

# Local firm has success suing spam senders

Some of the big Internet companies — the likes of Microsoft, Earthlink and AOL — have successfully sued spammers. But that doesn't mean a small company can't do the same thing.

A Foster City Web-hosting service, Hypertouch, has won some cases in the past and is pursuing two new ones in federal court in San Francisco.

If you've ever pored through your e-mail, only to see 90 percent of it as mildly disgusting or thoroughly disgusting junk e-mails, you may have asked yourself, "How can they get away with that?" I'm referring to misleading subject lines, deceptive free offers and attempts to get your PayPal or bank passwords.

Hypertouch's owner, Joe Wagner, using the national CAN-SPAM law which took effect in 2004 and a new California law, began by suing spammers in small claims court. He usually won, even against Discover credit cards. Collecting the awards was another matter — he's collected about half the time. Now, he and the law firm of John Fallat in San Rafael are taking diploma mill Kennedy Western University to federal court in March and Kraft foods subsidiary Gevalia coffee to federal court in the fall. Both are big-time spammers. I myself received an unsolicited spam ad from Gevalia several days ago.

## Disrupts communication

Wagner says, "Spam by far is Hypertouch's biggest customer service issue." He says he's fearful of the medium of e-mail being destroyed because legitimate messages of interest can get lost amid the waves of junk ad mail. "It disrupts the communication and strength of the Internet," complains Wagner. "It costs spammers no more to send a million than five junk e-mails."

I myself once became a spammer of sorts. I wrote a press release for a small electronics company announcing a new product, then did a



**BIL PAUL**

Google search for media outlets and individuals who might be interested in the product. Using a Hotmail account, I sent the press release to these 20 or so parties all at once. One of them took umbrage and complained to Hotmail and they erased my account. "Golly," I asked myself, "do I deserve this?"

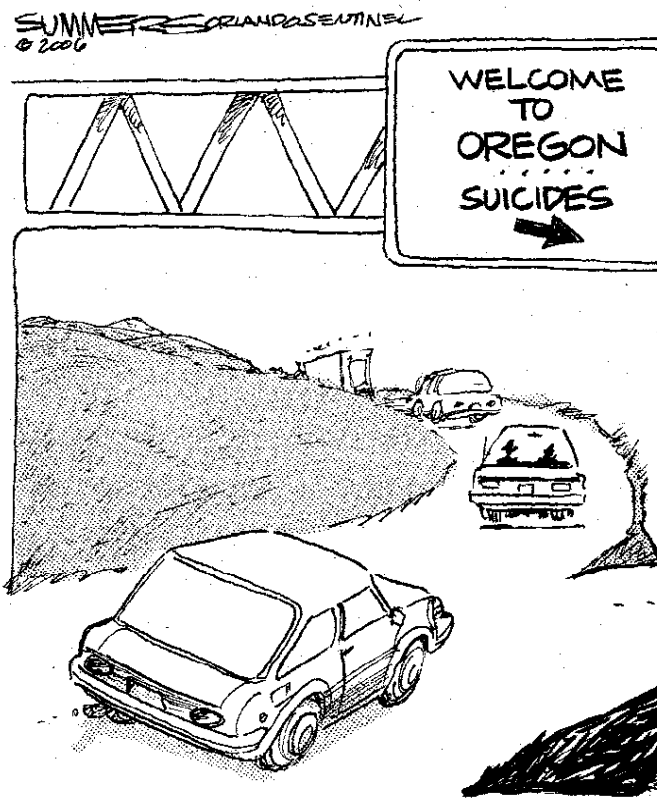
The real spammers are much more adventurous. They often try to camouflage their location by sending Trojan software to infect personal computers elsewhere, then use those computers as proxies to resend spam. Also, companies often try to evade responsibility by using affiliates to send spam, and when complaints roll in, the companies blame the affiliates. Lately, your e-mail, like mine, may be filled with giveaway ads which promise free plasma HD TVs or iPods — and when you look further and read the fine print, you notice that you have to participate in retail promotions to "qualify." The companies which sponsor these come-on ads are still responsible for breaking spamming laws, says Hypertouch's Wagner.

## False headers

Wagner and his legal firm's case against Kennedy Western and Gevalia revolves around the use of false ad mail headers — that is, the technical-looking information above the body of text in a message, including misleading subject lines, like "Hey, this is Bob," when the message is advertising auto insurance. Wagner is also pursuing spam that doesn't provide the correct postal address of the sender.

It's also illegal for spammers to harvest e-mail addresses from Web sites, but Wagner says it's still being done. Warner points out that a central feature of the federal CAN-SPAM law is the requirement that spammers provide an opt-out feature within each ad e-mail sent. So, if you e-mail each sender of ad e-mail you receive and say you no

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## LETTERS@PaloAltoDa

### Internet

**Dear Editor:** Jason Green's (Wednesday) article on FTTH (Fiber-to-the-Home) quotes me as saying that Fiber is no more secure than its Wi-Fi counterparts. What I was trying to say was FTTH's reliability is tied to the reliability of the electric power grid. If a tree knocks down a suspended electric line needed to power a home using FTTH, then after a small number of hours of battery backup the service goes dead. If a tree knocks down a suspended fiber optic line, then the FTTH services stops immediately.

Wireless service in a home is also dependent on the power grid, but wireless access points/towers aren't generally disabled by falling trees as easily as power lines.

Current FTTH speed is greater than Wi-Fi speed, but a new Wi-Fi standard, 802.11n (which should be approved this week), will increase the short Wi-Fi transmission distances and increase data transfer speeds up to 240 mbps. Another wireless technology, WiMax (802.16) offers speeds of up to 70 mbps and transmission distances of up to 30 miles. For people who want flexibility at work, home and on the road, wireless will likely be the Internet access mode of choice.

Finally, from the current Businessweek: "Telecom analyst Susan Kalla of Caris & Co. warns that broadband distribution is a losing game. In Japan, where the deployment of

broadband is way ahead of consumer prices have sunk to a blazingly fast 100-megabit per second. Those services aren't popular and neither are broadband services in Europe, she says."

**Wayne Bryan**  
P

### Cuesta Park AI

**Dear Editor:** While I was the first time I saw Cochran express his minor opinion regarding Mountain View Park Annex's future in your issue he often expresses his opinion Mountain View Voice. I annex's grand Santa Cruz Mountains vistas that inspired our city in 1852.

For 10 years, I have rented an apartment near El Cam within walking distance of Mountain View's Eagle and Pioneer but I prefer to ride my bike a mile to experience the annual visions of delicate spring blossoms, golden summer fields, harvest plums and misty groves.

At (Tuesday's) council session, former Mayor Charles reminded council that the 1 Council's intention when before three acres of the annex Cuesta Drive and removing Cooper's foundations was to the school district's back in acres and add the entire prune orchard parcel to our

longer want to receive their ads, your level of unwanted e-mail should be drastically reduced, right?

To test this feature, Wagner created some new e-mail accounts and only used them to opt out with. Soon, he was receiving all kinds of e-mail from other spammers. Obviously, spammers are providing their opt-out e-mail addresses to other ad mail companies, which is illegal, and which is part of Wagner's suit against Kennedy Western and Gevalia.

There's a new twist in the movement to close down unscrupulous spammers. Up to this point, they've received fines, which they could choose to pay, or perhaps evade by closing down a company and opening elsewhere as a new enterprise. The latest California law provides jail time (yes, jail time) for those who take their zest for making money too far.

**There's a cure for this spam-filled world of ours — require that an e-mail recipient opt in to receive a specific company's ad e-mails, instead of having to opt out, as the CAN-SPAM law requires.**

And we are talking about lots of money.

Wagner estimates that phony-diploma mill Kennedy Western, which had no campus and no faculty, made \$75 million over a three-year period.

There's a cure for this spam-filled world of ours — require that an e-mail recipient opt in to receive a specific company's ad e-mails, instead of having to opt out, as the CAN-SPAM law

requires. It's time to reduce the amount of unwanted mail clogging our Internet arteries, and return to a more pristine landscape.

It's also time for more companies like Hypertouch to step up and bring suits against those who are playing fast and loose with our laws.

Contact Bil Paul via e-mail at [natural\\_born\\_writer@yahoo.com](mailto:natural_born_writer@yahoo.com).

LETTERS

direction. It is financial disclosure which is deficient. Disclosure must clearly identify links between campaign contributions and legislation. A bottle of Scotch,

a steak dinner or a game of golf (unless in Scotland) probably won't buy legislation, but a six-figure campaign contribution just might. Congress should confront the

primary problem.

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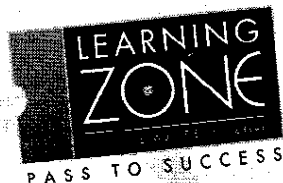
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