

Strategic Planning for Distance Learning in Legal Education: Initial Thoughts on a Role for Libraries

Richard A. Danner

SUMMARY. Distance learning technologies will be used increasingly by law schools both to enhance learning within their existing residential programs and to reach new audiences. For law librarians, the questions involved in serving distance learners are a subset of the questions about the future of the law library that arise from changes in the legal information environment. This article discusses current distance learning alternatives for law schools, and the impacts of distance learning and other technological innovations on the future role of the academic law library in legal education. [Article copies available for a fee from The Haworth Document Delivery Service: 1-800-HAWORTH. E-mail address: <getinfo@haworthpressinc.com> Website: <<http://www.HaworthPress.com>>]

KEYWORDS. Distance learning, law school curriculum, legal education

Richard A. Danner is Senior Associate Dean for Information Technology and Research Professor of Law, Duke University School of Law.

This article is based on a paper prepared for the conference: "Not a Box but a Window: Law Libraries and Legal Education in a Virtual World," University of Toronto, February 23, 2001. A video archive and links to papers presented at the conference are maintained at <<http://www.law-lib.utoronto.ca/conferences/future/index.htm#8>> (last visited December 1, 2001). © 2002 Richard A. Danner.

[Haworth co-indexing entry note]: "Strategic Planning for Distance Learning in Legal Education: Initial Thoughts on a Role for Libraries." Danner, Richard A. Co-published simultaneously in *Legal Reference Services Quarterly* (The Haworth Information Press, an imprint of The Haworth Press, Inc.) Vol. 21, No. 2/3, 2002, pp. 69-85; and: *Law Library Collection Development in the Digital Age* (ed: Michael Chiorazzi, and Gordon Russell) The Haworth Information Press, an imprint of The Haworth Press, Inc., 2002, pp. 69-85. Single or multiple copies of this article are available for a fee from The Haworth Document Delivery Service [1-800-HAWORTH, 9:00 a.m. - 5:00 p.m. (EST). E-mail address: getinfo@haworthpressinc.com].

The next big killer application for the Internet is going to be education. Education over the Internet is going to be so big it is going to make e-mail usage look like a rounding error.

—*John T. Chambers, CEO, Cisco Systems*¹

Law school is a product. . . . The question is not ‘Will we see virtual law schools? [but] when will we see virtual law schools.’

—*A. Michael Froomkin*
*Professor of Law, University of Miami*²

The 2001 downturn in the United States economy resulted in numerous reports of failures among the high-profile information technology companies that had only so recently been credited with creating what many called a “New Economy” based in the work of “brain toilers,” rather than in traditional service and manufacturing industries.³ Included among the casualties were many e-learning companies involved in development and promotion of distance education programs, including companies focused on the apparently limitless potential of the business education market.⁴ Yet, despite the reported setbacks in online business education, established business schools have continued to develop their own online programs and to work with for-profit distance learning companies, while prominent universities have continued to develop their own profit-seeking distance learning spin-offs. The potential impact of the Internet on the delivery of degrees and other products in higher and professional education has remained a major topic of discussion for educators, foundations, technology entrepreneurs, and business gurus alike. For many analysts, the higher and continuing education markets continue to be valued in numbers high enough to attract the attention of venture capitalists and other investors.⁵

The environment for distance learning in law differs from the less regulated (and less restricted) world of business education. For legal education in the United States, distance learning’s potential for growth and development depends in large part on the regulations and practices of the American Bar Association and other agencies that monitor legal education. While encouraging U.S. law schools to invest in information technology, the ABA’s 1997 distance education guidelines⁶ have fostered experimentation with some forms of distance learning, but have limited experimentation with others.

This article examines some of the distance learning opportunities available to those law schools willing and able to commit the resources

needed to explore the possibilities, as well as some of their implications for law school libraries. The discussion is based in part on ongoing discussions about these matters at my own institution.

EDUCATIONAL TECHNOLOGY AT DUKE LAW

Duke Law School's current student body is about 680. Seventy-five or so of our students are international lawyers enrolled in either a one year LL.M. program or an advanced doctoral program; the rest are studying for the J.D. Duke is noted for its interdisciplinary and international programs, as well as for its long-standing commitment to a strong information technology infrastructure. The law library, which has played a leadership role in the Law School's technology initiatives,⁷ has over 565,000 volumes, placing it among the largest, though not the very largest, of American law libraries. Because of the investments in infrastructure and support, a number of members of the law faculty at Duke have become interested in developing and using new technologies to enhance instruction and learning in the residential program.

Since 1990, Duke has made significant investments in networking the Law School building and making networked resources widely available to all members of the community. Our students are required to own portable computers and we have installed network connections in our classrooms, throughout the library, and in all faculty and staff offices. Wireless networks are used in parts of the building where the costs of wired network retrofitting are prohibitive. The Law School has placed a high priority on developing its web site as a means for disseminating information about the School, communicating with external constituencies, publishing scholarship, and sharing information within the Law School community. Significantly for the School's educational mission, the site features a rich curriculum section focusing on course support, which includes information about all courses, instructors, and schedules; access to course home pages; information about prerequisites and courses of study; biographical and bibliographical information for the faculty; and other expanded "bulletin-type" information for students.

A major mid-nineties building addition focused on new faculty and administrative offices, library improvements, and better spaces for public events. Since then, the Law School has made substantial investments in upgrading teaching and learning technologies in its classrooms and courtroom. All regularly-used classrooms and seminar rooms are now equipped with video/data projectors, computers connected to the Law

School network and the Internet, and audio and video players. Duke Law instructors control all teaching technologies electronically through touch pads installed in custom-built teaching consoles. All classrooms provide power outlets for student computers and nearly all have network connections at each student seat. Since 2000, the Law School has constructed new mid- and large-sized classrooms, a courtroom, and seminar rooms with built-in taping, video conferencing, Webcasting and other distance learning capabilities managed from a central control room.

As capabilities have grown, Duke faculty members have gradually incorporated a variety of teaching technologies into their courses and have used network technologies to promote opportunities for learning outside the classroom. Each course has an e-mail discussion list through which faculty can respond to student questions and provoke discussion outside of class. Most instructors use locally-designed and supported course home pages on the Law School Web site for posting (and easily updating) course syllabi, assignments, and other materials, and to support chat rooms and other discussion forums beyond the e-mail discussion lists. Increasingly, faculty are seeking to expand their use of the course pages to provide links to Web materials for students to explore outside of class or to use in the classroom. A number of faculty are supported in these efforts by Technology Teaching Assistants, a corps of technology-savvy law students available to help faculty develop new uses of technology for their teaching. Since fall 2001, the school's efforts to promote productive uses of technology in its educational programs are coordinated by a director of educational technologies, working in conjunction with the computing services department and the law library.

To date, some highlights of faculty uses of technology for teaching and learning include: Professor John Weistart's project to develop a full set of video-based Contracts course materials with Duke Professor H. Jefferson Powell and Professor Girardeau Spann of the Georgetown Law Center;⁸ Professor David Lange's incorporation of student-produced video assignments into his courses on intellectual property and entertainment law;⁹ Professors Jonathan Wiener and Thomas Metzloff's innovative uses of commercial course support software to bring faculty from other schools and outside attorneys into Web-based discussions with students in their mass torts classes; Professor Michael Byers's use of video conferencing in his International Dispute Settlement Seminar to bring in guests from the Cambridge University law faculty; and Professor Metzloff's work with faculty colleagues to explore the potential uses

of PowerPoint in the classroom. In spring 2001, Professor Metzloff taught his course in Distinctive Aspects of American Law to law students at Tsinghua University in Beijing using Webcasting and live video conferencing to supplement video and text materials offered through the Law School Web site.

In the course of their experimentation, the faculty have found that many teaching technologies help them think in new ways about the boundaries between learning within the classroom and learning that occurs outside class. Many of the increasingly common applications of technology in the residential J.D. program (video conferencing, online discussion groups, etc.) can be used effectively both in residential programs and in distance learning environments. As a result, the Duke law faculty are becoming increasingly experienced and comfortable with distance learning applications in the course of their regular teaching, and the distinctions between residential and distance learning technologies are increasingly blurred for both faculty and students.

CURRENT AND FUTURE CAPABILITIES: NEW MARKETS?

The networked information technology environments of higher education, business, and the professions provide the infrastructure for delivering education and training faster and with greater possibilities for individualized learning and interaction between instructor and learners than was possible in the past. Distance learning can no longer be thought about simply in terms of correspondence courses, videotapes, or public television programming. To develop effective institutional distance learning strategies in a rich technological environment, it is necessary to analyze new opportunities along a number of dimensions: the specific technologies to be employed (e.g., synchronous or asynchronous); desired levels of interactivity (e.g., video conferencing or Webcasting); potential audiences (e.g., degree-seeking students or adult learners); pedagogical approaches (e.g., lecture, discussion, self-study, etc.); costs of development; and potential for income.

As a result, the successful pursuit of distance learning initiatives at any institution will require the articulation of a rationale for making the investments necessary for the program to be successful. What learners will be served? For most law schools, there are at least three possible rationales for entering into distance learning programs: (1) to improve the J.D. curriculum; (2) to expand access to programs for alumni and other

natural constituencies of the law school; and (3) to capitalize on emerging market opportunities.

Distance Learning in the J.D. Curriculum

While current ABA regulations restrict applications of certain kinds of distance learning, the ABA does encourage experimentation within a set of temporary guidelines issued by the Consultant on Legal Education in 1997.¹⁰ As a result, faculty at a growing number of law schools have engaged in distance teaching experiments, or have at least debated the implications of distance learning for the education of law students.¹¹ To date, many of these experiments have relied on available ISDN video conferencing technologies to create shared classrooms at two or more law schools with either a single instructor or instructors participating at each site. In addition to creating a space for real-time teaching and discussion, courses employing video conferencing can be supplemented with shared Web pages, e-mail discussions and some of the more sophisticated features of commercial courseware packages (chat rooms, document sharing and other web capabilities designed to facilitate collaborative work).

To test the effectiveness of low-cost approaches to distance learning in law, Professor Peter Martin at the Cornell Law School has experimented both with real-time Internet video conferencing,¹² and with asynchronous courses using a wide range of Web-based instructional technologies. Professor Martin's most recent efforts are described in "A Report on the LII's Two Multi-Law School Courses Conducted via the Internet in 2000-2001," prepared for the ABA Consultant on Legal Education.¹³

The equipment and infrastructure needed to employ ISDN video conferencing and Web-based technologies in distance courses should be available on most university campuses, if not in law school buildings themselves. Duke Law has used video conferencing in experiments with other North American law schools, to develop joint courses with Cambridge University through its Public Law Program, and as one component of a spring 2001 project to offer the law school's "Distinctive Aspects of the American Legal System" course at Tsinghua University in Beijing. Video conferencing has been used successfully to extend the reach of conferences sponsored by Duke's Global Capital Markets Center and other programs.¹⁴ Success in these efforts, domestic and international, requires investments at each end in planning, good support structures, and educating faculty to understand the ways in

which teaching remote students differs from normal classroom teaching.

Most ideas for distance learning courses (or components of courses) offered on a law school-to-law school basis using video conferencing or other synchronous technologies fall within the ABA's current temporary distance education guidelines, without requiring prior approval by the ABA's Consultant on Legal Education.¹⁵ New distance learning standards proposed in December 2001 further encourage the use of synchronous video technologies.¹⁶ As the ability to offer high quality video improves with the implementation of Internet 2,¹⁷ there is little doubt that law faculty will make increasing uses of collaborative distance learning technologies to co-teach or otherwise enhance courses in the J.D. and LL.M. programs, or that law schools will offer courses taught by faculty in remote locations. Within the near future, many faculty will think no more of using these technologies to enhance their teaching than their predecessors did of using chalk boards and overhead transparencies.

Distance Programs for Alumni and Others

Successful experiments and greater familiarity with distance learning applications in the J.D. curriculum will provide experience for faculty and encourage law schools to explore developing specialized distance learning programs for domestic and international alumni, and other natural constituencies of the law school. Local conferences and other programming can be developed into distance learning vehicles using video conferencing (or Webcasting), Web-based chat and other discussion capabilities, and delivery of conference materials. Programs can also be created specifically for alumni (e.g., a series of Webcast programs featuring law faculty members discussing contemporary legal issues) or other audiences. Duke has pursued several beneficial distance learning activities using its own resources, without the assistance of external partners. Since the construction of two distance learning classrooms in 2000 and 2001, the School has successfully Webcast major lectures and conferences sponsored by its Public Law and Intellectual Property programs. In November 2000, Duke Law Webcast a faculty panel discussion on the Supreme Court's review of the U.S. presidential election to Law School alumni as an experiment in "continuing education on a moment's notice."¹⁸ Typically, lectures and conferences are Webcast live, then are edited and post-produced into archival versions that remain accessible through the Law School Web site.¹⁹

Such targeted programs do not necessarily require the high investment in content development or sophisticated delivery systems of the commercial distance learning initiatives discussed in the following section of this article. Without committing the resources needed for commercial product development, law schools can offer occasional distance programming using the same sorts of delivery technologies that will be used increasingly by faculty in the J.D. program. Such efforts will promote a school's public service and educational missions, and enhance ties with national and international alumni. Like the uses of distance learning in the residential J.D. program, many of these activities will become commonplace as the technology continues to improve and becomes more accessible. Any potential for significant earnings, however, will be limited unless a law school wishes to expand its markets, and work with outside partners capable of the substantial investments needed to develop and maintain the technologies required to support sophisticated (and constantly changing) delivery technologies.

Distance Programs in New Markets

Within higher education, business schools have been quicker than law schools to explore the commercial possibilities of distance learning programs. At Duke, the Law School has closely monitored the Fuqua School of Business's global distance learning programs to determine how Fuqua's models and experiences could benefit the Law School's own thinking about distance learning. Fuqua's M.B.A.-Global Executive program²⁰ and other distance-based executive education programs have served to create new markets for the educational offerings of the Fuqua School. Fuqua's programs emphasize the importance of face-to-face classroom interaction. Students gather together periodically in Durham or elsewhere, but do much of their work remotely from locations in the U.S. and abroad. A number of business schools have developed similar distance degree and executive education programs. Although the programs differ in the emphasis they place on face-to-face meetings, all necessarily rely extensively on Web-based tools to facilitate communications between students and their instructors and other students.

Potential earnings in the online M.B.A. and executive education markets early on attracted the interest of for-profit e-learning companies. The most prominent of these companies has probably been UNext.com, which offers courses under the name Cardean University.²¹ UNext's university partners include Carnegie-Mellon University, the University

of Chicago Graduate School of Business, the Columbia University Business School, the London School of Economics and Political Science, and Stanford University. Typically, faculty members at the partner schools develop courses for the UNext curriculum and the partner schools hope to receive a share of profits from the company.²²

Because the initial and ongoing development costs for delivering course content in a competitive market are so high, it is unlikely that existing educational institutions will be successful in reaching new markets without engaging in the kinds of partnerships offered by companies like UNext, or by building their own for-profit subsidiaries. Some universities (e.g., Temple, Columbia, NYU, and Cornell) have developed their own distance learning entities;²³ others have worked in concert with like-minded schools to develop their own delivery platforms and establish distance learning brands.²⁴ In developing its programs, Duke's Fuqua School contracted with Pensare.com, a UNext competitor, to support some of its offerings, and later established its own for-profit distance learning entity, Duke Corporate Education, which operates independently from the Fuqua School.²⁵

Distance learning markets for law comparable to those for business education are yet to be developed. In general, law schools are only beginning to consider the possibilities seriously. Unlike established business schools and for-profit entities, which can offer M.B.A. degrees to students studying individually in distance learning programs, law schools are limited by the ABA in their abilities to grant credit toward the J.D. degree for distance learning courses. At present, there are no law schools approved by the ABA that provide a J.D. degree via distance learning or correspondence study. In the immediate future, therefore, most law school interest in creating new markets for educational offerings is likely to focus on advanced degree programs or some form of continuing education.

Not all law schools have the technological infrastructure and other resources necessary to consider distance learning initiatives aimed at developing new markets and new educational products. In addition, law school missions differ. Some law schools have primary missions centered on their home states or regions, which may create opportunities to serve their natural constituencies while foreclosing or limiting pursuit of broader initiatives and wider markets. Yet, many law schools do have potential markets both in domestic continuing education programs, and for domestic and international LL.M. degrees, as well as the potential to develop products in these areas based on known strengths of the law

school's faculty, specialized centers and programs, and international visibility.

Whether or not a law school chooses to develop aggressive institutional strategies in distance learning, individual faculty members will see increasing opportunities to provide course content through external vehicles. The possibilities for individual faculty agreements with commercial enterprises have contributed to some universities' interests in developing their own for-profit ventures.²⁶ In law, faculty members with expertise in subjects adaptable to the M.B.A./executive education market are most likely to have immediate opportunities to develop courses or provide initial content for online courses developed by companies like UNext and its competitors.²⁷ There will also be opportunities in continuing legal education²⁸ and with new online law schools, such as Kaplan, Inc.'s Concord University School of Law.²⁹

Much of Concord University School of Law's initial publicity centered on the course ownership questions raised at Harvard Law School by Professor Arthur Miller's relationship with the School. (If nothing else, the potential for future commercial partnerships will provide a forum for law faculty to examine questions of intellectual property rights and ownership of courses and course materials.) But, Concord's program has gained significant national attention apart from the questions raised by its affiliation with a celebrity law professor.³⁰ In addition, some established law schools are themselves showing interest in distance learning programs. St. Thomas University Law School offers an LL.M. degree in international taxation.³¹ The Open Education programs of the Harvard Law School's Berkman Center for Law & Society offer a variety of computer-mediated seminars on the Internet and the law, with CLE credit available.³² Boston University School of Law offers an internationally-oriented distance course on legislative drafting.³³

Some law schools will be better positioned than others to pursue initiatives aimed at marketing educational products to national and international audiences. Some will gain strategically within their universities by pursuing entrepreneurial, expansive distance learning programs to raise the school's profile and attract outside investment to support core programs. Success in new markets will depend upon determining what kinds of partnerships are most appropriate for the school, what kinds of distance learning products the school should offer, what audiences it can reach, and how quickly it should act.

FIRST ISSUES FOR THE LAW LIBRARY

There is little doubt that distance learning technologies will be used increasingly by law schools to enhance learning within their residential programs, to improve communication and maintain contacts with alumni, and to promote the activities of centers and programs showcasing the law school's strengths and specialties, even if a school does not develop a broader, more expansive, distance learning strategy.

Regardless of which route a law school takes toward distance learning, a number of logistical and support issues will need to be resolved, not least how to provide library services to remote learners.³⁴ For law librarians, the questions involved in serving distance learners are a subset of the questions about the future of the law library that arise from changes in the legal information environment.

I have written elsewhere about approaching questions about the future of the law library from the perspective taken by David W. Lewis in the journal *Information Technology and Libraries*.³⁵ In his article, Lewis discusses two key questions: "What are libraries?" and "What are libraries for?" Lewis comes quickly to the point that, while libraries have traditionally concentrated on "gathering, organizing, preserving, and using *things*" (emphasis added) in local collections, information seekers in a networked information environment will have less need for the things ("books and serials and their derivatives") that libraries have traditionally collected.³⁶ In a distance learning environment, both the information seekers and the information they seek will be dispersed, and there could be even less value attached to local collections than when a library's primary mission is supporting only residential programs.

Lewis predicts that, instead of purchasing artifacts and storing information locally, educational institutions and other organizations will use site licenses or similar devices to obtain rights to access information. Libraries, of course, already purchase site licenses to access digital content locally, so using the library to provide access to licensed information for distance learning programs is an easy extension of traditional library services. Indeed, among the selling points for the St. Thomas distance international tax LL.M. program are Internet access to a number of general and tax specific legal databases and e-mail reference service for the LL.M. students.³⁷

The ABA's Temporary Distance Education Guidelines stress the importance of having "a library or information resource center of significant size" available at the locale where a distance education program is received, but they also note that post-J.D. programs "may be considered differently from regular J.D. programs."³⁸ The ABA's acquiescence in the St. Thomas LL.M. degree, in effect accepts the proposition that remote access to databases and e-mail reference is sufficient library support for a highly specialized advanced distance learning program in international tax.

If library support of this sort is suitable for an online LL.M. degree, one must ask why would it not be just as suitable for other kinds of distance learning programs in legal education, including programs designed to offer the basic juris doctor degree? If a program met other accreditation requirements, if course materials were supplied to students in print or electronic formats, and if background and research materials were made available through accessible databases over the Internet, why would distance students, including J.D. students, need to have a readily available "library or information resource center of significant size?" What else is it that the library provides the learner beyond local access to information? Why do any law students need a readily available library if the information they need is available in digitized form via any networked computer? As David Lewis would put the question: "What are libraries for?"

The beginnings of an answer might be found in the ABA distance learning materials themselves. The Temporary Guidelines start from the principle that professional education in law "involves more than the mere delivery of information or simply learning facts, history or even logic," and that the "law school experience involves interaction with faculty not only in the classroom, but also in other places and at other times. Students also learn from each other by inquiry and challenge, review and study groups."³⁹ Interpretation 306-3 of the December 2001 proposed distance education standards emphasizes the benefits of "being part of a law school community and the learning and socialization into the legal profession that occurs outside, as well as inside, the classroom."⁴⁰ Because of the high value placed on these kinds of experiences in American legal education, law schools will struggle with the difficulties of replicating them in the distance learning environment.

To date, the St. Thomas LL.M. program and the J.D. program of Concord Law School are the primary examples of distance learning programs in law that focus on geographically dispersed students and

rely extensively on asynchronous communication to solve the problems posed by distance and separation. St. Thomas's descriptive materials note the course's reliance on "[a]synchronous threaded chat room discussions and the ability to e-mail faculty and fellow students with course questions and comments on assignments and case studies."⁴¹ Concord's program emphasizes the use of online dialogues led by professors, designed to provide students with greater feedback than they would receive in a traditional law school classroom. According to at least one Concord professor, the result of this (and the other components of Concord's efforts to reconstruct the law school classroom for distance learning) can be a greater sense of community feeling and class personality than in the traditional place-based law school classroom.⁴²

It is too early to know whether these specific approaches to online education will be able to replicate, let alone improve upon, the experiences of law students enrolled in residential degree programs. It is unlikely, though, that any distance learning program in law will be successful unless it provides not just the means to access information or for asynchronous dialogue among students and faculty, but the means for developing a sense of community among all the participants engaged in the study of the law. This is one of the primary roles of the residential law school. As a result, establishing, developing, and maintaining a sense of community and all that it entails will be major challenges for the success of distance-based learning initiatives in law.

In residential legal education programs, the law library is a large factor in successful community building. As Peter Lyman has pointed out, the traditional library is not only a collection, but "a shared intellectual resource and site for a community."⁴³ Lyman asks whether the virtual communities created in distance education and by digital libraries and networks can "be designed to facilitate the moral values of community, such as trust, reciprocity, and loyalty." In responding to the challenges of supporting distance learning initiatives, librarians must be careful not to concentrate too much on what they can do to facilitate access to information and too little on the role that the library has traditionally played in developing and nurturing a sense of community within the law school. The primary challenges for law librarians will be found in the need to replicate this long-standing, but sometimes under-appreciated, role in the virtual law school. Law libraries do more for their institutions than provide access to information. They are also important sources of community building and sustenance.

NOTES

1. Quoted in Thomas L. Friedman, *Foreign Affairs: Next, It's E-ducation*, N.Y. Times, Nov. 17, 1999, at A29.
2. Quoted in Wendy R. Liebowitz, *Law Professors Told to Expect Competition from Virtual Learning*, Chron. Higher Educ., Jan. 21, 2000, at A45.
3. For an early exposition on "brain toiling," see Rector, *Holy Trinity Church v. U.S.*, 143 U.S. 457, 464 (1892).
4. See Katherine S. Mangan, *Expectations Evaporate for Online MBA Programs*, Chron. Higher Ed., Oct. 5, 2001, at A31. See also Sarah Carr, *Is Anyone Making Money on Distance Education?*, Chron. Higher Ed., Feb. 16, 2001.
5. See Thomas Kostigen, *Higher Education: Education Stocks Graduate to New Levels This Year*, CBS MarketWatch, Oct 2, 2001, at <http://cbs.marketwatch.com/news/story.asp?guid={23C7354E-736D-4347-BD73-EBBF6BC22C44}&siteid=mktw&archive=truereg>. See generally Peter Drucker, *Putting More Now Into Knowledge*, Forbes, May 15, 2000, at 84.
6. For the current "temporary guidelines," see Memorandum from James P. White, Consultant on Legal Education to the American Bar Association, to Deans of ABA Approved Law Schools (May 6, 1997) (hereinafter Temporary Guidelines), available at <http://www.abanet.org/legaled/distanceeducation/distance.html#MEMORANDUM D9697-59>. For proposed revisions to the ABA Standards regarding distance education, see Memorandum from John A. Sebert, Consultant on Legal Education and Rudolph C. Hasl, Chair, Standards Review Committee, to Deans of ABA-Approved Law Schools (Dec. 10, 2001) (hereinafter Proposed Standards), available at <http://www.abanet.org/legaled/standards/proposed.html>.
7. The Duke Law Library's role in these developments is described in *Law Library Determines Digital Direction*, Syllabus, May 2001, at 34.
8. The materials were first used, in place of a standard casebook, in first year Contracts courses at Duke and Georgetown during the spring 2001 semester.
9. See, *Next Stop, Court TV*, Syllabus, Aug. 2001, at 45. Students use the facilities of a new media laboratory to edit and produce videos to fulfill course requirements in lieu of written research products. The Law School employs a full-time media production coordinator to support these projects and other video initiatives.
10. See Temporary Guidelines, supra note 7.
11. See, e.g., Henry H. Perritt, *The Internet is Changing the Face of American Law Schools*, 33 Ind. L.Rev. 253 (1999); Harry J. Haynsworth, *Temporary Distance Learning Guidelines Provide Opportunities for Flexibility and Innovation*, 34 Ind. L.Rev. 47 (2000); David A. Thomas, *American Legal Education: Moving from the Classroom Without Paper to Instruction Without the Classroom?*, 2001 JILT, no. 1, at sec. 5. <http://elj.warwick.ac.uk/jilt/01-1/thomas.html>; Robert H. Woods, 'Order in the Virtual Law Classroom . . . Order in the Virtual Law Classroom'—A Closer Look at American Law Schools in Cyberspace: Constructing Multiple Instruction Strategies for Effective Internet-based Legal Education, 2001 JILT, no. 3, at <http://elj.warwick.ac.uk/jilt/01-3/woods.html>.
12. Professor Martin's initial courses are discussed in Peter W. Martin, *Distance Learning—The LII's Experience and Future Plans* (December 1999), at <http://www.law.cornell.edu/background/distance/liidistance.htm>.

13. See Memorandum from: Peter W. Martin to John A. Sebert, ABA Consultant on Legal Education (October 23, 2001), available at http://www.law.cornell.edu/background/distance/2001_abareport.htm.

14. Video conferencing has also been used on an experimental basis by the career services office in the student interviewing process.

15. See Temporary Guidelines, *supra* note 7; Haynesworth, *supra* note 12, at 48.

16. See Proposed Standards, *supra* note 7.

17. At present, the transmission quality of Internet video-conferencing is generally low compared to ISDN-based video conferencing, but will improve, at least on an institution-to-institution basis, with the full deployment of Internet 2. For background on Internet 2, see Florence Olsen, *Internet2 Effort Aims to Build Digital-Video Network for Higher Education*, Chron. Higher Educ., April 21, 2000, at A49.

18. Jennifer Chorpeneing, *Duke Professors Host Election Discussion on Web*, The [Durham, N.C.] Herald-Sun, November 30, 2000, at A13. The use of Webcasting to offer faculty perspectives on national events was used again on October 2, 2001 for a live Webcast of a faculty panel on "National Security and Civil Liberties: How to Strike the Balance?," one in a series of public forums at Duke University on issues surrounding the Sept. 11 terrorist attacks.

19. Archived versions of Duke Law Webcasts are available at <http://www.law.duke.edu/webcast/> (last visited December 1, 2001). Video proceedings of the Conference on the Public Domain (November 9-11, 2001) can be viewed (and conference papers downloaded) at <http://www.law.duke.edu/pd/>.

20. The Global Executive program is described at <http://www.fuqua.duke.edu/admin/gemba/index.html> (last visited December 1, 2001).

21. The programs are described at <http://www.unext.com/> (last visited December 1, 2001). UNext's beginnings as part of financier Michael Milken's Knowledge Universe are chronicled in Stephen P. Pizzo, *Master of the Knowledge Universe*, Forbes, September 10, 2001, at 64.

22. In late 2001, UNext was reported both to be reducing its workforce and attempting to restructure its agreements with its academic partners. See Katherine S. Mangan, *UNext Lays Off 135 Employees, Citing Need to Spend Conservatively*, Chron. Higher Educ. Distance Education (Sept. 13, 2001), at <http://chronicle.com/free/2001/09/2001091301u.htm>; Goldie Blumenstyk, *UNext Seeks to Restructure Its Relationships With Universities*, Chron. Higher Educ. Distance Education (Aug. 7, 2001), at <http://chronicle.com/free/2001/08/2001080701u.htm>. Questions about sales and profitability were raised earlier in the year. See Sarah Carr, *Rich in Cash and Prestige, UNext Struggles in Its Search for Sales*, Chron. Higher Educ., May 4, 2001, at A33.

23. For an early introduction to the for-profit subsidiaries under development at several U.S. universities and the reactions of faculty members, see Sarah Carr, *Faculty Members Are Wary of Distance-Education Ventures*, Chron. Higher Educ., June 9, 2000, at A41. 2001 did not prove to be a good year for some of these initiatives. Temple and NYU reportedly shut down their distance learning subsidiaries. See Goldie Blumenstyk, *Temple U. Shuts Down For-Profit Distance-Education Company*, Chron. Higher Educ., July 20, 2001, at A29; Scott Carlson & Dan Carnevale, *Debating the Demise of NYUonline: Did the venture go under because of the changing economy or bad decisions?* Chron. Higher Educ., Dec. 14, 2001, at A31. Columbia's Fathom project went through changes in organization and approach. See Scott Carlson, *For-Profit Web Venture Shifts Gears, Hoping to Find a Way to Make a Profit*, Chron. Higher Educ., Feb. 9, 2001, at A33. On the other hand, in November, Cornell began offering courses

through its eCornell subsidiary. See Michael Arnone, *Cornell's Distance Education Arm Readies New Program, and Hopes for Profits*, Chron. Higher Educ., Nov. 2, 2001, at A48.

24. Perhaps the most notable partnership was that created by Oxford, Princeton, Stanford and Yale under the name: Alliance for Lifelong Learning (<http://www.allianceforlifelonglearning.org/>). (last visited December 1, 2001). In November, Princeton announced its withdrawal from the Alliance in order to focus on other educational technology priorities. Michael Arnone, *Princeton University Pulls Out of High-Profile Distance Learning Alliance*. Chron. Higher Educ., Nov. 23, 2001, at A29.

25. See "Duke's Fuqua School of Business Forms Private Company; First to Provide Global Top-to-Bottom Executive Education." (June 30, 2000), at <http://www.fuqua.duke.edu/admin/extaff/news/customexec.htm>. The programs are described at <http://www.dukece.com/> (last visited December 1, 2001).

Pensare.com did not survive the downturn in the economy and filed for bankruptcy in June 2001. Goldie Blumenstyk, *Online-Course Company Files for Bankruptcy*, Chron. Higher Educ., June 15, 2001, at A32. In November 2001, Duke Corporate Education itself cut its workforce and scaled back its revenue projections, citing the September 11 terrorist attacks and business executives' reluctance to travel as creating difficulties for programs that incorporate large segments of face to face meeting time. Katherine S. Mangan, *Duke's For-Profit Executive-Education Program Cuts Employees to Avoid a Deficit*, Chron. Higher Educ.: Today's News, Nov. 14, 2001, at <http://chronicle.com/daily/2001/11/2001111405n.htm>.

26. Carr, *supra* note 24.

27. In July 2001, Cardean University announced plans to offer law-related courses on contracts, workplace rules, intellectual property, and other topics of importance to corporations and their employees. See "Cardean University to Offer Law Related Courses Developed in Consultation with Leading Scholars" (July 23, 2001), at http://www.unext.com/UNext_news/news_release_article461.htm.

28. Harvard Law School Professor Arthur Miller is listed as Director of the Committee on Educational Content and Compliance for Celesq.com's CLE programs, offered through Celesq's AttorneysED Center. The list is available at <http://www.celesq.com/index.asp> (last visited December 1, 2001). See also Kate Marquess, *See CLE on Your Home PC*, ABA J., July 2001, at 2001.

29. A number of faculty with affiliations at U.S. law schools are listed as "supplementary lecturers" on the Concord University Law School Web site. See (<http://www.concord.kaplan.edu/info/custom/concord/index.asp?source=600019>) (last visited December 1, 2001). Concord's initial programs are thoroughly described and discussed in Robert E. Oliphant, *Will Internet Driven Concord University Law School Revolutionize Traditional Law School Teaching?*, 27 William Mitchell L.Rev. 841 (2000).

30. See e.g., Kristine Ellis, *A Model Class*, Training Mag., December 2000, available at <http://www.trainingsupersite.com/publications/> (last visited December 1, 2001). Jack R. Goetz, *Interactivity Remains the Key to Successful Online Learning* (2000), at <http://jurist.law.pitt.edu/lessons/lesnov00.htm>.

31. The St. Thomas program is described at http://www.stu.edu/tax/master_law_degree.htm (last visited December 1, 2001). The development of the St Thomas program is discussed in William H. Brynes, *A Review of the Development of an Internet Delivered LL.M Program in the United States*, 2001 JILT, no. 3, at <http://elj.warwick.ac.uk/jilt/01-3/brynes.html>.

32. Current programs, some of which combine residential with distance segments are listed at <http://cyber.law.harvard.edu/online/>. (last visited December 1, 2001).

33. The current program is described at <http://www.bu.edu/law/lawdrafting/distance.html> (last visited December 1, 2001).

34. There is already a sizable and growing literature about the library's role in support of distance learning initiatives. See e.g., Ann Walsh Lang, *Is Your Library Ready for Distance Education?*, AALL Spectrum, May 2000, at 12.

35. See Richard A. Danner, *What are Law Libraries For?*, 37 Law Libr. 211 (1999), discussing David W. Lewis, *What if Libraries Are Artifact-Bound Institutions?*, 18 Info. Tech. & Libr. 191 (1998).

36. Lewis, *supra* note 36, at 191.

37. See St. Thomas University Graduate Program in International Taxation. About the Program, at http://www.stu.edu/tax/about_the_program.htm (hereinafter St. Thomas program) (last visited December 1, 2001).

38. Temporary Guidelines, *supra* note 7. The December 2001 proposed standards for distance education do not explicitly mention libraries or information centers, but proposed Interpretation 306-5 states that "Law schools shall have the technological capacity, staff, information resources, and facilities required to provide the support needed for instructors and students involved in distance education at the school." Proposed Standards, *supra*, note 7.

39. Temporary Guidelines, *supra* note 7.

40. Proposed Standards, *supra* note 7.

41. St. Thomas program, *supra* note 38.

42. Ellis, *supra* note 31.

43. Peter Lyman, *Digital Documents and the Future of the Academic Community*, in Richard Ekman & Richard E. Quandt, eds., *Technology and Scholarly Communication* 366, 377 (1999).

