

TidBITS#786/04-Jul-05

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TidBITS#786/04-Jul-05
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This week's issue revolves around audio, but in two very different ways. First, Adam examines the recent Supreme Court decision against peer-to-peer file sharing companies Grokster and StreamCast Networks. Then Andy Affleck rejoins us for a look at the new podcasting support in iTunes 4.9. In the news, we cover the releases of QuicKeys X3 3.1 and Virtual PC 7.0.2, note the passing of grayscale iPods, and announce "Take Control of Tiger," our latest Take Control print collection.

Topics:

MailBITS/04-Jul-05

P2P Takes a Licking but Keeps on Ticking

Apple Releases iTunes 4.9 with Podcasting Support

Take Control News/04-Jul-05

Hot Topics in TidBITS Talk/04-Jul-05

<<http://www.tidbits.com/tb-issues/TidBITS-786.html>>

<ftp://ftp.tidbits.com/issues/2005/TidBITS#786_04-Jul-05.etx>

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MailBITS/04-Jul-05

****QuicKeys X3 3.1 Supports Automator, Adds Toolbars**** -- Startly Technologies has released QuicKeys X3 version 3.1, adding support for incorporating Automator workflows into QuicKeys shortcuts and bringing back SoftKeys, which provides a translucent toolbar with 10 slots for holding shortcuts. Smaller improvements include a new option for the Open Items action that lets you specify on the fly which application to use, the Action Palette for providing faster access to shortcuts within QuicKeys Editor, and the capability to trigger shortcuts based on the mounting or dismounting of specific drives or network volumes. For more about QuicKeys X3, see "QuicKeys X3 at the Crossroads" in TidBITS-767_. QuicKeys X3 3.1 requires Mac OS X 10.3.9 or later and is a 14.1 MB download. It's a free update for users of QuicKeys X3; updates from previous versions run between \$30 and \$70, and new copies cost \$100. [ACE]

<<http://www.quickeys.com/products/qkx.html>>
<<http://db.tidbits.com/getbits.acgi?tbart=07993>>

****Virtual PC 7.0.2 Gains Full Tiger Compatibility**** — Microsoft has released Virtual PC 7.0.2, a free minor update that provides full compatibility with Mac OS X 10.4 Tiger. In particular, the update fixes problems under Tiger with Virtual Switch, Zero Configuration Printing, and the Dock Start Menu. The update is a 17 MB download and will update versions 7.0 and 7.0.1. Microsoft also announced that new copies of Virtual PC 7 purchased before 30-Sep-05 would be eligible for a \$30 rebate. [ACE]

<http://www.microsoft.com/mac/downloads.aspx?pid=download&location=/mac/download/misc/vpc7_0_2.xml>
<<http://www.microsoft.com/mac/products/virtualpc/rebate/rebate.html>>

****Apple Says Goodbye to Grayscale iPods**** — In conjunction with the release of iTunes 4.9, Apple merged its iPod and iPod photo product lines. Gone are the black and white screens that appear on most current iPods – it's all color now. The new lineup includes a 20 GB iPod for \$300 and a 60 GB iPod for \$400. Apple also introduced a 20 GB iPod U2 edition (black body, now color screen) for \$330. At the same time, the price of the 1 GB iPod shuffle has been reduced to \$130. [JLC]

<<http://www.apple.com/ipod/>>

****DealBITS Drawing: Audio Hijack Pro Winners**** — Congratulations to David Scott of mac.com, Mary Seiler of comcast.net, and Marian Petrides of earthlink.net, whose entries were chosen randomly from 1,246 valid entries in last week's DealBITS drawing and who each received a copy of Audio Hijack Pro from Rogue Amoeba Software, worth \$32. Even if you didn't win, you can still save \$5 on Audio Hijack Pro through 11-Jul-05. Use the coupon code TIDBITS2 when ordering to receive your discount; this offer is open to all TidBITS readers. [ACE]

<<http://www.rogueamoeba.com/audiohijackpro/>>
<<http://db.tidbits.com/getbits.acgi?tbart=08149>>

P2P Takes a Licking but Keeps on Ticking

by Adam C. Engst <ace@xxxxxxxxxxx>

On 27-Jun-05, the Supreme Court of the United States handed down

a unanimous decision in the MGM v. Grokster case that dealt a blow to proponents of peer-to-peer (P2P) file sharing technologies and gave free rein to the lawyers of the large media companies. Or did it?

****The Case**** — The case was relatively simple. MGM and 27 other large media companies filed suit against the P2P companies Grokster, StreamCast Networks (makers of the Morpheus program), and Sharman Networks (makers of the Kazaa software), alleging that the three were responsible for copyright infringements that occurred as a result of the use of the free Grokster, Morpheus, and Kazaa software (hereafter, I'll refer to the three as "Grokster" for simplicity; in fact, Sharman's part of the case wasn't even included what went before the Supreme Court). The Supreme Court heard the case on appeal after two lower courts had ruled in favor of the P2P companies.

Those rulings were based on the well-known Sony Corporation of America v. Universal City Studios case from 1984 that revolved around whether or not Sony was liable for copyright infringement because the Betamax video recorder could be used to infringe upon copyrighted works without the permission of the copyright holder. In that case, Sony was held to be free of liability because the Betamax recorder was "dual-use" in that it could be used for both infringing and noninfringing purposes. The court's particular wording was that the Betamax was "capable of substantial noninfringing uses." In the Sony case, the Supreme Court held that although Sony knew the Betamax could be used for infringing purposes, time-shifting (recording a program for later viewing) was a substantial noninfringing use.

http://www.eff.org/legal/cases/sony_v_universal_decision.html

The fact that Grokster and Morpheus could be used for substantial noninfringing uses formed the core of the defense case, and the lower courts interpreted the Sony case fairly literally in agreeing. In disagreeing with the lower courts, the Supreme Court found that Grokster and StreamCast were potentially liable for copyright infringement because they actively promoted the fact that their software could be used to download copyrighted works without permission. In other words, intent is important, and the companies intended to create software that would enable users to infringe copyrights – they were inducing users to infringe copyright law. The Supreme Court based this decision on internal documents showing, for instance, that the companies created advertising aimed at picking up users from the original Napster service after it was shut down and that they planned to flaunt illegal uses of their software for PR purposes. More telling was the advertising-based business model used by each, since success in such a business model requires increasing the number of users

and amount of usage, and both companies promoted the capability of their software to provide popular copyrighted works as a way of increasing usage. It's worth reading the full text of the decision to understand the full reasoning:

<http://www.eff.org/IP/P2P/MGM_v_Grokster/04-480.pdf>

With this decision, the lawsuit returns to lower courts, where the question of whether or not these P2P companies were in fact responsible for contributory copyright infringement will be examined. Given that Grokster and StreamCast did not dispute the fact that their programs were heavily used for downloading copyrighted works (between 75 percent and 90 percent of the total works available, according to an MGM survey given as evidence in the case), it seems unlikely to me that either will survive these subsequent cases unless they can somehow show that the Supreme Court's finding of inducement to infringe was incorrect. Sharman Networks claims in a press release that they never encouraged or assisted Kazaa users to download copyrighted works; we'll see what the court finds.

<<http://www.sharmannetworks.com/content/view/full/310>>

****The Subtext**** -- As with many cases that reach the Supreme Court, this one isn't really about the specific fate of a few rather unappealing companies. The bigger picture is the battle between the rights of copyright holders as set down in the Constitution and radically extended by Congress many times under lobbying, and the chilling effect on technological innovation that the protection of copyright could engender. Put another way, if a potential technology could be used to infringe copyright, will technologists still invest the time and money into development given the likelihood of facing expensive lawsuits?

On the face of it, of course, it looks bad for technologists. But the Supreme Court was fairly careful not to reinterpret or modify the decision of the Sony case, thus failing to clarify the situation further. Justice Ruth Bader Ginsburg touched on the topic slightly, by arguing in a concurring opinion that the P2P software made by the defendants was used overwhelmingly to download copyrighted works, thus implying that the Sony decision might not apply if the technology in question were overwhelmingly used to infringe, even if substantial noninfringing uses were possible. But Justice Stephen Breyer, in an opinion that concurred with the overall decision, disagreed with Justice Ginsburg, arguing that the noninfringing uses in the Grokster case were equivalent to those in the Sony case. He also pointed out that a key phrase in the Sony case was "capable of substantial noninfringing uses," and that the "capable of" part of that

phrase was intentionally forward-looking, allowing for the possibility that there might be other noninfringing uses that would appear over time. That's tremendously important, because it underscores the entire argument – that the freedom to innovate must be protected because of future capabilities that are as yet unrealized. He summed up:

"Of course, Grokster itself may not want to develop these other noninfringing uses. But Sony's standard seeks to protect not the Groksters of this world (which in any event may well be liable under today's holding), but the development of technology more generally."

Again, I encourage anyone interested in this topic to read the full decision, which apart from some bits referencing prior cases in an abbreviated fashion, is in fact highly readable and truly fascinating.

****Where to Go from Here**** -- Although I'm pleased to see the Supreme Court upholding the Sony decision even while ruling against Grokster, I remain troubled about the entire situation. My fear is that the Content Cartel – the large media companies that collectively control a vast quantity of our society's cultural products – will see this victory as license to file ever more lawsuits against any company or individual seen as infringing copyrights. We are talking about a particularly litigious industry: according to Cary Sherman, president of the RIAA, his organization has already filed about 10,000 lawsuits against individuals, with the average settlement being about \$3,000. (If you were wondering, no, none of the settlement money ever goes to the artists who were in theory harmed. Cary Sherman told me that the RIAA applies all the money to legal fees, given that it loses a lot of money on every lawsuit.)

On the other side of the fence, I expect we'll see many providers of file sharing programs removing their products from distribution, and those that remain being more careful about how they promote and target their products so as not to run afoul of this recent Supreme Court decision. We'll also undoubtedly see many more such products go completely anonymous. Given that the existing P2P networks can be used, totally legitimately, to distribute new software, there's no reason developers need identify themselves in any way if they're not interested in earning money from their work. In other words, I think we'll see an escalation in the arms race between file sharing proponents and the Content Cartel.

In the long run, I like the EFF's suggestion of a voluntary collective licensing scheme. You can read the full details at the page linked below, but in essence, everyone would voluntarily

pay (or have it bundled in ISP or other charges) some small fee, say \$5 per month. A non-profit, transparent collecting agency roughly along the lines of ASCAP and BMI would then collect the money, determine how to distribute it, and send it to the artists. I say "roughly" modeled on ASCAP and BMI, which perform the collection and distribution function for songs played on the radio and in public venues, because there are plenty of criticisms leveled against them, including the fact that it's not unheard-of for artists whose work is played on air never to receive a dime. But voluntary collective licensing would generate significant revenue for artists while allowing individuals to listen to or view whatever they wanted, all while participating in the distribution of their favorite works via P2P networks.

<http://www.eff.org/share/collective_lic_wp.php>

More generally, I remain troubled that an act as simple and basic as sharing is slowly but surely being turned into a bad thing. The 1980s may have started it all with the "Me Generation," but I think we're seeing the 21st century starting off with far too much power in the hands of corporate behemoths driven only by quarterly revenues. The news we read, the entertainment we enjoy, the food we eat, the clothes we wear... for many of us, it all comes from companies for whom we're nothing more than easily manipulated, salary-earning lemmings. The Internet is the greatest opportunity we've seen for diversity to flourish, whether it be in providing alternative news from abroad, music and video from independent artists, access to a vast collection of gourmet foods, or just the opportunity to find unusual clothes to wear. The Internet will never be a utopia where goodness and light are all that one experiences, but it's our last best hope to escape a future where our culture is spoon-fed to us by Sales & Marketing. Culture, by definition, is shared, and we should be investigating every imaginable possibility to help people come together around commonalities without everything devolving to a commercial transaction.

I may not agree with them on every point, but I think the Electronic Frontier Foundation is doing some of the best work in protecting our ability to create technological innovations, and I encourage you to support them as I've done in the past and will continue to do.

<<http://secure.eff.org/saveinnovation>>

Apple Releases iTunes 4.9 with Podcasting Support

by Andy J. Williams Affleck <andyjw@xxxxxxxxxxxxxxxx>

Apple last week released iTunes 4.9, adding extensive support

for finding, subscribing to, and managing podcasts, which are audio files that are made available for anyone on the Internet download and listen to (see "Podcasting: The People's Radio" in TidBITS–766_). The new podcast support adds to iTunes functionality that previously required the use of separate programs such as iPodder, iPodderX, NetNewsWire, and others. With iTunes 4.9, Apple has made the process of finding, subscribing to, and listening to podcasts simpler than ever before, but notable confusions and oversights remain to be corrected in future versions of iTunes.

<<http://www.apple.com/itunes/podcasts.html>>
<<http://db.tidbits.com/getbits.cgi?tbart=07986>>

****Discovering/Subscribing/Managing Podcasts**** — Launch iTunes 4.9, and you'll see a new Podcasts item in the left-hand column (the Source pane). This is the management interface for podcasts to which you've subscribed. Syndicated podcasts that you can choose to receive appear in the iTunes Music Store as a new genre when browsing.

To view Apple's directory of podcasts, click the Podcast Directory link at the bottom of the screen. Or, you can click the Music Store link in the Source pane, and choose the Podcasts link to browse. As with music in the store, a glitzy page showcases podcasts. Select a podcast or a podcast category to see the same familiar views used to navigate and buy music. The podcast directory is haphazard, containing some moribund podcasts and lacking others that are current, active, and quite popular. Luckily, Apple provides a way on the main Podcasts page in the store to suggest new podcasts and also a way to request the removal of a podcast. Apple hasn't clarified how they will opt to follow suggestions for addition or removal.

<<http://phobos.apple.com/WebObjects/MZStore.woa/wa/viewGenre?genreId=26>>
<<https://phobos.apple.com/WebObjects/MZFinance.woa/wa/publishPodcast>>

Once you find podcasts that interest you, subscribe to them by clicking a simple Subscribe button (which replaces the "Buy" button found on songs). The podcast is listed on your Podcasts page, and the most recent episode is automatically downloaded (more on this later).

All podcasts currently in the iTunes Music Store are free, but there is no reason to assume that this will always be the case. Apple appears to be preparing for that day by featuring podcasts offered by larger media outlets, including public radio, while relegating the early initiators of the distribution format to an Indie category that appears at the bottom of the Podcasts splash page. (Of course, some podcasters will welcome a mechanism by

which they can offer for-fee podcasts for premium content just the way that certain radio shows are sold via Audible, Apple, and others now.)

You're not limited to Apple's list, of course. To subscribe to a podcast that's not in Apple's directory, you must first find the syndication link that includes podcasts on the site that's offering the audio downloads. Copy the link, which often ends in .rss or .xml. Then choose Subscribe to Podcast from the Advanced menu in iTunes 4.9 and paste the link. Click OK, and if the link is correct, the podcast appears in the Podcasts list via the Source menu.

Unsubscribing to a podcast is a two-step process. First, you select the podcast in the list and click the Unsubscribe button in the bottom right of the iTunes window. This leaves the podcast listed among your subscribed podcasts with a Subscribe button next to it and retains all episodes you have already downloaded. To remove it (and all episodes) from the list you must Control-click on it and choose Clear from the contextual menu. If you perform this second step first, you can unsubscribe and delete all podcast files at once.

****Setting Podcast Preferences**** --- In the iTunes 4.9 preferences, you can set the frequency that iTunes checks for new episodes, how many to download if there are more than one at the time checked, and how many to retain.

Unfortunately, these preferences are global for all podcasts, lacking the granular control provided by other programs that specialize or include podcasts. For instance, NetNewsWire Pro 2.0 allows you to set automatic downloads (but not the number of downloads or items retained) for each feed, as well as a global preference.

A new setting in the iTunes preferences lets you choose which podcasts are synchronized to your iPod (all models except the iPod shuffle, to which you must copy podcasts manually, since Autofill ignores podcasts, much as it ignores audio books) and, of those subscriptions, whether to synchronize all, new, unplayed, or checked episodes. On the iPod, podcasts are also grouped into a single Podcasts playlist and do not appear in other playlists unless you manually put them there in iTunes. Click Wheel iPods display a top-level Podcasts menu item; podcasts on older iPods appear as a Podcasts playlist.

<http://docs.info.apple.com/article.html?artnum=300558>

<http://docs.info.apple.com/article.html?artnum=301880>

****Managing Podcasts**** — In iTunes, podcasts are grouped together into the Podcasts entry in the Source list on the left. In fact, they are listed only there; they do not show up in the main library, nor do they appear in any playlists. You can add them to normal playlists manually, but you cannot use smart playlists to manage your podcast listening, a major oversight on Apple's part.

A blue dot next to a podcast name indicates an unheard episode. As with other songs in iTunes, a small speaker icon next to the name indicates that you are listening to, or were in the middle of listening to, a show.

By opening the disclosure triangle next to each podcast in your subscription list, you can view all episodes currently listed in the podcast's syndication feed, which is usually the last five episodes. Download shows that have not been retrieved already by clicking the Get Show button.

To find older episodes, you must visit the podcast's Web site, which takes some doing. First, you must click the right-facing arrow after the podcast's name (assuming you haven't turned these arrows off in your iTunes preferences.) If the podcast is not in the iTunes Music Store (that is, you subscribed to it manually), you will go directly to that podcast's Web site. If, however, the podcast is in the store, you will go to its page in the store where you will find a link to take you to its Web site.

A welcome addition is the information button (an i in a circle) to the far right of each episode which displays the show notes for that episode. Show notes are information – metadata, more technically – about each episode provided by the show's creator. Now you can see what a given show is about before you download it. (This metadata is indexed by Spotlight, making it easier to find archived podcasts on a system running Mac OS X 10.4 Tiger.)

As noted earlier, the TiVo-like options in iTunes preferences for choosing whether to keep All, All Unplayed, Most Recent, or 2, 3, 4, or 10 episodes can't be set on a podcast-by-podcast basis. Some people may want to keep only the latest versions of podcasts rather than letting them pile up and filling their hard drive while others may be devotees of certain shows and want to hear every single one, no matter how far behind they may fall. I like to keep all the episodes of serials such as The Radio Adventures of Dr. Floyd regardless of whether they have been heard or not (my five-year-old loves them), whereas I'd prefer to keep only the most recent episode of news-based shows. The only workaround is to keep everything and manually delete older episodes, a tedious process at best.

<<http://www.doctorfloyd.com/>>

In another oversight, iTunes could better refine how it manages podcast files. If I listen to an episode and want to remove the file from my hard drive, the only option within iTunes is to select the episode and hit the Delete key, or Control-click it and choose Clear. That action removes the entry from the list of episodes and, optionally, the file from my hard drive. But what if I later want to download it again for some reason? It no longer even appears in the list of episodes with a Get button. It's completely gone. The only way I can find to remove a file but leave the entry in the list is to Control-click on the entry, choose Show Song File from the contextual menu, and then manually move it to the Trash. Even then, the show is still listed as if it were still there and there is no Get button even after iTunes figures out that the file is missing.

****Listening to Podcasts**** — Listening to podcasts in iTunes is the same as listening to any music: double-click and listen (or select the podcast and click the play button). iTunes remembers at which point you left off if you stop listening to an episode, so you can easily go back to that point – regardless of file format, which is convenient and a welcome addition to iTunes.

But iTunes 4.9 also suffers from a major bug in that a podcast is marked as played the instant you begin listening to it, as opposed to when you finish listening to it, as with songs. So, if you have iTunes set to keep only unplayed podcasts and you listen to the first 10 seconds of a podcast and then stop to save it for later, it will vanish the next time iTunes updates (according to the schedule you have set in iTunes Preferences). This bug also affects synchronization to an iPod if you base the sync on unplayed episodes. Apple should either create a new category called "In Progress" so you know which podcasts you are in the middle of, or they should treat podcasts like all other music: consider a file as played only within a few seconds of the end. Personally, I'd like to see both: consider a podcast unheard until the last few seconds (not the actual last second as the iPod does) and provide a way to see which podcasts I have started but not finished.

Apple introduced its own podcast, the New Music Tuesday Podcast, which demonstrates a new, exciting feature: bookmarks within a single podcast. Apple's podcast showcases a number of different artists, and as the podcast plays, the album art display on the lower left changes to reflect the current artist. In addition, a new bookmarks menu appears to left of the main track display to provide immediate access to each artist/segment in the list. Apple also released a beta command line tool called the Podcast Chapter Tool which helps power users build their own such menus

for their shows. To download it, click Publish a Podcast in the Podcasts page of the iTunes Music Store, click Learn More about Podcasting on iTunes, and scroll all the way to the bottom of that page.

Podcasts work on all iPods, but an updater released last week for fourth generation iPods – those with the click wheel – provides additional podcast support, such as bookmarkability for all podcasts regardless of format, the capability to display show notes by clicking the center button twice, and scrolling long podcast names in the main display. It's possible that older iPods may pick up these new features as well in the future, much as most of the new features of the Click Wheel iPods were rolled out to earlier generation iPods some months after the Click Wheel models were released.

****A Good Start, but More Work Needed**** -- Apple's entry into podcasting is the first for a major company and quite well done for an initial effort. That said, there are a number of significant problems that need to be addressed. I suspect many power users will prefer to stick to their current methods of podcast management so they can continue to take advantage of smart playlists, better file management, and the like. But for the majority of users, iTunes 4.9 does the job and will help take podcasts further into the mainstream.

Support for the popularity of the feature comes from early reports that major media sites, like KCRW, have had enormous boosts in their podcast listenership since iTunes 4.9's release. The L.A. Times reported that KCRW saw an increase from 3,500 to 100,000 daily – yes, daily – downloads of its programs. Other reports noted that iTunes users signed up for a total of one million subscriptions in the first two days.

That popularity is also revealing a few kinks in the system: at least some subscriptions are redirected through Apple's servers rather than downloaded directly, and some of the more popular shows have appeared as inaccessible for some people. Hopefully, these are just short-term glitches.

iTunes 4.9 is free, and you can get it from Software Update or from Apple's Web site as an 11.1 MB download.

[<http://www.apple.com/itunes/download/>](http://www.apple.com/itunes/download/)

[Andy J. Williams Affleck is a project manager for a U.S. federal government contractor and an expert in usable accessibility in Web design. He's long been fascinated by any tool to allow the individual to communicate to others, be it newsletters, email, weblogs, podcasting, or whatever comes next.]

Take Control News/04-Jul-05

by Adam C. Engst <ace@xxxxxxxxxxx>

"Take Control of Tiger," the latest print collection of Take Control ebooks published in association with our friends at Peachpit Press, is now available! If you've been holding off on installing Tiger because you didn't want to print out hundreds of pages of ebooks, or if you would simply prefer to read about Tiger in a professionally designed, four-color book, you can now purchase the 350-page collection from Amazon for only \$19.79. "Take Control of Tiger" includes the latest versions of all four of our Tiger ebooks, and customers are entitled to any future free updates of the included ebooks. (See "Take Control Expands to Print" in TidBITS-747_ for more details about our print collections.)

<<http://www.amazon.com/exec/obidos/ASIN/032133017X/takecontroleb-20/ref=nosim/>>

<http://www.takecontrolbooks.com/catalog.html#print_collections>

<<http://db.tidbits.com/getbits.cgi?tbart=07820>>

Hot Topics in TidBITS Talk/04-Jul-05

by TidBITS Staff <editors@xxxxxxxxxxx>

The second URL below each thread description points to the discussion on our Web Crossing server, which will be faster.

****Multi-platform Backup Solution**** -- A reader looking for software that will back up an environment of mixed operating systems finds that the options aren't simple. The TidBITS Talk community rallies, suggesting alternatives. (11 messages)

<<http://db.tidbits.com/getbits.cgi?tlkthrd=2641>>

<<http://emperor.tidbits.com/TidBITS/Talk/494/>>

****Wearable GPS devices**** -- Do you have a tendency to get lost when you go running? Or maybe you just like to know how far you've gone on each run. Either way, this thread offers suggestions for small GPS devices. (4 messages)

<<http://db.tidbits.com/getbits.cgi?tlkthrd=2642>>

<<http://emperor.tidbits.com/TidBITS/Talk/495/>>

****Statistics software for the Mac**** -- A continuation of an

earlier thread reveals more solutions for good statistical analysis software. (38 messages)

<<http://db.tidbits.com/getbits.cgi?tlkthrd=2644>>

<<http://emperor.tidbits.com/TidBITS/Talk/224/>>

****A TV Watching Monster****— Following Adam's article about the iTV Link cable for connecting a computer to one's television, a reader recommends a similar product. (2 messages)

<<http://db.tidbits.com/getbits.cgi?tlkthrd=2645>>

<<http://emperor.tidbits.com/TidBITS/Talk/497/>>

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