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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

MICROSOFT CORPORATION,

Plaintiff,

v.

JOHN DOES 1-5, CONTROLLING
COMPUTER BOTNETS AND THEREBY
INJURING PLAINTIFF AND ITS
CUSTOMERS,

Defendants.

Case No. 15-cv-6565-NGG-LB

**NOTICE OF MOTION FOR DEFAULT
JUDGMENT AND PERMANENT
INJUNCTION**

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Civil Procedure 55(b)(2) and Local Civil Rule 55.2, Plaintiff Microsoft Corporation (“Microsoft”) hereby moves for an Order granting Microsoft Default Judgment and Permanent Injunction against John Does 1-5

(“Defendants”) named in this lawsuit in connection with Microsoft’s claims for relief pursuant to 18 U.S.C. § 1030, 18 U.S.C. § 2701, 15 U.S.C. § 1114, 15 U.S.C. § 1125(a), 15 U.S.C. § 1125(c), 18 U.S.C. § 1962(c), and the common law of unjust enrichment, trespass to chattels, and conversion.

The relief sought by Microsoft is made upon the accompanying Declaration of Gabriel M. Ramsey, the Memorandum of Law in Support of Motion for Default Judgment and Permanent Injunction, and the Proposed Order filed herewith, along with all pleadings and papers previously filed in connection with this matter.

Dated: December 7, 2016

Respectfully submitted,

By: /Alvin Lee/

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

MICROSOFT CORPORATION,

Plaintiff,

v.

JOHN DOES 1-5, CONTROLLING
COMPUTER BOTNETS AND THEREBY
INJURING PLAINTIFF AND ITS
CUSTOMERS,

Defendants.

Case No. 15-cv-6565-NGG-LW

**[PROPOSED] FINAL DEFAULT JUDGMENT
AND ORDER FOR PERMANENT INJUNCTION**

This matter came before the Court on Plaintiff's Microsoft Corporation ("Microsoft") Motion for Default Judgment and Entry of Preliminary Injunction. Microsoft has established the elements of their claims pursuant to: (1) the Computer Fraud and Abuse Act (18 U.S.C. § 1030); (2) the Electronic Communications Privacy Act (18 U.S.C. § 2701); (3) the Lanham Act (15 U.S.C. §§ 1114, 1125(a), (c)); and (4) the common law of trespass, unjust enrichment and conversion. Defendants John Does 1-5 ("Defendants") failed to appear, plead, or otherwise defend this action. Microsoft is entitled to default judgment under Rule 55(b) and a permanent injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(a), and 28 U.S.C. § 1651(a) (the All-Writs Act).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the papers, declarations, exhibits, and memorandum filed in support of Microsoft's Motion for Default Judgment and Entry of Preliminary Injunction, the Court hereby makes the following findings of fact and conclusions of law:

1. Defendants were properly served with Microsoft's summons, complaint, and other pleadings in this action and were provided with adequate notice of this action through

means authorized by law, satisfying Due Process, satisfying Fed. R. Civ. P. 4 and reasonably calculated to provide Defendants with notice. Specifically, Defendants have been served by publication on a the public website <http://botnetlegalnotice.com/dorkbot/> and via e-mail at e-mail addresses associated with the malicious infrastructure underlying the Dorkbot botnet, both of which are means of service authorized by this Court's prior orders. E-mail is Defendants primary method of communication regarding the infrastructure underlying the Dorkbot botnet.

2. Defendants failed to appear, plead, or otherwise defend against this action.

3. The time for responding to Microsoft's complaint was 21 days from service of the summons and complaint, and more than 21 days have elapsed since Microsoft effected service. The Clerk properly entered default pursuant to Rule 55(a) on December 2, 2016.

4. This Court has jurisdiction over the subject matter of this case and venue is proper in this judicial district.

5. Microsoft is entitled to entry of judgment and a permanent injunction against Defendants.

6. The record evidence indicates that no Defendant is an infant or incompetent.

7. 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), Electronic Communications Privacy Act (18 U.S.C. § 2701), the Lanham Act (15 U.S.C. §§ 1114, 1125) and constitute trespass to chattels, unjust enrichment and conversion.

8. Microsoft owns the registered trademarks Internet Explorer®, Microsoft®, Windows®, MSN®, and Windows Live® used in connection with its services, software and products.

9. There is good cause to believe that, unless Defendants are restrained and enjoined by Order of this Court, immediate and irreparable harm will result from the Defendants' ongoing violations. The evidence in the record demonstrates that Defendants have engaged in violations of the foregoing law by:

- a. intentionally accessing and sending malicious software to the protected computers and operating systems of the customers or associated member

organizations of Microsoft, without authorization and exceeding authorization, in order to infect those computers and make them part of the computer botnet known as the “Dorkbot” botnet (the “botnet”);

- b. sending malicious code to configure, deploy and operate a botnet;
- c. deploying computers and Internet domains to establish a command and control infrastructure for a botnet;
- d. using the command and control servers and Internet domains to actively manage and control a botnet for illegal purposes;
- e. corrupting the Microsoft operating system and applications on victim’s computers, thereby using them to spy on the victims, spread the Dorkbot infection, propagate additional malicious software, and conduct distributed denial of service attacks on third parties;
- f. stealing personal account information from computer users; and
- g. using stolen information for illegal purposes.

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

11. There is good cause to believe that Defendants have specifically directed their activities to computers of Microsoft’s customers located in the Eastern District of New York, have engaged in illegal activity by directing malicious botnet code and content to said computers of Microsoft’s customers and member organizations, to further perpetrate their fraud on Microsoft’s customers and member organizations. There is good cause to believe that Defendants have directed said malicious botnet code and content through the domains identified in Appendix A to this Order.

12. There is good cause to believe that to halt the injury caused by Defendants, they must be prohibited from sending malicious botnet code and content through the Internet domains, identified in Appendix A to this Order.

13. There is good cause to believe that Defendants have engaged in illegal activity using the Internet domains identified in Appendix A to this Order to host the command and control software and content used to maintain and operate the botnet. There is good cause to believe that to halt the injury caused by Defendants, ownership of each of Defendants' current and prospective domains set forth in Appendix A must be permanently transferred to Microsoft.

14. The hardship to Microsoft and its customers that will result if a permanent injunction does not issue weighs in favor of an injunction. Defendants will suffer no cognizable injury as a result of being enjoined from further illegal conduct.

15. An injunction to prevent further illegal conduct by Defendants is in the public interest.

16. There is good cause to permit notice of the instant Order and service of the Complaint by formal and alternative means. The following means of service are authorized by law, satisfy Due Process, and satisfy Fed. R. Civ. P. 4(f)(3) and are reasonably calculated to notify Defendants of the instant order: (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to their domain registrars and hosting companies, and (2) publishing notice on a publicly available Internet website.

IT IS THEREFORE ORDERED that, Microsoft's Motion for Default Judgment and Entry of a Permanent Injunction is Granted.

IT IS FURTHER ORDERED that Defendants are in default, and that judgment is awarded in favor of Microsoft and against Defendants.

IT IS FURTHER ORDERED that Defendants, their representatives and persons who are in active concert or participation with them are permanently restrained and enjoined from: (1) intentionally accessing and sending malicious software or code to Microsoft and the protected computers and operating systems of Microsoft's customers and associated member organizations, without authorization, in order to infect those computers and make them part of any botnet, (2) sending malicious code to configure, deploy and operate a botnet, (3) configuring, deploying, operating, or otherwise participating in or facilitating the botnet described in the TRO Application, including but not limited to the command and control software hosted at and

operating through the Internet domains, domain name servers, and IP addresses; (6) downloading or offering to download additional malicious software onto the computers of Microsoft's customers; or (7) undertaking any similar activity that inflicts harm on Microsoft, Microsoft's customers, or the public.

IT IS FURTHER ORDERED that, Defendants, their representatives and persons who are in active concert or participation with them are permanently restrained and enjoined from (1) using and infringing Microsoft's trademarks, including specifically Microsoft's registered trademarks "Internet Explorer," "Microsoft," "Windows," "MSN", or "Windows Live" bearing registration numbers 2872708, 2463526, 2277112, 2854091, 3765517 and/or other trademarks, trade names, service marks, or Internet Domain addresses or names; (2) using in connection with Defendants' activities, products, or services any false or deceptive designation, representation or description of Defendants' or of their activities, whether by symbols, words, designs or statements, which would damage or injure Microsoft or give Defendants an unfair competitive advantage or result in deception of consumers; or (3) acting in any other manner which suggests in any way that Defendants' activities, products or services come from or are somehow sponsored by or affiliated with Microsoft, or passing off Defendants' activities, products or services as Microsoft's.

IT IS FURTHER ORDERED that Defendants shall forfeit ownership and control of the domains identified in Appendix A to this order to Microsoft.

IT IS FURTHER ORDERED, pursuant to the All Writs Act (28 U.S.C. § 1651), that the domain registries and domain registrars ("Domain Providers") shall transfer ownership of the domains forth in Appendix A to Microsoft. Domain Providers shall implement the provisions of this order in the following fashion:

1. Transfer the domains to the permanent control of Microsoft, such that Microsoft is the registrant with control over hosting and administration of the domains. Domains should be transferred to Microsoft's account at the sponsoring registrar MarkMonitor or such other registrar and account details specified by Microsoft. The domains shall be

made active and shall resolve in the manner set forth in this order, or as otherwise specified by Microsoft, upon its taking control of the domains.

2. The domains shall be assigned the authoritative name servers ns085.microsoftinternetsafety.net and ns086.microsoftinternetsafety.net and, to the extent necessary and specified by Microsoft, shall be assigned certain IP addresses associated with such name servers. Domain Providers shall take all other reasonable steps to work with Microsoft to ensure that the domains are put within Microsoft's control, and to ensure that Defendants cannot use them to control the botnet.

3. The WHOIS registrant, administrative, billing and technical contact and identifying information should be the following, or other information as may be specified by Microsoft:

Domain Administrator
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052
United States
Phone: +1.4258828080
Facsimile: +1.4259367329
domains@microsoft.com

4. The Domain Providers shall prevent transfer or modification of the domains by Defendants and shall prevent transfer or control of the domains to the account of any party other than Microsoft.

5. The Domain Providers shall take all steps required to propagate the foregoing changes through the DNS, including domain registrars.

6. Non-U.S. Domain Providers are respectfully requested, but are not ordered, to comply with the foregoing steps, in order to protect the integrity and security of the Internet, to protect end-user victims of the Dorkbot botnet in all countries, to advance the public interest and to protect Microsoft and its customer from the Dorkbot botnet.

IT IS FURTHER ORDERED that copies of this Order and service of the Complaint may be served by any means authorized by law, including transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to their domain registrars and/or hosting companies, and/or by publishing notice on a publicly available Internet website.

IT IS SO ORDERED

Entered this ____ day of _____, 2016 _____

Judge Nicholas G. Garaufis
United States District Judge

APPENDIX A TO PERMANENT INJUNCTION ORDER

REGISTRY FOR .COM AND .NET DOMAINS

Verisign Naming Services
21345 Ridgetop Circle
4th Floor
Dulles, Virginia 20166
United States

Verisign Global Registry Services
12061 Bluemont Way
Reston Virginia 20190
United States

REGISTRY FOR .INFO DOMAINS

Afilias USA, Inc.
Building 3, Suite 105,
300 Welsh Road, Horsham,
PA 19044
United States

Afilias plc
4th Floor, International House,
3 Harbourmaster Place,
IFSC, Dublin D01 K8F1,
Ireland

.COM DOMAINS

a371000.com
baerr03.com
balkoov.com
balkr01.com
c37300000.com
joerv03.com
jossven.com
joyyv01.com
joyyven.com
lartinito.com
b362000.com

c39990000.com
c38800000.com
jaa020224.com
jo1aa26.com
najwahaifamelema42.com
najwahaifamelema43.com
najwahaifamelema44.com
najwahaifamelema45.com
dthemall4gonowhaha42.com
sao20000.com

a350000.com
a36a000.com
a388000.com
a399900.com
a444400.com
aaao2020o.com
acaraka1lagroup42.com
adoyou1understandme42.com
aire1bobohayawen42.com
ajhvdqw1ladies42.com
alnisat.com
alufina.com
amous1epadsafa42.com
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b350000.com
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b411000.com
b444400.com
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baerr02.com
balkr02.com
balkr03.com
bmous2epadsafa42.com
c35000000.com
c36300000.com
c41100000.com
c44440000.com
coachloan.com
dacoolair.com
dacoolblr.com
g4sa.com
girccsas.com
googleure.com
habalot.com
hedrmsad.com
j031333.com
j34000000.com
jaa020222.com
jaa020225.com
jaa020226.com
jaa020227.com
jaa029230.com
jaa031231.com
jaa031232.com

jamtes.com
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jo1aa30.com
jo1rv99.com
jo31031.com
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joerv07.com
joerv08.com
joyyv02.com
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k211132.com
k340000.com
laeranat1.com
laeranat2.com
lartanat1.com
lartanat3.com
lartanato.com
malaketna.com
najwahai famelema1.com
najwahai famelema100.com
najwahai famelema14.com
najwahai famelema16.com
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najwahai famelema98.com
najwahai famelema99.com
ratk01.com
retk01.com
rogoeorogico1.com
rooggeyyy1.com
rwt234.com
shaimenal.com
so1aa00.com
sss11c0.com
tassweq.com
tsroxybaa.com
weqband.com
xludakx.com
yamimo.com
yongyuan2.com
zabrak0vmin0kov1.com
zabrak0vmin0kov2.com
zabrak0vmin0kov3.com
zabrak0vmin0kov4.com
zabrak0vmin0kov5.com
zabrak0vmin0kov6.com
zabrouskics.com

.NET DOMAINS

babypin.net
drshells.net
mom002.net
strongsearch.net
sult4n.net

.INFO DOMAINS

esta4.info
f0001.info
ngulesh.info
redflash.info
smelly pussy.info
thismynew1.info

***DEFENDANTS JOHN DOES 1 – 5
CONTACT INFORMATION***

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matthew.wen@hotmail.com
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