



## ISP hammers Bob Vila site with spam suit

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### **An Internet service provider filed a lawsuit against the operator and marketer of home improvement Web site BobVila.com for violating terms of the federal Can-Spam Act.**

In the claim, filed Thursday in U.S. District Court of California, Net service provider Hypertouch accused BVWebTies, the company that owns and operates BobVila.com, and one of its partners, BlueStream Media, of breaching guidelines of the [Can-Spam Act](#) by sending the ISP and its customers "unwanted and unsolicited" e-mail that advertised a newsletter being distributed by the Web site.

Among other complaints, Hypertouch, which is based in Foster City, Calif., claimed that BobVila.com sent 41 different [e-mail messages](#) bearing "materially false or misleading" headers, or subject lines, to trick people into reading the correspondence.

Neither BVWebTies nor BlueStream Media immediately returned calls seeking comment on the lawsuit.

Passed in December 2003, the Can-Spam Act was meant to help regulate spam by threatening various forms of punishment, including possible prison sentences, against individuals and companies responsible for [sending unsolicited e-mail](#).

However, early indications show the law has [done little thus far to discourage spammers](#). A study released in February found that only 3 percent of bulk commercial e-mail included a valid U.S. postal mail address for the sender and a link to opt out of future messages, as required by the federal mandate.

Hypertouch said in its suit that the spam sent by the defendants could be linked to no physical address and that the parties sent the communications to randomly generated and harvested e-mail accounts, as well as to accounts that had submitted requests to opt out through links of other messages. Hypertouch executives labeled the e-mail campaign tactics as classic attempts to deceive consumers and questioned Can-Spam's ability to deter such activity.

"Most ISPs advise their customers to never reply to spam in an attempt to opt out, because that will only confirm for the spammer that an e-mail address is live," Hypertouch President Joe Wagner said in a statement. "BobVila.com and BlueStream Media's actions graphically show how harmful the Can-Spam Act is by requiring recipients to reply to the spam they receive."

The company's legal counsel also criticized Can-Spam, calling the legislation "an open license to spam with very little protection for the public." However, the attorney said Hypertouch will continue to use the law to pursue companies that are spamming its customers. The ISP has previously gone after individuals it believes are responsible for sending "junk faxes," a paper-based cousin of e-mail spam, and is currently engaged in a class-action lawsuit against one person to that end.

Some industry watchers contend that [spam distribution](#) has continued to grow since Can-Spam went into effect at the beginning of this year. Approximately 60 percent of e-mail sent in January 2004 was spam, up from 58 percent in December 2003, according to San Francisco-based Brightmail, a spam-filtering company.



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