

Gator: A Different Animal Altogether

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After Network World Fusion published my series of articles on scumware a few weeks ago, I received admirably polite representations from the understandably irritated makers of Gator software protesting their inclusion in the series. After engaging in a dialogue with Mr. Scott Eagle, The Gator Corporation's Chief Marketing Officer, the facts came clear why Gator feels it was erroneously included in the series. Below are edited comments from Mr. Eagle that outline the facts from the company perspective.

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Mr. Eagle explained that Gator strongly objects to being called scumware because, "frankly, it is not scumware." In my article, titled, "Whose Web Page is it, Anyway," I defined scumware as "software that modifies the appearance of Web pages without permission from the people who created those Web pages." I also highlighted four key elements of scumware:

* "Scumware makes unauthorized changes to the appearance and content of Web pages that affect more than a single user.

* The changes imposed by scumware interfere with contractual relationships between Web content providers and advertisers.

* The introduced advertisements and links may convey a false impression implying relationships and possibly endorsements that do not exist.

* The modifications may be creating an unauthorized derivative work."

Mr. Eagle carefully outlined the facts as he sees them:

* Gator does not modify the underlying browser window, the underlying HTML of a Web page or the content of a Web page in any way. The company serves a separate (and closable) pop-up window just like ICQ, Yahoo! NewsAlert, or many windows alert software like virus protection, to alert consumers to information.

* Gator does not interfere with the relationship between Web content providers and advertisers.

* Gator consumers actively agree to a contract by which they get useful, free software in exchange for receiving ads. In fact, the company actually has a much stronger contractual arrangement with consumers than virtually any Web site or 3rd party ad network. Mr. Eagle made his point by asking if a consumer ever actively accepted a privacy policy or end user license agreement from DoubleClick? Or agreed to get pop-up ads from Web content sites?

* Gator brands every advertisement that is part of its program because it wants users to know where they are receiving these offers. There is even a “?” icon on each ad so consumers can find out more. No one, not even Yahoo!, has this level of branded disclosure on pop-up and pop-under ads.

* Gator’s ads are competitive but never derivative.

I also mentioned in “Scumbody’s Changing my Web Page” that “products such as Gator deliberately overlay banner ads.” Mr. Eagle informed me that the incident I was referring to was from the summer of 2001, when the company’s Companion Pop-Up ads attracted the attention of the IAB. In fact, once the IAB became aware of the facts surrounding Gator’s Companion Pop-Up Banners, the parties amicably settled the dispute. In addition, the Company, the IAB, and many major Web site publishers have worked together in a variety of ways to address new online media issues, including the Company’s current and planned new ad vehicles. Finally, Gator has not published any of the “controversial” Companion Pop-up Banners since November 2001.

In summary, in Gator’s opinion, there *are* considerable benefits to the Gator model for all parties:

* Consumers (benefit: dozens of free ad-supported software utilities to choose from versus having to pay up to \$30 for these products – in exchange for seeing a few ads each month that are relevant to them),

* Advertisers (benefit: high ROI on their marketing campaigns due to behavioral targeting, click/response rates often 40-times the industry average) and,

* Independent software publishers (benefit: they can focus on innovation vs. monetization of their software so that they can continue to thrive by creating cool consumer software utilities).

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I’m very pleased to receive this information from Gator and regret that I did not know these facts before mentioning them in my series.

On a related note, Declan McCullagh's POLITECH (Politics of Technology) has a discussion about the legality and ethics of new technology (e.g., ReplayTV) that allows viewers to record and playback TV programs without the advertisements. See < <http://www.politechbot.com/p-03642.html> >.

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POSTSCRIPT:

My friends John Gehl and Suzanne Douglas published this abstract in their excellent "NewsScan" daily summary on the 27th of June, just as this article was going to press:

PUBLISHERS SUE WEB SITE FOR MISAPPROPRIATING THEIR ADS

A group of major U.S. publishing companies, including the Washington Post Company and the

New York Times Company, is suing Gator Corp., a Web site operator based in Redwood City, California, for taking ads on the publishers' Web sites and reselling them on Gator sites without authorization. The publishers say the misappropriation amounts to unfair competition with them, since Gator's competing offer to advertisers makes it harder for publishers to sell ads themselves. (Washington Post 27 Jun 2002)

<http://www.washingtonpost.com/wp-dyn/articles/A52132-2002Jun26.html>

See < <http://www.newsscan.com> > for free subscription.

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