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Today's News

BOTNETS BATTLED by low-key industry anti-spam group whose top members are mostly big telcos, cable operators. Annual MAAWG meeting also takes up reputation systems. (P. 1)

DHS CHIEF PRIVACY OFFICER with online-ad background gets mostly favorable reaction from privacy activists. DHS structure is real challenge, some say. (P. 2)

AGENCIES FACE HARD WORK carrying out broadband grant program, panelists say. Obama site tracks stimulus spending. (P. 3)

DRM HELPS PIRACY, hurts customer experience, Valve Software tells D.I.C.E. Summit. (P. 4)

COURTS: Inclusion in Google's Street View, by itself, doesn't violate law, Pittsburgh judge rules. (P. 5)

DOMAIN NAMES: ICANN posts second draft of new gTLD application plan for comment. (P. 6)

INDUSTRY NOTES: GoDaddy.com brags of expansion. (P. 6)

Anti-Spam Group Led by Telcos, Cable Wrestles with Botnets

An industry anti-spam group whose leading members include large telcos and cable companies is grappling with botnets, leaders said Thursday. About 350 participants from 130 companies and 10 countries worked Tuesday to Thursday at an annual San Francisco meeting of the Messaging Anti-Abuse Working Group on a draft paper about remedies and challenges, they said. The document will be reviewed at the group's meeting June 9-11 in Amsterdam, to get comments from European and Asian participants, said Executive Director Jerry Upton. He said publication of the final version is expected by September.

The challenge is daunting because botnets are designed to be as difficult as possible to remove from computers, said the group's chairman, Michael O'Reirdan, an engineer at a big cable operator. Participants at the meeting disagree about the best technical approaches, he said, declining to elaborate. The group's meetings are closed for security reasons. Other sides of its campaign against botnets include cooperation with law enforcement and efforts to prevent members' networks from being compromised, O'Reirdan said.

The botnet paper and other work on malware reflect the group's recently turning "our efforts on the germs" instead of just the symptoms, the resulting messages, O'Reirdan said. Service providers seek to "protect their user base in a rather more active fashion" than they have, he said. The group has taken a survey of users' views of who should protect them online, and it plans to release results in May, O'Reirdan said.

The meeting also worked on a paper on how group members can make use of a new ICANN system for reporting and handling domain-name problems, Upton said. That document is on a schedule like the one for the botnet paper, he said. As an educational effort, though, it's easier, Upton said.

Next month, the group plans to publish a paper proposing a definition of the "reputation" of an e-mail address or Internet Protocol address and suggesting how best to use reputation systems to combat message abuse, Upton said. Reducing the number of varying uses of the term within the industry will aid effective action, he said.

The meeting had "a very good turnout, particularly in these economic times," Upton said. "It's probably the biggest meeting we've had in San Francisco." Verizon Wireless and Facebook joined the group to take part in the event, he said, and Amazon was represented. An "ever-increasing number of mobile operators are joining our organization," Upton said, and a wireless committee is working to help carriers and subscribers deal with the "rising problem" of SMS abuse.

The 12 companies represented on the board include AOL, AT&T, Charter, Comcast, Cox, France Telecom, Time Warner Cable, Verizon and Yahoo, said the group's Web site. Cablevision, Google, Sprint and Telefonica are "full members," and the scores of bottom-level "supporting members" include EarthLink, Embarq and Microsoft, along with many smaller messaging, security and other high-tech companies.

The group's broad and influential membership -- providers of more than a billion electronic mailboxes -- ensures that recommendations get adopted throughout the participating companies and beyond quickly, Upton said. "Quickly can be six to nine months." -- *Louis Trager*

Online Rights Pioneer?

New DHS Privacy Officer Gets Mostly Positive Response from Activists

President Barack Obama added another online advertising lawyer to his administration Thursday with the appointment of Mary Ellen Callahan as chief privacy officer of the Department of Homeland Security. Views of Callahan's leadership of the first industry group to tackle Internet privacy in commerce varied among the activists we surveyed from visionary or detrimental to the development of the federal privacy framework.

We couldn't reach Callahan to ask how her background may influence her leadership of the Privacy Office, which has had an uneasy relationship with privacy activists on matters such as DHS's use of data brokers (WID March 12/08 p5). Activists agreed that DHS is a different creature from the Internet advertising industry. They said making the federal government supportive of privacy will pose a significant challenge to Callahan's abilities to build coalitions.

Callahan represented the MPAA and Online Publishers Association in FTC rulemakings on the CAN-SPAM law and Children's Online Privacy Protection Act, according to her law firm biography, and she helped draft self-regulatory privacy standards for health Web sites. She's vice chairman of the American Bar Association's Privacy and Information Security Committee.

Callahan co-chaired the Online Privacy Alliance, formed in the late 1990s after FTC Commissioner Christine Varney returned to private practice. Varney is a familiar figure in online privacy policy circles who was recently named antitrust chief in the Justice Department (WID Jan 23 p6). She worked with Callahan at the Hogan & Hartson law firm. They brought together "everyone in the industry" to hammer out online privacy rules before Congress got involved, said Tim Lordan, the executive director of the Internet Education Foundation. The resulting rules on third-party enforcement of privacy policies and guidelines for publishers using ad networks were the "cornerstone" of all privacy policies, he said. The alliance also worked with the Network Advertising Initiative to create rules for the new field of behavioral targeting, Lordan said. The guidelines she helped write were "really forward-looking."

It's not clear which companies were involved in the alliance after its founding. Lordan pointed us to a list from Varney's 1998 congressional testimony, right after the alliance's founding, that included roughly 50 companies and groups. A later list available on the alliance's Wikipedia entry listed about 30 of them, including Apple, AT&T, Verizon, DoubleClick, eBay, Microsoft, Time Warner, WhenU, Zango, U.S. Chamber, the Business Software Alliance, TRUSTe, MPAA, ITAA and several advertiser groups. Activists said the alliance folded in the past two years.

Callahan was "constantly encouraging them to stay up to date" with the "evolving nature of the Internet," and she encouraged the industry to again update policies a few years ago, before the FTC's behavioral targeting workshops and rulemaking, Lordan said. "She was heralding what I would say now is coming to pass."

“Mary Ellen is a knowledgeable and accomplished attorney,” Ari Schwartz, the chief operating officer of the Center for Democracy & Technology, said by e-mail. “I don’t really consider her (or Christine) to be a representative of the online ad industry.” The Future of Privacy Forum, which formed late last year, said Callahan has “the critical combination of privacy savvy, common sense and backbone needed to help craft the balance between the war on terror and respect for the privacy and personal dignity of individuals.” It also called her a “great listener who will be able to ensure that voices of both law enforcement and civil libertarians are heard and respected.”

The alliance that Callahan led was founded to “head off real privacy laws” that the Electronic Privacy Information Center was pushing for Congress to enact in the late 1990s, said Marc Rotenberg, the group’s executive director. “OPA and others said it wasn’t necessary. Then ID theft and security breaches skyrocketed.”

The structure of DHS, and the role of the Privacy Office, is the most pressing matter, activists said. “It’s a genuinely difficult job. Most people have no idea how much authority DHS has or how extensive its data collection is,” Rotenberg said. “The CPO has to be able to push back hard to shut down bad projects ... I just don’t know if she’ll be up to the job.” Tim Sparapani, senior legislative counsel for the ACLU, said his group doesn’t comment on appointees. But “unless the privacy officer has the ear of the secretary or the general counsel [of DHS], or is willing to push back when bad ideas ... are pushed forward, the Privacy Office can’t play the role it needs to protect public privacy,” he said. The chief privacy officer’s attitude should be “let’s go back to the drawing board,” not try to get around the “structural” problems of DHS. Dealing with federal agencies is more difficult than with business, Lordan said. But “Mary Ellen is really affable,” he said. “It’s hard not to like her.” -- *Greg Piper*

Site to Track Spending

Tough Decisions Ahead on Rules for New Broadband Program

The law creating a \$7.2 billion broadband program delegates many important decisions to the government agencies charged with spending the money, panelists said Thursday at a Georgetown University seminar. The law, written in haste in response to the economic crisis, leaves it to agencies to decide who has priority for grants and to set Internet speed benchmarks for grant recipients. “We have a lot more work to do,” said FCC Chief Technologist Jon Peha. But the law gives agencies flexibility, “which is a great advantage when you are trying to do something hard,” he said.

With that flexibility comes the challenge of tackling tough problems, such as spelling out network nondiscrimination rules. “Brutal battles” could be ahead on that subject, he said. “We have to figure what is broadband, and we need to evaluate our existing infrastructure.” The NTIA will need to define what constitutes an underserved versus unserved area. All of this must be done at the same time that policymakers define and create a national broadband policy, with deadlines for grant making coming before the requirement to complete the national broadband policy. “Defining that policy will not be an easy task,” Peha said.

The Obama administration’s new Web site, www.recovery.org, could help coordinate interagency activities, while providing the public a chance to see how dollars are spent, said Stifel Nicolaus analyst Blair Levin. He was an adviser to the Obama transition team. The centralized data-collection site will allow policymakers to catch program missteps and correct them early in the process, he said. “Some of these funds are not going to flow as you hope,” he said. “It’s inevitable on any project.” But providing a way to track spending can hold down problems before it’s too late to make changes.

Starting March 3, agencies will be required to submit weekly update reports on what they’re doing to get spending done, said an Office of Management and Budget memo posted on the site. Beginning April 6, agencies must post specific spending data, “on a cumulative, year-to-date basis.” The posts must link to contract and financial assistance solicitations through the Federal Opportunities Web site, www.fbo.gov, and www.grants.gov.

Recovery.gov is meant as a portal allowing users to search for spending information by agency. It promises to show which states and congressional districts get money and to identify contractors that win busi-

ness. Individual government agencies are encouraged to link to the site and dedicate a section of their primary Web sites to the Recovery Act “within a week.”

Agencies should focus efforts on channeling loans to unserved areas, NCTA Vice President Rick Cimerman told the Georgetown panel. It shouldn't be too difficult to decide what an unserved area is, he said. Defining “underserved” will be more challenging. Setting speed benchmarks also will be tricky. He recommended setting speeds that encourage providers to go into new areas or to upgrade service, but not to set speeds so high that they would curtail grant eligibility to only one or two companies. He also urged the government to make use of a \$250 million in grants to encourage people to use broadband services. Finally, he urged that there be no “burdensome regulations” imposed on would-be grant recipients.

The wireless industry hopes policymakers won't set speed requirements that bar its ability to qualify for grants, said Carolyn Brandon, CTIA vice president of policy. “We think the money can go out in a way that involved many different providers.” As for defining network non-discrimination, Brandon said she thinks the Obama administration has a plan, and that there could be “quick resolution.” But “that doesn't mean all stakeholders will agree with what is put on the table.”

Grants should be allocated to encourage projects that would not happen otherwise, said Scott Wallsten, senior policy fellow at Georgetown's Center for Business & Public Policy. Others agreed. But the law's overall intent to create jobs muddies the waters a bit, because there is a difference between funding a construction or infrastructure project, and upgrading existing facilities to faster speeds by buying new equipment. The latter effort could lead to better broadband and higher productivity, but might not immediately create jobs. “There is a tension between the objectives,” Wallsten said. “You can be sure to get jobs if you fund a ‘ditch to nowhere,’ but that doesn't do anything for broadband,” he said, a reference to an infamous appropriation for an Alaskan bridge project. -- *Anne Veigle*

Growth for Steam Continues

DRM Increases Piracy, Weakens Service Experience, Valve Says

LAS VEGAS -- Makers use digital rights management in their games largely to prevent piracy, but the technology often has the “opposite effect,” increasing piracy while harming consumers' experience, Valve Software President Gabe Newell. He was the keynote Wednesday at the Design Innovate Communicate Entertain Summit.

Companies typically look at piracy simply as customers' seeking content free, but that's "misleading," Newell said. The idea that PC gamers, in particular, are concerned about price is flawed, he said, because they often spend \$2,000 to \$4,000 on computers and as much as \$700 a year on Internet access. The gamers seem perfectly willing to spend money on products they want, he said. “The issue is service.” Piracy is the only way to get some content, Newell said: He's a fan of the *Dr. Who* TV series but can't get episodes of that show in the U.S. legally, on DVD or otherwise. One solution is for content owners to make more of their properties readily available to consumers, he said.

DRM "increases the gap between the service that's being offered by piracy and the service being provided through traditional means," Newell said. There's “anecdotal evidence that DRM is actually increasing piracy rather than decreasing piracy,” he said.

There are "fundamental changes going on in the entertainment industry," largely because of the Internet, that will “impact every aspect of our business,” including sales, marketing, distribution, product development and customer support, Newell said. The relationship between game companies and customers is becoming more direct and service-oriented, and companies must start treating entertainment as a form of service, he said.

Game companies aren't the only entertainment providers taking advantage of changes in the entertainment industry, Newell said. He said music labels are making money on old songs thanks to games such as *Guitar Hero*

and *Rock Band*. There are "songs that are sort of dusty, sitting in the back catalog of music studios," he said. By "putting a service layer on top of it" and "by giving it some level of interactivity" or adding a "social component," for example, "those same songs become very profitable all over again."

Valve continues to grow and has expanded into content beyond gaming as it moves toward becoming a multimedia entertainment company, Newell said. He said his company has made animated shorts for its game *Team Fortress 2* and is developing comics based on that title. The game was released about 14 months ago and Valve has since made 63 updates available to players, he said. Such frequent content additions increase the value of a game to consumers, Newell said.

The company's Steam online game-distribution service has about 20 million users and offers more than 350 PC games, Newell said. The service is available in 21 languages and has seen "about 100 percent year-over-year growth" since 2004, he said. Valve conducts extensive data tracking on its Steam service to help it with pricing strategies and improving games, Newell said. The close communication between Valve and its customers is more effective than conventional marketing that the company must pay for, he said. "Your customers become your most effective sales force."

Steam's subscribers are very conscious of pricing moves, Newell said. The company last weekend did an experiment with the version of the game *Left 4 Dead* that's available on Steam, he said. The company slashed the price of the PC title, which sells in packaged form for \$49.99, to \$24.99, and had a 3,000 percent increase in sales through Steam, drawing many new customers, he said. Revenue exceeded launch sales, Newell said. Retail sales of the game didn't change noticeably, he said. During a Valve holiday sale, games discounted 10 percent had a 35 percent increase in revenue. Those discounted 25 percent had 245 percent growth, games discounted 50 percent had 320 percent growth and those discounted 75 percent grew by 1,470 percent, Newell said.

Combining price cuts with content updates increases demand more than either action alone, and adding promotions such as guest passes to use Steam raises use further, he said. Asked if he's worried that cutting prices often may lead additional consumers to hold off on buying until sale events, Newell said that hasn't happened. -- **Jeff Berman**

Courts

Being included in the Street View feature in Google Maps isn't enough to support lawsuits over invasion of privacy or property rights, a U.S. district judge in Pittsburgh ruled. The feature is based on photos snapped by Google drivers. Aaron and Christine Boring sued Google after learning that photos of their "residence, outbuildings and swimming pool" -- at the end of a road posted "private" and "no trespassing" -- showed up on Street View. The photos indicated that the driver had passed the signs, the Borings said. Judge Amy Hay said the Borings didn't allege harms that they could sue over. The plaintiffs didn't claim that they had suffered "shame or humiliation" from having photos of their property made public, Hay said: On the contrary, the couple seems to have welcomed the publicity that the lawsuit brought. "'Googling' the name of the Borings' attorney demonstrates that publicity regarding this suit has perpetuated dissemination of the Borings' names and location, and resulted in frequent re-publication of the Street View images," Hay said. The couple didn't ask that their photos be removed from Street View -- as Google Maps offers a way to do -- and didn't keep their address from filings or file the suit under seal, she added. Photos like the ones in Street View were available through a search of tax records and "maps compiled by other Internet search engines," and the Borings haven't backed up their contention that Google "transgressed standards of decency," Hay said in a footnote. Nor has the couple provided evidence that their property lost value as a result of Google's actions or that Google interfered with "possession" of the Borings' property, an element of trespassing, she added. Hay dismissed the case.

International

The GSM Association selected Belgacom International Carrier Services and its technology partner eServ-Global as remittance providers in the Mobile Money Transfer program. The initiative uses mobile access to facili-


tate money transfer services, GSMA said. The GSMA and its MMT partners have established a commercial and technical framework that enables mobile operators to deploy services allowing customers to send and receive low-denomination, high-frequency money transfers using mobile phones.

Domain Names

ICANN wants feedback on the second version of its proposal for new generic top level domains. The latest draft applicant guidebook makes several key changes, ICANN said Thursday. They include: (1) Reducing the registry fee from \$18,750 to \$6,250 per quarter. (2) Allowing ICANN to bring action before an arbitrator and request punitive damages when registry operators are "repeatedly problematic." (3) Lifting some restrictions on registry-registrar cross-ownership. (4) Clarifying that auctions to resolve disputes over requested gTLDs is a last resort, and that proceeds from such auctions will be returned to the community via a foundation with a clear mission, such as for sustaining registry operations temporarily in cases of failed registries. ICANN is also rethinking its timeline for launching the gTLD application process, it said. There will be a third draft guidebook, making it unlikely applications will be accepted before December, it said. The new draft leaves provisions on four major issues -- security and stability, malicious misconduct, trademark protection and demand/economic analysis of the need for new gTLDs -- unchanged pending further discussion, ICANN said. Comments are due April 13.

Industry Notes

Never a shy company, registrar and Web host GoDaddy.com bragged Thursday about its expanded headquarters in Scottsdale, Ariz., and continued hiring in the economic downturn. "In just the first few weeks of this year, GoDaddy.com ... has set company records for new customers and new orders," the company said. It has hired 100 people in 2009 in its customer service, legal, accounting, marketing and development departments. Go Daddy opened a 21,000-square-foot facility with a ribbon-cutting featuring Scottsdale Mayor W.J. Lane and its original "Go Daddy Girl," Candice Michelle, the star of the company's racy Super Bowl ads (WID Feb 3/06 p9). CEO Bob Parsons said his company has yet to "off-shore or outsource a single job."

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