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## Internet Providers File Suits to Stop Spammers

By SAUL HANSELL

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**F**our major Internet providers announced yesterday that they had filed lawsuits meant to shut a number of leading senders of unsolicited junk e-mail, or spam.

The suits, which are seeking monetary damages and injunctions against further mass e-mail messages, are among the first to invoke the new federal antispam law, which went into effect Jan. 1.

So far, the law has not done anything to stem the torrent of spam. In February, 62 percent of all e-mail was spam, according to Brightmail, an e-mail filter company. That is up from 58



Bloomberg News

"We will follow the money," said Nancy Anderson, above, of Microsoft, seen here conferring with Mike Callahan of Yahoo.

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percent in December.

The four companies — America Online, Earthlink, [Yahoo](#) and [Microsoft](#) — filed suits in federal courts in their home states against different groups of suspected spammers.

"We are trying to find the biggest, the baddest and the most notorious," said Randall Boe, the top lawyer for America Online. "When we work together it helps us find the most high-impact defendants."

But David Kramer, an expert in antispam law at Wilson, Sonsini, Goodrich & Rosati, a law firm in Palo Alto, Calif., said that these suits were not likely to be very effective. He pointed out that Internet service providers have sued spammers before using state antispam statutes and federal computer crime law. Indeed, Microsoft filed 60 spam-related suits last year.

"We have been operating under a regime where I.S.P.'s can sue spammers for eight years," he said. "When you cut off one head of the hydra, two more heads pop up."

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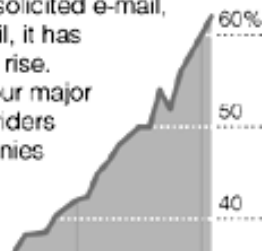
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#### You've Got Summonses

Although a federal law went into effect on Jan. 1, designed to eliminate unsolicited e-mail, or junk e-mail, it has continued to rise. Yesterday, four major Internet providers sued companies still sending junk e-mail.



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In the announcements yesterday, AOL sued Davis Wolfgang Hawke, a former leader of a neo-Nazi organization who turned to selling penis enlargement pills. Microsoft sued JDO Media of Ocala, Fla., which runs a multilevel marketing operation in which each member recruits new members by e-mail. And Yahoo sued Golddisk.net and some related companies in Kitchener, Ontario, which have sent nearly 94 million e-mail messages to Yahoo users so far this year offering mortgages, insurance and travel services.

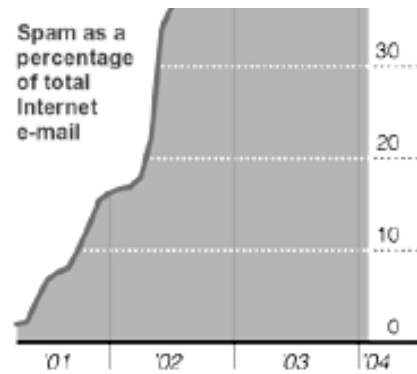
Calls placed to Mr. Hawke, JDO and Golddisk were not returned.

In addition to the defendants named in the lawsuits, all four Internet providers sued a total of 220 other "John Doe" defendants who they contend are sending spam but whom they cannot yet identify. Most spammers these days hide their tracks by sending messages through offshore computers and machines that have been taken over by computer viruses.

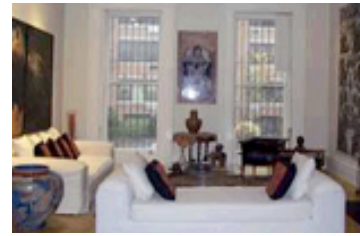
By filing lawsuits, the Internet providers gain the right to subpoena records of banks, telephone companies and others that can help identify those sending the spam.

"We will follow the money, and the money will show us where these people are and what they have done," said Nancy Anderson, the deputy general counsel of Microsoft.

The lawsuits reignited the debate about whether the Can-Spam Act was tough enough to confront a problem that is threatening to undermine the usefulness of e-mail, by far the



Source: Brightmail



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most popular day-to-day application of the Internet.

The act bans some of the most common tactics of spammers, including lying about who is sending a message, using a misleading subject line and hijacking computers. And it requires those sending commercial e-mail to identify themselves and to offer an easy way for people to be removed from their mailing lists. It imposes civil and criminal penalties for violations.

But the law also overruled state laws that sought to ban outright the sending of e-mail to people who did not want it and had given people the right to sue spammers. The federal law, which was supported by many in the industry as a moderate alternative to tougher proposals, does allow Internet providers to sue spammers, however. Mr. Boe described the legal actions as "fulfilling our commitment" to use that power.

Mr. Boe argued that such lawsuits had forced spammers to go to much greater lengths to avoid detection.

"There aren't any casual spammers now," he said. "Our next wave of lawsuits and the ones after that will target the hard-core group of outlaws."

Michael Allison, the chief executive of the Internet Crimes Group, an investigative firm that has helped Internet providers track down spammers, argues that the lawsuits are a piece of a broader solution.

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