Notes from a Meeting with Barnaby Gibson
Ithaka Harbors Inc., New York City, July 27, 2005

Summary

- For third-party software, David Haines, perhaps in conjunction with work by Chris Coppola, provided copies of licenses and suggested actions to comply with the terms of the license. Such actions may permit inclusion of the software, or require the potential user to acknowledge reading the license, download the software from a specific site, or register use of the software. It is possible, though may not be permitted, to automatically download the software or to register use. Branaby is reviewing the licenses and recommended actions and suggesting changes. When this is completed, the licenses and actions can be developed into a policy and procedures document for iusing third-party "open source" software. The need for this arises from the many different "open source" software licenses in use.

- Barnaby said he would be willing to meet with representatives of the five grant-recipient institutions, in person, to review the options for documenting the ownership and transfers of software developed as work product or contributed and co-mingled with that software. The meeting would be under client-attorney privilege and available only to employees of the grant-receiving universities.

- Sakai Commercial Affiliates may have preferred procedures for documentation of ownership and licenses beyond those currently underway. Because of its expertise and experience IBM Corporation may be the most authoritative and demanding. Because r-smart has been in communication with IBM on this topic, I will ask Ray Barker to communicate directly with Barnaby about their interests.

Background

Ithaka Harbors Inc. provides certain services to the Mellon Foundation, projects, and other organizations. Ithaka Attorney Barnaby Gibson has offered to provide advice, outside his duties and responsibilities at Ithaka, to the Sakai project. He had prepared a memorandum "Re: Sakai Contribution Agreement," prepared Wednesday, July 27, 2005 addressed to Charles Severance.

Some of the conversation may be subject of the client-attorney relationship and is not documented here.

After discussing the memorandum and priorities, I suggested:

1. He continue his review of the third part licenses and the actions being taken to comply with the terms and conditions. (And expressed our appreciation for his personal contribution).

2. He should meet with representatives from the grant-funded institutions, he agreed this was possible. This would facilitate broad discussion under client-attorney privilege.

3. We would ask r-smart to provide information directly to Barnaby about IBM's interests or concerns.

The issues about ownership and licensing of software developed on the basis of existing code, with contributions by a number of developers within the grant-funded universities, other colleges, universities, and business, and business using third-party code with different licenses is not simple. Because of the responsibility of the institutions and, after the formation of the Sakai Foundation, members of the Board of Directors, I believe the suggested discussion would be helpful. (This first discussion should be limited to employees—not including contractors—of the five universities since their activity is governed by institutional policies).

Following this discussion, and perhaps immediately following this discussion, those who will be members of the Board of Directors of the Sakai Foundation could and should join the discussion.

Leaving the meeting I met Roger Schonfeld, complimenting him on his book "JSTOR: A History" and telling him how useful it has been to me.