

EXHIBIT 74

Subject: Article about VX2 posted on-line
From: Mattias Stanghed <m@stanghed.com>
Date: Sun, 22 Feb 2004 13:45:42 -0500
To: Dowhan Chris <chris_dowhan@hotmail.com>, Abram Joshua <joshua@direct-revenue.com>
CC: Andreis Sandra <sandraandreis@hotmail.com>, Murray Alan <alan@direct-revenue.com>, Rodney Hook <rod@direct-revenue.com>

This just in from Sandra (below). A guy has posted a feature article about us on his blog/newssite. He has also sent us an e-mail giving us the opportunity to comment on the article.

In this particular case it seems like a) the article has been out for some time and b) the website (POE News) really is not that big/popular.

However, when cases such as this surface, Sandra's line of defense is to send it to Joshua and I just wanted to make sure that's how we want to go about it for now. If anyone has a different view, please let me (and Sandra) know about it.

Josh - we will assume that we do not want to comment on the article. Our e-mail back to the guy is to help him uninstall VX2 and restore his computer.

Chris - is there anything particular about VX2 and the Audiogalaxy bundle that we should know about?

Thanks all,

.mst

----- Original Message -----

Subject: Please confirm or deny the article referenced below
From: Virginia Meeks <meeeksv@royaloaksschools.com>
Date: Wed, February 11, 2004 8:49 am
To: consumerresponse@vx2.cc

<http://www.poe-news.com/features.php?feat=30474>

Where Are These Pop-Ups Coming From?

Features 2004-01-06 21:52:13 - Chet - 0 Comments

REPRINTED FROM 01/20/02 With errors intact. Yes, CC whois, onflow is not involved. While these are no longer major players like gator, www.l80solutions.com, whenu and other spyware/scumware are flourishing.

Update: Audio Galaxy will not come clean

Update. Onflow's Innocence and a statement from Onflow.

What would you think if I told you someone was monitoring every page you visit, every form you fill out, and every web email you send? This article covers a company that's doing just that, and how they're attempting to hide what they're doing.

DR186881
CONFIDENTIAL

I'm going to admit this right off the bat: I am not a super smarty. Unlike Steve Gibson, I can't trace hackers back to their IRC lairs to debate them. I stumbled across what I'm covering here simply by being annoyed. Luckily, it happened to fall within my tiny sphere of knowledge. Please don't skip the whole article because you think the first few paragraphs don't relate to you. This is about more than one piece of software behaving poorly; it's about an industry paying lipservice to privacy, and then doing whatever the Hell they please. In other words, this could be the future of software.

Have you had an ad pop-up while you've been browsing lately? Has it happened on a site that doesn't normally have popups? But you run adaware, right? Think you've blocked all spyware and embedded ad-serving software? Wrong. (Update the latest version of Adaware 5.62 and the new reference file will catch it, you must make sure to be using the latest reference file.) Welcome to the shady world of VX2.cc. You're going to wish popup ads were the worst things you had to worry about.

There are minor spyware programs out there, with Gator being the most notorious. When you install some freeware, such as Kazaa, you'll often be asked to install a separate add-on. It's usually described in vague terms as some sort of ambiguously helpful component of the main program. This is disengenous, but, generally, you're at least given the chance to skip the installation. Other software requires you to install some form of spyware. The name's pretty sinister, but, for the most part, all it really does is permit ads to be served inside the client software. While I'm not crazy about all this extraneous crap being installed on my system, I understand that it's needed to serve the ads. I can accept this as a component of free software.

Unfortunately, as I recently learned, not all of these little buddy programs are so relatively benign...

Over the weekend, I noticed popups appearing on POE. I knew we weren't running these type of ads, so something was obviously wrong. Additionally, Internet Explorer was crashing significantly more often than usual. I right clicked on one of the apparently spontaneously generated popups and checked the ip address. It led me to ads2.vx2.cc.

Who runs vx2? The website doesn't say. However, it does mention this:

VX2 Corporation is a marketing reasearch company. Our "Sputnik" software builds information on internet trends. Sputnik plugs into IE Explorer and operates in the background. The software goes along with the user of the software as they are surfing around the web and builds reports on the activity. Sputnik is distributed via co-bundle agreements with popular third party software companies.

So that doesn't give us much information. But it does tell you how it gets around your firewall and Adaware: It attaches itself to Internet Explorer.

Next, I checked the site's whois record:

Domain Name: VX2.CC
Creation Date: 010731
Nameservers:
NS1.VX2.CC
NS2.VX2.CC
Registrar: Network Solutions
Whois Server: whois.networksolutions.com

Not very helpful. I guess whoever owns this domain is not incredibly

DR186882
CONFIDENTIAL

proud of that fact. As further evidence of this, all the forms on the website get mailed back to a hotmail account

Since I was still on the vx2 site, I figured I'd check the FAQ. Here it is in its entirety:

VX2 Corporation is a marketing research company. Our "Sputnik" software builds information on internet trends. Sputnik plugs into IE Explorer and operates in the background .

What Does the VX2 Software Do?

The software monitors the click stream activity of the consumer and communicates with servers.

How Is VX2 Distributed?

Sputnik is distributed via co-bundle agreements with popular third party software companies.

How Does The VX2 Software Work?

The software monitors some activity of the PC and communicates with servers.

It's short, so I read it twice trying to find the part where it says it's going to deliver popup ads to me. You can check my work, but I couldn't find that part.

In fact, forget about the popup ads. Two-thirds of the answers describe how vx2 is actually monitoring my activities and filing reports back to its home office! The FAQ first alludes to the vague, but at least sort of specific sounding, "clickstream" monitoring. By the end, though, the vx2 people have broadened the scope of their monitoring to include "some activity". What the Hell falls under "some activity"? Evidently, that's not asked frequently enough to make it into the FAQ.

So there's a program called vx2 - installed without my permission and without my knowledge - that is collecting some unspecified data from me and sending it to a company also called vx2, whose site isn't very clear about who they really are.

The site does permit you to file a request for them to delete all of your data. But there's one catch: the request form asks for more information than it could have ever collected from "clickstream" data. Or at least that's what I thought.

To have your data deleted, it asks for your physical address, full name, and email address. Do you really think this information is needed to delete the current tracking they have on you? How could they match to this data? Where in the Hell would they get your physical address? From you, of course.

At this point, I had two major mysteries on my hands: How did vx2 get onto my system, and what was it really monitoring?

After checking through a few recently installed programs, I figured out that vx2 came packaged with Audio Galaxy. Since they saw fit to place it on my system, I thought they might have some info on vx2. But the only mention of vx2 occurs during the Audio Galaxy installation. Buried at the ass end of the Audio Galaxy terms of agreement is the following text, reprinted here in full:

DR186883
CONFIDENTIAL

Onflow along with VX2 has created this statement in order to demonstrate our firm commitment to internet privacy. The following outlines our information gathering and dissemination practice:

Our Authoring System requires authors and publishers to register on our web site. Our registration form requests that authors and publishers give us contact information (such as name and email address). We use this data to send you emails containing updates to our Authoring System and/or the availability of additional services. You may opt-out of being contacted by us; see "Choice/opt-out" below.

We may publish online surveys from time to time. Data collected is used to optimize our service and to provide customer support.

Now we can associate an actual company with vx2:

Onflow.com. Why all the secrecy about the vx2.cc domain? What do they have to hide?

If you go to Onflow.com, you will find exactly zero mentions of vx2. So is vx2 Onflow? No one appears to want to come forward as being vx2, yet Onflow and vx2 are willing to share the same terms of agreement. Normally, if two companies were both bundling their add-ons with a piece of software, there would be two completely separate agreements and privacy statements.

Here's more from the Audio Galaxy terms of agreement:

Player Privacy

The following information is specific to the Onflow Player, which allows users to enjoy rich multimedia displays through your browser.

Data transmitted

Each time the Onflow Player displays images, it transmits data to our server such as the serial number of the Player, the image displayed, the web page in which it was shown and whether you moved your mouse over the image or clicked on it. This data does not identify you.

Other Disclosure

It is possible, though unlikely; that a subpoena, court order or similar cause could require us to disclose information we have concerning a particular Onflow Player or a particular registered user. Should that occur, we would have to comply with legal requirements.

Policy changes

We may change or supplement our policies as needed. We do not use personally identifiable information for any other reason than account maintenance and to notify you of special offers. If this policy changes, you will be notified via email. Our current policy can be found at our web site; please visit us at <http://www.onflow.com> to review our most current policy.

So, they track their ad, whether or not I clicked on it, and - and this is an important part - "the web page in which it was shown." But vx2 attaches popups to arbitrary pages, such as the ones I encountered on POE. This indicates to me that vx2 is actually reporting on whatever page happens to be showing when it squirts out one of its popups, effectively tracking the sites you visit.

Troubling as that is, it gets worse:

Security

DR186884
CONFIDENTIAL

This site has security measures in place to protect the loss, misuse and alteration of the information under our control. Onflow maintains strict internal practices that help protect the security and confidentiality of this information by limiting employee access.

Choice/Opt-Out

Our site provides users the opportunity to opt-out of receiving communications from us at the point where we request information about the visitor. For more information about opting out, click [here](http://www.onflow.com/about/unsubscribe-newsletter.php)
<http://www.onflow.com/about/unsubscribe-newsletter.php>

Unfortunately, the opt-out link only leads to an easy way for Onflow customers to opt-out of receiving newsletters from Onflow. There's no mention of how to opt-out of vx2 spying on your browsing habits. If you want to do that, the vx2 site offers a convoluted way of disabling its software. (Go [here](#) to get rid of this junk.)

Okay, last excerpt from the Audio Galaxy terms of agreement:

Contacting the Website

If you have any questions about this privacy statement, the practices of this site, or your dealings with this web site, you can contact us at info@onflow.com

The VX2 privacy Policy and terms of use is also available by clicking on <http://www.vx2.cc/privacy.html>

Notice the runaround? Onflow doesn't mention the extent of what they are doing, but they admit that they are at least working with vx2. At this point there's no evidence that Onflow isn't, in fact, the owner of vx2. And as I'm writing this, no phone calls or emails to Onflow have been returned.

Also notice that the actual vx2 privacy policy that you're agreeing to is only available on the vx2 website and not in the body of the terms of agreement itself.

I grabbed vx2's privacy policy and stuck it here. Let me just quote one little section. I am going to bold, italicize, and underline it just so you get some idea of how important it is:

VX2's software also collects some information from online forms that you fill out. This information is automatically sent to VX2 in order to save you the time and trouble of submitting such information to us yourself. We have undertaken technical measures to make sure that VX2 never collects credit card numbers, account numbers or passwords. If such data were, despite VX2's best efforts, ever inadvertently collected VX2 would immediately purge such information from its database.

Holy crap. What time do they think they're saving me? The time I was going to have to spend telling them that I was searching Google for pictures of Supermodel Trish Gciff? This goes well past knowing what

DR186885
CONFIDENTIAL

Article about VX2 posted on-line

browser I use, what my screen resolution is, or even what sites I'm visiting. This is picking up personal information to attach to a profile. This means that if I send a private email using a web based email service, this invisible program will - at its own discretion and according to some unpublished criteria - effectively forward a copy to the good people at vx2. Call me ungrateful, but I'm not sure how helpful this service is to me. Remember, this information is being sent to a site with no whois record that you can only communicate with through a hotmail account. Spammers give you more information about themselves.

The bottom line is that Onflow and Audio Galaxy are being purposefully misleading. When you install Audio Galaxy, it should clearly state that if you install this software, we are going to grab data from every form you submit and send it back to our servers for storage. Popups be damned - what Onflow and Audio Galaxy have done is well past the annoyance level of popups. It's bad that they've invaded your online privacy, but it's worse that they've attempted to hide what they're actually doing.

This cannot continue. Now is the time to put an end to spyware. If you live in the United States, please contact your local congressman and state senator. If you're outside the U.S., first put down your Anti-USA picket sign and then contact your elected official or tribal warlord. The situation has passed the point of self policing. Onflow's actions combined with the "Trust-E" symbol on the Onflow site has made it pretty clear: a watchdog group that accepts significant funding from the very people it's supposed to police is worthless.

(Here is just one nice coupling of Microsoft being caught breaking their privacy statement and then donating money to E-trust to jointly offer some service no one uses.

I guess these same people would wonder why the mob can't donate to the Policeman's ball.)

While our elected officials take their damn time, don't waste yours. Avoid any company that works with Onflow or Audio Galaxy. Write to any artist that's listed as a partner on Audio Galaxy's site. Tell them why they should leave. Contact every company that has something to do with Onflow.

www.vx2.cc is hosted by hostway.com - 800-397-2449
the vx2 served ads are hosted by openworld, stdio.com - 888-465-WRLD

Please, take the time and contact as many of these people as you can. Be polite, but be firm. They probably had no idea their ad was being used to steal form data. After examining the list, it looks like CBS news needs to get a new tech reporter...

Please feel free to call or email me with your response.
Thank you for your time regarding this matter.

Virginia Meeks
Information Services Support Technician
Royal Oak Schools
248/435-8400 x255
248/321-8245 mobile

DR186886
CONFIDENTIAL