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Today's News

NATIONWIDE ONLINE REGISTRY

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Nationwide Website for Finding Sex Offenders Gets Mixed Reviews

The Justice Dept. plans to launch a nationwide sex offender registry website on which citizens scan more than 20 state-specific databases with a single search, U.S. Attorney Gen. Alberto Gonzales said Fri. Speaking in D.C. at the National Press Club, Gonzales said he expects the site to be available for public use and searches within 60 days. Officials want all 48 states with public sex offender registries included in the database by fall. Ore. and R.I. don't publish sex offenders' names on the Web.

Individuals will be able to key in a name, zip code or county to search for registered sex offenders, DoJ said. States will decide whether to incorporate their databases into the DoJ site, which officials said will relieve privacy and misuse concerns. Consumer reporting agency Ap-screen established a similar free online registry in March 2004. Company founder Tom Lawson said the site has become popular with, among others, groups like the Girls Scouts and the U.S. Youth Soccer league. "If the government can step in, I'm 150% behind it," Lawson said of DoJ's plan: "I hope that it puts mine out of business."

Senate Judiciary Committee Chmn. Specter (R-Pa.) and Sen. Dorgan (D-N.D.) dropped a bill in April to create such a site. A companion bill in the House (HR-95) was introduced by Rep. Gillmor (R-O.) in Jan. "Sex offenders don't stop at state lines. Neither should sex offender registries," Dorgan said last month: "We need to close a dangerous loophole that currently leaves our communities and our children at risk." On Fri., Dorgan applauded the DoJ announcement, calling a public online database essential to tracking convicted sex offenders. The senator first proposed the national database in a bill he called Dru's Law, in honor of Dru Sjodin, a N.D. woman abducted in a mall parking lot in Nov. 2003 and found murdered 6 months later. The man charged with her murder, a repeat sex offender, lived just across the state line in Minn. Dorgan won unanimous Senate approval for the bill late last year but it stalled in the House in the crush of last-minute business before the 108th Congress ended.

Gillmor found fault with the DoJ proposal. A spokesman said the database is a good first step but wouldn't ensure all states are represented equally, since state participation is voluntary. Gillmor's bill prescribes a penalty for states that don't comply, he said. The DoJ site also would suffer from lack of uniformity, since different states provide different information to the public. Some use photographs, others describe offenses. "People should have as much information as possible and be as educated on their community as they can be," he said. An ideal solution would be to open the FBI database, which has detailed information on sex offenders across the U.S. "This belongs to the people and the people should have the opportunity to see it," the official said.

Regardless of how the registry is developed, intensive monitoring is needed to ensure its accuracy, said Margaret Bullens, research dir. for the ALLY Foundation, a nonprofit created in memory of Alexandra Zapp, killed by a sex offender in 2002. According to National Center for Missing & Exploited Children (NCMEC) statistics, more than 500,000 sex offenders are supposed to be registered in the U.S., but at least 100,000 are missing from the system. Law enforcement also must get resources, she said. The foundation strongly backs Gillmor's bill. -- *Andrew Noyes*

No Free Phoning Future?

VoIP Providers Battle Marketing Costs, Eye Foreign Markets

SAN FRANCISCO -- In the VoIP service business, "one hundred percent this is a game about customer acquisition costs," said 8x8 CEO Bryan Martin. It's easy to burn money, and the company isn't "willing to overspend" at this early stage, he told the Thomas Weisel Internet Conference for investors here last week: "We turn down channels that cost us too much to get a customer, and we're focused on the bottom line." Martin also said direct equipment sourcing from Taiwan and China gives his company an advantage over Vonage, which "may not get the best prices from Cisco."

Lesser-known i2 Telecom holds its customer acquisition cost to \$60, compared with \$200 revenue per user, said CEO Paul Arena. Instead of offering primary line replacement, as 8x8 and Vonage do, the company pursues customers in the military, travelers and mobile professionals. It's "about to launch in 10,000 retail locations" sales of its VoiceStick, a keychain-sized, patent-pending Internet access device that's in effect a VoIP phone customers can carry in their pockets and plug into computer USB ports, Arena said. I2 said last week new retailers include Army Air Force Exchange Services, Amazon.com, Hudson News, Musicland Group, Target.com and representatives at more than 1,000 colleges.

Vonage also watches customer acquisition costs, said Jamie Sereno, corporate communications dir., but he emphasized the benefits of building the business to drive down capital, termination and marketing costs. Vonage does "billions of Internet ads; that's where the broadband customer is," Sereno said. He and Martin said their companies are busy with partners -- Vonage with Vtech and 8x8 with Uniden -- preparing to roll out plug & play VoIP wireless phones to spur mass market adoption.

Vonage considers itself a global provider and is looking at expansion around the Pacific Rim and to Europe, Sereno said. The company wants "to expand as much as possible as fast as reasonably possible." I2 Telecom CEO Paul Arena noted challenges to international expansion: "There's a lot of people who don't know what VoIP is in Europe."

More than 50% of Net2Phone revenue comes from overseas, said spokeswoman Sarah Hofstetter. The company supplies private-label VoIP service to 3 European cable companies -- "the uptake there happens to be extremely

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strong” -- plus competitive and incumbent phone companies in recently deregulated markets such as Brazil, Colombia and India, she said. Cable & Wireless is providing VoIP through many of its Caribbean operators, Hofstetter said. And Yahoo Japan shows foreign opportunities by outstripping the companies on the panel combined, she said.

8x8 is focusing mainly on the huge American opportunity, said CEO Bryan Martin. Videophone and other service between the U.S. and other places is an attractive business, though, he said.

Voice calling between phones won't become free, as some predict, as long as it involves termination and other costs, executives said. Current price wars are exaggerated, Martin said. His company's Packet 8 has kept its basic service at \$19.95 monthly for nearly 2 years and tacked on \$1.50 in fees, while upselling customers, he said. Cable and incumbent telco unlimited voice are “coming in at \$40 and up, and if anything I see arguments for raising our prices.” VoIP can compete on features and reliability instead of price, Hofstetter agreed. Even when i2 had to cut prices previously it raised profit margins by consolidating calling plans, Arena said. -- *Louis Trager*

Anticompetitive Behavior

Website Launched to Publicize 'Click Fraud,' Case Against Search Engines

Lawyers launched a website last week to publicize “click fraud” crimes committed against online advertisers and explain their ongoing case against search engine companies accused of ignoring such activity. Defendants include Google, Yahoo, Time Warner, AOL, Netscape, Lycos and FindWhat.com, all of which display advertising links in user-initiated search results under a “pay-per-click” (PPC) arrangement with advertisers. The advertisers alleged the companies charged them for fraudulent clicks on their ads, added either by competitors trying to drive up their ad costs or for “some other misuse.”

The companies selling the ads “do a poor job of policing the fraud,” the group said in a statement for the site, LostClicks.com. “The major search engines are seeking to conceal this problem and have not done enough to make their bills transparent and collect only for bona fide advertising,” the site said. The website was created by Joel Fineberg, a Dallas attorney representing the plaintiffs. It includes links to media coverage of the case, an explanation of click fraud and the legal team's contact information and background.

The plaintiffs argued May 20 in federal court to remand the case to state court, seeking a friendlier jury, a LostClicks.com spokesman told us. The class-action suit was filed in Feb. in Miller County, Ark., circuit court, by the local Lane's Gifts and Collectibles. The defendants successfully petitioned to move the case to U.S. Dist. Court, El Dorado, Ark. At our deadline Fineberg was still attending the hearing, the spokesman said. Two original plaintiffs, U.S. Citizens for Fair Credit Card Terms and Savings 4 Merchants, dropped out of the case, the spokesman added. No defendants could be reached for comment.

The suit alleged the search engine companies “worked in conjunction with one another to promote the use of Internet and/or PPC advertising and actively concealed their collective attempts to overcharge and/or collect revenue for advertising which was not usually provided to customers.” The suit said the defendants have declined to disclose “all known or suspected overcharges” to online advertisers and seeks damages equal to the advertisers' money lost to click fraud. -- *Greg Piper*

Capitol Hill

A growing patent reform push has the backing of the 42-member New Democrat Coalition (NDC). In recent weeks, reform has gained momentum in the House, with key members on both sides of the aisle alluding to bills in the works. NDC, which formally backed a patent system overhaul in a letter Thurs. to House intellectual property subcommittee leadership, listed concepts it wants in bills. NDC supports 3rd-party submission of prior art, reasoning that letting informed individuals provide relevant information to patent application examiners “would vastly improve the ultimate quality of issue patents.” The group also sees injunctive relief as an important reform element. It urged the subcommittee to “take aim at those who seek to abuse the patent system for profit.” Another key legal component is courts’ handling of triple damages for willful patent infringement, NDC said. “In the interest of fairness, this legal standard should be revisited,” they said: “While courts should be able to assess higher damage amounts when a defendant’s actions warrant, treble damages should be limited to those cases where intentional or egregious conduct warrants a punitive measure of damages.” NDC urged bill drafters to address apportioning damages in cases involving patented components within complex products -- a topic often debated in the high-tech community. Semiconductors and software programs include thousands of features, many of them patented. As products grow more complex, old ways of gauging an infringement’s value are strained and bring unfair results, NDC said. During the 108th Congress, members voted to pass the U.S. Patent & Trademark Fee Modernization Act (HR-1561) and they have long supported improvements to the patent process, they said in the letter.

Agencies

The Direct Marketing Assn. (DMA) is urging members to submit comments on last week’s FTC Notice of Proposed Rulemaking (NPRM) intended to clarify portions of the CAN-SPAM Act (WID May 16 p6). The group also plans to submit a joint letter from DMA leadership and others interested expressing broad concerns, officials said Fri. NPRM provisions under consideration include changes to the law’s definition of “sender,” an issue of particular concern to the DMA since sometimes more than one business’s products or services are promoted or advertised in an e-mail. The NPRM seeks to redefine the rules so an e-mail would have one sender for CAN-SPAM purposes. The NPRM enumerates 3 criteria, each sufficient to determine the sender: (1) Controlling the message’s content. (2) Determining the e-mail addresses to which the message is sent. (3) Being identified in the “from” lines as the sender. The FTC doesn’t provide detail on what constitutes an entity “controlling” a message’s content, the DMA argued. On the other hand, entities may use 3rd parties, such as e-mail service providers, whose products or services aren’t advertised in the message, to perform any of these functions, so there’s only one sender. DMA members also have expressed concern that a provision reducing from 10 days to 3 the time for complying with opt-out requests will prove unworkable, officials said. Comments on the proposed rulemaking must be submitted to the FTC by June 27.

The FTC added a section to its website for Project Scofflaw, a 9-year-old program tracking violators of Commission orders. The section includes annual and cumulative case statistics, case summaries with press release links, and 2 public staff reports on the project, plus an American Bar Assn. article on the project. -- www.ftc.gov/bcp/scofflaw

Retail e-commerce sales for the first quarter of 2005 reached \$19.8 billion, up 6.4% from the previous quarter, according to U.S. Census Bureau statistics adjusted for “seasonal variation and holiday and trading-day differences, but not for price change,” officials announced Fri. Total retail sales for the quarter were estimated at \$916.9 billion, an increase of 1.5%. The first-quarter 2005 e-commerce estimate was 23.8% higher than the first quarter a year ago, while total retail sales increased 7.3% in the same period. On a non-adjusted basis, e-commerce sales sunk in the first quarter by 10.8% to \$19.2 billion from \$21.6 billion in the 4th quarter of 2004.

States

Ruston and Grambling, La., launched what they called the nation's first rural multicity Wi-Fi network. The service was built and will be managed by Invisi-Wire Broadband Networks. Grambling Mayor Martha Andrus said the network will "enhance the quality of life for residents, students and tourists... enabling the cities to provide new services that will spur economic development."

Courts

NetRatings is suing Coremetrics and Omniture for patent infringement in U.S. Dist. Court, Wilmington, Del., NetRatings said last week. The Internet media and market research firm said the defendants infringed 4 of its patents relating to collection, analysis and reporting of computer activity.

Domain Names

Representatives from the ICANN community and law enforcement agencies met Fri. to discuss intermediaries' role in addressing illegal online content and abuse. Participants at the Washington meeting, called by Generic Names Supporting Organization Council Chmn. Bruce Tonkin and Internet industry consultant Marilyn Cade, were to include members of the commercial & business, ISP, registry, registrar and intellectual property constituencies. A draft agenda listed presentations by the FBI, Dept. of Justice, FTC and Internal Revenue Service. Topics included Whois as a tool for locating illegal content posters, and a discussion of how registrars and other intermediaries might respond to complaints. Verizon Vp-Assoc. Gen. Counsel Sarah Deutsch said afterward she suggested an approach similar to the Digital Millennium Copyright Act's takedown procedures for registrars and registries dealing with Internet fraud. But Syracuse U. School of Information Studies prof. -- and noncommercial users' constituency member -- Milton Mueller blasted meeting organizers for failing to invite representatives from outside business. "There will never be a solution to the Whois impasse until privacy advocates are accorded the same respect and voice as other stakeholder groups," he said. If the question of what parts of domain name owners' personal information should be publicly available in the Whois database isn't settled through ICANN's process, Mueller said, it "undermines the legitimacy and credibility of ICANN and pushes the contestants into litigation." Even if the main focus of the meeting wasn't Whois, he said, major questions remain: "If this is about ICANN-related constituencies (registrars, registries, ISPs and so on), where are the civil society groups?" Mueller noted in a posting to ICANNWatch that ICANN didn't call the meeting and wasn't expected to attend. -- *DS*

International

ISPs operating in Canada won't have to reveal subscribers alleged to share copyrighted music files on P2P networks, under a Canadian Federal Court of Appeal decision last week upholding a lower court ruling. BMG Canada, EMI Canada and other record labels claimed 29 anonymous individuals illegally downloaded more than 1,000 songs each. MediaSentry, an antipiracy protection provider, searched online for song titles provided by the record labels, identifying 29 IP addresses offering "large numbers" of those songs and downloaded from those addresses. The labels confirmed that downloads they received from MediaSentry matched their proprietary recordings. The appeals court agreed with the lower court that such evi-

dence was hearsay and not admissible, and that the record labels probably could bring infringement claims under another statute. However, a “lengthy delay” between the request for alleged file-sharers’ identities and collection of that information could create “a risk that the information as to identity may be inaccurate” due to quickly changing IP addresses, the appeals court said. In deciding whether to disclose, privacy generally outweighs the public interest, the court added. But the lower court erred in deciding downloading a song for “personal use” doesn’t constitute infringement, a conclusion that “should not have been made in the very preliminary stages of this action,” the appeals court said. The Canadian Recording Industry Assn. (CRIA) “welcomed” the appeals ruling for “clarifying the steps necessary” to disclose the names of alleged file-sharers. CRIA Pres. Graham Henderson said though the labels must provide “additional evidence” for the lawsuits to proceed, “the court has clearly articulated the evidentiary standards that we need to meet and we are satisfied that we can meet those standards in future applications.” The decision “removes a legal limbo” on piracy in Canada, he added.

Representatives of central and east European countries meet this month to identify their main cybersecurity issues and how to deal with them. The agenda for the regional conference, hosted by the ITU and the European Network & Information Security Agency, includes: (1) An overview of key cybersecurity threats and challenges. (2) Cyberterrorism. (3) Technological solutions and private-sector initiatives. (4) End-user awareness. (5) Strategies for future actions. The conference aims mainly to learn the cybersecurity priorities of the countries, which include current and prospective European Union (EU) members and the former Soviet bloc, said Alexander Ntoko, chief of the ITU telecom development bureau’s e-strategies unit. Many of the countries are EU members or candidates, he said, and they want to align their cybercrime, data protection and other laws with west Europe’s. On the other hand, Commonwealth of Independent States members -- the former USSR -- are far from joining the EU, so it’s unclear where they stand on cybersecurity, Ntoko said. The ITU’s main challenge is to find a way for all the countries to set priorities together and learn from each other, he said. The conference is May 25-27 in Riga, Latvia. -- *DS*

The European Commission (EC) last week urged govts. and the private sector to make better use in healthcare of information & communication technologies (ICT). Speaking ahead of an e-health conference in Norway, Information Society & Media Comr. Viviane Reding and Health & Consumer Protection Comr. Markos Kyprianou said ICT can empower patients and cut paperwork. Later this year the EC will launch a European Union (EU) Health Portal with a one-stop-shop for all EU-produced health information and links to national authorities and advocacy groups.

After tough weeks in the U.S., culminating in Thurs.’s bruising FCC meeting, Vonage announced a full-market launch in the U.K. Vonage will offer its service in 136 Staples stores, with plans to expand to other retailers. Vonage, which has an expanding operation in Canada, has been in the U.K. since Jan., with plans to expand elsewhere in Europe. Service costs the equivalent of \$18.35 for unlimited calling in the U.K. and Ireland. Vonage customers can choose from nationwide dialing codes.

Security

Recent security breaches that have prompted calls for swift regulatory reform worry private security experts and investigators. Fearing pressure may produce overly broad laws, they say unjustified data broker restrictions already in place make it nearly impossible for them to do their jobs. Private security professionals figure prominently in protecting federal and state judiciary systems, law enforcement, corporations and private citizens. More curbs could further thwart them from finding witnesses, preventing and investigating fraud, theft and embezzlement, investigating ID theft, helping in credit recovery and locating missing persons, heirs and “deadbeat parents,” the National Council of

Investigation & Security Services (NCISS) said Fri. NCISS members' ability to carry out access control and perimeter security measures, protect consumers against fraud and ID theft, and locate debtors and pension beneficiaries also could be affected if lawmakers proceed incautiously. NCISS backs some measures, which it called thoughtfully crafted. It supports a call for Congress to ban Internet sales of personal data to the general public and wants data providers to be required by federal law to notify consumers when their information has been accessed illegally. Congress also should bar use of Social Security numbers as identifiers on health insurance cards, drivers' licenses, state permits and other documents, NCISS said. Demanding bigger fines and jail sentences for those convicted of misusing personal information, the group is urging the govt. to require data brokers do thorough credentialing on new accounts and those where review indicates a new check is in order. Background-checked, licensed investigators able to show a need for personal information should have continued access to the data, the group contends.

Websense warned MSN Messenger users last week of a new worm prompting users to visit a website and view pictures of themselves. Clicking the link downloads a variant of the Agobot/SDBOT/GaoBot Trojan, disguised as a server-side PHP script, that opens a back door on the local machine and connects the user to a botnet, Websense said.

U.S. Trust Bank customers should be alert for a spoofed e-mail claiming they'll lose online access unless they update account information within 48 hours, Websense said late Thurs. The message asks customers to click on a link to update their accounts, whereupon they are asked to enter personal information into a form on the phishing site, hosted in Japan and active at the time of the alert, officials said.

Industry Notes

Traffic to MovieTickets.com leapt 85% during the week ended May 15, indicating online users' growing excitement over release of the new *Star Wars* movie, said Nielsen/NetRatings. More than 600,000 people visited the site for show times and to buy tickets before the film's premiere in theaters nationwide. Traffic on Movies.com jumped 16% to 532,000 visitors and Moviefone increased 12% to 4.4 million visitors. Both sites redirect moviegoers to MovieTickets.com for ticket transactions, Nielsen said. Traffic to Fandango.com rose 9% to 839,000 visitors. StarWars.com, the official site for the series blockbuster movies, attracted 981,000 fans, up 32% from the week before.

Time Warner Chmn. Richard Parsons told investors Fri. the company has no plans to spin AOL off into a separate stock, a Time Warner spokeswoman told *Washington Internet Daily*. But Parsons said the company could consider a spin-off in the future.


Ask Jeeves acquired Excite Italia, operator of pan-European portal group Excite Europe. Since acquiring the U.S.-based Excite.com portal in 2004, Ask Jeeves has looked to expand into Europe. The acquisition won't have a material impact on 2005 revenue or earnings, officials said.

In April, U.S. broadband penetration jumped 1.24 percentage point to 58.46% among active Internet users, said the *May 2005 Bandwidth Report* by Web Site Optimization. In its report, the Mich. consulting firm said broadband penetration in the U.S. should break 60% by July. Among narrowband users, 33.9% use 56 kbps modems, 5.12% use 28/33.3 kbps and 2.53% 14.4 kbps.

A UniverCell Holdings subsidiary will merge into Recall Mail, whose Bigstring e-mail service lets users erase, recall, modify and set expiration dates for sent e-mail. After the merger, Recall shareholders are expected to own 76.4% of UniverCell stock.

Washington Internet Daily Calendar

- May 24 E-911 Institute discussion on FCC and congressional actions to require E-911 from VoIP providers, noon-1:30 p.m., Dirksen Bldg., Rm. 124 -- Jamie Radice, 202-292-4603
- May 24-26 ISPCON Spring 2005, Baltimore Convention Center -- www.ispcon.com/spring2005/defaultJM.asp
- May 25 Senate Intellectual Property Subcommittee hearing on piracy of intellectual property, 2:30 p.m., Dirksen Bldg. Rm. 226 -- Blain Rethmeier, 202-224-5225
- May 27 Deadline for comments to Copyright Office on notice of proposed rulemaking on requiring digital audio services to report usage of sound recordings -- www.copyright.gov/fedreg/2005/70fr21704.html
- June 1-2 International Packet Communications Consortium hosts "Securing VoIP: Harmonizing Technology and Policy," Hotel Monaco, 700 F St. NW, Washington -- www.pfidc.com/voip
- June 1-2 E-Gov Institute's Web-Enabled Government conference & expo, Reagan Bldg. -- www.e-gov.com/events/2005/we_gov
- June 1-2 FCBA broadband policy summit, in cooperation with Pike & Fischer, Willard InterContinental Hotel, Washington -- www.broadbandpolycysummit.com
- June 3 Comments due to FEC for proposed Internet communications rules -- internet@fec.gov or www.fec.gov/law/law_rulemakings.shtml#internet05
- June 3 ITAA webcast future of telecom regulation & VoIP, 3 p.m. -- Eerik Kreek, ekreek@itaa.org or www.itaa.org/eweb/Dynamicpage.aspx?webcode=EventInfo&evt_key=c0ca0619-f785-4cba-95f2-96dcf0bcdca2&Paying=NoFees

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