

Instamotor Agrees To Pay Craigslist \$31M, Stop Scraping

By **Dave Simpson**

Law360, New York (August 4, 2017, 6:22 PM EDT) -- Instamotor Inc. has agreed to pay Craigslist Inc. \$31 million and stop scraping contact information and other content from users' posts in order to repost them to its own used-car listing service, according to a stipulated judgment filed in California federal court Thursday.

According to the agreement, Instamotor hired a team in the Philippines to copy content from the classified advertising giant's website, including users' contact information and pictures. The team in the Philippines then sent emails to the Craigslist users seeking more information, which it used to create unauthorized advertisements on the Instamotor website, the agreement said.

"Defendant harvested Craigslist users' contact information from the Craigslist website and initiated many thousands of electronic mail messages to such users," said the agreement, which was signed by both parties' attorneys. "The primary purpose of these electronic mail messages was the commercial advertisement or promotion of Instamotor's commercial products or services."

For sending more than 85,000 emails that violate the e CAN-SPAM Act at \$100 a pop, Instamotor agreed to pay Craigslist \$25 million. For breaching Craigslist's terms of use agreement by collecting personal information, the used-car website agreed to pay \$1 per email address or phone number, a total of more than \$5 million.

"The prohibited parties will forever cease access to and/or any use of, including but not limited to reproducing, transmitting, displaying, framing, including, disseminating, publishing, distributing, selling or giving away, any content, including but not limited to user-generated postings, advertisements, information, data, images, messages or emails, that has been submitted to, posted on or transmitted via any Craigslist website, service or computer server, including but not limited to Craigslist.org," the agreement said, explaining the injunction.

Instead of trying to attract its own customers, Instamotor sought to take advantage of Craigslist's decades of hard work, grabbing users' information, harassing them with unsolicited texts and emails advertising its competing services, and reporting the harvested listings on its own site and application, the complaint, filed in May, alleged.

The suit alleged that Instamotor is a longtime Craigslist user, having posted at least 50 ads to the website. As part of the posting process, Instamotor agreed to Craigslist's terms of use, which — among

other things — bars scraping the website, collecting users' contact information and spamming users, according to the complaint.

However, Instamotor harvested, scraped or extracted classified ads from Craigslist's website anyway, using that content to populate used car listings on its own website and app, the suit alleged. As a result, Craigslist has received complaints from users who listed their cars exclusively on its site, only to later discover their vehicle and contact information also being displayed on Instamotor without their permission, according to the complaint.

The unsolicited advertising texts and emails Instamotor sent to Craigslist users admitted that the company scrapes content from its rival's website, the suit said. The complaint cited a typical text message from Instamotor, which reads in part, "We are a FREE app to buy/ sell cars safely. We have extracted your Jeep Wrangler from Craigslist."

Representatives for the parties didn't immediately return requests for comment Friday.

Craigslist is represented by Perry J. Viscounty of Latham & Watkins LLP.

Instamotor is represented by Venkat Balasubramani of Focal LLC.

The suit is Craigslist Inc. v. Instamotor Inc., suit number 4:17-cv-02449, in the U.S. District Court for the Northern District of California.

--Additional reporting by Shayna Posses. Editing by Philip Shea.