

Alvin Lee  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
51 West 52<sup>nd</sup> Street  
New York, New York, 10019  
Telephone: (212) 506-5000

Gabriel Ramsey (*pro hac vice*)  
Jeffrey L. Cox (*pro hac vice*)  
Elena Garcia (*pro hac vice*)  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
405 Howard Street  
San Francisco, CA 94105-2669  
Telephone: (415) 773-5700

Richard Domingues Boscovich  
Microsoft Corporation  
One Microsoft Way  
Redmond, WA 98052-6399

Attorneys for Plaintiff  
MICROSOFT CORPORATION

**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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ALVIN LEE  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
51 West 52nd Street  
New York, New York, 10019  
Telephone: 212-506-5000  
alee@orrick.com

GABRIEL M. RAMSEY (*pro hac vice*)  
JEFFREY L. COX (*pro hac vice*)  
ELENA GARCIA (*pro hac vice*)  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
The Orrick Building  
405 Howard Street  
San Francisco, California 94105-2669  
Telephone: 415-773-5700  
gramsey@orrick.com  
jcox@orrick.com  
egarcia@orrick.com

RICHARD DOMINGUES BOSCOVICH (*of counsel*)  
Microsoft Corporation  
One Microsoft Way  
Redmond, WA 98052-6399  
Telephone: 425-704-0867  
rbosco@microsoft.com

*Attorneys for Plaintiff  
Microsoft Corporation*

**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  
artiho.com  
b350000.com  
b372000.com  
b388000.com  
b399900.com  
b411000.com  
b444400.com  
baao20221.com  
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  
jo1aa23.com  
jo1aa24.com  
jo1aa25.com  
jo1aa27.com  
jo1aa30.com  
jo1rv99.com  
jo31031.com  
jo31032.com  
joerv01.com  
joerv02.com  
joerv06.com  
joerv07.com  
joerv08.com  
joyyv02.com  
joyyv03.com  
k201333.com  
k211124.com  
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k211127.com  
k211130.com  
k211131.com  
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  
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najwahai famelema21.com  
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najwahai famelema97.com  
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  
smellypussy.info  
thismynew1.info

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

liuqibu\_585@msn.com  
klajeng@163.com  
1404418132@qq.com  
daliandm@sina.com  
esta4.info@protecteddomainservices.com  
ewrewr@msn.com  
exe445@gmail.com  
f0001.info@protecteddomainservices.com  
jilaheg@126.com  
kdnvkxnc@sina.com  
luanren\_8@tom.com  
matthew.wen@hotmail.com  
mbakerh@yeah.net  
qiushangzhi@35.com  
ratk01.com@protecteddomainservices.com  
trainerlouise@yahoo.com  
yuming@yinsibaohu.aliyun.com