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By Jack Rogers

October 18, 2007

UPDATED: Leading Internet and media companies teamed up today to set ground rules for dealing with copyright infringement in videos uploaded to user-generated content Web sites -- and demanding stronger efforts on the part of content hosts.

Those companies -- which include CBS Corp., Microsoft Corp., NBC Universal, News Corp.'s Fox and MySpace units, and Walt Disney Co. -- today released guidelines spelling out a series of "obligations" they want user-generated-content (UGC) sites to adhere to, such as searching for and removing copyrighted video that has been posted without permission.

Video uploading and sharing sites DailyMotion and Veoh also endorsed the guidelines. Google, which owns YouTube, was noticeably absent from the group that issued the guidelines, but sources close to the matter told *InternetNews.com* that the search leader had some input in their development.

The guidelines, labeled the "Copyright Principles for UGC Services," specifically call for the implementation of new technology to block infringing uploads before they reach the Web. They also urge the removal of links to sites that are "clearly dedicated to, and predominately used for, the dissemination of infringing content."

These two guidelines in particular raised red flags among legal experts, who suggested that even a good-faith effort to establish industry standards around content uploads might have the unintended effect of raising incendiary free-speech and antitrust issues.

Jeffrey Lindgren, an intellectual-property lawyer at Morgan Miller Blair in San Francisco, cautioned that indiscriminate blocking of uploads could end up trampling on protected speech.

"There are tremendous gray areas," Lindgren said. "Technology to block uploading may be the Holy Grail for these huge content providers because it will save them the trouble of policing everything that is being posted, but will the technology really be able to distinguish content that clearly infringes on copyright from that which represents fair

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use?"

In a statement accompanying the proposed voluntary guidelines, the companies issuing them said that any technology implemented to block uploading must "effectively balance legitimate interests, including fair use." The guidelines also call for the establishment of procedures to promptly address claims that content was blocked in error.

Top executives of the media companies behind the UGC guidelines stressed that they seek to balance the Web's creative potential with the rights of copyright owners.

"Cooperation among us, aided by emerging technologies, can clear the way for further growth in the availability of online video in ways that will be good for consumers, good for copyright owners and good for uploading services," Bob Iger, president and CEO of The Walt Disney Co., said in a statement.

According to the guidelines, media owners will provide reference data to be used by the sites in locating and blocking copyrighted videos.

"If the Copyright Owner indicates ... that it wishes to block user-uploaded content that matches the reference data, the [user-generated content site] should use the Identification Technology to block such matching content before that content would otherwise be made available on its service," the guidelines state.

Is Big Media making anti-competitive moves?

Additionally, further problems could stem from the fact that the media companies issuing the guidelines are in most cases major online content distributors as well as creators. Lindgren said that the call to remove links from sites they identify as chronically infringing on copyrights could be viewed as an attempt by dominant, vertically integrated players to stifle competition.

"It could raise the issue of fair competition, and it could cause people to question whether these guidelines are for the benefit of the big conglomerates," he said.

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