

sent a mass e-mail complaining about Intel to between 8,000 and 35,000 employees of the computer chip maker. He was asked to stop but didn't.

In 1999 a Superior Court judge enjoined Hamidi from sending any more e-mails to Intel staff, on the ground that doing so constituted a trespass (or, in legalese, a "trespass to chattel"—chattel meaning any movable property). In December a 3rd District Court of Appeals panel upheld the injunction.

One of the panel's three judges, Daniel M. Kolkey, filed a vigorous dissent. He pointed out that previous judicial decisions prohibiting the sending of e-mail applied only to widespread commercial spamming that actually "burdened the computer equipment, thereby interfering with its operation and diminishing the chattel's value." Since Intel could not claim any damage or interference with its computer system—its only loss was the time employees might have spent reading the mail—Kolkey declared that calling the messages a trespass was a mistake.

The Electronic Frontier Foundation filed an amicus brief in the case on Hamidi's side. "If left standing, this ruling effectively breaks the Internet," Cindy Cohn, EFF's legal director, said in a press release. "Anyone who sends e-mail messages after having been told not to could risk a lawsuit from recipients." The logic of the majority decision could also apply to unasked-for paper mail, phone calls, or even, as Judge Kolkey pointed out, television or radio transmissions. ☐

Locking up music Corrupt CDs

Jesse Walker

IF YOU'RE HOPING to rev up *More Music from The Fast and the Furious* while you drive, you may be in for a disappointment—even if you like the music. The compact disc features a copy protection system aimed at preventing fans from turning its tracks into computer files and giving the music away online. Unfortunately, it also stops you from creating such digital files for your own use. Worse, some listeners have found that their copy-protected CDs won't play on their computers, DVD players, PlayStations, or car stereos.

Despite such side effects, some record execs have decided that the copy protection scheme is a dandy way to prevent music piracy. One label, Universal, says it hopes to release all its discs in this format by mid-2002. Understandably, this has angered a lot of consumers, and one might expect the companies who release such CDs to feel some heat in the marketplace. Rep. Rick Boucher (D-Va.) would go farther: He wants the government to get involved.

In a letter to two prominent music industry lobbyists, the congressman invoked the Audio Home Recording Act of 1992, which taxes recording equipment and storage media, passing the take along to record companies. According to Boucher, the act "requires content owners to code their material appropriately to implement a basic compromise: in return for the receipt of royalties on compliant recorders and media, copyright owners may not preclude customers from making a first-generation, digital-to-digital copy of an album."

The new discs break this covenant, Boucher argued. The recording industry replies that this conclusion misreads the law—that the act keeps them from suing those who copy CDs, not from putting

up private fences to prevent piracy.

In fact, the problem goes deeper. The music industry probably does have the legal right to experiment with copy protection schemes. Unfortunately, under the Digital Millennium Copyright Act of 1998, consumers do not have the converse right to tinker with those fences once they theoretically own the CDs that contain them. Programmers have suffered legal threats and have even been jailed for circulating the means to circumvent such code.

So the obvious solution to corrupted CDs—fixing the built-in bugs, then spreading the news around until copy protection simply isn't worth the record companies' trouble—is illegal. To his credit, Boucher recognizes this problem as well, and hopes soon to strike such provisions from the DMCA. ☐

Union financial capers Slow Learners

Michael W. Lynch

IN DECEMBER A Washington state Superior Court judge schooled the Washington Education Association (WEA), the state's largest teachers union, on the nuances of labor law, handing it a \$770,000 bill for the lesson.

The union, a potent force in Evergreen State politics, had been paying for political escapades with money collected from "agency fee payers." Agency fee payers are individuals who choose not to join the union. They don't have voting rights but are still forced to pay for the portion of union activity spent on contract negotiation and enforcement.

From 1996 to 2000, the WEA



Quotes

"It is almost as though we have to redefine what America is. This is the most sophisticated brand assignment I have ever had."

—former ad executive Charlotte Beers, now promoting America's image at the State Department, in the December 31 *Washington Post*

"We can put a man on the moon, but we can't retrofit a Ferrari. It's crazy."

—Robert L. Johnson, founder and chief executive of Black Entertainment Television, commenting on the recent federal crackdown on buyer-imported supercars, in the January 6 *Washington Post*

Sources

Curious about how federal law enforcement agencies spend their time and our money? The Transactional Records Access Clearinghouse (www.trac.syr.edu) supplies the goods. The group tracks day-to-day operations at the FBI, the IRS, the Immigration and Naturalization Service, the Customs Bureau, the Bureau of Alcohol, Tobacco, and Firearms, and—thanks to a recent Freedom of Information Act victory—the Department of Justice, all the way through the first nine months of the Bush administration.

Brickbats

Steamy Georgia afternoons apparently have taken their toll on Southern gentility. Lawmaker Dorothy Pelote has introduced a bill in the state House of Representatives to ban people from answering the door in the nude. Currently, "the law allows [a person] to come to the door naked. It just doesn't let him go outside," Pelote says. "I don't even want him coming to the door naked." ■

A Chinese court has charged Hong Kong trader Li Guang-qiang with using "an evil cult to damage a law-based society." He will spend two years in prison for his crime: bringing Bibles into mainland China. ■

Lab tests show that almost half of all purported cocaine seized in drug raids by Dallas police in 2001 was actually finely crushed Sheetrock. The same goes for almost one-fourth of all methamphetamine seized. Unfortunately, some of the immigrant defendants have already been deported. Defense lawyers say their clients were framed, either by police or by the force's secret informant, who reportedly earned more than \$200,000 during two years of service. ■

Here's a zen riddle: How lumpy must a sauce be before it can be called a vegetable? That's the stumper facing the European Union's Customs Code Committee. The E.U.'s current "lump limit" is 20 percent, designed to nab importers who avoid higher tariffs on vegetables by disguising them as sauces. The tariff on sauces is 20 percent, while the duties on vegetables can reach 288 percent. ■

Want to golf in Germany? Start studying now. Germany is the only country in the world that

licenses golfers. To qualify, potential golfers must pass a written test on the rules and etiquette of the game. And they must be able to play 18 holes in no more than 108 strokes. The cost of the license is about \$1,000. ■

Since the British passed tougher gun-control laws in 1997, the murder rate for victims killed with guns has soared, and police officials say the number of illegal handguns grows daily. How have the nation's conservatives reacted? Oliver Letwin, the shadow home secretary, didn't have any kind words for self-defense: "One doesn't want to create a society in which people are liable to be mown down if they enter a property." ■

Residents who qualified for concealed weapons permits in Genesee County, Michigan, got a little something extra. Along with the notice to pick up their permits, many applicants also received fliers from the Michigan Partnership to Prevent Gun Violence. The fliers included information about gun safety and dunned recipients for donations to the partnership, which helped lead efforts to ban concealed carry permits. ■

A Swedish anti-E.U. activist hanging posters in Belgium was surprised when police told him the act was a crime in the kingdom—"disturbing the peace." But he was shocked when the authorities banned him for two weeks from Belgium and 13 other European nations, all parties to the border-opening Schengen Treaty. ■

Charles Oliver

charged 8,000 dissidents 100 percent of dues and then proceeded to spend some of the money on politics. "WEA intentionally chose not to comply with the law," ruled Judge Gary R. Tabor, who fined the union \$400,000 and ordered it to hand the state \$190,375 for attorney fees. It also had to refund \$180,000 to the teachers who didn't want their money spent on politics.

Tabor's decision marks the second time in three years the WEA has been fined for playing politics with ill-gotten money. In 1998 the union was fined \$430,000 for illegal activity in its campaign against charter schools and voucher initiatives two years earlier.

"It shows the unions care more about political power than the rights of their members," says Evergreen Freedom Foundation President Bob Williams, who has been dogging the union for years. "They need remedial learning." ■

No face time

Fake IDs

Jeremy Lott

FACIAL RECOGNITION technology is often billed as a tradeoff between privacy and security. A recent American Civil Liberties Union (ACLU) report suggests that it's closer to a no-win deal, resulting in less privacy and precious little added security.

The ACLU report focuses on Ybor City, Florida, where police began installing surveillance cameras with facial recognition technology last July. Faces caught on camera were compared by a computer to a database of 30,000 wanted criminals, a scheme that resulted in a loud outcry from privacy advocates. One dismayed resident told the local alternative paper *The Weekly Planet* that



"citizens of [Ybor] are now subjected to a police lineup for the crime of walking down the street."

In mid-August, the police department stopped using the technology, saying that because of redistricting, too many new officers would have to be trained to use the system. But Jay Stanley and Barry Steinhardt, authors of the ACLU report, suggest a more likely cause: The technology was a complete failure. It not only resulted in no arrests but made many false matches. In several cases it misdiagnosed a potential suspect's sex, and it was easily fooled by less than perfect lighting.

"Right now," Stanley explains, "discussion of a reliable face-recognition package is science fiction, which is not our line of work." ■

British drug reform

Pot Stops

Jacob Sullum

ACCORDING TO FBI figures released last fall, American police arrested more than 734,000 people for marijuana violations in



2000—a new record. About nine out of 10 arrests were for possession, and the other category, sale/manufacture, included cultivation for personal use.

In the United States, then, it's clearly not true that no one gets arrested for smoking pot anymore. But it looks like that will soon be the case in Britain, home of Europe's harshest drug laws.

Last fall British Home Secretary David Blunkett announced a proposal, expected to take effect this spring, to make marijuana a "Class C" drug. This status,