

**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 Plaintiff and Its  
Customers,

Defendants.

Civil Action No: 1:21-cv-01346  
(LMB) (TCB)

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

**DECLARATION OF KAYVAN M. GHAFFARI IN SUPPORT OF MOTION FOR  
PROTECTIVE ORDER TEMPORARILY SEALING DOCUMENTS**

I, Kayvan M. Ghaffari, declare as follows:

1. I am an attorney admitted to practice in the State of California and the District of Columbia. I am a partner at the law firm of Crowell & Moring LLP (“Crowell”), counsel of record for the Plaintiff in this matter, Microsoft Corporation (“Microsoft”). I make this declaration in support of Plaintiff’s Motion for a Protective Order Temporarily Sealing Documents. I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, could and would testify to the following under oath.

2. This case arises out of the harmful and malicious Internet activities of Defendants John Does 1 and 2 (collectively “Defendants”). I am informed and, on that basis, believe that Defendants are sophisticated cybercriminals who specialize in stealing sensitive information from computer networks. I am informed and, on that basis, believe that Defendants make unauthorized access to computers of Plaintiff’s customers and access to Plaintiff’s services and

software, hack into a target's computers and network, and in particular infringe and fraudulently use Microsoft's intellectual property to infiltrate Microsoft's software, install malware on those computers and networks giving them long-term and surreptitious access to those computers and networks, and then locate and exfiltrate sensitive information, including account credential and login information and other information, from them.

3. I am informed and believe that, for reasons explained in detail in the declarations of Christopher Coy and Gabriel Ramsey in support of Plaintiff's *Ex Parte* Motion to Supplement Preliminary Injunction, filed contemporaneously herewith, permitting Defendants to learn of these proceedings prior to execution of the temporary *ex parte* relief sought in Plaintiff's Motion to Supplement Preliminary Injunction—in particular the portion to disable the domain names in **Appendix A** to the Motion to Supplement Preliminary Injunction—would preclude Plaintiff's ability to obtain effective relief against Defendants. This is because Defendants are highly sophisticated cybercriminals capable of quickly adapting the command and control infrastructure used to perpetrate Defendants' unlawful conduct in order to overcome Plaintiff's remediation efforts.

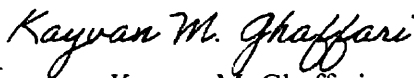
4. I am informed and believe that, absent a protective order, there is a substantial risk that Defendants will learn of these proceedings before the temporary *ex parte* relief to disable the domain names in **Appendix A** to the Motion to Supplement Preliminary Injunction can be effected and will take steps to evade the relief sought.

5. Over the past several years, I, on behalf of Microsoft and other companies, have been involved with prosecuting many similar cases. These cases all involved similar litigation strategies and claims and have involved John Doe defendants conducting illegal activities through identifiable but movable online command and control infrastructures similar to that used

by Nickel. In several of those cases, I personally observed that several defendants immediately acted to attempt to defy and evade the court's order as soon as they detected legal action being taken against them.

6. Thus, given the foregoing experiences in cases with very similar circumstances and similarly situated defendants as those here, it is my belief that even disclosing that Plaintiff has requested a Motion to Supplement Preliminary Injunction to disable the domain names at **Appendix A** to the Motion to Supplement Preliminary Injunction gives Defendants the opportunity to adapt the command and control infrastructure so that they can continue to perpetrate their unlawful conduct. For this reason, Plaintiff respectfully requests that all documents filed in this case be temporarily sealed.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. Executed this 23rd day of February, 2022 in San Francisco, California.

  
- Kayvan M. Ghaffari \_\_\_\_\_