

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

MICROSOFT CORPORATION, a  
Washington corporation,

Plaintiff,

v.

JOHN DOES 1-2, CONTROLLING  
A COMPUTER NETWORK  
THEREBY INJURING MICROSOFT  
AND ITS CUSTOMERS,

Defendants.

Civil Action No: 1:22-cv-607-AJT-WEF

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**[PROPOSED] ORDER GRANTING PLAINTIFF MICROSOFT’S MOTION FOR  
PERMANENT INJUNCTION**

This matter came before the Court on Plaintiff Microsoft Corporation’s (“Microsoft”) Motion for Permanent Injunction. Microsoft has established the elements of its claims pursuant to: (1) the Computer Fraud and Abuse Act (18 U.S.C. § 1030); (2) the Lanham Act (15 U.S.C. §§ 1114(a)(1), 1125(a)); and (3) the common law of trespass, unjust enrichment and conversion. Defendants have failed to appear, plead, or otherwise defend this action. Microsoft is entitled to default judgment under Rule 55(b) of the Federal Rules of Civil Procedure and a permanent injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure, and 15 U.S.C. § 1116(a) (the Lanham Act):

**FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

Having reviewed the papers, declarations, exhibits, memorandum, and all other pleadings and papers relevant to Microsoft’s Motion for Entry of a Permanent Injunction, the Court hereby makes the following findings of fact and conclusions of law:

1. The 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 via email at e-mail addresses associated with infrastructure used by Defendants to carry out the activity that is the subject of the complaint and by publication on the public website <http://www.noticeofpleadings.com/bohrium>.

2. Defendants failed to appear, plead, or otherwise defend against the 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 May 16, 2023.

4. This Court has jurisdiction over the subject matter of the 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 evidence of record 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), the Lanham Act (15 U.S.C. §§ 1114, 1125), and the common law of trespass to chattels, unjust enrichment and conversion.

8. Microsoft owns the following registered trademarks or brands: Microsoft<sup>®</sup>, Windows<sup>®</sup>, Outlook<sup>®</sup>, Azure<sup>®</sup> and Office 365<sup>®</sup>, Microsoft corporate logo, OneDrive, SharePoint and Office 365 and numerous other trademarks used in connection with its services, software and products.

9. Before issuance of the Preliminary Injunction and after receiving notice of the

Preliminary Injunction, the Defendants have continued to engage in the conduct enjoined by the Preliminary Injunction, and therefore continue to violate the Preliminary Injunction. In particular, using new domains which include Microsoft's trademarks and brands, the Defendants have continued:

a. intentionally accessing and sending malicious software, code, and instructions to the protected computers, operating systems, and computer networks of Microsoft and the customers of Microsoft, without authorization or exceeding authorization, in order to

i. infect those computers and computer networks with malicious code and thereby gain control over those computers and computer networks;

ii. attack and compromise the security of those computers and computer networks by conducting remote reconnaissance, stealing authentication credentials, monitoring the activities of users, and using other instrumentalities of theft; and

iii. steal and exfiltrate information from those computers and computer networks;

b. deploying computers and Internet domains to establish a command and control infrastructure by which means Defendants conduct illegal activities, including attacks on computers and networks, monitoring of the activities of users, and the theft of information; and

c. corrupting the Microsoft's operating system and applications on victims' computers and networks, thereby using them to monitor the activities of users and steal information from them.

10. There is good cause to believe that Defendants are likely to continue the foregoing conduct and to engage in the illegal conduct and purposes enjoined by the Preliminary Injunction, unless Defendants are permanently restrained and enjoined and unless final relief is ordered to expeditiously prevent Defendants from maintaining the registration of domains for such

prohibited and unlawful purposes, on an ongoing basis.

11. There is good cause to believe that, unless Defendants are permanently restrained and enjoined and unless further relief is ordered to expeditiously prevent Defendants from maintaining the registration of domains for purposes enjoined by the Preliminary Injunction, on an ongoing basis, immediate and irreparable harm will result to Microsoft, Microsoft's customers and to the public, from the Defendants' ongoing violations.

12. There is good cause to believe that to halt the injury caused by Defendants, they must be prohibited from using domains, as set forth below.

13. 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.

14. There is good cause to permit notice of the instant Order, further orders of the court 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 the publicly available website <http://www.noticeofpleadings.com/bohrium>.

**FINAL JUDGMENT AND PERMANENT INJUNCTION**

**IT IS THEREFORE ORDERED** that, in accordance with Fed. R. Civ. P. 65(b) and 15 U.S.C. § 1116(a) and 28 U.S.C. § 1651(a) and the court's inherent equitable authority, good cause and the interests of justice, Microsoft's Motion for Permanent Injunction is hereby GRANTED.

**IT IS THEREFORE ORDERED** that, Defendants, Defendants' representatives, and

persons who are in active concert or participation with Defendants, 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 and Microsoft's customers, without authorization, in order to compromise those computers; (2) intentionally attacking and compromising computers or computer networks of Microsoft or Microsoft's customers, to monitor the activities of the owners or users of those computers or computer networks, and to steal information from those computers or networks; (3) deploying, operating, or otherwise participating in or facilitating a command and control infrastructure, or any component or element of the command and control infrastructure at any location; (4) stealing information from Microsoft's customers; (5) misappropriating that which rightfully belongs to Microsoft, its customers, or in which Microsoft or its customers have a proprietary interest; (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, Defendants' representatives, and persons who are in active concert or participation with Defendants are permanently restrained and enjoined from: (1) using and infringing Microsoft's trademarks, trade names, service marks, or Internet Domain addresses or names to carry out the enjoined activity; (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 domains used to carry out the activities enjoined herein, identified at Appendix A to the Complaint.

**IT IS FURTHER ORDERED** that copies of this Order and all other pleadings and documents in this action, including orders, determinations, reports and recommendations of the Court Monitor, may be served by any means authorized by law, including (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to Defendants' domain registrars and/or hosting companies and as agreed to by Defendants in the domain registration or hosting agreements, (2) publishing notice on a publicly available Internet website, (3) by personal delivery upon Defendants, to the extent Defendants provided accurate contact information in the U.S.; (4) personal delivery through the Hague Convention on Service Abroad or similar treaties upon Defendants, to the extent Defendants provided accurate contact information in foreign countries that are signatory to such treaties.

**IT IS SO ORDERED**

Entered this \_\_\_\_ day of \_\_\_\_\_, 2023

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Hon. Anthony J. Trenga  
United States District Judge