

TRAILBLAZERS

CYBERSECURITY & DATA PRIVACY

JENNIFER ARCHIE

LATHAM & WATKINS LLP



PIONEER SPIRIT Following a stint on Capitol Hill, Jennifer Archie went to law school and then joined Latham & Watkins' Washington, D.C. office. "I always handled litigation and controversies. Beginning in the late 1990s, our office became lead outside counsel to AOL on the security of its email system. We had a large and expert team investigating and filing dozens of cases in the EDVA unmasking and securing judgments against hackers, spammers and other bad actors trespassing on AOL's network."

TRAILS BLAZED For the next ten years or so, spam cases raised novel questions of law and complex, international computer crime, such as whether spam laws infringed on First Amendment rights. "In 2004, an AOL employee stole the entire AOL member database of 98 million screen names, and sold it to spammers five times. Fortunately, AOL security engineers had maintained logs permitting them to quickly identify the thief, and were also smart enough to segregate sensitive data such as passwords or credit cards, so that very serious theft did not risk financial harm to its members." As AOL's counsel, Archie collaborated in drafting felony and other key provisions of CAN-SPAM and state anti-spam laws. "Over a decade, leveraging AOL's advanced analytics of its email network, we achieved more than paper judgments. We actually collected millions of dollars and seized cars, gold bars and other property from defendants, and changed the law in many important ways."

FUTURE EXPLORATIONS The role of governments in setting and enforcing standards for safeguarding networks and data will keep expanding. Federal and state agencies are rushing in to fill a perceived void. How to prevent, detect and respond to hacks and leaks and their legal aftermath has become a very specialized legal practice. Today, cyber lawyers need to be expert crisis managers and fluent in cybersecurity and IT standards, tools and programs, not merely knowledgeable about discrete bodies of laws or regulations.