

Lee Johnston in *The Computer & Internet Lawyer*: Ninth Circuit Rejects LinkedIn's Efforts to Block Web-Scraping of Member Public Profiles

March 11, 2020 Lee Johnston

PRACTICES AI and Technology, Social Media, Intellectual Property

Social media companies (SMCs) are constantly working to leverage data they gather from customers to develop new, innovative products and effective advertising strategies to market those products. At the same time, SMCs face threats from competitors seeking to harvest and exploit the publicly-available customer data hosted on SMC servers.

On the technology side, SMCs employ increasingly sophisticated artificial intelligence (AI)-based software to prevent automated bots and web crawlers from accessing and scraping customer data from SMC websites. And, under the auspices of enforcing their own proprietary rights and their customers' privacy rights, SMCs have asserted a variety of legal claims – ranging from common law trespass and breach of contract theories to federal copyright and Computer Fraud and Abuse Action (CFAA) claims – in an effort to shut down, or at least deter, their competitors' efforts to access and “scrape” SMC customer data.

As judges have gained a better understanding of the technology and legal issues in these cases, the viability of some of these claims has been circumscribed.

Nevertheless, SMCs have largely been on the offensive in this battle, primarily due to their ability to outspend their competitors, which are often start-ups lacking the resources for extended legal battles. The recent decision by the U.S. Court of Appeals for the Ninth Circuit in *hiQ Labs, Inc. v. LinkedIn Corp.*, however, suggests a more favorable future for web scraping in general, and specifically highlights the effectiveness of smaller competitors' strategy of “taking the battle” to larger SMCs rather than waiting to be sued.

Excerpted from *Computer & Internet Lawyer*. To read the full article, click on the PDF below.

[Johnston-SMC-Web-Scraping.PDF](#)