

Subject To All The World's Laws, And None

When a company starts doing business on The Internet, its executives rarely realize that they have just gone international, whether they wanted to or not.

And they have gone international in a way that no business ever has before, literally conducting business in hundreds of countries simultaneously. While lots of American corporations have set up major overseas operations, it is usually a gradual, very deliberate process. It's usually a process that allows executives to carefully familiarize themselves with the laws and customs of that particular country and decide how to proceed.

But not so with the space-age pace of The Internet. Set up one storefront from a server in Chicago and find your first responses from Afghanistan and Italy, and it's easy to realize that—forgive us, Frank Baum fans—you're not in Kansas anymore.

Regardless of where your transmission begins from, you are going to be held accountable under the

U.S. underwear ads could be illegal in the Middle East. And the underwear advertiser could be held accountable.

laws of every country in which you do business. Today, on the Internet, that could be nearly 200 sovereign countries.

The issues that need to be considered range from product liability to theft or tampering of information, and to a legal hornet's nest of protections for trademarks, patents, and copyrights. And is material—such as promotional images—bought and paid

for for domestic use allowed to be used internationally without additional payments? And what about technologies—such as encryption—that are legally banned from use outside the U.S.? And Truth in Advertising concepts? And how about obscenity laws, which vary widely in various countries? Some clothing and underwear ads in the U.S., for example, could be illegal in some Middle Eastern countries.

In general, attorneys can provide little comfort. Once on the Internet, you're an international business. And, as an international business, legally, you're often on your own.

For countries that have agreed to abide by international commerce agreements, copyrights should be protected, said Mikki Barry, chief counsel for The Internet Business Association. And for those countries that are not under the treaty?

Said Barry: "Oh, well."

Barry spoke of how obscenity laws can be among the most troublesome, because the

U.S., for example, doesn't even have one set of standards among its own states. She cited a recent case of a couple that operated a BBS in California that featured newsgroups, some of which offered off-color material. While the material was not considered obscene in California, a Memphis, Tenn., resident saw the material, and Tennessee officials declared the material obscene under Tennessee law

and dragged the California couple to Tennessee for court hearings.

"We're in violation of Japanese [obscenity] laws every day," she added.



There are basically two types of international concerns that an Internet business should have. The first concern is whether legal protections in the U.S.—such as patent, trademark, and copyright—will protect their products or information

in other countries from theft or misuse. And the second is whether their conduct will be protected against foreign laws, such as obscenity laws.

As to the legal protections in the U.S. holding in other countries, it is risky at best. Just about all of these laws were written without any regard for a technological monster such as the Internet.

Ready For An Overhaul

Some of the instantaneous multi-country sales allowed by Internet technology could not have even been fathomed by the laws' makers, many of whom crafted those laws many decades ago, said Bill Korn, the manager of strategy and business development for IBM's Electronic Market Services. "Some of those laws are probably ready to be overhauled."

The Vatican Library recently wanted to make it easier for scholars worldwide to access its substantial archives. But Vatican officials quickly became concerned about how to protect those images once they were being received all over the world.

Continued on page 11

Worldwide Liability

Continued from page 9

In the end, the Vatican opted to go on the Internet, but decided to place a sophisticated electronic watermark on every image of every manuscript, so that it could not be printed and passed off as an authorized copy.

And while there exist some password and encryption security products that can protect resources when U.S. laws cannot, the U.S. prohibits encryption technology from leaving the country, making its use on the World-Wide Web controversial and even legally risky.

One simple technique that Barry suggested to minimize potential legal problems is to try and show that you are intending certain products for a U.S. audience only, perhaps

by posting a disclaimer on your home page saying something like "These items are not offered for sale outside the 50 U.S. states."

But, she cautions, if you are going to position yourself as a U.S.-only business, whatever thin protection you may be getting will be gone if you succumb and make even a handful of international sales.

Let's say a furniture company in Boston has a Web page describing its furniture. A Roman merchant messages back, saying that he wants to pay top dollar for a piece that will be perfect in his storefront. So the Boston store agrees and ships over the one chair.

But the chair breaks an hour after ar-

rival. Or worse, the chair arrives broken and it's a battle over whether the chair was intact when it was shipped. "Has the [Boston] man submitted to personal jurisdiction in Italy?"

Barry said she might be able to argue a client's way out of that—pointing to it being a single sale, and

Any sales outside the U.S. can lead to legal exposure.

that there exists no pattern of selling in Italy—but maybe not.

"What I'd be more worried about are U.S. officials, with customs or taxation," she said. "The law is rarely black and white. Anyone can sue you for any reason: It's the American way!"

NetScape: A Dart At NCSA?

Continued from page 3

announced how much it is charging the dozen or so companies that have sublicensed Mosaic from it, the average per-license charge is believed to be only a couple of dollars, and even lower in some cases.

"I don't think there's a lot of money to be made on the client side," said Douglas Colbeth, the president of Spyglass, which is based in Savoy, Ill. He said that while Spyglass, which has 38 employees, "can make a nice living at it," the Mosaic client market isn't big enough to support many companies.

Early users of NetScape have been impressed by some of its characteristics, including a feature called "continuous streaming" that allows users to start interacting with a document while parts of it are still being downloaded.

That feature gives NetScape a significant advantage in an area that has generally been an achilles heel for Mosaic—performance.

Tim Krauskopf, vice-president of research and development at Spyglass, acknowledged that the continuous streaming in NetScape is a nice feature and said it was something that Spyglass would implement in the next release of Enhanced Mosaic,

Ship Without Captain

Continued from page 3

who does not relish the role of a day-to-day operating executive.

"The problem with MCOM is nobody's in charge," said a manager at a software company that has beta tested some of Mosaic Communications' software, and expects to become a business partner. "They've got so many opportunities. They need someone to prioritize and decide who they're going to partner with and what they're going to focus on."

Mosaic Communications' executives apparently do not disagree with this. They have initiated a search for an executive

who could step in as president. Company spokeswoman Rosanne Siino said that search is still going on.

Mosaic Communications is also starting to come in for some criticism for moving away from the Net's culture of sharing and open standards. Addressing this in part, the company recently announced it would join the W3 consortium, an organization dedicated to preserving important standards within the World-Wide Web. But Mosaic Communications' refusal thus far to support a technology called Secure HTTP, a development effort being driven by Enterprise Integration Technologies, has riled some Internet leaders in Silicon Valley. Instead, Mosaic Communications is developing a secure server version of Mosaic that will be proprietary.