply a knee-jerk reaction from my pragmatic self, or a disguised discomfort for relating students and customers. Whatever the case may be, Woodward combats any internal arguments I might have had through reasoned explanations of how and why libraries should move forward. Moreover, she takes into account crippled budgets and the placement of the library within the university. Using students (albeit some make-believe characters) as examples, she clearly illustrates that though institutional politics and the economic climate impact possibilities for improvement, the student experience does not take these factors into account. Students often do not know and/or do not care why things are the way they are in the library; quite frankly, why should they? Students are consumed with being students, with completing their assignments and with budgeting their time to fulfill their academic, employment, and social commitments. It is up to library administrators and employees to fix things on the back end so that students have a positive library experience that includes learning about effective and efficient research methods and that excludes feelings of confusion, frustration, and library anxiety. Her suggestions for upgrades include small touches (changing the color of the library lobby) to shifts in library culture (grooming professional librarians as leaders and not only team players).

While Woodward makes critical observations of improvements that need to be made in academic libraries and things that we have missed, her writing style puts the reader at ease rather than on the defensive. Never could I have imagined that I would find a book about academic libraries so riveting. This page-turner is a must-read for academic librarians, library technical assistants, and administrators.

Something to Think About — Sometimes I Wonder?

Column Editor: Mary E. (Tinker) Massey (Serials Librarian, Embry-Riddle Aeronautical University, Jack R. Hunt Library) <masse36e@erau.edu>

Just as I was becoming complacent about the profession, one of my teachers project-ed a problem. What is the new generation of students in the MLS program? Where are they going? What do they understand of our profession and professional ethics? How can we project what we have known and exhibited for years. Our discussion was not being critical but I don’t see the passion or zeal connected in library affairs be afforded?” Perhaps this was simply a knee-jerk reaction from my pragmatic self, or a disguised discomfort for relating students and customers. Whatever the case may be, Woodward combats any internal arguments I might have had through reasoned explanations of how and why libraries should move forward. Moreover, she takes into account crippled budgets and the placement of the library within the university. Using students (albeit some make-believe characters) as examples, she clearly illustrates that though institutional politics and the economic climate impact possibilities for improvement, the student experience does not take these factors into account. Students often do not know and/or do not care why things are the way they are in the library; quite frankly, why should they? Students are consumed with being students, with completing their assignments and with budgeting their time to fulfill their academic, employment, and social commitments. It is up to library administrators and employees to fix things on the back end so that students have a positive library experience that includes learning about effective and efficient research methods and that excludes feelings of confusion, frustration, and library anxiety. Her suggestions for upgrades include small touches (changing the color of the library lobby) to shifts in library culture (grooming professional librarians as leaders and not only team players).

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The development of the “Copyleft” and open source movement has thrown copyright law for a loop. There have been some questions about the legality of open source products, including those that use the GNU General Public License. However, two recent cases have affirmed the legality of the open source movement. In part I, I discussed the case of Wallace v. IBM, a 2006 case in which the 7th Circuit Court of Appeals found that the GNU General Public License was not a violation of antitrust law. However, that did not completely settle the copyright and copyleft question. This month’s column will discuss the 2008 case of Jacobsen v. Katzer, which was (unusually) decided by the Court of Appeals for the Federal Circuit.

Jacobsen v. Katzer sought to determine whether a copyright holder can have his/her cake and eat it too. The key issue of this case was whether authors who use the alternative system are still covered by copyright, or whether they have really given up all rights to their work. In other words, have they inadvertently placed their work in the public domain? In August 2008, we received an answer to this question from the Court of Appeals for the Federal Circuit.

The Origins of Jacobsen v. Katzer
This case concerned software for model train hobbyists. Robert Jacobsen is a software designer in California. He created software to program chips for model trains, which was distributed under the Artistic license. Jacobsen’s license specifically indicated that future “downstream” modifications must themselves be subject to the same Artistic license terms as the original. However, KAM Industries modified the software and began to sell it commercially under the exclusive rights of copyright. Because the software involved the programming of chips which ran trains, KAM also obtained a utility patent for the mechanical portion of their product.

Jacobsen filed a lawsuit in Federal court in the Northern District of California for violation of copyright and breach of contract. He also sought a declaratory judgment that KAM’s patent was invalid. In addition, the plaintiff requested a preliminary injunction to stop KAM from distributing their software. While agreeing that Jacobsen had a valid claim under contract law, the District Court ruled that the language of the Artistic license was so broad as to be unenforceable under copyright law. This was a major blow for Jacobsen because of the rules regarding preliminary injunctions.

Standards for Preliminary Injunctions
An injunction is an equitable court order that commands a party “to do or to abstain from doing a particular action. The purpose ... is to preclude the occurrence of a threatened wrong or injury as well as to prevent future violations.” This can take the form of a temporary restraining order (TRO), a preliminary injunction, or a permanent injunction. A TRO is “a temporary order of a court to keep conditions as they are (like not taking a child out of the county or not selling marital property) until there can be a hearing in which both parties are present.” Once both parties are present, the court may issue a preliminary injunction. After final disposition of the case, the judge may then order a permanent injunction.

In intellectual property cases, injunctions usually take the form of prohibiting the infringing party from continuing their infringement. Because a preliminary injunction is issued before final disposition, courts must weigh carefully the costs and benefits of using this remedy. Courts typically use the following test for whether to issue a preliminary injunction:

1. Whether the plaintiff will probably succeed on the merits;
2. Whether irreparable harm to the plaintiff would result if the injunction is not granted;
3. The balance of harms between the plaintiff and defendant if the injunction is allowed; and
4. Whether the injunction will have an impact on the public interest.

While preliminary injunctions are heavily used in intellectual property cases, they are not appropriate for breach of contract claims. The appropriate remedy for breach of contract is payment of monetary damages. There is no presumption of irreparable harm in contract law. Thus, the district court’s decision precluding Jacobsen’s copyright claim meant that he was not entitled to obtain a preliminary injunction.

Why This Court?
One of the most unusual features of the Jacobsen case was the court that heard the appeal. The Court of Appeals for the Federal Circuit was created in 1982 when Congress merged the Court of Customs and Patent Appeals.