

September 2011

## If Rumors Were Horses

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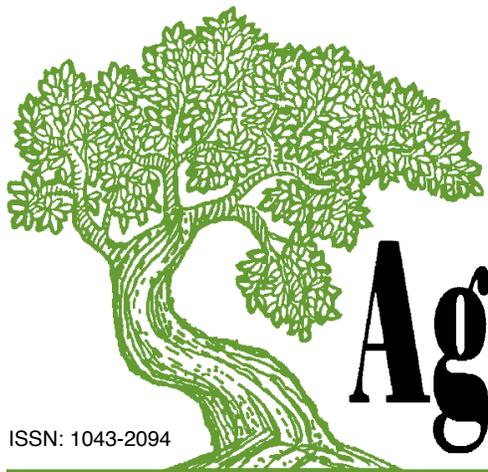
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# Against the Grain

*“Linking Publishers, Vendors and Librarians”*

ISSN: 1043-2094

## Preservation’s Role in the Transition from Print to E-Resource Collections

by **Patrick L. Carr** (Head of Electronic and Continuing Resource Acquisitions, Joyner Library, East Carolina University) <carrp@ecu.edu>

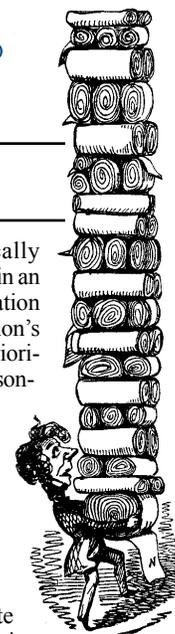
The transition of library collections from print to electronic formats has presented extraordinary challenges to traditional concepts of preservation. Although these challenges have been a point of emphasis within the profession’s literature and conference programs, I believe that the profession’s focus has often been distorted by a fundamental misconception that preservation is an end rather than a means. To see this misconception, you need only look at how libraries frequently opt to articulate their core missions as being twofold: first, to preserve and, second, to provide access. For example, the **American Library Association** and **Association of Research Libraries** have purported that “The mission of libraries is to preserve and provide access to information, regardless of format.”<sup>1</sup> One result of such claims is the formation of what I have elsewhere termed the “dual mission paradigm.”<sup>2</sup>

Some would argue that purveyors of the dual mission paradigm don’t actually hold that preservation is an end in itself; instead, the argument goes, these purveyors are just trying to emphasize that libraries must preserve their collections as a means for the ongoing accessibility of those collections. But, regardless of what is meant, what is actually being said suggests that libraries have two missions, preservation and access. This lack of clarity in the language used to describe library missions has contributed to a corresponding lack of clarity in the profession’s thinking about the role of preservation in the emerging post-print era.

I believe that, too often, libraries pursue preservation of their e-resource collections (in particular, commitments to perpetual access provisions for new acquisitions) as an end in itself rather than as a strategy for providing access to patrons that are anticipated in the future. The result is that libraries often have

difficulty thinking critically about preservation’s utility in an emerging long-tail information marketplace or of preservation’s place among competing priorities for the allocation of personnel and funding.

I accepted an invitation to guest edit this issue of *Against the Grain* with the intention of shedding light on e-resource preservation’s proper role in an environment focused on seamless and immediate access. The issue includes six articles from authors representing a cross-section



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## If Rumors Were Horses

As usual there has been a lot going on around us!

Was excited to learn that the hard-working, astute, and wonderful **George Machovec** is now **Interim Executive Director of the Colorado Alliance of Research Libraries**. The wonderful **Alan Charnes**, the Executive Director of the **Colorado Alliance of Research Libraries** since 1991 announced his plan to retire effective August 31. The **Alliance** was launched in 1974 by five library directors seeking ways to improve service through collaboration and resource sharing. **Charnes** is the second person to lead the **Alliance**, having succeeded **Ward Shaw**, **CARL**’s principal developer. You go, **George!**



Was surprised to learn that the handsome, debonair **ARL** Executive Director **Charles B. Lowry** is retiring in December of 2012.

This will give the **ARL** Board time to search for a new executive director and assure a seamless transition. You will remember that **Charles** was a Plenary Session moderator in Charleston in 2010 but, poor thing, was sick the whole time! He and wife **Marsha** were both sick. What a way to celebrate their anniversary in Charleston!

<http://www.arl.org/news/pr/lowry-22aug11.shtml>

Heard from one of my favorite old timers, **Tom Leonhardt** who has moved back to Eugene, Oregon. **Tom** is retired and loves it but he still sent a column with one of his earlier

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## From Your (dog-training) Editor:

We lost our beloved Jack Russell terrier **Cleo** to old age nearly a year ago. It has taken us that long to be able to consider another dog. About a month ago, we adopted another Jack Russell rescue dog who we named **Circe**. We are not sure how old **Circe** is (2 years?) but she sure has energy! We decided to start the relationship on the right foot and train her so we are going to dog training classes at PETCO for an hour a week at night. It's fun but grueling and I tell you I am tired afterwards! Of course, **Circe** loves all the attention and treats!

Meanwhile, we at **ATG** headquarters worked harder and harder to get out this issue of **ATG**. This issue on **Preservation's Role in the Transition from Print to e-Resource Collections** — is masterfully edited by **Patrick Carr** of East Carolina University and includes articles by **T. Scott Plutchak**, **Thomas Herron**, **Wm. Joseph Thomas**, **Steve R. Harris**, **Amy Kirchhoff**,

and **Robert W. Boissy**. Our **Op Ed** is by **Jared Seay** and is about the transition from VHS to DVD. Our **Back Talk** is by the cerebral **Tony Ferguson!** We have interviews with **Sam Brooks**, **Randy Petway** and **Corey Williams**.



There are two **Biz of Acqs** covering eBooks and selection, our **Book-lover** is about **Sinclair Lewis**, **Collecting to the Core** is about **Visual Arts and Standards** is about **Social Reading**. And, of course, there's tons more!

Oops! **Circe** is jumping all over me because she wants me to come give her dinner and take her outside! This is why she needs dog training!

Who's in charge? The dog or the master/mistress?

Love, Yr. Ed. 🐾

## Letters to the Editor

Send letters to <kstrauch@comcast.net>, phone or fax 843-723-3536, or snail mail: **Against the Grain**, MSC 98, The Citadel, Charleston, SC 29409. You can also send a letter to the editor from the **ATG Homepage** at <http://www.against-the-grain.com>.

### Dear Editor:

Thank you for the invoice for **ATG**. Because our office already receives several copies, I'll not be renewing my copy this year.

I wish that it had been possible to attend last year's Charleston Conference, for my staff raved about it. Clearly, it stands out as a dynamic venue for everyone.

All the best, **Susan Skomal** (Executive Director, **BioOne**)

<susan@arl.org> 🐾



## AGAINST THE GRAIN DEADLINES VOLUME 23 & 24 — 2011-2013

<u>2011 Events</u>	<u>Issue</u>	<u>Ad Reservation</u>	<u>Camera-Ready</u>
Charleston Conference	November 2011	08/15/11	09/05/11
ALA Midwinter	Dec. 2011/Jan. 2012	10/31/11	11/21/11
<u>2012 Events</u>	<u>Issue</u>	<u>Ad Reservation</u>	<u>Camera-Ready</u>
Annual Report, PLA	February 2012	01/03/12	01/23/12
MLA, SLA, Book Expo	April 2012	02/24/12	03/16/12
ALA Annual	June 2012	04/05/12	04/26/12
Reference Publishing	September 2012	06/22/12	07/13/12
Charleston Conference	November 2012	08/22/12	09/12/12
ALA Midwinter	Dec. 2012/Jan. 2013	11/09/12	11/30/12

### FOR MORE INFORMATION CONTACT

**Toni Nix** <justwrite@lowcountry.com>; Phone: 843-835-8604; Fax: 843-835-5892; USPS Address: P.O. Box 412, Cottageville, SC 29435; FedEx/UPS ship to: 398 Crab Apple Lane, Ridgeville, SC 29472. 🐾

### Watch Hill

Sun is low on the horizon,  
wispy cirrus clouds,  
a gold orb, and a reflection:  
two suns,\*

one a small icy mirror  
the other a true golden disc.

Gold bands reaching across  
ocean swells,  
spray flying off their tops  
lifting, crashing over a reef.

Views of Fisher's Island,  
Montauk Point, Block Island  
floating on a silver sea and sky backdrop.

The lighthouse's seawall  
is pummeled by  
viridescent crests  
synchronous, longitudinal troughs—hissing—  
rushing along the breakwater,  
leaping erratic boulders  
tumbling toward the sandy shore.

\*called a Sun Dog ...an atmospheric phenomenon created when light of the sun is reflected off ice crystals of cirrus clouds. — Mark Searles, WJAR Chief Meteorologist.

2009, All rights reserved by **John Long**  
31 Lawn Ave., Warwick, RI 02888

### Rumors

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titles **Oregon Trails** and promises another one. Watch for the first one in the November issue. Welcome back, **Tom** and good luck to all of us with the stock market!

Speaking of retirement, do y'all remember **Julie Arnheim**? **Julie** was the long-time Chemistry librarian at **Princeton** who attended many **conferences** in **Charleston**. Anyway, **Julie** and her husband have done the sensible thing — moving to Charleston! They live on Pitt Street, near the back door of the **Addlestone Library** so we can visit a lot. **Julie** looks great and loves retirement except she was ready to get out of the house a few hours so she has agreed to be a **volunteer** for us as we struggle to set up an **ERM system**. Plus! **Julie** will be at the **Charleston Conference** hopefully after she returns from the **Scopus Content Selection and Advisory Board (CSAB)** meeting in late October!

Speaking of which, have y'all seen the fantastic **ATG Interview** that the bam-zowie **Tom Gilson** did with **Max Berenstein** (Product Manager, SciVerse Applications)? **Elsevier** has launched a series of community competitions trying to “engage the scientific research communities, librarians and application developers in the creation and conceptualization of search and discovery applications.”

<http://www.against-the-grain.com/2011/08/atg-interviews-max-berenstein-product-manager-sciverse-applications/>

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Rumors  
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Speaking of **Tom Gilson** who retired from his reference duties (so he could have more time to devote to *Against the Grain!*), we have hired a new Head of Reference at the **College of Charleston** and she is fabulous! Her name is **Christa Poparad** and she comes to us from **Lynchburg College** in Lynchburg, Virginia where she was head of reference and information services. **Christa** came to the College barely three weeks ago and she has hit the ground running! She has two dogs who she loves taking to the beach PLUS — y'all best of all — **Christa** knows a lot more Greek than I do and she may be able to tutor me!?

Speaking of Greek asked my all-time favorite Greek buddy **Christine Stamison** (Swets) if she knew **Christa** (no) so I am looking forward to introducing them to each other in Charleston in November!

Guess what? A few weeks ago heard from the awesome **Matthew Ismail** <mdis@mail@aucegypt.edu> (don't know if that address still works). **Matthew** has accepted the position as **Director of Collection Development** at **Central Michigan University** where he will start work on October first! Good things come in groups! **Matthew** has also published the book he has been working on for some time!

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# Take a closer look at....

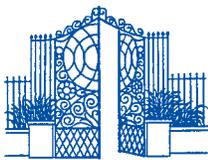
## The CHARLESTON REPORT

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## Occasional Thoughts From the Road — Why I Do What I Do

by **Bob Schatz** (North American Sales Manager, BioMed Central; Phone: 646-258-2126) <robert.schatz@biomedcentral.com>

His name is **Musa**, and he works in an institute in Nigeria for the study and treatment of trypanosomiasis, or sleeping sickness. Dressed in a long, bright blue caftan and taqiyah, he made his way past the **BioMed Central** booth at **ACRL**. Given our name and some of the signage we displayed, he stopped to talk about what kinds of journals we publish and to tell me about his institute.

We talked at some length about our various journals and the numerous articles we publish about parasitic diseases, including trypanosomiasis. On a whim, I typed "tsetse," the name of the fly that carries the sleeping sickness parasite, as a keyword search of the **BioMed Central** database and came up with nearly two hundred hits. He was impressed. I then told him that all these articles were available to him and his fellow researchers without subscriptions, since **BioMed Central** is an open-access publisher.

**Musa's** English is excellent, but it is not his native tongue, and my statement stopped him. He heard me correctly, but his brain was not ready to accept that he had.

"Excuse me," he said, "but we would need to subscribe to your journals to reach these articles. Is this not right?" I told him no, that we make our peer-reviewed research available without subscriptions. "But we would need a special password to have access, would we not?" Again, I explained the open-access model and our desire that institutes of his kind have access to the corpus of our work without restrictions.

"Is this possible?" he asked. I assured him it was. It took a few more seconds, but his face then lit up into a broad smile. "Mr. Bob," he said (my first name was prominently displayed on my badge), "this is the most wonderful thing I have heard since I got here. This could save lives where I come from." I told him that was exactly our intent. To say he was elated is an understatement. He kept shaking my hand and patting me on the back. "This is a wonderful thing. This is wonderful."

By the time we finished our talk, he had taken my photo and received stuffed

Gulliver toys for his two small children. (Gulliver is a turtle-like mascot of **BioMed Central**.) He must have shaken my hand twenty times more. We parted good friends.

Later that evening, not long after I had related my encounter with **Musa** to a co-worker, I saw him in the lobby of the Marriott. I went over to say hello. He was talking on his cell phone to his brother who resides in Washington, DC. Before I knew it, **Musa** handed me the phone and said his brother wanted to talk to me. The brother told me how grateful he was for the work that **BioMed Central** was doing and how much it would mean to **Musa's** institute. He said **Musa** could talk of nothing else during their phone call. I think he called me **Mr. Bob** too. I'm not sure, because I was so unprepared for that conversation to take place.

I won't tell **BioMed Central** and **Springer** that the wage they pay me isn't important, but ultimately encounters like this one with **Musa** and his brother are why I do what I do. Occasionally my work takes on a very human face, this time of a gentle, grateful Muslim man who is working for the betterment of his people: my brother and friend, **Musa**.

I love my job. 🐾



#### Endnotes

1. **T. Scott Plutchak**, "Preservation [editorial]," *Bulletin of the Medical Library Association* 89 no. 4 (2001): 409-10.
2. **Nicholson Baker**, *Double Fold: Libraries and the Assault on Paper* (New York: Random House, 2001).
3. **Ellen McCrady**, "Double Cross: Nicholson Baker's Assault on Libraries," *Abbey Newsletter* 25 no. 2(2001). [Web document: <http://cool.conservation-us.org/byorg/abbey/an/an25/an25-2/an25-204.html> Accessed 5/30/11]
4. **Nicholson Baker**, "The Charms of Wikipedia," *The New York Review of Books* March 20, 2008. [Web document: <http://www.nybooks.com/articles/archives/2008/mar/20/the-charms-of-wikipedia/> Accessed 5/30/11]
5. The **Chicago Collaborative**, Home. [Web document: <http://chicago-collaborative.org/index.htm> Accessed 5/30/11]
6. The **Chicago Collaborative**. Ensuring Persistent Access to the Scientific Record: Executive Summary. November 10, 2010. [Web document: <http://chicago-collaborative.org/pdf/cc-fall-Meeting%20-November-10-exec-sum.pdf> Accessed 5/30/11]
7. **James Gleick**, *The Information* (Pantheon Books, 2011). iTunes edition. 14.2.
8. **Andrew Pettigree**, *The Book in the Renaissance* (Yale University Press, 2010).

It's called *Wallis Budge: Magic and Mummies in London and Cairo*. What a great subject! Budge, Keeper of Egyptian and Assyrian Antiquities in the British Museum from 1894 to 1924, wrote *The Egyptian Book of the Dead* (1895), *The Gods of Egypt* (1904), and *An Egyptian Hieroglyphic Dictionary* (1920). Didn't I tell you **Matthew** was awesome! He says he will try to come to the Conference sometime soon! You go, **Matthew!**  
[http://www.amazon.com/gp/product/images/1843822180/ref=dp\\_image\\_0?ie=UTF8&n=283155&s=books](http://www.amazon.com/gp/product/images/1843822180/ref=dp_image_0?ie=UTF8&n=283155&s=books)

Speaking of books! Heard the other day from **Maria (Fitzpatrick) Anderson (M.M. Anderson)** [www.werewolfdreams.net](http://www.werewolfdreams.net), once with **Academic Press!** Remember her? It's been a long time since **Maria** was the Wholesale, Library, and Special Sales Manager for **Academic Press.** (Remember them?) Well, **Maria** now lives in Weston, Florida and is involved in publishing BUT as a YA author. Her first novel, *Werewolf Dreams* was released in 2009 and her next book, *Werewolf Love* is due out summer 2012. And to top it all off, **Maria** has made **Lyman Newlin** a newspaper reporter in her novel! Of course we all remember **Papa Lyman!** **Maria** decided to write me when she ran into an old *Against the Grain* and remembered the **Charleston Conferences!** And, luckily,

our great salesman, **John Laraway**, had **Lyman's** family's address! What a hoot! Wish I could get **Maria AND Lyman's** autographs! We knew her when, like **J.K. Rowling!** (Remember her?)

And speaking of books, heard from the irrepressible **Jack Walsdorf** who continues on his **William Morris** quest! An exhibit, "William Morris and the Art of the Book: The Private Library of Jack Walsdorf" is planned at the **University of Puget Sound** August 26-October 14. A beautiful brochure announces the event! <http://www.pugetsound.edu/news-and-events/events-calendar/>

Speaking of the **University of Puget Sound!** They were one of the very first — and I mean it! — subscribers to **ATG!**

Speaking of people in publishing, just saw an article in the *Chronicle of Higher Education* (August 14, 2011) about the **University of California Press** and its new director — **ALISON MUDDITT!!!** (Remember when she was at **SAGE Publishing?**) **Alison** has concluded that the press has been publishing too many trade books. She has also canceled publication of a literary-studies series. Talk about *Against the Grain* and stirring the pot!! We are looking forward to interviewing **Alison** in a future issue of **ATG!** See "At the U. of California Press, A New Director Bucks Traditional Scholarly Advice by **Jennifer Howard.**" <http://chronicle.com/article/Hot-Type-At-U-of-California/128601/>

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## Fine and Private Places: An English Professor's Perspective on Evolving Library Collections<sup>1</sup>

by **Thomas Herron** (Associate Professor of English, East Carolina University)

*But the fruit that can fall without shaking, / Indeed is too mellow for me.*

— **Lady Mary Wortley Montagu**, *Letters and Works*

**W**e live in a tired time of technological saturation, spoiled expectations, and not inconsiderable danger to our moral and political selves. According to techno-prophet **Marshall McLuhan**, writing well before the dawn of the Internet, if we do not attend to the moral implications of a hyperwired world, then "we shall at once move into a phase of panic terrors, exactly befitting a small world of tribal drums, total interdependence, and superimposed co-existence."<sup>2</sup> How wonderful it is, then, to retreat to a library and read a book or journal issue on one's own! Our individuality would seem to depend on it.

Libraries, in truth, are not fine and private places, but very public ones. But, take a book or journal from a shelf and find a quiet corner or nook in the vast "temple" of campus (and civilization) that is the traditionally organized library, and you enter a little paradise that is shielded from daily cares, the *PATRIOT Act*, and prying eyes.<sup>3</sup>

Electronic databases of course have the angelic potential to bring flowers of learning to your door and to make collections yet more public, or (at least) accessible to people wide and far. All can now access library collections without entering the building or campus itself. Aren't we all happy when, in the middle of a cabin in the wilderness with our families, we can finally get that pesky footnoting done?

Thanks to off-campus access, we can read when and wherever we like and, if desired, *deshabillé*. By contrast, most libraries post a security guard at the gate to turn away the shirtless and the thieving. Issues of geographical proximity further restrict traditional patronage, as counted in real bodies entering real library doors.

Once in the library, however, these people are free to travel intellectually wherever they choose. Walled and chartered cities in the Middle Ages insulated the rights and pocketbooks of their citizens from royal depredations, thus

becoming cradles of today's democratic states. Libraries, similarly, can keep out encroachments of authoritarian tyranny prying into our intellectual (and other) habits; they can indeed become fine and private places. They are citadels protecting valuable and controversial ideas, in part because they protect our right to access a (*de facto* restricted because selective, but nonetheless widely varied and valuable) pool of information, unmolested and untracked by technology (including **Kindle**<sup>4</sup>) that monitors who accesses what and when. I murmur with secret pleasure whenever I reshelved a book instead of lying it on a cart to be counted.

Thanks to our truly astonishing electronic databases, books and journals are, of course, much more widely available, searched, and archived than ever before. But what if the web comes under central state control? So will books and ideas: there is already a great firewall of China. A "switch" turned off the internet in Egypt during the recent "Arab Spring" of revolution. And what do you do when a virus completely takes over your computer banks, or the power goes out in your city (as it does

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**Fine and Private Places ...**  
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regularly in Baghdad), and your laptop batteries run down? Take your laptop to read it outside?<sup>5</sup> In a famous *Twilight Zone* episode, Armageddon occurs (an H-bomb) and the last man on earth, a bookworm played by **Burgess Meredith**, consoles himself with unfettered access to the **New York Public Library**.<sup>6</sup> Then he breaks his glasses and can't read. In a future scenario, he'd be left with nothing tangible to read in the first place.

One purpose of a library is to encourage people to read. The collective fear that people are reading less than they used to doesn't make sense; given our public and private schools and our collective addiction to email, texting, and twittering, we're reading all the time — we're reading now while *driving*, for goodness sake — but we should rightly fear that few people are reading quality creative literature anymore. I'm sure this has always been the case, that the time, education, and enthusiasm to appreciate intellectually difficult and verbally creative works has never been plentiful. It has always been difficult and rare to find golden worlds — or convincing and sensitive, intelligent human worlds — in fiction, until such works become classics.

Nor are we reading enough at a slow, thoughtful pace for the purpose of spiritual and/or intellectual pleasure and stimulation: slow reading to match the slow eating movement. Despite being an English professor, I am (like anyone) rushed to get work done. Graduate school and the tenure-track nearly destroyed my enjoyment of a good book for life. Recently, for the first time in a long time, I read a long classic, *The Divine Comedy*, at a leisurely — that is, thoughtful and intellectually rewarding — pace (I read it while sitting in on an undergraduate class and following the syllabus). I took the Greek root of leisure, or *school*, to heart.

Like many others, however, I have a worry, gnawing like hungry Ugolino at the back of my head, that books as physical, beautiful, skillfully typeset, raggy, musty, textured, leathered, finger-in-the-spine, library-stacked, illustrated, and scribbled-on objects are coming



to an end. Popular intellectual journals like *The New York Review of Books* or discussion pages on *The New York Times* Website are much interested in this topic lately, that is, the disappearance of hard copies in part or entirely from libraries and our lives. I know that this fear is overblown, that more books are published in the world than ever before, but hard-copy disappearance is a fact in many cases.

It is a growing trend in university libraries, including my own at **East Carolina University**. ECU has been steadily reducing its acquisitions of hard-copy books and is gradually turning its current journal collection into e-only format.<sup>7</sup> This saddens me because a great intellectual pleasure in my life is browsing the journal stacks on a Friday afternoon, finding journals in and outside of my profession, including some with terrific production quality, design, and art spreads, like *Word and Image*. Now we're down to a couple of short aisles of journals, covering all disciplines. *Word and Image* vanished into the databases (back copies into the stacks) last year. I have less reason than ever to enter the library now, to gaze on hard-copy and to casually meet students and other faculty there. Strangely, I am becoming less social and collegial as a result of becoming less bookish in the library on Friday afternoons.

However slowly I read, I do not enjoy reading off of a computer screen; I do it because it's practical, not enjoyable. I wonder about long-term effects on my eyesight and health.

More and more novels and poems will presumably go straight to electronic readers like **Kindles** and **Nooks**. I fear this means that, sooner or later, in one form or another, especially in worst-case scenarios, many books will come with a permanent, renewable user fee.<sup>8</sup> I am equally worried about the democratic pleasure principle: losing a sense of campus community focused on the library "temple" near many of our hearts.<sup>9</sup> We will also lose the delight in the nature of books themselves, our clasp-able bosom buddies we can smell, take to the beach, stretch under trees, shake sand from, spill coffee on, and read on sultry evenings, or — like a ten-year-old — read half-upside-down in the backseat of a car; or, like the immortal lovers **Paolo** and **Francesca** in **Dante's Inferno**, first fall in love over when reading

aloud about **Lancelot** and **Guinevere**. I just don't see those two kindling anything with a **Kindle** between them. If they did, who would be watching?

Reader, enjoy your hard copy! 

**Endnotes**

1. Parts of this paper were first presented on 3/16/10 in Greenville, NC as prefatory remarks to the forum panel on "Reading the Humanities," part of **East Carolina University's Downtown Dialogues in the Humanities** series. The views expressed here are my own.
2. **Marshall McLuhan**, quoted in Pico Iyer, "The McLuhan Galaxy," *New York Review of Books* May 26, 2011: 32-4.
3. For the view of a university library and especially its rare books room as a "temple" and "citadel," see **Robert Darnton**, *The Case for Books: Past, Present, and Future* (New York: Public Affairs, 2009): 32, 33, 41. According to **Darnton**, "Rare book rooms are a vital part of research libraries, the part that is most inaccessible to **Google**. But libraries also provide places for ordinary readers to immerse themselves in books, quiet places in comfortable settings, where the codex can be appreciated in all its individuality." (40) On the **PATRIOT Act** and **Google's** ability to gather information on its patrons, see **Darnton** page 46.
4. For information on the threats that **Kindles** pose to privacy, see **Sue Halpern**, "Mind Control & the Internet," *New York Review of Books* June 23, 2011: 34.
5. As **Darnton** writes, "The best preservation system ever invented was the old-fashioned, pre-modern book." *The Case for Books*: 38.
6. "Time Enough at Last," based on the Lyn Venable story (1953) of the same name. See [http://en.wikipedia.org/wiki/Time\\_Enough\\_at\\_Last](http://en.wikipedia.org/wiki/Time_Enough_at_Last).
7. The Dean of ECU's **Joyner Library**, **Dr. Larry Boyer**, has strongly advocated for the transition of periodical subscriptions from print to electronic formats: see, for example, **Allan Scherlen**, **Larry Boyer**, **Eleanor Cook** & **John P. Abbott**, "Courage of Our Convictions: Making Difficult Decisions about Serial Collections," *Serials Review* 30, no. 2 (2004): 117-121.
8. **Darnton**, *The Case for Books*: 47.
9. An admirable effort at recreating a temple atmosphere within the library temple, a *sacrum sanctorum* as it were, where computers (but not books, art, or lectures) are absent, is the "Atheneum" in the Gould Library, **Carleton College**, MN: <http://apps.carleton.edu/campus/library/about/atheneum/>.

**Rumors**  
from page 20

Have y'all been visiting the **ATG NewsChannel**? Did you know that we are putting up a new book every week, along with new article links, questions of the week, stars of the week and hot topics of the week? Check it out! Even had an enterprising author thank us for listing her book! And listen up!

The Book of the Week of August 28th was *The Forgotten Founding Father: Noah Webster's Obsession and the Creation of an American Culture*. It so happens that the alert **James Marsh** <[JM@thebookhouse.com](mailto:JM@thebookhouse.com)> (**The Book House, Inc.**) noticed and told us about his daughter **Jessica** who followed her heart to Western Massachusetts to work on her boyfriend's family farm after both graduated from the **College of Wooster**. Farm owner **Mike Wissenmann** and artist **Will Sillin**

started a maze back in 2000 and each year there is a different subject! Just so happens that this year it's a corn maze in western MA and **Noah Webster** is the "subject"! Way cool! See — [www.mikesmaze.com](http://www.mikesmaze.com).

<http://www.against-the-grain.com/2011/09/noah-webster-corn-maze/>

The awesome keeping-us-informed **Ramune Kubilius** <[r-kubilius@northwestern.edu](mailto:r-kubilius@northwestern.edu)> sends news of the death of **Dr. Martin M.**

*continued on page 34*

Digital Rights Management (DRM) is another challenge for eBook preservation. DRM is technology, often embedded in a file or device, which enforces the rules of use defined by the provider of the content. DRM is particularly prevalent with eBooks, where it is common for books purchased by individuals to be tightly tied to that individual (e.g., it is often difficult to share or lend one's eBook with a friend) or to a particular device (e.g., books purchased for one appliance or application can only be read on that appliance or application). eBooks sold or licensed to public and academic libraries are also wrapped in DRM which limits the number of times the book can be borrowed, the number of users who may borrow it at one time, or even the locations at which it can be read. The purpose of DRM (which is to limit access and replication) increases the complexity of preserving access for the long-term.

Another challenge of eBook preservation is the proliferation of bibliographic metadata at many different levels of the publication. Metadata is neither simple nor straightforward — a publication does not have only an author but an editor, a translator, and so on. eBooks have all the traditional challenges of bibliographic metadata, plus a number of unique considerations. For example, many eBooks within the academic community are delivered a chapter at a time, and thus there is chapter-level metadata to be preserved (and perhaps a representation of the book as a whole and as individual chapters must be preserved). In addition, many books, especially within the scholarly community, are part of a series and thus must include metadata placing them within the context of the series, or they are one volume in a multi-volume set, where the entire set is the “book.” Managing this hierarchy of metadata in such a way that preserved eBooks can be accurately delivered in the future is a challenge that differentiates eBooks from e-journals.

### Portico's eBook Preservation Solution

Portico is a not-for-profit digital preservation service providing a permanent archive of electronic journals, books, and other scholarly content. Portico launched in 2005 with an e-journal preservation service. In 2009, Portico ingested the first eBooks into the Portico archive as part of an aggregated e-journal and eBook preservation service and fulfilled its first eBook post-cancellation access request in 2010. In 2011, Portico began to offer a separate eBook preservation service in order to allow libraries and publishers to select the preservation services best suited to their particular needs. The Portico eBook preservation service is modeled after the Portico e-journal preservation service; libraries and publishers both contribute to defray the costs of preservation. Publishers commit their current and future eBook holdings to Portico for preservation. eBook content is made accessible to all institutions participating in the eBook service in the case of a trigger event: cessation of a

publisher's operations, discontinuation of a title by a publisher, removal of back issues or a portion of a title by a publisher, or catastrophic and sustained failure of a publisher's delivery platform. In addition, publishers have the option to designate Portico as one of their post-cancellation access (also known as perpetual access) methods to eBooks.

The preservation actions Portico takes with eBooks match those of both the Portico e-journal and d-collection preservation services. To meet our rigorous definition of preservation — the series of management policies and activities necessary to ensure the enduring usability, authenticity, discoverability, and accessibility of content over the very long term — Portico is guided by the following principles:

- Preservation metadata describing the technical and bibliographic natures of the content preserved is gathered as the content is being processed into the archive.
- Preservation must be practical (for example, migration of files to new formats is done only when it is necessary and is not preemptively performed without valid archive management reasons.)
- The Portico archive is self-describing and contains sufficient information and documentation to make it possible for a third party to understand and manage the archive.
- The Portico archive is a dark archive, but transparency to participants is required. To that end, Portico provides audit privileges to participants and regularly reports on content in the archive.
- The preserved content is replicated to multiple on-line and off-line locations on multiple continents.
- The preserved content is regularly checked for bit rot and corruption, and any problems are immediately corrected.
- The hardware on which and the machine rooms in which the preserved content is located must be maintained to industry standards.
- Portico receives accreditation — Portico was certified as a trusted, reliable digital preservation solution by the Center for Research Libraries (CRL) in 2010.

As of June 2011, Portico has over 5,000 eBooks preserved from four publishers and

over 100,000 eBooks committed to the archive from twelve publishers.

### Conclusion

Given the dramatic increase in publication and sales of eBooks and the growing reliance of the academic community on eBooks, the moment has arrived to address the preservation needs of eBooks. The preservation of eBooks may be met in numerous ways, including preservation through community supported independent archives such as Portico, national preservation efforts, or cooperative efforts among like-minded institutions. While eBooks have many unique challenges, if the community begins to preserve the entirety of eBooks right now, those challenges can be addressed over time. 🌱

### Endnotes

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### Rumors

from page 22

Cummings, director of the National Library of Medicine from 1864-1983. Under Dr. Cummings' leadership, NLM's mission and programs were greatly expanded to include the Lister Hill Center intramural research programs, Specialized Information Services, the Extramural Grant Program, the National Network of Libraries of Medicine, and the international MEDLARS Centers, and the

Library launched MEDLINE and many other online databases. A tribute to Dr. Cummings is being prepared and will be posted on NLM's Website soon. I remember back when I was a medical librarian at Duke University Medical Center, that Dr. Cummings was the authority!

Was talking to Charles Watkinson the other day. You will remember that Charles, besides being Anthony Watkinson's son, is the Director of Purdue University Press. Charles and his colleague Mark Newton (Digital Collections

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getting to know employees and making decisions regarding the future. We will be bringing product support into our Ipswich operation. As decisions are made, we will be communicating appropriately.

**ATG:** *Is EBSCO contemplating any other ground shaking mergers that you'd like to give ATG the scoop on?*

**SB:** EBSCO believes strongly that the best possible search results come from a relevancy ranking algorithm built on searching a combination of full-text and high-quality subject indexing from controlled vocabularies. This means we will continue to be the leader in licensing full text and in acquiring subject indexes. Other than **H.W. Wilson**, I don't have any I can report today, but it's safe to say that we are interested in talking to any provider of high-quality subject indexes or any other publisher of valuable research databases. 🐼

### Rumors from page 34

Librarian at **Purdue**) are planning to guest edit the February 2012 issue of **ATG**!! They are planning this in between having babies and all that! Both **Mark** and **Charles**. **Charles** and his wife **Heather** just welcomed **Alexander** and we hope to hear about **Mark** and his wife's new addition soon! Oh! And, my husband and I gave both of our children three names instead of two, that's in addition to the last name and, boy, have they complained about it. So — I was gratified to learn that **Charles** and **Heather** gave their child three names — **Alexander Lloyd Duncan**. And **Charles** has three names as well — **Charles Thomas Godfrey** as does **Anthony** — **Anthony Richard Kirk**. It's tradition! And **Charles** says that he's trying to "keep everyone [in the family] happy." Is that a future **Charleston Conference** theme?

Met one of the most energetic people that I have ever encountered the other day! **Ava Jordan** of **BookConsignments.com** based in my back yard — Summerville, SC. **Ava** is planning to attend the **Conference** both as an exhibitor and an attendee which is great. She says that she got so many suggestions that she attend from librarians in South Carolina and everywhere! Like Wow! Thanks, Guys and Gals!

Speaking of the **31st Charleston Conference**, the registrations are rolling in! More than last year even! Surprising! We are planning for a third overflow room (if possible) for Plenary Sessions in the **Francis Marion** and several of my go-getter co-workers are looking for bigger venues in downtown Charleston.

Just heard that **Mark Herring** is planning an article on **QRcodes** for the November issue! It will only be available at [www.against-the-grain.com/](http://www.against-the-grain.com/). That **Mark**! Hard to keep up with all his ideas! Stay tuned! [www.against-the-grain.com/](http://www.against-the-grain.com/)

Returning to new jobs, **Elisabeth Leonard**, once Associate Dean for Library Services,

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## against the grain people profile

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### Sam Brooks

**BORN & LIVED:** I was born in Stamford, CT and have lived most of my life in Boston, MA; I have also lived in New York City and several parts of California.

**PROFESSIONAL CAREER AND ACTIVITIES:** I've been in charge of the worldwide sales and marketing efforts of **EBSCO Publishing** since 1991. I'm also heavily involved in gathering market research and ensuring that it impacts the company's product development efforts. I helped build and maintain our 17 long-standing advisory boards and numerous focus groups. I've also considered it important to be active in library science literature, and have written papers in major library science journals, e.g., *Serials Review*, *The Library Quarterly*, *Portal: Libraries and the Academy*, *Information Technology and Libraries*, *Journal of Academic Librarianship*, etc., as well as the library publications of more than a dozen countries, including *Hungarian Journal of Library & Information Science (Hungary)*, *KLC Journal (Kazakhstan)*, *EBIB (Poland)*, *Librarianship (Russia)*, *Journal of Educational Media & Library Sciences (Taiwan)*, and many others. I co-edited a book for **The Haworth Press** (now **Taylor & Francis Informa**) entitled "Library/Vendor Relationships," published simultaneously as an issue of *The Journal of Library Administration* (Vol. 44, Nos. 3/4.). I have participated in panel discussions or appeared as a speaker at various library conferences, including **ACRL Chapter Meetings**, **IFLA**, **The Charleston Conference**, **ALCTS Networked Resources and Metadata Committee Meeting**, **International Congress of Information, LITA Technology and Access Committee Meeting**, **NLA Tri-Round Table (Technical Services, Information & Technology)**, etc. I'm a member of the **EBSCO** Founder's Club, and after 20 great years with the company, I can't imagine working anywhere else.

**MOST MEMORABLE CAREER ACHIEVEMENT:** I guess I need to give you two answers, because one is personal and one is professional, but both are career accomplishments. From a personal standpoint, it is not even close. I've traveled to 92 countries with **EBSCO**, and much of that travel was to developing nations. We sought and gained special permission from publishers to make extraordinary offers to governments in emerging countries, and then we traveled to meet with ministers of education, science & technology, etc. to attempt to convince them of the value of national licenses for full-text journal databases for their universities and hospitals. This was hugely successful, and today, **EBSCO** has more than fifty national licenses with most of those being developing nations. From a purely professional standpoint, I believe it would have to be participating in the decision to listen to our advisors and put an unprecedented investment in time and funding into **EBSCO Discovery Service (EDS)**. We started development as early as other discovery services, but made a conscious decision to delay the release so we could incorporate content and features that would give our service tremendous long-term advantages over those other services. It was a risky decision, because it gave our competitors the ability to get a head start in selling their services, but I believe strongly that it will prove to have been the right decision for **EBSCO** and for libraries.

**HOW/WHERE DO I SEE THE INDUSTRY IN FIVE YEARS:** Libraries (and library vendors) are competing with **Google** for the attention of end users. This is perhaps the most important mid-term and long-term issue facing our industry. Libraries and library vendors have many things that are not available free on the Web, but perhaps the two greatest differentiators are valuable full-text sources (such as journals, magazines, and books) and high-quality subject indexing from controlled vocabularies. It is the segmentation of library collections, and the abundance of platforms, that makes it difficult for end users to realize the true value of the library (and its vendors). I believe that within five years, the majority of academic libraries will have a discovery service — in an attempt to address this issue. The service that does the best job of leveraging the strength of the library collection (for-fee, full-text sources and high-quality subject indexing) will be the one that is prevalent five years from now. In addition, I think we will see a big shift from print books to eBooks (hence **EBSCO's** acquisition of **NetLibrary** and development of eBooks on **EBSCOhost**), and I believe we will see an explosion of usage of library resources via smartphones, e-readers and tablets. The **EBSCOhost iPhone** app has experienced a remarkable number of downloads, and we are working on an **Android** app that we also expect to have massive usage within five years. Libraries and their vendors must embrace all of these changes, as they will make us more relevant, rather than less relevant, if we handle them properly. 🐼

your end-user likes, and what they don't like. This in-depth knowledge can then be used to formulate the model for packaging and delivery in both digital and print environments.

Another technique is to gather intelligence from how users consume other types of content, websites, music, video, etc. These are the things that shape their experiences and expectations. I think we would be foolish to ignore them.

**ATG:** *You have said that publishers need to do some serious cost modelling. What does that mean, and how do they do it? What are the most effective strategies that publishers can use to monetize their content as they move from print to electronic delivery?*

**RP:** I think we need to come to terms with a shift in the price point for published product, and then start to model out cost and profitability equations from there. The net result might at the surface suggest downward pressure on revenues and/or profits, however I think the digital world opens the door to new revenue streams and business models that haven't existed in the past. This could drive us back to level ground, if not into a growth model.

I think the mantra remains innovate and experiment. Finding new ways to package, disseminate, and connect your content with the right consumers by leveraging things like the semantic Web is the key to monetizing the intellectual property that has been amassed by publishers.

**ATG:** *We don't want you to give away any trade secrets, but can you give examples of how some publishers have been or might be successful in doing this?*

**RP:** There are some great examples out there. For instance we have a customer who has published congressional staff directories for years. Recently they've taken that content, repurposed it, and enhanced it, leveraging access to additional content and new digital delivery models. This has left them with a "new" product that provides incredible value to the customer and an expanded revenue stream for the publisher.

**ATG:** *Are publishers moving quickly enough to adjust to this transition from print to online access? Are they taking full advantage of the new markets that mobile devices like iPhones, Kindles, tablets, and other reading devices offer?*

**RP:** No, I don't think we are moving quickly enough, but I'm also not sure what quickly enough would look like. The reality is that print still provides the bulk of the revenue and cash required to drive digital programs. I think we are at (or may have crossed) the tipping point, which means that navigating the transition from one to the other may be the single largest challenge facing publishing executives today. That said, one thing that appears very clear to me is that the consumer is hungry for the convenience, price point, and reading experience that digital (and associated devices) can provide. If there's one thing that

## against the grain people profile

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Randy Petway

**IN MY SPARE TIME:** I enjoy spending time with his family, playing and viewing sport and travelling.

**HOW/WHERE DO I SEE THE INDUSTRY IN FIVE YEARS:** I think we will completely reassess what it means to be a publisher and then focus on the core competencies that are implied by that answer. Is publishing the manufacturing and warehousing of a title, or is it really about the acquisition and creation of content? Is it about the distribution of content or about the connecting of content to users where a third party (non-publisher) handles the mechanics of delivering the content itself. I think we will answer those questions in the next five years and then see an industry that looks considerably different in terms of who the players are and what role each one plays. 🐾

history has taught us, it's that the consumer will not be denied, so publishers will need to either step up, or step out of the way.

**ATG:** *It sounds like the attrition among publishers could be fairly significant as they make this transition. Does this mean more consolidation in the industry? Won't this require that smaller publishers meet the "mind-set challenge" that you mentioned earlier in order to survive? How can they begin developing that mindset?*

**RP:** I'm not so sure about attrition. We may find that to be the case amongst groups we've historically considered to be publishers, but at the same time, I could envision many new entrants into the business of producing content. Small publishers certainly have some challenges, but they also have the advantage of being in a position to be far more nimble. I think developing the mindset comes down to leadership and partnership. You need leaders who embrace and promote change. Change is a difficult thing, and the landscape is changing rapidly, so finding partners who can provide direction, advice, and support is imperative.

**ATG:** *Where do libraries fit into all of this? Should publishers bypass libraries and focus totally on the end user? Are libraries still a viable market for publishers as we move into an ever-increasing electronic world?*

**RP:** In the same way that I believe books aren't just about paper, covers, and binding, I don't think libraries are just about walls, shelves, and ceilings. So, even if our fundamental notion of what a library is changes, we will still need the professionals, standards, and processes that have made the borrowing of content, sharing of content, discovery of content, and support of research possible. In fact, I think the proliferation of content will make this more important than ever. In my opinion focusing on the end user and working with libraries (as well as any other part of the supply chain) are not mutually exclusive.

**ATG:** *Randy, we really appreciate you taking the time to talk to us and share your ideas on these issues.*

**RP:** It was my pleasure. 🐾

### Rumors from page 46

**Western Carolina University**, has just moved to Thousand Oaks, California and **Sage!** The astute and on-top-of-it **Elisabeth** will be **Market Research Analyst** (newly created position) to support online product development. In her new role, **Elisabeth** will lead research efforts in the library market on new and emerging trends in online products. Her efforts will tap into the needs of academic librarians and help shape **Sage** online products to meet those needs. **Elisabeth** received her

master's of library science from **UNC-CH** and her MBA from **Wake Forest University**. She is currently pursuing her Ph.D. in Information Science from **UNC-CH**. For her move out West, **Elisabeth** was accompanied by one of her cats, **Dixie**, her husband **Mike**, and **Newman** (the other cat) is on his way. Congrats, **Elisabeth!**

[http://www.sagepub.com/press/2011/august/SAGE\\_newmarketresearchanalyst.sp](http://www.sagepub.com/press/2011/august/SAGE_newmarketresearchanalyst.sp)

**Is the Big Deal Unsustainable?** This was one of the **MultiGrain** discussion topics in May. Did you see it? **ATG's "I Wonder Wednesday"**

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# LEGAL ISSUES



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## Cases of Note — Copyright

### Situs of Injury for Intellectual Property Infringement — Who the Heck Knows?

by **Bruce Strauch** (The Citadel) <strauchb@citadel.edu>

*Penguin Group (USA) Inc. v. American Buddha*, UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT, 609 F.3d 30; 2010 U.S. App. LEXIS 1269.

**Penguin Group USA** is the American arm of **Penguin Group** and a huge book trade publisher with its principal place of business in New York City. **American Buddha** is an Oregon nonprofit that runs a “passive Website” called the **Ralph Nader Library**, even though it has nothing whatsoever to do with wily political spoiler **Ralph** “Unsafe At Any Speed” **Nader** himself. **Buddha** operates an online library that provides access to literature. And **Buddha** electronically scooped four **Penguin** books.

**Buddha’s** principal place of business is Arizona, and their online library is hosted on servers located in Oregon and Arizona. Its 50,000 members can access free of charge the books which **Buddha** promised them are not infringing copyright due to fair use. **Penguin** disagreed and sued in New York under 17 U.S.C. § 501.

*Yes, you’re dying to know the four titles in question. They were Oil! by Upton Sinclair; It Can’t Happen Here by Sinclair Lewis; The Golden Ass by Apuleius; and On the Nature of the Universe by Lucretius. Very serious Penguiny kinds of books.*

Other than folks in NY being able to access the site, **Buddha** had no other contact with the state. **Buddha** moved to dismiss under FRCP 12(b)(2) for lack of personal jurisdiction. **Penguin** argued they had personal jurisdiction under New York’s **Long-Arm Statute**, N.Y.C.P.L.R. § 302(a). This grants jurisdiction over a party that “commits a tortious act within the state.”

*Think car wreck in NYC. Arizona driver goes home. Says come sue me in Tucson. If he drives in NY, he should have the expectation of litigating in NY.*

**Penguin** said copyright infringement is a tortious act and **Buddha** did it in NYC.

But did the injury occur in NY?

Small point (or big point?), but **Penguin** did not allege injury due to New Yorkers reading the books in question. Rather the sole tortious act was **Buddha’s** uploading in NYC.

District Court found the injury occurred in Arizona where the downloading took place. It felt that **Penguin** merely residing in NYC was not enough. There must be a more direct injury within the state. And it went to appeal.

*So Penguin should have alleged lost sales in NY? And what were they paying their lawyers to overlook that?*

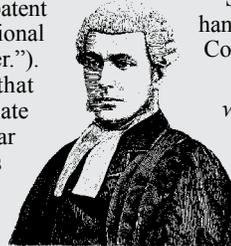
#### The Appeal

The Second Circuit took a closer look at N.Y.C.P.L.R. and focused on an amendment found in § 302(a)(3)(ii) which gives personal jurisdiction over someone who commits a tortious act outside the state, but injures someone in New York.

This amendment was the result of a gap found in *Feathers v. McLucas*, 209 N.E.2d 68 (1965) in which the NY Court of Appeals declined to apply section 302(a)(2) to a manufacturer who built a gas tank in Kansas that blew up in NY.

But it was still unclear what the situs of injury is in an intellectual property case.

Two lines of authority compete on this issue. Some courts have held the location to be the residence of its owner. See, e.g. *Horne v. Adolph Coors Co.*, 684 F.2d 255, 259 (3d Cir. 1982) (“[I]nsofar as the situs of the property damaged by the alleged wrongdoing is a concern, both a state trade secret and a patent should be deemed to have their fictional situs at the residence of the owner.”). “The theory [of these cases] is that since intellectual property rights relate to intangible property, no particular physical situs exists. If a legal situs must be chosen, it is not illogical to pick the residence of the owner.” *Beverly Hills Fan Co. v. Royal*



*Sovereign Corp.*, 21 F.3d 1558, 1570 (Fed. Cir. 1994).

*Indeed. How could one disagree? But some do.*

Other courts feel intellectual property is located at the place of the infringement, as that is where sales are lost. *Am. Eutectic Welding Alloys Sales Co., Inc. v. Dytron Alloys Corp.*, 439 F.2d 428 (2d. Cir. 1971).

*But that doesn’t deal with the upload v. download question. And the sales might have been lost in Wisconsin, Alabama, and Florida. Does Penguin have to sue Buddha in each state for the piddly lost sales?*

#### What Did the Legislature Intend?

The Second Circuit looked at the legislative history of N.Y.C.P.L.R. and didn’t find squat for guidance. The Long-Arm Statute was intended to be “broad enough to protect New York residents yet not so broad . . . as to burden unfairly non-residents whose connection with the state is remote and who could not reasonably be expected to foresee that their acts outside of NY could have harmful consequences in NY.” *Reyes v. Sanchez-Pena*, 742 N.Y.S.2d 513, 520 (N.Y. Sup. Ct. 2002).

*Thanks a bunch legislature. Go back to squandering money. You’re good at that.*

So the Second Circuit threw up their hands and certified it to the New York Court of Appeals.

*Since law schools are producing way too many lawyers, prospective students should be forced to read and brief cases on jurisdiction before admission. That would send a pack of them to business school.* 🐼

#### Rumors from page 50

then asked the question: “Are you planning to cancel a ‘big deal’ package this fiscal year?” We got 55 responses. 10 (18% said yes) and 45 (82%) said no. The voting is still open. Go to <http://www.against-the-grain.com/2011/07/atg-i-wonder-wednesday-big-deal-cancellations/>.

We in **Charleston** were happy that **Hurricane Irene** changed her mind! Whew! But sorry that our friends in **Vermont** and **New England** caught the brunt of it. Ouch! Let’s hope that these earthquakes and hurricanes stay put for a while! See y’all at the **Charleston Conference** in November and the **ATG NewsChannel** year round!! Love to all y’all! 🐼