

FILED

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

2015 FEB 20 A 9:21

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

MICROSOFT CORPORATION, a
Washington corporation, and FS-ISAC, INC.,
a Delaware corporation,

Plaintiffs,

v.

JOHN DOES 1-3, CONTROLLING A
COMPUTER BOTNET THEREBY
INJURING PLAINTIFFS AND THEIR
CUSTOMERS AND MEMBERS,

Defendants.

Civil Action No: 1:15 cv 240 LMB/100

FILED UNDER SEAL PURSUANT TO
LOCAL CIVIL RULE 5

**APPLICATION OF MICROSOFT CORPORATION AND FS-ISAC, INC. FOR AN
EMERGENCY *EX PARTE* TEMPORARY RESTRAINING ORDER AND ORDER TO
SHOW CAUSE RE PRELIMINARY INJUNCTION**

Plaintiffs Microsoft Corp. and Financial Services—Information Sharing and Analysis Center, Inc. (FS-ISAC, Inc.) (collectively “Plaintiffs”), by counsel, pursuant to Federal Rule of Civil Procedure 65(b) and (c), the Computer Fraud and Abuse Act (18 U.S.C. § 1030), the Electronic Communications Privacy Act (18 U.S.C. § 2701), the Lanham Act (15 U.S.C. §§ 1114, 1116, & 1125) and the common law, and the All Writs Act, (28 U.S.C. § 1651), respectfully move the Court for an emergency *ex parte* temporary restraining order, and order to show cause why a preliminary injunction should not issue.

As discussed in Plaintiffs’ brief in support of this Application, Plaintiffs request an order disabling a number of Internet Domains through which Defendants control a harmful “botnet” known as the “Ramnit botnet.” Botnets are computer networks made up of tens of thousands and sometimes millions of user computers infected with malicious software that puts the infected

computers under the control of individuals and organizations who use them for illegal activities, including “click-fraud,” the theft of end-user’s personal identifying information, and infringing companies’ trademarks. The requested relief is necessary to halt the growth of the Ramnit botnet that is causing irreparable injury to Plaintiffs’ customers, Plaintiffs’ member institution and the public. As discussed in Plaintiffs’ brief in support of this Application, *ex parte* relief is essential because if Defendants are given prior notice, they will be able to destroy, move, conceal, or otherwise make inaccessible the facilities through which Defendants direct the harmful Ramnit botnet. Therefore, Plaintiffs respectfully request that the Court grant this Application.

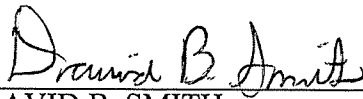
Plaintiffs’ Application is based on: this Application; Plaintiffs’ Brief In Support Of This Application; the Declarations of Karthik Selvaraj, Tim Liu, Jason Lyons, Vikram Thakur, Eric Guerrino, and Jacob M. Heath in support of Plaintiffs’ Application and the exhibits attached thereto; the pleadings on file in this action; and on such argument and evidence as may be presented at the hearing on this Application.

Plaintiffs further respectfully requests oral argument on this motion to be set for February 20, 2015 or soon thereafter.

Dated: February 19, 2015

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE
LLP



DAVID B. SMITH
Va. State Bar No. 84462
Attorneys for Plaintiffs Microsoft Corp. and FS-ISAC, Inc.
ORRICK, HERRINGTON & SUTCLIFFE LLP
Columbia Center
1152 15th Street, N.W.
Washington, D.C. 20005-1706
Telephone: (202) 339-8400
Facsimile: (202) 339-8500
dsmith@orrick.com

Of counsel:

GABRIEL M. RAMSEY (*pro hac vice* application pending)
JACOB M. HEATH (*pro hac vice* application pending)
ROBERT L. URIARTE (*pro hac vice* application pending)
Attorneys for Microsoft Corp. and FS-ISAC, Inc.
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, CA 94025
Telephone: (650) 614-7400
Facsimile: (650) 614-7401
gramsey@orrick.com
jheath@orrick.com
ruriarte@orrick.com

JEFFREY L. COX (*pro hac vice* application pending)
Attorneys for Microsoft Corp. and FS-ISAC, Inc.
ORRICK, HERRINGTON & SUTCLIFFE LLP
701 5th Avenue, Suite 5600
Seattle, WA 98104-7097
Telephone: (206) 839-4300
Facsimile: (206) 839-4301
jcox@orrick.com

RICHARD DOMINGUES BOSCOVICH (*pro hac vice*
application pending)
MICROSOFT CORPORATION
One Microsoft Way
Redmond, WA 98052-6399
Telephone: (425) 704-0867
Facsimile: (425) 936-7329
rbosco@microsoft.com

