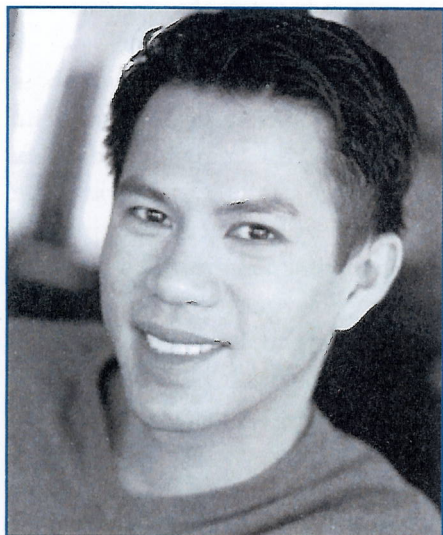


The Moving Picture: Evolving Media



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ALL THE DIGITAL NEWS THAT'S FIT TO DISTRIBUTE: THE ASSOCIATED PRESS AND ITS ANTI-PIRACY CAMPAIGN

AMERICAN NEWSPAPER PUBLISHERS, and their cooperative news agency, the Associated Press, are the latest entrants—joining the record labels and the filmed entertainment companies—in the worldwide war against online piracy. Internet search engines and news aggregators routinely “scrape” online newspaper articles and post onto their own websites the headlines, links to articles, article excerpts and sometimes even entire articles for Internet users to read. Newspapers have gotten fed up with such unauthorized usage, leading this year to announcements by the AP of a campaign to stop digital piracy of news content. This anti-piracy initiative is long overdue, and hopefully will help fortify revenue from licensed Internet distribution of news content and keep newspapers going to press.

THE PIRACY PROBLEM

The good news for journalism is that news is still heavily in demand on the Internet, smart phones and other evolving media devices. The bad news is that it's available ubiquitously for free in those environments, and newspapers' online content is often shared freely without authorization.

The sheer scope of online piracy issues for newspapers is staggering. Earlier in 2009, copyright-protection software company Attributor, Inc. tracked 250,000 news articles on the Internet for 30 days. It found 3.4 million unauthorized uses during just that 1-month tracking period. While not all of those unauthorized uses would likely qualify as infringing, the sheer volume of problematic uses is hard to discount.

Much of the legal controversy centers on “scraping,” which is when Internet businesses extract via automated means (and use for their own purposes) news articles, headlines, images, and other content from the websites of newspaper publishers. Search engines and news aggregators claim their practice of content scraping is fair use. Newspaper publishers believe it is copyright infringement and insist that web portals should license (and pay for) the right to use the news content. What irks newspaper publishers is that search engines and news aggregators earn revenue from such unauthorized uses by selling search terms or advertising on pages where “scraped” news content appears. Making matters worse, unauthorized uses also divert traffic away from the newspapers' own websites, cutting into online advertising revenue that the news publishers can earn themselves.

Thus, the AP's anti-piracy campaign comes at a watershed time for print

journalism. Unwittingly, the newspaper industry has itself made news due to declines in circulation and advertising revenue. According to figures from the Newspaper Association of America, total advertising revenues (print and online) for newspapers declined \$7.5 billion in 2008 (a drop of 16.6% from 2007). This dire business situation has prompted the closure of some long-established newspapers—such as the *Rocky Mountain News* and the *Seattle Post-Intelligencer*.

Much of this tumult has been blamed on the emergence of free news sources on the Internet (although the weakened economy is also partly to blame for softening the advertising market).

THE AP'S ANTI-PIRACY CAMPAIGN

Seeking to find renewed prosperity in the face of adversity, the AP has now decided to stand up against this piracy problem. At its annual meeting in April 2009, the AP declared that it would work with online portals and other partners to legally license and pay for content, but will seek legal and legislative remedies against those who do not. Dean Singleton, the AP's chairman, put it bluntly, stating that: “We can no longer stand by and watch others walk off with our work under some very misguided, unfounded legal theories.... We are mad as hell, and we're not going to take it any more.”

Ultimately, the AP's goal is to increase revenue that it and its members receive from Internet usage of news content. Accomplishing that will require a system to track content distributed online to determine if it is being legally used.

In late July 2009, the AP announced how it would accomplish this tracking. It is creating a news registry that will

digitally “wrap” all AP content online to track how the material is used and assure compliance with stated terms of use for each piece of content. This system will use a digital rights management “micro-format” developed by the AP which will envelop the content in an informational “wrapper.” That wrapper will provide metrics to newspapers on how their news content is consumed, and will support various payment models. Of course, it will also help to ferret out and facilitate IP enforcement efforts against unauthorized users. At first, the registry will cover only text but will eventually expand to cover photographs and video as well.

THE DIGITAL FUTURE

While it remains to be seen how effective the AP’s DRM system will be in practice, it is certainly a good idea for the AP to create the new digital registry. Here are three observations to keep in mind as the AP’s anti-piracy campaign unfolds:

» The AP and its members should focus on using the DRM system not just as a tool to detect and stop infringers, but also as a vehicle to produce long-term business advantages. By providing reliable information about how and where newspapers’ online content is distributed and consumed, the digital registry can help the news media negotiate better business and advertising partnerships that will help generate revenue. For example, usage data from the digital registry can help the AP and its members develop and fairly price more viable Internet delivery models for the future. In short, knowledge is power, and will ultimately yield more business benefit than legal enforcement actions against unauthorized users.

» While leveraging this new source of data, the AP needs to be mindful of user privacy concerns. Consumer privacy watchdog groups will undoubtedly express objections to any collection of data that traces individual users to specific articles they read. In 2007, Facebook experienced a wave of resistance to its “Beacon” tool, which collects data about users’ activity on other websites. This tool allowed users to share activities with friends and also enabled Facebook to better provide behaviorally-targeted advertisements. In the face of significant controversy, Facebook ultimately changed Beacon to an opt-in system, allowing users to turn off Beacon if they choose. The AP should be careful not to put themselves in a similar controversy. Aggregate and demographic usage data, without personally identifying what individual users read, should be enough to give the AP and its members what they need to draw value from the digital registry.

» Despite its announced anti-piracy stance, the AP should continue to look for ways to collaborate with Internet technology partners. It can use data from its registry to shed light on ways in which newspapers can create more productive—rather than litigious—relationships with Internet search engines and news aggregators. For example, information gathered by the AP registry can be used to justify license fees which newspapers can receive for allowing other online news sources to link to newspaper websites. Rather than fight about whether scraping or other re-use of online content is a fair use, the journalism and Internet technology constituents will be better served by finding ways to traffic and revenue to each other’s sites.

With each passing year, consumers will increasingly rely on the Internet and digital devices as the places where they get their news. As they experiment with new methods to generate revenue in this evolving media universe, the AP and its members are rightfully seeking ways to protect their investment—all the digital news that’s fit to distribute. ■

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out more by going to the Licensing Committee’s webpage accessible via a link on the IP Section page located at www.ipsection.org. ■

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