Annual Report for 2006-2007
Special 10th Anniversary Edition

Directors’ Letter

This coming academic year, the Berkman Center celebrates its tenth anniversary. It is a chance 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 boundless — and positive. Our belief was, and is, that there are values embedded in the openness of the Internet. We simultaneously understand that new configurations give rise to new problems. How societies react to those problems will determine how much the technology’s potential can be realized. Mapping the open and the proprietary in cyberspace, and modeling its special virtues while being sober about its harms, lie at the heart of our shared inquiry.

Our primary modes are teaching and learning, as in any traditional university. But we seek to elaborate 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, with mixed results, to lend order to a space that appears at first glance to be lawless.

We have been, with great pride, a research center embedded in Harvard Law School. In this coming decade, we will become a truly interdisciplinary research center across the 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 remain. 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 derived in no small part from the work that we did not just on our own but with others — our students, staff, fellows, faculty colleagues, and a growing network of 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.

William Fisher
Faculty Director

Charles Nesson
Founder and Faculty Co-Director

Jonathan Zittrain
Co-Founder and Faculty Co-Director

John Palfrey
Executive Director

Colin Maclay
Managing Director
Mission

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.*
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I. THE ENTREPRENEURIAL NONPROFIT IN THE NETWORK

A. Towards a History of the Future

The Berkman Center for Internet & Society was founded ten years ago at Harvard Law School. We began as an “entrepreneurial nonprofit” devoted to pursuing the highest-quality teaching and scholarship 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. This core mission has remained constant throughout our growth and will continue to guide us through our next ten years, even as the technology and the way people use it continues to change.

Over the course of our first decade, the Berkman Center has grown rapidly. We began as a start-up research center with a single faculty member (Professor Charles Nesson), an executive director (Jonathan Zittrain), and a few students. (The first two student researchers were Alex Macgillivray, now a senior lawyer at Google, and Wendy Seltzer, now a law professor.) The original students describe the Berkman Center in its early days as “smart people in a hallway.” Myles Berkman, our founding benefactor and continuing supporter, has 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. The culture was, from the start, young, ambitious, and open to taking risks. We sought to create an environment conducive to thinking big and, pursuing ideas that would have a great impact — or fail in ways from which we and our students could learn.

Today, the Berkman Center has outgrown our original hallway on the fifth floor of Pound Hall. 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 research fellows each academic year, and well over 100 students over the course of each year from a range of schools and disciplines. These people are actively engaged in the intellectual life of the Center and frequently remain involved for stretches of three or more years. Our classes reach hundreds of students each semester at Harvard schools; our conferences and teaching programs such as iLaw have reached beyond the walls of the university to thousands of people from dozens of countries; and our various web presences attract millions of visitors per year from around the world. We established the first cyberlaw clinic, which continues to grow both in the number of students and in the quality of instruction and legal advice given through it. We offer The Filter, a monthly newsletter on Internet law and policy with a growing readership of more than 17,000 subscribers. This year, our faculty and fellows will publish at least four books in our field and more academic research papers than ever before. Our future challenge is to build upon the momentum generated in our first decade.
B. Mode: Learning by Doing

Just as we seek out intersections between substantive areas of inquiry, we endeavor to take an analogous approach in our own operation and in collaboration with others. The Berkman Center is exceptional in our willingness to participate actively in the shaping of the technological and legal environments we study. We provide advice to litigants, NGOs, and lawmakers, both in the United States 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.

One element of our philosophy that cannot go unmentioned is the approach that the Berkman Center takes 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 his or her title, but on his or 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 to writing, and from making large public presentations to coding. They are an essential element of the Center’s identity and approach and have a huge influence on nearly every element of the work we undertake.

C. Building and Sustaining our Human Network

Community-Building

The success of our approach rests upon our community-building efforts, which have expanded tremendously as Berkman friends and alumni build bridges out into the world. We don’t simply study networks — we consciously and deliberately create one, linking faculty, fellows, affiliates, alumni, staff, researchers, funders, other nonprofit and academic organizations, for-profit ventures, government entities, and the public we serve. These connections occur both in physical space, through events such as the 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 and initiatives from the ground up and sustains us in our daily work.

Our faculty, fellows, staff, and students are leaders and emerging leaders in our field, often doing important work while at the Berkman Center and 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 best academics, lawyers, policy-makers, and entrepreneurs in our field.

Fellows
The role of the fellows in discovery, learning, and engagement has been, and will continue to be, a crucial driver of our success and the foundation of our community. Fellows form the bulk of 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. Their constant movement guarantees 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 complements overarching and targeted faculty participation with the drive, vision, and skills of its fellows. Fellows’ contributions to Creative Commons, the Digital Media Project, OpenNet Initiative, StopBadware.org, and many other Berkman-initiated efforts have had a tremendous influence on the use, understanding, and policy of cyberspace. Their independent efforts have been equally prodigious, as exemplified in recent books like David Weinberger’s Everything is Miscellaneous and spin-off projects such as Global Voices Online and Noank Media.

The establishment of Global Voices Online typifies the entrepreneurial spirit of the Berkman Center. When Ethan Zuckerman and Rebecca MacKinnon convened a group of international bloggers on the margins of the Internet and Society 2004: Voices, Bits, and Bytes Conference, 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 Berkman Faculty Director Terry Fisher in his field-shifting book Promises to Keep. With support from fellows on strategy, technology development, and a seed grant from MacArthur, the project has spun off as a for-profit entity, has received millions in venture capital and is poised to launch in China, among other countries.
Reflection from Ethan Zuckerman

Berkman Fellow

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.

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.

Select Collaborations

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.

Other University Research Centers

Advanced Network Research Group, University of Cambridge
Center for Internet & Society, Stanford Law School (CIS)
Center for Internet Studies, University of Washington
Citizen Lab, Munk Centre for International Studies, University of Toronto
The Information Society Project, Yale Law School (ISP)
The Institute for Information Law & Policy, New York Law School (IILP)
II. SCHOLARSHIP WITH IMPACT

A. Research Approach

The Berkman Center enjoys a global reputation for cutting-edge work centering 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. The originality, quality, and renown of our past and present projects have enabled us to strive to accomplish more than we have in our first ten years — and to attract ever more creative and committed participants from around the world.

Our goal in all of these ventures is to understand and promote the public interest, apart from the interests of any particular faction or firm. But how do we define it? In our view, the phrase encompasses such ambitions as the efficient promotion and dissemination of informational products, distributive justice both within the United States 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 and fellows associated with the Berkman Center often healthily disagree — that is nevertheless central to our inquiries. We embrace the normative approach while eschewing dogma. Our responsibility is to learn and to educate, not to preach.

B. Areas of Inquiry

As we mark our ten-year 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 Internet charges on as a network that 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 under threat. Many competing forces, including corporate and government interests, threaten to control the Internet in ways that would squelch many of the opportunities that a generally open and free network affords global society. Simultaneously, however, it is necessary to support careful regulation of certain activities on the Internet in order 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 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 way that we teach, learn, and make information accessible to citizens around the world who are not physically proximate to our libraries.

Law, Technology, Innovation and Knowledge

Some of our ongoing projects that fall into this large basket include our exploration, funded by the Mellon Foundation, of the impact of copyright law upon scholarship; our parallel examination, funded by the Revson Foundation, of the impact of patent law on basic scientific research; the research that has grown into the Noank Media project; and our involvement as counsel or amici 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 the type of activities that we pursue in this area.
The Relationship between Internet and Civic Activity

Within this zone fall our high-profile comparative studies, funded by the MacArthur and Soros Foundations. One is realized as the OpenNet Initiative (in collaboration with the universities of Cambridge, Oxford, and Toronto), a study of the ways in which governments throughout the world filter and monitor their citizens’ access to the Internet; another as 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; yet another as Global Voices Online, a system for aggregating and disseminating the views expressed in blogs in other countries; also, our study of the impact of the Internet on campaigns and elections, including a new project on the influence of the Internet on civil society in the Middle East under a new grant from the United States Department of State.

Technology, Law, and Development

This area of inquiry focuses on 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); by contributing to the development of open-access methods of publishing scholarship; 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.

C. Teaching

Since the Berkman Center’s inception, one of our fundamental priorities 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. Over the years, 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 has combined 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 Internet on democracy, civic engagement, development, and innovation.

These extensive offerings — and others still — 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.

Harvard Law School Courses

Berkman Center teaching at Harvard Law School encompasses a broad and deep array of course offerings and an extensive, interrelated Clinical Program in Cyberlaw. In recent years, our curriculum has included, among many other courses:

- Professor Terry Fisher’s “Copyright” course, which includes a substantial Internet law component; a course on advanced patent law, taught along with Professor Josh Lerner of Harvard Business School 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 Nesson, Zittrain, and Palfrey. In the coming year, Professor 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 at Harvard Extension school that explores the creation and delivery of persuasive argument in the new integrated Internet media space and in the virtual world Second Life, with Berkman Fellow Gene Koo and former fellow Rebecca Nesson. A version of his “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. Next year, Professor 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.

- 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.) Berkman students Alex 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. Professors Jonathan Zittrain and Lawrence Lessig co-taught a seminar on the Microsoft case in 1998 after Lessig’s tenure 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 this fall, as well as a “Motivation” seminar with Professor Fisher next spring.

- 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 Phillip Malone and Jeffrey Cunard. In the coming year, Professor Palfrey will again co-teach 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 “Digital Media, Entertainment and the Law” (with Berkman Fellow Dr. David Weinberger). Professor Palfrey will also co-teach a “Digital Natives” course with Faculty Fellow Urs Gasser at the University of St. Gallen this fall.

- Clinical Director Phillip Malone’s co-teaching of the “Practical Lawyering” seminar and, based on his over 20 years experience as a federal antitrust prosecutor, a seminar on “Antitrust and Innovation” in high-tech industries; both seminars will be offered again in the coming year.

Harvard University Courses

Professor 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 in the seminar later joined the Berkman Center as term-time or summer research assistants. In the coming year, Phillip Malone will offer 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 Dr. Robert Faris, both of whom will also teach the course this coming year; past versions have been taught by a host of Berkman Center fellows and faculty, including Professor John Palfrey, Professor Urs Gasser, Professor Derek Bambauer, Professor Tim Armstrong, and former Berkman fellow Rebecca Nesson. Charles Nesson’s “CyberOne” will be offered again at the Extension School, as well as “Virtual Worlds,” loosely affiliated with Professor Nesson’s “Trials in Second Life” at
the Law School, which will examine models for virtual world law and government, economics and business, cultural norms, art, education, and activism.

The Clinical Program
The Berkman Center’s Clinical Program in Cyberlaw was the first of its kind, starting in 2000 with two of 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 for the last three years by clinical instructor Phil 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. Joining the program this year is Dena Sacco, a 1993 Harvard Law School graduate, former Climenko Fellow and Lecturer on Law, and former federal prosecutor and counsel in the DOJ’s Office of Policy Development. For several previous years, Jeffrey Cunard and Bruce Keller, renowned intellectual property practitioners and partners at Debevoise & Plimpton, served with Malone as co-directors.

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 led 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 Corporate 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, beginning 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 Berkman 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 (PRX), fair use research for Berkman 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.

The bulk of the Clinical Program’s clients are nevertheless outside the Center. We have carefully evolved the program to be broad-based both in its clients and its substantive and practice opportunities, with most of our cases and projects falling 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.

Among the key successes of the 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.
The expansion of the Clinical Program ensures that students remain a key group in our community. Former clinical students go on to clerkships, government service, private practice, NGOs, and other organizations after their time at the Berkman Center, while 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.

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 collaborated in the annual Summer Doctoral Programme (SDP) with the Oxford Internet Institute since its inception in 2003. For two weeks, it brings together roughly 25 promising graduate students in Internet studies, primarily lawyers and social scientists, who comprise the future generation of professors and researchers in our field. For the first time, the 2007 SDP was held in Cambridge, Massachusetts, following previous sessions in Oxford and Beijing.

The Berkman Center 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 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. The twelfth iLaw program will be held in India in fall 2007.

III. RESEARCH AND SCHOLARSHIP

A. Continuing Projects
The Berkman Center has launched a series of projects that have had a powerful impact on thinking and practice in our field. We continue to seek to incubate promising, public-spirited initiatives led by great entrepreneurs.

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 expert 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 Craig’s List 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 a series of online educational modules, entitled “Principles of Citizen Journalism.” The Center also co-founded the new Citizen Media Law Project in collaboration with the Berkman Center Cyberlaw Clinic. The Center is also working on a number of mini-projects testing innovative uses of citizen media, and is preparing a workshop curriculum for journalists and others interested the subject. (Details are available at http://citmedia.org.)

Chilling Effects

The Chilling Effects Clearinghouse celebrated its fifth year of operation in 2007, adding its 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 on 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 Internet service providers 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 doing so to increase the transparency of their operations. This year, building on data from search engine submissions of legal requests for removals, Chilling Effects began a global comparison of various national regimes. It also added a comparison tool to help Internet users gauge how their local search compared to the American version, on which different sites might be available. Chilling Effects is working with ONI to compare the demand-letter trends with filtering finds. Since it was founded 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. (Details are available at http://www.chillingeffects.org.)

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 aimed at providing legal training and resources for individuals and organizations involved in citizen media. This past May, 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. This toolbox includes a legal threats database to document and analyze risks associated with online publication, in addition to issues related to newsgathering, intellectual property issues, and special risks associated with covering elections. Another priority for CMLP is advocacy and coalition-building, which it is pursuing by cultivating support for a federal shield bill. It is also focused on legal and
journalism education and is working with the City University of New York’s Graduate School of Journalism to create an interactive online legal guide to teach citizen journalists their rights and responsibilities. (Details are available at http://citmedialaw.org.)

Global Voices Online
Founded by Berkman Fellows Rebecca MacKinnon and Ethan Zuckerman in December 2004 as part of the Berkman Center’s “Voices, Bits, and Bytes” Conference, Global Voices Online (GVO) is an online citizen media community dedicated to amplifying independent online voices from outside North America and Western Europe. From its inception it has been generously supported by Reuters and the MacArthur Foundation. During the past year, the GVO team has expanded to include nine regional editors and nine language editors, providing weekly translations from French, Spanish, Portuguese, Chinese, Arabic, Farsi, Russian, Japanese, and Korean. Volunteer translators are making Global Voices content available in French, Spanish, Chinese, Portuguese, Bengali, and German, expanding the reach of the site beyond the 1.5 million monthly visitors to the English site. 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 provides tools and techniques to allow activists, journalists and citizens to express themselves online. 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 under-represented in media coverage to get their voices heard through blogging, podcasting, and online sharing of video and images. (Details are available at http://www.globalvoicesonline.org.)

H2O
Projects under the H2O umbrella seek to take up the Internet’s invitation to its users to build upon it. In this case, we build as teachers, seeking 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. These tools are used by a wide variety of teachers, students, and others from around the world. In addition, H2O developed and deployed a new real-time 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. It has been used with great success for many Berkman Center events and courses, including the Beyond Broadcast and Internet & Society conferences and the CyberOne course. H2O’s future lies in interconnection with other experiments focused on building communities around ideas. Whether as a Facebook plug-in, a link with the respected law school CALI consortium, or as part of the Harvard University iCommons teaching platform, H2O seeks to improve the digital wheel in novel ways rather than reinvent it. (Details are available at http://h2o.law.harvard.edu.)
Innovation and Life Sciences
Funded by a grant from the Charles H. Revson Foundation, Berkman Faculty Director 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 ultimately what effect the regime has on the creation and dissemination of knowledge in this realm. Two further outputs of this project are an interview-based study of university technology transfer offices’ patenting and licensing practices, and a comparative legal study of the law, policy and reform options with respect to biomedical research exemptions to patent rights in the US and three other advanced industrial nations — Japan, Germany, and the United Kingdom. (Details are available at http://cyber.law.harvard.edu/media/projects/patentlaw.)

Jamaica Project
Led by Professor Charles Nesson, the Jamaica Project was established in 1998 and has expanded with each successive year through a series of interconnected initiatives. It is an affirmative action project focused on learning how to help a developing nation help itself. True to the Berkman Center’s expansive interest in the interaction between the Internet and society, the Jamaica project’s mission centers on the use of the Internet to shape, define and change society and the world around us — and empower others to do the same. 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 rehabilitation and restorative justice program in Kingston's prisons called Students Expressing Truth (SET). The objective of SET, starting with inmates and staff in Kingston's prisons and radiating out to Jamaican civil society, is to reconstitute Jamaica as an integrated independent nation of self-governing people powerfully expressing the true identity of Jamaica in a digital world. Opportunities abound for Harvard student participation. (Details are available at http://cyber.law.harvard.edu/home/jamaica_project.)

Net Dialogue / Publius
Jointly sponsored by the Berkman Center and Stanford Law School’s Center for Internet and Society, 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. This year the team drafted a code of ethics for the Information Society, which has been endorsed at UNESCO regional meetings; contributed a chapter on the international system and freedom of expression for the OpenNet Initiative’s forthcoming book Access Denied; and helped to found dynamic coalitions advocating fundamental freedoms in the work of the Internet Governance Forum (IGF). To bridge technologists and international policymakers, Net Dialogue continues to organize panels
bringing policymakers to 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, for example to protect privacy in identity management. (Details are available at http://www.netdialogue.org.)

**New Skills / New Learning**

How is technology changing the way lawyers can and should practice and how law schools can and should teach? Berkman 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 skills related to research, dispersed or large-scale collaboration, and systems problem-solving. In addition, solo or small-firm attorneys, who comprise the majority of practitioners in the United States, need to develop technology management skills. Following up on this research, Koo now serves as a joint fellow at the Berkman Center and the Center for Computer-Assisted Legal Instruction, a nonprofit consortium of nearly every law school in the United States; 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.

**Noank Media, Inc.**

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 Media is an outgrowth of Berkman Faculty Director 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 which 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. (Details are available at http://www.noankmedia.com.)

**The OpenNet Initiative (ONI)**

The Berkman Center’s filtering research is led by Professors John Palfrey and Jonathan Zittrain and performed in collaboration with the University of Toronto, the University of Cambridge, and Oxford University under the auspices of the OpenNet Initiative. Robert Faris is Project Manager for ONI at the Berkman Center. With a multi-year grant from the MacArthur Foundation, ONI carried out empirical testing of filtering activity on over 120 Internet service providers around the world. The resulting data informed the writing of 40 country reports and 8 regional overviews. Each of these reports also describes the legal and political context that influences the information control policies in each country and region. This year’s testing comprises the first global-level comparison of filtering practices and documents the growth in scope, scale and sophistication of Internet
filtering. This research and data have provided the basis for a forthcoming book, *Access Denied: The Practice and Policy of Global Internet Filtering*, to be published by MIT Press in fall 2007. This book, compiled and written by ONI researchers, offers an in-depth explication of the political, social, and technical aspects of global Internet filtering. The ONI has also made a number of technological advances in the methodology and tools used in testing Internet censorship in the field, including the development of new software and hardware designed to improve empirical testing. However, the growing network of researchers around the world that contribute to the studies is unquestionably the most valuable asset brought to bear in ONI work. (Details are available at http://opennet.net.)

**ProjectVRM**

Led by Berkman Fellow Doc Searls, ProjectVRM began in September 2006 with the immodest goal of leveling the imbalance of power between demand and supply in many market relationships. For decades, “customer relationship management” (CRM) systems have trapped customers inside vendor-controlled “silos” and “walled gardens” where customers were 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 particular, the "Identity Gang" of disparate but highly cooperative development efforts that converged in late 2004 and early 2005. Since then, with help from and involvement by the Berkman Center, 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, an energetic mailing list, weekly conference calls, frequent meetings at Berkman and elsewhere, and a large and growing wiki — in addition to involvement with leaders from the communications, healthcare, retailing and broadcast fields. Plans for the next year include the development of code and trials in the marketplace, along with research toward establishing policies and practices around truly cooperative customer-vendor relations. (Details are available at: http://cyber.law.harvard.edu/projectvrm.)

**Social Physics**

Led by Berkman 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 — Social Physics projects 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 Project is now supported by over 25 engineers. As Higgins has taken hold, the focus has become the information-sharing agreements that would protect individual privacy and further social and commercial exchange. Social Physics organized a meeting for companies involved building 3D worlds to explore interoperability, during which it became apparent that many of them support the notion of people controlling over 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. Finally, 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. (Details available at: 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.org 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, StopBadware.org has expanded from its emphasis on downloadable applications, deepening 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 has developed and 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 to cause them to distribute badware, 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. StopBadware plans to develop more tools that enable community participation in its work, accompanied by an increased focus on education for website owners, hosting providers, and the public at large. (Details are available at http://www.stopbadware.org.)

### B. Recently Initiated Projects

2006–2007 saw the formal launching of a number of substantial new projects that reflect our interest in expanding our fields of inquiry towards aspects of digital environments other than the Internet and dimensions of digital technology other than the law. While our primary focus is, and will remain, the relationship between the Internet and the legal system, our inquiries are drawing us ever more deeply into other disciplines as well. To strengthen our work in those zones we are collaborating more frequently with faculty, fellows, and students from other schools within Harvard and from other universities. We are looking forward to study emerging phenomena in our fields.

**Digital Natives**

Led by Professors John Palfrey and 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 the current generation gap between those “born digital” and those who adopted online technologies later in life. With the research assistance of approximately ten students from Harvard, St. Gallen, and elsewhere, the project identifies the traits that make this generation unique, including the emergence of digital identities, creativity in digital contexts, 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 with teenagers about the impact of technology— in particular, their use of social networking sites — 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 John Palfrey and Urs Gasser, *Born Digital* (Basic Books, 2008). (Details are available at: http://www.digitalnative.org.)

**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 a 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 and interdisciplinary 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 — impact 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 — one in Weissbad, Switzerland and one in Cambridge, Massachusetts — 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, in 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. (Details available at http://cyber.law.harvard.edu/interop.)

**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, and Yahoo — the Berkman Center has helped lead an initiative to protect and advance citizen’s 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. Both the process and the resulting principles are dynamic, characterized by a desire to set strong guidelines that are flexible enough to account for technological innovation, market changes, and the variety of companies and products that are represented by the membership. Led by Managing Director Colin Maclay, Professors John Palfrey and Jonathan Zittrain, Faculty Fellow Urs Gasser, and a large cast of collaborators, the Berkman Center has played a lead role not only in the drafting process, but also in the development of implementation procedures aimed at helping companies to evaluate their adherence to the principles and to have a better sense of the global context for censorship and filtration. As the project enters its next phase, the Center will advance efforts to internationalize the process and develop supporting data sets. (Details available at http://cyber.law.harvard.edu/principles.)

**Surveillance (OpenNet Initiative)**

This coming year, ONI will continue to search for ways to include more people from more places in its research on Internet surveillance, filtering, and censorship. It will also conduct more policy-relevant work, including testing for Internet disruption and tampering during elections. The collaborative initiative is set to embark on a major expansion of its research in Asia with the addition of local partners from that region. ONI has also begun work on a major new topic of study, investigating Internet surveillance and monitoring. Further research will also be focused on developing methods to test for filtering of content available through “edge locations” (such as cybercafés) and cellular networks, including SMS. ONI will also continue to participate in and design 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 United States and abroad, and to extend the reach of our OpenNet Initiative work, Global Voices Online, and related efforts in this zone. (Details available at: http://opennet.net.)

**Technology and Civic Engagement Project**

The summer of 2007 saw the launch of the Technology and Civic Engagement Project, an initiative sponsored by the United States Department of State that builds on one of our three core areas of inquiry, Internet and democracy. The initiative 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. The project uses original research and empirical analysis to assemble a platform to transfer knowledge related to Internet censorship, surveillance, and the use of citizen-generated media tools. The first case studies analyze these issues within diverse communities and contexts — the case of Ohmynews, a South Korea-based citizen news organization, the Orange Revolution in Ukraine, and the dynamic Iranian blogosphere. While case studies will draw on examples from around the world, the emphasis of our outreach is on communities in the Middle East. The goal of the project is to support the rights of citizens to access independent sources of information, to advocate responsibly, and to debate ideas freely in an online environment. Another important output of this project is the identification and study of the best tools, practices and ideas related to civic engagement and citizen media. Berkman researchers will be experimenting with existing and new technologies related to citizen media, advocacy and
networking. This informal research session will emphasize building a human network of regional and technological experts and focus on initiating a tool-building process with communities seeking to leverage and further develop such tools. (Details available at: http://cyber.law.harvard.edu/tce.)

C. Selected Independent Scholarship

In addition to active contributions to our research projects, community and events, faculty and fellows also pursued independent research and writing during the year. A sample of their efforts are listed below:

Professor Jonathan Zittrain’s book *The Future of the Internet — And How to Stop It* will be released by Yale University Press and Penguin UK, as well as under a Creative Commons license, in the spring of 2008. The book 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. Zittrain also completed a study with Professor Laura Frieder of Purdue University linking spam that touts stocks with the price and market volume of those stocks. (Details available at http://cyber.law.harvard.edu/stockspam.)

Berkman Faculty Fellow Michael Best continues to study the role of the Internet and computers in the social, economic, and political development of low-income countries. During this last year, his work centered on communications and the Internet in immediate post-conflict settings, which included a focus on Liberia. In Liberia, his team worked to develop baseline assessments of the state of the computer and communications sectors as well as potential for development; collaborated with the government on refining their national telecommunication policies and legislative acts; and managed the development of multiple computer and Internet laboratories in Monrovia focused on training women and ex-combatants. In addition, they worked closely with the Liberian Truth and Reconciliation Commission (TRC) to develop an integrated set of web, PC, and mobile phone-based information facilities called TRC 2.0. This is the first attempt to use the full set of modern digital media in a country's post-conflict reconciliation process. 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.

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. Creative Commons is best known for its non-downloadable license forms that enable creators to grant permission for free non-commercial use of their works. Creative Commons will launch ccLearn in late 2007 to promote open access and other scholarly initiatives. Cabell also serves 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, John Clippinger published *A Crowd of One: The Future of Individual Identity*, (Perseus/Public Affairs, 2006), an event fêted by the Berkman Center and the Aspen Institute. He also participated in and moderated conversations on digital identity, including Berkman’s IS2K7 conference and its workshop on interoperability. As a product of discussions and research on digital institutions with the Gruter Institute, Clippinger worked with the Vermont Law School and New York Law School to draft legislation on digital forms for the state of Vermont. This legislation is likely to come to a vote in the Legislature’s fall session. In May 2007, he also received an award on behalf of the Interra Project from Thomas Menino, the Mayor of Boston, and will be working with the Mayor’s office to deploy a Higgins-enabled version of the Community Change Card.

Faculty Fellow Judith Donath wrote several papers that address the common question of how we perceive and assess what is true. “The Imperfect Observer,” commissioned for a conference and volume on “dualism,” applied neuroscience and human-robot interaction to argue that the universe may be entirely physical and inherently rational yet have aspects that are eternally beyond the perception and comprehension of humans, no matter how extensively augmented. “Virtually Trustworthy”, a perspectives article in *Science* pointed out that while avatars may increase viewers’ trust in the other, they do not increase the other’s trustworthiness; instead, they make possible numerous creative new forms of deception. “Signals in Social Supernetworks” looks at how interface design affects trust and the formation of large-scale communities in online social network sites. With her students at the MIT Media Lab, she has been developing a wide range of applications, from interactive art installations, to experimental meeting designs for Second Life and visualizations of interactions within social networks. She has given many talks on signaling in mediated communication and is continuing to work on her book, *Signals, Truth and Design* (MIT Press). While finishing that book is a current priority, she is also interested in pursuing new directions, from simulation games for social decision making to artistic provocations responding to the coming era of ubiquitous lie detection.

In addition to his work on the joint Berkman Center/University of St. Gallen projects, Faculty Fellow Urs Gasser has continued to focus on a number of core issues regarding information law and policy. First, 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 working on study filtering regimes across the EU. Second, Gasser published a series of articles dealing with 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. The third cluster of his research includes intellectual property issues in the digital age. Gasser published a best practice guide on the implementation of the EU Copyright Directive, a review of national anti-circumvention legislation, and has been involved in a research
initiative on brain science, IP law, and law and emotion. He has been a speaker at several international conferences on three continents (among them an OECD conference), contributed to a number of expert workshops (e.g. Government Pension Fund of Norway's Workshop on Corporate Social Responsibility), and gave 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.

Fellow Dan Gillmor has written and spoken frequently about citizen media and its development. His travels have taken him around the US and the world, and he remains in demand as a speaker on the subject. He is also an advisor to a number of projects in the field, including Global Voices Online, 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 (O'Reilly Media, 2004), a book that explains the rise of citizen media and its importance.

Fellow Lewis Hyde was on sabbatical from Kenyon College this past year, supported by a Guggenheim Fellowship. He finished a draft of his book on cultural commons. New parts of the book completed this year include a chapter on Benjamin Franklin and the creative community that enabled his scientific work, and a chapter on how the protocols governing intellectual property either enable or disable the kind of “collective being” needed for creativity and for active citizenship. During the year, Hyde gave public presentations of this work in progress in London, Edinburgh, Los Angeles, San Francisco, and at the Berkman Center. A new edition of Hyde's book, The Gift, appeared in the United Kingdom last October; it contains a new essay on the history of arts funding since World War II. The essay serves as a bridge between The Gift and Hyde's current work on cultural commons. Hyde has, in addition, begun a project directed toward creating a “Statement of Best Practices in Fair Use” for classroom teachers in higher education.

Berkman Faculty Fellow Karim R. Lakhani is an assistant professor in the Technology and Operations Management Unit at the Harvard Business School. He specializes in the management of technological innovation and product development in firms and communities. His research and course development 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. He has also investigated how critical knowledge from outside of the organization can be found and innovated by 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.

Describing how international rules, Net-related treaties, and guidelines of intergovernmental bodies point to a global framework, Mary Rundle wrote “Beyond Internet Governance: The Emerging International Framework for Governing the Networked World.” Rundle has written papers looking at digital identity management as
a case study in the intersection of law and technology at the international level. She also co-authored 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.

**Wendy Seltzer** was a visiting Assistant Professor at Brooklyn Law School, teaching copyright, Internet law, and information privacy. She spent Trinity term visiting at the Oxford Internet Institute, researching the international dimensions of takedown demands to Internet service providers, and teaching “Media Strategies for a Networked World” at Oxford University's Said Business School. 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. In addition, Seltzer and Professor Charles Nesson have been leading discussions on the recording industry's anti-peer-to-peer campaign and its conflicts with the mission of the university. The two published an op/ed in the *Harvard Crimson* and led discussions at the IS2K7 conference. Seltzer’s research and writing has focused on these and similar chilling effects of legal claims to Internet intermediaries, on the interaction of Free Software and digital rights management technologies, and on the problems of contextual privacy in publicly shared information.

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. The year’s developments in this domain include the continuing story of our culture’s struggle to grasp the importance of Wikipedia, to schisms among librarians, to the rise of tagging systems and social networking sites, to the sound of our politicians’ voices, to the growing demand for open access to scholarly work, to the challenge to the tradition of paper-based journals. Weinberger also wrote about several other topics, including cyberbullying, and two articles in the *Harvard Business Review*, one on the overemphasis on accountability (which he calls “accountabalism”) and one on the rise of “meta-business.” Weinberger also maintained a strong interest in Internet policy issues, including advising one of the presidential campaigns on the issue. He is currently researching the nature of leadership on the web, with a special interest on the role of virtues.

**D. Special Events, Outreach, and Engagement**

While research and teaching are the Berkman Center’s top priorities, the unique interactions generated through conferences, workshops and other events — both as process and product — are fundamental elements of the 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, and fellows, as well as policymakers, business leaders and civil society through their unique topics, tenor and approach.

In an effort to diversify and strengthen discussion and communicate what the Berkman Center does, we invest a great deal of time reaching out to university institutions and community networks with shared interests, often yielding new collaborations. For example, informal face-to-face and electronic sharing of reports and research information with the Center for Social Media ultimately led to a substantive and successful partnership on the Beyond Broadcast conference. In addition to many informal roundtables and workshops, we have organized the events below.

**Beyond Broadcast II**
In May 2006, Berkman 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 and in conjunction with the Yale 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 this spring in Washington, D.C.

**Blog Group**
Led by Berkman staff member Erica George, the Berkman Center has hosted the Thursday Blog Group for Harvard University community members and the Cambridge public since 2002. 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; and Museum of Science podcaster Adam Wei.

**Harvard-Yale Cyberscholars**
The Yale Information Society Project 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.
Internet and Society Conference
We have convened six large-scale Internet & Society conferences since our founding, held roughly biennially on the Harvard campus. 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 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.

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 of the Internet as a public good. Academics, including economists and legal scholars, entrepreneurs, technologists, and individuals from the nonprofit sector joined the discussion.

Luncheon Series
The Berkman Center Luncheon Series is a weekly series of informal luncheons and other meetings, providing students, fellows, and faculty opportunities to discuss issues relevant to their work and to engage other leading thinkers and practitioners. In the past year we have hosted more than 40 guests, including best-selling author Matthew Pearl, legal scholars such as Mary Wong and Susan Crawford, new technology leaders like Joshua Schacter, historians such as Berkman Fellow Lewis Hyde, and Kennedy School of Government Professor Viktor Mayer-Schoenberger. Over the past year, the luncheon series mailing list has grown by more than 500 percent, including increasing numbers of students from across the university. Each of these luncheon series events is open to the community and webcast free online, shared through audio and video podcast, and is accessible in the virtual world Second Life.

State of Play
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. The conference brought together leading thinkers in the virtual world and video game space along with leading legal and social thinkers to work through the complex legal and social implications of massively multiplayer, immersive and graphical environments. The first-ever international State of Play conference will be held in Singapore in August 2007.
Summer Doctoral Programme

In conjunction with the Oxford Internet Institute of Oxford University, the Berkman Center hosted the fifth annual Summer Doctoral Programme, which brought together over 30 doctoral students of issues of media, law, communications, and related fields from around the world. Over the course of the two-week program, 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 the Berkman Center, the Oxford Internet Institute, and the Queensland University of Technology.

Web of Ideas

Led by Berkman 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.

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. This unparalleled gathering brought together more than 600 people from over two dozen countries and took on a diverse range of questions.

Communications and Media Production

Through a steady increase in event attendance, wider circulation of our publications, and greater community involvement, the Berkman Center has continued 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 we anticipate that in the coming year our network will continue to expand. Below is a sampling our efforts and achievements over the past year in the realm of communications.

BerkmanWeb Publications

The Berkman Center’s monthly email and online newsletter, The Filter, has increased circulation size by nearly 3,000 this year, with a total of more than 18,000 readers. The center also continued publication of the weekly Berkman Buzz, which highlights a number of conversations from faculty, fellow, and project blogs, and whose circulation has more than doubled this past year, from 1,400 subscribers 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, Global Voices’ “Daily Digest,” and the soon to be released
Citizen Media Law News, which will contact those interested in the Citizen Media Law Project on a bi-weekly basis.

**MediaBerkman and Podcasting**

MediaBerkman, the Berkman Center's podcast blog, hosts more than 244 presentations, 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 explore 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. Over the next year, video will be increasingly added to the content stream for each Berkman-hosted event as well as unique topical content. (Details are available at: http://blogs.law.harvard.edu/mediaberkman)

**Virtual Worlds**

The Berkman Center launched its own ‘Berkman Island’ in Second Life, a virtual world, for the first Beyond Broadcast conference hosted in the Spring of 2006. The island functions as an open community broadcast center for audio and video material. The island was home to several events this past year, including law school courses, the 6th Annual Harvard Conference on the Internet & Society (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. In the coming year, Professor Nesson and Berkman Fellow Gene Koo will broadcast courses from the 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 Coverage**

Our research and scholarly agenda thrives on the anticipation of future intellectual challenges, and, as such, 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. Publications and news outlets as diverse as CNN, the *New York Times*, the *Harvard Crimson*, *Boston Globe*, *San Francisco Chronicle*, the *Associated Press*, *Wired Magazine*, *Wall Street Journal*, the *International Herald Tribune*, BoingBoing, SlashDot, NPR, CNet, Fox News, and numerous trade publications have often requested input from the Center on current events related to our work.
We also work closely with Harvard media to let the Harvard University community know about our upcoming events and outgoing research. *The Harvard Crimson, Harvard Law Today, Harvard Law Bulletin,* and *Harvard Gazette* staff are notified of all major events and releases and offered exclusive interview time with important guests.

The Berkman Center also strives to involve independent, new, and organizational media in discussions about its research. Most of our events are accessible via webcast, online chat, and through our fellows’ blogs. News of our research has been covered on blogs as diverse as Slashdot, BoingBoing, InstaPundit, Global Voices, and many others. Our immediate community also lays claim to some of the most prominent bloggers on the Net, through whom we are able to channel timely information for broad dissemination. Organizations, such as the MacArthur Foundation, the Center for Social Media, and the Center for Democracy & Technology, also profile our work in their newsletters and emails.

Examples of news coverage on campus, in the US, and abroad include: the launch of the OpenNet Initiative received coverage from over 35 traditional and new media outlets including the BBC, *International Herald Tribune, MIT Technology Review, Chicago Tribune* and the *Huffington Post;* the *San Jose Mercury News* has published articles relating to, and speaking with, Berkman projects and personalities on the topics of Internet politics, Internet filtering, blogging, website revenue, more; the *Wall Street Journal* has featured a debate with David Weinberger, the legal arguments of Wendy Seltzer, the innovation of Charles Nesson, and the expertise of John Palfrey; the *New York Times* has featured comments from John Palfrey, Jonathan Zittrain, David Weinberger, and Wendy Seltzer; Professor Charles Nesson and Berkman fellow Wendy Seltzer co-wrote “Protect Harvard from the RIAA,” a *Harvard Crimson* op-ed; Professors John Palfrey and Jonathan Zittrain co-authored “Catalysts for Corporate Responsibility in Cyberspace,” a CNet op-ed; StopBadware.org’s work has been featured in such publications as *Asian Journal,* the *Register* (UK), *InfoWorld, The Washington Post,* and *NetworkWorld,* among others; Berkman fellow Ethan Zuckerman was featured in a profile article in *New Scientist;* David Weinberger’s work in the area of Internet organization, including his book *Everything is Miscellaneous,* has led to coverage in the *Miami Herald, Forbes, Durham Herald-Sun,* MSNBC, *New Jersey Star Ledger,* the *Baltimore Sun,* the *Wall Street Journal,* *Chronicle of Higher Education,* the *Chicago Tribune,* the *Boston Globe,* the *Los Angeles Times,* and more.

In the coming year the Berkman Center plans to continue to maintain this high level of visibility as premier experts in a number of technological and legal fields, and will continue to expand its efforts to publicize individual events, projects, and accomplishments.
IV. ORGANIZATION

A. Team

The Berkman Center is fortunate to have an exceptionally deep, multi-disciplinary team of faculty, staff, fellows, and students who carry out its ambitious agenda.

Faculty

The Berkman Center is led by its faculty directors. Professor William Fisher is the Center’s faculty director. Professor Charles Nesson, the founder of the Berkman Center, and Professor Jonathan Zittrain, the Center’s co-founder, serve as faculty co-directors and lead specific research projects. Professor Zittrain is also chair at Oxford University in Internet Governance and Regulation, where he is spearheading a research relationship between the Berkman Center and the Oxford Internet Institute. Professor John Palfrey is the Center’s executive director. He is a principal researcher on the Internet Filtering project, the Internet & Democracy project, The Digital Natives project, and the Stop Badware project.

In addition, the Berkman Center welcomes Professor Yochai Benkler, a new addition to the HLS faculty, as one of its faculty co-directors. Professor Benkler will start at HLS in Fall 2007 as the Jack N. and Lillian R. Berkman Professor of Entrepreneurial Legal Studies.

Faculty Leadership:

William Fisher, Faculty Director
Yochai Benkler
John Deighton (HBS)
Mark Edwards (HDS)
Jack Goldsmith
Alex Keyssar (KSG)
John Palfrey, Executive Director
Charles Nesson
Stuart Shieber (SEAS)
Jonathan Zittrain

Staff

Colin Maclay, Managing Director, leads the Center’s staff. The balance of the Center’s staff is comprised of instructors, event organizers, communications staff, a technical team, and professional financial and administrative support for the Center’s research and teaching programs. The Center is presently seeking to hire several staff to support its growing research agenda.

Managing Director: Colin Maclay
Administrative Manager: Catherine Bracy
Communications Coordinator: Patrick McKiernan
Research Associate: Caroline Nolan
Program Administrator: Seth Young
Staff Assistant/Communications Assistant: Rebecca Tabasky
Staff Assistant/Events Coordinator: Amar Ashar
Staff Assistant/Office Manager: Carey Andersen (starts September, 2007)
Senior Technology Consultant: Harold Roberts
Senior Network Administrator: Sebastian Diaz
Senior Software Engineer: Jason Callina
Senior Software Engineer: Liana Leahy
Junior Software Engineer: Ben Weeks
Systems Administrator: Danny Silverman
Junior Systems Administrator: Isaac Meister
Clinical Program Director: Phil Malone
Manager, StopBadware: Maxim Weinstein (starts September, 2007)
Research Director, OpenNet Initiative: Rob Faris
Research Manager, Internet & Democracy: Bruce Etling
Community Organizer, StopBadware: Erica George

Fellows’ Program
The Berkman Center’s research fellows are integral to the institution’s efforts. In choosing our fellows, we emphasize diversity of discipline and perspective; fellows who are able to work effectively as part of an intellectual community; and practitioners as well as theoreticians, unusual people that are not ordinary academics. We seek a community of fellows that are able to complement the Center’s team as a whole. We aim for a truly interdisciplinary team that can approach our complex field from cross-cutting perspectives.

The twenty-nine fellows appointed for the coming academic year, 2007-2008, almost certainly the most exceptional group we have assembled, include:

David Ardia (Citizen Media Law Project)
Sam Bayard (Citizen Media Law Project)
Michael Best (ICT & Development)
danah boyd (Digital Natives)
John Clippinger (Digital Identity)
Chris Conley (OpenNet Initiative Filtering)
Corinna di Gennaro (Digital Natives)
Judith Donath (Digital Identity)
Melanie Dulong (Open Access Libraries)
Urs Gasser (Digital Natives and Interoperability)
Dan Gillmor (Citizen Media)
Oliver Goodenough (Trust and Reciprocity)
Lewis Hyde (The Cultural Commons)
Beth Kolko (Privacy)
Gene Koo (eduNet)
Karim Lakhani (Open Innovation)
Mary Rundle (Net Dialogue)
David Russcol (Interoperability)
Dena Sacco (Clinical Program)
Pam Samuelson (Intellectual Property)
Doc Searls (Vendor Relationship Management)
Wendy Seltzer (Intellectual Property/Technology Regulation)
Jake Shapiro (Pubic Media)
Shenja van der Graaf (Digital Natives)
Eric Von Hippel (Innovation)
Jimmy Wales (Wikipedia)
Stephanie Wang (OpenNet Initiative Filtering)
David Weinberger (Web of Ideas)
Ethan Zuckerman (Global Voices)

One of the great strengths of the Berkman Center is the active involvement of an exquisitely talented group of students. At present, we engage about 100 students actively in our research and clinical program directly, and classes taught by our faculty reach more than an additional 100 students each year.
V.  THE FUTURE OF THE INTERNET

Looking Ahead

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 United States 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 and fellows 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 legal system, 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. Examples include:

- 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 & development and the mechanisms for distributing the drugs that issue from that research could be improved;
- What privacy will come to 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;
- The evolving role and shape of the university and changing methodologies of scholarly inquiry.

Convinced that both of these trends should be continued, we recently sought authority to transform 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:

(1) **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.

(2) **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.

(3) **Expand our connections with analogous centers located in other universities and countries.** We currently work together with the Stanford Center for Internet and Society, the University of St. Gallen’s Information Law Program, 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.

(4) **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 facilitate wider adoption of this system across the university.

(5) **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. Charlie 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.
Closing 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. Understanding is our first aim: to make sense of a space that is simultaneously hyped and taken as unexceptional, to discern the timeless and fundamental dynamics at work even as the Internet has continued to evolve at breakneck speed throughout the Center’s existence. Building is our 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 opportunity to hypothesize what one tweak or another might do to these tools’ use in one situation or another — and then to try it out, learning as much from failure as from success.

Understanding means maintaining 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 to 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 — and to improving the state of the world through what we learn. 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 — 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.
APPENDICES

A. Reports and Publications

Our works of scholarship form the 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 our center.

Our faculty and fellows have also written several of the leading books in this field during their association with the Berkman Center, including scholarly texts and books for a wider audience. Chief among these works are Lawrence Lessig’s *Code and Other Laws of Cyberspace*, Terry Fisher’s *Promises to Keep: Technology and the Future of Entertainment*, Yochai Benkler’s *The Wealth of Networks*, David Weinberger’s *Everything is Miscellaneous*, John Clippinger’s *A Crowd of One*, Jonathan Zittrain’s *The Future of the Internet* (forthcoming), and *Access Denied: The Practice and Politics of Internet Filtering* (forthcoming) by Jonathan Zittrain and John Palfrey (along with Ronald Deibert and Rafal Rohozinski).

A growing number of people rely upon the Berkman Center’s scholarly work to inform and guide their decision-making. We track carefully the visitors and page views on our many web properties, including our Center’s web site, blogs, the Berkman media series, podcasts, *The Filter*, our e-mail lists for projects and announcements and events, RSS feeds, and so forth. Our coordinated communications strategy is geared toward ensuring that our scholarship reaches its intended audience, often through the mediation of the press and the online community, as well as direct distribution.

**Academic Reports**

**2007**

- “E-Compliance: Towards a Roadmap for Effective Risk Management”, Urs Gasser and Daniel Haeusermann, March 2007
2006

- “Best Practice Guide: Implementing the EU Copyright Directive in the Digital Age”, Urs Gasser and Silke Ernst, December 2006
- “Spam Works: Evidence from Stock Touts and Corresponding Market Activity”, Laura Frieder (Purdue University and Jonathan Zittrain)
- “International Personal Data Protection and Digital Identity Management Tools,” Mary Rundle
- “From Shakespeare to DJ Danger Mouse: A Quick Look at Copyright and User Creativity in the Digital Age”, Urs Gasser and Silke Ernst
- “Legal Frameworks and Technological Protection of Digital Content: Moving Forward Toward a Best Practice Model”, Urs Gasser
- “Internet Watch Report: The 2006 Presidential Election in Belarus”, OpenNet Initiative
- “Without a Net”, Jonathan Zittrain, Legal Affairs, 2006
- “Cool Tools for Tyrants”, Derek Bambauer, Legal Affairs, 2006

Technical Reports

2006

- “FastMP3Search Plugin”, StopBadware.org, 2006
- “Popcorn.net”, StopBadware.org, 2006
- “WinAntiVirus 2006”, StopBadware.org, 2006
- “Badware Watch List”, StopBadware.org, 2006
- “Winfixer”, StopBadware.org, 2006
- “Funcade”, StopBadware.org, 2006
- “UnSpyPC”, StopBadware.org, 2006
- “Jessica Simpson Screensaver,” StopBadware.org, 2006
- “KaZaA”, StopBadware.org, 2006
- “Mediapipe”, StopBadware.org, 2006
• “SpyAxe”, StopBadware.org, 2006
• “Waterfalls 3”, StopBadware.org, 2006

Books
2008
• The Future of the Internet and How to Stop It. Jonathan Zittrain, Yale University Press

2007
• Everything is Miscellaneous: The Power of the New Digital Disorder. David Weinberger, Times Books

2006
• We the Media: Grassroots Journalism By the People, For the People. Dan Gillmor, O’Reilly Media, Inc.

Books by Affiliates
• Who Controls the Internet?: Illusions of a Borderless World. Jack Goldsmith and Tim Wu, Oxford University Press, 2006
B. Selected Alumni

Since the Berkman Center’s founding in 1997, dozens of successful alumni are focusing on cyberspace in various fields. Below is a sampling:

Professors
Lawrence Lessig, Professor of Law, Stanford Law School  
*Berkman Center Faculty Director, 1998-2000*
Jedediah Purdy, Assistant Professor of Law, Duke Law School  
*Berkman Center Fellow, 2003*
Dotan Oliar, Associate Professor of Law, University of Virginia School of Law  
*Berkman Center Fellow, 2003*
Anita Ramasasya, Associate Professor of Law, Director, Shidler Center for Law, Commerce & Technology, University of Washington School of Law–Seattle  
*Berkman Center Fellow, 2001*
Molly Shaffer von Houweling, Assistant Professor of Law, University of Michigan School of Law  
*Berkman Center Fellow, 2000*
Rohan Kariyawasam, Professor of Law, University of Essex Department of Law  
*Berkman Center Fellow, 2001*
James Fishkin, Department of Communication Chair, Director, Institute for Communication Research, Stanford University  
*Berkman Center Fellow, 1999*
Rosemary Coombe, Tier One Canada Research Chair, York University  
*Berkman Center Fellow, 2000*
Tim Armstrong, Assistant Professor of Law, University of Cincinnati College of Law  
*Berkman Center Fellow and Asst Director of Berkman Clinical Program, 2004-2005*
Bill McGeveran, Associate Professor, University of Minnesota Law School  
*Berkman Center Fellow, 2004-2005*
Timothy Wu, Professor of Law, Columbia Law School  
*Berkman Center Student, 1997-1998*

Practicing Attorneys
Tim Ehrlich, Associate, Latham & Watkins LLP  
*Berkman Center Student, 1998-1999*
Andrew Song, Associate, Munger Tolles & Olson LLP  
*Berkman Center Student, 2003-2004*
Chris Babbit, Associate, Morrison & Foerster  
*Berkman Center Student, 1999-2000*
Jeff Engerman, Associate, Gunderson Dettmer Stough Villeneuve Franklin & Hachigian LLP  
*Berkman Center Student Fellow, 2005-2006*
Jackie Harlow, Associate, Weil Gotshal & Manges LLP  
*Berkman Center Student Fellow, 2005-2006*
Bill McSwain, Associate, Drinker Biddle & Reath LLP  
*Berkman Center Student, 1999-2000*
Sarah Hsia, Associate, Alston & Bird LLP  
*Berkman Center Student Fellow, 2002-2003*
Leaders of Nonprofit Institutions
John Wilbanks, Executive Director, Science Commons
*Berkman Center Associate Director, 1998-2000*
Zephyr Teachout, National Director, Sunlight Foundation
*Berkman Center Fellow, 2005-2006*
Finbarr Livesey, Director, Center for Economics and Policy, University of Cambridge
*Berkman Center Fellow, 2001*
Jake Shapiro, Executive Director, Public Radio Exchange
*Current Berkman Center Fellow, former Berkman Center Associate Director*
Ory Okolloh, Legal & Corporate Affairs Manager, Enablis
*Berkman Center Student, 2004-2005*

Corporate Executives
Andrew McLaughlin, Head of Global Public Policy, Google, Inc.
*Berkman Center Fellow, 2000-2005*
Alex Macgillivray, Senior Product and IP Counsel, Google, Inc.
*Berkman Center Student, 1997*
Chris Kelly, Vice President of Corporate Development and Chief Privacy Officer, Facebook, Inc.
*Berkman Center Student, 1998*
Susie Lindsay, Regulatory Counsel, Bell Canada
*Berkman Center Fellow, 2005-2006*
Jordan Greenhall, CEO, DivXNetworks
*Berkman Center Student, 1997*
C. Management Structure

The management structure of the Berkman Center continues to evolve as we concentrate on institutionalization and sustainability, keep pace with organizational growth and change, and seek to improve our overall effectiveness. Over the last two years, we have effected significant changes in all elements of Berkman’s management structure. At the highest level, this includes the addition of new faculty directors from around the University as part of our transition to a university-wide center. On a more internal note, the creation of new positions and reporting chains balances our desires to retain a flat structure and offer staff better guidance. While these changes are still works in progress, we believe that the Berkman Center’s current structure is well-suited for the next stage of organizational growth over the coming ten years.

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. The full group of directors meets at least twice per semester, taking on the most important and fundamental questions facing the organization. The core group of directors, a subset of this body, makes substantial decisions that require a deeper working knowledge of the Center, and generally has deeper level of engagement with the Center’s daily operations. It consists of Faculty Director Terry Fisher, Executive Director John Palfrey, and Faculty Co-Directors Charles Nesson and Jonathan Zittrain. Along with Managing Director Colin Maclay and Administrative Director Catherine Bracy, this team meets in person on a monthly basis and is in very frequent electronic communication. As the newer members of this group become more engaged with the Center, it is likely that additional directors may join the core group. It also bears mention that the 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. The executive director (John Palfrey) acts roughly as CEO, supervising the clinical director and the managing director (Colin Maclay), who acts roughly as COO and research director, and to whom the project leaders, administrative director, lead technologist, and assorted other staff report. The management team consults on operational matters including staffing, work flows, events, fundraising, communications, and other core organizational elements, and consists of the executive director, managing director, administrative director and program manager Seth Young. This team meets in person at least once per month, and has nearly constant email interaction.

These distinct structures provide the distinct venues necessary for the full range of decision-making, whether rapid or reflective, proactive or reactive. Their nature reflects the orientation towards consultation and consensus-building, the fairly flat and non-hierarchical nature of the Center, and our commitment to effective internal communication.
Board of Directors (names and brief descriptions) and Governance Structure

**William Fisher III, Faculty Director.** Professor Fisher is the Hale and Dorr Professor of Intellectual Property Law at Harvard Law School and the Faculty Director of the Berkman Center. He received his undergraduate degree (in American Studies) from Amherst College and his graduate degrees (J.D. and Ph.D. in the History of American Civilization) from Harvard University. He has taught at Harvard Law School since 1984. His areas of research include intellectual property law and patent law. At the Berkman Center, he has spearheaded the Digital Media Project, which recently spun out into Noank Media, Inc. (formerly the Digital Media Exchange), a content management system that will fairly compensate artists while offering content to consumers easily and legally at low cost.

**Charles Nesson, Founder and Faculty Co-Director.** Professor Nesson is the William F. Weld Professor of Law at Harvard Law School and charted the early field of Internet law in 1997 when he founded the Berkman Center. Nesson has taught evidence, criminal law, trial law, torts, and ethics for Harvard Law School and continues to incorporate cutting-edge technology into his classes. He graduated from Harvard College in 1960 with a degree in mathematics and received his J.D. from Harvard Law School in 1963, *summa cum laude*. At the Berkman Center, Professor Nesson is currently leading a project for restorative justice in Jamaica which seeks to put computers in Jamaican prisons. During the academic year, he teaches courses in Evidence and Internet law, and “CyberOne: Law In the Court of Public Opinion”, which is taught jointly in the classroom and on Berkman Island in the virtual world Second Life.

**Jonathan Zittrain, Faculty Co-Director.** Professor 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 1997-2000. He is a 1991 graduate of Yale University with a B.S. in Cognitive Science and Artificial Intelligence. He received a joint M.P.A. from Harvard University’s John F. Kennedy School of Government and a J.D. from Harvard Law School in 1995. Zittrain’s research includes digital property, privacy, and speech, and the role played by private “middle people” in Internet architecture. He is a principal investigator of the Berkman Center’s OpenNet Initiative, a collaborative research project with the University of Toronto, the University of Cambridge, and the University of Oxford involved in the study of the way that countries block their citizens’ access to the Internet, and the StopBadware project.

**John Palfrey, Executive Director.** Professor Palfrey is Clinical Professor of Law and Executive Director of the Berkman Center for Internet & Society at Harvard Law School. His research and teaching is focused on the impact of the Internet on democracy. John teaches courses with a focus on Internet law, intellectual property, e-commerce, and digital democracy. Along with Jonathan Zittrain, he is a principal investigator of the OpenNet Initiative. He also leads the Berkman Center’s inquiry into the internet’s role in
democracy worldwide. He is a graduate of Harvard College, the University of Cambridge, and Harvard Law School. His blog is available at http://blogs.law.harvard.edu/palfrey.

**Jack Goldsmith, Faculty Co-Director.** Jack Goldsmith is Henry L. Shattuck Professor of Law at Harvard University, specializing 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 *Who Controls the Internet? Illusions of a Borderless World* (Oxford Press 2006) (co-authored with Tim Wu) and (with Eric Posner) *The Limits of International Law* (Oxford Press 2005). 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 1997-2002, and at the University of Virginia Law School from 1994-1997. His areas of interest at the Berkman Center lie in internet governance and regulation, and internet filtering.

**Alexander Keyssar, Faculty Co-Director.** Professor Keyssar is the Matthew W. Stirling Jr. Professor of History and Social Policy. His most recent book, *The Right to Vote: The Contested History of Democracy in the United States* (2000), was named the best book in U.S. history by both the American Historical Association and the Historical Society; it was also a finalist for the Pulitzer Prize and the *Los Angeles Times* Book Award. Keyssar is coauthor of *Inventing America*, a text integrating the history of technology and science into the mainstream of American history, as well as coeditor of a series on *Comparative and International Working-Class History*. Keyssar’s current research interests include election reform, the history of democracies, and the history of poverty, and his work at the Berkman Center focuses on the internet’s role as a democratizing force.

**Mark Edwards, Faculty Co-Director.** Professor Edwards is the Associate Dean for Academic Administration at the Harvard Divinity School. Edwards 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, Faculty Co-Director.** Professor Deighton is the Harold M. Brierley Professor of Business Administration at Harvard Business School, where he has been on the faculty since 1994. He is an authority on consumer behavior and marketing, including particularly direct and interactive marketing. Prior to joining the Harvard Business School, he has served on the faculties of the University of Chicago, where he
received the Hillel J. Einhorn award for excellence in teaching, and the Amos Tuck School, Dartmouth College. His Ph.D. is in marketing from the Wharton School, University of Pennsylvania. He has an undergraduate chemical engineering degree from the University of Natal and an M.B.A. from the University of Cape Town. His applied research includes consulting with a number of U.S and international corporations. He has published extensively on digital marketing tools and their transformative effect on the practice of marketing.

**Stuart Shieber, Faculty Co-Director.** Professor Shieber is the James O. Welch, Jr. and Virginia B. Welch Professor of Computer Science in the School of Engineering and Applied Sciences at Harvard University. His primary research field is computational linguistics, the study of human languages from the perspective of computer science. Shieber received an A.B. in applied mathematics *summa cum laude* from Harvard College in 1981 and a Ph.D. 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 the scholarly literature.