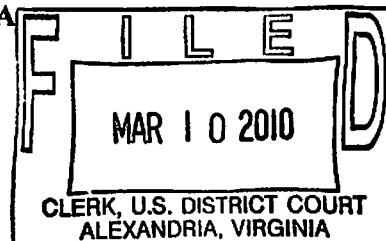


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division



MICROSOFT CORPORATION, a
Washington corporation,

Plaintiff,

v.

JOHN DOES 1-27, CONTROLLING A
COMPUTER BOTNET THEREBY
INJURING MICROSOFT AND ITS
CUSTOMERS

Defendants.

Civil Action No: 1:10 CV 156 (LMB/JFA)

ORDER GRANTING 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 Electronic Communications Privacy Act (18 U.S.C. § 2701), (4) the Lanham Act (15 U.S.C. §§ 1125(a), (c)), and (5) the common law of trespass, unjust enrichment and conversion. Microsoft has moved for a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure.

FINDINGS

The Court has considered the pleadings, declarations, exhibits, and memoranda filed in support of Microsoft's motion and finds 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 hereto; the Complaint states a claim upon which relief may be granted against the 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) and the common law of trespass to chattels, unjust enrichment and conversion;

2. There is good cause to believe that 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) and the common law of trespass to chattels, unjust enrichment and conversion, and that Microsoft is, therefore, likely to prevail on the merits of this action;

3. There is good cause to believe that, unless the Defendants are restrained and 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) and the common law of trespass to chattels, unjust enrichment and conversion. 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 Defendants have engaged in violations of the foregoing laws by: 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, sending malicious code to configure, deploy and operate a botnet, sending unsolicited spam email to Microsoft's Hotmail accounts, sending unsolicited spam email that falsely indicate that they are from Microsoft's Hotmail accounts, collecting personal information including personal email addresses, and delivering malicious code including fake

and misleading antivirus software. 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 Defendants will continue to engage in such unlawful actions if not immediately restrained from doing so by Order of this Court;

4. 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 Defendants of the domains at issue in Microsoft's TRO Motion and other discoverable evidence of Defendants' misconduct available through such domains if Defendants are not restrained by Order of this Court. Based on the evidence cited in Microsoft's TRO Motion and accompanying declarations and exhibits, Microsoft is likely to be able to prove that: (1) Defendants have operated through businesses and principals located outside of the United States; (2) the Defendants are engaged in activities that directly violate U.S. law and harms Microsoft, its customers and the public; (3) the Defendants have continued their unlawful conduct despite the clear injury to Microsoft, its customers and the public; (4) the Defendants are likely to relocate the domains at issue in Microsoft's TRO Motion and the harmful and malicious code disseminated through these domains if not restrained from doing so by Order of this Court. Therefore, in accordance with Fed. R. Civ. P. 65 and Civil L.R. 65-1, good cause and the interests of justice require that this Order be Granted;

5. There is good cause to believe that the Defendants, which are primarily individuals outside of the United States, have engaged in illegal activity using .com Domains which are maintained by the top level domain registry Verisign, located in the United States and the Eastern District of Virginia.

6. There is good cause to believe that to immediately prevent the injury caused by

Defendants, Verisign must be ordered:

- a. to immediately take all steps necessary to lock at the registry level the domains at issue in the TRO Motion and to remove all such domains from the zone file and to ensure that changes to the domain names cannot be made by Defendants 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 Defendants' misconduct available through the domains be preserved.

7. 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 circumstance 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, the Preliminary Injunction hearing and of this action: (1) personal delivery upon U.S. defendants, (2) personal delivery through the Hague Convention on Service Abroad upon Chinese defendants, (3) transmission by e-mail, facsimile and mail to the contact information provided by defendants to their domain name registrars and as agreed to by defendants in their domain name registration agreements, and (4) publication, including publishing notice on a publicly available Internet website.

PRELIMINARY INJUNCTION

IT IS THEREFORE ORDERED that, Defendants and its representatives are restrained and enjoined during the pendency of this action from 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, sending malicious code to configure, deploy and operate a botnet, sending unsolicited spam email to Microsoft's Hotmail accounts, sending unsolicited spam email that falsely indicate that they are from Microsoft's Hotmail accounts, collecting personal information including personal email addresses, and delivering malicious code including fake antivirus software, or undertaking any similar activity that inflicts harm on Microsoft, its customers or the public.

IT IS FURTHER ORDERED that, Defendants and its representatives are restrained and enjoined during the pendency of this action from configuring, deploying, operating or otherwise participating in or otherwise facilitating the botnet described in the TRO Motion, including but not limited to the domains set forth at Appendix A hereto and any other component or element of the botnet.

IT IS FURTHER ORDERED that during the pendency of this action Verisign must:

- a. take all steps necessary to lock at the registry level the domains at issue in the TRO Motion and to remove all such domains from the zone file and to ensure that changes to the domain names cannot be made by Defendants absent a court order;
- b. take all steps required to propagate the foregoing domain registry changes to domain name registrars; and
- c. hold the domains in escrow and take all steps necessary to ensure that the evidence of misconduct available through the domains be preserved.


IT IS FURTHER ORDERED that copies of this Order and service of the Complaint may be carried out 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 in China, (3) by transmission by e-mail, facsimile and mail to the contact information provided by defendants to their domain name registrars and as agreed to by defendants in their domain name registration agreements, and (4) publication, including publishing notice on a publicly available Internet website.

IT IS FURTHER ORDERED that Microsoft shall maintain during the pendency of this action the bond it has posted in the amount of \$55,400, as payment of damages to which Defendants may be entitled for a wrongful injunction or restraint, during the pendency of this Action, or until further Order of the Court.

IT IS SO ORDERED

Entered this th10 day of March, 2010.

lsl 

Leonie M. Brinkema
United States District Judge

Appendix A

1. bestchristmascard.com
2. bestmirabella.com
3. bestyearcard.com
4. blackchristmascard.com
5. cardnewyear.com
6. cheapdecember.com
7. christmaslightsnow.com
8. decemberchristmas.com
9. directchristmasgift.com
10. eternalgreetingcard.com
11. freechristmassite.com
12. freechristmasworld.com
13. freedecember.com
14. funnychristmasguide.com
15. greatmirabellasite.com
16. greetingcardcalendar.com
17. greetingcardgarb.com
18. greetingguide.com
19. greetingsupersite.com
20. holidayxmas.com
21. itsfatherchristmas.com
22. justchristmasgift.com
23. lifegreetingcard.com
24. livechristmascard.com
25. livechristmasgift.com
26. mirabellaclub.com
27. mirabellamotors.com
28. mirabellanews.com
29. mirabellaonline.com
30. newlifeyearsite.com
31. newmediayearguide.com
32. newyearcardcompany.com
33. newyearcardfree.com
34. newyearcardonline.com
35. newyearcardservice.com
36. smartcardgreeting.com
37. superchristmasday.com
38. superchristmaslights.com
39. superyearcard.com
40. themirabelladirect.com
41. themirabellaguide.com
42. themirabellahome.com
43. topgreetingsite.com
44. whitewhitechristmas.com
45. worldgreetingcard.com
46. yourchristmaslights.com
47. yourdecember.com
48. yourmirabelladirect.com
49. yourregards.com
50. youryearcard.com
51. bestbarack.com
52. bestbaracksite.com
53. bestobamadirect.com
54. expowale.com
55. greatbarackguide.com
56. greatobamaguide.com
57. greatobamaonline.com
58. jobarack.com
59. superobamadirect.com
60. superobamaonline.com
61. thebaracksite.com
62. topwale.com
63. waledirekt.com
64. waleonline.com
65. waleprojekt.com
66. goodnewsdigital.com
67. goodnewsreview.com
68. linkworldnews.com
69. reportradio.com
70. spacemynews.com
71. wapcitynews.com
72. worldnewsdot.com
73. worldnewseye.com
74. worldtracknews.com
75. bestgoodnews.com
76. adorelyric.com

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| 77. adorepoem.com | 118. greatsalesgroup.com |
| 78. adoresongs.com | 119. greatsalestax.com |
| 79. bestadore.com | 120. greatsvallentine.com |
| 80. bestlovelong.com | 121. greatvalentinepoems.com |
| 81. funloveonline.com | 122. macride.com |
| 82. youradore.com | 123. mazdaautomotiveparts.com |
| 83. yourgreatlove.com | 124. mazdacarclub.com |
| 84. orldlovelife.com | 125. mazdaspeedzone.com |
| 85. romanticsliving.com | 126. netcitycab.com |
| 86. adoresong.com | 127. petcabtaxi.com |
| 87. bestlovehelp.com | 128. smartsalesgroup.com |
| 88. chatloveonline.com | 129. superpartycab.com |
| 89. cherishletter.com | 130. supersalesonline.com |
| 90. cherishpoems.com | 131. thecoupondiscount.com |
| 91. lovecentralonline.com | 132. themazdacar.com |
| 92. lovelifeportal.com | 133. themazdaspeed.com |
| 93. whocherish.com | 134. thevalentine lovers.com |
| 94. worldlovelife.com | 135. thevalentineparty.com |
| 95. worshiplove.com | 136. wirelessvalentineday.com |
| 96. yourteamdoc.com | 137. workcaredirect.com |
| 97. yourdatabank.com | 138. workhomegold.com |
| 98. alldatanow.com | 139. worklifedata.com |
| 99. alldataworld.com | 140. yourcountycoupon.com |
| 100. cantlosedata.com | 141. yourmazdacar.com |
| 101. freedoconline.com | 142. yourmazdatribute.com |
| 102. losenowfast.com | 143. yourvalentineday.com |
| 103. mingwater.com | 144. yourvalentinepoems.com |
| 104. theworldpool.com | 145. againstfear.com |
| 105. wagerpond.com | 146. antiterroralliance.com |
| 106. beadcareer.com | 147. antiterroris.com |
| 107. beadworkdirect.com | 148. antiterrornetwork.com |
| 108. bestcouponfree.com | 149. bayhousehotel.com |
| 109. bestmazdadealer.com | 150. bestblogdirect.com |
| 110. bluevalentineonline.com | 151. bestbreakingfree.com |
| 111. buymazdacars.com | 152. bestjournalguide.com |
| 112. codecouponsite.com | 153. bestlifeblog.com |
| 113. deathtaxi.com | 154. bestusablog.com |
| 114. funnyvalentinessite.com | 155. blogginhell.com |
| 115. greatcouponclub.com | 156. blogsitedirect.com |
| 116. greatmazdacars.com | 157. boarddiary.com |
| 117. greatsalesavailable.com | 158. breakingfreemichigan.com |

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|------|-----------------------|------|-----------------------------|
| 159. | breakinggoodnews.com | 200. | smspianeta.com |
| 160. | breakingkingnews.com | 201. | tagdebt.com |
| 161. | breakingnewsfm.com | 202. | virtualesms.com |
| 162. | breakingnewsltd.com | 203. | wealthleaf.com |
| 163. | debtbgonesite.com | 204. | yourbarrier.com |
| 164. | easyworldnews.com | 205. | discountfreesms.com |
| 165. | extendedman.com | 206. | eccellentesms.com |
| 166. | farboards.com | 207. | freesmsorange.com |
| 167. | fearalert.com | 208. | ipersmstext.com |
| 168. | globalantiterror.com | 209. | morefreesms.com |
| 169. | gonessite.com | 210. | nuovosmsclub.com |
| 170. | longballonline.com | 211. | primosmsfree.com |
| 171. | mobilephotoblog.com | 212. | smsinlinea.com |
| 172. | photoblogsite.com | 213. | smsluogo.com |
| 173. | residencehunter.com | 214. | superioresms.com |
| 174. | terroralertstatus.com | 215. | 4thfirework.com |
| 175. | terrorfear.com | 216. | blumer.com |
| 176. | terrorismfree.com | 217. | entranc.com |
| 177. | themostrateblog.com | 218. | fireholiday.com |
| 178. | tntbreakingnews.com | 219. | fireworksholiday.com |
| 179. | urbanfear.com | 220. | fireworksnetwork.com |
| 180. | usabreakingnews.com | 221. | fireworkspoint.com |
| 181. | yourbreakingnew.com | 222. | freeindependence.com |
| 182. | yourlength.com | 223. | gemells.com |
| 183. | yourlol.com | 224. | handyphoneworld.com |
| 184. | yourwent.com | 225. | happyindependence.com |
| 185. | bakeloaf.com | 226. | holidayfirework.com |
| 186. | chinamobilesms.com | 227. | holidaysfirework.com |
| 187. | coralarm.com | 228. | holifireworks.com |
| 188. | downloadfreesms.com | 229. | interactiveindependence.com |
| 189. | freecolorsms.com | 230. | miosmschat.com |
| 190. | freeservesms.com | 231. | movie4thjuly.com |
| 191. | fryroll.com | 232. | moviefireworks.com |
| 192. | goldfixonline.com | 233. | movieindependence.com |
| 193. | lastlabel.com | 234. | movies4thjuly.com |
| 194. | miosmsclub.com | 235. | moviesfireworks.com |
| 195. | moneymedal.com | 236. | moviesindependence.com |
| 196. | nuovosms.com | 237. | outdoorindependence.com |
| 197. | screenalias.com | 238. | smphi.com |
| 198. | smsclubnet.com | 239. | superhandycap.com |
| 199. | smsdiretto.com | 240. | thehandygal.com |

241. video4thjuly.com
242. videoindependence.com
243. yourhandyhome.com
244. yusitymp.com
245. aweleon.com
246. bedioger.com
247. bicodehl.com
248. blrdab.com
249. cismosis.com
250. crucism.com
251. cycloro.com
252. encybest.com
253. favolu.com
254. framtr.com
255. frostep.com
256. gumentha.com
257. hindger.com
258. hornalfa.com
259. noloid.com
260. nonprobs.com
261. oughwa.com
262. painkee.com
263. pantali.com
264. pathoph.com
265. prerre.com
266. purgand.com
267. rascop.com
268. sodanthu.com
269. specipa.com
270. tabatti.com
271. tatumen.com
272. thingre.com
273. tobeyew.com
274. broadwo.com
275. houreena.com
276. cyanian.com