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## Challenges to Meta-Searching and Deep Linking

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A "meta-site" is a Web site focusing on a particular industry (for example, books, airline tickets or auctions), that, like a search engine, allows users to enter search terms once, and returns results from multiple Web sites. For example, entering an author's name in Bookfinder.com will return search results from many popular bookselling sites that are unaffiliated with Bookfinder.com.

Last month, eBay, the largest on-line auctioneer, prohibited auction meta-sites such as AuctionWatch, Bidder's Edge and Ruby Lane, which "spidered" hundreds of auction sites, from accessing and displaying eBay data. eBay claims that spidering violates its intellectual property rights and unfairly permits meta-sites to draw traffic away from eBay itself. In addition, use of eBay for the meta-sites' business purposes violates [eBay's published terms of use](#). Meta-sites respond that they simply act like search engines and benefit the targeted sites by driving additional traffic to them.

The outcome of this dispute could have far-reaching implications for Internet commerce. Comparison shopping meta-sites are gaining increasing popularity in areas including airline tickets, hotel reservations, computers, consumer electronics and books. In addition, search engines themselves take advantage of the very behavior being challenged by eBay. Although no serious challenges to the search engine model have been raised (presumably because indexing by search engines has proven to be beneficial to indexed

sites), the differences between a search engine and a meta-site are slim (so much so that popular search engine Ask Jeeves lists as a risk factor in its SEC filings the possibility that it may infringe the trademarks or copyrights of sites to which it links).

This dispute recalls some of the themes raised by web sites objecting to so-called "deep linking" by competing sites ("deep linking" occurs when a web site links to another company's web page that is many layers down from the home page). In February, Ticketmaster settled its dispute with Microsoft over unauthorized links to Ticketmaster pages by Microsoft's Sidewalk City, and in July, Universal Pictures stopped Movie-List (a web site run by a 20-year old film buff) from linking directly to Universal movie trailers. Last week, in response to the eBay announcement, Ticketmaster CitySearch published a statement clarifying its position on linking (click [here](#) to view the October 15 statement).

The courts have not yet been asked to decide the legality of deep linking, meta-searching or other similar practices. This vacuum suggests the need for judicial and/or legislative rulemaking in this area. However, companies currently engaging in, or considering, these strategies should seriously consider the possible legal ramifications.

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