

Attorney General Sues Prolific Spammers



Spam is one of the most disrupting, pervasive problems facing consumers on the Internet today. The Attorney General's office receives numerous complaints about spam every day. Unwanted, unsolicited e-mail clogs computers of Texas consumers and Texas businesses, wasting precious time and money.

Ryan Samuel Pitylak, a University of Texas at Austin student, and Mark Stephen Trotter of California are named in the Attorney General's federal lawsuit as controlling PayPerAction L.L.C., Leadplex L.L.C. and Leadplex Inc., three companies registered in Nevada. Since Pitylak and Trotter established PayPerAction L.L.C. in 2002, it has operated over 250 assumed names, leading internet users to believe they are being deluged by different companies soliciting for services. A popular spam watchdog group, SpamHaus.org ranks the defendants as the fourth largest illegal spam operation in the world.

The lawsuit filed under the federal Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN SPAM), which carries penalties of \$250 per violation, up to \$2 million. The suit also alleges violations of the Texas Electronic Mail and Solicitation Act, which allows for penalties of up

to \$10 per unlawful e-mail or \$25,000 per day, and the Texas Deceptive Trade Practices Act, which authorizes penalties of up to \$20,000 per violation.

The lawsuit maintains that the defendants engaged in the common, but illegal, practice of using misleading subject lines that give recipients the false impression the e-mail contains information specific to them. By law, such promotional e-mails must clearly indicate they are advertisements and cannot use misleading subject lines to trick recipients into opening them.

In passing the CAN-SPAM law, Congress recognized spam as a growing threat to the convenience and efficiency of e-mail. Internet service providers reported to Congress that unsolicited e-mail accounted for more than half of all e-mail traffic in 2003, up from an estimated 7 percent in 2001.

At best, consumers are harried by straightforward but intrusive attempts to sell real services and products. But in addition, they are tempted by shady and deceptive offers that are too often outright scams or frauds. Worse, consumers are repeatedly baited by increasingly sophisticated tricks designed to steal personal financial information, a practice known as "phishing".

A significant portion of spam received by consumers is adult in nature, raising concerns for parents about the appropriateness of material that their children might be exposed to.

You can take steps to reduce and

manage the flow of unwanted e-mail into your mailbox. If your current e-mail address is receiving an extremely large volume of spam, you are already on a number of active mailing lists. You are probably being spammed from all over the world. You might want to weigh the benefits of closing your account altogether and starting over with a new one, which you can then protect. Although it is inconvenient to change your e-mail address, wading through a large volume of unsolicited mail is time-consuming, too, and no authority in the world today is in a position to stop all the spammers who may be targeting you once your e-mail address is in wide circulation.

Use the "remove" feature with great caution. A reputable business concerned about customer relations will honor your request to be removed from their list. However, it has been standard operating procedure among unscrupulous spammers for years to use the remove feature to identify active mailboxes. The reality is, when you use the remove feature, you may be inviting more, not less, spam. Here again, state and federal law have outlawed an undesirable practice, but that doesn't mean it will be discontinued.

In an effort to educate consumers, we issue regular Consumer Alerts. Sign up for our e-mail subscriptions at www.oag.state.tx.us to receive our alerts.

POINTS TO REMEMBER

Spam: unsolicited e-mail advertisements

Visit our spam Web page at www.oag.state.tx.us/consumer/spam.shtml

Contact the FTC to report illegal spam at: www.ftc.gov or at spam@uce.gov

Ask your Internet Service Provider about e-mail filters to block spam.

To remove your e-mail address from many national direct e-mail lists, visit: www.e-mps.org

Report child pornography to the National Center for Missing and Exploited Children (NCMEC) at: www.cybertipline.com

Do not respond to "Nigerian Fraud" e-mails or other strange offers to transfer millions of dollars into your bank account. These e-mails are dangerous frauds.

Never provide personal financial information in an e-mail, even if it appears to be from a legitimate or familiar company.

Use the remove feature with caution. Spammers use it to verify that your e-mail address is active.



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Information on this and other topics is available on the Attorney General's Web site at www.oag.state.tx.us.