Microsoft Sues 15 Organizations in Broad Attack on Spam E-Mail

By SAUL HANSELL

Microsoft, the world's largest provider of e-mail accounts, filed lawsuits yesterday against 15 groups of individuals and companies that it says collectively sent its clients more than two billion unwanted e-mail messages.

Unwanted e-mail, commonly called spam, has been a fast-growing problem for many e-mail users. The Hotmail service from Microsoft, with 140 million users, has been a fat target for spammers.

The company estimates that more than 80 percent of the more than 2.5 billion e-mail messages sent each day to Hotmail users are spam. It now blocks most of those spam messages.

All of the large Internet service providers, including America Online, Earthlink and Yahoo, have started filing lawsuits against e-mailers that they say are sending spam.

Microsoft's suits represent the largest number filed at one time, and reflect Microsoft's willingness to devote some of its considerable resources to fighting spam. It promised more such actions to come.

"We at Microsoft are ramping up our efforts to combat spam," said Brad Smith, Microsoft's general counsel, at a news conference yesterday.

But many spam experts say that these suits do little to actually prevent spam.

"At the end of the day, this is a drop in the bucket," said Ray Everett-Church, the chief privacy officer of the ePrivacyGroup, a consulting company. He said that the several dozen suits against spammers so far have had no noticeable effect in deterring other spammers.

"Right now the big service providers see spam as a point of differentiation," Mr. Everett-Church said. "And these suits are much more of a marketing campaign than an anti-spam campaign."

Mr. Smith of Microsoft, however, argued that the lawsuits were an important part of a multipronged approach to fighting spam. In addition to lawsuits, Microsoft has introduced software to filter out spam for its MSN Internet access service and will include similar software in the next release of its Outlook e-mail program.

Twelve of the suits filed yesterday were in state court in Washington. They brought claims under both the Federal Computer Fraud and Abuse Act and a Washington State anti-spam law. One suit was filed in California state court, and two were filed in Britain. The defendants include many different business involved in e-mail marketing.

Email Gold Inc. and NetGold, both of Dayton, Ohio, are accused of using spam to sell tools for
other marketers to get into the spam business.

VMS Inc. and Proform4life Inc., both of Port Richey, Fla., are accused of trying to sell human growth hormone.

RHC Direct of Murray, Utah, is accused of selling videotapes to enhance job hunting skills using misleading subject headers.

VMS and Email Gold could not be reached for comment.

Robert Caldwell, the president of RHC, denied that his firm was sending spam. All of the recipients of the messages that it sends have requested marketing material, he said. Moreover, all of the messages identify the sender's address and phone number.

"They could have picked up the phone to call us rather than filing a lawsuit," Mr. Caldwell said, noting that he has not had any discussions about the offending e-mail with Microsoft. "All this will do is undermine the ability of legitimate marketers to stand up and say this is what we are doing."

In some cases, Microsoft was not able to identify the sender of the spam. It filed several suits against unnamed John Doe defendants. That tactic allows it to use subpoenas and other techniques to try to identify the senders.

Over the last nine months, Microsoft has diverted some of its investigators who normally track down software counterfeiters to tracking down spammers.

The spam lawsuits mainly challenge aspects of the e-mail messages that Microsoft contends are fraudulent, like deceptive return addresses and subject lines. Microsoft does not argue that sending mail that is unsolicited, but otherwise honest, should be banned.

David Sorkin, a professor at the John Marshall Law School in Chicago, argues that focusing on fraud will not eliminate most of the messages that annoy e-mail users.

"As we clean up the spam, we will leave the door open to more and more nonfraudulent spam, and that will be much worse," he said, adding that a result will be much more unwanted e-mail than users now receive.