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STUCK IN AN OLD PHONE CONTRACT THAT DOESN'T FIT?

The Boston Globe BUSINESS NEWS UPDATES
From the Boston Globe Business Team

UPDATED Tuesday, 11:25 AM

NYT, Gatehouse release settlement details

January 26, 2009 11:56 AM

GateHouse Media Inc. will set up technical barriers preventing Boston.com, the Boston Globe's website, from automated "scraping" of GateHouse content, and Boston.com has agreed to honor those barriers under a settlement disclosed this morning in a widely watched lawsuit filed by GateHouse against The New York Times Co.

Gatehouse, based in Fairport, N.Y., operates 125 community newspapers in Massachusetts. It filed the lawsuit on Dec. 22, charging copyright infringement. At issue was the practice of posting headlines and short excerpts of text along with links to stories on other sites. Boston.com recently launched three "Your Town" websites serving Newton, Waltham, and Needham, which compete with the "Wicked Local" sites run by Gatehouse.

The Times Co., which owns the Globe and Boston.com, also agreed in the settlement to remove headlines and lead sentences from GateHouse stories previously posted on Boston.com's Your Town sites. The parties notified a judge of the settlement in US District Court in Boston, where a trial had been set to begin today.

The settlement reflected the reality that GateHouse can technically block Boston.com's computer program from retrieving stories for conversion to links from GateHouse's Wicked Local blogs, which cover dozens of communities across Massachusetts. GateHouse had not previously established an effective barrier to prevent such scraping of its stories.

There was no agreement by the Times Co. to stop using headlines and snippets from non-GateHouse stories it links to. "We stand by our position that the use of headlines and ledes is fair use, and we will continue to link appropriately," said Bob Kempf, vice president of product and technology for Boston.com.

As such, the settlement left unresolved the legal issue issue that drew the attention of news and technology companies, as well as Internet bloggers: whether news websites - especially aggregation sites, including Google News and Yahoo News - can continue with their current practice of posting headlines and lead sentences for stories they link to from other sites.

Boston.com will be able to refer to stories from GateHouse sites, as it has done in the past, and to manually "deep link" to individual articles without presenting the links with headlines or lead sentences.

"This agreement is not binding on anyone else," said David Ardia, director of the Citizen Media Law Project at Harvard's Berkman Center for Internet and Society. "It has no legal precedent per se. But it could persuade a judge in
another case that what Boston.com was doing here was not defensible under fair use" in copyright law.

No damages were awarded under today's settlement, and each party agreed to pay its own legal fees. Neither the Times Co. nor GateHouse admitted wrongdoing.

Ardia, however, described the settlement as a victory for GateHouse. "They seem to have achieved everything they wanted to in their lawsuit except for receiving monetary damages," he said. "It does result in the cessation of Boston.com using GateHouse content as it has done."

As for discontinuing the use of headlines and lead sentences from Wicked Local stories, Kempf said Boston.com has traditionally respected the decisions of third-party content providers that use technical barriers to block their content.

"We are reaffirming our longstanding practice of respecting technical barriers," he said. "We've always complied with those barriers and will continue to do so. I would not characterize implementation of such readily available protocols as a victory [for GateHouse]."

Kempf said the Globe's website will continue to expand its "hyperlocal" Your Town sites to other communities.

"We've been very encouraged by the initial reponse to the hyperlocal sites from both audience and advertisers," Kempf said. "So we're going forward with the local sites - full speed ahead."

Despite today's settlement, Kempf said a big part of Boston.com's local strategy will continue to be aggregating content from a broad spectrum of local sources, from independent blogs to high school and college sites, to community calendars and sports events.

Kirk A. Davis, president and chief operating officer of GateHouse Media, said that the settlement reaffirmed the value of original reporting.

"I think the settlement provides GateHouse with all the essential relief on the issues that caused us to bring this action in the first place," Davis said. "We're completely satisfied with the outcome."

Davis said GateHouse had attempted in the past to block Boston.com from scraping its content, but to no avail. He declined to elaborate.

To read the full agreement between GateHouse and the Times Co., please click here.

(By Robert Weisman, Globe staff)
the resulting ad views.