

Las Vegas Sun

Commentary:

Why we are writing about the R-J copyright lawsuits

By [Steve Green](#) ([contact](#))

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Some commentators are wondering why the Las Vegas Sun, and our sister publication In Business Las Vegas, have published so many stories about the Las Vegas Review-Journal/Righthaven LLC copyright infringement lawsuit campaign.

Are we covering the R-J/Righthaven lawsuits, which through Monday totaled 107 complaints against defendants throughout the United States and Canada, because they involve our competitor?

Because we've reported criticism of Righthaven by defense attorneys and others, do the Sun and In Business condone and encourage copyright infringement?

And as I've been the writer of most of these stories, one reader said it appears I'm "outraged" by Righthaven and asked me if that was the case.

These are legitimate questions and we're happy to address them.

First, some background.

For a decade now in the new world of the Internet, the Las Vegas Sun, In Business, the Review-Journal and in fact most newspapers have seen their online content re-posted elsewhere without authorization.

Speaking for In Business and the Sun, we've dealt with this by attempting to convert infringers into allies. Instead of suing them without warning, we ask that they take down our material and replace it with a link and at most a paragraph or two from the story. Such links drive traffic to our site, which is a good thing, especially for our advertisers.

The policy of In Business, the Sun and the rest of Greenspun Media Group is spelled out on our websites' "reader agreement."

"It is acceptable and approved to link to any of our materials, including 'deep links' to our site. Text from our stories can be quoted when linking to our content, but it must not be more than one-tenth of the total word count of the story or 100 words, whichever is lesser. Quoted content must contain a direct link to the story from which it is taken," our agreement says.

It doesn't require an army of attorneys, editors or even secretaries to enforce our policy. When we learn of an infringement, an editor usually takes care of it with a quick e-mail. Of course, we sometimes send a stern warning from our attorney. Simply put, we don't condone copyright infringement and our method of dealing with it has worked fine for us.

Granted, we're not out aggressively searching for past copyright infringements and if we did, no doubt we'd find thousands. Frankly, we're too busy with other things, like covering the news.

I can't speak for the Review-Journal and its efforts prior to March to deal with unauthorized use of its material online. Several people have told us that since they re-posted R-J material online for years without hearing objections from the R-J, they felt the R-J must have been OK with it. This is an argument frequently made by longtime news sources that provide information to the R-J, which results in R-J stories about themselves or their clients.

Beginning in March, the R-J and its copyright enforcement partner Righthaven rolled out an effort unprecedented in the U.S. newspaper industry consisting of no-warning copyright infringement lawsuits seeking damages of \$75,000 apiece and forfeiture of the infringing website domain names.

We have found each of the 107 lawsuits newsworthy and reported on all of them. But it's not the copyright claim itself in each case that's newsworthy, in our view.

It wouldn't have been much of a story if Righthaven had privately contacted each infringer, demanded they remove the infringing material and demanded some sort of fee for the use of the material.

That wouldn't have been news because it would have been a private matter between the R-J/Righthaven and the infringer. We wouldn't have known much about this, unless a lawsuit resulted because the parties couldn't come to an agreement.

And that's what lawsuits usually are about, disputes that couldn't be resolved out of court.

What makes Righthaven so newsworthy is that it's using the federal court system to earn revenue through judgments and settlements with its no-warning lawsuits. That is its business model. When this business model involves suing R-J sources, nonpartisan nonprofits trying to do good in the world and bloggers like the noteworthy "cat lady" in Boston, it's even more newsworthy.

As the court system is part of the government and is ultimately owned and controlled by the people, we feel Righthaven's use of the courts to execute its business plan has created an important public policy issue worthy of attention and scrutiny.

We've quoted Righthaven as saying it's a fast-growing technology company that detects and deals with infringements and that can help protect the newspaper industry from losing revenue to online infringers.

We've quoted supporters of the Righthaven lawsuit campaign, and we've confirmed that according to the newspaper industry's trade association, online news piracy — like that prosecuted by Righthaven — is rampant.

We've also reported that according to Wall Street analysts, this is a non-issue as far as newspaper revenue and profits and losses are concerned. It's not like Righthaven is going after Google and Yahoo.

Rather it's generally suing special interest websites run by individuals, bloggers, nonprofits and a few companies. Keeping in mind many of these sites drive traffic to newspapers like the Sun and the R-J, there's no hard evidence that these types of sites are affecting newspaper revenue one way or the other.

Since we've reported on allegations of copyright infringement that Righthaven has leveled 107 times, we've also sought comment from those sued out of fairness. We've reported some of these defendants' attorneys are calling Righthaven a shakedown operation aimed at coercing settlements from mom 'n pop-type websites — and we've reported Righthaven's denial of these charges.

We've quoted defendants complaining about being sued by Righthaven with no warning and no prior request by phone or e-mail that the infringing material be taken down — and we've pointed out these

same infringers failed to call or e-mail the R-J to seek permission to post the material in question.

Righthaven's initiative may result in court rulings locally or on the appellate level that will clarify what is "fair use" when it comes to re-posting newspaper material. There's even talk of amending the copyright law because of mass lawsuit initiatives launched not just by Righthaven, but by the movie and music industries.

All in all, it's a great story about a Las Vegas company making waves on the national legal and media scenes.

The fact that our newspaper competitor decided to team up with Righthaven is interesting, but it would be just as newsworthy for us if Righthaven had launched with another local or regional media partner such as a television station.

Our columnist Jon Ralston in the meantime has called the Righthaven lawsuits hypocritical because the Review-Journal in editorials has long complained about frivolous lawsuits and demanded tort reform.

Steve Friess, a columnist for our sister newspaper Las Vegas Weekly, has been supportive of Righthaven, though lately he's been wondering why Righthaven doesn't sue Sharron Angle for posting numerous R-J stories on her website.

The debate goes on.

So am I "outraged" about Righthaven? Not at all. To me, it's a story of obvious importance that gets bigger with each lawsuit filed.

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The Las Vegas Sun and In Business Las Vegas aren't alone in writing about Righthaven.

Its lawsuit initiative was discussed by Review-Publisher Sherman Frederick in a blog, and Righthaven has been covered by the Los Angeles Times, Bloomberg News, Editor & Publisher, wired.com, law.com, the American Bar Association's ABA Journal, the Reason Foundation's reason.org, Mother Jones, the Cato Institute's blog, the national journalism site PoynterOnline, KNPR in Las Vegas, Vegas Seven magazine and the Las Vegas Business Press (a sister paper to the Review-Journal).

Also, the Boston Herald, the Arkansas Democrat-Gazette in Little Rock, the Concord Monitor in New Hampshire, New Hampshire Public Radio and numerous media blogs such as techdirt, NewsInc., MediaPost and Media Matters for America.

Who's linking here?

[The B&R Wednesday Edition | Bob Parks: Black & Right 2010 \(Wed, Sep 1, 2010 12:06 PM\)](#)

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