



# Intellectual gambling: betting on the future public library

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## Abstract

**Purpose** – Research in library and information science today generally lacks an intelligible vision for the future of the public library. Because technology has predominantly contributed to this deficiency, this paper attempts to recommend a rational approach to technological change which would benefit the public library.

**Design/methodology/approach** – Using the peer-to-peer (P2P) file sharing trend to highlight the impact of technology, this article expounds on the idea that technological advances should be managed in a way which underscores the opportunities for the library's progression. At the same time, this paper points out the imperative that libraries adhere to principles, such as: print collections, free access, and the library as a place, which have served as a foundation for the public library since its inception.

**Findings** – Technological agents of change (such as P2P) have had, and will continue to have, profound effects on the perception of the public library; as well as its subsequent business practices. Building upon the previously established foundation of past ages will go far in providing a solid groundwork upon which future growth depends; yet is not beyond the astute utilization of technology in order to attain it.

**Originality/value** – The deep-rooted ideals of fair use and the public domain are currently under attack and the public library all too often overlooks the efficacy of public involvement. Reach out to your patrons regarding important issues and they will respond in kind.

**Keywords** Public libraries, Change management, Information exchange, Rail transport

**Paper type** Viewpoint

The present-day academic sphere of library and information science seemingly appears rife with insecurity. This rampant uncertainty is reflected in the current deliberations on the legitimacy of librarianship as a profession (Abbott, 1998; Allard, 2002; Glendenning and Gordon, 1997), the invariable influence of technological innovation (Billings, 2003; Dougherty, 1995; Rubin, 2004), the belated departure from quantitative measures to qualitative methodology in library and information science research (Bates, 1999; Bradley and Sutton, 1993), and the diverse epistemological approaches to the concept of the library and its practices (Dick, 1999; Frohmann, 1992; Radford, 1992). Although profuse philosophical and theoretical debate in the world of academia is hardly uncommon, the conflicts arising from contemporary topics in library and information science generally lack a distinct, flourishing vision for the future of the public library. Moreover, without this confident focus – this explicit direction of where to proceed – how can one plot the course with which to get there and/or gauge the progress travelled? Furthermore, existing studies ostensibly suggest that long-established values of the library, such as print collections, free access, and the library as an institution are in imminent danger of extinction (Duckett, 2004; Mann, 2001). Thus, the objective of the following discourse is an attempt to provide a clear, coherent credo by which the public library can be assured successful growth while its



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historical roots are firmly grounded in established thought and, therefore, are considerably strengthened at the same time.

First, the initial portion of this paper will begin with a generic discussion of the modern-day impact of technical developments and, utilizing a poker analogy, will propose an alternate practice of judiciously incorporating technological enhancements, rather than the customary headlong rush to implement a newfound product (Dougherty, 1995), or the standard uneasy, reactive stance libraries are presently assuming which has materialized as a result of “technostress” (Rubin, 2004). Second, a detailed examination of the origin and evolution of a technological phenomenon called peer-to-peer (P2P) file sharing will demonstrate the far-reaching impact of high-tech advancements and illuminate the prospect of active involvement at the library level which could function significantly to augment the public’s perception of the vital role played by information professionals in society. Third, this treatise will conclude with a strong emphasis on the traditional principles that are intrinsically essential to the field of library science and that offer a solid foundation upon which to support further expansion of the public library.

Advances in technology have primarily contributed to the ambiguity faced by libraries and librarians today, and much of the recent literature in library and information science is devoted to addressing the deleterious and/or advantageous outcomes of technological encroachment. Rubin (2004) identifies three areas in which technical renovations have heretofore altered or “redefined” the conventional library setting. These modifications are manifested in the inconsequentiality of the library as a place with tangible structure or physicality, the repercussions that computer networks and the internet inflict on library services, and the detrimental psychological nuances that are accordingly provoked within library employees (Rubin, 2004). Similarly, Dougherty (1995) equates the emergence of technology to a clash of standard ideals within the occupational organization of the library itself. “During this period of turbulent change, it is more important than ever that we as professionals remember that it is essential to stay close to those we serve and always be accountable for our actions” (Dougherty, 1995, p. 649).

Moreover, Billings (2003) employs a unique approach to the catalytic elements produced via technology by designating them as “transformational agents” or “wild cards”, and he predicts that they will continue to have profound effects on future libraries. The “Arc”, a search device that has the capability to garner information from multiple databases, and the creation of “Internet3”, a computerized network parallel to “Internet2” which is specifically designed to access scholastic knowledge with the concomitant ability to merge with other networks, are just two of the projects currently underway that Billings (2003) contends will have an inexorable influence on the library profession as a whole.

So, what will the general wild-card academic library of 2013 be like? It will be freshened by many of the ideas recited above. It will be just as familiar and just as surprising to us as today’s library would be to librarians and library users a decade ago. The academic library of 2013 most likely will provide even richer information resources than the academic library does today. But the wild card, the wild card, bright or dark, will provide an extra level of surprise to the academic library of 2013, just as the wild cards of recent years have astonished the librarians and library users of today (Billings, 2003, p. 109).

Although Billings (2003) focuses much of his commentary on academic libraries in particular, it could be said that prospective challenges confronting academic libraries will most likely additionally pervade the public library as well, and his application of the “wild card” metaphor affords yet another novel avenue with which to survey. For instance, what is a wild card? Put simply, in the game of poker a wild card is a specific card denoted by the dealer that can be exploited to drastically improve a hand (Harroch and Krieger, 2000). Following this line of thought, would it not be wise for the library as a profession to consider technical developments in the same manner? “Wild cards” or technological agents of change could then be critically regarded in a way which accentuates the opportunities for the library’s progression and lucratively assists in securing the role of libraries in the future. Conversely, the “wild cards” or technological agents of change that are shrewdly observed as insufficient to the enhancement of the library can be summarily refuted or diminished. At this point, an in-depth analysis of a bona fide “wild card” if there ever was one – the birth and maturation of the peer-to-peer (P2P) file sharing technological trend – should prove beneficial in the illustration of the preceding assertions.

The early infancy of the P2P file sharing phenomena can be found in the conception of the MP3. An MP3 is a digitized audio file that provides an enhanced sound quality, but requires very little in memory capacity (Kasaras, 2002). It was designed by The Moving Picture Experts Group located in Germany, and was constructed as an alternative to the former WAV file which was problematic to store and transfer due to its enormous size (Kasaras, 2002).

Taking everything into account, one could claim that MP3 technology shocked the traditional “music world”. This aspect of the “digital revolution” was unanticipated by the music industry. Changes in music consuming behavior were not the result of the appearance of personal sites and the exchange of MP3 files as attachments in e-mail. Everything changed after the development of MP3 sites based in the idea of “file sharing”, like Napster and mp3.com (Kasaras, 2002, p.17).

It was Shawn Fanning, Napster’s original architect, who first conceived of and manufactured the technology known today as peer-to-peer (P2P) file sharing. According to Hoorebeek (2003), Napster was a web site that integrated a P2P file sharing application with its server which consequently facilitated and permitted the transfer of requested MP3s. It works as follows: an individual user connects with Napster’s server and submits a request for a particular song (or MP3), Napster then searches the hard drives of all the other users logged on to its server at that time and reports back to the individual user indicating which other users are in possession of the desired song, and finally Napster expedites the link between the individual user and another user who allows the specified file to be uploaded from their hard drive and subsequently downloaded to the computer of the petitioning user (Hoorebeek, 2003). It was this combination of the MP3 and the P2P file sharing technology that directly led to the explosion of public outcry and political controversy surrounding file sharing technologies that lives and breathes on even today.

Napster opened its online doors in the summer of 1999; since then millions of MP3 files have migrated across the Web. Users suddenly no longer needed the music industry’s middlemen: the packagers (companies such as Time Warner and Sony) and the promoters (companies like Virgin and Tower Records). The network grew exponentially, as friends told friends. In the computer world word of mouth is of immense importance and Napster was suddenly the

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Internet's hottest topic. As more and more people logged on, more and more music became available (Horebeek, 2003, p. 142).

This communal swell of solicitation for the complimentary merchandise Napster offered begged the questions concerning intellectual property and copyright protection, and the Recording Industry Association of America (RIAA) replied. In December of 1999, a host of record companies filed suit against Napster on the basis that the youthful web site knowingly accommodated and encouraged copyright infringement (Strickland, 2003). In response, Napster attempted to shield itself from assault by dodging under the guise of "fair use" doctrines (Strickland, 2003). However, the Court concurred with the record companies. On 12 February 2001, the 9th Circuit determined that Napster was, indeed, guilty of "contributory infringement" and dismissed Napster's claim to "fair use" entitlement (Strickland, 2003). As a result of these lawful proceedings, Napster bowed to considerable legal pressures and ceased its operations in May of 2002 (Strickland, 2003).

However, Napster's departure did not lead to the downfall of the P2P file sharing empire. On the contrary, the Napster episode was just a glimpse of the troubled adolescence endured by this type of software, and a multitude of newfound web sites utilizing P2P technologies have stepped forward to take the position previously occupied by Napster (Horebeek, 2003). According to Strickland (2003, p. 14), these sites differ from Napster in that they are "based on a true peer-to-peer architecture with no central control and no central index" which has inadvertently wrenched internet service providers (ISPs), and corporate entities that supply internet connectivity, such as libraries, into the on-going litigious fray.

In addition to training their sights on private individuals engaging in piracy, remarks Ferullo (2003), the Recording Industry Association of America (RIAA) has also targeted college campuses as a prime breeding ground for acts of copyright infringement. Rubin (2004, p. 170) states:

By warning universities that their networks may be supporting illegal activities, the industry is encouraging them to actively limit potential copyright violations by their students.

Furthermore, Strickland (2003) systematically assesses the liability risk posed to individuals committing acts of piracy and to organizations providing internet capability to students and/or employees as both very "substantial" and very "real" in that:

Statutory damages are specified in three categories for each single infringement of a single work: normal with damages from \$750 to \$30,000; willful with damages increasing to \$150,000; and innocent with a court allowed to reduce damages to an amount not less than \$200. Clearly the stage is being set to obviate any claim of innocent infringement and impose willful penalties (Strickland, 2003, p. 30).

Therefore, the query emerges – why are individuals then overlooking the consequences posed by this sizeable financial risk and continuing to embark on insidious acts of piracy? According to Henderson (2004, pp. 33-34), the existing proliferation of piratical customs subsists because "the copyright statute is largely incomprehensible and consistently illogical" and "copyright law as it stands now treats differently situated people similarly and similarly situated people differently". In addition, Henderson (2004, p. 27) attempts to dismantle the righteous bearing of the

Recording Industry Association of America (RIAA) by initially pointing out that its membership comprises the “five majors” or five leading corporate companies within the music industry that “control 63 per cent of the \$32 billion dollar global market”. Thus, the insinuation is that the RIAA may be responding more to the needs of corporate entities, rather than the purported stance that the primary purpose of their involvement is to advocate for and secure the intellectual property rights of individual artists (Henderson, 2004). She goes a step further by emphasizing that the principles revolving around copyright protection were not historically implemented to endow artists with a “natural right” of jurisdiction over their creations, but were originally established to restore the equilibrium between the right of the artist or “property owner” to harvest the proceeds of their work and the right of society to utilize intellectual goods in an effort to sow the seeds of enlightenment (Henderson, 2004). In fact, copyright issues, says Henderson (2004), were a construct of the business world and as such they did not ordinarily play a significant role in the everyday reality of individuals. Nonetheless, it has been the result of RIAA sanctioned legislation, such as the Digital Millennium Copyright Act of 1998 (DMCA), which has served to imbalance tremendously the conventional precepts of copyright in favour of the property owner and to immutably plant copyright concerns in the mind of the individual (Henderson, 2004).

Consider that you were the unlucky recipient of a subpoena. What would you want to do? What could you really do pragmatically speaking? The answer is you should settle because there is every likelihood that you would lose both in and out of court. The RIAA has the law on its side and it has the financial and legal resources to maneuver you into bankruptcy. If you settle, that leaves the RIAA a space in which to move from legal “rightness” to moral “rightness”. Why would you have settled if you were not breaking the law or doing something “wrong”? Presuming one is legally wrong requires one to assume somehow that copyright law is right, just, and ethically sound. As discussed at length here, we cannot make this assumption. The ways in which we have historically incorporated new technologies into intellectual property law including mediations between the content industries and congress to establish such laws offer no assurances to the public that the individual is treated equitably under such laws. Moreover, it is impossible to conclude, when the law is demonstrably inequitable, that taking action under such law is ethical and just (Henderson, 2004, p.35).

Lawrence Lessig (2004), a renowned author and professor of law who is actively involved in the battle to bring intellectual property rights (IPR) legislation back within the confines of its historic intent, has proficiently substantiated the fact that piracy has evolved over the centuries and has served as an integral foundation for the very commercial industries which condemn this type of behavior so vehemently today. While remaining staunchly opposed to acts of copyright infringement, he places today’s piratical trends in a related context and skillfully concludes:

For (1) like the original Hollywood, P2P sharing escapes an overly controlling industry; and (2) like the original recording industry, it simply exploits a new way to distribute content; but (3) unlike cable TV, no one is selling the content that is shared on P2P services.

These differences distinguish P2P sharing from true piracy. They should push us to find a way to protect artists while enabling this sharing to survive (Lessig, 2004, p. 66).

Lessig (2004) also comments on the increasing trend to extend copyright terms by Congress and forewarns that this abiding practice will have devastating effects on an already diminishing public domain. One should wonder if these “copyright wars”

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waged on behalf of the injustices instigated by piracy are, in actuality, a diversion attempt to conceal an even greater injustice committed by commercial interests at the expense of intellectual freedoms (Lessig, 2004).

The American Library Association (ALA) has taken note of the alarming developments produced by the P2P debate and has assumed a firm stance against “criminalizing copyright law” in regards to file sharing technologies by filing several amicus briefs on behalf of internet service providers (ISPs) and consumer rights groups during the present interminable legal skirmishes (American Library Association, 2006). Furthermore, Carrie Russell, a copyright specialist for the Office for Information Technology Policy situated at the ALA’s Washington headquarters, declared in 2002:

The content industries have advanced their position and, to a great extent, we understand their concerns. Piracy is wrong, students and faculty do need to understand and respect copyright law, and campus network broadband services need to be managed for the good of all. But there is more to the story that only we have the credibility to assert. Frequently sought out as the campus copyright experts, librarians work with both users and creators, embrace the free flow of information, and believe that even students deserve their day in court. Librarians know copyright. Don’t sit idly by. Frankly, I don’t think we want RIAA to tell us how to run our campuses (Russell, 2002, p. 824).

However, have librarians responded to this call to arms and made ample use of the “wild card” currently at their disposal? For instance, have they instigated instructional programs which not only educate individuals on the illegality of piracy (Ferullo, 2003), but also inform them of the library’s position which is resolutely in favour of their consumer rights? Librarians should not rely on just the filing of obscure legal briefs to get this message across to potential patrons. Rather than just papering our walls with “READ” posters denoting celebrity advocates, perhaps it would be beneficial to include educational placards delineating information about intellectual property rights, such as: “Ask me about” or “Know how copyright laws affect you” or even “Take a last look – this public domain is shrinking”. With respect to marketing, librarians need to shed their former vice-like grips on neutrality and engage in visible efforts to reach out to the individuals who provide the necessary tax support which enables public libraries to subsist. Taxpayers have long demonstrated their belief in the public library system, and it is now crucial that librarians return the gesture.

Finally, just how much the public library stands to gain from the sagacious exploitation of file sharing technologies is somewhat ambiguous and, in truth, has yet to be explored in its entirety. Nevertheless, that is no reason to dismiss this technology out of hand or to permit monopolistic interests to obscure the prospective advantages to be had from the deployment of P2P applications. For example, Chudov (2001) has cleverly conceived a model for instant document delivery within a P2P framework which would allow libraries to aid document exchange between patrons and information suppliers, while concurrently conforming to copyright limitations by supplying a method for remuneration through an electronic fund transfer system (EFTS). Likewise, Dong *et al.* (2002, p.148) effectively allege that “important lessons and concepts can be drawn from P2P networks and applied to libraries to enable library practitioners to work much faster, cheaper, and better”; that is, as long as copyright concerns are tenaciously addressed throughout the development of a service prototype involving P2P technologies (Dong *et al.*, 2002). Furthermore, Connolly (2005) depicts the innovative way in which an academic music library achieved the dual

success of boosting the circulation rate of their CD collection, as well as increasing awareness of the library's assets, by partnering with Apple's iTunes in a "Share my music" campaign. Yet, until more researchers and information professionals display similar adventurousness and examine in-depth the viability of this type of technology in a library setting, the ultimate verdict regarding the efficacy of P2P technologies will be slow in coming. What is abundantly clear, however, is that the library as an institution cannot afford to overlook any opportunity to solidify its position within the fabric of society.

Operating alongside the argument that libraries should employ "wild cards" to their fullest potential, is the concept that the library profession must steadfastly protect the traditional ideals that the public library was originally built on. Contemplate the instance in which a poker player acquires a wild card, however s/he does not hold the necessary cards to back it up. The success of a hand does not depend on the presence of a wild card, but conversely the success of a wild card is dependant on the existence of an adequate foundation with which to support it.

Take Mann's (2001) exposition on the railroad industry. He contends that libraries are frantically attempting to ensure their survival by insisting that they "are in the information business, not the book business" in response to the earlier observation that "railroads got into trouble because they assumed they were in the railroad business rather than in the transportation business" (Mann, 2001, p. 268). Hence, the implication follows that the significance of print collections, the importance of free access, and the feasibility of the "library as a place" are predominantly irrelevant to the future of libraries (Mann, 2001).

Although he does a brilliant job of affirming the salience of print collections, free access, and libraries "with walls", Mann's (2001) argument could be substantially strengthened with a closer look at the history of railroads rather than the cursory glance he afforded the subject. It is Mann's (2001) assertion that the railroad industry "got into trouble", not because of its refusal to acknowledge its role in the transportation business, but because of "real problems" such as rival means of transportation, the dearth of federal subsidies to railroads, the emergence of electrical modes of communication, and the abundance of governmental regulations which prevented the railroad from engaging in lucrative, competitive strategies. Whereas these events did, in fact, elicit the challenges faced by the railroad industry, the chronicle should not conclude here.

For example, when the Staggers Rail Act of 1980 was passed in an effort to alleviate the constraints of governmental regulation and to give the industry an opportunity to prosper competitively (Wilner, 1999), what was the first thing the railroads did? Why, they "shed" or "abandoned" more than 100,000 miles of railroad track (Scheib, 2002). While the primary reason of this desertion was purportedly due to "inadequate traffic", the second major cause of track abandonment was the "destruction of track due to natural disaster", poor maintenance, and/or a combination of both (Due *et al.*, 2002). For that matter, even before the passage of the Staggers Act, the railroad industry had up until that time deferred over \$4 billion in maintenance costs (Wilner, 1999). Some of the discarded track was promptly bought up by several "short line" railroads, however they too "were maintained at the minimum level necessary and were not made to withstand modern loads" (Scheib, 2002, p. 66). Today, railroads are madly pouring money into their remaining infrastructure, but it is too little because it is not enough to

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make up for the decades of neglect and disrepair, and it is decidedly too late (Scheib, 2002).

Are libraries beginning to start down a path analogous to that of the railroads? In other words, have libraries become so entranced with those “wild cards” or technological agents of change that they are willing to “fold” or concede what lies at the foundation of their profession as the railroads did on the passage of the Staggers Act? Sadly, there is corroboration to suggest that they are indeed moving in that general direction. By way of example, reflect on the present plight of the book. Once deemed integral to the principal mission of any library, the role of books has become sidelined as a result of the increase in digitization through declining print collections, especially those of a reference nature, and diminishing physical accommodations for book stocks (Duckett, 2004; Mann, 2001). For that matter, the long held principle of free access stands to become another casualty of the library’s enthrallment with the digital age. As evidenced by the P2P debacle, copyright restrictions have not evolved as rapidly as technological advances and, thus, efforts to provide full-scale electronic access to all literary works will likely be met with subscription fees and/or significant challenges to “ease of access” (Mann, 2001). Lastly, to deny the necessity of “walls” or tangible locations with which to do its business will rob the library of not only a “sense of place”, but the “sense of community” that libraries have laboured exhaustively for throughout the centuries as well (Duckett, 2004).

The library as an organization would do well to take heed of the lesson that the railroad industry represents. Railroad track is the mechanism that is at the very core of the services that the railroad supplies and, when railroads “got into trouble”, their response was to suspend maintenance of that track and, later, to divest themselves of it. As such, it would definitely not be prudent for libraries in general to turn away from or abandon those time-honoured values, such as the importance of books, free access, and the library as a place, that are at the very heart of the services they provide.

To date, many researchers have paid an exorbitant amount of attention to the future of the public library and, in doing so, they have proffered numerous remedies with which to combat against its possible demise. To name just a few, Broady-Preston and Cox (2000, p. 159) have recommended that the library align its objectives with that of the “street corner university” in order to enfranchise its users and promote “economic regeneration and social inclusion policies”; while Rowley (2003) insists that knowledge management tactics will be instrumental in amplifying the subdued role of information or “knowledge” professionals within the social realm; and, Buschman (2005, p. 10) laments the library’s submission to the “dismantling of the democratic public sphere” in favour of the market model of economic growth. Although varied in substance and style, where these studies and others (Kent, 2002; Scrogam, 2006) converge is on their collective allusion to the fact that the public library suffers from a lack of vision and, consequently, there is a desperate need to reclaim or re-create a vision which would manoeuvre the public library into the future. Without such a vision, an institution cannot sustain its mission and will undoubtedly waver (Waters, 2004) as the public library is struggling to maintain its balance even now. Inevitably, what follows next will be the loss of a well-known and recognized “sense of purpose” from the standpoint of both the library as an organization and the community, and this is precisely the battleground on which the public library could lose its fight to survive.

The moment has come to gamble. It is time to “ante up” and overcome the ubiquitous hesitancy that is presently surrounding the profession of library science, particularly as it pertains to the public library. To hazard a glimpse of the opulence the future can hold by betting on a conception of the library that, for all intents and purposes, has well stood the test of time. To facilitate a closer connection with our clients by faithfully betting on the verity that, given the proper information and fair treatment, they will rightfully choose the appropriate course of action for themselves and for humankind overall. In the past, libraries have been increasingly marginalized within society at large, and they will continue to be, unless we – the information keepers – find ways to step up to the table and become active participants in our own destinies. As stated throughout this discourse, we can do this by objectively enhancing or minimizing the effects of those “wild cards” or technological innovations that endeavor to usurp the library’s position in the minds of their patrons while simultaneously taking great care not to wager the worthwhile notions that gave rise to the public library in the first place.

Peter Gay (1989) portrayed Wilhelm Fliess in a biographical introduction to Sigmund Freud’s *Civilization and Its Discontents* as “an intellectual gambler shocked at no idea, a propagator of provocative (at times fruitful) theories, an enthusiast who fed Freud ideas on which he could build” (Gay, 1989, p. xii). In today’s “information age”, who is better suited to provide the public with this sort of intellectual mentoring than librarians, those who have the wherewithal to draw from a horde of knowledge-rich information resources? Moreover, who is better equipped to pull up a chair at the gaming table of the RIAA than librarians, those who believe wholeheartedly in, and uphold, the true ideals of copyright protection? To be sure, the fate of the public library will decidedly hinge on the ability of the library as an organization to practice “intellectual gambling” and employ prolific means with which to propel itself into the future. Now, only one question remains – who wants to be dealt in?

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