

## Hack Friday

Pets Buy is a national chain of animal-and-pet supply stores. This year, it has created a glossy 24-page flyer (in comic book form) about Tom and Theresa Turkey, who discover the true meaning of Thanksgiving: lots of great, heavily discounted Pets Buy merchandise. The flyer shows pictures of the items and lists their prices. The flyers usually appear in newspapers on Thursday, in time for weekend shopping; this 24-page version is a Thanksgiving special designed to inspire heavy day-after-Thanksgiving shopping.

Petsbuyprices.com is a fansite run by a Carlotta, a college student. Like Wikipedia, it can be edited by anyone. On the front page, Carlotta explains:

Petsbuyprices.com is a site for lovers of Pets Buy to meet and discuss their FAVORITE animal store! Please upload any information you have about products and prices at Pets Buy, especially sales!

Petsbuyprices.com doesn't take any advertising. The only links on it are to item-sale pages at Pets Buy's official web site, Petsbuy.com. Carlotta says on her biography page that she pays Petsbuyprices.com's (relatively minor) hosting costs out of the money she makes from her term-time job in an ice cream shop.

On Sunday of the weekend before Thanksgiving, Elmer, an enterprising Petsbuyprices user, notices that Pets Buy's weekly advertising flyers are posted on Pets Buy's web site in a pattern: <http://Petsbuy.com/flyers/week1>, <http://Petsbuy.com/flyers/week2>, <http://Petsbuy.com/flyers/week3>, and so on. The previous Thursday's flyer is at <http://Petsbuy.com/flyers/week146>, so he tries <http://Petsbuy.com/flyers/week147> to see if he can see the flyer four days early. To his delight, he sees not the usual weekly flyer but the glossy Thanksgiving spectacular. There's a "Terms and Conditions" link at the bottom of every page on Petsbuy.com. Elmer has never clicked on any of them. If he had, he'd have seen a page that said:

Permission to use this site is conditional on your agreeing to the following terms and conditions. . . . You may not use any sale or pricing information, or any copyrighted content, found herein for any purposes other than your personal shopping decisions and entertainment. All other uses are strictly prohibited.

He immediately downloads a PDF copy and uploads it to Petsbuyprices.com. It attracts a lot of attention, and a lot of blogs start linking to the flyer. Pets Buy's biggest competitor, Circus City, notices the low low price on the new iPod for Dogs and slashes its own price to match. Many other users are downloading the flyers.

It's now Monday morning. Your firm handles a lot of Pets Buy business. A partner has just taken the Pets Buy call and relayed the above facts to you. He explains that while the prices themselves aren't copyrightable, the comic as a whole is copyrighted. Pets Buy is upset that Petsbuyprices is making comparison shopping easier, that people reading the flyer online and early might be skimming past the ads, and that Circus City has now matched the iPod for Dogs price that was supposed to be a big draw. Pets Buy wants to put the cat back in the bag: get the

comic offline and keep the prices from leaking any further until Thanksgiving Day. Pets Buy's marketing department has already done some Googling and made some phone calls and has turned up addresses and phone numbers for both Carlotta and Elmer.

The partner wants to know what, if anything, Pets Buy can do. Time is of the essence, so he asks for a memorandum of no more than 1,250 words on Pets Buy's legal options and best response.