

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

MICROSOFT CORPORATION, a)	
Washington corporation,)	
)	
Plaintiff,)	
)	
v.)	
)	
DOMINIQUE ALEXANDER PIATTI, an)	
individual; DOTFREE GROUP S.R.O., a)	
Czech limited liability company, JOHN)	
DOES 1-22, CONTROLLING A)	
COMPUTER BOTNET THEREBY)	
INJURING MICROSOFT AND ITS)	
CUSTOMERS)	
)	
Defendants.)	
)	
)	

Civil Action No: 1:11cv1017 (JCC/IDD)

CONSENT PRELIMINARY INJUNCTION

Plaintiff Microsoft Corp. (“Microsoft”) has filed a complaint for injunctive and other relief pursuant to: (1) the Computer Fraud and Abuse Act (18 U.S.C. § 1030); (2) the CAN-SPAM Act (15 U.S.C. § 7704); (3) the Lanham Act (15 U.S.C. §§ 1114(a)(1), 1125(a), (c)); and (4) the common law of trespass, unjust enrichment, conversion, and negligence. Microsoft has moved for a preliminary injunction pursuant to Rule 65(b) of the Federal Rules of Civil Procedure and the All-Writs Act, 28 U.S.C. § 1651.

FINDINGS

Findings Regarding The Domain “CZ.CC”

With respect to the internet domain name “cz.cc,” one of the domains that is the subject of Microsoft’s motion for a preliminary injunction, the Court makes the following findings:

1. Plaintiff Microsoft and Defendants Dominique Piatti and dotFree Group s.r.o., have jointly advised the Court that the parties have reached agreement regarding the disposition of the “cz.cc” domain during the pendency of this action. Microsoft, Dominique Piatti and

dotFree Group have specifically advised the Court that such agreement includes provisions to disable malicious subdomains and a process to verify the identities of sub-domain registrants, and that Mr. Piatti and dotFree Group s.r.o. desire to comply with and adhere to the terms of that agreement and this Order.

2. Plaintiff Microsoft and Defendants Dominique Piatti and dotFree Group s.r.o. have jointly advised the Court that the parties stipulate to the Court's jurisdiction and authority to enter the relief set forth herein regarding the domain "cz.cc," without waiver of any of the parties' rights or positions in this action.

Findings Regarding Domains Registered By John Doe Defendants

The Court has considered the pleadings, declarations, exhibits, and memorandum filed in support of Microsoft's motion and finds, with respect to Defendants John Does 1-22 that:

1. This Court has jurisdiction over the subject matter of this case and there is good cause to believe that it will have jurisdiction over all parties thereto; the Complaint states a claim upon which relief may be granted against John Doe Defendants under the Computer Fraud and Abuse Act (18 U.S.C. § 1030), CAN-SPAM Act (15 U.S.C. § 7704), Electronic Communications Privacy Act (18 U.S.C. § 2701), the Lanham Act (15 U.S.C. § 1125), common law trespass to chattels, unjust enrichment, conversion, and negligence;

2. There is good cause to believe that John Doe Defendants have engaged in and are likely to engage in acts or practices that violate the Computer Fraud and Abuse Act (18 U.S.C. § 1030), CAN-SPAM Act (15 U.S.C. § 7704), Electronic Communications Privacy Act (18 U.S.C. § 2701), the Lanham Act (15 U.S.C. § 1125), common law trespass to chattels, unjust enrichment, conversion, and negligence, and that Microsoft is, therefore, likely to prevail on the merits of this action;

3. There is good cause to believe that, unless the John Doe Defendants are enjoined by Order of this Court, immediate and irreparable harm will result from the Defendants' ongoing violations of the Computer Fraud and Abuse Act (18 U.S.C. § 1030), CAN-SPAM Act (15 U.S.C. § 7704), Electronic Communications Privacy Act (18 U.S.C. § 2701), the Lanham

Act (15 U.S.C. § 1125), common law trespass to chattels, unjust enrichment, conversion, and negligence. The evidence set forth in Microsoft's Brief in Support of Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction ("TRO Motion"), and the accompanying declarations and exhibits, demonstrates that Microsoft is likely to prevail on its claim that John Doe Defendants have engaged in violations of the foregoing law by:

- a. intentionally accessing and sending malicious code to Microsoft's and its customers' protected computers and operating systems, without authorization, in order to infect those computers and make them part of the botnet;
- b. sending malicious code to configure, deploy and operate a botnet;
- c. sending unsolicited spam email to Microsoft's Hotmail accounts;
- d. collecting personal information, including personal email addresses; and
- e. delivering malicious code.

4. There is good cause to believe that if such conduct continues, irreparable harm will occur to Microsoft, its customers, and the public. There is good cause to believe that the John Doe Defendants will continue to engage in such unlawful actions if not immediately restrained from doing so by Order of this Court;

5. There is good cause to believe that immediate and irreparable damage to this Court's ability to grant effective final relief will result from the sale, transfer, or other disposition or concealment by John Doe Defendants of the Internet domains at issue in Microsoft's Motion for Preliminary Injunction and other discoverable evidence of John Doe Defendants' misconduct available through such Internet domains if the John Doe Defendants receive advance notice of this action. Based on the evidence cited in Microsoft's Motion for Preliminary Injunction and accompanying declarations and exhibits, Microsoft is likely to be able to prove that:

- a. John Doe Defendants are engaged in activities that directly violate United States law and harms Microsoft, its customers and the public;

- b. John Doe Defendants have continued their unlawful conduct despite the clear injury to Microsoft, its customers, and the public;
- c. John Doe Defendants are likely to relocate the information and evidence of their misconduct stored at the Internet domains at issue in Microsoft's Motion and the harmful and malicious code disseminated through these Internet domains; and
- d. John Doe Defendants are likely to warn its associates engaged in such activities if informed of Microsoft's action.

6. Microsoft's request for this emergency *ex parte* relief is not the result of any lack of diligence on Microsoft's part, but instead based upon the nature of John Doe Defendants' unlawful conduct.

7. There is good cause to believe that John Doe Defendants have engaged in illegal activity using domains that are maintained by the top level domain registry Verisign, located in the United States and the Eastern District of Virginia.

8. There is good cause to believe that to immediately halt the injury caused by John Doe Defendants, the domain registries and domain registrars set forth in Appendix A in relation to all domains other than cz.cc, must be ordered:

- a. to immediately take all steps necessary to lock at the registry level and to place on registry hold all of the domains set forth at Appendix A hereto (except for "cz.cc"), to ensure that such domains are disabled during the pendency of this action and that changes to the domain names cannot be made absent a court order;
- b. to immediately take all steps required to propagate the foregoing domain registry changes to domain name registrars; and
- c. to hold the domains in escrow and take all steps necessary to ensure that the evidence of misconduct available through the domains be preserved.

9. There is good cause to permit notice of the instant order and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. The following means of service are authorized by law, satisfy Due

Process, satisfy Fed. R. Civ. Pro. 4(f)(3) and are reasonably calculated to notify Defendants of the instant order and of this action: (1) personal delivery through the Hague Convention on Service Abroad or similar treaties upon defendants who provided contact information in foreign countries that are signatory to such treaties, (2) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to their domain name registrars and as agreed to by Defendants in their domain name registration agreements, (3) publishing notice on a publically available Internet website and/or in newspapers in the communities where Defendants are believed to reside.

PRELIMINARY INJUNCTION

IT IS THEREFORE ORDERED that Plaintiff Microsoft and Defendants Dominique Piatti and dotFree Group s.r.o. are directed to adhere strictly to the terms of the agreement between them regarding disposition of the domain “cz.cc” during the pendency of this action, to prevent the irreparable harm that has been caused by others through the “cz.cc” internet domain name. In particular, Plaintiff Microsoft and Defendants Dominique Piatti and dotFree Group are directed to adhere strictly to the provisions of the agreement regarding disablement of malicious subdomains and provisions concerning a process to verify the identities of sub-domain registrants.

IT IS THEREFORE ORDERED that, John Doe Defendants and their representatives are temporarily restrained and enjoined from intentionally accessing and sending malicious software or code to Microsoft’s and its customers protected computers and operating systems, without authorization, in order to infect those computers and make them part of the Kelihos botnet, sending malicious code to configure, deploy and operate a botnet, sending unsolicited spam email to Microsoft’s email and messaging accounts and services, sending unsolicited spam email that falsely indicates that they originated from Microsoft or are approved by Microsoft or are from its email and messaging accounts or services, collecting personal information including personal email addresses, delivering malicious code including fake antivirus software, or undertaking similar activity that inflicts harm on Microsoft, its customers, or the public.

IT IS FURTHER ORDERED that, John Doe Defendants and their representatives are temporarily restrained and enjoined from configuring, deploying, operating or otherwise participating in or facilitating the botnet described in the TRO Motion, including but not limited to the command and control software hosted at and operating through the domains set forth herein and through any other component or element of the botnet in any location.

IT IS FURTHER ORDERED that John Doe Defendants and their representatives are temporarily restrained and enjoined from using the “Microsoft,” “Windows,” “Hotmail,” “Windows Live” and “MSN” trade names, trademarks or service marks, in Internet Domain addresses or names, in content or in any other infringing manner or context, or acting in any other manner which suggests in any way that John Doe Defendants’ products or services come from or are somehow sponsored or affiliated with Microsoft, and from otherwise unfairly competing with Microsoft, misappropriating that which rightfully belongs to Microsoft, or passing off their goods as Microsoft’s.

IT IS FURTHER ORDERED that the domain registries and registrars set forth in Appendix A must:

- a. immediately take all steps necessary to lock at the registry level and to place on registry hold all of the domains set forth at Appendix A hereto (except for “cz.cc”), to ensure that such domains are disabled during the pendency of this action and that changes to the domain names cannot be made absent a court order;
- b. to immediately take all steps required to propagate the foregoing domain registry changes to domain name registrars; and
- c. to hold the domains in escrow and take all steps necessary to ensure that the evidence of misconduct available through the domains be preserved.
- d. Shall save all communications to or from Defendants or Defendants’ Representatives and/or related to the domains set forth in Appendix A;
- e. Shall preserve and retain all records and documents associated with Defendants’ or Defendants’ Representatives’ use of or access to the domains set forth in


Appendix A, including billing and contact information relating to the Defendants or Defendants' representatives using these servers and all logs associated with these servers.

IT IS FURTHER ORDERED that copies of this Order and service of the Complaint may be served by any means authorized by law, including (1) by personal delivery upon defendants who provided contact information in the U.S.; (2) personal delivery through the Hague Convention on Service Abroad upon defendants who provided contact information outside the U.S.; (3) by transmission by e-mail, facsimile and mail to the contact information provided by defendants to domain registrars through which the domains set forth at Appendix A were registered; and (4) by publishing notice to Defendants on a publicly available Internet website and/or in newspapers in the communities in which Defendants are believed to reside.

IT IS FURTHER ORDERED that Microsoft shall post bond in the amount of \$10,000 as cash to be paid into the Court registry.


IT IS SO ORDERED

Entered this 12 [✓] day of October, 2011.

 _____ /s/
James C. Cacheris
United States District Judge

James C. Cacheris
United States District Judge


WE ASK FOR THIS:


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Tel.: (703) 352-1300
Fax: (703) 352-1301
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wyoung@abhylaw.com

Counsel for Defendants Dominique A. Piatti
and dotFree Group s.r.o.

APPENDIX A

Domain Names Of Command And Control Servers	Domain Registry And Registrars	Registrant Information
cz.cc	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Moniker Online Services, Inc. / Moniker Online Services LLC 20 SW 27th Ave, Suite 201 Pompano Beach, Florida 33069</p>	<p>Dominique Alexander Piatti dotFree Group s.r.o. Prazska 636 Dolni Brezany Praha-Zapad 25241 Czech Republic domi@cz.cc</p> <p>Dominique Piatti Postfach 127 Guemligen Bern 3073 Switzerland Dominique_piatti@hotmail.com</p>
bricord.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois bricord.com c/o bricord.com N4892 Nassau Bahamas flyz0mt4db6aa1b61833@oqijj874d9300d54bd95.privatewhois.net oq9wmmx4db6aa1b6b08e@oqijj874d9300d54bd95.privatewhois.net n8h23tc4db6aa1b675f5@oqijj874d9300d54bd95.privatewhois.net</p>
bevvyky.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois bevvyky.com c/o bevvyky.com N4892 Nassau Bahamas nomklo44e314f83cfc56@oqijj874d9300d54bd95.privatewhois.net c6e5z0k4e314f83d3306@oqijj874d9300d54bd95.privatewhois.net kh91bdf4e314f83d2364@oqijj874d9300d54bd95.privatewhois.net</p>
carbili.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois carbili.com c/o carbili.com N4892 Nassau Bahamas Int5fmn4da33006da6ad@oqijj874d9300d54bd95.privatewhois.net hh7429m4da33006dc6f3@oqijj874d9300d54bd95.privatewhois.net e2m0ez64da33006dbb39@oqijj874d9300d54bd95.privatewhois.net</p>

codfirm.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois codfirm.com c/o codfirm.com N4892 Nassau Bahamas</p> <p>hzteezh4da5e55a43a3f@oqjij874d9300d54bd95.privatewhois.net otqbyon4da5e55a480d4@oqjij874d9300d54bd95.privatewhois.net klwwh2i4da5e55a449e3@oqjij874d9300d54bd95.privatewhois.net</p>
dissump.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois dissump.com c/o dissump.com N4892 Nassau Bahamas</p> <p>itamzr14da5e558b33c0@oqjij874d9300d54bd95.privatewhois.net yvamaby4da5e558ba4dc@oqjij874d9300d54bd95.privatewhois.net hwhmpus4da5e558b952a@oqjij874d9300d54bd95.privatewhois.net</p>
doloas.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois doloas.com c/o doloas.com N4892 Nassau Bahamas</p> <p>sk2xcdp4db6aa1e1a72d@oqjij874d9300d54bd95.privatewhois.net satosfb4db6aa1e1c673@oqjij874d9300d54bd95.privatewhois.net ka94bx44db6aa1e1b6f3@oqjij874d9300d54bd95.privatewhois.net</p>
editial.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois editial.com c/o editial.com N4892 Nassau Bahamas</p> <p>ugz6k834db6aa1bdf3db@oqjij874d9300d54bd95.privatewhois.net klabhbh4db6aa1e12f3@oqjij874d9300d54bd95.privatewhois.net w5n0ngq4db6aa1e078a@oqjij874d9300d54bd95.privatewhois.net</p>
gratima.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois gratima.com c/o gratima.com N4892 Nassau Bahamas</p> <p>nmpzuvs4db6aa1e9484b@oqjij874d9300d54bd95.privatewhois.net ecvgjy74db6aa1e9a9e9@oqjij874d9300d54bd95.privatewhois.net vmjy2s54db6aa1e99a3f@oqjij874d9300d54bd95.privatewhois.net</p>
hellohello123.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p>	<p>Verisign Naming Services Attn: VNDS Monitoring-East 21345 Ridgetop Circle 4th Floor</p>

	<p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	Dulles, Virginia 20166
knifell.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois knifell.com c/o knifell.com N4892 Nassau Bahamas</p> <p>nff7lac4db6aa1c5f12f@oqijj874d9300d54bd95.privatewhois.net f9rcd314db6aa1c61040@oqijj874d9300d54bd95.privatewhois.net xxjkjti4db6aa1c60486@oqijj874d9300d54bd95.privatewhois.net</p>
lalare.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois lalare.com c/o lalare.com N4892 Nassau Bahamas</p> <p>q5sgyzx4da5e55aba0cb@oqijj874d9300d54bd95.privatewhois.net gh8xk5h4da5e55abbc1c@oqijj874d9300d54bd95.privatewhois.net fmci3dk4da5e55abb061@oqijj874d9300d54bd95.privatewhois.net</p>
magdali.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois magdali.com c/o magdali.com N4892 Nassau Bahamas</p> <p>n0vo7qm4da5e55b7a191@oqijj874d9300d54bd95.privatewhois.net bvdkatd4da5e55b82230@oqijj874d9300d54bd95.privatewhois.net wl505fm4da5e55b80ee3@oqijj874d9300d54bd95.privatewhois.net</p>
partric.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois partric.com c/o partric.com N4892 Nassau Bahamas</p> <p>rsjyi9e4db6aa1d28df3@oqijj874d9300d54bd95.privatewhois.net t9js2644db6aa1d2d019@oqijj874d9300d54bd95.privatewhois.net fv88khq4db6aa1d2c0ba@oqijj874d9300d54bd95.privatewhois.net</p>
restonal.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois restonal.com c/o restonal.com N4892 Nassau Bahamas</p> <p>uuyidk54da5e55939e3c@oqijj874d9300d54bd95.privatewhois.net cqvb1nj4da5e5593f00f@oqijj874d9300d54bd95.privatewhois.net ck1u2t54da5e5593e0be@oqijj874d9300d54bd95.privatewhois.net</p>

subcosi.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois subcosi.com c/o subcosi.com N4892 Nassau Bahamas</p> <p>lz0xca94da5e559c6462@oqijj874d9300d54bd95.privatewhois.net typqrv4da5e559c8f22@oqijj874d9300d54bd95.privatewhois.net zzhu7vv4da5e559c7b9b@oqijj874d9300d54bd95.privatewhois.net</p>
uncter.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois uncter.com c/o uncter.com N4892 Nassau Bahamas</p> <p>cv47vjf4da5e55be3901@oqijj874d9300d54bd95.privatewhois.net cvmnijf4da5e55be5bfl@oqijj874d9300d54bd95.privatewhois.net lkvy5fh4da5e55be4c53@oqijj874d9300d54bd95.privatewhois.net</p>
wargalo.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois wargalo.com c/o wargalo.com N4892 Nassau Bahamas</p> <p>dy0stoh4db6aa1da2eda@oqijj874d9300d54bd95.privatewhois.net o2jtjp64db6aa1da7522@oqijj874d9300d54bd95.privatewhois.net ty3s2ct4db6aa1da6199@oqijj874d9300d54bd95.privatewhois.net</p>
wormetal.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois wormetal.com c/o wormetal.com N4892 Nassau Bahamas</p> <p>u5248i34db6aa1f24b3c@oqijj874d9300d54bd95.privatewhois.net bjh1i334db6aa1f27244@oqijj874d9300d54bd95.privatewhois.net oykewjr4db6aa1f25efl@oqijj874d9300d54bd95.privatewhois.net</p>
earplat.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p> <p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>Private Whois earplat.com c/o earplat.com N4892 Nassau Bahamas</p> <p>x1giip14e315630344b@oqijj874d9300d54bd95.privatewhois.net o4yns8o4e315631095bd@oqijj874d9300d54bd95.privatewhois.net sbh8ipe4e31563107e77@oqijj874d9300d54bd95.privatewhois.net</p>
metapli.com	<p>Verisign Naming Services 21345 Ridgetop Circle 4th Floor Dulles, Virginia 20166</p>	<p>Private Whois metapli.com c/o metapli.com N4892 Nassau Bahamas</p>

	<p>Internet.bs Corp. 98 Hampshire Street N-4892 Nassau The Bahamas</p>	<p>pzzjnc4e3155e157ceb@oqij874d9300d54bd95.privatewhois.net yeij2yh4e3155e15b733@oqij874d9300d54bd95.privatewhois.net zv2ea6o4e3155e15a79a@oqij874d9300d54bd95.privatewhois.net</p>
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