

EXHIBIT 89

Subject: Re: Pacerd / DR
 From: Daniel Doman <dan@direct-revenue.com>
 Date: Mon, 13 Jun 2005 12:05:29 -0400
 To: Jean Philippe Maheu <jpmaheu@direct-revenue.com>

We are doing what they are accusing us of doing.

On Jun 13, 2005, at 2:28 PM, Jean Philippe Maheu wrote:

can you indicate what is absurd on this?

jp

On Jun 13, 2005, at 7:54 AM, Daniel Doman wrote:

This is absurd..

Edelman is hammering us for stealth distribution on Pacerd's bundle. I can't even go to their site at all. Chris and Mia have no idea who they are. I can ping pacerd.com but cannot get HTML. Trying to go to the pacerd.com website or the <http://www.pacerd.com/terms.html> (cited by edelman returns the attached ad (see cookie dump)).

Meantime the snapshots on edelman's site show that he got pacerd from www.iowrestling.com. Oh and in the process of accessing our cookie dump, trying to see pacerd.com and then iowrestling (which starts up with an activeX which asks if I would like to make them my default home page) I now have 4 - count em - 4 Ceres ads.

See cookie dump from popups when I failed to see pacerd.com web site. Ceres pops a "Internet Security warning ad"... How do we stop shooting ourselves in the foot with these? See my follow up message..

Cookie Dump:

```
name:ctr, value:221
name:dly, value:1-1118673607-10095:172460:4923:86292:11025:432000:10700:2591531-47619:172460:49942:85931
name:fme, value:1-6542:1:67-6467:1:164:439-29440:1:164:444-19316:3:74:059
name:hst,
value:1-1118673614-0:51891:64518:imp-106:43727:132346:imp-342:47619:53883:imp-467:49942:5188:imp-6978748:23490:7453:imp-7036843:43095:745
name:dmg,
value:%13%7E_d%152%08k%22qf%24%7Cv%22qzh%3Ffpmf%24ev%22.%2F%2F.%2C%24%7E%7C%22-%24is%7B%22kzlopink1%24ks%7B%22%7C
name:url, value:http://newnet.qsrch.com/dpark?s=lowrestling.com&prt=nn01
name:ron, value:
```

Recent Event History:

```
raw:1-1118673614-0:51891:64518:imp-106:43727:132346:imp-342:47619:53883:imp-467:49942:5188:imp-6978748:23490:7453:imp-7036843:43095:745
```

time: Mon Jun 13 10:40:14 EDT 2005

```
event: imp
campaign: 11025, KAN:Lifestyle_Religion/Spirituality-'lifereligion'
creative: 51891, KAN:Lifestyle_Religion/Spirituality-'lifereligion'
section: 64518, newnet.qsrch.com
psection: 6455, Lifestyle_Religion/Spirituality
cpc: 0.5, cpm:0.0
campaign weight: 10000, creative weight:10
```

time: Mon Jun 13 10:38:28 EDT 2005

```
event: imp
campaign: 9164, SDI - Casino-On-Net 888 US RON 2005-03-25
creative: 43727, Copy SDI - Casino-On-Net 888 US RON 2005-01-04 #1
section: 132346, CPVMarket_Pnsback_US_RON
psection: 5422, - TOP 50 Portals (RON)
cpc: 0.0, cpm:3.0
campaign weight: 2000, creative weight:10
```

time: Mon Jun 13 10:34:32 EDT 2005

```
event: imp
campaign: 10095, IM-Software Online CPM 2005-05-06
creative: 47619, IM-Software Online 2005-05-06-12
section: 53883, FM-Entertainment_News_General 01
psection: 9378, FM-Entertainment_News_General
cpc: 0.0, cpm:3.75
campaign weight: 10000, creative weight:10
```

time: Mon Jun 13 10:32:27 EDT 2005

```
event: imp
campaign: 10700, CPA-50Cent-MultiBuckets-EMM-1
creative: 49942, CPA-50Cent-MultiBuckets-EMM-1.DP
section: 5188, www.cnn.com
psection: 6455, Entertainment_News_General
cpc: 0.0, cpm:2.0
campaign weight: 2000, creative weight:10
```

time: Thu Mar 24 15:07:46 EST 2005

```
event: imp
campaign:
creative: 23490,
section: 7453, RON Slot - 01
psection: 5422, - TOP 50 Portals (RON)
cpc:
cpm:
campaign weight:
creative weight:
```

time: Wed Mar 23 22:59:31 EST 2005

```
event: imp
campaign:
creative: 43095,
section: 7456, RON Slot - 04
```

psection: 5422, - TOP 50 Portals (RON)
cpc: , cpm:
campaign weight: , creative weight:

time: Wed Mar 23 21:43:22 EST 2005
event: imp
campaign: ,
creative: 35742,
section: 7455, RON Slot - 03
psection: 5422, - TOP 50 Portals (RON)
cpc: , cpm:
campaign weight: , creative weight:

time: Wed Mar 23 20:12:41 EST 2005
event: imp
campaign: ,
creative: 40586,
section: 7454, RON Slot - 02
psection: 5422, - TOP 50 Portals (RON)
cpc: , cpm:
campaign weight: , creative weight:

time: Wed Mar 23 18:43:37 EST 2005
event: imp
campaign: ,
creative: 41216,
section: 7453, RON Slot - 01
psection: 5422, - TOP 50 Portals (RON)
cpc: , cpm:
campaign weight: , creative weight:

time: Tue Mar 15 13:23:24 EST 2005
event: imp
campaign: ,
creative: 40586,
section: 19334, www.adbureau.net
psection: 6455, Misc_Advertising
cpc: , cpm:
campaign weight: , creative weight:

time: Tue Mar 15 13:21:03 EST 2005
event: imp
campaign: ,
creative: 41216,
section: 7453, RON Slot - 01
psection: 5422, - TOP 50 Portals (RON)
cpc: , cpm:
campaign weight: , creative weight:

time: Tue Mar 08 12:07:29 EST 2005
event: imp
campaign: ,
creative: 30435,
section: 64649, www.internetopiniongroup.com
psection: 6455, Shopping_Computers/HIFI/Technology
cpc: , cpm:
campaign weight: , creative weight:

time: Mon Mar 07 20:12:26 EST 2005
event: imp
campaign: ,
creative: 41823,
section: 7462, RON Slot - 10
psection: 5422, - TOP 50 Portals (RON)
cpc: , cpm:
campaign weight: , creative weight:

time: Mon Mar 07 19:42:05 EST 2005
event: imp
campaign: ,
creative: 41945,
section: 7460, RON Slot - 08
psection: 5422, - TOP 50 Portals (RON)
cpc: , cpm:
campaign weight: , creative weight:

time: Mon Mar 07 19:26:57 EST 2005
event: imp
campaign: ,
creative: 42090,
section: 7459, RON Slot - 07
psection: 5422, - TOP 50 Portals (RON)
cpc: , cpm:
campaign weight: , creative weight:

time: Mon Mar 07 19:11:46 EST 2005
event: imp
campaign: ,
creative: 41640,
section: 7458, RON Slot - 06
psection: 5422, - TOP 50 Portals (RON)
cpc: , cpm:
campaign weight: , creative weight:

time: Mon Mar 07 18:56:38 EST 2005

event: imp
 campaign:
 creative: 52348,
 section: 7457, RON Slot - 05
 psection: 5422, - TOP 50 Portals (RON)
 cpc: , cpm:
 campaign weight: , creative weight:
 time: Mon Mar 07 18:41:29 EST 2005
 event: imp
 campaign:
 creative: 42062,
 section: 7456, RON Slot - 04
 psection: 5422, - TOP 50 Portals (RON)
 cpc: , cpm:
 campaign weight: , creative weight:

time: Mon Mar 07 18:26:19 EST 2005
 event: imp
 campaign:
 creative: 41216,
 section: 7455, RON Slot - 03
 psection: 5422, - TOP 50 Portals (RON)
 cpc: , cpm:
 campaign weight: , creative weight:

time: Mon Mar 07 18:11:11 EST 2005
 event: imp
 campaign:
 creative: 35742,
 section: 7454, RON Slot - 02
 psection: 5422, - TOP 50 Portals (RON)
 cpc: , cpm:
 campaign weight: , creative weight:

time: Mon Mar 07 17:54:33 EST 2005
 event: imp
 campaign:
 creative: 40586,
 section: 7453, RON Slot - 01
 psection: 5422, - TOP 50 Portals (RON)
 cpc: , cpm:
 campaign weight: , creative weight:

time: Tue Mar 01 13:57:20 EST 2005
 event: imp
 campaign:
 creative: 35742,
 section: 7454, RON Slot - 02
 psection: 5422, - TOP 50 Portals (RON)
 cpc: , cpm:
 campaign weight: , creative weight:

time: Tue Mar 01 13:52:11 EST 2005
 event: imp
 campaign:
 creative: 40586,
 section: 7453, RON Slot - 01
 psection: 5422, - TOP 50 Portals (RON)
 cpc: , cpm:
 campaign weight: , creative weight:

time: Tue Feb 22 15:19:56 EST 2005
 event: imp
 campaign:
 creative: 35742,
 section: 7454, RON Slot - 02
 psection: 5422, - TOP 50 Portals (RON)
 cpc: , cpm:
 campaign weight: , creative weight:

Delay History:
 raw:1-1118673607-10095:172460:4923:86292:11025:432000:10700:259153]-47619:172460:49942:85931

Campaign: 10095, IM-Software Online CPM 2005-05-06.
 Expires:Wed Jun 15 10:34:27 EDT 2005
 Campaign: 10700, CPA-50Cent-MultiBuckets-EMM-1.
 Expires:Wed Jul 13 10:32:18 EDT 2005
 Campaign: 11025, KAN:Lifestyle_Religion/Spirituality-lifereligion.
 Expires:Sat Jun 18 10:40:07 EDT 2005
 Campaign: 4923, FC-RON CPM 2004-10-01.
 Expires:Tue Jun 14 10:38:19 EDT 2005

Creative: 47619, IM-Software Online 2005-05-06-[2].
 Expires:Wed Jun 15 10:34:27 EDT 2005
 Creative: 49942, CPA-50Cent-MultiBuckets-EMM-1.DP.
 Expires:Tue Jun 14 10:32:18 EDT 2005

FollowMe History:
 raw:1-6542:1:67-6467:1:164.439-29440:1:164.444-19316:3:74.059
 section:19316, Misc_Advertising, day:74.059, count:3
 section:29440, Lifestyle_Religion/Spirituality, day:164.444, count:1
 section:6467, Entertainment_News_General, day:164.439, count:1

section:6542. Shopping_Computers/HiFi/Technology. day:67. count:1

Demographics Info:

raw:%13%7E_d%152%08k%22qf%24%7Cv%22qzh%3Ffpnit%24evo%22.%2F%2F.%2C%24%7E%7C%22...%24%7B%22kzlopml%24ks%7B%22%7Cf

decoded:qZk"q\$iv"qzh?fpnitSevo"//..\$-l"-\$ls{"kzlopml\$ks{"lpr\${"r~**/Sori~**//\$l{"...Y9C7K"

unencrypted:co=us;st=ny;ci=new york;zip=10013;ac=212;sld=tsesports;tld=com;dma=501;pmsa=5600;cd=1118672924;

<ceres used for fake security update.tiff>

Begin forwarded message:

From: Jonathan Cohen <jcohen@direct-revenue.com>
 Date: June 13, 2005 10:00:48 AM EDT
 To: "Roberts, Paul" <Paul_Roberts@ziffdavis.com>
 Subject: Re: FW: PacerD / DR

Thanks, Paul. A couple of comments:

1. It's not clear to me that PacerD's license agreement says it may install DirectRevenue software. When I look at Section 4 of the PacerD EULA as provided by Ben, I see the word "revenue." I don't see our company name -- "Direct Revenue." I'd like to see plainer proof that we are listed there. Ben BELIEVES he has video of PacerD actually installing us. Let's see it, please.

2. Then there is the logical inconsistency concerning Ben's claims of us using surreptitious multiple identities: Why mention Direct Revenue by name in the PacerD EULA if there is a deal in place with a cloaked DR entity? It doesn't make sense. Doesn't the fact that we list all of our brands on MyPCTuneUp and on the corporate site demonstrate that we are DISCLOSING our brands, not hiding them? Isn't this the transparency that Ben and others are clamoring for?

4. Most important, my guys tell me they have never heard of PacerD. In any event, he's reporting old news. As Ben mentions in passing, his screen shot is from "last spring." Indeed a look at the current PacerD EULA has no mention of DR or most of the other ad purveyors mentioned in the Edelman screen shot. Maybe PacerD was listing lots of folks without permission.

5. Ben raises a separate issue -- exploiting security holes. Once again, I'd like to see the video.

On Jun 13, 2005 08:01 AM, "Roberts, Paul" <Paul_Roberts@ziffdavis.com> wrote:

Copying you on ben e's response from last week, jon.

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

From: Ben Edelman [mailto:edelman@law.harvard.edu]
 Sent: Tuesday, June 07, 2005 4:48 PM
 To: Roberts, Paul
 Subject: PacerD / DR

I believe I have video proof showing PACERD installing DR. Am out of the office today, can't immediately check my files.

In any event,

<<http://www.benedelman.org/spyware/installations/pacerd/details.html#4>> shows PACERD's license agreement (as it stood earlier this spring), specifically mentioning that PACERD may install DR. Scroll down to the fourth license agreement screenshot.

<http://www.benedelman.org/spyware/installations/pacerd/iowrestling-pacerd_a_civex-2d.jpg>, and you can see this for yourself. How can DR explain the fact that PACERD's license "says" PACERD may install DR software?

Often companies do business under multiple names. (DR, with all its alter egos, is the master of this! See the many names at <<http://www.mypctuneup.com/>>, first paragraph at bottom center.) Maybe PACERD's relationship with DR is under some other name? Or even through some other intermediary? Like PACERD installs some product X, which in turn installs DR?

All in all: I'm pretty confident that I'm right. The fact that PACERD clearly says it installs DR certainly tends to suggest I'm right.

Finally, it would be great to see what PACERD says. They're the most natural folks to talk about, on the subject of what they do or don't install.

Incidentally, I have video proof on file showing DR installing through security holes, with no notice or consent at all. Does DR deny this?

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

From: Roberts, Paul [mailto:Paul_Roberts@ziffdavis.com]
Sent: Tuesday, June 07, 2005 4:36 PM
To: Ben Edelman
Subject: RE: Update on Netscape 8 / TRUSTe

Hey Ben. So I talked to Direct Revenue today about their business practices today. One issue that came up was your analysis of PACERD installation.

(<http://www.benedelman.org/spyware/installations/pacerd/>)

asked them if they knew of a relationship with that company. They said they had no record of ever doing business with PacerD and said that you were incorrect in claiming that their software was bundled with PacerD.

I wanted to circle back to you and see if they're blowing smoke or if, in fact, DR is not bundled with the PacerD installation bundle, as is claimed on your Web site.

I'll be leaving shortly, but we can connect later tonight or tomorrow. Feel free to email comments as well, Ben.

Thanks.

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

From: Ben Edelman [mailto:edelman@law.harvard.edu]
Sent: Sunday, June 05, 2005 6:16 PM
To: Roberts, Paul
Subject: Update on Netscape 8 / TRUSTe

Paul,

A quick update, probably not sufficient to be newsworthy, but perhaps of interest nonetheless --

After our call last week, I reported Hotbar's violations to TRUSTe. TRUSTe responded by suspending Hotbar's TRUSTe certification.

TRUSTe's web site now confirms that Hotbar's certification has been revoked.

<<http://www.truste.org/ivalidate.php?url=www.hotbar.com&sealid=101>>

Yet Netscape 8 continues to show the green check mark for Hotbar, and to say Hotbar is still certified by TRUSTe.

I've briefly written up these updates at
<<http://www.benedelman.org/spyware/ns8/#june5>>.

What a mess! They just can't get it right...

Of course ABetterInternet and Webhancer are breaching TRUSTe rules too, so it looks like I'll have to send TRUSTe the details shortly...

Ben

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