

**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 and
Thereby Injuring Plaintiff and Its Customers,

Defendants.

Civil Action No: 1:21-cv-1346 (LMB/WEF)

**FILED UNDER SEAL PURSUANT TO
LOCAL CIVIL RULE 5**

**MICROSOFT’S SECOND *EX PARTE* MOTION TO SUPPLEMENT
PRELIMINARY INJUNCTION ORDER**

Plaintiff Microsoft Corporation (“Microsoft”), by counsel, pursuant to Federal Rule of Civil Procedure 65(a) 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), the common law, and the All Writs Act, (28 U.S.C. § 1651), respectfully moves the Court to supplement the Preliminary Injunction Order.

As discussed in Microsoft’s brief in support of this Second *Ex Parte* Motion to Supplement Preliminary Injunction Order filed and for the same reasons set forth in Microsoft’s Application for an *Ex Parte* Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction (“TRO Application”), Microsoft requests an order allowing it to supplement the list of domains addressed in the temporary restraining order and preliminary injunction (Dkt. 4, 24), and subsequently transferred to the control of Microsoft. Microsoft respectfully requests that the court supplement the list of domains set forth in the temporary

restraining order and preliminary injunction, with the additional new domains being used by Defendants set forth in **Appendix A** to the Proposed Order filed concurrently with this Motion.

As set forth more fully in Microsoft's brief, recent evidence shows that Defendants are again, rebuilding Nickel's command and control infrastructure in defiance of the Court's prior orders, by bringing online new domains, which Defendants are using in the same illegal manner and for the same illegal purposes described in Microsoft's application for temporary restraining order and preliminary injunction.

The requested relief is necessary to halt the Defendants' operation that is causing irreparable injury to Microsoft and its customers. Microsoft respectfully requests that the Court grant this Motion.

Dated: August 8, 2022

Respectfully submitted,

/s/ David J. Ervin

David J. Ervin (VA Bar No. 34719)

Garylene Javier (*pro hac vice*)

CROWELL & MORING LLP

1001 Pennsylvania Avenue NW

Washington DC 20004-2595

Tel: (202) 624-2500

Fax: (202) 628-5116

dervin@crowell.com

gjavier@crowell.com

Gabriel M. Ramsey (*pro hac vice*)

CROWELL & MORING LLP

3 Embarcadero Center, 26th Floor

San Francisco, CA 94111

Tel: (415) 986-2800

Fax: (415) 986-2827

gramsey@crowell.com

Attorneys for Plaintiff Microsoft Corporation