

Perspectives from Independent Journalism and Media Online

Clients of the Online Media Legal Network



The Network

The practice of journalism is undergoing a dramatic transition. Both traditional and non-traditional journalism organizations are looking for ways to use the Internet to fill important information needs. Many of these online ventures, however, lack the expertise and financial resources to thrive in an uncertain legal environment and are in need of *pro bono* legal assistance. The Online Media Legal Network (OMLN) helps these online journalism and media ventures by connecting them with lawyers willing to provide *pro bono* and reduced-fee legal assistance. Lawyers participating in the network have expertise in media, intellectual property and business law. For more information, visit our website at <http://www.omln.org>.

The Clients

OMLN clients are some of the most promising ventures and innovative thinkers in online and digital media. They include experienced journalists and digital media entrepreneurs. Many of OMLN's clients are promising start-up operations experimenting with new business models and new ways to present information online. A significant number of these clients fill information gaps by covering local and state government and community news.

Among the clients we have helped are journalists transitioning from traditional media outlets to independent online publishing, many of whom have been affected by the turmoil and uncertainty within the news industry. Many clients are Knight News Challenge winners and other journalism grantees of the John S. and James L. Knight Foundation. A number of clients are also members of the Online News Association.

Since its launch in 2009, OMLN has been able to help clients obtain defense counsel in litigation, pre-publication review, and media and intellectual property counseling. OMLN has also helped startup enterprises obtain the assistance they need to form a new entity and draft agreements with partners, independent contractors and freelancers. Lawyers in the network have helped clients understand evolving fair use and intellectual property issues.

In this booklet you will find profiles of 5 such clients.

(NOTE: Each client described in this booklet has given permission for us to include their profile. Please do not use this information for any other purpose.)



The Online Media Legal Network
<http://www.omln.org>

Mapping Main Street

"I am a PhD candidate at Harvard and co-creator of Mapping Main Street (<http://mappingmainstreet.org>), a collaborative documentary media project that creates a new map of the country through stories, photos and videos recorded on actual Main Streets. Through the OMLN, we have been able to transform an initial experiment funded through seed grants into a nonprofit corporation with a viable plan for sustainability."

– Jesse Shapins

Mapping Main Street documents Main Streets across America using stories, music, photos and videos on its website to create an interactive map of the country. The project's goal is to highlight the diverse narratives and conceptions of Main Street to challenge the use of the term "Main Street" by politicians and the media to stand for a well-characterized set of values, uniform social background, and common economic interests. Mapping Main Street is created by Harvard PhD students Jesse Shapins and James Burns, with public media artists Kara Oehler and Ann Heppermann.

In addition to recording stories and taking photographs and video of the Main Streets they have visited, the creators have designed an online platform for citizens to share their own stories, images, and videos. So far, contributions have come from school groups, youth programs, and individuals covering over five hundred streets named Main from around the country. Mapping Main Street has also produced a series of shows that aired on NPR's *Weekend Edition Saturday*. The first show in the series featured Chattanooga, Tennessee, and told the story of several individuals set against a gritty backdrop of Main Street where they lived and worked. Main Street in San Luis, Arizona was the focus of the second show, where the street ends at a border crossing with Mexico.

Mapping Main Street is funded by Maker's Quest 2.0, an initiative between the Association of Independents in Radio and the Corporation for Public Broadcasting, and by the Berkman Center for Internet and Society at Harvard University. Jesse Shapins is pursuing a PhD in the History and Theory of Urbanism, Film and Visual Studies, a dual degree at the Harvard Graduate School of Design and the School of Arts and Sciences, and is interested in mapping the perception of place across different media.



Spot.U.s

"The Online Media Legal Network has been a boon to Spot.U.s. As a nonprofit startup we already have two strikes against us. A third could easily be lack of legal support. But with the help of OMLN, Spot.U.s has a strong privacy policy, terms of use and safe legal contracts with reporters."

– David Cohn

Spot.U.s is a pioneer in crowd-funded investigative journalism. It encourages public participation in the production of journalism by collecting microdonations to fund journalists' proposals for investigation. Stories are published on the Spot.U.s website or on its partner news websites.

The project has recently published work in *The New York Times* and has also worked with the Annenberg School of Communications at USC, the *Oakland Tribune*, *San Francisco Magazine*, the *Earth Island Journal*, *Oakland Local*, and the *Public Press* among others. Spot.U.s currently focuses on the Bay Area and Los Angeles, but plans to expand to other (yet undetermined) geographic regions in the near future.

Its business model has been the subject of articles in *The New York Times*, *Los Angeles Times*, *Business Week*, and *Wired*. Spot.U.s is funded in part by the Knight Foundation and is a nonprofit project of the Center for Media Change.

David Cohn is the founder and director of Spot.U.s. He has been a journalist covering technology for *Wired* and has written for *Seed*, *Columbia Journalism Review*, and *The New York Times*.



The Online Media Legal Network
<http://www.omln.org>

Christopher Elliott

“When I was sued for defamation and tortious interference by a travel agency, I didn't know what to do. The complaint targeted my blog and was obviously filed with the intention of forcing me to remove large sections of my site that were unflattering to the company. I applied for help through the Online Media Legal Network, and within a few days, I was connected with a top-notch lawyer who developed a strategy that would ensure this frivolous lawsuit would not succeed. Without the Online Media Legal Network, I would have been forced into an unfavorable and unfair settlement.”

– Christopher Elliott

Christopher Elliott is a prominent journalist and consumer advocate who writes about the travel industry. Through his blog, available at <http://www.elliott.org>, Christopher Elliott gives advice to travelers, analyzes policies in the travel industry, and reports on new regulations and developments. In December 2009, he was one of two travel writers who received considerable media attention after the Transportation Security Administration issued a subpoena directed at his electronic records and sent federal agents to his home based on reporting on and posting of travel security directives.

Christopher Elliott is also the ombudsman for National Geographic *Traveler*, a columnist for *The Washington Post*, MSNBC.com and Tribune Media Services.



MobileActive.org

MobileActive helps NGOs use mobile communication tools to engage their constituents. It publishes a guide to using mobile technology products and services for social impact. In the works are applications for video and audio recording, a tool to distribute mobile content to social media sites and detailed how-to information that outlines what users can do with the phones they have. Recently, MobileActive released a guide to ensuring mobile security for citizen journalists working under repressive regimes. In addition, the project collects data on usage and trends to develop best practices for nonprofit organizations.

Katrin Verclas is the co-founder and editor of MobileActive.org. She works on projects using mobile technologies in emerging democracies, focusing on governance, accountability and political participation and has written the guide, *A Mobile Voice: The Use of Mobile Phones in Citizen Media*.

Smarthistory.org

Smarthistory is a free, multimedia, web-based art history textbook for art history students, museum visitors, and informal learners. The website presents information on works of art by juxtaposing short essays with images and discussions about art. The project began in 2005 as a series of podcasts for use at the Museum of Modern Art and the Metropolitan Museum of Art and has since expanded to become a survey of art history online. In 2009, Smarthistory.org won the Webby Award for best educational website and was picked by PC Magazine as one of the "Top 100 Websites."

Smarthistory was created by Dr. Beth Harris and Dr. Steven Zucker, both professors at the Fashion Institute of Technology, as a way to engage their art history students. The project is supported by a grant from the Samuel H. Kress Foundation.



Services We Provide

OMLN matches clients with attorneys willing to provide free, low-cost, or full-fee legal services to online media ventures. Participating OMLN lawyers assist clients with a wide variety of legal issues, including assistance with business formation and governance, copyright licensing and fair use, employment and freelancer agreements, pre-publication review of content, and representation in litigation and other adversarial situations.

Litigation-oriented matters may include:

- Responding to cease-and-desist letters claiming that articles, blog posts, or user comments are defamatory.
- Filing pleadings and motions in defamation, invasion of privacy, copyright, and trademark cases involving First Amendment or fair use issues. Other potential subject areas include trade secrets, rights of publicity, false advertising, intrusion, conversion, trespass, and wiretapping violations.
- Filing motions to dismiss or for summary judgment based on section 512 of the DMCA and section 230 of the Communications Decency Act in cases involving user-generated content.
- Filing motions to quash subpoenas seeking IP addresses or other identifying information for bloggers, website operators, and user comments.
- Filing motions to quash subpoenas seeking the identity of confidential sources or the production of newsgathering materials.
- Handling discovery and representing clients at trial.

Transactional assistance may include:

- Preparing and filing documents related to the formation of a corporation, LLC, or non-profit organization under state law.
- Preparing filings for obtaining nonprofit, tax-exempt status under federal and state law.
- Drafting investment, partnership, operating, or shareholder agreements, including provisions related to the ownership of intellectual property rights.
- Preparing and revising website Terms of Use and Privacy Policies.
- Negotiating and drafting independent contractor and joint venture agreements.
- Negotiating and drafting intellectual property license and assignment agreements.
- Negotiating and drafting software and other vendor agreements.

Intellectual property counseling may include:

- Conducting trademark clearance searches for project names and other logos, symbols, and taglines.
- Assisting with the state and federal registration of trademarks, including project names and other logos, symbols, and taglines.
- Counseling clients on Creative Commons and other copyright licenses, both as to their own works and their use of third-party works.
- Counseling clients on the contours of copyright fair use, including advice on news aggregation and the use of third-party content.
- Counseling clients on the collection, screening, editing, and publication of user-generated content.

Newsgathering matters may include:

- Preparing and submitting open records requests to government agencies (e.g., FOIA and state open records laws).
- Counseling on rights under state open records and open meetings laws, as well as access to court proceedings and documents.
- Litigation involving open records and open meetings disputes, as well as access to court proceedings and documents.
- Counseling and assistance in acquiring press credentials.



How We Select the Clients

Legal representation through OMLN is available to qualified online journalism ventures and other digital media creators. OMLN staff assess prospective clients to determine their eligibility by applying the following, non-exhaustive, criteria:

- **Viability.** We believe that limited resources can have the greatest impact when focused on ventures that are economically viability and/or sustainable over time.
- **Adherence to journalistic standards.** We seek to support ventures that practice the journalistic standards of truth, fairness, and transparency.
- **Innovation.** We're looking for ventures that are at the forefront of efforts to harness the Internet to revolutionize journalism and fill unmet information needs.
- **Independence.** The network will primarily support media ventures that are independent of traditional media or corporate ownership.
- **Original reporting.** Preference will be given to ventures that create their own original reporting, or that use traditional news sources in new or innovative ways.
- **Public interest.** Priority will be given to ventures that serve the public interest, including those that fill important information needs or foster a sense of community.

The Online Media Legal Network is an initiative of:



CITIZEN MEDIA
LAW PROJECT

<http://www.citmedialaw.org>



Berkman

The Berkman Center for Internet & Society
at Harvard Law School

<http://cyber.law.harvard.edu>