EXHIBIT 2

Contents

WHOIS Proxy / Privacy Service Abuse Study – Draft Definition

This study will measure how often domains associated with illegal or harmful Internet communication abuse Privacy/Proxy services to obscure the perpetrator's identity.

Reviewer feedback is requested on study purpose, methodology, inputs, dependencies, outputs, and limitations – key discussion questions are highlighted by boxes like this one.

1. Objective

This study is intended to help the ICANN community determine the extent to which Proxy and Privacy services are abused during illegal or harmful Internet communication. Specifically, it will attempt to prove/disprove the following hypothesis:

> **A significant percentage of the domain names used to conduct illegal or harmful Internet activities are registered via Privacy or Proxy services to obscure the perpetrator's identity.**

As defined by [1], "illegal or harmful communication" refers to online activities (e.g., email messages, web transactions, file downloads) that violate criminal or civil law or which harm their targets (e.g., email/download recipients, website visitors). These activities include unsolicited commercial bulk email (spam), online intellectual property or identity theft, email harassment or stalking, phishing websites, online malware dissemination, and cybersquatting. Further examples include DoS attacks, DNS cache poisoning, pirated software (warez) distribution sites, money laundering email (mules scams), advanced fee fraud email (411 scams), and online sale of counterfeit merchandise or pharmaceuticals.

Allegations of actionable harm may require victims, law enforcement officials, and others to contact domain users (i.e., owners or licensees). To facilitate identification and contact, section 3.3.1 of the ICANN Registrar Accreditation Agreement (RAA) [4] requires Registrars to provide an interactive web page and a port 43 WHOIS service to enable free access to up-to-date data concerning all active registered domain names. This WHOIS data includes the name and postal address of the Registered Name Holder and technical and administrative contacts for the domain.

According to [1], Proxy and Privacy registration services provide anonymity or privacy protection for domain users. *Privacy* services hide certain user details from WHOIS by offering alternate contact information and mail forwarding services while not actually shielding the user's identity. *Proxy* services have a third-party register domain names on the user's behalf and then license the use of the domain name so that a third-party's contact information (and not the licensee's) is published in WHOIS. According to the WHOIS Privacy/Proxy Prevalence Study [3], approximately 15 to 25 percent of gTLD domain names are likely to be registered using a Privacy or Proxy service.

Study proposals [8][9][10] suggest that Privacy/Proxy services are being abused to obscure the identity of perpetrators that instigate illegal or harmful Internet communication, thereby impeding investigation. For example, proposal [8] indicates that Privacy/Proxy registrations lengthen phishing website take-down times. Proposal [9] indicates that Privacy/Proxy services are being abused to shield cyber squatters (i.e., parties that register or use a domain name in bad faith to profit from someone else's trademark).

A recent study of 384 domains hosted by ISP 3FN (shut down in June 2009 for abetting criminal activity) found that 38 percent were registered to Proxy services [11]. Of those, approximately half were associated with least one kind of illegal activity. Although small and informal, this study illustrated that domains used by criminals do use Proxy services – in this case, more often than the random domains studied by [3].

To provide the ICANN community with empirical data to evaluate such concerns, this study will methodically analyze a large, broad sample of domains associated with various kinds of illegal or harmful Internet activities. It will measure how often these alleged "bad actors" abuse Privacy/Proxy services, comparing rates for each kind of activity to overall Privacy/Proxy rates measured by [3]. If those rates are found to be significant, policy changes may be warranted to deter Privacy/Proxy abuse.

Note: This study will NOT measure the frequency of illegal/harmful Internet activity. This study will gather a representative sample of illegal/harmful incidents to measure how often Privacy/Proxy services are abused by perpetrators (alleged and confirmed).

2. Approach

This hypothesis will be tested by performing a descriptive study on a representative sample of domains within the top five gTLDs (.biz, .com, .info, .net, .org). To focus on study goals, this sample will be composed exclusively of domains involved in illegal or harmful Internet communication, as documented by organizations that routinely track, investigate, and/or remediate various kinds of activities. To measure frequency of abuse, this study will divvy sampled domain users into those that can be reached directly using WHOIS data and those that must be contacted via a referenced Privacy/Proxy service.

Because creating a single sample that proportionally represents every major kind of illegal or harmful Internet communication is unrealistic, subsamples will be created for each activity to be studied (e.g., a spam sender list, a warez site list). Many domains are

likely to be associated with multiple activities and may thus appear in more than one subsample. However, rates will be measured independently for each subsample to determine which activities most often abuse Privacy/Proxy services.

Furthermore, because the nature and duration of illegal/harmful Internet activities varies, different methods will be required for incident tracking, investigation, and remediation.

- Timely response is essential for extremely **short-lived activities** (e.g., spam, phishing, DoS attacks). Where possible, domain subsamples for these activities will be generated by monitoring **live-feeds** (e.g., real-time blacklists), letting researchers query and record WHOIS data in near-real-time.

- Timely response is less critical for activities associated with **long-lived activities** (e.g., trademark infringement, cybersquatting). Subsamples for these activities would be impossible to generate in near-real-time; live-feeds do not exist. Instead, these domains and WHOIS data will be **recorded over time** by study participants routinely involved in these incidents (e.g., first responders and real-time cybercrime researchers, complaint centers and law enforcement agencies, victim advocates).

To meet this study's goals, Privacy/Proxy determination must be based on WHOIS data as it was at the time of the incident. WHOIS queries usually return Registrant data long after an offending domain's web, file, or mail servers disappear, appear on an RBL, or are taken down. However, WHOIS data may well change following illegal activity, such as when a malicious domain is suspended or re-registered. Study goals can still be met so long as a significant percentage of WHOIS queries performed shortly after incidents do not return recently-updated or no Registrant data.

Note that other WHOIS studies [3][6][7] have been defined to measure the overall frequency of Privacy/Proxy use, what types of entities (e.g., natural or legal persons) commonly use Privacy/Proxy-registered domains and for what apparent purpose (e.g., personal or commercial), and how Privacy/Proxy providers respond to domain user reveal requests. Those questions are therefore outside the scope of this study.

However, overall frequency of Privacy/Proxy use [3] must be considered when sizing this study's subsamples so that they represent the top 5 gTLD domain population with a 95% confidence interval. Furthermore, because harmful/illegal Internet communication tends to originate from certain countries and regions, live-feeds and incident reports may be geographically skewed. To reflect world-wide experiences, subsamples must be generated from input sources with international scope – for example, global RBLs.

Finally, this study should build upon the foundation laid by the WHOIS Accuracy Study [2] and WHOIS Privacy/Proxy Prevalence Study [3] as follows.

- **Sample Cleaning and Coding:** WHOIS data for every domain name must include certain mandatory values (e.g., Registrant Name), but there is no RFC-standard record format or even a single global database from which WHOIS data can be

obtained. The Accuracy Study [2] developed a methodology for cleaning sampled domain WHOIS data to eliminate parsing errors, translate non-ASCII characters, map Registrants to country code/name, and sort the sample by Regional Internet Registry.

- **Registrant Type Classification:** Next, based on WHOIS Registrant Name and Organization values, the Accuracy Study assigned each sampled domain one of the following Apparent Registrant Types: name completely missing or patently false, a natural person, an organization with or without a person's name, a multiple domain name holder (ISP or reseller), or a potential Privacy/Proxy service provider. All potential Privacy/Proxy service providers were then either confirmed or reclassified.

Even though this study's sample design process and parameters differ, researchers are strongly encouraged to apply the same sample cleaning, coding, and classification process to reduce cost and promote consistency across all WHOIS studies. In particular, the Accuracy Study's methodology for confirming potential Privacy/Proxy use should be applied, as this is the key differentiator upon which this study's findings will be based.

3. Inputs

The first step in conducting this study will be to generate subsamples of domain names associated with each kind of illegal or harmful Internet communication to be measured. As noted in Section 2, because activity nature and duration varies, this study will employ two different research methods: Live-Feed Monitoring for incidents typically reported in real-time and Offline Third-Party Recording for all other kinds of incidents.

Method 1: Live-Feed Monitoring

Domain names associated with the following short-live illegal/harmful Internet activities should ideally be collected from live-feed sources. Possible sources are listed below; additional suggestions are welcome. Researchers are expected to refine and finalize this source list during the first phase of the study.

As alleged "bad actors" are identified from live-feeds, reverse DNS lookups and WHOIS queries will be performed in near-real-time[1] to record the Registrant' Name, Organization, and Address for domain names associated with each incident. Note that "associated domain name" depends upon the type of activity (e.g., spam sender, phishing website, malware server).

Note that, after incident investigation, many alleged bad actors do not end up being the real perpetrators. For example, many spam senders and phishing servers will be "bots" -- compromised hosts used by criminals without the Registrant's knowledge. Furthermore, domains may be added to RBLs based on complaints rather than verified incidents.

[1] Researchers will need to work around port 43 rate limits by pacing WHOIS queries, retrying failed queries, arranging for preferential access from a WHOIS query provider, or enlisting the help of a live-feed supplier that already has preferential access.

However, these "false positive" incident reports still require investigation; WHOIS Registrant data for those domains plays a role in enabling (or inhibiting) investigation. Therefore, this study must gather and analyze the WHOIS data associated with *all* alleged bad actors (proven or otherwise). To avoid skewing results, this study will *also* analyze refined samples that have been filtered to weed out low-probability cases – for example, eliminating domains associated with fewer than N reported incidents. Objective sample filtering methods should be defined by researchers at study start; suggestions are welcome.

Once sufficiently large subsamples have been collected for each activity, they will be cleaned, coded, and classified by Registrant Type as described in Section 2 for statistical analysis as described in Section 4.

- **Spam:** Live-feeds from several major real-time Domain Name System Blacklists (DNSBLs) could be used to generate a subsample of spam sender IP addresses/ranges and associated unique domain names. Possible sources include Spamhaus Blocklist, Mailshell Live-Feed, SURBL, URIBL, and SORBS DNSBL.

- **Phishing:** Several major Phishing website live-feeds could be used to generate a subsample of phishing URLs and the domain names that host them. Possible sources include OpenDNS PhishTank and Internet Identity RealPhish.

- **Malware:** A subsample of domains used to host and disseminate malware could be created from live-feeds maintained by major malware researchers and/or Internet security vendors. Possible sources include SRI Malware Threat Center, FireEye Malware Analysis & Exchange, and Malware Domains.

- **Denial-of-Service and DNS Cache Poisoning:** Input is requested on live-feed sources that could be used to generate subsamples of domains that send harmful messages during these time-sensitive attacks. Potential sources include the IMPACT Global Response Centre NEWS feed and FIRST-member incident response teams.

Method 2: Offline Third-Party Recording

Domain names associated with less time-critical illegal/harmful activities will be gathered from third-parties that routinely respond to or track such incidents in large volume and might be willing to assist by recording WHOIS data early in their investigation. Candidates include first responders and real-time cybercrime researchers, Internet crime complaint centers and law enforcement agencies, and victim advocates. Possible participants are listed below; additional suggestions are welcome. Researchers are expected to refine and finalize this participant list during the first phase of the study.

Consistency and accuracy of reported data is always a concern whenever numerous independent parties supply input for aggregate statistical analysis. To address this concern, researchers will develop a short, simple incident reporting form and process that participants can use to record the type of illegal/harmful activity, associated domain name, and WHOIS Registrant Name, Organization, and Address in a timely fashion. Here

again, note that "associated domain name" depends upon the type of activity (e.g., phishing website, warez server, money laundering email sender).

At study start, researchers will identify and invite representative sources to participate. All participants must agree to record and report all incidents encountered as part of their normal operation during a specified study period (e.g., 30 days). In particular, participants shall be asked to report all alleged perpetrators (proven or otherwise), and to indicate whether investigation confirmed or refuted their alleged involvement in the incident. This data collection approach makes it possible to study both the entire sample and a refined sample, filtered to focus on high-probability bad actors.

Although these longer-lived incidents may not be as time-sensitive as those monitored by live-feed, participants must still perform reverse DNS lookups and WHOIS queries on alleged perpetrator IP addresses and domain names as soon as possible after incidents are detected, not at the end of the study period.

A submission process will be designed to minimize participant effort while promoting consistent, accurate reporting. After a sufficiently large/broad set of third-party reports have been submitted, researchers will clean, code, and classify WHOIS data by Registrant Type as described in Section 2 for analysis as described in Section 4.

- **Phishing:** In proposal [8], the Anti Phishing Working Group (APWG) offered to supply a global list of phishing URLs, domains used to host them, and associated shutdown times. Due to the short duration of phishing sites, live-feed monitoring is preferable. However, analyzing this activity with both research methods might be useful to determine whether results differ significantly.

- **Cybersquatting:** Data on domains cited in alleged cybersquatting incidents might be gathered by organizations like the International Trademark Association (INTA). Approved dispute resolution service providers involved in ICANN's Uniform Domain-Name Dispute Resolution Policy (UDRP) are another possible source, although waiting until a dispute is filed to query WHOIS may be too much delay.

- **Intellectual property theft:** Data on domains cited in intellectual property theft complaints might be gathered by organizations like the UK Alliance Against IP Theft or the International Intellectual Property Rights (IPR) Advisory Program. However, data might be more readily available from groups that routinely record and investigate specific kinds of IP theft complaints, described below.

- **Media Piracy:** Data on domain names used by servers that illegally share copyrighted movies and music might be gathered by The International Federation of the Phonographic Industry (IFPI), the Motion Picture Association of America (MPAA), the Recording Industry Association of America (RIAA), and their international counterparts.

- **Software Piracy:** Data on domain names used by servers that illegally distribute copyrighted software might be gathered by major software vendors like Microsoft and Adobe or from an anti-piracy organization like the Business Software Alliance (BSA).

- **Trademark Infringement:** Data on domain names alleged to infringe upon registered trademarks might be gathered by an organization like the International Trademark Association (INTA) or commercial first-responders like Mark Monitor.

- **Counterfeit Merchandise:** Data on domains that send email advertising counterfeit merchandise and illegal pharmaceuticals might be gathered by an investigative agency like the US National Intellectual Property Rights Coordination Center Cyber Crimes Section (CCS). However, given that spam (one primary vector for online sale of counterfeit merchandise) can be studied more easily via live-feed, it might not be necessary to study this activity with method 2.

- **Money Laundering:** Data on domains that send recruiting email associated with fraudulent money laundering scams might be gathered by legitimate job recruitment websites like Monster and HotJobs or by an organization like BobBear that focuses specifically on tracking this type of illegal activity.

- **Advanced Fee Fraud:** Data on domains that send solicitation email associated with advanced fee fraud scams might be gathered by a tracking site like Artists Against 419 or bodies that handle Internet fraud complaints such as the FBI/NWCC Internet Crime Complaint Center (IC3) and its counterparts in other countries.

- **Identity Theft:** Data on domains that send bait email associated with online identity thefts might be gathered by the FBI/NWCC Internet Crime Complaint Center (IC3) or the US National Intellectual Property Rights Coordination Center Identity Fraud Initiative. However, major online identity theft vectors like phishing and malware can be studied more easily via live-feed monitoring; reliably correlating reported identity thefts to specific email messages and domains that caused them could be difficult.

- **Child Pornography:** Data on domain names of servers involved in online distribution of child pornography might be gathered by US National Intellectual Property Rights Coordination Center Cybercrimes Child Exploitation Section (CES) and Operation Predator. However, study [11] found it hard to obtain WHOIS data for child porn domains because, not only were sites taken down, but domain names were suspended.

- **Harassment or Stalking:** Input is requested on how to obtain a representative subsample of domain names that send online harassment and cyber-stalking email. Incidents are reported to local law enforcement agencies like FBI field offices. While HaltAbuse.org tracks statistics, based upon data supplied voluntarily by victims, many victims are reluctant to disclose these crimes. The highly personal nature of these activities could make it difficult to obtain a representative subsample.

- **Other Cybercrimes:** The FBI/NWCC Internet Crime Complaint Center (IC3) might also be able to supply data on perpetrator domains cited in complaints by victims of other cybercrimes, including online auction, investment fraud, and Internet extortion.

Because domain subsamples are likely to have some degree of cross-over, other readily-available online resources can be consulted to confirm and expand upon the kinds of illegal or harmful Internet communication associated with each domain. For example, in addition to RBLs, study [11] searched for domains using ReputationAuthority.org, Google Safe Browsing, McAfee SiteAdvisor, and Malware Domain List (either by searching a published list or by attempting to browse a website).

For each sampled domain, an **Apparent Registrant Type** must be assigned using the methodology defined by the WHOIS Accuracy Study [2], including confirmation of all domains potentially registered using Privacy/Proxy services. After this classification has been completed, the following input data will be available for each sampled domain:

Raw Data recorded by monitoring live-feed or reported by study participants

- Domain Name
- Registrant Name (may be a Privacy/Proxy service)
- Registrant Organization (may be a Privacy/Proxy service)
- Full WHOIS record for the domain
- Number of Illegal or Harmful Activity reported for this domain
- Kind(s) of Illegal or Harmful Activity reported for this domain
- Input Source(s) which supplied this domain name
- Incident Investigation Outcome (confirmed, refuted, in-progress/unknown)

Additional Data supplied by researchers

- Apparent Registrant Country Code/Name
- Apparent Registrant Type: missing/false, natural person, organization, multiple domain holder, or Privacy/Proxy service provider
- Additional Kind(s) of Illegal or Harmful Activity associated with this domain, as determined by searching RBLs and site reputation lists

1. *Suggest additional authoritative participants **with global scope**?*
2. *Will participants be willing (or able) to collect representative data?*
3. *Objective filtering methods or criteria to eliminate false positive reports?*
4. *Other concerns or issues regarding viability of proposed study methods?*

4. Outputs

This study will quantify the frequency of Privacy/Proxy use among domains allegedly involved in illegal or harmful communication, broken down by kind of activity. To deliver these empirical results, this study will examine the WHOIS Registrant data associated with each sampled domain as follows.

- During classification, some domains will be found to have missing, patently false, or otherwise unusable WHOIS Registrant data, thereby impeding perpetrator identification. These domains represent another method of WHOIS abuse which should be measured and included in study findings, but do not constitute Privacy/Proxy abuse.

- During classification, some domains will be found to have WHOIS Registrant data that explicitly identifies and supplies direct contact information for a natural person, an organization (with or without a person's name), or a multiple domain holder. These Registrants may or may not actually be responsible for the reported illegal or harmful communication. For example, many domain names will be mapped to spambot-compromised residential broadband hosts or trojan-hacked websites operated by legitimate businesses. However, for the purposes of this study, the users of these domains shall be considered readily-identifiable and directly-contactable using Registrant data returned from a simple WHOIS query.

- The rest of the sample will consist of domains that, following classification, have WHOIS Registrant data that identifies an apparent Privacy/Proxy provider. For the purposes of this study, all such domains will be considered to have abused a Privacy/Proxy service for the purpose of obscuring perpetrator identification. To determine significance, this abuse rate shall be compared to the overall rate of Privacy/Proxy use measured by [3] (15-25%).

For each kind of activity studied, the following measurements will be derived from the entire subsample of alleged bad actors (including bots and other false positives):

- Percentage of entire sample that could not be analyzed, categorized by reason (e.g., false/missing WHOIS, recently modified WHOIS, suspended domain)
- Percentage of entire sample with Registrant NOT obscured via Privacy/Proxy, distributed by gTLD/country
- Percentage of entire sample apparently registered via Privacy service, distributed by gTLD/country
- Percentage of entire sample apparently registered via Proxy service, distributed by gTLD/country

For each kind of activity studied, similar measurements will also be derived from a refined subsample, filtered to reduce false positives and focus on confirmed bad actors:

- Percentage of refined sample that could not be analyzed, categorized by reason
- Percentage of refined sample with Registrant NOT obscured via Privacy/Proxy, distributed by gTLD/country
- Percentage of refined sample apparently registered via Privacy service, distributed by gTLD/country
- Percentage of refined sample apparently registered via Proxy service, distributed by gTLD/country

Finally, these results will be aggregated and used to answer the following questions:

- Are Privacy services abused more/less often by bad actors (alleged or confirmed)?
- Are Proxy services abused more/less often by bad actors (alleged or confirmed)?
- Which illegal/harmful activities are most likely to abuse Privacy/Proxy services?
- Which illegal/harmful activities are least likely to abuse Privacy/Proxy services?
- Were there any kinds of illegal/harmful Internet communication for which Privacy/Proxy abuse could not be studied in a reliable way and why?

5. References

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[10] GAC Data Set 11, What is the percentage of domain names registered using proxy or privacy services that have been associated with fraud or other illegal activity, GAC Recommendations for WHOIS Studies, 16 April 2008

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EXHIBIT 3

What Does ICANN Do?

This page is available in: العربية | Deutsch | English | Español | Français | Italiano | 日本語 | 한국어 | Português | Русский | 中文

To reach another person on the Internet you have to type an address into your computer - a name or a number. That address has to be unique so computers know where to find each other. ICANN coordinates these unique identifiers across the world. Without that coordination we wouldn't have one global Internet.

ICANN was formed in 1998. It is a not-for-profit partnership of people from all over the world dedicated to keeping the Internet secure, stable and interoperable. It promotes competition and develops policy on the Internet's unique identifiers.

ICANN doesn't control content on the Internet. It cannot stop spam and it doesn't deal with access to the Internet. But through its coordination role of the Internet's naming system, it does have an important impact on the expansion and evolution of the Internet.

What is the domain name system?

Management Organization Chart
Staff
Careers
▸ In Focus
▸ For Journalists
▸ Board
▸ Accountability & Transparency
▸ Governance
▸ Groups
▸ Contractual Compliance
▸ Registrars
▸ Registries
Operational Metrics
▸ Identifier Systems Security, Stability and Resiliency (IS-SSR)
▸ ccTLDs
▸ Internationalized Domain Names
▸ Universal Acceptance Initiative

The domain name system, or DNS, is a system designed to make the Internet accessible to human beings. The main way computers that make up the Internet find one another is through a series of numbers, with each number (called an "IP address") correlating to a different device. However it is difficult for the human mind to remember long lists of numbers so the DNS uses letters rather than numbers, and then links a precise series of letters with a precise series of numbers.

The end result is that ICANN's website can be found at "icann.org" rather than "192.0.32.7" – which is how computers on the network know it. One advantage to this system – apart from making the network much easier to use for people – is that a particular domain name does not have to be tied to one particular computer because the link between a particular domain and a particular IP address can be changed quickly and easily. This change will then be recognised by the entire Internet within 48 hours thanks to the constantly updating DNS infrastructure. The result is an extremely flexible system.

A domain name itself comprises two elements: before and after "the dot". The part to the right of the dot, such as "com", "net", "org" and so on, is known as a "top-level domain" or TLD. One company in each case (called a registry), is in charge of all domains ending with that particular TLD and has access to a full list of domains directly under that name, as well as the IP addresses with which those names are associated. The part before the dot is the domain name that you register and which is then used to provide online systems such as websites, email and so on. These domains are sold by a large number of "registrars", free to charge whatever they wish, although in each case they pay a set per-domain fee to the particular registry under whose name the domain is being registered.

ICANN draws up contracts with each registry*. It also runs an accreditation system for registrars. It is these contracts that provide a consistent and stable environment for the domain name system, and hence the Internet.

In summary then, the DNS provides an addressing system for the Internet so people can find particular websites. It is also the basis for email and many other online uses.

- Policy
- Public Comment
- Contact
- Help

What does ICANN have to do with IP addresses?

ICANN plays a similar administrative role with the IP addresses used by computers as it does with the domain names used by humans. In the same way that you cannot have two domain names the same (otherwise you never know where you would end up), for the same reason it is also not possible for there to be two IP addresses the same.

Again, ICANN does not run the system, but it does help co-ordinate how IP addresses are supplied to avoid repetition or clashes. ICANN is also the central repository for IP addresses, from which ranges are supplied to regional registries who in turn distribute them to network providers.

What about root servers?

Root servers are a different case again. There are 13 root servers – or, more accurately, there are 13 IP addresses on the Internet where root servers can be found (the servers that have one of the 13 IP addresses can be in dozens of different physical locations). These servers all store a copy of the same file which acts as the main index to the Internet's address books. It lists an address for each top-level domain (.com, .de, etc) where that registry's own address book can be found.

In reality, the root servers are consulted fairly infrequently (considering the size of the Internet) because once computers on the network know the address of a particular top-level domain they retain it, checking back only occasionally to make sure the address hasn't changed. Nonetheless, the root servers remain vital for the Internet's smooth functioning.

The operators of the root servers remain largely autonomous, but at the same time work with one another and with ICANN to make sure the system stays up-to-date with the Internet's advances and changes.

What is ICANN's role?

As mentioned earlier, ICANN's role is to oversee the huge and complex interconnected network of unique identifiers that allow

computers on the Internet to find one another.

This is commonly termed "universal resolvability" and means that wherever you are on the network – and hence the world – that you receive the same predictable results when you access the network. Without this, you could end up with an Internet that worked entirely differently depending on your location on the globe.

How is ICANN structured?

ICANN is made up of a number of different groups, each of which represent a different interest on the Internet and all of which contribute to any final decisions that ICANN's makes.

There are three "supporting organisations" that represent:

- The organisations that deal with IP addresses
- The organisations that deal with domain names
- The managers of country code top-level domains (a special exception as explained at the bottom).

Then there are four "advisory committees" that provide ICANN with advice and recommendations. These represent:

- Governments and international treaty organisations
- Root server operators
- Those concerned with the Internet's security
- The "at large" community, meaning average Internet users.

And finally, there is a Technical Liaison Group, which works with the organisations that devise the basic protocols for Internet technologies.

ICANN's final decisions are made by a Board of Directors. The Board is made up of 21 members: 15 of which have voting rights and six are non-voting liaisons. The majority of the voting members (eight of them) are chosen by an independent Nominating Committee and the remainder are nominated members from supporting organisations.

ICANN then has a President and CEO who is also a Board member and who directs the work of ICANN staff, who are based across the globe and help co-ordinate, manage and finally implement all the different discussions and decisions made by the supporting organisations and advisory committees. An ICANN Ombudsman acts as an independent reviewer of the work of the ICANN staff and Board.

How does ICANN make decisions?

When it comes to making technical changes to the Internet, here is a simplified rundown of the process:

Any issue of concern or suggested changes to the existing network is typically raised within one of the supporting organisations (often following a report by one of the advisory committees), where it is discussed and a report produced which is then put out for public review. If the suggested changes impact on any other group within ICANN's system, that group also reviews the suggested changes and makes its views known. The result is then put out for public review a second time.

At the end of that process, the ICANN Board is provided with a report outlining all the previous discussions and with a list of recommendations. The Board then discusses the matter and either approves the changes, approves some and rejects others, rejects all of them, or sends the issue back down to one of the supporting organisations to review, often with an explanation as to what the problems are that need to be resolved before it can be approved.

The process is then rerun until all the different parts of ICANN can agree a compromise or the Board of Directors make a decision on a report it is presented with.

How is ICANN held accountable?

ICANN has external as well as internal accountabilities.

Externally, ICANN is an organisation incorporated under the law of the State of California in the United States. That means ICANN must abide by the laws of the United States and can be called to account by the judicial system i.e. ICANN can be taken to court.

ICANN is also a non-profit public benefit corporation and its directors are legally responsible for upholding their duties under corporation law.

Internally, ICANN is accountable to the community through:

- Its bylaws
- The representative composition of the ICANN Board from across the globe
- An independent Nominating Committee that selects a majority of the voting Board members
- Senior staff who must be elected annually by the Board
- Three different dispute resolution procedures (Board reconsideration committee; Independent Review Panel; Ombudsman)

The full range of ICANN's accountability and transparency frameworks and principles are available online.

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* There is an important exception to this in the form of "country code top-level domains" (ccTLDs) such as .de for Germany or .uk for the United Kingdom. There are over 250 ccTLDs, some of which have a contract with ICANN; others of which have signed working agreements with ICANN; and some of which have yet to enter any formal agreement with ICANN. ICANN however does carry out what is known as the "IANA function" in which every ccTLD's main address is listed so the rest of the Internet can find it. ICANN is also in the position where it can add new TLDs to the wider system, as it did in 2000 and 2004 when seven and six new TLDs respectively were "added to the root".


RSS Feeds


Community Wiki


ICANN Blog

Who We Are
Get Started
Learning
Participate
Groups
Board
President's Corner
Staff
Careers
Newsletter

Contact Us
Offices
Customer Service
Security Team
PGP Keys
Certificate Authority
Registry Liaison
AOC Review
Organizational Reviews
Request a Speaker
For Journalists

Accountability & Transparency
Accountability Mechanisms
Independent Review Process
Request for Reconsideration
Ombudsman

Governance
Documents
Agreements
AOC Review
Annual Report
Financials
Document Disclosure
Planning
Dashboard
RFPs
Litigation
Correspondence

Help
Dispute Resolution
Domain Name Dispute Resolution
Name Collision
Registrar Problems
WHOIS

EXHIBIT 4

2013 Registrar Accreditation Agreement

1. **Registrar Accreditation Agreement**
2. **Whois Accuracy Program Specification**
3. **Registration Data Directory Service (Whois) Specification**
4. **Consensus and Temporary Policy Specification**
5. **Specification on Privacy and Proxy Registrations**
6. **Data Retention Specification**
7. **Registrar Information Specification**
8. **Additional Registrar Operation Specification**
9. **Registrants' Benefits and Responsibilities**
10. **Logo License Specification**
11. **Compliance Certificate**
12. **Transition Addendum**

Approved by the ICANN Board on 27 June 2013

Registrar Accreditation Agreement

This REGISTRAR ACCREDITATION AGREEMENT (this "Agreement") is by and between the Internet Corporation for Assigned Names and Numbers, a California non-profit, public benefit corporation ("ICANN"), and [Registrar Name], a [Organization type and jurisdiction] ("Registrar"), and shall be deemed made on _____, at Los Angeles, California, USA.

1. DEFINITIONS. For purposes of this Agreement, the following definitions shall apply:

1.1 "Account Holder" means the person or entity that is paying for the Registered Name or otherwise controls the management of the registered name, when that person or entity is not the Registered Name Holder.

1.2 "Accredited" or "Accreditation" means to identify and set minimum standards for the performance of registration functions, to recognize persons or entities meeting those standards, and to enter into an accreditation agreement that sets forth the rules and procedures applicable to the provision of Registrar Services.

1.3 "Affiliate" means a person or entity that, directly or indirectly, through one or more intermediaries, Controls, is controlled by, or is under common control with, the person or entity specified.

1.4 "Affiliated Registrar" is another Accredited registrar that is an Affiliate of Registrar.

1.5 "Applicable Registrar Family" means, with respect to Affiliated Registrars, such Affiliated Registrar as a group.

1.6 "Consensus Policy" has the meaning set forth in the Consensus Policies and Temporary Policies Specification attached hereto.

1.7 "Control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities, as trustee or executor, by serving as an employee or a

member of a board of directors or equivalent governing body, by contract, by credit arrangement or otherwise.

1.8 "DNS" refers to the Internet domain-name system.

1.9 The "Effective Date" is _____.

1.10 The "Expiration Date" is _____.

1.11 "gTLD" or "gTLDs" refers to the top-level domain(s) of the DNS delegated by ICANN pursuant to a registry agreement that is in full force and effect, other than any country code TLD (ccTLD) or internationalized domain name (IDN) country code TLD.

1.12 "gTLD Zone-File Data" means all data contained in a DNS zone file for the registry, or for any subdomain for which Registry Services are provided and that contains Registered Names, as provided to nameservers on the Internet.

1.13 "Illegal Activity" means conduct involving use of a Registered Name sponsored by Registrar that is prohibited by applicable law and/or exploitation of Registrar's domain name resolution or registration services in furtherance of conduct involving the use of a Registered Name sponsored by Registrar that is prohibited by applicable law.

1.14 "Personal Data" refers to data about any identified or identifiable natural person.

1.15 "Registered Name" refers to a domain name within the domain of a gTLD, whether consisting of two (2) or more (e.g., john.smith.name) levels, about which a gTLD Registry Operator (or an Affiliate or subcontractor thereof engaged in providing Registry Services) maintains data in a Registry Database, arranges for such maintenance, or derives revenue from such maintenance. A name in a Registry Database may be a Registered Name even though it does not appear in a zone file (e.g., a registered but inactive name).

1.16 "Registered Name Holder" means the holder of a Registered Name.

1.17 The word "registrar," when appearing without an initial capital letter, refers to a person or entity that contracts with Registered Name Holders and with a Registry Operator and collects registration data about the Registered Name Holders and submits registration information for entry in the Registry Database.

1.18 "Registrar Approval" means the receipt of either of the following approvals:

1.18.1 The affirmative approval of Applicable Registrars accounting for 90% of the Total Registered Names Under Management by the Applicable Registrars; provided that, for purposes of calculating the Total Registered

Names Under Management by Applicable Registrars, the Total Registered Names Under Management by each Applicable Registrar Family shall not exceed the Total Registered Names Under Management of the Applicable Registrar Family that is the fifth largest Applicable Registrar Family (measured by number of Registered Names Under Management), both for purposes of the numerator and the denominator; or

1.18.2 The affirmative approval of 50% plus one of the Applicable Registrars that participate in the process to approve or disapprove (i.e. vote for or against, but not abstain or otherwise fail to vote) a proposed amendment under Section 6, and the affirmative approval of Applicable Registrars accounting for 66.67% of the Total Registered Names Under Management by all Applicable Registrars; provided that, for purposes of calculating the Total Registered Names Under Management by Applicable Registrars, the Total Registered Names Under Management by each Applicable Registrar Family shall not exceed the total Registered Names Under Management of the Applicable Registrar Family that is the fifth largest Applicable Registrar Family (measured by number of Registered Names Under Management), both for purposes of the numerator and the denominator. An example of these calculations is set forth in Appendix 1 attached hereto.

1.19 "Registrar Services" means the services subject to this Agreement provided by a registrar in connection with a gTLD, and includes contracting with Registered Name Holders, collecting registration data about the Registered Name Holders, and submitting registration information for entry in the Registry Database.

1.20 "Registry Data" means all Registry Database data maintained in electronic form, and shall include gTLD Zone-File Data, all data used to provide Registry Services and submitted by registrars in electronic form, and all other data used to provide Registry Services concerning particular domain name registrations or nameservers maintained in electronic form in a Registry Database.

1.21 "Registry Database" means a database comprised of data about one or more DNS domain names within the domain of a registry that is used to generate either DNS resource records that are published authoritatively or responses to domain-name availability lookup requests or Whois queries, for some or all of those names.

1.22 A "Registry Operator" is the person or entity then responsible, in accordance with an agreement between ICANN (or its assignee) and that person or entity (those persons or entities) or, if that agreement is terminated or expires, in accordance with an agreement between the US Government and that person or entity (those persons or entities), for providing Registry Services for a specific gTLD.

1.23 "Registry Services," with respect to a particular gTLD, shall have the meaning defined in the agreement between ICANN and the Registry Operator for that gTLD.

1.24 A "Reseller" is a person or entity that participates in Registrar's distribution channel for domain name registrations (a) pursuant to an agreement, arrangement or understanding with Registrar or (b) with Registrar's actual knowledge, provides some or all Registrar Services, including collecting registration data about Registered Name Holders, submitting that data to Registrar, or facilitating the entry of the registration agreement between the Registrar and the Registered Name Holder.

1.25 "Restricted Amendment" means (i) an amendment of the Consensus Policies and Temporary Policies Specification or (ii) the term of this Agreement as specified in Section 5.1, as such term may be extended pursuant to Section 5.2.

1.26 A Registered Name is "sponsored" by the registrar that placed the record associated with that registration into the registry. Sponsorship of a registration may be changed at the express direction of the Registered Name Holder or, in the event a registrar loses Accreditation, in accordance with then-current ICANN Specifications and Policies.

1.27 "Specifications and/or Policies" include Consensus Policies, Specifications (such as the Whois Accuracy Program Specification) referenced in this Agreement, and any amendments, policies, procedures, or programs specifically contemplated by this Agreement or authorized by ICANN's Bylaws.

1.28 "Term of this Agreement" begins on the Effective Date and continues to the earlier of (a) the Expiration Date, or (b) termination of this Agreement.

1.29 "Total Registered Names Under Management" means the total number of Registered Names sponsored by all Applicable Registrars as reflected in the latest monthly reports submitted to ICANN by Registrars.

1.30 "Whois Accuracy Program Specification" means the Whois Accuracy Program Specification attached hereto, as updated from time to time in accordance with this Agreement.

1.31 "Whois Specification" means the Registration Data Directory Service (Whois) Specification attached hereto, as updated from time to time in accordance with this Agreement.

1.32 "Working Group" means representatives of the Applicable Registrars and other members of the community that the Registrar Stakeholder Group appoints, from time to time, to serve as a working group to consult on amendments to the Applicable Registrar Agreements (excluding bilateral amendments pursuant to Section 6.9).

2. ICANN OBLIGATIONS.

2.1 Accreditation. During the Term of this Agreement and subject to the terms and conditions of this Agreement, Registrar is hereby Accredited by ICANN to act as a registrar (including to insert and renew registration of Registered Names in the Registry Database) for gTLDs.

2.2 Registrar Use of ICANN Name, Website and Trademarks. ICANN hereby grants to Registrar a non-exclusive, worldwide, royalty-free license during the Term of this Agreement (a) to state that it is Accredited by ICANN as a registrar for gTLDs, and (b) to link to pages and documents within the ICANN website. Subject to the terms and conditions set forth in the Logo License Specification attached hereto, ICANN hereby grants to Registrar a non-exclusive, worldwide right and license to use the Trademarks (as defined in the Logo License Specification). No other use of ICANN's name, website or Trademarks is licensed hereby. This license may not be assigned or sublicensed by Registrar to any other party, including, without limitation, any Affiliate of Registrar or any Reseller.

2.3 General Obligations of ICANN. With respect to all matters that impact the rights, obligations, or role of Registrar, ICANN shall during the Term of this Agreement:

2.3.1 exercise its responsibilities in an open and transparent manner;

2.3.2 not unreasonably restrain competition and, to the extent feasible, promote and encourage robust competition;

2.3.3 not apply standards, policies, procedures or practices arbitrarily, unjustifiably, or inequitably and not single out Registrar for disparate treatment unless justified by substantial and reasonable cause; and

2.3.4 ensure, through its reconsideration and independent review policies, adequate appeal procedures for Registrar, to the extent it is adversely affected by ICANN standards, policies, procedures or practices.

2.4 Use of ICANN Accredited Registrars. In order to promote competition in the registration of domain names, and in recognition of the value that ICANN-Accredited registrars bring to the Internet community, ICANN has ordinarily required gTLD registries under contract with ICANN to use ICANN-Accredited registrars, and ICANN will during the course of this agreement abide by any ICANN adopted Specifications or Policies requiring the use of ICANN-Accredited registrars by gTLD registries.

3. REGISTRAR OBLIGATIONS.

3.1 Obligations to Provide Registrar Services. During the Term of this Agreement, Registrar agrees that it will operate as a registrar for one or more gTLDs in accordance with this Agreement.

3.2 Submission of Registered Name Holder Data to Registry. During the Term of this Agreement:

3.2.1 As part of its registration of Registered Names in a gTLD, Registrar shall submit to, or shall place in the Registry Database operated by, the Registry Operator for the gTLD the following data elements:

3.2.1.1 The name of the Registered Name being registered;

3.2.1.2 The IP addresses of the primary nameserver and secondary nameserver(s) for the Registered Name;

3.2.1.3 The corresponding names of those nameservers;

3.2.1.4 Unless automatically generated by the registry system, the identity of the Registrar;

3.2.1.5 Unless automatically generated by the registry system, the expiration date of the registration; and

3.2.1.6 Any other data the Registry Operator requires be submitted to it.

The agreement between the Registry Operator of a gTLD and Registrar may, if approved by ICANN in writing, state alternative required data elements applicable to that gTLD, in which event, the alternative required data elements shall replace and supersede Subsections 3.2.1.1 through 3.2.1.6 stated above for all purposes under this Agreement but only with respect to that particular gTLD. When seeking approval for alternative required data elements, the data elements set forth in Subsections 3.2.1.1 through 3.2.1.6 should be considered suggested minimum requirements.

3.2.2 Within seven (7) days after receiving any updates from the Registered Name Holder to the data elements listed in Subsections 3.2.1.2, 3.1.2.3, and 3.2.1.6 for any Registered Name that Registrar sponsors, Registrar shall submit the updated data elements to, or shall place those elements in the Registry Database operated by, the relevant Registry Operator.

3.2.3 In order to allow reconstitution of the Registry Database in the event of an otherwise unrecoverable technical failure or a change in the designated Registry Operator, within ten (10) days of any such request by ICANN,

Registrar shall submit an electronic database containing the data elements listed in Subsections 3.2.1.1 through 3.2.1.6 for all active records in the registry sponsored by Registrar, in a format specified by ICANN, to the Registry Operator for the appropriate gTLD.

3.3 Public Access to Data on Registered Names. During the Term of this Agreement:

3.3.1 At its expense, Registrar shall provide an interactive web page and, with respect to any gTLD operating a "thin" registry, a port 43 Whois service (each accessible via both IPv4 and IPv6) providing free public query-based access to up-to-date (i.e., updated at least daily) data concerning all active Registered Names sponsored by Registrar in any gTLD. Until otherwise specified by a Consensus Policy, such data shall consist of the following elements as contained in Registrar's database:

3.3.1.1 The name of the Registered Name;

3.3.1.2 The names of the primary nameserver and secondary nameserver(s) for the Registered Name;

3.3.1.3 The identity of Registrar (which may be provided through Registrar's website);

3.3.1.4 The original creation date of the registration;

3.3.1.5 The expiration date of the registration;

3.3.1.6 The name and postal address of the Registered Name Holder;

3.3.1.7 The name, postal address, e-mail address, voice telephone number, and (where available) fax number of the technical contact for the Registered Name; and

3.3.1.8 The name, postal address, e-mail address, voice telephone number, and (where available) fax number of the administrative contact for the Registered Name.

The agreement between the Registry Operator of a gTLD and Registrar may, if approved by ICANN in writing, state alternative required data elements applicable to that gTLD, in which event, the alternative required data elements shall replace and supersede Subsections 3.3.1.1 through 3.3.1.8 stated above for all purposes under this Agreement but only with respect to that particular gTLD.

3.3.2 Upon receiving any updates to the data elements listed in Subsections 3.3.1.2, 3.3.1.3, and 3.3.1.5 through 3.3.1.8 from the Registered Name Holder,

Registrar shall promptly update its database used to provide the public access described in Subsection 3.3.1.

3.3.3 Registrar may subcontract its obligation to provide the public access described in Subsection 3.3.1 and the updating described in Subsection 3.3.2, provided that Registrar shall remain fully responsible for the proper provision of the access and updating.

3.3.4 Registrar shall abide by any Consensus Policy that requires registrars to cooperatively implement a distributed capability that provides query-based Whois search functionality across all registrars. If the Whois service implemented by registrars does not in a reasonable time provide reasonably robust, reliable, and convenient access to accurate and up-to-date data, the Registrar shall abide by any Consensus Policy requiring Registrar, if reasonably determined by ICANN to be necessary (considering such possibilities as remedial action by specific registrars), to supply data from Registrar's database to facilitate the development of a centralized Whois database for the purpose of providing comprehensive Registrar Whois search capability.

3.3.5 In providing query-based public access to registration data as required by Subsections 3.3.1 and 3.3.4, Registrar shall not impose terms and conditions on use of the data provided, except as permitted by any Specification or Policy established by ICANN. Unless and until ICANN establishes a different Consensus Policy, Registrar shall permit use of data it provides in response to queries for any lawful purposes except to: (a) allow, enable, or otherwise support the transmission by e-mail, telephone, postal mail, facsimile or other means of mass unsolicited, commercial advertising or solicitations to entities other than the data recipient's own existing customers; or (b) enable high volume, automated, electronic processes that send queries or data to the systems of any Registry Operator or ICANN-Accredited registrar, except as reasonably necessary to register domain names or modify existing registrations.

3.3.6 In the event that ICANN determines, following analysis of economic data by an economist(s) retained by ICANN (which data has been made available to Registrar), that an individual or entity is able to exercise market power with respect to registrations or with respect to registration data used for development of value-added products and services by third parties, Registrar shall provide third-party bulk access to the data subject to public access under Subsection 3.3.1 under the following terms and conditions:

> 3.3.6.1 Registrar shall make a complete electronic copy of the data available at least one (1) time per week for download by third parties who have entered into a bulk access agreement with Registrar.

3.3.6.2 Registrar may charge an annual fee, not to exceed US$10,000, for such bulk access to the data.

3.3.6.3 Registrar's access agreement shall require the third party to agree not to use the data to allow, enable, or otherwise support any marketing activities, regardless of the medium used. Such media include but are not limited to e-mail, telephone, facsimile, postal mail, SMS, and wireless alerts.

3.3.6.4 Registrar's access agreement shall require the third party to agree not to use the data to enable high-volume, automated, electronic processes that send queries or data to the systems of any Registry Operator or ICANN-Accredited registrar, except as reasonably necessary to register domain names or modify existing registrations.

3.3.6.5 Registrar's access agreement must require the third party to agree not to sell or redistribute the data except insofar as it has been incorporated by the third party into a value-added product or service that does not permit the extraction of a substantial portion of the bulk data from the value-added product or service for use by other parties.

3.3.7 To comply with applicable statutes and regulations and for other reasons, ICANN may adopt a Consensus Policy establishing limits (a) on the Personal Data concerning Registered Names that Registrar may make available to the public through a public-access service described in this Subsection 3.3 and (b) on the manner in which Registrar may make such data available. Registrar shall comply with any such Consensus Policy.

3.3.8 Registrar shall meet or exceed the requirements set forth in the Whois Specification.

3.4 Retention of Registered Name Holder and Registration Data.

3.4.1 For each Registered Name sponsored by Registrar within a gTLD, Registrar shall collect and securely maintain, in its own electronic database, as updated from time to time:

3.4.1.1 the data specified in the Data Retention Specification attached hereto for the period specified therein;

3.4.1.2 The data elements listed in Subsections 3.3.1.1 through 3.3.1.8;

3.4.1.3 the name and (where available) postal address, e-mail address, voice telephone number, and fax number of the billing contact;

3.4.1.4 any other Registry Data that Registrar has submitted to the Registry Operator or placed in the Registry Database under Subsection 3.2; and

3.4.1.5 the name, postal address, e-mail address, and voice telephone number provided by the customer of any privacy service or licensee of any proxy registration service, in each case, offered or made available by Registrar or its Affiliates in connection with each registration. Effective on the date that ICANN fully implements a Proxy Accreditation Program established in accordance with Section 3.14, the obligations under this Section 3.4.1.5 will cease to apply as to any specific category of data (such as postal address) that is expressly required to be retained by another party in accordance with such Proxy Accreditation Program.

3.4.2 During the Term of this Agreement and for two (2) years thereafter, Registrar (itself or by its agent(s)) shall maintain the following records relating to its dealings with the Registry Operator(s) and Registered Name Holders:

3.4.2.1 In electronic form, the submission date and time, and the content, of all registration data (including updates) submitted in electronic form to the Registry Operator(s);

3.4.2.2 In electronic, paper, or microfilm form, all written communications constituting registration applications, confirmations, modifications, or terminations and related correspondence with Registered Name Holders, including registration contracts; and

3.4.2.3 In electronic form, records of the accounts of all Registered Name Holders with Registrar.

3.4.3 During the Term of this Agreement and for two (2) years thereafter, Registrar shall make the data, information and records specified in this Section 3.4 available for inspection and copying by ICANN upon reasonable notice. In addition, upon reasonable notice and request from ICANN, Registrar shall deliver copies of such data, information and records to ICANN in respect to limited transactions or circumstances that may be the subject of a compliance-related inquiry; provided, however, that such obligation shall not apply to requests for copies of the Registrar's entire database or transaction history. Such copies are to be provided at Registrar's expense. In responding to ICANN's request for delivery of electronic data, information and records, Registrar may submit such information in a format reasonably convenient to Registrar and acceptable to ICANN so as to minimize disruption to the Registrar's business. In the event Registrar believes that the provision of any such data, information or records to ICANN would

violate applicable law or any legal proceedings, ICANN and Registrar agree to discuss in good faith whether appropriate limitations, protections, or alternative solutions can be identified to allow the production of such data, information or records in complete or redacted form, as appropriate. ICANN shall not disclose the content of such data, information or records except as expressly required by applicable law, any legal proceeding or Specification or Policy.

3.4.4 Notwithstanding any other requirement in this Agreement or the Data Retention Specification, Registrar shall not be obligated to maintain records relating to a domain registration beginning on the date two (2) years following the domain registration's deletion or transfer away to a different registrar.

3.5 Rights in Data. Registrar disclaims all rights to exclusive ownership or use of the data elements listed in Subsections 3.2.1.1 through 3.2.1.3 for all Registered Names submitted by Registrar to the Registry Database for, or sponsored by Registrar in, each gTLD for which it is Accredited. Registrar does not disclaim rights in the data elements listed in Subsections 3.2.1.4 through 3.2.1.6 and Subsections 3.3.1.3 through 3.3.1.8 concerning active Registered Names sponsored by it in each gTLD for which it is Accredited, and agrees to grant non-exclusive, irrevocable, royalty-free licenses to make use of and disclose the data elements listed in Subsections 3.2.1.4 through 3.2.1.6 and 3.3.1.3 through 3.3.1.8 for the purpose of providing a service or services (such as a Whois service under Subsection 3.3.4) providing interactive, query-based public access. Upon a change in sponsorship from Registrar of any Registered Name in each gTLD for which it is Accredited, Registrar acknowledges that the registrar gaining sponsorship shall have the rights of an owner to the data elements listed in Subsections 3.2.1.4 through 3.2.1.6 and 3.3.1.3 through 3.3.1.8 concerning that Registered Name, with Registrar also retaining the rights of an owner in that data. Nothing in this Subsection prohibits Registrar from (1) restricting bulk public access to data elements in a manner consistent with this Agreement and any Specifications or Policies or (2) transferring rights it claims in data elements subject to the provisions of this Subsection 3.5.

3.6 Data Escrow. During the Term of this Agreement, on a schedule, under the terms, and in the format specified by ICANN, Registrar shall submit an electronic copy of the data described in Subsections 3.4.1.2 through 3.4.1.5 to ICANN or, at Registrar's election and at its expense, to a reputable escrow agent mutually approved by Registrar and ICANN, such approval also not to be unreasonably withheld by either party. The data shall be held under an agreement among Registrar, ICANN, and the escrow agent (if any) providing that (1) the data shall be received and held in escrow, with no use other than verification that the deposited data is complete, consistent, and in proper format, until released to ICANN; (2) the data shall be released from escrow upon expiration without renewal or termination of this Agreement; and (3) ICANN's rights under the escrow agreement shall be assigned with any assignment of this Agreement. The escrow shall provide that in

the event the escrow is released under this Subsection, ICANN (or its assignee) shall have a non-exclusive, irrevocable, royalty-free license to exercise (only for transitional purposes) or have exercised all rights necessary to provide Registrar Services.

3.7 Business Dealings, Including with Registered Name Holders.

3.7.1 In the event ICANN adopts a Specification or Policy that is supported by a consensus of ICANN-Accredited registrars as reflected in the Registrar Stakeholder Group (or any successor group), establishing or approving a Code of Conduct for ICANN-Accredited registrars, Registrar shall abide by that Code of Conduct.

3.7.2 Registrar shall abide by applicable laws and governmental regulations.

3.7.3 Registrar shall not represent to any actual or potential Registered Name Holder that Registrar enjoys access to a registry for which Registrar is Accredited that is superior to that of any other registrar Accredited for that registry.

3.7.4 Registrar shall not activate any Registered Name unless and until it is satisfied that it has received a reasonable assurance of payment of its registration fee. For this purpose, a charge to a credit card, general commercial terms extended to creditworthy customers, or other mechanism providing a similar level of assurance of payment shall be sufficient, provided that the obligation to pay becomes final and non-revocable by the Registered Name Holder upon activation of the registration.

3.7.5 At the conclusion of the registration period, failure by or on behalf of the Registered Name Holder to consent that the registration be renewed within the time specified in a second notice or reminder shall, in the absence of extenuating circumstances, result in cancellation of the registration by the end of the auto-renew grace period (although Registrar may choose to cancel the name earlier).

3.7.5.1 Extenuating circumstances are defined as: UDRP action, valid court order, failure of a Registrar's renewal process (which does not include failure of a registrant to respond), the domain name is used by a nameserver that provides DNS service to third-parties (additional time may be required to migrate the records managed by the nameserver), the registrant is subject to bankruptcy proceedings, payment dispute (where a registrant claims to have paid for a renewal, or a discrepancy in the amount paid), billing dispute (where a registrant disputes the amount on a bill), domain name subject to litigation in a court of competent jurisdiction, or other circumstance as approved specifically by ICANN.

3.7.5.2 Where Registrar chooses, under extenuating circumstances, to renew a domain name without the explicit consent of the registrant, the registrar must maintain a record of the extenuating circumstances associated with renewing that specific domain name for inspection by ICANN consistent with clauses 3.4.2 and 3.4.3 of this registrar accreditation agreement.

3.7.5.3 In the absence of extenuating circumstances (as defined in Section 3.7.5.1 above), a domain name must be deleted within 45 days of either the registrar or the registrant terminating a registration agreement.

3.7.5.4 Registrar shall provide notice to each new registrant describing the details of their deletion and auto-renewal policy including the expected time at which a non-renewed domain name would be deleted relative to the domain's expiration date, or a date range not to exceed ten (10) days in length. If a registrar makes any material changes to its deletion policy during the period of the registration agreement, it must make at least the same effort to inform the registrant of the changes as it would to inform the registrant of other material changes to the registration agreement (as defined in clause 3.7.7 of the registrars accreditation agreement).

3.7.5.5 If Registrar operates a website for domain name registration or renewal, details of Registrar's deletion and auto-renewal policies must be clearly displayed on the website.

3.7.5.6 If Registrar operates a website for domain registration or renewal, it should state, both at the time of registration and in a clear place on its website, any fee charged for the recovery of a domain name during the Redemption Grace Period.

3.7.5.7 In the event that a domain which is the subject of a UDRP dispute is deleted or expires during the course of the dispute, the complainant in the UDRP dispute will have the option to renew or restore the name under the same commercial terms as the registrant. If the complainant renews or restores the name, the name will be placed in Registrar HOLD and Registrar LOCK status, the WHOIS contact information for the registrant will be removed, and the WHOIS entry will indicate that the name is subject to dispute. If the complaint is terminated, or the UDRP dispute finds against the complainant, the name will be deleted within 45 days. The registrant retains the right under the existing redemption grace period provisions to recover the name at any time during the Redemption Grace Period, and retains the right to renew the name before it is deleted.

3.7.6 Registrar shall not insert or renew any Registered Name in any gTLD registry in a manner contrary to (i) any Consensus Policy stating a list or specification of excluded Registered Names that is in effect at the time of insertion or renewal, or (ii) any list of names to be reserved from registration as required by the specific Registry Operator for which the Registrar is providing Registrar Services.

3.7.7 Registrar shall require all Registered Name Holders to enter into an electronic or paper registration agreement with Registrar including at least the provisions set forth in Subsections 3.7.7.1 through 3.7.7.12, and which agreement shall otherwise set forth the terms and conditions applicable to the registration of a domain name sponsored by Registrar. The Registered Name Holder with whom Registrar enters into a registration agreement must be a person or legal entity other than the Registrar, provided that Registrar may be the Registered Name Holder for domains registered for the purpose of conducting its Registrar Services, in which case the Registrar shall submit to the provisions set forth in Subsections 3.7.7.1 through 3.7.7.12 and shall be responsible to ICANN for compliance with all obligations of the Registered Name Holder as set forth in this Agreement and Specifications and Policies. Registrar shall use commercially reasonable efforts to enforce compliance with the provisions of the registration agreement between Registrar and any Registered Name Holder that relate to implementing the requirements of Subsections 3.7.7.1 through 3.7.7.12 or any Consensus Policy.

3.7.7.1 The Registered Name Holder shall provide to Registrar accurate and reliable contact details and correct and update them within seven (7) days of any change during the term of the Registered Name registration, including: the full name, postal address, e-mail address, voice telephone number, and fax number if available of the Registered Name Holder; name of authorized person for contact purposes in the case of an Registered Name Holder that is an organization, association, or corporation; and the data elements listed in Subsections 3.3.1.2, 3.3.1.7 and 3.3.1.8.

3.7.7.2 A Registered Name Holder's willful provision of inaccurate or unreliable information, its willful failure to update information provided to Registrar within seven (7) days of any change, or its failure to respond for over fifteen (15) days to inquiries by Registrar concerning the accuracy of contact details associated with the Registered Name Holder's registration shall constitute a material breach of the Registered Name Holder-registrar contract and be a basis for suspension and/or cancellation of the Registered Name registration.

3.7.7.3 Any Registered Name Holder that intends to license use of a domain name to a third party is nonetheless the Registered Name

Holder of record and is responsible for providing its own full contact information and for providing and updating accurate technical and administrative contact information adequate to facilitate timely resolution of any problems that arise in connection with the Registered Name. A Registered Name Holder licensing use of a Registered Name according to this provision shall accept liability for harm caused by wrongful use of the Registered Name, unless it discloses the current contact information provided by the licensee and the identity of the licensee within seven (7) days to a party providing the Registered Name Holder reasonable evidence of actionable harm.

3.7.7.4 Registrar shall provide notice to each new or renewed Registered Name Holder stating:

3.7.7.4.1 The purposes for which any Personal Data collected from the applicant are intended;

3.7.7.4.2 The intended recipients or categories of recipients of the data (including the Registry Operator and others who will receive the data from Registry Operator);

3.7.7.4.3 Which data are obligatory and which data, if any, are voluntary; and

3.7.7.4.4 How the Registered Name Holder or data subject can access and, if necessary, rectify the data held about them.

3.7.7.5 The Registered Name Holder shall consent to the data processing referred to in Subsection 3.7.7.4.

3.7.7.6 The Registered Name Holder shall represent that notice has been provided equivalent to that described in Subsection 3.7.7.4 to any third-party individuals whose Personal Data are supplied to Registrar by the Registered Name Holder, and that the Registered Name Holder has obtained consent equivalent to that referred to in Subsection 3.7.7.5 of any such third-party individuals.

3.7.7.7 Registrar shall agree that it will not process the Personal Data collected from the Registered Name Holder in a way incompatible with the purposes and other limitations about which it has provided notice to the Registered Name Holder in accordance with Subsection 3.7.7.4 above.

3.7.7.8 Registrar shall agree that it will take reasonable precautions to protect Personal Data from loss, misuse, unauthorized access or disclosure, alteration, or destruction.

3.7.7.9 The Registered Name Holder shall represent that, to the best of the Registered Name Holder's knowledge and belief, neither the registration of the Registered Name nor the manner in which it is directly or indirectly used infringes the legal rights of any third party.

3.7.7.10 For the adjudication of disputes concerning or arising from use of the Registered Name, the Registered Name Holder shall submit, without prejudice to other potentially applicable jurisdictions, to the jurisdiction of the courts (1) of the Registered Name Holder's domicile and (2) where Registrar is located.

3.7.7.11 The Registered Name Holder shall agree that its registration of the Registered Name shall be subject to suspension, cancellation, or transfer pursuant to any Specification or Policy, or pursuant to any registrar or registry procedure not inconsistent with any Specification or Policy, (1) to correct mistakes by Registrar or the Registry Operator in registering the name or (2) for the resolution of disputes concerning the Registered Name.

3.7.7.12 The Registered Name Holder shall indemnify and hold harmless the Registry Operator and its directors, officers, employees, and agents from and against any and all claims, damages, liabilities, costs, and expenses (including reasonable legal fees and expenses) arising out of or related to the Registered Name Holder's domain name registration.

3.7.8 Registrar shall comply with the obligations specified in the Whois Accuracy Program Specification. In addition, notwithstanding anything in the Whois Accuracy Program Specification to the contrary, Registrar shall abide by any Consensus Policy requiring reasonable and commercially practicable (a) verification, at the time of registration, of contact information associated with a Registered Name sponsored by Registrar or (b) periodic re-verification of such information. Registrar shall, upon notification by any person of an inaccuracy in the contact information associated with a Registered Name sponsored by Registrar, take reasonable steps to investigate that claimed inaccuracy. In the event Registrar learns of inaccurate contact information associated with a Registered Name it sponsors, it shall take reasonable steps to correct that inaccuracy.

3.7.9 Registrar shall abide by any Consensus Policy prohibiting or restricting warehousing of or speculation in domain names by registrars.

3.7.10 Registrar shall publish on its website(s) and/or provide a link to the Registrants' Benefits and Responsibilities Specification attached hereto and shall not take any action inconsistent with the corresponding provisions of this Agreement or applicable law.

3.7.11 Registrar shall make available a description of the customer service handling processes available to Registered Name Holders regarding Registrar Services, including a description of the processes for submitting complaints and resolving disputes regarding the Registrar Services.

3.7.12 Nothing in this Agreement prescribes or limits the amount Registrar may charge Registered Name Holders for registration of Registered Names.

3.8 Domain-Name Dispute Resolution. During the Term of this Agreement, Registrar shall have in place a policy and procedures for resolution of disputes concerning Registered Names. Until ICANN adopts an alternative Consensus Policy or other Specification or Policy with respect to the resolution of disputes concerning Registered Names, Registrar shall comply with the Uniform Domain Name Dispute Resolution Policy ("UDRP") identified on ICANN's website (www.icann.org/general/consensus-policies.htm), as may be modified from time to time. Registrar shall also comply with the Uniform Rapid Suspension ("URS") procedure or its replacement, as well as with any other applicable dispute resolution procedure as required by a Registry Operator for which Registrar is providing Registrar Services.

3.9 Accreditation Fees. As a condition of Accreditation, Registrar shall pay Accreditation fees to ICANN. These fees consist of yearly and variable fees.

3.9.1 Registrar shall pay ICANN a yearly Accreditation fee in an amount established by the ICANN Board of Directors, in conformity with ICANN's bylaws and articles of incorporation. This yearly Accreditation fee shall not exceed US$4,000. Payment of the yearly fee shall be due within thirty (30) days after invoice from ICANN, provided that Registrar may elect to pay the yearly fee in four (4) equal quarterly installments.

3.9.2 Registrar shall pay the variable Accreditation fees established by the ICANN Board of Directors, in conformity with ICANN's bylaws and articles of incorporation, provided that in each case such fees are reasonably allocated among all registrars that contract with ICANN and that any such fees must be expressly approved by registrars accounting, in the aggregate, for payment of two-thirds of all registrar-level fees. Registrar shall pay such fees in a timely manner for so long as all material terms of this Agreement remain in full force and effect, and notwithstanding the pendency of any dispute between Registrar and ICANN.

3.9.3 For any payments thirty (30) days or more overdue, Registrar shall pay interest on late payments at the rate of 1.5% per month or, if less, the maximum rate permitted by applicable law from later of the date of the invoice or the date the invoice is sent pursuant to Section 7.6 of this Agreement. On reasonable notice given by ICANN to Registrar, accountings submitted by Registrar shall be subject to verification by an audit of

Registrar's books and records by an independent third-party designated by ICANN that shall preserve the confidentiality of such books and records (other than its findings as to the accuracy of, and any necessary corrections to, the accountings).

3.9.4 The Accreditation fees due under this Agreement are exclusive of tax. All taxes, duties, fees and other governmental charges of any kind (including sales, turnover, services, use and value-added taxes) that are imposed by or under the authority of any government or any political subdivision thereof on the Accreditation fees for any services, software and/or hardware shall be borne by Registrar and shall not be considered a part of, a deduction from, or an offset against such Accreditation fees. All payments due to ICANN shall be made without any deduction or withholding on account of any tax, duty, charge, or penalty except as required by applicable law, in which case, the sum payable by Registrar from which such deduction or withholding is to be made shall be increased to the extent necessary to ensure that, after making such deduction or withholding, ICANN receives (free from any liability with respect thereof) a net sum equal to the sum it would have received but for such deduction or withholding being required.

3.10 Insurance. Registrar shall maintain in force commercial general liability insurance or similar liability insurance as specified by ICANN with policy limits of at least US$500,000 covering liabilities arising from Registrar's registrar business during the Term of this Agreement.

3.11 Obligations of Registrars under common controlling interest. Registrar shall be in breach of this Agreement if:

3.11.1 ICANN terminates an Affiliated Registrar's accreditation agreement with ICANN (an "Affiliate Termination");

3.11.2 Affiliated Registrar has not initiated arbitration challenging ICANN's right to terminate the Affiliated Registrar's accreditation agreement under Section 5.8 of this Agreement, or has initiated such arbitration and has not prevailed;

3.11.3 the Affiliate Termination was the result of misconduct that materially harmed consumers or the public interest;

3.11.4 a second Affiliated Registrar has pursued, after the Affiliate Termination, the same course of conduct that resulted in the Affiliate Termination; and

3.11.5 ICANN has provided Registrar with written notice that it intends to assert the provisions of this Section 3.11 with respect to Registrar, which notice shall identify in reasonable detail the factual basis for such assertion,

and Registrar has failed to cure the impugned conduct within fifteen (15) days of such notice.

3.12 Obligations Related to Provision of Registrar Services by Third Parties. Registrar is responsible for the provision of Registrar Services for all Registered Names that Registrar sponsors being performed in compliance with this Agreement, regardless of whether the Registrar Services are provided by Registrar or a third party, including a Reseller. Registrar must enter into written agreements with all of its Resellers that enable Registrar to comply with and perform all of its obligations under this Agreement. In addition, Registrar must ensure that:

3.12.1 Its Resellers do not display the ICANN or ICANN-Accredited Registrar logo, or otherwise represent themselves as Accredited by ICANN, unless they have written permission from ICANN to do so.

3.12.2 Any registration agreement used by reseller shall include all registration agreement provisions and notices required by the ICANN Registrar Accreditation Agreement and any ICANN Consensus Policies, and shall identify the sponsoring registrar or provide a means for identifying the sponsoring registrar, such as a link to the InterNIC Whois lookup service.

3.12.3 Its Resellers identify the sponsoring registrar upon inquiry from the customer.

3.12.4 Its Resellers comply with any ICANN-adopted Specification or Policy that establishes a program for accreditation of individuals or entities who provide proxy and privacy registration services (a "Proxy Accreditation Program"). Among other features, the Proxy Accreditation Program may require that: (i) proxy and privacy registration services may only be provided in respect of domain name registrations by individuals or entities Accredited by ICANN pursuant to such Proxy Accreditation Program; and (ii) Registrar shall prohibit Resellers from knowingly accepting registrations from any provider of proxy and privacy registration services that is not Accredited by ICANN pursuant the Proxy Accreditation Program. Until such time as the Proxy Accreditation Program is established, Registrar shall require Resellers to comply with the Specification on Privacy and Proxy Registrations attached hereto.

3.12.5 Its Resellers' customers are provided with a link to an ICANN webpage detailing registrant educational information, as detailed in subsection 3.16 below.

3.12.6 In the event Registrar learns that a Reseller is causing Registrar to be in breach of any of the provisions of this Agreement, Registrar shall take reasonable steps to enforce its agreement with such Reseller so as to cure and prevent further instances of non-compliance.

3.12.7 Its Resellers shall publish on their website(s) and/or provide a link to the Registrants' Benefits and Responsibilities Specification attached hereto and shall not take any action inconsistent with the corresponding provisions of this Agreement or applicable law.

Registrar shall use commercially reasonable efforts to enforce compliance with the provisions of the agreement between Registrar and any Reseller that relate to the provisions of Registrar Services.

3.13 Registrar Training. Registrar's primary contact as identified in Subsection 7.6 below or designee (so long as the designee is employed by Registrar or an Affiliated Registrar) shall complete a training course covering registrar obligations under ICANN policies and agreements. The course will be provided by ICANN at no expense to Registrar, and shall be available in an online format.

3.14 Obligations Related to Proxy and Privacy Services. Registrar agrees to comply with any ICANN-adopted Specification or Policy that establishes a Proxy Accreditation Program. Registrar also agrees to reasonably cooperate with ICANN in the development of such program. Until such time as the Proxy Accreditation Program is established, Registrar agrees to comply with the Specification on Privacy and Proxy Registrations attached hereto.

3.15 Registrar Self-Assessment and Audits. Registrar shall complete and deliver to ICANN on a schedule and in the form specified by ICANN from time to time in consultation with registrars a Registrar self-assessment. Registrar shall complete and deliver to ICANN within twenty (20) days following the end of each calendar year, in a form specified by ICANN a certificate executed by the president, chief executive officer, chief financial officer or chief operating officer (or their equivalents) of Registrar certifying compliance with the terms and conditions of this Agreement. ICANN may from time to time (not to exceed twice per calendar year) conduct, or engage a third party to conduct on its behalf, contractual compliance audits to assess compliance by Registrar with the terms and conditions of this Agreement. Any audits pursuant to this Section 3.15 shall be tailored to achieve the purpose of assessing compliance, and ICANN will (a) give reasonable advance notice of any such audit, which notice shall specify in reasonable detail the categories of documents, data and other information requested by ICANN, and (b) use commercially reasonable efforts to conduct such audit in such a manner as to not unreasonably disrupt the operations of Registrar. As part of such audit and upon request by ICANN, Registrar shall timely provide all responsive documents, data and any other information necessary to demonstrate Registrar's compliance with this Agreement. Upon no less than ten (10) days notice (unless otherwise agreed to by Registrar), ICANN may, as part of any contractual compliance audit, conduct site visits during regular business hours to assess compliance by Registrar with the terms and conditions of this Agreement. ICANN shall not disclose Registrar confidential information gathered through such audits except as required by applicable law, legal proceedings, or as expressly permitted by any Specification or

Policy (including ICANN's Documentary Information Disclosure Policy, as such policy may be amended from time to time); provided, however, that, except as required by applicable law or legal proceedings, ICANN shall not release any information that Registrar has marked as, or has otherwise designated in writing to ICANN as, a "confidential trade secret," "confidential commercial information" or "confidential financial information" of Registrar. If any applicable law, legal proceeding or Specification or Policy permits such disclosure, ICANN will provide Registrar no less than fifteen (15) days notice of its intent to disclose such information, unless such notice is prohibited by law or legal proceeding. Such notice shall include to whom and in what manner ICANN plans to disclose such information.

3.16 Link to Registrant Educational Information. ICANN has published an educational webpage summarizing the terms of the Registrar Accreditation Agreement and related Consensus Policies (as of the date of this Agreement, located at: http://www.icann.org/en/registrars/registrant-rights-responsibilities-en.htm). Registrar shall provide a link to such webpage on any website it may operate for domain name registration or renewal clearly displayed to its Registered Name Holders at least as clearly as its links to policies or notifications required to be displayed under ICANN Consensus Policies. ICANN may, in consultation with registrars, update the content and/or URL for this website.

3.17 Registrar Contact, Business Organization and Officer Information. Registrar shall provide to ICANN and maintain accurate and current information as specified in the Registrar Information Specification to this Agreement. In addition, Registrar shall publish on each website through which Registrar provides or offers Registrar Services the information specified as requiring such publication in the Registrar Information Specification. Registrar shall notify ICANN within five (5) days of any changes to such information and update Registrar's website(s) within twenty (20) days of any such changes.

3.18 Registrar's Abuse Contact and Duty to Investigate Reports of Abuse.

3.18.1 Registrar shall maintain an abuse contact to receive reports of abuse involving Registered Names sponsored by Registrar, including reports of Illegal Activity. Registrar shall publish an email address to receive such reports on the home page of Registrar's website (or in another standardized place that may be designated by ICANN from time to time). Registrar shall take reasonable and prompt steps to investigate and respond appropriately to any reports of abuse.

3.18.2 Registrar shall establish and maintain a dedicated abuse point of contact, including a dedicated email address and telephone number that is monitored 24 hours a day, seven days a week, to receive reports of Illegal Activity by law enforcement, consumer protection, quasi-governmental or other similar authorities designated from time to time by the national or

territorial government of the jurisdiction in which the Registrar is established or maintains a physical office. Well-founded reports of Illegal Activity submitted to these contacts must be reviewed within 24 hours by an individual who is empowered by Registrar to take necessary and appropriate actions in response to the report. In responding to any such reports, Registrar will not be required to take any action in contravention of applicable law.

3.18.3 Registrar shall publish on its website a description of its procedures for the receipt, handling, and tracking of abuse reports. Registrar shall document its receipt of and response to all such reports. Registrar shall maintain the records related to such reports for the shorter of two (2) years or the longest period permitted by applicable law, and during such period, shall provide such records to ICANN upon reasonable notice.

3.19 Additional Technical Specifications to Implement IPV6, DNSSEC and IDNs. Registrar shall comply with the Additional Registrar Operations Specification attached hereto.

3.20 Notice of Bankruptcy, Convictions and Security Breaches. Registrar will give ICANN notice within seven (7) days of (i) the commencement of any of the proceedings referenced in Section 5.5.8. (ii) the occurrence of any of the matters specified in Section 5.5.2 or Section 5.5.3 or (iii) any unauthorized access to or disclosure of registrant account information or registration data. The notice required pursuant to Subsection (iii) shall include a detailed description of the type of unauthorized access, how it occurred, the number of registrants affected, and any action taken by Registrar in response.

3.21 Obligations of Registrars Affiliated with Registry Operators. In the event Registrar is Affiliated with any Registry Operator or back-end registry operator (an "Affiliated Relationship") during the Term of this Agreement, Registrar shall comply with all ICANN Specifications and Policies that may be developed from time to time with respect to such Affiliated Relationships, and will notify ICANN within thirty (30) days of the occurrence of the event that created the Affiliate relationship (e.g., the closing of any merger, acquisition or other transaction, or the execution of any agreement, in each case, giving rise to such Affiliated Relationship).

3.22 Cooperation with Emergency Registry Service Providers. In the event that ICANN transitions the operation of a registry for a gTLD in which Registrar sponsors Registered Names to an emergency registry service provider, Registrar shall cooperate in all reasonable respects with such emergency registry service provider, including by entering into a registry-registrar agreement with such provider necessary to effect the transition and by providing all Registered Name Holder data reasonably requested by such emergency operator for the purpose of facilitating an efficient transition of the registry for the gTLD.

4. PROCEDURES FOR ESTABLISHMENT OR REVISION OF SPECIFICATIONS AND POLICIES.

4.1 Compliance with Consensus Policies and Temporary Policies. During the Term of this Agreement, Registrar shall comply with and implement all Consensus Policies and Temporary Policies in existence as of the Effective Date found at http://www.icann.org/general/consensus-policies.htm, and as may in the future be developed and adopted in accordance with the ICANN Bylaws, provided such future Consensus Policies and Temporary Policies are adopted in accordance with the procedures and relate to those topics and subject to those limitations set forth in the Consensus Policies and Temporary Policies Specification to this Agreement.

5. TERM, TERMINATION AND DISPUTE RESOLUTION.

5.1 Term of Agreement. This Agreement shall be effective on the Effective Date and shall have an initial term running until the Expiration Date, unless sooner terminated.

5.2 Renewal. This Agreement and Registrar's Accreditation will be renewed for successive periods of five (5) years upon the Expiration Date and the expiration of each successive five-year term thereafter under the terms and conditions of this Agreement, unless:

5.2.1 at the time of such renewal, Registrar no longer meets the ICANN registrar Accreditation criteria then in effect;

5.2.2 Registrar is not in compliance with its obligations under this Agreement at the time of the Expiration Date or at the expiration of any successive five (5) year term thereafter;

5.2.3 Registrar has been given notice by ICANN of three (3) or more material breaches of this Agreement within the two (2) years preceding the Expiration Date or the date of expiration of any successive five (5) year term thereafter; or

5.2.4 this Agreement has terminated prior to the Expiration Date or the expiration date of any successive five (5) year term thereafter.

In the event Registrar intends to renew this Agreement pursuant to this Section 5.2, Registrar shall provide ICANN written notice thereof during the period that is no more than ninety (90) days and no less than sixty (60) days prior to the Expiration Date and each successive five (5) year term thereafter. The provision of such notice shall not be a condition to renewal hereunder. Pursuant to its customary practices (as may be modified by ICANN), ICANN will provide notice to Registrar of the Expiration Date and the date of expiration of any subsequent term hereunder.

5.3 Right to Substitute Updated Agreement. In the event that, during the Term of this Agreement, ICANN adopts a revised form Registrar accreditation agreement (the "Updated RAA"), Registrar (provided it has not received (i) a notice of breach that it has not cured or (ii) a notice of termination or suspension of this Agreement under this Section 5) may elect, by giving ICANN written notice, to enter into the Updated RAA. In the event of such election, Registrar and ICANN shall as soon as practicable enter into the Updated RAA for the term specified in the Updated RAA, and this Agreement will be deemed terminated.

5.4 Termination of Agreement by Registrar. This Agreement may be terminated before its expiration by Registrar by giving ICANN thirty (30) days written notice. Upon such termination by Registrar, Registrar shall not be entitled to any refund of fees paid to ICANN pursuant to this Agreement.

5.5 Termination of Agreement by ICANN. This Agreement may be terminated before its expiration by ICANN in any of the following circumstances:

5.5.1 There was a material misrepresentation, material inaccuracy, or materially misleading statement in Registrar's application for Accreditation or renewal of Accreditation or any material accompanying the application.

5.5.2 Registrar:

5.5.2.1 is convicted by a court of competent jurisdiction of a felony or other serious offense related to financial activities, or is judged by a court of competent jurisdiction to have:

5.5.2.1.1 committed fraud,

5.5.2.1.2 committed a breach of fiduciary duty, or

5.5.2.1.3 with actual knowledge (or through gross negligence) permitted Illegal Activity in the registration or use of domain names or in the provision to Registrar by any Registered Name Holder of inaccurate Whois information; or

5.5.2.1.4 failed to comply with the terms of an order issued by a court of competent jurisdiction relating to the use of domain names sponsored by the Registrar;

or is the subject of a judicial determination that ICANN reasonably deems as the substantive equivalent of any of the foregoing; or

5.5.2.2 is disciplined by the government of its domicile for conduct involving dishonesty or misuse of funds of others; or

5.5.2.3 is the subject of a non-interlocutory order issued by a court or arbitral tribunal, in each case of competent jurisdiction, finding that Registrar has, directly or through an Affiliate, committed a specific violation(s) of applicable national law or governmental regulation relating to cybersquatting or its equivalent; or

5.5.2.4 is found by ICANN, based on its review of the findings of arbitral tribunals, to have been engaged, either directly or through its Affiliate, in a pattern and practice of trafficking in or use of domain names identical or confusingly similar to a trademark or service mark of a third party in which the Registered Name Holder has no rights or legitimate interest, which trademarks have been registered and are being used in bad faith.

5.5.3 Registrar knowingly employs any officer that is convicted of a misdemeanor related to financial activities or of any felony, or is judged by a court of competent jurisdiction to have committed fraud or breach of fiduciary duty, or is the subject of a judicial determination that ICANN reasonably deems as the substantive equivalent of any of the foregoing and such officer is not terminated within thirty (30) days of Registrar's knowledge of the foregoing; or any member of Registrar's board of directors or similar governing body is convicted of a misdemeanor related to financial activities or of any felony, or is judged by a court of competent jurisdiction to have committed fraud or breach of fiduciary duty, or is the subject of a judicial determination that ICANN reasonably deems as the substantive equivalent of any of the foregoing and such member is not removed from Registrar's board of directors or similar governing body within thirty (30) days of Registrar's knowledge of the foregoing.

5.5.4 Registrar fails to cure any breach of this Agreement within twenty-one (21) days after ICANN gives Registrar notice of the breach.

5.5.5 Registrar fails to comply with a ruling granting specific performance under Sections 5.7 or 7.1.

5.5.6 Registrar has been in fundamental and material breach of its obligations under this Agreement at least three (3) times within a twelve (12) month period.

5.5.7 Registrar continues acting in a manner that ICANN has reasonably determined endangers the stability or operational integrity of the Internet after receiving three (3) days notice of that determination.

5.5.8 (i) Registrar makes an assignment for the benefit of creditors or similar act; (ii) attachment, garnishment or similar proceedings are commenced against Registrar, which proceedings are a material threat to Registrar's ability to provide Registrar Services for gTLDs, and are not

dismissed within sixty (60) days of their commencement; (iii) a trustee, receiver, liquidator or equivalent is appointed in place of Registrar or maintains control over any of Registrar's property; (iv) execution is levied upon any property of Registrar, (v) proceedings are instituted by or against Registrar under any bankruptcy, insolvency, reorganization or other laws relating to the relief of debtors and such proceedings are not dismissed within thirty (30) days of their commencement, or (vi) Registrar files for protection under the United States Bankruptcy Code, 11 U.S.C. Section 101 et seq., or a foreign equivalent or liquidates, dissolves or otherwise discontinues its operations.

5.6 Termination Procedures. This Agreement may be terminated in circumstances described in Subsections 5.5.1 though 5.5.6 above only upon fifteen (15) days written notice to Registrar (in the case of Subsection 5.5.4 occurring after Registrar's failure to cure), with Registrar being given an opportunity during that time to initiate arbitration under Subsection 5.8 to determine the appropriateness of termination under this Agreement. This Agreement may be terminated immediately upon notice to Registrar in circumstances described in Subsections 5.5.7 and 5.5.8.

5.7 Suspension.

5.7.1 Upon the occurrence of any of the circumstances set forth in Section 5.5, ICANN may, in ICANN's sole discretion, upon delivery of a notice pursuant to Subsection 5.7.2, elect to suspend Registrar's ability to create or sponsor new Registered Names or initiate inbound transfers of Registered Names for any or all gTLDs for a period of up to a twelve (12) months following the effectiveness of such suspension. Suspension of a Registrar does not preclude ICANN's ability to issue a notice of termination in accordance with the notice requirements of Section 5.6.

5.7.2 Any suspension under Subsections 5.7.1 will be effective upon fifteen (15) days written notice to Registrar, with Registrar being given an opportunity during that time to initiate arbitration under Subsection 5.8 to determine the appropriateness of suspension under this Agreement.

5.7.3 Upon suspension, Registrar shall notify users, by posting a prominent notice on its web site, that it is unable to create or sponsor new gTLD domain name registrations or initiate inbound transfers of Registered Names. Registrar's notice shall include a link to the notice of suspension from ICANN.

5.7.4 If Registrar acts in a manner that ICANN reasonably determines endangers the stability or operational integrity of the Internet and upon notice does not immediately cure, ICANN may suspend this Agreement for five (5) working days pending ICANN's application for more extended specific performance or injunctive relief under Subsection 7.1. Suspension

of the Agreement under this Subsection may, at ICANN's sole discretion, preclude the Registrar from (i) providing Registration Services for gTLDs delegated by ICANN on or after the date of delivery of such notice to Registrar and (ii) creating or sponsoring new Registered Names or initiating inbound transfers of Registered Names for any gTLDs. Registrar must also post the statement specified in Subsection 5.7.3.

5.8 Resolution of Disputes Under this Agreement. Subject to the limitations set forth in Section 6 and Section 7.4, disputes arising under or in connection with this Agreement, including (1) disputes arising from ICANN's failure to renew Registrar's Accreditation and (2) requests for specific performance, shall be resolved in a court of competent jurisdiction or, at the election of either party, by an arbitration conducted as provided in this Subsection 5.8 pursuant to the International Arbitration Rules of the American Arbitration Association ("AAA"). The arbitration shall be conducted in English and shall occur in Los Angeles County, California, USA. Except as set forth in Section 7.4.5, there shall be one (1) arbitrator agreed by the parties from a list of AAA arbitrators, or if parties do not agree on an arbitrator within fifteen (15) days of the AAA request that the parties designate an arbitrator, the AAA shall choose and appoint an arbitrator, paying due regard to the arbitrator's knowledge of the DNS. The parties shall bear the costs of the arbitration in equal shares, subject to the right of the arbitrator to reallocate the costs in their award as provided in the AAA rules. The parties shall bear their own attorneys' fees in connection with the arbitration, and the arbitrator may not reallocate the attorneys' fees in conjunction with their award. The arbitrator shall render its decision within ninety (90) days of the conclusion of the arbitration hearing. In the event Registrar initiates arbitration to contest the appropriateness of termination of this Agreement by ICANN pursuant to Section 5.5 or suspension of Registrar by ICANN pursuant to Section 5.7.1, Registrar may at the same time request that the arbitration panel stay the termination or suspension until the arbitration decision is rendered. The arbitration panel shall order a stay: (i) upon showing by Registrar that continued operations would not be harmful to consumers or the public interest, or (ii) upon appointment by the arbitration panel of a qualified third party to manage the operations of the Registrar until the arbitration decision is rendered. In furtherance of sub-clause (ii) above, the arbitration panel is hereby granted all necessary authority to appoint a qualified third-party to manage the operations of the Registrar upon the Registrar's request and if the panel deems it appropriate. In selecting the third-party manager, the arbitration panel shall take into consideration, but shall not be bound by, any expressed preferences of Registrar. Any order granting a request for a stay must be issued within fourteen (14) days after the filing of the arbitration. If an order granting a request for a stay is not issued within fourteen (14) days, ICANN has the right to proceed with the termination of this Agreement pursuant to Section 5.5 or suspension of the Registrar pursuant to Section 5.7.1. In the event Registrar initiates arbitration to contest an Independent Review Panel's decision under Subsection 4.3.3 sustaining the ICANN Board of Director's determination that a specification or policy is supported by consensus, Registrar may at the same time request that the arbitration

panel stay the requirement that it comply with the policy until the arbitration decision is rendered, and that request shall have the effect of staying the requirement until the decision or until the arbitration panel has granted an ICANN request for lifting of the stay. In all litigation involving ICANN concerning this Agreement (whether in a case where arbitration has not been elected or to enforce an arbitration award), jurisdiction and exclusive venue for such litigation shall be in a court located in Los Angeles, California, USA; however, the parties shall also have the right to enforce a judgment of such a court in any court of competent jurisdiction. For the purpose of aiding the arbitration and/or preserving the rights of the parties during the pendency of an arbitration, the parties shall have the right to seek temporary or preliminary injunctive relief from the arbitration panel or in a court located in Los Angeles, California, USA, which shall not be a waiver of this arbitration agreement.

5.9 Limitations on Monetary Remedies for Violations of this Agreement. ICANN's aggregate monetary liability for violations of this Agreement shall not exceed an amount equal to the Accreditation fees paid by Registrar to ICANN under Subsection 3.9 of this Agreement during the preceding twelve-month period. Registrar's monetary liability to ICANN for violations of this Agreement shall be limited to Accreditation fees owing to ICANN under this Agreement and, except in the case of a good faith disagreement concerning the interpretation of this agreement, reasonable payment to ICANN for the reasonable and direct costs including attorney fees, staff time, and other related expenses associated with legitimate efforts to enforce Registrar compliance with this agreement and costs incurred by ICANN to respond to or mitigate the negative consequences of such behavior for Registered Name Holders and the Internet community. In the event of repeated willful material breaches of the agreement, Registrar shall be liable for sanctions of up to five (5) times ICANN's enforcement costs, but otherwise in no event shall either party be liable for special, indirect, incidental, punitive, exemplary, or consequential damages for any violation of this Agreement.

6. AMENDMENT AND WAIVER.

6.1 If the ICANN Board of Directors determines that an amendment to this Agreement (including to the Specifications referred to herein, unless such Specifications expressly do not permit amendment thereto) and all other registrar agreements between ICANN and the Applicable Registrars (the "Applicable Registrar Agreements") is desirable (each, a "Special Amendment"), ICANN may adopt a Special Amendment pursuant to the requirements of and process set forth in this Section 6; provided that a Special Amendment may not be a Restricted Amendment.

6.2 Prior to submitting a Special Amendment for Registrar Approval, ICANN shall first consult in good faith with the Working Group regarding the form and substance of such Special Amendment. The duration of such consultation shall be reasonably determined by ICANN based on the substance of the Special Amendment. Following

such consultation, ICANN may propose the adoption of a Special Amendment by publicly posting such amendment on its website for no less than thirty (30) calendar days (the "Posting Period") and providing notice of such proposed amendment to the Applicable Registrars in accordance with Section 7.6. ICANN will consider the public comments submitted on a Special Amendment during the Posting Period (including comments submitted by the Applicable Registrars).

6.3 If, within one hundred eighty (180) calendar days following the expiration of the Posting Period (the "Approval Period"), the ICANN Board of Directors approves a Special Amendment (which may be in a form different than submitted for public comment, but must address the subject matter of the Special Amendment posted for public comment, as modified to reflect and/or address input from the Working Group and public comments), ICANN shall provide notice of, and submit, such Special Amendment for approval or disapproval by the Applicable Registrars. If, during the sixty (60) calendar day period following the date ICANN provides such notice to the Applicable Registrars, such Special Amendment receives Registrar Approval, such Special Amendment shall be deemed approved (an "Approved Amendment") by the Applicable Registrars, and shall be effective and deemed an amendment to this Agreement on the date that is sixty (60) calendar days following the date ICANN provided notice of the approval of such Approved Amendment to Registrar (the "Amendment Effective Date"). In the event that a Special Amendment does not receive Registrar Approval, the Special Amendment shall be deemed not approved by the Applicable Registrars (a "Rejected Amendment"). A Rejected Amendment will have no effect on the terms and conditions of this Agreement, except as set forth below.

6.4 If the ICANN Board of Directors reasonably determines that a Rejected Amendment falls within the subject matter categories set forth in Section 1.2 of the Consensus Policies and Temporary Policies Specification, the ICANN Board of Directors may adopt a resolution (the date such resolution is adopted is referred to herein as the "Resolution Adoption Date") requesting an Issue Report (as such term is defined in ICANN's Bylaws) by the Generic Names Supporting Organization (the "GNSO") regarding the substance of such Rejected Amendment. The policy development process undertaken by the GNSO pursuant to such requested Issue Report is referred to herein as a "PDP." If such PDP results in a Final Report supported by a GNSO Supermajority (as defined in ICANN's Bylaws) that either (i) recommends adoption of the Rejected Amendment as Consensus Policy or (ii) recommends against adoption of the Rejected Amendment as Consensus Policy, and, in the case of (i) above, the Board adopts such Consensus Policy, Registrar shall comply with its obligations pursuant to Section 4 of this Agreement. In either case, ICANN will abandon the Rejected Amendment and it will have no effect on the terms and conditions of this Agreement. Notwithstanding the foregoing provisions of this Section 6.4, the ICANN Board of Directors shall not be required to initiate a PDP with respect to a Rejected Amendment if, at any time in the twelve (12) month period preceding the submission of such Rejected Amendment for Registrar Approval pursuant to Section 6.3, the subject matter of such Rejected Amendment was the

subject of a concluded or otherwise abandoned or terminated PDP that did not result in a GNSO Supermajority recommendation.

6.5 If (i) a Rejected Amendment does not fall within the subject matter categories set forth in Section 1.2 of the Consensus Policies and Temporary Policies Specification , (ii) the subject matter of a Rejected Amendment was, at any time in the twelve (12) month period preceding the submission of such Rejected Amendment for Registrar Approval pursuant to Section 6.3, the subject of a concluded or otherwise abandoned or terminated PDP that did not result in a GNSO Supermajority recommendation, or (iii) a PDP does not result in a Final Report supported by a GNSO Supermajority that either (a) recommends adoption of the Rejected Amendment as Consensus Policy or (b) recommends against adoption of the Rejected Amendment as Consensus Policy (or such PDP has otherwise been abandoned or terminated for any reason), then, in any such case, such Rejected Amendment may still be adopted and become effective in the manner described below. In order for the Rejected Amendment to be adopted, the following requirements must be satisfied:

6.5.1 the subject matter of the Rejected Amendment must be within the scope of ICANN's mission and consistent with a balanced application of its core values (as described in ICANN's Bylaws);

6.5.2 the Rejected Amendment must be justified by a Substantial and Compelling Reason in the Public Interest, must be likely to promote such interest, taking into account competing public and private interests that are likely to be affected by the Rejected Amendment, and must be narrowly tailored and no broader than reasonably necessary to address such Substantial and Compelling Reason in the Public Interest;

6.5.3 to the extent the Rejected Amendment prohibits or requires conduct or activities, imposes material costs on the Applicable Registrars, and/or materially reduces public access to domain name services, the Rejected Amendment must be the least restrictive means reasonably available to address the Substantial and Compelling Reason in the Public Interest;

6.5.4 the ICANN Board of Directors must submit the Rejected Amendment, along with a written explanation of the reasoning related to its determination that the Rejected Amendment meets the requirements set out in subclauses (i) through (iii) above, for public comment for a period of no less than thirty (30) calendar days; and

6.5.5 following such public comment period, the ICANN Board of Directors must (i) engage in consultation (or direct ICANN management to engage in consultation) with the Working Group, subject matter experts, members of the GNSO, relevant advisory committees and other interested stakeholders with respect to such Rejected Amendment for a period of no less than sixty

(60) calendar days; and (ii) following such consultation, reapprove the Rejected Amendment (which may be in a form different than submitted for Registrar Approval, but must address the subject matter of the Rejected Amendment, as modified to reflect and/or address input from the Working Group and public comments) by the affirmative vote of at least two-thirds of the members of the ICANN Board of Directors eligible to vote on such matter, taking into account any ICANN policy affecting such eligibility, including ICANN's Conflict of Interest Policy (a "Board Amendment").

Such Board Amendment shall, subject to Section 6.6, be deemed an Approved Amendment, and shall be effective and deemed an amendment to this Agreement on the date that is sixty (60) calendar days following the date ICANN provided notice of the approval of such Board Amendment to Registrar (which effective date shall be deemed the Amendment Effective Date hereunder). Notwithstanding the foregoing, a Board Amendment may not amend the registrar fees charged by ICANN hereunder, or amend this Section 6.

6.6 Notwithstanding the provisions of Section 6.5, a Board Amendment shall not be deemed an Approved Amendment if, during the thirty (30) calendar day period following the approval by the ICANN Board of Directors of the Board Amendment, the Working Group, on the behalf of the Applicable Registrars, submits to the ICANN Board of Directors an alternative to the Board Amendment (an "Alternative Amendment") that meets the following requirements:

6.6.1 sets forth the precise text proposed by the Working Group to amend this Agreement in lieu of the Board Amendment;

6.6.2 addresses the Substantial and Compelling Reason in the Public Interest identified by the ICANN Board of Directors as the justification for the Board Amendment; and

6.6.3 compared to the Board Amendment is: (a) more narrowly tailored to address such Substantial and Compelling Reason in the Public Interest, and (b) to the extent the Alternative Amendment prohibits or requires conduct or activities, imposes material costs on Affected Registrars, or materially reduces access to domain name services, is a less restrictive means to address the Substantial and Compelling Reason in the Public Interest.

Any proposed amendment that does not meet the requirements of subclauses 6.6.1 through 6.6.3 in the immediately preceding sentence shall not be considered an Alternative Amendment hereunder and therefore shall not supersede or delay the effectiveness of the Board Amendment. If, following the submission of the Alternative Amendment to the ICANN Board of Directors, the Alternative Amendment receives Registrar Approval, the Alternative Amendment shall supersede the Board Amendment and shall be deemed an Approved Amendment hereunder (and shall be effective and deemed an amendment to this Agreement on

the date that is sixty (60) calendar days following the date ICANN provided notice of the approval of such Alternative Amendment to Registrar, which effective date shall deemed the Amendment Effective Date hereunder), unless, within a period of sixty (60) calendar days following the date that the Working Group notifies the ICANN Board of Directors of Registrar Approval of such Alternative Amendment (during which time ICANN shall engage with the Working Group with respect to the Alternative Amendment), the ICANN Board of Directors by the affirmative vote of at least two-thirds of the members of the ICANN Board of Directors eligible to vote on such matter, taking into account any ICANN policy affecting such eligibility, including ICANN's Conflict of Interest Policy, rejects the Alternative Amendment. If (A) the Alternative Amendment does not receive Registrar Approval within thirty (30) days of submission of such Alternative Amendment to the Applicable Registrars (and the Working Group shall notify ICANN of the date of such submission), or (B) the ICANN Board of Directors rejects the Alternative Amendment by such two-thirds vote, the Board Amendment (and not the Alternative Amendment) shall be effective and deemed an amendment to this Agreement on the date that is sixty (60) calendar days following the date ICANN provided notice to Registrar (which effective date shall deemed the Amendment Effective Date hereunder). If the ICANN Board of Directors rejects an Alternative Amendment, the board shall publish a written rationale setting forth its analysis of the criteria set forth in Sections 6.6.1 through 6.6.3. The ability of the ICANN Board of Directors to reject an Alternative Amendment hereunder does not relieve the Board of the obligation to ensure that any Board Amendment meets the criteria set forth in Section 6.5.1 through 6.5.5.

6.7 In the event that Registrar believes an Approved Amendment does not meet the substantive requirements set out in this Section 6 or has been adopted in contravention of any of the procedural provisions of this Section 6, Registrar may challenge the adoption of such Special Amendment pursuant to the dispute resolution provisions set forth in Section 5.8, except that such arbitration shall be conducted by a three-person arbitration panel. Any such challenge must be brought within sixty (60) calendar days following the date ICANN provided notice to Registrar of the Approved Amendment, and ICANN may consolidate all challenges brought by registrars (including Registrar) into a single proceeding. The Approved Amendment will be deemed not to have amended this Agreement during the pendency of the dispute resolution process.

6.8 Registrar may apply in writing to ICANN for an exemption from the Approved Amendment (each such request submitted by Registrar hereunder, an "Exemption Request") during the thirty (30) calendar day period following the date ICANN provided notice to Registrar of such Approved Amendment.

6.8.1 Each Exemption Request will set forth the basis for such request and provide detailed support for an exemption from the Approved Amendment. An Exemption Request may also include a detailed description and support for any alternatives to, or a variation of, the Approved Amendment proposed by such Registrar.

6.8.2 An Exemption Request may only be granted upon a clear and convincing showing by Registrar that compliance with the Approved Amendment conflicts with applicable laws or would have a material adverse effect on the long-term financial condition or results of operations of Registrar. No Exemption Request will be granted if ICANN determines, in its reasonable discretion, that granting such Exemption Request would be materially harmful to registrants or result in the denial of a direct benefit to registrants.

6.8.3 Within ninety (90) calendar days of ICANN's receipt of an Exemption Request, ICANN shall either approve (which approval may be conditioned or consist of alternatives to or a variation of the Approved Amendment) or deny the Exemption Request in writing, during which time the Approved Amendment will not amend this Agreement.

6.8.4 If the Exemption Request is approved by ICANN, the Approved Amendment will not amend this Agreement; provided, that any conditions, alternatives or variations of the Approved Amendment required by ICANN shall be effective and, to the extent applicable, will amend this Agreement as of the Amendment Effective Date. If such Exemption Request is denied by ICANN, the Approved Amendment will amend this Agreement as of the Amendment Effective Date (or, if such date has passed, such Approved Amendment shall be deemed effective immediately on the date of such denial), provided that Registrar may, within thirty (30) calendar days following receipt of ICANN's determination, appeal ICANN's decision to deny the Exemption Request pursuant to the dispute resolution procedures set forth in Section 5.8.

6.8.5 The Approved Amendment will be deemed not to have amended this Agreement during the pendency of the dispute resolution process. For avoidance of doubt, only Exemption Requests submitted by Registrar that are approved by ICANN pursuant to this Article 6 or through an arbitration decision pursuant to Section 5.8 shall exempt Registrar from any Approved Amendment, and no Exemption Request granted to any other Applicable Registrar (whether by ICANN or through arbitration), shall have any effect under this Agreement or exempt Registrar from any Approved Amendment.

6.9 Except as set forth in Section 4, Subsection 5.3, this Section 6, Section 7.4 and as otherwise set forth in this Agreement and the Specifications hereto, no amendment, supplement or modification of this Agreement or any provision hereof shall be binding unless executed in writing by both parties, and nothing in this Section 6 or Section 7.4 shall restrict ICANN and Registrar from entering into bilateral amendments and modifications to this Agreement negotiated solely between the two parties. No waiver of any provision of this Agreement shall be binding unless evidenced by a writing signed by the party waiving compliance with such provision. No waiver of any of the provisions of this Agreement or failure to

enforce any of the provisions hereof shall be deemed or shall constitute a waiver of any other provision hereof, nor shall any such waiver constitute a continuing waiver unless otherwise expressly provided. For the avoidance of doubt, nothing in this Section 6 or Section 7.4 shall be deemed to limit Registrar's obligation to comply with Section 4.

6.10 Notwithstanding anything in this Section 6 to the contrary, (a) if Registrar provides evidence to ICANN's reasonable satisfaction that the Approved Amendment would materially increase the cost of providing Registrar Services, then ICANN will allow up to one-hundred eighty (180) calendar days for the Approved Amendment to become effective with respect to Registrar, and (b) no Approved Amendment adopted pursuant to Section 6 shall become effective with respect to Registrar if Registrar provides ICANN with an irrevocable notice of termination pursuant to Section 5.4.

7. MISCELLANEOUS PROVISIONS.

7.1 Specific Performance. While this Agreement is in effect, either party may seek specific performance of any provision of this Agreement in the manner provided in Section 5.8, provided the party seeking such performance is not in material breach of its obligations.

7.2 Handling by ICANN of Registrar-Supplied Data. Before receiving any Personal Data from Registrar, ICANN shall specify to Registrar in writing the purposes for and conditions under which ICANN intends to use the Personal Data. ICANN may from time to time provide Registrar with a revised specification of such purposes and conditions, which specification shall become effective no fewer than thirty (30) days after it is provided to Registrar. ICANN shall not use Personal Data provided by Registrar for a purpose or under conditions inconsistent with the specification in effect when the Personal Data was provided. ICANN shall take reasonable steps to avoid uses of the Personal Data by third parties inconsistent with the specification.

7.3 Assignment; Change of Ownership or Management.

7.3.1 Except as set forth in this Section 7.3.1, either party may assign or transfer this Agreement only with the prior written consent of the other party, which shall not be unreasonably withheld. If ICANN fails to expressly provide or withhold its consent to any requested assignment (an "Assignment Request") of this Agreement by Registrar within thirty (30) calendar days of ICANN's receipt of notice of such Assignment Request (or, if ICANN has requested additional information from Registrar in connection with its review of such request, sixty (60) calendar days of the receipt of all requested written information regarding such request) from Registrar, ICANN shall be deemed to have consented to such requested assignment. Notwithstanding the foregoing, (i) ICANN may assign this Agreement without the consent of Registrar upon approval of the ICANN Board of Directors in conjunction with

a reorganization, reconstitution or re-incorporation of ICANN upon such assignee's express assumption of the terms and conditions of this Agreement, (ii) Registrar may assign this Agreement without the consent of ICANN to a wholly-owned subsidiary of Registrar upon such subsidiary's express assumption of the terms and conditions of this Agreement, and (iii) ICANN shall be deemed to have consented to an Assignment Request in which the assignee associated with such Assignment Request is a party to a Registrar Accreditation Agreement with ICANN on the terms set forth in this Agreement (provided that such assignee is then in compliance with the terms and conditions of such Registrar Accreditation Agreement in all material respects), unless ICANN provides to Registrar a written objection to such Assignment Request within ten (10) calendar days of ICANN's receipt of notice of such Assignment Request pursuant to this Section 7.3.1.

7.3.2 To the extent that an entity acquires a Controlling interest in Registrar's stock, assets or business, Registrar shall provide ICANN notice within seven (7) days of such an acquisition. Such notification shall include a statement that affirms that Registrar meets the Specification or Policy on Accreditation criteria then in effect, and is in compliance with its obligations under this Agreement. Within thirty (30) days of such notification, ICANN may request additional information from the Registrar establishing compliance with this Agreement, in which case Registrar must supply the requested information within fifteen (15) days. Any disputes concerning Registrar's continued Accreditation shall be resolved pursuant to Section 5.8.

7.4 Negotiation Process.

7.4.1 If either the Chief Executive Officer of ICANN ("CEO") or the Chairperson of the Registrar Stakeholder Group ("Chair") desires to discuss any revision(s) to this Agreement, the CEO or Chair, as applicable, shall provide written notice to the other person, which shall set forth in reasonable detail the proposed revisions to this Agreement (a "Negotiation Notice"). Notwithstanding the foregoing, neither the CEO nor the Chair may (i) propose revisions to this Agreement that modify any Consensus Policy then existing, (ii) propose revisions to this Agreement pursuant to this Section 7.4 on or before June 30, 2014, or (iii) propose revisions or submit a Negotiation Notice more than once during any twelve month period beginning on July 1, 2014.

7.4.2 Following receipt of the Negotiation Notice by either the CEO or the Chair, ICANN and the Working Group shall consult in good faith negotiations regarding the form and substance of the proposed revisions to this Agreement, which shall be in the form of a proposed amendment to this Agreement (the "Proposed Revisions"), for a period of at least ninety (90) calendar days (unless a resolution is earlier reached) and attempt to reach a mutually acceptable agreement relating to the Proposed Revisions (the "Discussion Period").

7.4.3 If, following the conclusion of the Discussion Period, an agreement is reached on the Proposed Revisions, ICANN shall post the mutually agreed Proposed Revisions on its website for public comment for no less than thirty (30) calendar days (the "Posting Period") and provide notice of such revisions to all Applicable Registrars in accordance with Section 7.6. ICANN and the Working Group will consider the public comments submitted on the Proposed Revisions during the Posting Period (including comments submitted by the Applicable Registrars). Following the conclusion of the Posting Period, the Proposed Revisions shall be submitted for Registrar Approval and approval by the ICANN Board of Directors. If such approvals are obtained, the Proposed Revisions shall be deemed an Approved Amendment by the Applicable Registrars and ICANN, and shall be effective and deemed an amendment to this Agreement upon sixty (60) calendar days notice from ICANN to Registrar.

7.4.4 If, following the conclusion of the Discussion Period, an agreement is not reached between ICANN and the Working Group on the Proposed Revisions, either the CEO or the Chair may provide the other person written notice (the "Mediation Notice") requiring each party to attempt to resolve the disagreements related to the Proposed Revisions through impartial, facilitative (non-evaluative) mediation in accordance with the terms and conditions set forth below. In the event that a Mediation Notice is provided, ICANN and the Working Group shall, within fifteen (15) calendar days thereof, simultaneously post the text of their desired version of the Proposed Revisions and a position paper with respect thereto on ICANN's website.

7.4.4.1 The mediation shall be conducted by a single mediator selected by the parties. If the parties cannot agree on a mediator within fifteen (15) calendar days following receipt by the CEO or Chair, as applicable, of the Mediation Notice, the parties will promptly select a mutually acceptable mediation provider entity, which entity shall, as soon as practicable following such entity's selection, designate a mediator, who is a licensed attorney with general knowledge of contract law and, to the extent necessary to mediate the particular dispute, general knowledge of the domain name system. Any mediator must confirm in writing that he or she is not, and will not become during the term of the mediation, an employee, partner, executive officer, director, or security holder of ICANN or an Applicable Registrar. If such confirmation is not provided by the appointed mediator, then a replacement mediator shall be appointed pursuant to this Section 7.4.4.1.

7.4.4.2 The mediator shall conduct the mediation in accordance with the rules and procedures for facilitative mediation that he or she determines following consultation with the parties. The parties shall

discuss the dispute in good faith and attempt, with the mediator's assistance, to reach an amicable resolution of the dispute.

7.4.4.3 Each party shall bear its own costs in the mediation. The parties shall share equally the fees and expenses of the mediator.

7.4.4.4 If an agreement is reached during the mediation, ICANN shall post the mutually agreed Proposed Revisions on its website for the Posting Period and provide notice to all Applicable Registrars in accordance with Section 7.6. ICANN and the Working Group will consider the public comments submitted on the agreed Proposed Revisions during the Posting Period (including comments submitted by the Applicable Registrars). Following the conclusion of the Posting Period, the Proposed Revisions shall be submitted for Registrar Approval and approval by the ICANN Board of Directors. If such approvals are obtained, the Proposed Revisions shall be deemed an Approved Amendment by the Applicable Registrars and ICANN, and shall be effective and deemed an amendment to this Agreement upon sixty (60) days notice from ICANN to Registrar.

7.4.4.5 If the parties have not resolved the dispute for any reason by the date that is ninety (90) calendar days following receipt by the CEO or Chair, as applicable, of the Mediation Notice, the mediation shall automatically terminate (unless extended by agreement of the parties). The mediator shall deliver to the parties a definition of the issues that could be considered in future arbitration, if invoked. Those issues are subject to the limitations set forth in Section 7.4.5.2 below.

7.4.5 If, following mediation, ICANN and the Working Group have not reached an agreement on the Proposed Revisions, either the CEO or the Chair may provide the other person written notice (an "Arbitration Notice") requiring ICANN and the Applicable Registry Operators to resolve the dispute through binding arbitration in accordance with the arbitration provisions of Section 5.8, subject to the requirements and limitations of this Section 7.4.5.

7.4.5.1 If an Arbitration Notice is sent, the mediator's definition of issues, along with the Proposed Revisions (be those from ICANN, Registrars or both) shall be posted for public comment on ICANN's website for a period of no less than thirty (30) calendar days. ICANN and the Working Group will consider the public comments submitted on the Proposed Revisions during the Posting Period (including comments submitted by the Applicable Registrars), and information regarding such comments and consideration shall be provided to the a three (3) person arbitrator panel. Each party may modify is Proposed Revisions before and after the Posting Period. The arbitration

proceeding may not commence prior to the closing of such public comment period, and ICANN may consolidate all challenges brought by registrars (including Registrar) into a single proceeding. Except as set forth in this Section 7.4.5.1, the arbitration shall be conducted pursuant to Section 5.8.

7.4.5.2 No dispute regarding the Proposed Revisions may be submitted for arbitration to the extent the subject matter of the Proposed Revisions (i) relates to Consensus Policy, (ii) falls within the subject matter categories set forth in Section 1.2 of the Consensus Policies and Temporary Policies Specification , or (iii) seeks to amend any of the following provisions or Specifications of this Agreement: Sections 2, 4 and 6; subsections 3.1, 3.2, 3.3, 3.4, 3.5, 3.7, 3.8, 3.9, 3.14, 3.19, 3.21, 5.1, 5.2 or 5.3; and the Consensus Policies and Temporary Policies Specification, Data Retention Specification, WHOIS Accuracy Program Specification, Registration Data Directory Service (WHOIS) Specification or the Additional Registrar Operation Specification.

7.4.5.3 The mediator will brief the arbitrator panel regarding ICANN and the Working Group's respective proposals relating to the Proposed Revisions.

7.4.5.4 No amendment to this Agreement relating to the Proposed Revisions may be submitted for arbitration by either the Working Group or ICANN, unless, in the case of the Working Group, the proposed amendment has received Registrar Approval and, in the case of ICANN, the proposed amendment has been approved by the ICANN Board of Directors.

7.4.5.5 In order for the arbitrator panel to approve either ICANN or the Working Group's proposed amendment relating to the Proposed Revisions, the arbitrator panel must conclude that such proposed amendment is consistent with a balanced application of ICANN's core values (as described in ICANN's Bylaws) and reasonable in light of the balancing of the costs and benefits to the business interests of the Applicable Registrars and ICANN (as applicable), and the public benefit sought to be achieved by the Proposed Revisions as set forth in such amendment. If the arbitrator panel concludes that either ICANN or the Working Group's proposed amendment relating to the Proposed Revisions meets the foregoing standard, such amendment shall be effective and deemed an amendment to this Agreement upon sixty (60) calendar days notice from ICANN to Registrar and deemed an Approved Amendment hereunder.

7.4.6 With respect to an Approved Amendment relating to an amendment proposed by ICANN, Registrar may apply in writing to ICANN for an exemption from such amendment pursuant to the provisions of Section 6.8.

7.4.7 Notwithstanding anything in this Section 7.4 to the contrary, (a) if Registrar provides evidence to ICANN's reasonable satisfaction that the Approved Amendment would materially increase the cost of providing Registrar Services, then ICANN will allow up to one-hundred eighty (180) calendar days for the Approved Amendment to become effective with respect to Registrar, and (b) no Approved Amendment adopted pursuant to Section 7.4 shall become effective with respect to Registrar if Registrar provides ICANN with an irrevocable notice of termination pursuant to Section 5.4.

7.5 No Third-Party Beneficiaries. This Agreement shall not be construed to create any obligation by either ICANN or Registrar to any non-party to this Agreement, including any Registered Name Holder.

7.6 Notices and Designations. Except as provided in Section 4.4 and Section 6, all notices to be given under this Agreement shall be given in writing at the address of the appropriate party as set forth below, unless that party has given a notice of change of address in writing. Each party shall notify the other party within thirty (30) days of any change to its contact information. Any written notice required by this Agreement shall be deemed to have been properly given when delivered in person, when sent by electronic facsimile with receipt of confirmation of delivery, when scheduled for delivery by internationally recognized courier service, or when delivered by electronic means followed by an affirmative confirmation of receipt by the recipient's facsimile machine or email server. For any notice of a new Specification or Policy established in accordance with this Agreement, Registrar shall be afforded a reasonable period of time after notice of the establishment of such Specification or Policy is e-mailed to Registrar and posted on the ICANN website in which to comply with that specification, policy or program, taking into account any urgency involved. Notices and designations by ICANN under this Agreement shall be effective when written notice of them is deemed given to Registrar.

If to ICANN, addressed to:

Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles, California 90094-2536 USA
Attention: Registrar Accreditation Notices
Telephone: 1/310/823-9358
Facsimile: 1/310/823-8649

If to Registrar, addressed to:

[Registrar Name]
[Courier Address]
[Mailing Address]
Attention: [contact person]
Registrar Website URL: [URL]
Telephone: [telephone number]
Facsimile: [fax number]
e-mail: [e-mail address]

7.7 Dates and Times. All dates and times relevant to this Agreement or its performance shall be computed based on the date and time observed in Los Angeles, California, USA.

7.8 Language. All notices, designations, and Specifications or Policies made under this Agreement shall be in the English language.

7.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7.10 Entire Agreement. Except to the extent (a) expressly provided in a written agreement executed by both parties concurrently herewith or (b) of written assurances provided by Registrar to ICANN in connection with its Accreditation, this Agreement (including the specifications, which form part of it) constitutes the entire agreement of the parties pertaining to the Accreditation of Registrar and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, between the parties on that subject.

7.11 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Agreement; (b) the balance of this Agreement shall be interpreted as if such provision were so excluded; and (c) the balance of this Agreement shall be enforceable in accordance with its terms.

[signature page follows]

Approved by the ICANN Board on 27 June 2013

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their duly authorized representatives.

ICANN	**[Registrar]**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

Approved by the ICANN Board on 27 June 2013

WHOIS ACCURACY PROGRAM SPECIFICATION

Registrar shall implement and comply with the requirements set forth in this Specification, as well as any commercially practical updates to this Specification that are developed by ICANN and the Registrar Stakeholder Group during the Term of the Registrar Accreditation Agreement.

1. Except as provided for in Section 3 below, within fifteen (15) days of (1) the registration of a Registered Name sponsored by Registrar, (2) the transfer of the sponsorship of a Registered Name to Registrar, or (3) any change in the Registered Name Holder with respect to any Registered Name sponsored by Registrar, Registrar will, with respect to both Whois information and the corresponding customer account holder contact information related to such Registered Name:

    a. Validate the presence of data for all fields required under Subsection 3.3.1 of the Agreement in a proper format for the applicable country or territory.

    b. Validate that all email addresses are in the proper format according to RFC 5322 (or its successors).

    c. Validate that telephone numbers are in the proper format according to the ITU-T E.164 notation for international telephone numbers (or its equivalents or successors).

    d. Validate that postal addresses are in a proper format for the applicable country or territory as defined in UPU Postal addressing format templates, the S42 address templates (as they may be updated) or other standard formats.

    e. Validate that all postal address fields are consistent across fields (for example: street exists in city, city exists in state/province, city matches postal code) where such information is technically and commercially feasible for the applicable country or territory.

    f. Verify:

        i. the email address of the Registered Name Holder (and, if different, the Account Holder) by sending an email requiring an affirmative response through a tool-based authentication method such as providing a unique code that must be returned in a manner designated by the Registrar, or

        ii. the telephone number of the Registered Name Holder (and, if different, the Account Holder) by either (A) calling or sending an SMS to the Registered Name Holder's telephone number providing a unique code that must be returned in a manner designated by the Registrar, or (B) calling the Registered Name Holder's telephone number and requiring the Registered Name Holder to provide a unique code that was sent to the

Registered Name Holder via web, email or postal mail.

In either case, if Registrar does not receive an affirmative response from the Registered Name Holder, Registrar shall either verify the applicable contact information manually or suspend the registration, until such time as Registrar has verified the applicable contact information. If Registrar does not receive an affirmative response from the Account Holder), Registrar shall verify the applicable contact information manually, but is not required to suspend any registration.

2. Except as provided in Section 3 below, within fifteen (15) calendar days after receiving any changes to contact information in Whois or the corresponding customer account contact information related to any Registered Name sponsored by Registrar (whether or not Registrar was previously required to perform the validation and verification requirements set forth in this Specification in respect of such Registered Name), Registrar will validate and, to the extent required by Section 1, verify the changed fields in the manner specified in Section 1 above. If Registrar does not receive an affirmative response from the Registered Name Holder providing the required verification, Registrar shall either verify the applicable contact information manually or suspend the registration, until such time as Registrar has verified the applicable contact information. If Registrar does not receive an affirmative response from the Account Holder, Registrar shall verify the applicable contact information manually, but is not required to suspend any registration.

3. Except as set forth in paragraph 4 below, Registrar is not required to perform the above validation and verification procedures in Section 1(a) through 1(f) above, if Registrar has already successfully completed the validation and verification procedures on the identical contact information and is not in possession of facts or knowledge of circumstances that suggest that the information is no longer valid.

4. If Registrar has any information suggesting that the contact information specified in Section 1(a) through 1(f) above is incorrect (such as Registrar receiving a bounced email notification or non-delivery notification message in connection with compliance with ICANN's Whois Data Reminder Policy or otherwise) for any Registered Name sponsored by Registrar (whether or not Registrar was previously required to perform the validation and verification requirements set forth in this Specification in respect of such Registered Name), Registrar must verify or re-verify, as applicable, the email address(es) as described in Section 1.f (for example by requiring an affirmative response to a Whois Data Reminder Policy notice). If, within fifteen (15) calendar days after receiving any such information, Registrar does not receive an affirmative response from the Registered Name Holder providing the required verification, Registrar shall either verify the applicable contact information manually or suspend the registration, until such time as Registrar has verified the applicable contact information. If, within fifteen (15) calendar days after receiving any such information, Registrar does not receive an affirmative response from the customer paying for the Registered Name, if applicable, providing the required verification, Registrar shall verify the applicable

contact information manually, but is not required to suspend any registration.

5. Upon the occurrence of a Registered Name Holder's willful provision of inaccurate or unreliable WHOIS information, its willful failure promptly to update information provided to Registrar, or its failure to respond for over fifteen (15) calendar days to inquiries by Registrar concerning the accuracy of contact details associated with the Registered Name Holder's registration, Registrar shall either terminate or suspend the Registered Name Holder's Registered Name or place such registration on clientHold and clientTransferProhibited, until such time as Registrar has validated the information provided by the Registered Name Holder.

6. The terms and conditions of this Specification shall be reviewed by ICANN in consultation with the Registrar Stakeholder Group on or about the first anniversary of the date that the form of this Agreement is first executed by a registrar.

7. Nothing within this Specification shall be deemed to require Registrar to perform verification or validation of any customer account holder information where the customer account holder does not have any Registered Names under sponsorship of Registrar.

Approved by the ICANN Board on 27 June 2013

WHOIS ACCURACY PROGRAM SPECIFICATION

Registrar shall implement and comply with the requirements set forth in this Specification, as well as any commercially practical updates to this Specification that are developed by ICANN and the Registrar Stakeholder Group during the Term of the Registrar Accreditation Agreement.

1. Except as provided for in Section 3 below, within fifteen (15) days of (1) the registration of a Registered Name sponsored by Registrar, (2) the transfer of the sponsorship of a Registered Name to Registrar, or (3) any change in the Registered Name Holder with respect to any Registered Name sponsored by Registrar, Registrar will, with respect to both Whois information and the corresponding customer account holder contact information related to such Registered Name:

    a. Validate the presence of data for all fields required under Subsection 3.3.1 of the Agreement in a proper format for the applicable country or territory.

    b. Validate that all email addresses are in the proper format according to RFC 5322 (or its successors).

    c. Validate that telephone numbers are in the proper format according to the ITU-T E.164 notation for international telephone numbers (or its equivalents or successors).

    d. Validate that postal addresses are in a proper format for the applicable country or territory as defined in UPU Postal addressing format templates, the S42 address templates (as they may be updated) or other standard formats.

    e. Validate that all postal address fields are consistent across fields (for example: street exists in city, city exists in state/province, city matches postal code) where such information is technically and commercially feasible for the applicable country or territory.

    f. Verify:

        i. the email address of the Registered Name Holder (and, if different, the Account Holder) by sending an email requiring an affirmative response through a tool-based authentication method such as providing a unique code that must be returned in a manner designated by the Registrar, or

        ii. the telephone number of the Registered Name Holder (and, if different, the Account Holder) by either (A) calling or sending an SMS to the Registered Name Holder's telephone number providing a unique code that must be returned in a manner designated by the Registrar, or (B) calling the Registered Name Holder's telephone number and requiring the Registered Name Holder to provide a unique code that was sent to the

Registered Name Holder via web, email or postal mail.

In either case, if Registrar does not receive an affirmative response from the Registered Name Holder, Registrar shall either verify the applicable contact information manually or suspend the registration, until such time as Registrar has verified the applicable contact information. If Registrar does not receive an affirmative response from the Account Holder), Registrar shall verify the applicable contact information manually, but is not required to suspend any registration.

2. Except as provided in Section 3 below, within fifteen (15) calendar days after receiving any changes to contact information in Whois or the corresponding customer account contact information related to any Registered Name sponsored by Registrar (whether or not Registrar was previously required to perform the validation and verification requirements set forth in this Specification in respect of such Registered Name), Registrar will validate and, to the extent required by Section 1, verify the changed fields in the manner specified in Section 1 above. If Registrar does not receive an affirmative response from the Registered Name Holder providing the required verification, Registrar shall either verify the applicable contact information manually or suspend the registration, until such time as Registrar has verified the applicable contact information. If Registrar does not receive an affirmative response from the Account Holder, Registrar shall verify the applicable contact information manually, but is not required to suspend any registration.

3. Except as set forth in paragraph 4 below, Registrar is not required to perform the above validation and verification procedures in Section 1(a) through 1(f) above, if Registrar has already successfully completed the validation and verification procedures on the identical contact information and is not in possession of facts or knowledge of circumstances that suggest that the information is no longer valid.

4. If Registrar has any information suggesting that the contact information specified in Section 1(a) through 1(f) above is incorrect (such as Registrar receiving a bounced email notification or non-delivery notification message in connection with compliance with ICANN's Whois Data Reminder Policy or otherwise) for any Registered Name sponsored by Registrar (whether or not Registrar was previously required to perform the validation and verification requirements set forth in this Specification in respect of such Registered Name), Registrar must verify or re-verify, as applicable, the email address(es) as described in Section 1.f (for example by requiring an affirmative response to a Whois Data Reminder Policy notice). If, within fifteen (15) calendar days after receiving any such information, Registrar does not receive an affirmative response from the Registered Name Holder providing the required verification, Registrar shall either verify the applicable contact information manually or suspend the registration, until such time as Registrar has verified the applicable contact information. If, within fifteen (15) calendar days after receiving any such information, Registrar does not receive an affirmative response from the customer paying for the Registered Name, if applicable, providing the required verification, Registrar shall verify the applicable

contact information manually, but is not required to suspend any registration.

5. Upon the occurrence of a Registered Name Holder's willful provision of inaccurate or unreliable WHOIS information, its willful failure promptly to update information provided to Registrar, or its failure to respond for over fifteen (15) calendar days to inquiries by Registrar concerning the accuracy of contact details associated with the Registered Name Holder's registration, Registrar shall either terminate or suspend the Registered Name Holder's Registered Name or place such registration on clientHold and clientTransferProhibited, until such time as Registrar has validated the information provided by the Registered Name Holder.

6. The terms and conditions of this Specification shall be reviewed by ICANN in consultation with the Registrar Stakeholder Group on or about the first anniversary of the date that the form of this Agreement is first executed by a registrar.

7. Nothing within this Specification shall be deemed to require Registrar to perform verification or validation of any customer account holder information where the customer account holder does not have any Registered Names under sponsorship of Registrar.

REGISTRATION DATA DIRECTORY SERVICE (WHOIS) SPECIFICATION

1. **Registration Data Directory Services.** Until ICANN requires a different protocol, Registrar will operate a WHOIS service available via port 43 in accordance with RFC 3912, and a web-based Directory Service providing free public query-based access to at least the elements set forth in Section 3.3.1.1 through 3.3.1.8 of the Registrar Accreditation Agreement in the format set forth in Section 1.4 of this Specification. ICANN reserves the right to specify alternative formats and protocols, and upon such specification, the Registrar will implement such alternative specification as soon as reasonably practicable.

   Following the publication by the IETF of a Proposed Standard, Draft Standard or Internet Standard and any revisions thereto (as specified in RFC 2026) relating to the web-based directory service as specified in the IETF Web Extensible Internet Registration Data Service working group, Registrar shall implement the directory service specified in any such standard (or any revision thereto) no later than 135 days after such implementation is requested by ICANN. Registrar shall implement internationalized registration data publication guidelines according to the specification published by ICANN following the work of the ICANN Internationalized Registration Data Working Group (IRD-WG) and its subsequent efforts, no later than 135 days after it is approved by the ICANN Board.

   1.1. The format of responses shall follow a semi-free text format outline below, followed by a blank line and a legal disclaimer specifying the rights of Registrar, and of the user querying the database.

   1.2. Each data object shall be represented as a set of key/value pairs, with lines beginning with keys, followed by a colon and a space as delimiters, followed by the value.

   1.3. For fields where more than one value exists, multiple numbered key/value pairs with the same key shall be allowed (for example to list multiple name servers). The first key/value pair after a blank line should be considered the start of a new record, and should be considered as identifying that record, and is used to group data, such as hostnames and IP addresses, or a domain name and registrant information, together.

   1.4. **Domain Name Data:**

      1.4.1. **Query format:** whois –h whois.example-registrar.tld EXAMPLE.TLD

      1.4.2. **Response format:**

The format of responses shall contain all the elements and follow a semi-free text format outline below. Additional data elements can be added at the end of the text

format outlined below. The data element may, at the option of Registrar, be followed by a blank line and a legal disclaimer specifying the rights of Registrar, and of the user querying the database (provided that any such legal disclaimer must be preceded by such blank line).

Domain Name: EXAMPLE.TLD
Registry Domain ID: D1234567-TLD
Registrar WHOIS Server: whois.example-registrar.tld
Registrar URL: http://www.example-registrar.tld
Updated Date: 2009-05-29T20:13:00Z
Creation Date: 2000-10-08T00:45:00Z
Registrar Registration Expiration Date: 2010-10-08T00:44:59Z
Registrar: EXAMPLE REGISTRAR LLC
Registrar IANA ID: 5555555
Registrar Abuse Contact Email: email@registrar.tld
Registrar Abuse Contact Phone: +1.1235551234
Reseller: EXAMPLE RESELLER[1]
Domain Status: clientDeleteProhibited[2]
Domain Status: clientRenewProhibited
Domain Status: clientTransferProhibited
Registry Registrant ID: 5372808-ERL[3]
Registrant Name: EXAMPLE REGISTRANT[4]
Registrant Organization: EXAMPLE ORGANIZATION
Registrant Street: 123 EXAMPLE STREET
Registrant City: ANYTOWN
Registrant State/Province: AP[5]
Registrant Postal Code: A1A1A1[6]
Registrant Country: AA
Registrant Phone: +1.5555551212
Registrant Phone Ext: 1234[7]
Registrant Fax: +1.5555551213
Registrant Fax Ext: 4321
Registrant Email: EMAIL@EXAMPLE.TLD
Registry Admin ID: 5372809-ERL[8]

[1] Data element may be deleted, provided that if the data element is used, it must appear at this location.
[2] Note: all applicable statuses must be displayed in the Whois output.
[3] May be left blank if not available from Registry.
[4] For the Registrant, Admin and Tech contact fields requiring a "Name" or "Organization", the output must include either the name or organization (or both, if available).
[5] All "State/Province" fields may be left blank if not available.
[6] All "Postal Code" fields may be left blank if not available.
[7] All "Phone Ext", "Fax" and "Fax Ext" fields may be left blank if not available.
[8] May be left blank if not available from Registry.

Admin Name: EXAMPLE REGISTRANT ADMINISTRATIVE
Admin Organization: EXAMPLE REGISTRANT ORGANIZATION
Admin Street: 123 EXAMPLE STREET
Admin City: ANYTOWN
Admin State/Province: AP
Admin Postal Code: A1A1A1
Admin Country: AA
Admin Phone: +1.5555551212
Admin Phone Ext: 1234
Admin Fax: +1.5555551213
Admin Fax Ext: 1234
Admin Email: EMAIL@EXAMPLE.TLD
Registry Tech ID: 5372811-ERL[9]
Tech Name: EXAMPLE REGISTRANT TECHNICAL
Tech Organization: EXAMPLE REGISTRANT LLC
Tech Street: 123 EXAMPLE STREET
Tech City: ANYTOWN
Tech State/Province: AP
Tech Postal Code: A1A1A1
Tech Country: AA
Tech Phone: +1.1235551234
Tech Phone Ext: 1234
Tech Fax: +1.5555551213
Tech Fax Ext: 93
Tech Email: EMAIL@EXAMPLE.TLD
Name Server: NS01.EXAMPLE-REGISTRAR.TLD[10]
Name Server: NS02.EXAMPLE-REGISTRAR.TLD
DNSSEC: signedDelegation
URL of the ICANN WHOIS Data Problem Reporting System:
http://wdprs.internic.net/
>>> Last update of WHOIS database: 2009-05-29T20:15:00Z <<<

1.5. The format of the following data fields: domain status, individual and organizational names, address, street, city, state/province, postal code, country, telephone and fax numbers, email addresses, date and times must conform to the mappings specified in EPP RFCs 5730-5734 (or its successors), and IPv6 addresses format should conform to RFC 5952 (or its successor), so that the display of this information (or values returned in WHOIS responses) can be uniformly processed and understood.

2. Service Level Agreement for Registration Data Directory Services (RDDS)

2.1 Definitions

[9] May be left blank if not available from Registry.
[10] All associated nameservers must be listed.

- **IP address.** Refers to IPv4 or IPv6 addresses without making any distinction between the two. When there is need to make a distinction, IPv4 or IPv6 is used.
- **Probes.** Network hosts used to perform tests (see below) that are located at various global locations.
- **RDDS.** Registration Data Directory Services refers to the collective of WHOIS and Web based WHOIS services.
- **RTT.** Round-Trip Time or **RTT** refers to the time measured from the sending of the first bit of the first packet of the sequence of packets needed to make a request until the reception of the last bit of the last packet of the sequence needed to receive the response. If the client does not receive the whole sequence of packets needed to consider the response as received, the request will be considered unanswered.
- **SLR.** Service Level Requirement is the level of service expected for a certain parameter being measured in a Service Level Agreement (SLA).

2.2 Service Level Agreement Matrix

	Parameter	SLR (monthly basis)
RDDS	RDDS availability	less than or equal to 864 min of downtime
	RDDS query RTT	less than or equal to 4000 ms, for at least 95% of the queries
	RDDS update time	less than or equal to 60 min, for at least 95% of the probes

Registrar is encouraged to do maintenance for the different services at the times and dates of statistically lower traffic for each service. Since substantial downtime is already incorporated in the availability metric, planned outages or similar; any downtime, be it for maintenance or due to system failures, will be noted simply as downtime and counted for SLA purposes.

2.2.1 RDDS availability. Refers to the ability of all the RDDS services for the Registrar to respond to queries from an Internet user with appropriate data from the relevant registrar system. If 51% or more of the RDDS testing probes see any of the RDDS services as unavailable during a given time, the RDDS will be considered unavailable.

2.2.2 WHOIS query RTT. Refers to the **RTT** of the sequence of packets from the start of the TCP connection to its end, including the reception of the WHOIS response. If the **RTT** is 5-times or more the corresponding SLR, the **RTT** will be considered undefined.

2.2.3 Web-based-WHOIS query RTT. Refers to the **RTT** of the sequence of packets from the start of the TCP connection to its end, including the

reception of the HTTP response for only one HTTP request. If Registrar implements a multiple-step process to get to the information, only the last step shall be measured. If the **RTT** is 5-times or more the corresponding SLR, the **RTT** will be considered undefined.

2.2.4 RDDS query RTT. Refers to the collective of "**WHOIS query RTT**" and "**Web-based- WHOIS query RTT**".

2.2.5 RDDS update time. Refers to the time measured from the receipt of an EPP confirmation to a transform command on a domain name, host or contact, up until the servers of the RDDS services reflect the changes made.

2.2.6 RDDS test. Means one query sent to a particular "**IP address**" of one of the servers of one of the RDDS services. Queries shall be about existing objects in the registrar system and the responses must contain the corresponding information otherwise the query will be considered unanswered. Queries with an **RTT** 5 times higher than the corresponding SLR will be considered as unanswered. The possible results to an RDDS test are: a number in milliseconds corresponding to the **RTT** or undefined/unanswered.

2.2.7 Measuring RDDS parameters. Every 5 minutes, RDDS probes will select one IP address from all the public-DNS registered "**IP addresses**" of the servers for each RDDS service of the Registrar being monitored and make an "**RDDS test**" to each one. If an "**RDDS test**" result is undefined/unanswered, the corresponding RDDS service will be considered as unavailable from that probe until it is time to make a new test.

2.2.8 Collating the results from RDDS probes. The minimum number of active testing probes to consider a measurement valid is 10 at any given measurement period, otherwise the measurements will be discarded and will be considered inconclusive; during this situation no fault will be flagged against the SLRs.

2.2.9 Placement of RDDS probes. Probes for measuring RDDS parameters shall be placed inside the networks with the most users across the different geographic regions; care shall be taken not to deploy probes behind high propagation-delay links, such as satellite links.

2.3 Covenants of Performance Measurement

Registrar shall not interfere with measurement **Probes**, including any form of preferential treatment of the requests for the monitored services. Registrar shall respond to the measurement tests described in this Specification as it would do with any other request from Internet users (for RDDS).

CONSENSUS POLICIES AND TEMPORARY POLICIES SPECIFICATION

1. Consensus Policies.

1.1. "***Consensus Policies***" are those policies established (1) pursuant to the procedure set forth in ICANN's Bylaws and due process, and (2) covering those topics listed in Section 1.2 of this document. The Consensus Policy development process and procedure set forth in ICANN's Bylaws may be revised from time to time in accordance with the process set forth therein.

1.2. Consensus Policies and the procedures by which they are developed shall be designed to produce, to the extent possible, a consensus of Internet stakeholders, including registrars. Consensus Policies shall relate to one or more of the following:

1.2.1. issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, security and/or stability of the Internet, Registrar Services, Registry Services, or the Domain Name System ("DNS");

1.2.2. functional and performance specifications for the provision of Registrar Services;

1.2.3. registrar policies reasonably necessary to implement Consensus Policies relating to a gTLD registry;

1.2.4. resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names, but including where such policies take into account use of the domain names); or

1.2.5. restrictions on cross-ownership of registry operators and registrars or Resellers and regulations and restrictions with respect to registrar and registry operations and the use of registry and registrar data in the event that a registry operator and a registrar or Reseller are affiliated.

1.3. Such categories of issues referred to in Section 1.2 shall include, without limitation:

1.3.1. principles for allocation of registered names in a TLD (e.g., first-come/first-served, timely renewal, holding period after expiration);

1.3.2. prohibitions on warehousing of or speculation in domain names by registries or registrars;

1.3.3. reservation of registered names in a TLD that may not be registered initially or that may not be renewed due to reasons reasonably related to (i) avoidance of confusion among or misleading of users, (ii) intellectual property, or (iii) the technical management of the DNS or the Internet (e.g., establishment of reservations of names from registration);

1.3.4. maintenance of and access to accurate and up-to-date information concerning Registered Names and name servers;

1.3.5. procedures to avoid disruptions of domain name registrations due to suspension or termination of operations by a registry operator or a registrar, including procedures for allocation of responsibility among continuing registrars of the Registered Names sponsored in a TLD by a registrar losing accreditation; and

1.3.6. the transfer of registration data upon a change in registrar sponsoring one or more Registered Names.

1.4. In addition to the other limitations on Consensus Policies, they shall not:

1.4.1. prescribe or limit the price of Registrar Services;

1.4.2. modify the limitations on Temporary Policies (defined below) or Consensus Policies;

1.4.3. modify the provisions in the Registrar Accreditation Agreement regarding terms or conditions for the renewal, termination or amendment of the Registrar Accreditation Agreement or fees paid by Registrar to ICANN; or

1.4.4. modify ICANN's obligations to not apply standards, policies, procedures or practices arbitrarily, unjustifiably, or inequitably and to not single out Registrar for disparate treatment unless justified by substantial and reasonable cause, and exercise its responsibilities in an open and transparent manner.

2. **Temporary Policies.** Registrar shall comply with and implement all specifications or policies established by the ICANN Board of Directors (the "***Board***") on a temporary basis, if adopted by the Board by a vote of at least two-thirds of its members, so long as the Board reasonably determines that such modifications or amendments are justified and that immediate temporary establishment of a specification or policy on the subject is necessary to maintain the stability or security of Registrar Services, Registry Services or the DNS or the Internet ("***Temporary Policies***").

2.1. Such proposed specification or policy shall be as narrowly tailored as feasible to achieve those objectives. In establishing any Temporary Policy, the Board shall state the period of time for which the Temporary Policy is adopted and shall immediately implement the Consensus Policy development process set forth in ICANN's Bylaws.

2.1.1. ICANN shall also issue an advisory statement containing a detailed explanation of its reasons for adopting the Temporary Policy and why the Board believes such Temporary Policy should receive the consensus support of Internet stakeholders.

2.1.2. If the period of time for which the Temporary Policy is adopted exceeds 90 days, the Board shall reaffirm its temporary adoption every 90 days for a total period not to exceed one year, in order to maintain such Temporary Policy in effect until such time as it becomes a Consensus Policy. If the one year period expires or, if during such one year period, the Temporary Policy does not become a Consensus Policy and is not reaffirmed by the Board, Registrar shall no longer be required to comply with or implement such Temporary Policy.

3. **Notice and Conflicts.** Registrar shall be afforded a reasonable period of time following notice of the establishment of a Consensus Policy or Temporary Policy in which to comply with such policy or specification, taking into account any urgency involved. In the event of a conflict between Registrar Services and Consensus Policies or any Temporary Policy, the Consensus Polices or Temporary Policy shall control, but only with respect to subject matter in conflict. For the avoidance of doubt, Consensus Policies that meet the requirements of this Specification may supplement or supersede provisions of the agreements between Registrar and ICANN, but only to the extent that such Consensus Policies relate to the matters set forth in Section 1.2 and 1.3 of this Specification.

SPECIFICATION ON PRIVACY AND PROXY REGISTRATIONS

Until the earlier to occur of (i) January 1, 2017, and (ii) the date ICANN establishes and implements a Privacy and Proxy Accreditation Program as referenced in Section 3.14 of the Registrar Accreditation Agreement, Registrar agrees to comply, and to require its Affiliates and Resellers to comply, with the terms of this Specification, provided that ICANN and the Working Group may mutually agree to extend the term of this Specification. This Specification may not be modified by ICANN or Registrar.

1. Definitions. For the purposes of this Specification, the following definitions shall apply.

   1.1 "P/P Customer" means, regardless of the terminology used by the P/P Provider, the licensee, customer, beneficial user, beneficiary, or other recipient of Privacy Services and Proxy Services.

   1.2 "Privacy Service" is a service by which a Registered Name is registered to its beneficial user as the Registered Name Holder, but for which alternative, reliable contact information is provided by the P/P Provider for display of the Registered Name Holder's contact information in the Registration Data Service (Whois) or equivalent services.

   1.3 "Proxy Service" is a service through which a Registered Name Holder licenses use of a Registered Name to the P/P Customer in order to provide the P/P Customer use of the domain name, and the Registered Name Holder's contact information is displayed in the Registration Data Service (Whois) or equivalent services rather than the P/P Customer's contact information.

   1.4 "P/P Provider" or "Service Provider" is the provider of Privacy/Proxy Services, including Registrar and its Affiliates, as applicable.

2. Obligations of Registrar. For any Proxy Service or Privacy Service offered by the Registrar or its Affiliates, including any of Registrar's or its Affiliates' P/P services distributed through Resellers, and used in connection with Registered Names Sponsored by the Registrar, the Registrar and its Affiliates must require all P/P Providers to follow the requirements described in this Specification and to abide by the terms and procedures published pursuant to this Specification.

   2.1 Disclosure of Service Terms. P/P Provider shall publish the terms and conditions of its service (including pricing), on its website and/or Registrar's website.

2.2 Abuse/Infringement Point of Contact. P/P Provider shall publish a point of contact for third parties wishing to report abuse or infringement of trademarks (or other rights).

2.3 Disclosure of Identity of P/P Provider. P/P Provider shall publish its business contact information on its website and/or Registrar's website.

2.4 Terms of service and description of procedures. The P/P Provider shall publish on its website and/or Registrar's website a copy of the P/P Provider service agreement and description of P/P Provider's procedures for handling the following:

2.4.1 The process or facilities to report abuse of a domain name registration managed by the P/P Provider;

2.4.2 The process or facilities to report infringement of trademarks or other rights of third parties;

2.4.3 The circumstances under which the P/P Provider will relay communications from third parties to the P/P Customer;

2.4.4 The circumstances under which the P/P Provider will terminate service to the P/P Customer;

2.4.5 The circumstances under which the P/P Provider will reveal and/or publish in the Registration Data Service (Whois) or equivalent service the P/P Customer's identity and/or contact data; and

2.4.6 A description of the support services offered by P/P Providers to P/P Customers, and how to access these services.

2.5 Escrow of P/P Customer Information. Registrar shall include P/P Customer contact information in its Registration Data Escrow deposits required by Section 3.6 of the Agreement. P/P Customer Information escrowed pursuant to this Section 2.5 of this Specification may only be accessed by ICANN in the event of the termination of the Agreement or in the event Registrar ceases business operations.

3. Exemptions. Registrar is under no obligation to comply with the requirements of this specification if it can be shown that:

3.1 Registered Name Holder employed the services of a P/P Provider that is not provided by Registrar, or any of its Affiliates;

3.2 Registered Name Holder licensed a Registered Name to another party (i.e., is acting as a Proxy Service) without Registrar's knowledge; or

3.3 Registered Name Holder has used P/P Provider contact data without subscribing to the service or accepting the P/P Provider terms and conditions.

DATA RETENTION SPECIFICATION

1. During the Term of this Agreement, for each Registered Name sponsored by Registrar within a gTLD, Registrar shall collect and securely maintain in its own electronic database (as updated from time to time) the data specified below:

   1.1. Registrar shall collect the following information from registrants at the time of registration of a domain name (a "Registration") and shall maintain that information for the duration of Registrar's sponsorship of the Registration and for a period of two additional years thereafter:

      1.1.1. First and last name or full legal name of registrant;

      1.1.2. First and last name or, in the event registrant is a legal person, the title of the registrant's administrative contact, technical contact, and billing contact;

      1.1.3. Postal address of registrant, administrative contact, technical contact, and billing contact;

      1.1.4. Email address of registrant, administrative contact, technical contact, and billing contact;

      1.1.5. Telephone contact for registrant, administrative contact, technical contact, and billing contact;

      1.1.6. WHOIS information, as set forth in the WHOIS Specification;

      1.1.7. Types of domain name services purchased for use in connection with the Registration; and

      1.1.8. To the extent collected by Registrar, "card on file," current period third party transaction number, or other recurring payment data.

   1.2. Registrar shall collect the following information and maintain that information for no less than one hundred and eighty (180) days following the relevant interaction:

      1.2.1. Information regarding the means and source of payment reasonably necessary for the Registrar to process the Registration transaction, or a transaction number provided by a third party payment processor;

      1.2.2. Log files, billing records and, to the extent collection and maintenance of such records is commercially practicable or consistent with industry-wide generally accepted standard practices within the industries in which Registrar operates, other

records containing communications source and destination information, including, depending on the method of transmission and without limitation: (1) Source IP address, HTTP headers, (2) the telephone, text, or fax number; and (3) email address, Skype handle, or instant messaging identifier, associated with communications between Registrar and the registrant about the Registration; and

1.2.3. Log files and, to the extent collection and maintenance of such records is commercially practicable or consistent with industry-wide generally accepted standard practices within the industries in which Registrar operates, other records associated with the Registration containing dates, times, and time zones of communications and sessions, including initial registration.

2. If, based on the receipt of either (i) a written legal opinion from a nationally recognized law firm in the applicable jurisdiction that states that the collection and/or retention of any data element specified herein by Registrar is reasonably likely to violate applicable law (the "Opinion") or (ii) a ruling of, or written guidance from, a governmental body of competent jurisdiction providing that compliance with the data collection and/or retention requirements of this Specification violates applicable law, Registrar determines in good faith that the collection and/or retention of any data element specified in this Specification violates applicable law, Registrar may provide written notice of such determination to ICANN and request a waiver from compliance with specific terms and conditions of this Specification (a "Waiver Request"). Such written notice shall: (i) specify the relevant applicable law, the allegedly offending data collection and retention elements, the manner in which the collection and/or retention of such data violates applicable law, and a reasonable description of such determination and any other facts and circumstances related thereto, (ii) be accompanied by a copy of the Opinion and governmental ruling or guidance, as applicable, and (iii) be accompanied by any documentation received by Registrar from any governmental authority, in each case, related to such determination, and such other documentation reasonably requested by ICANN. Following receipt of such notice, ICANN and Registrar shall discuss the matter in good faith in an effort to reach a mutually acceptable resolution of the matter. Until such time as ICANN's Procedure for Handling Whois Conflicts with Privacy Law is modified to include conflicts relating to the requirements of this Specification and if ICANN agrees with Registrar's determination, ICANN's office of general counsel may temporarily or permanently suspend compliance and enforcement of the affected provisions of this Specification and grant the Wavier Request. Prior to granting any exemption hereunder, ICANN will post its determination on its website for a period of thirty (30) calendar days. Following such modification of ICANN's Procedure for Handling Whois Conflicts with Privacy Law, all Wavier Requests (whether granted or denied) shall be resolved pursuant to such modified procedures.

3. If (i) ICANN has previously waived compliance with the requirements of any requirement of this Data Retention Specification in response to a Waiver Request from a registrar that is located in the same jurisdiction as Registrar and (ii) Registrar is subject to the same applicable law that gave rise to ICANN's agreement to grant such wavier, Registrar may request that ICANN to grant a similar waiver, which request shall be approved by ICANN, unless ICANN provides Registrar with a reasonable justification for not approving such request, in which case Registrar may thereafter make an Wavier Request pursuant to Section 2 of this Data Retention Specification.

4. Any modification of this Data Retention Specification to address violations of applicable law shall only apply during the period of time that the specific provisions of the applicable law giving rise to such violations remain in effect. If the applicable law is repealed or modified (or preempted) in a manner that would no longer prohibit the collection and/or retention of data and information as originally specified in this Data Retention Specification, Registrar agrees that the original version of this Specification will apply to the maximum extent permitted by such modified applicable law.

REGISTRAR INFORMATION SPECIFICATION

Registrar shall provide to ICANN the information specified below, which shall be maintained in accordance with Section 3.17 of the Agreement. With regard to information identified below, ICANN will hold such information pursuant to the disclosure requirements set forth in Section 3.15 of the Agreement.

General Information

1. Full legal name of Registrar.

2. Legal form of the Registrar (e.g., LLC, Corporation, Government Body, Intergovernmental Organization, etc.).

3. The jurisdiction in which the Registrar's business is registered for legal and financial purposes.

4. The Registrar's business registration number and the name of the authority that issued this number.

5. Every business name and/or trade name used by the Registrar.

6. Provide current documentation demonstrating that the Registrar entity is legally established and in good standing. For proof of establishment, provide charter documents or other equivalent document (e.g., membership agreement) of the entity. If the Registrar is a government body or organization, provide a certified copy of the relevant statute, governmental decision or other instrument under which the government body or organization has been established. With respect to an entity other than a government body or organization, where no such certificates or documents are available in the Registrar's jurisdiction, an affidavit drafted and signed by a notary public or a legal practitioner duly qualified in the courts of the Registrar's jurisdiction, declaring that the organization is established and in good standing, must be provided.

7. Correspondence address for the Registrar.* This address will be used for contractual purposes, and the Registrar must be able to accept notices and service of legal process at this address. No Post Office boxes are allowed.

8. Primary phone number where the Registrar can be reached for contractual purposes.

9. Primary Fax number where the Registrar can be reached for contractual purposes.

10. Primary Email address where the Registrar can be reached for contractual purposes.

11. If the location or address of Registrar's principal place of business is different from the address provided in 7, provide details including address, phone number, fax number and email address.* Provide ICANN with current documentation demonstrating that the Registrar is legally entitled to do business in the principal place of business.

12. Any other addresses where the Registrar will be operated or managed, if different from either its principal place of business or correspondence address provided above. (If so, please explain.) Provide ICANN with current documentation demonstrating that the Registrar is legally entitled to do business in each location identified.

13. Primary contact name:

Title
Address
Phone number
Fax number
Email address

14. URL and Location of Port 43 WHOIS server.

Ownership, Directors and Officers Information

15. Full name, contact information, and position of any persons or entities owning at least 5% of the ownership interest in Registrar's current business entity. For each person listed, please specify such person's percentage ownership.

16. Full name, contact information, and position of all directors of the Registrar.

17. Full name, contact information, and position of all officers of the Registrar.* (Officer names and positions must be publicly displayed.)

18. Full name, contact information, and position of all senior management and other key personnel overseeing the provision of Registrar Services.

19. For every person or entity mentioned in the answers to questions 15 to 18, indicate if that person or entity:

a) within the past ten years, has been convicted of a felony or of a misdemeanor related to financial activities, or has been judged by a court to have committed fraud or breach of fiduciary duty, or has been the subject of a judicial determination that is similar or related to any of these;

b) within the past ten years, has been disciplined by any government or industry regulatory body for conduct involving dishonesty or misuse of funds of others;

c) is currently involved in any judicial or regulatory proceeding that could result in a conviction, judgment, determination, or discipline of the type specified in items 19(a) or 19(b); or

d) is the subject of a disqualification imposed by ICANN.

Provide details if any of the above events in (a)-(d) have occurred.

20. List all Affiliated Registrars, if any, and briefly describe the Affiliation.

21. For any entities listed in item 20, must provide information required in items 1-14 above.

22. List the ultimate parent entity of the Registrar, if applicable.*

Other

23. Does the Registrar or any of its Affiliates offer any Privacy Service or Proxy Service (as such terms on defined in the Specification on Privacy and Proxy Registrations)? If yes, list the entities or individuals providing the Privacy Service or Proxy Service.

24. For any entities listed in item 20, provide information required in 1-14 above.

25. Does the Registrar utilize or benefit from the services of Resellers?

26. If yes, provide a list of all such Resellers known to Registrar. The information specified in this item 26 shall be made available to ICANN upon request. At such time as ICANN develops a secure method for the receipt and retention of such information, such information shall thereafter be provided to ICANN in accordance with Section 3.17 of the Agreement.

ADDITIONAL REGISTRAR OPERATION SPECIFICATION

This Specification may be modified by ICANN from time to time after consultation with the Registrar Stakeholder Group (or its successor), provided that such updates are commercially practical with respect to the registrar industry, taken as a whole.

1. DNSSEC

Registrar must allow its customers to use DNSSEC upon request by relaying orders to add, remove or change public key material (e.g., DNSKEY or DS resource records) on behalf of customers to the Registries that support DNSSEC. Such requests shall be accepted and processed in a secure manner and according to industry best practices. Registrars shall accept any public key algorithm and digest type that is supported by the TLD of interest and appears in the registries posted at: <http://www.iana.org/assignments/dns-sec-alg-numbers/dns-sec-alg-numbers.xml> and <http://www.iana.org/assignments/ds-rr-types/ds-rr-types.xml>. All such requests shall be transmitted to registries using the EPP extensions specified in RFC 5910 or its successors.

2. IPv6

To the extent that Registrar offers registrants the ability to register nameserver addresses, Registrar must allow both IPv4 addresses and IPv6 addresses to be specified.

3. IDN

If the Registrar offers Internationalized Domain Name ("IDN") registrations, all new registrations must comply with RFCs 5890, 5891, 5892, 5893 and their successors. Registrar shall also comply with the IDN Guidelines at http://www.icann.org/en/topics/idn/implementation-guidelines.htm which may be amended, modified, or superseded from time to time. Registrar must use the IDN tables published by the relevant registry.

Registrants' Benefits and Responsibilities

Domain Name Registrants' Rights:

1. Your domain name registration and any privacy/proxy services you may use in conjunction with it must be subject to a Registration Agreement with an ICANN Accredited Registrar.

    - You are entitled to review this Registration Agreement at any time, and download a copy for your records.

2. You are entitled to accurate and accessible information about:

    - The identity of your ICANN Accredited Registrar;
    - The identity of any proxy or privacy service provider affiliated with your Registrar;
    - Your Registrar's terms and conditions, including pricing information, applicable to domain name registrations;
    - The terms and conditions, including pricing information, applicable to any privacy services offered by your Registrar;
    - The customer support services offered by your Registrar and the privacy services provider, and how to access them;
    - How to raise concerns and resolve disputes with your Registrar and any privacy services offered by them; and
    - Instructions that explain your Registrar's processes for registering, managing, transferring, renewing, and restoring your domain name registrations, including through any proxy or privacy services made available by your Registrar.

3. You shall not be subject to false advertising or deceptive practices by your Registrar or though any proxy or privacy services made available by your Registrar. This includes deceptive notices, hidden fees, and any practices that are illegal under the consumer protection law of your residence.

Domain Name Registrants' Responsibilities:

1. You must comply with the terms and conditions posted by your Registrar, including applicable policies from your Registrar, the Registry and ICANN.

2. You must review your Registrar's current Registration Agreement, along with any updates.

3. You will assume sole responsibility for the registration and use of your domain name.

4. You must provide accurate information for publication in directories such as WHOIS, and promptly update this to reflect any changes.

5. You must respond to inquiries from your Registrar within fifteen (15) days, and keep your Registrar account data current. If you choose to have your domain name registration renew automatically, you must also keep your payment information current.

LOGO LICENSE SPECIFICATION to RAA

LOGO LICENSE SPECIFICATION

The Internet Corporation for Assigned Names and Numbers, a California non-profit, public benefit corporation ("ICANN"), and [Registrar Name], a [organization type and jurisdiction] ("Registrar") have entered into a Registrar Accreditation Agreement ("Registrar Accreditation Agreement"), of which this appendix ("Logo License Specification") is a part. Definitions in the Registrar Accreditation Agreement apply in this Logo License Specification.

Registrar wishes to acquire from ICANN, and ICANN wishes to grant to Registrar, a license to use the trademarks listed below the signature block of this Logo License Specification ("Trademarks") in connection with Registrar's role as an ICANN-accredited registrar. Pursuant to and subject to the Registrar Accreditation Agreement, Registrar and ICANN hereby agree as follows:

LICENSE

1. Grant of License. ICANN grants to Registrar a non-exclusive, worldwide right and license to use the Trademarks, during the term of this specification and solely in connection with the provision and marketing of Registrar Services in order to indicate that Registrar is accredited as a registrar of domain names by ICANN. Except as provided in this subsection and Subsection 2.2 of the Registrar Accreditation Agreement, Registrar shall not use the Trademarks, any term, phrase, or design which is confusingly similar to the Trademarks or any portion of the Trademarks in any manner whatsoever.

2. Ownership of Trademarks. Any and all rights in the Trademarks that may be acquired by Registrar shall inure to the benefit of, and are herby assigned to, ICANN. Registrar shall not assert ownership of the Trademarks or any associated goodwill.

3. No Sublicense. Registrar shall not sublicense any of its rights under this specification to any other person or entity (including any of Registrar's resellers) without the prior written approval of ICANN.

REGISTRATION AND ENFORCEMENT

1. Registration. Registration and any other form of protection for the Trademarks shall only be obtained by ICANN in its name and at its expense.

2. Enforcement. Registrar shall promptly notify ICANN of any actual or suspected infringement of the Trademarks by third parties, including Registrar's resellers or affiliates. ICANN shall have the sole discretion to initiate and maintain any legal proceedings against such third parties; Registrar shall not take any such actions without the prior written approval of ICANN; and ICANN shall retain any and all recoveries from such actions.

3. Further Assurances. Registrar agrees to execute such other documents and to take all such actions as ICANN may request to effect the terms of this specification, including providing such materials (for example URLs and samples of any promotional materials bearing the Trademarks), cooperation, and assistance as may be reasonably required to assist ICANN in obtaining, maintaining, and enforcing trademark registration(s) and any other form of protection for the Trademarks.

TERM AND TERMINATION

This Logo License Specification shall be effective from the date it is signed below by both parties until the Expiration Date, unless this specification or the Registrar Accreditation Agreement is earlier terminated. Each party shall have the right to terminate this specification at any time by giving the other party written notice. Upon expiration or termination of this specification, Registrar shall immediately discontinue all use of the Trademarks.

IN WITNESS WHEREOF, the parties have caused this Logo License Specification to be executed by their duly authorized representatives.

ICANN	[Registrar Name]
By: _____	By: _____ Name: Title:
	Dated: _____, 200_

TRADEMARKS:

1. ICANN Accredited Registrar

2.

Approved by the ICANN Board on 27 June 2013

COMPLIANCE CERTIFICATE

_____, 20__

Pursuant to Section 3.15 of Registrar Accreditation Agreement (the "Agreement"), dated _____, 20__, by and between the Internet Corporation for Assigned Names and Numbers, a California non-profit, public benefit corporation ("ICANN"), and [Registrar Name], a [Organization type and jurisdiction] ("Registrar"), the undersigned certifies, in his/her capacity as an officer of the Registrar and not in his/her individual capacity, on behalf of Registrar as follows:

1. The undersigned is the [Chief Executive Officer/President/Chief Operating Officer/Chief Financial Officer or functional equivalent thereof] of Registrar.

2. Registrar has in place processes and procedures intended to establish, maintain, review, test, and modify registrar policies and procedures reasonably designed to achieve compliance with the Agreement.

3. To the best of the undersigned's knowledge and belief, Registrar has performed and complied with all covenants, agreements, obligations and conditions contained in the Agreement that are required to be performed or complied with by it for the calendar year 20__.

The undersigned signs this certificate as of the date indicated under the title.

[REGISTRAR]

By: _____
Name:
Title:

Transition Addendum to Registrar Accreditation Agreement

This Transition Addendum (this "Addendum") to the Registrar Accreditation Agreement (the "Agreement") by and between the Internet Corporation for Assigned Names and Numbers, a California non-profit, public benefit corporation ("ICANN"), and [Registrar Name], a [Organization type and jurisdiction] ("Registrar"), is dated as of _____, 2013.

WHEREAS, ICANN and Registrar entered into the Agreement as of the date hereof; and

WHEREAS, ICANN acknowledges that implementation by Registrar of certain operational provisions of the Agreement is not possible on the date hereof and will require a reasonable grace period.

NOW THEREFORE, the parties agree as follows:

1. ICANN will not enforce the following provisions and specifications of the Agreement until January 1, 2014: Sections 3.4.1.1, 3.4.1.5, 3.7.10, 3.7.11, 3.12.4, 3.12.7, 3.14, 3.18 and 3.19 of the Agreement; the first sentence of Section 3.7.8 of the Agreement; the WHOIS Accuracy Specification; the Data Retention Specification; and the service level agreements set forth in Section 2.2 of the Registration Data Directory Service (WHOIS) Specification (collectively, the "Transition Provisions").

2. In addition, if immediately prior to the execution of this Addendum Registrar was party to the form registrar accreditation agreement adopted by ICANN in 2009 (the "2009 RAA"), Registrar may use its existing form of registrant registration agreement until January 1, 2014, provided that such agreement complies with Section 3.7.7 of the 2009 RAA.

3. For the calendar year ended December 31, 2013, any certification required pursuant to Section 3.15 shall not require certification as to compliance with the Transition Provisions and may acknowledge the permissible use of the registrant registration agreement under Section 2 hereof.

4. Notwithstanding the foregoing, Registrar agrees to use commercially reasonable efforts to comply with the obligations set forth in the Transition Provisions and transition to a registrant registration agreement that complies with the terms of the Agreement prior to January 1, 2014.

5. Registrar must be fully compliant with the Transition Provisions and Section 3.7.7 of the Agreement as of January 1, 2014, at which date this Addendum shall automatically terminate without action by any party, except as it relates to Section 4 hereof.

6. ICANN and the Registrar Whois Validation Working Group (as defined below) will work together to identify and specify an appropriate set of tools to enable Registrar to complete the across field validation specified in Section 1(e) of the Whois Accuracy Program Specification to the Agreement (the "Across Field Validation"). When such tools are mutually agreed between ICANN and the Registrar Whois Validation Working Group,

ICANN shall provide Registrar written notice of such agreement (which notice shall specify and describe the agreed upon tools). Effective on the one hundred eightieth (180th) calendar day following delivery of such notice by ICANN, Registrar shall comply with the obligations specified in Section 1(e) of the Whois Accuracy Program. Until such time, ICANN will not enforce compliance with such obligations.

For purposes of this Section 6, the Registrar Whois Validation Working Group shall be deemed to have agreed to such Across Field Validation tools when Approval (as defined below) of the then serving members of the group is obtained through a vote of the group (which vote may be conducted through any verifiable means determined by the group, including through electronic means).

The "Registrar Whois Validation Working Group" means that existing working group whose membership has been tasked with identifying and specifying a set of tools to enable registrars to complete the Across Field Validation. The membership of the Registrar Whois Validation Working Group shall be made up of volunteering representatives of ICANN-accredited registrars, and shall initially consist of the members currently serving on the existing working group.

"Approval" is obtained following a vote of the Registrar Whois Validation Working Group, if the votes cast in favor of adoption of the proposed Across Field Validations tools by the then serving members of the group are at least two-thirds of the votes cast by such members, with abstentions or non-votes not being counted as either votes in favor or against adoption of such tools. For purposes of the vote of the group as referenced above, (i) only persons appointed by an ICANN-accredited registrar shall be deemed members of the group and eligible to cast a vote as described above and (ii) no ICANN-accredited registrar nor group of Affiliated Registrars represented in the Registrar Whois Validation Working Group shall have more than one vote.

7. Except as set forth in this Addendum, the Agreement shall be in full force and effect, enforceable by the parties in accordance with its terms.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed in duplicate by their duly authorized representatives.

ICANN	**[Registrar]**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

EXHIBIT 5

Resources

- About ICANN
- Board
- Accountability & Transparency
- Governance
- Groups
- Contractual Compliance
- Registrars
- Registries

Operational Metrics

- Identifier Systems

Uniform Domain Name Dispute Resolution Policy

This page is available in: العربية | Deutsch | English | Español | Français | Italiano | 日本語 | 한국어 | Português | Русский | 中文

Policy Adopted: August 26, 1999
Implementation Documents Approved: October 24, 1999

Notes:

1. This policy is now in effect. See www.icann.org/udrp/udrp-schedule.htm for the implementation schedule.

2. This policy has been adopted by all ICANN-accredited registrars. It has also been adopted by certain managers of country-code top-level domains (e.g., .nu, .tv, .ws).

3. The policy is between the registrar (or other registration authority in the case of a country-code

Security, Stability and Resiliency (IS-SSR)
- ccTLDs
- Internationalized Domain Names
- Universal Acceptance Initiative
- Policy
- Public Comment
- Contact
- Help
  - Dispute Resolution
  - Domain Name Dispute Resolution
    - Charter Eligibility Dispute Resolution Policy
    - Eligibility Requirements Dispute Resolution Policy
    - Intellectual Property Defensive Registration Challenge Policy

top-level domain) and its customer (the domain-name holder or registrant). Thus, the policy uses "we" and "our" to refer to the registrar and it uses "you" and "your" to refer to the domain-name holder.

Uniform Domain Name Dispute Resolution Policy

(As Approved by ICANN on October 24, 1999)

1. Purpose. This Uniform Domain Name Dispute Resolution Policy (the "Policy") has been adopted by the Internet Corporation for Assigned Names and Numbers ("ICANN"), is incorporated by reference into your Registration Agreement, and sets forth the terms and conditions in connection with a dispute between you and any party other than us (the registrar) over the registration and use of an Internet domain name registered by you. Proceedings under Paragraph 4 of this Policy will be conducted according to the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules of Procedure"), which are available at http://www.icann.org/en/dndr/udrp/uniform-rules.htm, and the selected administrative-dispute-resolution service provider's supplemental rules.

2. Your Representations. By applying to register a domain name, or by asking us to maintain or renew a domain name registration, you hereby represent and warrant to us that (a) the statements that you made in your Registration Agreement are complete and accurate; (b) to your knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party; (c) you are not registering the domain name for an unlawful purpose; and (d) you will not knowingly use the domain name in violation of any applicable laws or regulations. It is your responsibility to determine whether your domain name registration infringes or violates someone else's rights.

3. Cancellations, Transfers, and Changes. We will cancel, transfer or otherwise make changes to domain name registrations under the following circumstances:

a. subject to the provisions of Paragraph 8, our receipt of written or appropriate electronic instructions from you or

- Qualification Challenge Policy
- Restrictions Dispute Resolution Policy
- Transfer Dispute Resolution Policy
- Uniform Domain Name Dispute Resolution Policy
  - Policy Document
  - Providers
  - Provider Approval Process
  - Rules
  - Principal Documents
  - Proceedings
  - Historical Documents
  - Timeline
- Name Collision
- Registrar Problems
- Whois Data Correction
- Independent Review Process
- Request for

your authorized agent to take such action;

b. our receipt of an order from a court or arbitral tribunal, in each case of competent jurisdiction, requiring such action; and/or

c. our receipt of a decision of an Administrative Panel requiring such action in any administrative proceeding to which you were a party and which was conducted under this Policy or a later version of this Policy adopted by ICANN. (See Paragraph 4(i) and (k) below.)

We may also cancel, transfer or otherwise make changes to a domain name registration in accordance with the terms of your Registration Agreement or other legal requirements.

4. Mandatory Administrative Proceeding.

This Paragraph sets forth the type of disputes for which you are required to submit to a mandatory administrative proceeding. These proceedings will be conducted before one of the administrative-dispute-resolution service providers listed at www.icann.org/en/dndr/udrp/approved-providers.htm (each, a "Provider").

a. Applicable Disputes. You are required to submit to a mandatory administrative proceeding in the event that a third party (a "complainant") asserts to the applicable Provider, in compliance with the Rules of Procedure, that

(i) your domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

(ii) you have no rights or legitimate interests in respect of the domain name; and

(iii) your domain name has been registered and is being used in bad faith.

In the administrative proceeding, the complainant must prove that each of these three elements are present.

Reconsideration

b. Evidence of Registration and Use in Bad Faith. For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

c. How to Demonstrate Your Rights to and Legitimate Interests in the Domain Name in Responding to a Complaint. When you receive a complaint, you should refer to Paragraph 5 of the Rules of Procedure in

determining how your response should be prepared. Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

> (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
>
> (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
>
> (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

d. Selection of Provider. The complainant shall select the Provider from among those approved by ICANN by submitting the complaint to that Provider. The selected Provider will administer the proceeding, except in cases of consolidation as described in Paragraph 4(f).

e. Initiation of Proceeding and Process and Appointment of Administrative Panel. The Rules of Procedure state the process for initiating and conducting a proceeding and for appointing the panel that will decide the dispute (the "Administrative Panel").

f. Consolidation. In the event of multiple disputes between you and a complainant, either you or the complainant may petition to consolidate the disputes before a single Administrative Panel. This petition shall be made to the first Administrative Panel appointed to

hear a pending dispute between the parties. This Administrative Panel may consolidate before it any or all such disputes in its sole discretion, provided that the disputes being consolidated are governed by this Policy or a later version of this Policy adopted by ICANN.

g. Fees. All fees charged by a Provider in connection with any dispute before an Administrative Panel pursuant to this Policy shall be paid by the complainant, except in cases where you elect to expand the Administrative Panel from one to three panelists as provided in Paragraph 5(b)(iv) of the Rules of Procedure, in which case all fees will be split evenly by you and the complainant.

h. Our Involvement in Administrative Proceedings. We do not, and will not, participate in the administration or conduct of any proceeding before an Administrative Panel. In addition, we will not be liable as a result of any decisions rendered by the Administrative Panel.

i. Remedies. The remedies available to a complainant pursuant to any proceeding before an Administrative Panel shall be limited to requiring the cancellation of your domain name or the transfer of your domain name registration to the complainant.

j. Notification and Publication. The Provider shall notify us of any decision made by an Administrative Panel with respect to a domain name you have registered with us. All decisions under this Policy will be published in full over the Internet, except when an Administrative Panel determines in an exceptional case to redact portions of its decision.

k. Availability of Court Proceedings. The mandatory administrative proceeding requirements set forth in Paragraph 4 shall not prevent either you or the complainant from submitting the dispute to a court of competent jurisdiction for independent resolution before such mandatory administrative proceeding is commenced or after such proceeding is concluded. If an

Administrative Panel decides that your domain name registration should be canceled or transferred, we will wait ten (10) business days (as observed in the location of our principal office) after we are informed by the applicable Provider of the Administrative Panel's decision before implementing that decision. We will then implement the decision unless we have received from you during that ten (10) business day period official documentation (such as a copy of a complaint, file-stamped by the clerk of the court) that you have commenced a lawsuit against the complainant in a jurisdiction to which the complainant has submitted under Paragraph 3(b)(xiii) of the Rules of Procedure. (In general, that jurisdiction is either the location of our principal office or of your address as shown in our Whois database. See Paragraphs 1 and 3(b)(xiii) of the Rules of Procedure for details.) If we receive such documentation within the ten (10) business day period, we will not implement the Administrative Panel's decision, and we will take no further action, until we receive (i) evidence satisfactory to us of a resolution between the parties; (ii) evidence satisfactory to us that your lawsuit has been dismissed or withdrawn; or (iii) a copy of an order from such court dismissing your lawsuit or ordering that you do not have the right to continue to use your domain name.

5. All Other Disputes and Litigation. All other disputes between you and any party other than us regarding your domain name registration that are not brought pursuant to the mandatory administrative proceeding provisions of Paragraph 4 shall be resolved between you and such other party through any court, arbitration or other proceeding that may be available.

6. Our Involvement in Disputes. We will not participate in any way in any dispute between you and any party other than us regarding the registration and use of your domain name. You shall not name us as a party or otherwise include us in any such proceeding. In the event that we are named as a party in any such proceeding, we reserve the right to raise any and all defenses deemed appropriate, and to take any other action necessary to defend ourselves.

7. Maintaining the Status Quo. We will not cancel, transfer, activate, deactivate, or otherwise change the status of any domain name registration under this Policy except as provided in Paragraph 3 above.

8. Transfers During a Dispute.

a. Transfers of a Domain Name to a New Holder. You may not transfer your domain name registration to another holder (i) during a pending administrative proceeding brought pursuant to Paragraph 4 or for a period of fifteen (15) business days (as observed in the location of our principal place of business) after such proceeding is concluded; or (ii) during a pending court proceeding or arbitration commenced regarding your domain name unless the party to whom the domain name registration is being transferred agrees, in writing, to be bound by the decision of the court or arbitrator. We reserve the right to cancel any transfer of a domain name registration to another holder that is made in violation of this subparagraph.

b. Changing Registrars. You may not transfer your domain name registration to another registrar during a pending administrative proceeding brought pursuant to Paragraph 4 or for a period of fifteen (15) business days (as observed in the location of our principal place of business) after such proceeding is concluded. You may transfer administration of your domain name registration to another registrar during a pending court action or arbitration, provided that the domain name you have registered with us shall continue to be subject to the proceedings commenced against you in accordance with the terms of this Policy. In the event that you transfer a domain name registration to us during the pendency of a court action or arbitration, such dispute shall remain subject to the domain name dispute policy of the registrar from which the domain name registration was transferred.

9. Policy Modifications. We reserve the right to modify this Policy at any time with the permission of ICANN. We will post our revised

Policy at <URL> at least thirty (30) calendar days before it becomes effective. Unless this Policy has already been invoked by the submission of a complaint to a Provider, in which event the version of the Policy in effect at the time it was invoked will apply to you until the dispute is over, all such changes will be binding upon you with respect to any domain name registration dispute, whether the dispute arose before, on or after the effective date of our change. In the event that you object to a change in this Policy, your sole remedy is to cancel your domain name registration with us, provided that you will not be entitled to a refund of any fees you paid to us. The revised Policy will apply to you until you cancel your domain name registration

Who We Are

Get Started

Learning

Participate

Groups

Board

President's Corner

Staff

Careers

Newsletter

Contact Us

Offices

Customer Service

Security Team

PGP Keys

Certificate Authority

Registry Liaison

AOC Review

Organizational Reviews

Request a Speaker

For Journalists

Accountability & Transparency

Accountability Mechanisms

Independent Review Process

Request for Reconsideration

Ombudsman

Governance

Documents

Agreements

AOC Review

Annual Report

Financials

Document Disclosure

Planning

Dashboard

RFPs

Litigation

Correspondence

Help

Dispute Resolution

Domain Name Dispute Resolution

Name Collision

Registrar Problems

WHOIS

EXHIBIT 6

Resources

- About ICANN (Internet Corporation for Assigned Names and Numbers) (/resources/pages/welcome-2012-02-25-en)
- Board (/resources/pages/board-of-directors-2014-03-19-en)
- Accountability

Rules for Uniform Domain Name (Domain Name) Dispute Resolution Policy (the "Rules")

This page is available in:

(/resources /accountability)

- Governance (/resources /pages /governance-2012-02-25-en)
- Groups (/resources /pages/groups-2012-02-06-en)

Business (/resources /pages /business)

- Contractual Compliance (/resources /pages /compliance-2012-02-25-en)
- Registrars (/resources /pages /registrars-0d-2012-02-25-en)
- Registries (/resources /pages /registries-46-2012-02-25-en)

Operational Metrics (/resources /pages /metrics-gdd-2015-01-30-en)

- Identifier

English | العربية (http://www.icann.org/resources/pages/udrp-rules-2015-03-12-ar) | Español (http://www.icann.org/resources/pages/udrp-rules-2015-03-12-es) | Français (http://www.icann.org/resources/pages/udrp-rules-2015-03-12-fr) | 日本語 (http://www.icann.org/resources/pages/udrp-rules-2015-03-12-ja) | 한국어 (http://www.icann.org/resources/pages/udrp-rules-2015-03-12-ko) | Português (http://www.icann.org/resources/pages/udrp-rules-2015-03-13-pt) | Русский (http://www.icann.org/resources/pages/udrp-rules-2015-03-12-ru) | 中文 (http://www.icann.org/resources/pages/udrp-rules-2015-03-12-zh)

As approved by the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors on 28 September 2013 (/resources /board-material/resolutions-2013-09-28-en#1.c).

These Rules are in effect for all UDRP (Uniform Domain-Name Dispute Resolution Policy) proceedings in which a complaint is submitted to a provider on or after 31 July 2015. The prior version of the Rules, applicable to all proceedings in which a complaint was submitted to a Provider on or before 30 July 2015, is at https://www.icann.org/resources/pages/rules-be-2012-02-25-en (/resources/pages/rules-be-2012-02-25-en). UDRP (Uniform Domain-Name Dispute Resolution Policy) Providers may elect to adopt the notice procedures set forth in these Rules prior to 31 July 2015.

Administrative proceedings for the resolution of disputes under the Uniform Dispute Resolution Policy adopted by ICANN (Internet Corporation for Assigned Names and Numbers) shall be governed by these Rules and also the Supplemental Rules of the Provider administering the proceedings, as posted on its web site. To the extent that the Supplemental Rules of any Provider conflict with these Rules, these Rules supersede.

1. Definitions

Systems Security, Stability (Security, Stability and Resiliency) and Resiliency (IS-SSR) (/resources/pages/is-ssr-2014-11-24-en)

- ccTLDs (/resources/pages/cctlds-21-2012-02-25-en)
- Internationalized Domain Names (/resources/pages/idn-2012-02-25-en)
- Universal Acceptance Initiative (/resources/pages/universal-acceptance-2012-02-25-en)
- Policy (/resources/pages/policy-01-2012-02-25-en)
- Public Comment (/public-comments)
- Technical Functions (/resources

In these Rules:

Complainant means the party initiating a complaint concerning a domain-name registration.

ICANN (Internet Corporation for Assigned Names and Numbers) refers to the Internet Corporation for Assigned Names and Numbers.

Lock means a set of measures that a registrar applies to a domain name, which prevents at a minimum any modification to the registrant and registrar information by the Respondent, but does not affect the resolution of the domain name or the renewal of the domain name.

Mutual Jurisdiction means a court jurisdiction at the location of either (a) the principal office of the Registrar (provided the domain-name holder has submitted in its Registration Agreement to that jurisdiction for court adjudication of disputes concerning or arising from the use of the domain name) or (b) the domain-name holder's address as shown for the registration of the domain name in Registrar's Whois database at the time the complaint is submitted to the Provider.

Panel means an administrative panel appointed by a Provider to decide a complaint concerning a domain-name registration.

Panelist means an individual appointed by a Provider to be a member of a Panel.

Party means a Complainant or a Respondent.

Pendency means the time period from the moment a UDRP (Uniform Domain-Name Dispute Resolution Policy) complaint has been submitted by the Complainant to the UDRP (Uniform Domain-Name Dispute Resolution Policy) Provider to the time the UDRP (Uniform Domain-Name Dispute Resolution Policy) decision has been

/pages /technical-functions-2015-10-15-en)

- Contact (/resources /pages /contact-2012-02-06-en)
- Help (/resources /pages/help-2012-02-03-en)

implemented or the UDRP (Uniform Domain-Name Dispute Resolution Policy) complaint has been terminated.

Policy means the Uniform Domain Name (Domain Name) Dispute Resolution Policy (/en/dndr/udrp/policy.htm) that is incorporated by reference and made a part of the Registration Agreement.

Provider means a dispute-resolution service provider approved by ICANN (Internet Corporation for Assigned Names and Numbers). A list of such Providers appears at http://www.icann.org/en/dndr/udrp/approved-providers.htm (/en/dndr/udrp/approved-providers.htm).

Registrar means the entity with which the Respondent has registered a domain name that is the subject of a complaint.

Registration Agreement means the agreement between a Registrar and a domain-name holder.

Respondent means the holder of a domain-name registration against which a complaint is initiated.

Reverse Domain Name (Domain Name) Hijacking means using the Policy in bad faith to attempt to deprive a registered domain-name holder of a domain name.

Supplemental Rules means the rules adopted by the Provider administering a proceeding to supplement these Rules. Supplemental Rules shall not be inconsistent with the Policy or these Rules and shall cover such topics as fees, word and page limits and guidelines, file size and format modalities, the means for communicating with the Provider and the Panel, and the form of cover sheets.

Written Notice means hardcopy notification by the Provider to the Respondent of the commencement of an administrative proceeding under the Policy which shall

inform the respondent that a complaint has been filed against it, and which shall state that the Provider has electronically transmitted the complaint including any annexes to the Respondent by the means specified herein. Written notice does not include a hardcopy of the complaint itself or of any annexes.

2. Communications

(a) When forwarding a complaint, including any annexes, electronically to the Respondent, it shall be the Provider's responsibility to employ reasonably available means calculated to achieve actual notice to Respondent. Achieving actual notice, or employing the following measures to do so, shall discharge this responsibility:

(i) sending Written Notice of the complaint to all postal-mail and facsimile addresses (A) shown in the domain name's registration data in Registrar's Whois database for the registered domain-name holder, the technical contact, and the administrative contact and (B) supplied by Registrar to the Provider for the registration's billing contact; and

(ii) sending the complaint, including any annexes, in electronic form by e-mail to:

(A) the e-mail addresses for those technical, administrative, and billing contacts;

(B) postmaster@<the contested domain name>; and

(C) if the domain name (or "www." followed by the domain name) resolves to an active web page (other than a generic page the Provider concludes is maintained by a registrar or ISP (Internet Service Provider) for parking domain-names registered by multiple

domain-name holders), any e- mail address shown or e-mail links on that web page; and

(iii) sending the complaint, including any annexes, to any e-mail address the Respondent has notified the Provider it prefers and, to the extent practicable, to all other e-mail addresses provided to the Provider by Complainant under Paragraph 3(b)(v) (/en/help/dndr/udrp/rules#3bv).

(b) Except as provided in Paragraph 2(a) (/en/help/dndr/udrp/rules#2a), any written communication to Complainant or Respondent provided for under these Rules shall be made electronically via the Internet (a record of its transmission being available), or by any reasonably requested preferred means stated by the Complainant or Respondent, respectively (see Paragraphs 3(b)(iii) (/en/help/dndr/udrp/rules#3biii) and 5(b)(iii) (/en/help/dndr/udrp/rules#5biii)).

(c) Any communication to the Provider or the Panel shall be made by the means and in the manner (including, where applicable, the number of copies) stated in the Provider's Supplemental Rules.

(d) Communications shall be made in the language prescribed in Paragraph 11 (/en/help/dndr/udrp/rules#11).

(e) Either Party may update its contact details by notifying the Provider and the Registrar.

(f) Except as otherwise provided in these Rules, or decided by a Panel, all communications provided for under these Rules shall be deemed to have been made:

(i) if via the Internet, on the date that the communication was transmitted, provided that the date of transmission is verifiable; or, where applicable

(ii) if delivered by telecopy or facsimile transmission, on the date shown on the confirmation of transmission; or:

(iii) if by postal or courier service, on the date marked on the receipt.

(g) Except as otherwise provided in these Rules, all time periods calculated under these Rules to begin when a communication is made shall begin to run on the earliest date that the communication is deemed to have been made in accordance with Paragraph 2(f) (/en/help/dndr/udrp/rules#2f).

(h) Any communication by

(i) a Panel to any Party shall be copied to the Provider and to the other Party;

(ii) the Provider to any Party shall be copied to the other Party; and

(iii) a Party shall be copied to the other Party, the Panel and the Provider, as the case may be.

(i) It shall be the responsibility of the sender to retain records of the fact and circumstances of sending, which shall be available for inspection by affected parties and for reporting purposes. This includes the Provider in sending Written Notice to the Respondent by post and/or facsimile under Paragraph 2(a)(i).

(j) In the event a Party sending a communication receives notification of non-delivery of the communication, the Party shall promptly notify the Panel (or, if no Panel is yet appointed, the Provider) of the circumstances of the notification. Further proceedings concerning the communication and any response shall be as directed by the Panel (or the Provider).

3. The Complaint

(a) Any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules to any Provider approved by ICANN (Internet Corporation for Assigned Names and Numbers). (Due to capacity constraints or for other reasons, a Provider's ability to accept complaints may be suspended at times. In that event, the Provider shall refuse the submission. The person or entity may submit the complaint to another Provider.)

(b) The complaint including any annexes shall be submitted in electronic form and shall:

(i) Request that the complaint be submitted for decision in accordance with the Policy and these Rules;

(ii) Provide the name, postal and e-mail addresses, and the telephone and telefax numbers of the Complainant and of any representative authorized to act for the Complainant in the administrative proceeding;

(iii) Specify a preferred method for communications directed to the Complainant in the administrative proceeding (including person to be contacted, medium, and address information) for each of (A) electronic-only material and (B) material including hard copy (where applicable);

(iv) Designate whether Complainant elects to have the dispute decided by a single-member or a three-member Panel and, in the event Complainant elects a three-member Panel, provide the names and contact details of three candidates to serve as one of the Panelists (these candidates may be drawn from any ICANN (Internet Corporation for

Assigned Names and Numbers)-approved Provider's list of panelists);

(v) Provide the name of the Respondent (domain-name holder) and all information (including any postal and e-mail addresses and telephone and telefax numbers) known to Complainant regarding how to contact Respondent or any representative of Respondent, including contact information based on pre-complaint dealings, in sufficient detail to allow the Provider to send the complaint as described in Paragraph 2(a) (/en/help/dndr/udrp/rules#2a);

(vi) Specify the domain name(s) that is/are the subject of the complaint;

(vii) Identify the Registrar(s) with whom the domain name(s) is/are registered at the time the complaint is filed;

(viii) Specify the trademark(s) or service mark(s) on which the complaint is based and, for each mark, describe the goods or services, if any, with which the mark is used (Complainant may also separately describe other goods and services with which it intends, at the time the complaint is submitted, to use the mark in the future.);

(ix) Describe, in accordance with the Policy, the grounds on which the complaint is made including, in particular,

(1) the manner in which the domain name(s) is/are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(2) why the Respondent (domain-name holder) should be considered as having no

rights or legitimate interests in respect of the domain name(s) that is/are the subject of the complaint; and

(3) why the domain name(s) should be considered as having been registered and being used in bad faith

(The description should, for elements (2) and (3), discuss any aspects of Paragraphs 4(b) (/en/dndr/udrp/policy.htm#4b) and 4(c) (/en/dndr/udrp/policy.htm#4c) of the Policy that are applicable. The description shall comply with any word or page limit set forth in the Provider's Supplemental Rules.);

(x) Specify, in accordance with the Policy, the remedies sought;

(xi) Identify any other legal proceedings that have been commenced or terminated in connection with or relating to any of the domain name(s) that are the subject of the complaint;

(xii) State that Complainant will submit, with respect to any challenges to a decision in the administrative proceeding canceling or transferring the domain name, to the jurisdiction of the courts in at least one specified Mutual Jurisdiction;

(xiii) Conclude with the following statement followed by the signature (in any electronic format) of the Complainant or its authorized representative:

"Complainant agrees that its claims and remedies concerning the registration of the domain name, the dispute, or the dispute's resolution shall be solely against the domain-name holder and waives all such claims and remedies against (a) the dispute-

resolution provider and panelists, except in the case of deliberate wrongdoing, (b) the registrar, (c) the registry administrator, and (d) the Internet Corporation for Assigned Names and Numbers, as well as their directors, officers, employees, and agents."

"Complainant certifies that the information contained in this Complaint is to the best of Complainant's knowledge complete and accurate, that this Complaint is not being presented for any improper purpose, such as to harass, and that the assertions in this Complaint are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument."; and

(xiv) Annex any documentary or other evidence, including a copy of the Policy applicable to the domain name(s) in dispute and any trademark or service mark registration upon which the complaint relies, together with a schedule indexing such evidence.

(c) The complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder.

4. Notification of Complaint

(a) The Provider shall submit a verification request to the Registrar. The verification request will include a request to Lock the domain name.

(b) Within two (2) business days of receiving the Provider's verification request, the Registrar shall provide the information requested in the verification request and confirm that a Lock of the domain name has been

applied. The Registrar shall not notify the Respondent of the proceeding until the Lock status has been applied. The Lock shall remain in place through the remaining Pendency of the UDRP (Uniform Domain-Name Dispute Resolution Policy) proceeding. Any updates to the Respondent's data, such as through the result of a request by a privacy or proxy provider to reveal the underlying customer data, must be made before the two (2) business day period concludes or before the Registrar verifies the information requested and confirms the Lock to the UDRP (Uniform Domain-Name Dispute Resolution Policy) Provider, whichever occurs first. Any modification(s) of the Respondent's data following the two (2) business day period may be addressed by the Panel in its decision.

(c) The Provider shall review the complaint for administrative compliance with the Policy and these Rules and, if in compliance, shall forward the complaint, including any annexes, electronically to the Respondent and Registrar and shall send Written Notice of the complaint (together with the explanatory cover sheet prescribed by the Provider's Supplemental Rules) to the Respondent, in the manner prescribed by Paragraph 2(a) (/en/help/dndr/udrp/rules#2a), within three (3) calendar days following receipt of the fees to be paid by the Complainant in accordance with Paragraph 19 (/en/help/dndr/udrp/rules#19).

(d) If the Provider finds the complaint to be administratively deficient, it shall promptly notify the Complainant and the Respondent of the nature of the deficiencies identified. The Complainant shall have five (5) calendar days within which to correct any such deficiencies, after which the administrative proceeding will be deemed withdrawn without prejudice to submission of a different complaint by Complainant.

(e) If the Provider dismisses the complaint due to an administrative deficiency, or the Complainant voluntarily

withdraws its complaint, the Provider shall inform the Registrar that the proceedings have been withdrawn, and the Registrar shall release the Lock within one (1) business day of receiving the dismissal or withdrawal notice from the Provider.

(f) The date of commencement of the administrative proceeding shall be the date on which the Provider completes its responsibilities under Paragraph 2(a) (/en/help/dndr/udrp/rules#2a) in connection with sending the complaint to the Respondent.

(g) The Provider shall immediately notify the Complainant, the Respondent, the concerned Registrar(s), and ICANN (Internet Corporation for Assigned Names and Numbers) of the date of commencement of the administrative proceeding. The Provider shall inform the Respondent that any corrections to the Respondent's contact information during the remaining Pendency of the UDRP (Uniform Domain-Name Dispute Resolution Policy) proceedings shall be communicated to the Provider further to Rule 5(c)(ii) and 5(c)(iii).

5. The Response

(a) Within twenty (20) days of the date of commencement of the administrative proceeding the Respondent shall submit a response to the Provider.

(b) The Respondent may expressly request an additional four (4) calendar days in which to respond to the complaint, and the Provider shall automatically grant the extension and notify the Parties thereof. This extension does not preclude any additional extensions that may be given further to 5(d) of the Rules.

(c) The response, including any annexes, shall be submitted in electronic form and shall:

(i) Respond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain-name holder) to retain registration and use of the disputed domain name (This portion of the response shall comply with any word or page limit set forth in the Provider's Supplemental Rules.);

(ii) Provide the name, postal and e-mail addresses, and the telephone and telefax numbers of the Respondent (domain-name holder) and of any representative authorized to act for the Respondent in the administrative proceeding;

(iii) Specify a preferred method for communications directed to the Respondent in the administrative proceeding (including person to be contacted, medium, and address information) for each of (A) electronic-only material and (B) material including hard copy (where applicable);

(iv) If Complainant has elected a single-member panel in the complaint (see Paragraph 3(b)(iv) (/en/help/dndr/udrp/rules#3biv)), state whether Respondent elects instead to have the dispute decided by a three-member panel;

(v) If either Complainant or Respondent elects a three-member Panel, provide the names and contact details of three candidates to serve as one of the Panelists (these candidates may be drawn from any ICANN (Internet Corporation for Assigned Names and Numbers)-approved Provider's list of panelists);

(vi) Identify any other legal proceedings that have been commenced or terminated in connection with or relating to any of the domain name(s) that are the subject of the complaint;

(vii) State that a copy of the response including any annexes has been sent or transmitted to the Complainant, in accordance with Paragraph 2(b) (/en/help/dndr/udrp/rules#2b); and

(viii) Conclude with the following statement followed by the signature (in any electronic format) of the Respondent or its authorized representative:

"Respondent certifies that the information contained in this Response is to the best of Respondent's knowledge complete and accurate, that this Response is not being presented for any improper purpose, such as to harass, and that the assertions in this Response are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument."; and

(ix) Annex any documentary or other evidence upon which the Respondent relies, together with a schedule indexing such documents.

(d) If Complainant has elected to have the dispute decided by a single-member Panel and Respondent elects a three-member Panel, Respondent shall be required to pay one-half of the applicable fee for a three-member Panel as set forth in the Provider's Supplemental Rules. This payment shall be made together with the submission of the response to the Provider. In the event that the required payment is not made, the dispute shall be decided by a single-member Panel.

(e) At the request of the Respondent, the Provider may, in exceptional cases, extend the period of time for the filing of the response. The period may also be extended by written stipulation between the Parties, provided the stipulation is approved by the Provider.

(f) If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint.

6. Appointment of the Panel and Timing of Decision

(a) Each Provider shall maintain and publish a publicly available list of panelists and their qualifications.

(b) If neither the Complainant nor the Respondent has elected a three-member Panel (Paragraphs 3(b)(iv) (/en/help/dndr/udrp/rules#3biv) and 5(b)(iv) (/en/help /dndr/udrp/rules#5biv)), the Provider shall appoint, within five (5) calendar days following receipt of the response by the Provider, or the lapse of the time period for the submission thereof, a single Panelist from its list of panelists. The fees for a single-member Panel shall be paid entirely by the Complainant.

(c) If either the Complainant or the Respondent elects to have the dispute decided by a three-member Panel, the Provider shall appoint three Panelists in accordance with the procedures identified in Paragraph 6(e) (/en/help /dndr/udrp/rules#6e). The fees for a three-member Panel shall be paid in their entirety by the Complainant, except where the election for a three-member Panel was made by the Respondent, in which case the applicable fees shall be shared equally between the Parties.

(d) Unless it has already elected a three-member Panel, the Complainant shall submit to the Provider, within five (5) calendar days of communication of a response in which the Respondent elects a three-member Panel, the names and contact details of three candidates to serve as one of the Panelists. These candidates may be drawn from any ICANN (Internet Corporation for Assigned Names and Numbers)-approved Provider's list of panelists.

(e) In the event that either the Complainant or the Respondent elects a three-member Panel, the Provider shall endeavor to appoint one Panelist from the list of candidates provided by each of the Complainant and the Respondent. In the event the Provider is unable within five (5) calendar days to secure the appointment of a Panelist on its customary terms from either Party's list of candidates, the Provider shall make that appointment from its list of panelists. The third Panelist shall be appointed by the Provider from a list of five candidates submitted by the Provider to the Parties, the Provider's selection from among the five being made in a manner that reasonably balances the preferences of both Parties, as they may specify to the Provider within five (5) calendar days of the Provider's submission of the five-candidate list to the Parties.

(f) Once the entire Panel is appointed, the Provider shall notify the Parties of the Panelists appointed and the date by which, absent exceptional circumstances, the Panel shall forward its decision on the complaint to the Provider.

7. Impartiality and Independence

A Panelist shall be impartial and independent and shall have, before accepting appointment, disclosed to the Provider any circumstances giving rise to justifiable doubt as to the Panelist's impartiality or independence. If, at any stage during the administrative proceeding, new circumstances arise that could give rise to justifiable doubt as to the impartiality or independence of the Panelist, that Panelist shall promptly disclose such circumstances to the Provider. In such event, the Provider shall have the discretion to appoint a substitute Panelist.

8. Communication Between Parties and the Panel

No Party or anyone acting on its behalf may have any unilateral communication with the Panel. All communications between a Party and the Panel or the Provider shall be made to a case

administrator appointed by the Provider in the manner prescribed in the Provider's Supplemental Rules.

9. Transmission of the File to the Panel

The Provider shall forward the file to the Panel as soon as the Panelist is appointed in the case of a Panel consisting of a single member, or as soon as the last Panelist is appointed in the case of a three-member Panel.

10. General Powers of the Panel

(a) The Panel shall conduct the administrative proceeding in such manner as it considers appropriate in accordance with the Policy and these Rules.

(b) In all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.

(c) The Panel shall ensure that the administrative proceeding takes place with due expedition. It may, at the request of a Party or on its own motion, extend, in exceptional cases, a period of time fixed by these Rules or by the Panel.

(d) The Panel shall determine the admissibility, relevance, materiality and weight of the evidence.

(e) A Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules.

11. Language of Proceedings

(a) Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the

Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

(b) The Panel may order that any documents submitted in languages other than the language of the administrative proceeding be accompanied by a translation in whole or in part into the language of the administrative proceeding.

12. Further Statements

In addition to the complaint and the response, the Panel may request, in its sole discretion, further statements or documents from either of the Parties.

13. In-Person Hearings

There shall be no in-person hearings (including hearings by teleconference, videoconference, and web conference), unless the Panel determines, in its sole discretion and as an exceptional matter, that such a hearing is necessary for deciding the complaint.

14. Default

(a) In the event that a Party, in the absence of exceptional circumstances, does not comply with any of the time periods established by these Rules or the Panel, the Panel shall proceed to a decision on the complaint.

(b) If a Party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, these Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

15. Panel Decisions

(a) A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance

with the Policy, these Rules and any rules and principles of law that it deems applicable.

(b) In the absence of exceptional circumstances, the Panel shall forward its decision on the complaint to the Provider within fourteen (14) days of its appointment pursuant to Paragraph 6 (/en/help/dndr/udrp/rules#6).

(c) In the case of a three-member Panel, the Panel's decision shall be made by a majority.

(d) The Panel's decision shall be in writing, provide the reasons on which it is based, indicate the date on which it was rendered and identify the name(s) of the Panelist(s).

(e) Panel decisions and dissenting opinions shall normally comply with the guidelines as to length set forth in the Provider's Supplemental Rules. Any dissenting opinion shall accompany the majority decision. If the Panel concludes that the dispute is not within the scope of Paragraph 4(a) (/en/dndr/udrp/policy.htm#4a) of the Policy, it shall so state. If after considering the submissions the Panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name (Domain Name) Hijacking or was brought primarily to harass the domain-name holder, the Panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding.

16. Communication of Decision to Parties

(a) Within three (3) business days after receiving the decision from the Panel, the Provider shall communicate the full text of the decision to each Party, the concerned Registrar(s), and ICANN (Internet Corporation for Assigned Names and Numbers). The concerned Registrar(s) shall within three (3) business days of receiving the decision from the Provider communicate to

each Party, the Provider, and ICANN (Internet Corporation for Assigned Names and Numbers) the date for the implementation of the decision in accordance with the Policy.

(b) Except if the Panel determines otherwise (see Paragraph 4(j) (/en/dndr/udrp/policy.htm#4j) of the Policy), the Provider shall publish the full decision and the date of its implementation on a publicly accessible web site. In any event, the portion of any decision determining a complaint to have been brought in bad faith (see Paragraph 15(e) (/en/help/dndr/udrp/rules#15e) of these Rules) shall be published.

17. Settlement or Other Grounds for Termination

(a) If, before the Panel's decision, the Parties agree on a settlement, the Panel shall terminate the administrative proceeding. A settlement shall follow steps 17(a)(i) – 17(a)(vii):

(i) The Parties provide written notice of a request to suspend the proceedings because the parties are discussing settlement to the Provider.

(ii) The Provider acknowledges receipt of the request for suspension and informs the Registrar of the suspension request and the expected duration of the suspension.

(iii) The Parties reach a settlement and provide a standard settlement form to the Provider further to the Provider's supplemental rules and settlement form. The standard settlement form is not intended to be an agreement itself, but only to summarize the essential terms of the Parties' separate settlement agreement. The Provider shall not disclose the completed standard settlement form to any third party.

(iv) The Provider shall confirm to the Registrar, copying the Parties, the outcome of the settlement as it relates to actions that need to be taken by the Registrar.

(v) Upon receiving notice from the Provider further to 17(a)(iv), the Registrar shall remove the Lock within two (2) business days.

(vi) The Complainant shall confirm to the Provider that the settlement as it relates to the domain name(s) has been implemented further to the Provider's supplemental rules.

(vii) The Provider will dismiss the proceedings without prejudice unless otherwise stipulated in the settlement.

(b) If, before the Panel's decision is made, it becomes unnecessary or impossible to continue the administrative proceeding for any reason, the Panel shall terminate the administrative proceeding, unless a Party raises justifiable grounds for objection within a period of time to be determined by the Panel.

18. Effect of Court Proceedings

(a) In the event of any legal proceedings initiated prior to or during an administrative proceeding in respect of a domain-name dispute that is the subject of the complaint, the Panel shall have the discretion to decide whether to suspend or terminate the administrative proceeding, or to proceed to a decision.

(b) In the event that a Party initiates any legal proceedings during the Pendency of an administrative proceeding in respect of a domain-name dispute that is the subject of the complaint, it shall promptly notify the Panel and the Provider. See Paragraph 8 (/en/help

/dndr/udrp/rules#8) above.

19. Fees

(a) The Complainant shall pay to the Provider an initial fixed fee, in accordance with the Provider's Supplemental Rules, within the time and in the amount required. A Respondent electing under Paragraph 5(b)(iv) (/en/help/dndr/udrp/rules#5biv) to have the dispute decided by a three-member Panel, rather than the single-member Panel elected by the Complainant, shall pay the Provider one-half the fixed fee for a three-member Panel. See Paragraph 5(c) (/en/help/dndr/udrp/rules#5c). In all other cases, the Complainant shall bear all of the Provider's fees, except as prescribed under Paragraph 19(d) (/en/help/dndr/udrp/rules#19d). Upon appointment of the Panel, the Provider shall refund the appropriate portion, if any, of the initial fee to the Complainant, as specified in the Provider's Supplemental Rules.

(b) No action shall be taken by the Provider on a complaint until it has received from Complainant the initial fee in accordance with Paragraph 19(a) (/en/help/dndr/udrp/rules#19a).

(c) If the Provider has not received the fee within ten (10) calendar days of receiving the complaint, the complaint shall be deemed withdrawn and the administrative proceeding terminated.

(d) In exceptional circumstances, for example in the event an in-person hearing is held, the Provider shall request the Parties for the payment of additional fees, which shall be established in agreement with the Parties and the Panel.

20. Exclusion of Liability

Except in the case of deliberate wrongdoing, neither the

Provider nor a Panelist shall be liable to a Party for any act or omission in connection with any administrative proceeding under these Rules.

21. Amendments

The version of these Rules in effect at the time of the submission of the complaint to the Provider shall apply to the administrative proceeding commenced thereby. These Rules may not be amended without the express written approval of ICANN (Internet Corporation for Assigned Names and Numbers).

Who We Are

Get Started (/get-started)

Learning (/en/about /learning)

Participate (/en/about /participate)

Groups (https://www.icann.org /resources /pages/groups-2012-02-06-en)

Board (/resources /pages/board-of-directors-2014-03-19-en)

President's Corner (/presidents-corner)

Staff (/en/about /staff)

Careers (https://icann-openhire.silkroad.com /epostings /index.cfm?fuseaction=app.allpositions& amp;company_id=16025& amp;version=1)

Newsletter (/en/news /newsletter)

Development and Public Responsibility (https://www.icann.org /development-and-public-responsibility)

Contact Us

Offices (https://forms.icann.org /en/contact)

Global Support (/resources /pages /customer-support-2015-06-22-en)

Security Team (/about/staff /security)

PGP Keys (/en/contact /pgp-keys)

Certificate Authority (/contact /certificate-authority)

Registry Liaison (/resources /pages /contact-f2-2012-02-25-en)

AOC Review (http://forms.icann.org /en/about /aoc-review /contact)

Organizational Reviews (http://forms.icann.org /en/groups /reviews /contact)

Request a Speaker (http://forms.icann.org /en/contact /speakers)

For Journalists (/en/news /press)

Accountability & Transparency

Accountability Mechanisms (/en/news /in-focus /accountability /mechanisms)

Independent Review Process (/resources /pages /irp-2012-02-25-en)

Request for Reconsideration (/groups/board /governance /reconsideration)

Ombudsman (/help /ombudsman)

Governance

Documents (/en/about /governance)

Agreements (/en/about /agreements)

AOC Review (/en/about /aoc-review)

Annual Report (/about/annual-report)

Financials (/en/about /financials)

Document Disclosure (/en/about /transparency)

Planning (/en/about /planning)

Dashboard Beta (https://www.icann.org /dashboard)

RFPs (/en/news/rfps)

Litigation (/en/news /litigation)

Correspondence (/en/news /correspondence)

Help

Dispute Resolution (/en/help /dispute-resolution)

Domain Name Dispute Resolution (/en/help/dndr)

Name Collision (/en/help /name-collision)

Registrar Problems (/en/news /announcements /announcement-06mar07-en.htm)

WHOIS (http://whois.icann.org/)

EXHIBIT 7

Terms and Conditions

This Registration Agreement ("Agreement") sets forth the terms and conditions of your use of domain name registration and related services ("Services"). In this Agreement "you" and "your" refer to you and the registrant associated with the WHOIS contact information for the domain name. "We", "us" and "our" refers to NameSilo, LLC.

1. YOUR AGREEMENT: By using the Services, you agree to all terms and conditions of this Agreement, the UDRP (defined below) and any rules, policies, or agreements published in association with specific Services and/or which may be adopted or enforced by the Internet Corporation for Assigned Names and Numbers ("ICANN"), any registry, or governments.
2. CHANGES TO THIS AGREEMENT: This Agreement may change over time, either through amendments by us, changes to ICANN policy or applicable law which may or may not be reflected in the text of this Agreement, or otherwise. Before any material changes to this Agreement become binding on you (other than changes resulting from a change in ICANN policy or applicable law), we will notify you of such changes by, for example, sending email to you at your email address of record, or by posting the changes on our web site. If, as a result of such a change, you no longer agree with the terms of this Agreement, your exclusive remedies are (a) to transfer your domain name registration services to another registrar, or (b) to cancel your domain name registration services with us. Your continued use of the Services following notification of a change in this Agreement indicates your consent to the changes. Unless otherwise specified by us, any such change binds you: (1) 30 days after we notify you of the change, or (2) immediately if such change is a result of a new or amended ICANN policy or applicable law.
3. YOUR ACCOUNT: You must create an account to use the Services ("Account"). You are solely responsible for maintaining, securing, updating, and keeping strictly confidential all login IDs and passwords, and for all access to and use of your Account by you or any third party.

    a. ACCOUNT CONTACT INFORMATION AND DOMAIN NAME WHOIS INFORMATION:

        i. You must provide certain current, complete and accurate information about you with respect to your Account information and with respect to the WHOIS information for your domain name(s). You must maintain and update this information as needed to keep it current, complete and accurate. You must submit the following with respect to you, the administrative, technical, and billing contacts for your domain name registration(s) and other Services: the full name, postal address, e-mail address, voice telephone number, and fax number if available of the Registered Name Holder; name of authorized person for contact purposes in the case of an Registered Name Holder that is an organization, association, or corporation; and the data elements listed in Subsections 3.3.1.2, 3.3.1.7 and 3.3.1.8 of the 2013 ICANN RAA. The type of information you are required to provide may change and you must provide such information and keep your Account information current. Not providing requested information may prevent you from obtaining all Services and you must update any such information within seven (7) days of change.

        ii. You may provide information regarding the name-servers assigned to your domain name(s). If you do not provide complete name-server information, we reserve the right to supply this information (and point your domain name to a website of our choosing) until such time as you elect to supply the name-server information. Any newly registered domain names will default to using our name-servers which will load our default parking page, however, you have the ability to provide new name-server information by logging into your account.

    b. OBLIGATIONS RELATING TO THE ACCOUNT AND WHOIS CONTACT INFORMATION:

        i. If, in obtaining Services, you provide information about or on behalf of a third party, you represent and warrant that you have (a) provided notice to that third party of the disclosure and use of that party's information as set forth in this Agreement, and (b) obtained the third party's express written or verbal consent to the disclosure and use of that party's information as set forth in this Agreement.

        ii. You represent and warrant that the statements in your application are true and that no Services are being procured for any unlawful purpose, including but not limited to the infringement of any intellectual property right, the unauthorized transfer to yourself or any other party of any domain name or Services, or the violation of any laws, rules, or regulations (the"Illegal Uses"). Providing inaccurate information and willful failure to update information within seven (7) days of any change, or failure to respond for over fifteen (15) days to inquiries concerning the accuracy of contact details associated with your registration, failing to immediately update information or engaging in any Illegal Uses will constitute an incurable material breach of this Agreement. Your failure to respond for over three (3) calendar days to inquiries by us concerning the accuracy of Account and WHOIS contact information shall constitute an incurable material breach of this Agreement.

        iii. You are responsible for regularly monitoring email sent to the email address in your Account. You may lose your rights to the domain name(s) or your right to receive the

i. In order to change any of your Account or domain name WHOIS information, you must access your Account with us. It is your duty to safeguard your Account login identifier and password from any unauthorized use. Any person in possession of your Account login identifier and password will have both the ability and your authorization to modify your Account and domain name information, initiate transfers of your domain name(s) to other registrars, initiate registrant changes to your domain names which may terminate your rights to use such domain name(s), update DNS changes to your domain name(s) which may result in changes to the content associated with your domain name(s) and take other actions which may affect or terminate your rights and access to your domain name(s) and/or the Services.

ii. We will take reasonable precautions to protect the information we obtain from you from loss, misuse, unauthorized access or disclosure, alteration or destruction of that information and such reasonable precautions include procedures for releasing Account access information to parties who claim to have lost Account access information. If we take reasonable precautions in relation thereto, IN NO EVENT SHALL WE BE LIABLE IF SUCH REASONABLE PRECAUTIONS DO NOT PREVENT THE UNAUTHORIZED USE OR MISUSE OF YOUR ACCOUNT IDENTIFIER OR PASSWORD AND, EVEN IF WE FAIL TO TAKE REASONABLE PRECAUTIONS, OUR LIABILITY UNDER ANY CIRCUMSTANCES SHALL BE LIMITED BY THE LIMITATION OF LIABILITY PROVISION FOUND IN PARAGRAPH 13 BELOW IN THIS AGREEMENT.

iii. If you contact us alleging that a third party has unauthorized access to your Account or domain names, we may charge you administrative fees, currently set at $100 (US dollars) per hour, for our time spent in relation to the matter, regardless of whether or not we return control over the Account and/or domain name(s) to you. You will indemnify us for any reasonable attorneys' fees and costs we may incur in relation to the matter, even if those fees and costs accrue as a result of defending an action, or responding to a threat of an action, initiated by You or a third party.

iv. You have the ability to create Sub-User accounts as well. These Sub-User accounts allow the people you designate to access certain functionality, including those listed in section c(i) above. You have the option of configuring each Sub-User account to have access to any stored payment profiles as well as to set an expiration date representing the revocation of that Sub-User's ability to access your account. You are entirely responsible for any changes requested or made by any Sub-Users you create, and in no event will we be responsible for any undesirable impact to you as a result of any such changes.

v. You are responsible for ensuring your beneficiaries have appropriate access to your NameSilo account(s) in the event of your death or disability. We strongly encourage all account holders to treat their domains like other important assets and to therefore implement a plan of succession upon their inability to access their account. Failure to make the necessary provisions to ensure your beneficiaries have access to your applicable NameSilo account(s) before your death or disability may make accessing your account (including, but not limited to, account funds balance, domain names and sale proceeds) impossible. Please be sure to also consider optional account security usage such as 2-Factor Authentication and Domain Defender. It is also very important that your account information match documentation we may receive in the event of your death such as a death certificate. While we may attempt to work with your beneficiaries to gain access to your account and associated account assets, this is at our sole discretion. It is very difficult in many cases to prove important issues concerning the rightful access to accounts by beneficiaries, and our first priority is the privacy and security of our account holders. In the event we are able to work with a beneficiary to grant account access, we reserve the right to lock domains for a period of time to be solely determined by us. This lock may include, among other things, preventing changes, preventing transfer to a different registrar and preventing transfer to a different account.

d. SHARING OF WHOIS INFORMATION:

I. We will make available the domain name registration information you provide or that we otherwise maintain to the following parties: ICANN, any ICANN-authorized escrow service, the registry administrator(s), and to other third parties as ICANN, registry administrators and applicable laws may require or permit (including through web-based and other on-line WHOIS lookup systems), whether during or after the term of your domain name registration services of the domain name. You irrevocably waive any and all claims and causes of action you may have arising from such disclosure or use of such information. We may make publicly available, or directly available to third parties, some, or all, of the information you provide, for purposes of inspection (such as through our WHOIS service) or for targeted marketing and other purposes as required or permitted by applicable laws, including by way of bulk WHOIS data access provided to third parties who enter into a bulk WHOIS data access agreement with us. We reserve the right to discontinue providing bulk WHOIS data access to third parties.

II. ICANN may establish or modify the guidelines, limits and/or requirements that relate to the amount and type of information that we may or must make available to the public or to private entities, and the manner in which such information is made available. Information regarding ICANN's guidelines and requirements regarding WHOIS can be found at http://www.icann.org/registrars/wmrp.htm, http://www.icann.org/registrars/wdrp.htm, and elsewhere on the ICANN website at http://www.icann.org/.

III. You consent to the data processing referred to above.

4. OUR SERVICES:

a. DOMAIN NAME REGISTRATION.

i. We are accredited registrars with ICANN for generic Top Level Domain Names ("gTLDs") (such as .com, .net, .org, etc.). ICANN oversees registrations and other aspects of the gTLDs. Domain name registrations are not effective until the registry administrator puts them into effect. Domain name registrations are only for limited terms which end on the expiration date. For domain names which are created as a new registration out of the pool of available domain names, the term begins on the date the domain name registration is acknowledged by the applicable registry. For domain name registrations which were not returned to the pool of available domain names, the term begins on the date the previous registrant's domain name registration was acknowledged by the applicable registry.

ii. We are not liable or responsible in any way for any errors, omissions or any other actions by the registry administrator arising out of or related to a request to register, renew, modify the settings for, or transfer of a domain name registration. You acknowledge that domain name registration is a service, domain name registrations do not exist independently from services provided pursuant to this or a similar registration agreement with a registrar, domain name registration services do not create a property interest and you have no such property interest in any domain name(s) which you may register with us.

b. NOT INCLUDED IN THE DOMAIN NAME REGISTRATION SERVICES:

i. We are not responsible to determine whether the domain name(s) you select, or the use you or others make of the domain name(s), or other use of the Services, infringes legal rights of others. It is your responsibility to know whether or not the domain name(s) you select or use or allow others to use infringe legal rights of others.

ii. We might be ordered by a court or arbitrator to cancel, modify, or transfer your domain name; it is your responsibility to list accurate contact information in association with your Account and to communicate with litigants, potential litigants, and governmental authorities. It is not our responsibility to forward court orders or other communications to you. Our policy is to comply with court orders from courts of competent jurisdiction as well as UDRP Panel decisions. If you contact us informing us that you are contesting a court order from a court of competent jurisdiction, we may, but are not obligated to, place a transfer lock on the domain name pending the outcome of the dispute. If you contact us informing us that you are contesting an adverse UDRP Panel decision, your time limits and procedures to do so are subject to the requirements set forth in the UDRP. We may, but are not obligated to, delay implementation of a UDRP Panel decision based solely on your informing us that you intend to contest the decision.

c. WHOIS PRIVACY: We offer a privacy service which substitutes your information with our default information within WHOIS. In the event that you select to utilize this WHOIS Privacy service for one or more of your domains, the following applies:

i. The information you submit related to the various domain roles (registrant, administrative, technical and billing) will remain associated with the domain at all times. We make no claims to the ownership or management of your domains when selecting to use our WHOIS Privacy service.

ii. The terms of this Agreement related to your responsibilities to maintain the accuracy of your contact information are not altered or waived due to your use of this service.

iii. We will provide information to WHOIS at our discretion which will hide your information. This information may reference a WHOIS privacy service other than our name.

iv. You authorize us, or the party referenced in the WHOIS record for your domains utilizing this service, to discard any and all postal mail and electronic mail addressed to the address provided in WHOIS. We are not responsible for forwarding any correspondence directed to your domain names. We will provide a mechanism for entities to make contact with you via a web page that will be referenced in the private WHOIS records. It is entirely at our discretion to forward none, some or all of the correspondence directed to you. We also provide a mechanism for you to enter the email address you would like to use to receive email addressed to the email address in WHOIS for your private domains. We will use our best efforts to forward any such email to the address you provide, but we make no guarantee that we will be able to do so. You agree to provide an email address that complies with the rest of our terms or terms imposed by ICANN or the respective domain registries.

v. You represent and warrant that your use of the WHOIS privacy service will be in good faith and that none of the content found on any web sites or IP addresses associated with domains utilizing the WHOIS privacy service infringes upon the legal rights of any third-party (including, but not limited to, any third-party's trademark, trade name or copyrighted material), and that none of the content is, or is connected to, terrorism, impersonation of a third-party, illegal activities or the transmission of spam, viruses, trojan horses or any other harmful routine or data.

vi. WHOIS privacy is not available for .us domains.

vii. The "AGENTS AND LICENSES" policies covered below also apply to your use of WHOIS Privacy.

viii. We reserve the right in our sole judgment to suspend, terminate and/or disclose your

b. If necessary to comply with applicable laws, subpoenas, court orders, a UDRP action or action initiated by any other entity with appropriate jurisdiction

c. If we deem that continuing to provide WHOIS privacy services places us in any jeopardy of of harm including financial loss or legal liability on our behalf or on the behalf of any of our partners, affiliates, employees or managers

d. If we believe you have not completely abided by your representations and warranties listed in this Agreement

ix. In the event that we or a third-party believe you to be infringing upon any part of this Agreement, we will contact you at the email address associated with your account. It is your responsibility to reply to any such communication within three (3) days. We are not responsible for any failure to deliver any such notification as things beyond our control may occur that could prevent delivery. If you fail to reply within the given time frame, or if, in our sole judgment, we believe your reply does not adequately address the points raised in our email, we reserve the right to immediately release your contact information and to suspend or terminate the WHOIS privacy service. This would result in your information being made available via WHOIS. You further agree that we disclaim any liability arising out of undertaking this action and any direct or indirect consequences experienced as a result of releasing your information or suspending or terminating the WHOIS privacy service.

x. In addition to all other indemnity clauses in this Agreement, you agree to defend, release, and indemnify us, ICANN, the registry operators as well as any of our employees, agents, affiliates, partners and managers for any third-party claims arising out of your usage of the WHOIS privacy services.

d. PARKED DOMAINS: We offer a service to park your domains. In choosing to park your domains with us, we will create and host a mini-site that will be displayed any time there is a visitor to your domain. Any domains that you park with us will automatically have their nameservers adjusted to our default settings, so please make sure you understand that any then-existing services for your domains prior to the nameserver change will stop functioning.
Ads will be displayed on your parked mini-sites. You will have the opportunity to have ads inserted from your advertising account which will allow you to keep 100% of that advertising revenue. If you fail to configure one or more of the available ad slots, we will have the option of serving our own ads which will entitle us to all of those advertising proceeds.

You will also be able to configure your parked pages to include your own content as well as content that we make available. Parking your domains with us implies your acceptance of the following points:

a. You will not add any profanity, copyrighted content, or anything else, which in our sole discretion, is harmful, profane or illegal.

b. We reserve the right to remove or modify your parked domain status or any content on your parked mini-sites at any time and for any reason. Although not obligated to do so, in such an event we will make a reasonable effort to contact you to let you know about our decision and to either give you time to change the offending content, or to make other plans for the use of your domain name.

e. DOMAIN DEFENDER: We offer a service called Domain Defender which you can optionally enable for your account. This service allows you to add extra security to your account by selecting supplemental security questions and associated answers that must be answered before making changes through your account. Additionally, you can configure the service to optionally send you e-mail and/or text messages upon the completion of certain changes to your domains. Your use of this service is entirely optional, but, if you choose to enable the service, the following applies:

a. We make NO CLAIM that use of the service will prevent misuse of your account or unintended changes to your domains. Your responsibilities within this Agreement to secure your account are still in force.

b. If you select to receive text message notifications, you understand that all messaging rates imposed by your carrier will apply.

c. We are not responsible for any notifications that you do not receive, including but not limited to, emails that are caught in an anti-spam system and text messages not delivered by your carrier.

d. Even with this service enabled, we still highly recommend locking all of your domains.

5. SERVICES PROVIDED AT WILL; TERMINATION OR SUSPENSION OF SERVICES:

a. We may reject your domain name registration application or elect to discontinue providing Services to you for any reason within 30 days of a Service initiation or a Service renewal. Outside of this period, we may terminate or suspend the Services at any time for cause, which, without limitation, includes (i) registration of prohibited domain name(s), (ii) abuse of the Services, (iii) payment irregularities, (iv) illegal conduct, (v) failure to keep your Account or WHOIS information accurate and up to date, (vi) failure to respond to inquiries from us for over three (3) calendar days, (vii) if your use of the Services involves us in a violation of any third party's rights or acceptable use policies, including but not limited to the transmission of unsolicited email, the violation of any copyright, or the distribution of any form of malware (defined to include, without limitation, malicious code or software that

liability, civil or criminal, on the part of us, as, well as its affiliates, subsidiaries, officers, directors, and employees, (x) to protect the integrity, security and stability of the Domain

Name system (DNS), or (xi) failure to respond to inquiries from us regarding payment inquiries for over 24 hours.
Prohibited domain names and illegal activities which may be subject to these provisions include, but are not limited to:

i. Domains and web sites prohibited by the laws of the United States and/or foreign territories in which you conduct business
ii. Domains and web sites designed to encourage unlawful behavior by others, such as hate crimes, terrorism and child pornography
iii. Domains and web sites that are tortious or invasive of the privacy of a third party
iv. Domains and web sites designed to harm or use unethically minors in any way
v. Domains and web sites involved in the transmission of unsolicited email
vi. Domains and web sites involved in unauthorized repetitive, high volume inquires into any of the services provided by us or a third-party
vii. Domains and web sites involved in copyright and/or trademark infringement
viii. Domains transferred illegally from a different registrar without the previous Registrant's knowledge

REFUNDS WILL NOT BE ISSUED IF YOUR SERVICES ARE SUSPENDED FOR CAUSE PER THIS AGREEMENT.

THERE ARE ABSOLUTELY NO REFUNDS FOR BITCOIN PURCHASES.

If we determine that your account is engaged in repeated abuse of this Agreement then we may elect to terminate your entire account and all domains within your account.

b. You may cancel any domain registration (other than domains registered via drop-catching) with us within three (3) days of purchase for a full refund (minus any applicable transaction fees). You may cancel at any time after the three-day period, but no refund will be issued. To cancel a domain name, please log in to your account and visit the Order History page. Your refund will be issued back to the method of payment used to make the registration purchase. The total refund amount may be reduced by any transaction fees that we incurred as part of the initial transaction and/or the issuance of the refund. All refunds will go back to the source of the transaction.

Important note regarding domain registration refunds. At our sole discretion, we may choose not to issue a domain registration refund if we believe you to be engaged in "domain tasting" or some other activity resulting in an abnormal number of cancellations. More specifically, if, in our sole discretion, we believe you to be engaged in a high volume or irregular number of registrations and subsequent cancellations, we may opt not to refund your money. In the event we believe you to be engaged in such activity, we will make an effort to issue one warning via email to you prior to disallowing further refunds for your account, but we are not obligated to do so.

c. You may cancel domain renewals (other than renewals associated with Expired Domain Auctions) with us within three (3) days of purchase for a full refund (minus any applicable transaction fees). If you transfer your domain within 45 days of a domain renewal, you may not be entitled to a refund and you may also not receive any extended registration time on your domain. ALL DOMAIN RENEWAL CANCELLATIONS, OTHER THAN CERTAIN AUTOMATIC RENEWALS, WILL RESULT IN YOUR DOMAIN BEING DELETED AND PLACED INTO THE REDEMPTION PERIOD AT THE REGISTRY. THIS MEANS THAT YOU WILL NOT BE ABLE TO RENEW THE DOMAIN WITH US WITHOUT PAYING FOR A RESTORATION, OR POSSIBLY NOT AT ALL. IF YOU HAVE TIME REMAINING ON YOUR REGISTRATION IT WILL BE SACRIFICED IN TOTAL WHEN RECEIVING A RENEWAL REFUND.

Important note regarding domain renewal refunds. At our sole discretion, we may choose not to issue a domain renewal refund if your cancellation rate surpasses the ratios set by our system.

d. Sorry, but refunds are not available for restorations, completed transfers, Sedo premium domains, Afternic premium domains, domain auctions and marketplace purchases or Bitcoin purchases.

e. If we terminate or suspend the Services provided to you under this Agreement, we may then, at our option, make either ourselves or a third party the beneficiary of Services which are substantially similar to those which were previously provided to you. If we have grounds to terminate or suspend Services with respect to one domain name or in relation to other Services provided through your Account, we may terminate or suspend all Services provided through your Account. No fee refund will be made when there is a suspension or termination of Services for cause.

f. At any time and for any reason, we may terminate the Services thirty (30) days after we send notice of termination via mail or email, at our option, to the WHOIS contact information provided in association with your domain name registration. Following notice of termination other than for cause, you must transfer your domain name within such thirty (30) day notice period or risk that we may delete your domain name, transfer the registration services associated with your domain name to ourselves or a third party, or suspend or modify Services related to your domain name. If we terminate Services for a

registrar or registry administrator procedures approved by an ICANN-adopted policy or any policy adopted by any ccTLD registry or governing body, to correct mistakes by us, another

registrar or the registry administrator in administering the domain name or for the resolution of disputes concerning the domain name or as a result of any government decree, rule, law or regulation. This includes, but is not limited to, ICANN's WHOIS ACCURACY PROGRAM SPECIFICATION which requires that we deactivate any domains for which we have not received verification of Registrant email address within 15 days of notification.

6. FEES: You agree to pay, prior to the effectiveness of the desired Services, the applicable Service fees set forth during the registration process or otherwise communicated to you by us. In the event any of the fees for Services change, we will use reasonable efforts to give you thirty (30) days prior notice of such a change. All fees are non-refundable, in whole or in part, even if your domain name registration is suspended, cancelled or transferred prior to the end of your then current registration term, unless this Agreement specifically provides for a refund. At our option, we may require that you pay fees through a particular payment means (such as by credit card or by wire transfer) or that you change from one payment provider to another.

   PREMIUM DOMAINS: Please note that it is possible that the pricing shown on our web site's pricing or search results pages may not be the actual price for a registation, transfer or renewal. This happens when the registry for a domain determines that a specific domain is a "premium domain". If this happens, our system will notify you and update the pricing in your shopping cart as soon as the domain is added. We recommend always checking the price in the shopping cart when adding to or changing your order.
7. PAYMENT ISSUES: In the event of a charge back, or if we have belief in an imminent charge back, by a credit card company, credit card holder, or similar action by another payment provider, including, but not limited to PayPal, Payza or Skrill investigations, allowed by us in connection with your payment of fees for any Services, we may suspend access to any and all Accounts you have with us and all interests in and use of any domain name registration services. We may cancel any order(s) associated with anything covered in this section, but may not provide a refund. We may reinstate your rights to and control over these Services solely at our discretion, and potentially subject to our receipt of the unpaid fees and our then-current reinstatement fee as otherwise communicated to you by us. If you have an issue with credit card or other payment charges, you should contact us regarding the issue before you contact your credit card or other payment process company to request a charge back or reversal of the charges.
8. EXPIRATION AND RENEWAL OF SERVICES: It is your responsibility to keep your own records and to maintain your own reminders regarding when your domain name registration or other Services are set to expire and to maintain current and accurate credit card information should any Services be placed on "auto-renew." As a convenience to you, and not as a binding commitment, we may notify you via an email message or via your Account when renewal fees are due. Should these fees go unpaid, your Services will expire or be cancelled. Payment must be made by credit card, account funds, Paypal, or such other method as we may allow or require from time to time. If you select automatic renewal of the Services, we may attempt to renew the Services a reasonable time before expiration, provided your billing information is available and up to date. It is your responsibility to keep your billing information up to date and we are not required to, but may, contact you to update this information in the event that an attempted transaction is not processed successfully.
9. EXPIRATION OF A DOMAIN NAME REGISTRATION: Immediately after the expiration of the term of domain name registration services and before deletion of the domain name in the applicable registry's database, we may stop publishing zone files for your domain, direct the domain name to name-servers and IP address(es) designated by us, including, without limitation, to no IP address or to IP address(es) which host a parking page or a commercial search engine that may display advertisements, and we may either leave your WHOIS information intact or we may change the contact information in the WHOIS output for the expired domain name so that you are no longer the listed registrant of the expired domain name.

   a. Reactivation Period Process. For a period of approximately 30 days after expiration of the term of domain name registration services, we may provide a procedure by which expired domain name registration services may be renewed. We may, but are not obligated to, offer this process, called the "reactivation period." You assume all risks and all consequences if you wait until close to or after the expiration of the original term of domain name registration services to attempt to renew the domain name registration services. We may, in our sole discretion, choose not to offer a reactivation period and we shall not be liable therefore. The reactivation period renewal process, if any, may involve additional fees which we will solely determine. We may make expired domain name services(s) available to third parties, we may auction off the rights to expired domain name services, and/or expired domain name registration services may be re-registered to any party at any time.
      - You can find our renewal pricing on our pricing page
      - You can find our restoration/redemption pricing and our schedule to deliver pre- and pos-expiraiton notifications on our expiration process page
   b. If you select to deactivate your domain name, we reserve the right to place any such deactivated domain names into our expired domain marketplace upon expiraiton. As with all expired domain marketplace sales, you will not receive any compensation if the domain sells.

discontinued domain name registration services may nonetheless be renewed. We may, but are not obligated to, participate in this process, typically called the "Redemption Grace Period" ("RGP"). We may, in our sole discretion, choose not to participate in the RGP process with respect to any or all of your domain name registration services and we shall not be liable therefore. If available, RGP typically ends between 30 and 42 days after the end of the reactivation period of the domain name services. We are not obliged to contact you to alert you that the domain name registration services are being discontinued; or

ii. Pay the registry's registration fee or otherwise provide for the registration services to be continued. In which case, we may then set the name-servers and the DNS settings for the domain name services, we may set the DNS to point to no IP address or to IP address(es) which host parking page(s) or a commercial search engine that may display paid advertisements, and we may change the contact information in the WHOIS output for the expired domain name so that you are no longer the listed registrant of the expired domain name. We do not have to pay you any of the proceeds we may earn as a result. We are not obliged to contact you to alert you that the domain name registration services are being continued. The domain name will be designated as being in the extended redemption grace period ("ERGP"), and you will be allowed to assume, during the first 120 days of the then extant registration term, complete management of the domain name services, including the right to control the DNS settings, provided that you pay the fees we set forth plus any registration fees. After the end of the 120-day period, if you do not exercise your rights under this provision, you have abandoned the domain name services, and relinquish all interests and use of the domain name services; or

iii. Auction the domain name to a third party which entails transferring the domain name registration services to such third party. In which case, the third party who won the auction for the domain name services will become the new Registrant of the domain name, and you will lose any claim to that domain. In the event we auction your domain and assign it to a third-party, we may, but are not required to, inform you that such a transition has occurred. You can find our domain expiration process listed on our web site, and it remains your responsibility to renew your domain names on time to avoid losing them.

10. TRANSFERS:

a. Transfer of your domain name(s) services shall be governed by ICANN's transfer policy, available at http://www.icann.org/transfers/, including the Registrar Transfer Dispute Resolution Policy, available at https://www.icann.org/resources/pages/transfer-policy-2016-06-01-en as well as the UDRP as described in the Dispute Resolution Policy of this Agreement, as these policies may be modified from time to time. To transfer your domain name(s) you should first login to your Account to lock or unlock your domain name(s) and/or to obtain the EPP "AuthCode" which is required to transfer domain services in an EPP registry (such as .org). Only the registrant and the administrative contacts listed in the WHOIS information may approve or deny a transfer request. Without limitation, domain name services may not be transferred within 60 days of initial registration, within 60 days of a transfer, if there is a dispute regarding the identity of the domain name registrant, if you are bankrupt, or if you fail to pay fees when due. We will follow the procedures for both gaining and losing registrars as outlined in ICANN's transfer policies. A transfer will not be processed if, during this time, the domain name registration services expire, in which event you may need to reinstate the transfer request following a redemption of the domain name, if any. You may be required to resubmit a transfer request if there is a communication failure or other problem at either our end or at the registry. YOU ASSUME ALL RISK FOR FAILURE OF A TRANSFER WHETHER OR NOT THE TRANSFER PROCESS IS INITIATED CLOSE TO THE END OF A REGISTRATION TERM.

b. We may place a "Registrar Lock" on your domain name services and this will prevent your domain name services from being transferred without your authorization, though we are not required to do so. By allowing your domain name services to remain locked, you provide express objection to any and all transfer requests until the lock is removed.

c. You may cancel incoming transfer requests at any time before they are completed up to 59 calendar days from the initial transfer order. Canceling a transfer request will entitle you to a refund of the transfer cost, minus processing fees. YOU WILL NOT BE ENTITLED TO A REFUND IF YOU CANCEL YOUR TRANSFER REQUEST AFTER THE 59 DAY TIME LIMIT.

d. In the event we receive a request from a different registrar to transfer your domain away, you may be presented with an option to approve the transfer without waiting the standard 5-7 days for registry release. Any such approval grants us the right to approve the transfer immediately. We also reserve the right to approve outbound transfers at any time during the transfer process. In the event either you or we approve an outbound transfer, the transfer will complete within 15 minutes.

e. Certain transfers may not be eligible for the 1-year extension associated with most transfers. For example, domains renewed within 45 days of transfer or domains already registered for more than 9 years will not get extended by a year upon transfer completion. Registries apply the extra year, registrars do not. Therefore, if the registry is unable to extend the expiration by a year, then one year will not be added to your domain transfer.

11. DNS SERVICES: The Domain Name System (DNS) is a hierarchical naming system built on a distributed database for computers, services, or any resource connected to the Internet or a private network. It associates various information with domain names assigned to each of the participating entities. Most importantly, it translates domain names meaningful to humans into the numerical identifiers associated with networking equipment for the purpose of

provider at any time by associating different authoritative name servers with the applicable domains as needed. By using the DNS service we offer, you hereby acknowledge and agree to the following:

a. DNS is a critical service responsible for all facets of domain use. Incorrect configuration of DNS as it relates to your domains can lead to problems such as:
   i. Web site(s) not loading
   ii. Email can stop working
b. You should only make DNS modifications if you fully understand the implications of doing so, understand how DNS works, have the technical expertise to verify the modifications were propagated properly to the associated authoritative name servers, and are prepared to fully test the impact of the modifications as soon as they take effect.
c. We make absolutely no guarantee whatsoever related to the DNS hosting service. If you need a service level agreement guaranteeing minimum performance or reliability levels, you should use a different DNS service provider who offers such guarantees.
d. DNS is a globally distributed database with many interconnected components - the vast majority of which are NOT directly or indirectly under our control. Problems can occur anywhere in the system.
e. Many of the distributed nodes in DNS, commonly referred to as recursive resolvers, cache DNS resource records for the time recommended by our authoritative name servers (controlled via the TTL value), or for any amount of time they are configured to do so (they can ignore our recommended time). As a result, changes made to DNS records through us will not immediately propagate to your local systems - the delay can be as long as the maximum TTL setting on the associated records, or longer.
f. We, at our sole discretion, reserve the right to provide additional support for DNS related matters, or no support at all.
g. Upon domain deletion, domain expiration, transfer of a domain (away from us), and/or the cancellation/termination/suspension/deletion of your account(s), DNS service for the associated domain(s) and/or account(s) will be terminated. It is entirely your responsibility to make alternative DNS service arrangements prior and/or after termination of DNS service as needed if said termination could affect you in any way.
h. We, at our sole discretion, reserve the right to make any changes to DNS records we deem necessary to protect the stability of our system.

DNS Service Disclaimer of Warranty

THERE IS NO WARRANTY FOR THE DNS SERVICE, TO THE EXTENT PERMITTED BY APPLICABLE LAW. EXCEPT WHEN OTHERWISE STATED IN WRITING WE PROVIDE THE DNS SERVICE "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE DNS SERVICE IS WITH YOU. SHOULD THE DNS SERVICE PROVE DEFECTIVE, YOU ASSUME THE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION.

DNS Service Indemnification

We use the systems of a third party, DNSOwl.com, to provide all DNS services. You agree to indemnify, defend and hold harmless DNSOwl.com, and its directors, officers, employees, agents, and affiliates from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses arising out of or relating to your domains and/or any DNS related matter.

12. OWNERSHIP OF INFORMATION AND DATA: We own all database, compilation, collective and similar rights, title and interests worldwide in our domain name database, and all information and derivative works generated from the domain name database. We own the following information for those registrations for which we are the registrar: (a) the original creation date of the registration, (b) the expiration date of the registration, (c) the name, postal address, e-mail address, voice telephone number, and where available fax number of the registrant and all contacts for the domain name registration, (d) any remarks concerning the registered domain name that appear or should appear in the WHOIS or similar database, and (e) any other information we generate or obtain in connection with the provision of Services, other than the domain name being registered, the IP addresses of the primary nameserver and any secondary nameservers for the domain name, and the corresponding names of those nameservers. We do not have any ownership interest in your specific personal registration information outside of our rights in our domain name database.
13. AGENTS AND LICENSES: If you are registering a domain name for or on behalf of someone else, you represent that you have the authority to bind that person as a principal to all terms and conditions provided herein. If you license the use of a domain name you register to us or a to third party, you remain the domain name holder of record, and remain responsible for all obligations at law and under this Agreement, including but not limited to payment obligations, and providing (and updating, as necessary) both your own full contact information, and accurate technical, administrative, billing and zone contact information adequate to facilitate timely resolution of any problems that arise in connection with the domain name and domain name registration and for ensuring non-infringement of any third

providing the Registered Name Holder reasonable evidence of actionable harm.

You authorize us to serve as your "Designated Agent" permitting us to approve any "Change of Registrant". The terms "Designated Agent" and "Change of Registrant" used in this Section are defined in the ICANN transfer policy seen here . Due to your authorization for us to serve as your "Designated Agent", Registrants will not need to receive an email concerning the change, and will also not need to confirm the change via email. We will instead auto-approve any "Changes of Registrant". You further explicity opt-out of an inter-registrar transfer lock as would otherwise have been required per the ICANN transfer policy linked to above.

14. LIMITATION OF LIABILITY: WE WILL NOT BE LIABLE FOR ANY (a) SUSPENSION OR LOSS OF THE SERVICES, (b) USE OF THE SERVICES, (c) INTERRUPTION OF SERVICES OR INTERRUPTION OF YOUR BUSINESS, (d) ACCESS DELAYS OR ACCESS INTERRUPTIONS TO OUR WEB SITE(S) OR SERVICES OR DELAYS OR ACCESS INTERRUPTIONS YOU EXPERIENCE IN RELATION TO A DOMAIN NAME REGISTERED WITH US; (e) LOSS OR LIABILITY RESULTING FROM ACTS OF OR EVENTS BEYOND OUR CONTROL (f) DATA NON-DELIVERY, MIS-DELIVERY, CORRUPTION, DESTRUCTION OR OTHER MODIFICATION; (g) THE PROCESSING OF AN APPLICATION FOR A DOMAIN NAME REGISTRATION; (h) LOSS OR LIABILITY RESULTING FROM THE UNAUTHORIZED USE OR MISUSE OF YOUR ACCOUNT IDENTIFIER OR PASSWORD; OR (i) APPLICATION OF ANY DISPUTE POLICY. WE WILL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS) REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL OUR MAXIMUM AGGREGATE LIABILITY EXCEED THE TOTAL AMOUNT PAID BY YOU FOR SERVICES, AND IN NO EVENT SHALL OUR LIABILITY BE GREATER THAN $200.00 (US Dollars). BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES, OUR LIABILITY SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.
15. INDEMNITY: You hereby release, indemnify, and hold us, ICANN, the registry operators (including, but not limited to VeriSign, Inc), as well as the contractors, agents, employees, officers, directors, shareholders, and affiliates of such parties harmless from and against any and all liabilities, claims, damages, costs and expenses, including reasonable attorneys' fees and court costs, for third party claims relating to or arising under this Agreement, including any breach of any of your representations, warranties, covenants or obligations set forth in this Agreement, the Services provided hereunder (including, but not limited to WHOIS privacy), or your use of the Services, including, without limitation, infringement by you, or by anyone else using the Services, of any intellectual property or other proprietary right of any person or entity, or from the violation of any of our or ICANN's operating rules or policies relating to the Services provided. We may seek written assurances from you in which you promise to indemnify and hold us harmless from the costs and liabilities described in this paragraph. Such written assurances may include, in our sole discretion, the posting of a performance bond(s) or other guarantees reasonably calculated to guarantee payment. Your failure to provide such assurances may be considered by us to be a breach of this Agreement by you and may, in our sole discretion, result in loss of your right to control the disposition of domain name Services for which you are the registrant and in relation to which we are the registrar of record. This indemnification is in addition to any indemnification (a) required under the UDRP or any other ICANN policy or any policy of any relevant registry; or (b) set forth elsewhere in this Agreement.
16. REPRESENTATIONS AND WARRANTIES: YOU REPRESENT AND WARRANT THAT NEITHER THE REGISTRATION OF A DOMAIN NAME NOR THE MANNER IN WHICH IT IS DIRECTLY OR INDIRECTLY USED NOR THE USE OF OTHER OF THE SERVICES INFRINGES THE LEGAL RIGHTS OF A THIRD PARTY OR WILL OTHERWISE SUBJECT US TO A LEGAL CLAIM. THE SERVICES ARE INTENDED FOR USE BY PERSONS WHO ARE AT LEAST 18 YEARS OLD AND BY USING THE SERVICES, YOU REPRESENT AND WARRANT THAT YOU ARE AT LEAST 18 YEARS OLD AND ALL INFORMATION PROVIDED BY YOU IN CONNECTION WITH YOUR PROCUREMENT OF THE SERVICES IS ACCURATE. ALL SERVICES ARE PROVIDED TO YOU "AS IS" AND WITH ALL FAULTS. EXCEPT FOR OUR STATEMENT REGARDING OUR ACCREDITATION AS ICANN-APPROVED DOMAIN NAME REGISTRARS, WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, UNLESS SUCH REPRESENTATIONS AND WARRANTIES ARE NOT LEGALLY EXCLUDABLE. WITHOUT ANY LIMITATION TO THE FOREGOING, WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER THAT REGISTRATION OR USE OF A DOMAIN NAME UNDER THIS AGREEMENT WILL IMMUNIZE YOU EITHER FROM CHALLENGES TO YOUR DOMAIN NAME REGISTRATION, OR FROM SUSPENSION, CANCELLATION OR TRANSFER OF THE DOMAIN NAME REGISTERED TO YOU. ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF OUR E-MAIL FORWARDING OR OTHER EMAIL SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL AND/OR DATA. WE MAKE NO WARRANTY REGARDING ANY GOODS OR SERVICES PURCHASED OR OBTAINED THROUGH OUR E-MAIL SERVICES OR ANY TRANSACTIONS ENTERED INTO THROUGH OUR E-MAIL SERVICES. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US SHALL CREATE ANY WARRANTY NOT

policies of any relevant registry, including but not limited to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), which is available at http://www.icann.org/udrp/udrp-rules-24oct99.htm and http://www.icann.org/dndr/udrp/policy.htm along with the UDRP Rules and all Supplemental Rules of any UDRP provider. The UDRP may be changed by ICANN (or ICANN's successor) at any time. If the registration or reservation of your domain name is challenged by a third party, you will be subject to the provisions specified in the UDRP in effect at the time your domain name registration is disputed by the third party. In the event a domain name dispute arises with any third party, you will indemnify and hold us harmless pursuant to the terms and conditions of the UDRP. If you or your domain name are the subject of litigation, we may deposit control of your domain name record into the registry of the judicial body by providing a party with a registrar certificate.

18. GOVERNING LAW AND JURISDICTION FOR DISPUTES:

    a. Except as otherwise set forth in the UDRP or any similar ccTLD policy, with respect to any dispute over a domain name registration, this Agreement, your rights and obligations and all actions contemplated by this Agreement shall be governed by the laws of the United States of America and the State of Arizona, as if the Agreement was a contract wholly entered into and wholly performed within the State of Arizona.

    b. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of the agreement to arbitrate, shall be determined by arbitration in Maricopa County, Arizona, before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude us from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. Service of process on you by us in relation to any dispute arising under this Agreement may be served upon you by first class mail to the address listed by you in your Account and/or domain name WHOIS information or by electronically transmitting a true copy of the papers to the email address listed by you in your Account and/or domain name WHOIS information.

    c. Notwithstanding the foregoing, for the adjudication of third party disputes (i.e., disputes between you and another party, not us) concerning or arising from use of domain names registered hereunder, you shall submit without objection, without prejudice to other potentially applicable jurisdictions, to the subject matter and personal jurisdiction of the courts (i) of the domicile of the registrant as it appears in the public WHOIS record for the domain name(s) in controversy, and (ii) where we are located.

    d. When contacting us, please refer to our abuse reporting procedures as listed on our web site if you are contacting us concerning abuse of our services. As such, and for any and all other legal notifications to our company, please use email or the form on our contact us page to contact us. Postal mail correspondence should be expected to incur delays.

19. NOTICES: Any notices required to be given under this Agreement by us to you will be deemed to have been given if sent in accordance with the Account and/or domain name WHOIS information you have provided.
20. PRIVACY: Details about how we process and share your information, options available to you regarding its use, as well as how to contact us, can be found in our privacy policy. By accepting this Agreement, you also accept the use of your information as described in our privacy policy. Furthermore, you hereby agree not to submit anybody else's personal information to us in conjunction with your use of Services without first communicating your intended use of their personal information along with our privacy policy and then obtaining their consent to said use.
21. GENERAL: This Agreement and all applicable ICANN policies and the policies of any relevant registry, including but not limited to the UDRP, together with all modifications, constitute the complete and exclusive agreement between you and us, and supersede and govern all prior proposals, agreements, or other communications. Nothing contained in this Agreement shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties. The failure of us to require your performance of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by us of a breach of any provision hereof be taken or held to be a waiver of the provision itself. In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. We will amend or replace such provision with one that is valid and enforceable and which achieves, to the extent possible, our original objectives and intent as reflected in the original provision. This Agreement may not be amended or modified by you except by means of a written document signed by both you and an authorized representative of us.
22. DATES/TIMES: All dates/times shown in our sytem for information including, but not limited to, expiration dates, auction end times and transfer completion dates are based upon Arizona time unless otherwise noted.

Terms and conditions specific to .BIZ domain registrations

Registrations in the .BIZ TLD must be used or intended to be used primarily for bona fide business or commercial purposes. For purposes of the .BIZ Registration Restrictions ("Restrictions"), "bona fide business or commercial use" shall mean the bona fide use or bona fide intent to use the domain name or any content, software, materials, graphics or other information thereon, to permit Internet users to access one (1) or more host computers through the DNS:

iii. To facilitate (i) the exchange of goods, services, information, or property of any kind, or, (ii) the ordinary course of trade or business. Registering a domain name solely for the purposes of (1) selling, trading or leasing the domain name for compensation, or (2) the unsolicited offering to sell, trade or lease the domain name for compensation shall not constitute a "bona fide business or commercial use" of that domain name.

As a .BIZ domain name registrant, You hereby certify to the best of Your knowledge that:

i. The registered domain name will be used primarily for bona fide business or commercial purposes and not (i) exclusively for personal use; or (ii) solely for the purposes of (1) selling, trading or leasing the domain name for compensation, or (2) the unsolicited offering to sell, trade or lease the domain name for compensation. More information on the .BIZ restrictions, which are incorporated herein by reference, are available online.
ii. The domain name registrant has the authority to enter into the registration agreement; and
iii. The registered domain name is reasonably related to the registrant's business or intended commercial purpose at the time of registration.

Domain Name Dispute Policy

If You reserved or registered a .BIZ domain name through us, You agree to be bound by our current domain name dispute policy that is incorporated herein and made a part of this Agreement by reference. Please take the time to familiarize Yourself with that policy. In addition, You hereby acknowledge that You have read and understood and agree to be bound by the terms and conditions of the following documents, as they may be amended from time to time, which are hereby incorporated and made an integral part of this Agreement:

i. The Uniform Domain Name Dispute Policy;
ii. The Start-up Trademark Opposition Policy ("STOP"); and
iii. The Restrictions Dispute Resolution Criteria and Rules.

The STOP sets forth the terms and conditions in connection with a dispute between a registrant of a .BIZ domain name ("Registrant") with any third party (other than Registry Operator or Registrar) over the registration or use of a .BIZ domain name registered by Registrant that is subject to the Intellectual Property Claim Service. The Intellectual Property Claim Service is a service introduced by Registry Operator to notify a trademark or service mark holder ("Claimant") that a second-level domain name has been registered in which that Claimant claims intellectual property rights. In accordance with the STOP and its associated Rules, those Claimants will have the right to challenge registrations through independent ICANN-accredited dispute resolution providers.
The UDRP sets forth the terms and conditions in connection with a dispute between a Registrant and any party other than the Registry Operator or Registrar over the registration and use of an Internet domain name registered by Registrant.

The RDRP sets forth the terms under which any allegation that a domain name is not used primarily for business or commercial purposes shall be enforced on a case-by-case, fact specific basis by an independent ICANN-accredited dispute provider. None of the violations of the Restrictions will be enforced directly by or through Registry Operator. Registry Operator will not review, monitor, or otherwise verify that any particular domain name is being used primarily for business or commercial purposes or that a domain name is being used in compliance with the SUDRP or UDRP processes.**Domain Name Dispute Policy Modifications**

You agree that we, in our sole discretion, may modify our dispute policy. We will post any such revised policy on our web site at least thirty (30) calendar days before it becomes effective. You agree that, by maintaining the reservation or registration of Your domain name after modifications to the dispute policy become effective, You have agreed to these modifications. You acknowledge that if You do not agree to any such modification, You may terminate this Agreement. We will not refund any fees paid by You if You terminate Your Agreement with us.

Domain Name Disputes

You agree that, if Your use of our domain name registration services is challenged by a third party, You will be subject to the provisions specified in our dispute policy in effect at the time of the dispute. You agree that in the event a domain name dispute arises with any third party, You will indemnify and hold us harmless pursuant to the terms and conditions set forth below in this Agreement. If we are notified that a complaint has been filed with a judicial or administrative body regarding Your use of our domain name registration services, You agree not to make any changes to Your domain name record without our prior approval. We may not allow You to make changes to such domain name record until (i) we are directed to do so by the judicial or administrative body, or (ii) we receive notification by You and the other party contesting Your registration and use of our domain name registration services that the dispute has been settled. Furthermore, You agree that if You are subject to litigation regarding Your registration and use of our domain name registration services, we may deposit control of Your domain name record into the registry of the judicial body by supplying a party with a registrar certificate from us.

Reservation of Rights

We and the .BIZ Registry Operator, NeuLevel, Inc. expressly reserve the right to deny, cancel or transfer any registration that it deems necessary, in its discretion, to protect the integrity and stability of the registry, to comply with any applicable laws, government rules or requirements, requests of law enforcement, in compliance with any dispute resolution process, or to avoid any liability, civil or criminal, on the part of us and/or NeuLevel, Inc., as well as their affiliates

Indemnification

You agree to indemnify, defend and hold harmless the .BIZ Registry Operator, NeuLevel, Inc., and its directors, officers, employees, agents, and affiliates from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses arising out of or relating to the Registered Name holder's domain name registration. This indemnification requirement shall survive the termination or expiration of the registration agreement.

Terms and conditions specific to .COM and .NET domain registrations

You agree to indemnify, defend and hold harmless the .COM .and NET Registry Operator, VeriSign, Inc., and its directors, officers, employees, agents, and affiliates from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses arising out of or relating to the Registered Name holder's domain name registration.

Terms and conditions specific to Afilias domain registrations

You agree to the Afilias policies as found at http://afilias.info/policies.

Terms and conditions specific to .INFO domain registrations

You agree to indemnify, defend and hold harmless the .INFO Registry Operator, Afilias Limited, and its subcontractors, shareholders, directors, officers, employees, agents, and affiliates from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses arising out of or relating to the Registered Name holder's domain name registration. This indemnification requirement shall survive the termination or expiration of this Agreement.

If You are registering a .INFO domain name You also agree to:

1. consent to the use, copying, distribution, publication, modification and other processing of Registered Name Holder's Personal Data by the .info Registry Operator and its designees and agents;
2. submit to proceedings commenced under ICANN's Uniform Domain Name Dispute Resolution Policy ("UDRP") and the Sunrise Dispute Resolution Policy ("SDRP");
3. immediately correct and update the registration information for the Registered Name during the registration term for the Registered Name; and
4. acknowledge that the Registry Operator will have no liability of any kind for any loss or liability resulting from the proceedings and processes relating to the Sunrise Period or the Land Rush Period, including, without limitation: (a) the ability or inability of a registrant to obtain a Registered Name during these periods, and (b) the results of any dispute over a Sunrise Registration.

Terms and conditions specific to .MOBI domain registrations

You acknowledge and agree that You shall comply with the requirements, standards, policies, procedures and practices set forth in the dotmobi Style Guide, found here. You consent to the monitoring of Your website for compliance with the Style Guide.

Further, You acknowledge and agree the Style Guide is subject to modification by the dotmobi registry, and You acknowledge and agree that You will comply with any such changes in the time allotted.

You agree to indemnify to the maximum extent permitted by law, defend and hold harmless Registry Operator, and its directors, officers, employees and agents from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, arising out of or relating to Your domain name registration and or use, and this indemnification obligation survives the termination or expiration of this Agreement;

You agree to indemnify, defend and hold harmless Registry Services Provider, its subsidiaries and affiliates, and the directors, officers, employees and agents or each of them, from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, arising out of or relating to Your domain name registration and or use, and this indemnification obligation survives the termination or expiration of this Agreement;

Acknowledge and agree that notwithstanding anything in this Agreement to the contrary, mTLD Top Level Domain Ltd. ("dotmobi"), the Registry Operator of the .MOBI TLD, is and shall be an intended third party beneficiary of this Agreement. As such, the parties to this Agreement acknowledge and agree that the third party beneficiary rights of dotmobi have vested and that dotmobi has relied on its third party beneficiary rights under this Agreement in agreeing to us being a registrar for the .MOBI top-level domain. Additionally, the third party beneficiary rights of dotmobi shall survive any termination or expiration of this Agreement.

You agree to comply with ICANN requirements, standards, policies, procedures, and practices for which dotmobi has responsibility in accordance with the Registry Agreement between ICANN and dotmobi or other arrangement with ICANN.

You consent to the use, copying, distribution, publication, modification and other processing of Your personal data by dotmobi and its designees and agents in a manner consistent with the

domain name(s) during the registration term for each registered name.

You further agree to comply with operational standards, policies, procedures, and practices for the Registry TLD established from time to time by Registry Operator in a non-arbitrary manner as Registry Policies, applicable to all registrars and/or Registered Name Holders, and consistent with the Registry Agreement shall be effective upon thirty (30) days notice by Registry Operator to Registrar;

You acknowledge and agree that dotmobi and Affilias Limited, acting in consent with dotmobi, reserves the right to deny, cancel or transfer any registration that it deems necessary, in its discretion (i) to protect the integrity and stability of the registry; (ii) to comply with all applicable laws, government rules or requirements, requests of law enforcement, in compliance with any dispute resolution process; (iii) to avoid any liability, civil or criminal, on the part of dotmobi as well as its affiliates, subsidiaries, officers, directors, representatives, employees, and stockholders; (iv) for violations of the terms and conditions herein; (v) or to correct mistakes made by dotmobi or any registrar in connection with a domain name registration, and dotmobi also reserves the right to freeze a domain name during resolution of a dispute.

You acknowledge and agree to be bound by the terms and conditions of the initial launch and general operations of the Registry TLD, including without limitation the Limited Industry Launch, the Sunrise Period, the Land Rush Period, the Sunrise Dispute Resolution Policy, the Premium Name Allocation Process, and the General Registration Period, and further to acknowledge that Registry Operator and the Registry Service Provider has no liability of any kind for any loss or liability resulting from the proceedings and processes relating to the Limited Industry Launch, the Sunrise Period, the Land Rush Period, the Sunrise Dispute Resolution Policy, the Premium Name Allocation Process, and the General Registration Period including, without limitation: (a) the ability or inability of a registrant to obtain a Registered Name during these periods, and (b) the results of any dispute made during the limited industry launch or over a Sunrise Registration.

You acknowledge and agree if the domain name being registered is a dotMobi Premium Name, and as such is listed at http://mtld.mobi/domain/premium, then use of the domain is also subject to the terms and conditions of the dotMobi Premium Name Agreement (formerly known as the dotMobi Auction Agreement) posted here, which is incorporated by reference herein.

You acknowledge and agree that upon termination or expiration of the dotMobi Premium Name Agreement in accordance with the terms thereof: (i) any and all rights of Company to the Registration of the Domain Name, the Registration Code, and/or to create, launch, and/or operate the web site shall be terminated, and all such rights shall revert to mTLD and (ii) mTLD may grant Registration rights to the Domain Name and/or rights to the Registration Code to any entity or person in its sole discretion, and Company shall have no rights or recourse against mTLD and/or Registrar relating to the registration or use of the Domain Name and/or Registration Code by any other such entity or person.

You Acknowledge and agree that Proxy or Proxy Registrations will not be allowed during the Sunrise Period, the Limited Industry Launch and the Premium Name Allocation and Auction Period, and in such an instance will constitute a material breach to this Agreement.

Terms and conditions specific to .ORG domain registrations

You agree to indemnify, defend and hold harmless the .ORG Registry Operator, Public Interest Registry, and its subcontractors, shareholders, directors, officers, employees, agents, and affiliates from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses arising out of or relating to the Registered Name holder's domain name registration. This indemnification requirement shall survive the termination or expiration of this Agreement.

Terms and conditions specific to .TICKETS domain registrations

WHOIS privacy is not permitted for .tickets registrations. There are further WHOIS verification steps that are required as noted at http://nic.tickets/pdfs/3.-Whois-Verification-and-Domain-Name-Allocation-Rules-During-General-Availability.pdf.

Terms and conditions specific to .US domain registrations

Indemnification. You agree to indemnify, defend, and hold harmless NeuStar, Inc., and its directors, officers, employees, representatives, agents, affiliates, and stockholders from and against any and all claims, suits, actions, other proceedings, damages, liabilities, costs and expenses of any kind, including without limitation reasonable legal fees and expenses, arising out of or relating to your (i) .us domain name registration, and (ii) use of any .us registered domain name.

.US Certification of U.S. Nexus. You certify that you have and shall continue to have a lawful bona fide U.S. Nexus in order to qualify to register and maintain use of a .us registered domain name. You must be, and you certify that you are, either:

1. (a) A natural person (i) who is a United States citizen, (ii) a permanent resident of the United States of American or any of its possessions or territories, or (iii) whose primary place of domicile is in the United States of America or any of its possessions ("Nexus Category 1"); or

America, the District of Columbia, or any of its possessions or territories ("Nexus Category 2"); or,

3. (c) An entity or organization (including federal, state, or local government of the United States, or a political subivision thereof) that has a bona fide presence in the United States of America or any of its possessions or territories ("Nexus Category 3"). If you are claiming Nexus Category 3, you certify that you have a "bona fide presence in the United States" on the basis of real and substantial lawful contacts with, or lawful activities in, the United States of America, including, but not limited to, the sale of goods or services or other business, commercial or non-commercial including not-for-profit activities, or maintaining an office or other facility within the United States.

.US Certification of Name Servers Located in the U.S. you certify that the name servers listed by you for any .us domain name registration are located within the United States of America.

.US Certification of Accuracy of Registration Information. You acknowledge and agree that we have requested certain information from you during the .us domain name registration process in order to meet the above Nexus requirement, and that you have willingly volunteered such information. You acknowledge and agree that such information will be verified for accuracy and for compliance with the Nexus requirement and will be shared with NeuStar, Inc. You acknowledge and agree that, in order to implement the above Nexus requirement, NeuStar, Inc., will conduct "spot checks" on registrant information.

You understand and agree that your willful or grossly negligent provision of inaccurate or unreliable information, or your willful or grossly negligent failure to promptly update information, provided to us shall constitute a material breach of this Agreement and shall be a basis for cancellation of the domain name registration, without refund or credit to you. You further understand and agree that if such information cannot be verified for any reason, or if you fail to continue to abide by the Nexus requirements, the domain name registration may be subject to immediate "hold", rejection, or deletion by either us or NeuStar, Inc., without refund or credit to you. Neither we nor NeuStar, Inc., shall be liable to you for any actions or inactions resulting from your failure to satisfy all Nexus requirements or to provide all required Nexus requirement information in connection with the domain name registration. Neither we nor NeuStar, Inc., shall have any obligation to you to request or attempt to obtain from you additional information in order to establish your compliance with the Nexus requirements.

.US Dispute Policy. You agree to be bound by the Nexus Dispute Policy ("NDP") (located at http://www.neustar.us/policies/index.html), which will be administered solely by NeuStar, Inc., or its designated representative.

.US Restrictions. You acknowledge and agree that you are not permitted to purchase or use Domain Privacy service in connection with any .us domain name registration.

.US Reservation of Rights. NeuStar, Inc., reserves the right to "hold", deny, cancel, or transfer any registration that it deems necessary, in its sole discretion. You acknowledge and agree that we shall not be liable to you or any other party in connection with claims, damages, losses, expenses or costs incurred or suffered by you as a result of actions taken or not taken by NeuStar, Inc., or other third parties.

Terms and conditions specific to Rightside Registry domain registrations

Click here to review the Rightside Registry Terms and Conditions.

Terms and conditions specific to Donuts Inc. TLD domain registrations

Indemnification. You agree to indemnify (within 30 days of demand), defend, and hold harmless Donuts Inc., Donuts' service providers, Registrar and their respective affiliates and subsidiaries, as well as each of their respective owners, directors, managers, officers, employees, contractors, service providers and agents from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses (including on appeal), arising out of or relating in any way to the Registrant's domain name registration, including, without limitation, the use, registration, extension, renewal, deletion, and/or transfer thereof and/or the violation of any applicable terms or conditions governing the registration.

You will direct any disputes relating to the use of domain names to ICANN's Uniform Rapid Suspension System (http://newgtlds.icann.org/en/applicants/urs) or Uniform Domain Name Dispute Resolution Policy (http://www.icann.org/en/help/dndr/udrp).

You consent to (A)the use, copying, distribution, publication, modification and other processing of Registrant Personal Data by Donuts in a manner consistent with Donuts Inc. posted privacy policy (http://www.donuts.co/policies/privacy-policy/), and (B) Donuts reserves the right to deny, cancel or transfer any registration or transaction, or place any domain name(s) or other transactions on registry lock, hold or similar status, that it deems necessary, in its discretion; (a) to protect the integrity and stability of the Donuts TLD registries or the Registry System; (b) to comply with any applicable laws, government rules or requirements, requests of law enforcement, or any dispute resolution process; (c) to avoid any liability, civil or criminal, on the part of Donuts, as well as its affiliates, subsidiaries, officers, directors, and employees; (d) for violations of the Registrar-Registry Agreement; or (e) to correct mistakes made by Donuts or any Registrar in connection with a domain name registration. Donuts also reserves the right to place a domain name on registry hold, registry lock, or similar status during resolution of a dispute.

names in the same or other Donuts TLDs (e.g., renewal registration Fee is $7 for one domain name and $13 for a different domain name).

You acknowledge and agree that domains names are variably priced in the Donuts TLDs (i.e., some are Standard Names and others Premium Names), as described in the Registry Terms & Conditions.

Additional Provisions. You acknowledge and agree that You have reviewed and satisfied Yourself as to the obligations and conditions contained in the Registry Operator's policies, rules, guidelines, terms and conditions, and service agreement, including any subsequent amendments or modifications thereto ("Registry Operator's Policies"). You hereby agree to be bound by the Registry Operator's Policies. You further agree that You have a continuing obligation to periodically monitor such policies for any changes. Such Registry Operator's Policies may be found at the web site of the Registry Operator (located at http://www.donuts.co/policies/), and are incorporated herein.

Terms and conditions specific to Rightside Registry TLD domain registrations

1. By applying to register or reserve a domain name in a Registry TLD, you represent and warrant that neither your registration nor your use of the name will infringe the intellectual property or other rights of any third party or violate the Registry's Acceptable Use (Anti-Abuse) Policy.
2. You acknowledge and agree to abide by all Registry Policies set forth on the Registry's website at http://rightside.co/registry/for- registrars/#c290 (the "Registry Website"). You specifically acknowledge and agree that the Registry Policies may be modified by the Registry, and agree to comply with any such changes in the time period specified for compliance.
3. You agree to comply with all applicable ICANN requirements and policies found at www.icann.org/en/general/consensus-policies.htm.
4. You agree to comply with all applicable laws, including those that relate to privacy, data collection, consumer protection, fair lending, debt collection, organic farming, disclosure of date and financial disclosures.
5. You agree that should you use a Registry TLD to collect and or maintain sensitive health and financial data, you implement reasonable appropriate security measures commensurate with the offering of those services as defined by applicable law.
6. You represent and warrant that you have provided to your Registrar current, complete, and accurate information in connection with your application for a registration, and that you will correct and update this information to ensure that it remains current, complete, and accurate throughout the term of any resulting registration or reservation. Your obligation to provide current, accurate, and complete information is a material element of these terms, and the Registry reserves the right to deny, cancel, terminate, suspend, lock, or transfer any registration or reservation if it determines, in its sole discretion, that the information is materially inaccurate.
7. You consent to the collection, use, processing, and/or disclosure of personal information in the United States and in accordance with the Registry's Privacy Policy , and incorporated by reference here. If you are submitting information from a country other than the country in which the Registry servers are located, your communications with the Registry may result in the transfer of information (including your membership account information) across international boundaries; you consent to such transfer.
8. Should You choose to register one or more of these new generic top-level domain names, you must comply with the registration requirements as described below: Regulated TLDs: .ENGINEER, .MARKET, MORTGAGE, .DEGREE, .SOFTWARE, .VET, .GIVES, and .REHAB Highly-regulated TLDs: .DENTIST, .ATTORNEY, and .LAWYER Military TLDs: .ARMY, .NAVY, and .AIRFORCE.

    a. Safeguards for Regulated TLDs. Registrants must comply with all applicable laws, including those that relate to privacy, data collection, consumer protection (including in relation to misleading and deceptive conduct), fair lending, debt collection, organic farming, disclosure of data, and financial disclosures. Additionally, if a Registrant collects and maintains sensitive health and financial data, Registrants must implement reasonable and appropriate security measures commensurate with the offering of those services, as defined by applicable law.

    b. Safeguards for Highly-Regulated TLDs. Registrants must provide to their Registrar administrative contact information, which must be kept up-to-date, for the notification of complaints or reports of registration abuse, as well as the contact details of the relevant regulatory, or industry self-regulatory, bodies in their main place of business. Additionally, Registrants must possess any necessary authorizations, charters, licenses and/or other related credentials for participation in the sector associated with such Highly-regulated TLD and report any material changes to the Registrant's authorizations, charters, licenses and/or other related credentials for participation in the sector associated with the Highly-regulated TLD.

    c. Safeguards for Military TLDs. Registrant must take steps to ensure against misrepresenting or falsely implying that the Registrant or its business is affiliated with, sponsored or endorsed by one or more country's or government's military forces if such affiliation, sponsorship or endorsement does not exist.

9. You should be aware that Australian Defence Regulation 1957, No. 16, individuals and businesses, who are subject to Australian law, are prohibited from using the words "Navy"

selling or distributing any .NAVY or .AIRFORCE domain name.

10. You agree to submit to proceedings commenced under ICANN's Uniform Domain Name Dispute Resolution Policy ("UDRP"), and the Uniform Rapid Suspension System ("URS"), each as described on the ICANN Website. You further agree to abide by the final outcome of any of those processes, subject to any appeal rights provided in those processes or the law, and you hereby release the Registry, its affiliates and service providers from any and all directly or indirect liability associated with such dispute resolution processes.
11. You acknowledge and agree that the Registry reserves the right, in its sole discretion, to disqualify you or your agents from making or maintaining any registrations or reservations in the Registry TLD if you are found to have repeatedly engaged in abusive registrations.
12. You acknowledge and agree that the Registry reserves the right to deny, cancel, terminate, suspend, lock, or transfer any registration that it deems necessary, in its discretion, in furtherance of the following:
    a. to enforce all Registry Policies, these Registration Terms, and ICANN requirements, as amended from time to time;
    b. to protect the integrity and stability of the Registry, its operations, and the Registry TLDs;
    c. to comply with any applicable law, regulation, holding, order, or decision issued by a court, administrative authority, or dispute resolution service provider with jurisdiction over the Registry or you;
    d. to establish, assert, or defend the legal rights of the Registry or a third party, or to avoid any liability, civil or criminal, on the part of the Registry as well as its affiliates, subsidiaries, officers, directors, representatives, employees, contractors, and stockholders;
    e. to correct mistakes made by the Registry or any Registrar in connection with a registration or reservation;
    f. as otherwise provided herein.
13. The Registration Terms, its interpretation, and all disputes between the parties arising in any manner hereunder, shall be governed by and construed in accordance with the internal laws of the State of Washington, without giving effect to any choice or conflict of law provision or rule (whether of the State of Washington or any other jurisdiction). You agree and submit to the exercise of personal jurisdiction of courts in the State of Washington for the purpose of litigating any such claim or action.
14. BY AGREEING TO THESE REGISTRATION TERMS AND CONDITIONS, YOU ARE: (1) WAIVING CLAIMS THAT YOU MIGHT OTHERWISE HAVE AGAINST THE REGISTRY, ITS EMPLOYEES, AFFILIATES AND SUBSIDIARIES, AND SERVICE PROVIDERS, BASED ON THE LAWS OF OTHER JURISDICTIONS, INCLUDING YOUR OWN; (2) IRREVOCABLY CONSENTING TO THE EXCLUSIVE JURISDICTION OF, AND VENUE IN, STATE OR FEDERAL COURTS IN THE STATE OF WASHINGTON OVER ANY DISPUTES OR CLAIMS YOU HAVE WITH THE REGISTRY, ITS AFFILIATES AND SERVICE PROVIDERS; AND (3) SUBMITTING YOURSELF TO THE PERSONAL JURISDICTION OF COURTS LOCATED IN THE STATE OF STATE OF WASHINGTON FOR THE PURPOSE OF RESOLVING ANY SUCH DISPUTES OR CLAIMS.
15. You acknowledge and agree that the Registry is and shall be an intended third party beneficiary of the obligations you undertake under your registration agreement with the Registrar and these Registration Terms. You acknowledge and agree that the Registry's third party beneficiary rights have vested, and shall survive any termination or expiration of your registration or reservation.
16. You acknowledge and agree that domain names in the Registry TLD are provided "as is", "with all faults" and "as available." The Registry, its affiliates and service providers, make no express warranties or guarantees about such domain names.
17. TO THE GREATEST EXTENT PERMITTED BY LAW, THE REGISTRY, ITS AFFILIATES AND SERVICE PROVIDERS, DISCLAIM IMPLIED WARRANTIES THAT THE REGISTRY AND ALL SOFTWARE, CONTENT AND SERVICES DISTRIBUTED THROUGH THE REGISTRY, ITS AFFILIATES AND SERVICE PROVIDERS ARE MERCHANTABLE, OF SATISFACTORY QUALITY, ACCURATE, TIMELY, FIT FOR A PARTICULAR PURPOSE OR NEED, OR NON-INFRINGING. THE REGISTRY, ITS AFFILIATES AND SERVICE PROVIDERS DO NOT GUARANTEE THAT ANY REGISTRY TLDS, OR REGISTRY OPERATIONS WILL MEET YOUR REQUIREMENTS, WILL BE ERROR-FREE, RELIABLE, WITHOUT INTERRUPTION OR AVAILABLE AT ALL TIMES. WE DO NOT GUARANTEE THAT THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE UNITED TLD, INCLUDING ANY SUPPORT SERVICES, WILL BE EFFECTIVE, RELIABLE, ACCURATE OR MEET YOUR REQUIREMENTS. WE DO NOT GUARANTEE THAT YOU OR THIRD PARTIES WILL BE ABLE TO ACCESS OR USE A DOMAIN NAME IN UNITED TLDS (EITHER DIRECTLY OR THROUGH THIRD-PARTY NETWORKS) AT TIMES OR LOCATIONS OF YOUR CHOOSING. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY A REPRESENTATIVE OF THE REGISTRY, ITS AFFILIATES AND SERVICE PROVIDERS SHALL CREATE A WARRANTY REGARDING OPERATIONS OF THE REGISTRY OR A DOMAIN NAME IN A REGISTRY TLD.
18. THE REGISTRY, ITS'AFFILIATES AND SERVICE PROVIDERS SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES ARISING FROM YOUR USE OF, INABILITY TO USE, OR RELIANCE UPON A DOMAIN NAME IN A UNITED TLD. THESE EXCLUSIONS APPLY TO ANY CLAIMS FOR LOST PROFITS, LOST DATA, LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE

FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES OR JURISDICTIONS, THE REGISTRY'S LIABILITY, AND THE LIABILITY OF THE REGISTRY'S AFFILIATES AND SERVICE PROVIDERS, SHALL BE LIMITED TO THE AMOUNT YOU PAID TO REGISTER A UNITED TLD. YOU FURTHER AGREE THAT IN NO EVENT SHALL THE REGISTRY'S, ITS AFFILIATES AND SERVICE PROVIDERS, TOTAL AGGREGATE LIABILITY EXCEED THE TOTAL AMOUNT PAID BY YOU FOR THE PARTICULAR SERVICES THAT ARE THE SUBJECT OF THE CAUSE OF ACTION. YOU AGREE THAT THE RIGHTS STATED HEREIN SURVIVE TERMINATION OF THE REGISTRAR'S AGREEMENT WITH YOU.

19. The Registry reserves the right to modify, change, or discontinue any aspect of its Registry Services, these Registration Terms, including without limitation its prices and fees. You acknowledge and agree that the Registry, its affiliates and service providers may provide any and all required notices, agreements, modifications and changes to these Registration Terms, and other information concerning Registry TLDs electronically, by posting such items on the Registry Website. Your continued use of a Registry TLD shall constitute your acceptance of the most current versions of those notices, agreements, modifications, and changes to these Registration Terms. In the event of any conflict between these Registration Terms and the notices, agreements, modifications and changes to the Registration Terms as posted from time to time on the Registry Website, the terms posted on the Registry Website shall prevail.
20. You represent and warrant that your use of the Registry and/or the Registry TLDs will not be for any illegal purpose and that you will not undertake any activities with your Registry TLD that will be in violation of the Acceptable Use (Anti-Abuse) Policy.
21. The Registry TLDs are intended for and available to applicants and registrants who are at least eighteen (18) years of age. By applying for, registering, or reserving United TLD, you represent and warrant that you are at least eighteen (18) years of age.

Terms and conditions specific .io, .ac and .sh domain registrations

You acknowledge and agree that You shall comply with the requirements, standards, policies, procedures and practices set forth in the nic.io Terms and Conditions, found here.

You further acknowledge that in utilizing our WHOIS privacy service you are specifically requesting that we enter information from our WHOIS privacy service in place of your information as the WHOIS contact details for your domain. Further, you are specifically agreeing and requesting that our privacy service will act as the offical Applicant agent for your domain per the nic.io terms linked to above.

Terms and conditions specific .osaka domain registrations

To register a domain name under the .OSAKA Top-Level Domain the Registrant (person or entity) must meet the Nexus Requirement. Eligible registrants include, but are not limited to:

- Osaka municipalities and local governments
- Public and private institutions in Osaka
- Organizations, companies, and other businesses/entities in Osaka
- Residents of Osaka
- Others who have a legitimate purpose for registering and using a [.osaka] domain

Terms and conditions specific .uk domain registrations

You acknowledge and agree that You shall comply with the requirements, standards, policies, procedures and practices set forth in the .uk Terms and Conditions, found here.

Registration Agreement

Applicable from May 25, 2018

1. General

1. This agreement controls the rights and obligations between Key-Systems GmbH ("Registrar") and the domain holder or its agent or representative ("Customer") with regard to domain names that are registered and managed at the Registrar by the domain owner or on his behalf.

2. Customer is aware that Registrar is an official registrar for domains, accredited by the Internet Corporation for Assigned Names and Numbers (in the following ICANN) as well as by other national and international registries. In the provision of domain name registration or management services, Registrar acts as a mediator between the customer and the organizations responsible for the management of the central databases. Registrar has no influence on the fact that the domain names applied for the customers can be registered and/or are freely from third party rights. Registrar cannot guarantee for this and for the continued registration of the domain names.

3. The various top-level domains are administered by various different, national or private organizations ("registries"). ICANN and each of these organizations have their own terms and conditions regarding the registration and use of the domain names, and possibly proceedings regarding domain name disputes. Registrar is required to pass on these terms and policies and dispute policies to its customers. By requesting a domain registration or domain transfer, Customer declares to be aware of the existing and current registration terms and policies of ICANN and the respective registry and accepts them as an essential part of this agreement.

4. Customer further acknowledges that registration policies of the respective registries or ICANN policies may change from time to time and agrees to keep himself informed about the current rules and to either accept those changes or delete the affected domain names. Registrar will provide information on essential changes in its newsletters and will provide a link to the most current policies on its website.

5. Customer acknowledges that the registration of a domain name may be canceled at any time due to violation of applicable registry or Registrar policies. He agrees in particular to any cancellation, deletion or a transfer of the domain name in accordance with a condition or registration policy of the respective registry or due to an action of Registrar or the registry, provided that it is carried out by the Registrar or the registry operator (1) to correct errors at the registration or transfer, (2) to resolve disputes which concern the registered domain names or (3) due to a violation of the registration policies, provided that such action does not violate ICANN or registry policies.

6. Registrar may modify this registration agreement at any time. Registrar agrees to inform Customer of the change of the terms and conditions by mail or e-mail unless such notification requires unreasonable efforts. Customer can object to modifications within 14 days of the sending date of the notification. Should the Customer object, Registrar may choose to terminate the agreement within 14 days or at the next possible termination date. If Customer does not object, the new terms and conditions shall be regarded as accepted by Customer and shall become part of the contractual relationship.

7. If Customer registers a domain name for third parties or on their behalf, he must ensure before ordering that the third party knows and accepts all relevant policies and registration terms and conditions, including this registration agreement and our privacy policy. Customers who act as resellers or distributors are obliged to transmit these conditions completely and obligatory to the end customer/registrants and to document their approval by appropriate evidence. The customer is further required to inform the registrant about all notifications of the Registrar regarding their domain names, the registration terms and all fees applicable to the registration. The policies of the registries and ICANN applicable to Registrars apply accordingly for Customers acting as a reseller. Prior to requesting a termination of a domain name registration or change of registrant contact information, the authorization by the third party to request the termination or modification must be ensured. Transfer requests or requests for Transfer Codes by the third party must be treated in accordance with the transfer policies of the appropriate registry and/or ICANN. Customer undertakes to collect and maintain suitable evidence and required documentation as evidence of the customers agreement and prove the authorization for any actions performed on behalf of the third party by submitting these records to Registrar upon request.

8. If registered name holder registers a domain name through a third party, agent or distributor, he accepts all acts and omissions of these parties as his own. The registered name holder explicitly authorizes these parties to undertake administrative actions regarding all domain names registered on his behalf at Registrar.

9. Both Registrar as well as Customers authorized by registered name holder shall be considered designated agents of registered name holder with regard to the management and registration of a domain name with regard to ICANN, registry or other parties involved in the registration process.

10. In the event that Registrar, in accordance with the policies of the registry, can not maintain the registration of a domain name of Customer or its own accreditation, Registrar shall be entitled to an extraordinary termination of the registration agreement with Customer with a 14 days period to the end of month. As designated agent of the registered name holder, Registrar is at any time authorized to execute transactions deemed necessary for the management of a domain name including data updates or transfers.

2. Registration and transfers of domain names

1. By submitting a request for a registration and/or transfer a domain name by/to Registrar, Customer authorizes Registrar to transmit on his behalf all entries and modifications which he makes at Registrar (e.g. DNS Updates, Updates of registration data, other domain configurations) directly and in real time to the respective registry. Registrar is authorized to undo wrongful transactions.

2. Customer undertakes to guarantee that the applied-for domain name and the intended use of the domain name: (a) do not violate rights of third parties, (b) that there are no other legal or factual obstacles in conflict with the registration, (c) that the chosen name does not violate moral conventions, (d) that the registration request occurs in knowledge and consideration of the guidelines and policies of the relevant registry and (e) that he is authorized to request this operation. Registrar is not obliged to verify this authority. Registrar may reject any application to register or transfer of a domain name without reason.

3. Customer acknowledges that domain name registration requests are usually executed on a "first-come, first-served" principle by the registry. Registrar shall give no guarantee for a successful allocation of ordered domains and becomes free from the duty to perform the service in case of impossibility of the order. Registrar is not obliged to follow this principle in case of multiple requests for one domain name.

4. The registration term after the initial application for the registration of a domain name or the transfer of a domain name from another registrar can be between one and ten years, depending on the domain name.

5. By applying for a domain transfer from another provider to Registrar, Customer confirms that he is authorized to dispose over the domain name. After the transfer is completed the domain owner is obliged to review the accuracy of the data on record in the registration database for the domain name and to correct them if necessary. Registrar is authorized to undo domain name transfers in case a previous transfer of the domain name occurred without the authorization of a previous registrant of record, or in case control over the domain was unlawfully lost by a previous registrant of record.

6. By requesting a transfer of a domain name to a third party ("change of ownership"), Customer confirms that the third party has expressly agreed the change of ownership and the terms of this agreement and our privacy policy and will provide documentation to that effect upon request. Registrar is entitled to cancel or refuse to execute a change of ownership where such agreement is not documented.

7. Concerning registration of domain names in multilingual scripts (IDNs) or under newly introduced top-level domains, Registrar does not have any control of these registrations and it might be possible that the service will be modified, interrupted or even terminated by the registry without prior notice. Registrar has no obligation to guarantee the continuity of the existence or availability of domain names, their fitness for planned uses or applications and registration and use of such domain names is at the risk of Customer. Customer acknowledges that the functionality of domain names may not be the same as in regular domain names. Furthermore, Customer also acknowledges that a domain name may potentially not function fully or for each use as they may require necessary new technical features.

8. Customer expressly agrees to the immediate execution of the service by Registrar. The registration, the transfer and the renewal of a domain name is a service provided in accordance to Customer specifications. The right to withdraw from the agreement or to returns in distance contracts (§ 312 BGB) is therefore excluded.

2a. Premium Domain Names

1. For domain names that have been designated by the respective registry as Premium Names special prices may apply for registration, renewal and/or transfers that differ from the standard pricing in a TLD („Premium Price"). In such cases, the respective fees for a transaction will be displayed separately.

2. Customer acknowledges and accepts that in case of an erroneous display of Premium Prices in the user interface at the time of registration, renewal or transfer of a Premium Domain Name Registrar may at any time undo the transaction and return the Premium Domain Name to the registry or the previous registrar, provided such display was caused by a missing or erroneous designation of the Premium Domain Name or the applicable fee by the registry, or if the designation as domain name was not recognized by Registrar. The prepaid fees for the transaction will be refunded to Customer. Alternatively, Registrar can offer maintaining the status of the transaction provided Customer pays the difference between the standard fee and the Premium Price.

3. In case a Registry changes a designation of a registered or requested domain name to Premium status, Registrar will inform Customer about such changes.

4. Transactions affecting Premium Domain Names that require a fee will only be performed after the applicable fee is received in full.

2b. Aftermarket Domain Names

1. Registrar allows the sale and purchase of domain names listed on aftermarket platforms. Such domain names may be listed either at fixed prices or with an invitation to make an offer during the domain search or on lists.

2. Customer acknowledges that aftermarket domain names are domain names already registered by third parties and that a Registrar transfer and the agreement of the current owner may be required prior to a domain name being available for use in the Customer account.

3. By making an offer to buy or by purchasing at a fixed price Customer authorizes Registrar to charge the appropriate amount in the Customer account.

4. Registrar cannot guarantee that an aftermarket domain name is still available at the time payment is received, that no higher offer is received or that the seller is authorized to dispose of the domain name. Customer agrees that Registrar may cancel orders that cannot be completed at the conditions of the order and may refund the payment as credit to the Customer account. Registrar is further authorized to retroactively cancel wrongful transfers.

5. Customer agrees to update the domain name ownership and other contact details immediately after being notified of the completion of a transaction.

6. In case of a charge back or other form of non-payment of a purchase price by Customer, Registrar is authorized to return the domain name to the sales provider or to assume ownership of the domain name.

7. Where Customer offers self-owned domain names on aftermarket platforms through Registrars' interface, Registrar is only responsible for the transmission of the placement request to the aftermarket provider. When placing a domain name on an aftermarket platform, Customer expressly authorizes Registrar to transfer the domain name to a new owner or agree to the transfer to another registrar when Registrar is requested to do so by the operator of the aftermarket platform. This authorization expires 60 days after the placement of the domain name and automatically renews for further 60 day terms upon expiration.

3. Domain owner data

1. The Customer is committed to provide Registrar with the following information and registration data for the purpose of documenting ownership and other authorizations, forwarding to the registry (if applicable) and possibly for the purpose of publishing in the public database of registered domain names. This processing occurs in full compliance with our privacy policy and applicable law. By providing or changing this data in the online interface, Customer assures that this information is correct, complete and truthful. This concerns in particular:
   - ✔ Current and complete information about the full name or name of a legal person, mailing address, e-mail address, voice telephone number;
   - ✔ The IP address of the domain name server (primary and secondary server) and the name of these servers;
   - ✔ The full name, postal address, e-mail address, voice telephone number of the administrative contact, the technical contact and the billing contact.

2. The necessary information and data may vary depending on the TLD. Depending on registry requirements or a registry, additional or less information may be required. As far as more data is required, this data must be provided during the registration process or alternatively delivered upon request by Registrar.

3. The information and data has to be updated when necessary, incomplete data must be completed. Customer acknowledges that the provision of incorrect, outdated or incomplete data can directly lead to loss of rights from the service without refund. This also applies in the event that Customer does not comply with any request of Registrar to correct the data or provide proof of its accuracy within a timely manner.

4. An update of the registered name holder data may trigger a temporary lock against transfer requests for the affected domain names. Where policy allows, Registrar may – but is not required to – offer an opt-out from this lock.

5. By providing data of a third party, Customer confirms that he has informed the third party about the provision and use of the data in the context of our privacy policy and that the third party has expressly agreed with this provision and use and is aware of these terms.

6. For the use of services intended to protect the privacy of data the policies and terms of the service provider apply. The same applies for trustee and local presence services.

4. Renewals of Registration

1. Renewals of registration are possible for 1 to 10 years depending on the domain name, provided the maximum registration term is not exceeded.

2. A contract for the registration and administration of a domain name shall be renewed automatically for another 12 month term at the end of the registration period if it is not terminated with a notice period of three months prior to the date of expiry, unless agreed otherwise.

3. For renewals the price list at the renewal date is applicable. The Customer acknowledges that renewal and transfer fees may change on a short notice and agreed to verify the current price prior to any order and any requested automatic renewal. As reasonably possible, Registrar will inform Customer about changes to the current fees in its newsletter. Registrar is authorized to cancel or modify orders if a price change occurs between the date of the order and the fulfillment date.

4. Customer will be informed by e-mail of his obligation to pay for the renewal in accordance with the provisions of ICANN or the respective registry in time before the end of the registration period. If Customer does not terminate the contract on time and Customer has either identified his payment method to be credit card or bank debit and entered current and valid payment details, then Registrar will automatically attempt to charge the due amount 10 days prior to the expiration date and the contract will be renewed accordingly. Customer is solely responsible for ensuring the timely receipt of the applicable fees or for the functionality of the chosen payment.

5. Termination of the management

1. In case the fee for a renewal of a registered domain name is not received 3 days before the expiry of the contract period, Customer loses his rights to the domain name. The same applies in the event of a charge back of a payment for a domain name or the selected payment method fails.

2. In the case of domain names canceled by the Customer, of domain names not extended at the time of expiry despite of a reminder of the pending expiration, or non-payment of renewal fees, Registrar is authorized to deactivate this domain name at its own discretion or to change the DNS entries ("deactivation"), to return it to the Registry for the purpose of deletion or continued management at the registry ("deletion") or to dispose, to auction, to transfer to third parties, to take over in his own continuance ("utilization"). Registrar will begin to undertake such actions no earlier than 14 days after the expiration of domain names with a Renewal Grace Period, or upon expiration of domain names without such a period. Customer agrees that the termination or non-renewal of the domain name or non-payment of due renewal fees shall constitute his consent to the actions described above as well as a renewal of the domain name to the extent necessary for their undertaking provided that Customer does not contradict expressly before the term end and no agreement to the contrary exists.

3. After the utilization of a domain names Registrar may in its own discretion to provide Customer with a share of the net proceeds of the utilization. The share will be credited to the customer account. For the purposes of this segment "net proceeds" shall mean the proceeds which the Registrar receives from another party or a third supplier as a result of the utilization, minus the costs linked to the utilization borne by Registrar. The customer agrees that no legal claim exists to any part of the net proceeds. Also Registrar makes no guarantee for the fact that any utilization will result in any net proceeds.

4. Regardless of the regulations here and in the general terms and conditions both sides can terminate the agreement for important reason.
   a. An important reason for Registrar is given in particular when Customer

- is in more than 20 calendar-days delay of submitting the payment for a contract which has an undefined length;
- culpably violates duties of the contract, against ICANN or the registry policies or these registration terms, particularly by provision of false registration data;
- violates laws, rules or good morals with the content made available through the domain name or with the domain name itself, and despite warning and within reasonable time does not modify such content in such a way that they meet the requirements regulated herein, or
- acts contrary to terms and conditions of the registration or the registration policies.

b. Another important reason exists, if
- the accreditation of Registrar ends for a top-level domain under which the domain name is registered and the Registrar can not guarantee to continue the registration under the same conditions as well as when the registry terminates the operation of the top-level domain.

c. In these cases Customer loses all rights.

5. Customer may request transfers of his domain name to another provider. Registrar may refuse such a transfer request, subject to the conditions set by the registry or ICANN reasons for refusals of transfers. A transfer within 60 days of registration or a prior transfer or owner change is prohibited unless such transactions are expressly allowed by the registry.

6. Recovery and reactivation of domain names

1. If and as far as a registration authority permits the recovery ("Restore") of previously deleted domain names or domain names returned to the registry in certain TLDs and provided Registrar offers that service in the respective TLD, this service will be provided subject to change without notice at the request of the registered domain holder and with no guarantee of a successful Restore. The prices for this operation are defined in the price list and do not include renewal fees. A Restore can only be performed when the account has a sufficient balance for the operation and the domain name has been previously deleted. A Restore request can only be processed if it is received in time prior to the final deletion by the registry. In case a Restore cannot be executed the appropriate fees will be refunded to Customer's account.

2. As far as Registrar offers the reactivation of a deactivated domain name before a utilization, Customer agrees to pay the reactivation fees plus the cost of renewal for such orders.

7. Domain dispute policy

1. Customer agrees to resolve and settle any domain name dispute according to the Dispute Resolution Policies of the respective registry or ICANN, if applicable. These policies can be reviewed on the website of Registrar or on the website of the respective registry, or ICANN. Customer will inform himself about the applicable Dispute Resolution Policy before initiating a registration request. The language of the arbitration rules may be different from the language of the agreement and can be written in the local language of the registry.

2. Customer accepts that Registrar as an accredited registrar may be bound to lock or cancel a domain or to transfer it to a third party in accordance with any decision of an Administrative Panel in accordance with the applicable dispute resolution policy unless Customer provides evidence to Registrar within ten days after an Administrative Panel's decision that he has commenced a lawsuit against the complainant regarding the panel decision in a court of mutual jurisdiction.

3. For the adjudication of disputes concerning or arising from use of the Registered Name, the Registered Name Holder shall submit, without prejudice to other potentially applicable jurisdictions, to the jurisdiction of the courts (1) of the Registered Name Holder's domicile and (2) the legal domicile of Registrar.

4. During a pending administrative proceeding or during a period of 15 days after such proceeding is concluded or during a pending court proceeding or arbitration commenced regarding the domain name, Customer may not transfer the domain name registration to a third party unless the third party agrees, in writing, to be bound by the decision of the court or arbitrator.

8. Liability

1. As a condition of Customer's access and his use of the services of Registrar, Customer agrees to defend, indemnify, save and hold harmless Registrar, agents, partners, ICANN, the central registry as well as all persons involved in rendering of the service in respect to all claims, demands, liabilities, costs and/or expenses resulting from an illegal use of the service, of the domain name registered by Customer or the content provided on a registered domain. In the event of a claim, Customer has the right to prove Registrar, that claims in the context of the indemnity have not occurred in the extent demanded or not at all, and / or Customer is not responsible.

2. Neither Registrar, agents, partners, ICANN, the central registry nor any person involved in the rendering of the service will be liable to Customer or any third party for any direct or indirect loss of profits, earnings or business opportunities, damages, expense, or costs resulting directly or indirectly from any failure to perform any obligation or provide service hereunder because of any Force Majeure, or governmental acts or directives, strikes, riot or civil commotion, war, any natural disaster, equipment or facilities shortages which are being experienced by providers of telecommunication services generally, or other similar force or condition beyond Registrars reasonable control.

3. Registrar cannot be held liable for delays of services and server down times due to higher force, fault of third parties or due to events, which Registrar has no influence on, any agreed-upon deadlines and delivery dates non withstanding. Registrar may delay the provision of service and/or performance by the duration of the respective disruption plus an appropriate starting time. Furthermore, Registrar can limit access to the service, if the stability and security of the operation, the maintenance of the net integrity, in particular the avoidance of serious disturbances of the network, the software or stored data requires it. Registrar is not obligated to review or monitor the use of the service by Customer to ensure their legality.

4. For all services of Key-Systems´ liability will be limited to intent and gross negligence if and as much as it is legally permitted. In case of paid services liability is limited by KS with negligence and rough negligence to the amount of the payment which can be paid in each case from the Customer for the respective achievement and/or achievement period. For free and ancillary services the liability of Key-Systems is limited to cases of minor negligence and to an amount of 25 EURO for each single case or 100 EURO for all cases. In any other case the liability of Key-Systems is limited to typically foreseeable damages. Claims for punitive or consequential damages are excluded.

5. Customer shall compensate Registrar for any damages resulting from violations of the registration agreement, registration policies, and/or the terms and conditions and shall indemnify Registrar against all third-party claims based on the use of the services. This also includes the reimbursement of all reasonable costs of a legal defense if the Registrar or its employees was threatened with legal proceedings due to the registration or such proceeding are initiated.

6. This includes in particular the use of a domain name by infringing a prohibition in law, the good morals as well as rights of third parties (trademark rights, name rights, copy rights, data protection rights etc.) or the active support of such violations, making available of content that of glorifies violence, inciting, racist or radical right-wing content, the instructions for criminal acts and content that are appropriate to degrade a third party or group of third parties in their human dignity (hate-pages), the unauthorized intrusion into third party computers or computer systems, the distribution of malicious software, the distribution of illegal or regulated substances without the required authorizations, the forgery, the mailing of unrequested or undesirable e-mails for advertising purposes to third parties (Spamming). Customer is obliged to comply with all legal requirements and policies with the provision of pornographic and/or erotic content.

7. A registered domain name can be temporarily blocked or disabled if the Customer violates applicable law or this agreement in serious manner with the content made available under the domain name and Customer does not react to the request or Registrar to remove or modify the content accordingly. The same applies if such a violation is made plausible.

8. As far as a single domain name is canceled or transferred by Customer, or canceled due to violation of the registration agreement, due to binding decisions in domain name disputes or due to other causes specified in these conditions, no right to request for a free replacement domain or other reimbursement exists, provided that the termination was not caused illegally by Registrar in a culpable or grossly negligent manner. This also applies to other services or additionally booked options regarding the affected domain names.

9. Data sharing and data protection

1. Registrar advises Customer in accordance with the applicable data protection regulations of the fact that within the scope of the performance of the agreement personal data is collected, stored and processed and such data may be provided to third parties involved in the performance of the agreement. This also may include the provision of the data in freely accessible domain name registration databases. The registered name holder is hereby informed about the handling and processing of this data by Registrar and third parties involved in the provision of the service. The processing occurs on the basis of articles 6 I b)-f) of the GDRP. Further information on the specific acts of processing and their underlying legitimacy is included in the privacy policies of Registrar that are hereby incorporated

2. Registrar is authorized to process and use Customer's data to improve the range of offered services according to the needs of its Customer.

3. Registrar is authorized to permanently store the data required for billing purposes in accordance with legal provisions.

4. In the event of police or other government requests, Registrar is authorized to transmit the data to such authorized requesting parties. The same applies to the transmission to third parties where they made plausible claims of violations of their rights.

5. Customer has the right to request information on his stored personal data at any time without charge.

6. Customer agrees that Registrar may send newsletters to his e-mail address for informational or marketing purposes. This consent may be revoked at any time.

10. Final clauses

1. Modifications or changes of terms or conditions or the contract, as well as cancellations will only be accepted in writing, for contract conclusions beginning from 2018-5-25 in text form – oral agreements shall not be considered valid. This also applies to terms and conditions of customers unless Registrar has expressly agreed to accept such terms in writing.

2. For commercial Customers and legal entities in Germany, as well as for all Customers without permanent residence in Germany, St. Ingbert/ Germany will be the exclusive place of jurisdiction for all disputes regarding services provided in accordance with this agreement. St. Ingbert, Germany shall also be the place of fulfillment.

3. For the contract between Registrar and Customers the German law is the only effective law. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

4. If any provision of this agreement – or parts thereof – contradict the terms, conditions, policies or other regulations of the relevant registries or ICANN, the provisions, terms, conditions, policies or other regulations of the relevant registries or ICANN shall apply instead.

5. If any provision of this agreement shall be or become unenforceable and/or invalid, such unenforceability and/or invalidity shall not render this agreement unenforceable or invalid as a whole. Any provision determined to be unenforceable or invalid shall be replaced by provisions which are valid and enforceable and closest to the original objectives and intents of the original provisions in an economic and legal sense that would have been agreed upon by the parties, had they known of the invalidity at the time of the agreement. As far as legally possible, Registrar shall replace the clause in the above mentioned extent.

6. Both, the English and German version of this agreement are valid and binding. In case of doubt or conflict, however, the German version will prevail.

Exhibit 8

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MICROSOFT CORPORATION, a Washington corporation,

Plaintiff,

v.

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

Defendants.

Case: 1:19-cv-00716 (JURY-DEMAND)
Assigned To : Amy B. Jackson
Assign. Date : 3/14/2019
Description: TRO/PI

FILED UNDER SEAL PURSUANT TO LOCAL RULE 5.1

EX PARTE TEMPORARY RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE 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 Electronic Communications Privacy Act (18 U.S.C. § 2701); (3) the Lanham Act (15 U.S.C. §§ 1114(a)(1), 1125(a), (c)); (4) the Anticybersquatting Consumer Protection Act (15 U.S.C. § 1125(d)); and (5) the common law of trespass to chattels, unjust enrichment, conversion, intentional interference with contractual relationships, and unfair competition. Microsoft has moved ex parte for an emergency temporary restraining order and an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(a) (the Lanham Act), 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 Application for an Emergency Temporary Restraining Order, the Court hereby

makes the following findings of fact and conclusions of law:

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 Defendants John Doe 1 and 2 ("Defendants") under 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), the Anticybersquatting Consumer Protection Act (15 U.S.C. § 1125(d)), and common law of trespass to chattels, unjust enrichment, conversion, intentional interference with contractual relationships, and unfair competition.

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), Electronic Communications Privacy Act (18 U.S.C. § 2701), the Lanham Act (15 U.S.C. §§ 1114, 1125), Anticybersquatting Consumer Protection Act (15 U.S.C. § 1125(d)) and constitute common law of trespass to chattels, unjust enrichment, conversion, and tortious interference with prospective and actual business relations, and that Microsoft is, therefore, likely to prevail on the merits of this action;

3. Microsoft owns the registered trademarks "Microsoft," "Windows Live," "Office 365," "Outlook," "Hotmail" and "OneDrive" used in connection with its services, software and products.

4. 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 set forth in Microsoft's Brief in Support of Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction ("TRO

Application"), 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 law by:

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;

   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 activities of users, and theft of information;

c. corrupting 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;

5. 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 immediately restrained from doing so by Order of this Court;

6. 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 command and control software that is hosted at and otherwise operates through the Internet domains listed in **Appendix A** to the Complaint and from the destruction or concealment of other discoverable evidence of Defendants' misconduct

available via those domains, including on user computers infected by Defendants, if Defendants receive advance notice of this action. Based on the evidence cited in Microsoft's TRO Application and accompanying declarations and exhibits, Microsoft is likely to be able to prove that:

a. Defendants are engaged in activities that directly violate United States law and harm Microsoft and the public, including Microsoft's customers;

b. Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests;

c. Defendants are likely to delete or to relocate the command and control software at issue in Microsoft's TRO Application and the harmful and malicious software disseminated through the Internet domains listed in Appendix A, thereby permitting them to continue their illegal acts; and

7. Microsoft's request for this emergency ex parte relief is not the result of any lack of diligence on Microsoft's part, but instead based upon the nature of Defendants' unlawful conduct. Therefore, in accordance with Fed. R. Civ. P. 65(b), 15 U.S.C. § 1116(a) and 28 U.S.C. § 1651(a), good cause and the interest of justice require that this Order be Granted without prior notice to Defendants, and accordingly, Microsoft is relieved of the duty to provide Defendants with prior notice of Microsoft's motion.

8. There is good cause to believe that Defendants have specifically directed their activities to computers of Microsoft's customers located in the District of Columbia, have engaged in illegal activity using the Internet domains identified in **Appendix A** to the Complaint by directing malicious code and content to said computers of Microsoft's customers to further perpetrate their illegal conduct victimizing Microsoft's customers. There is good cause to believe that Defendants have directed said malicious code and content through certain instrumentalities – specifically the domains and the domain registration facilities of the domain registries identified in **Appendix A**.

9. There is good cause to believe that Defendants have engaged in illegal activity by using the domain registration facilities of the domain registries identified in **Appendix A** to register the Internet domains identified in **Appendix A**, so as to deliver from those domains the malicious code, content, and commands that Defendants use to access Microsoft's services without authorization and to infect and compromise the computers of Microsoft's customers, and to receive the information stolen from those computers.

10. There is good cause to believe that Defendants have engaged in illegal activity by using deceptive and fake methods to steal computer users' login and/or account credentials and to use such credentials for illegal purposes.

11. There is good cause to believe that to immediately halt the injury caused by Defendants, Defendants must be prohibited from accessing Microsoft's services without authorization and prohibited from sending malicious code, content and commands from the Internet domains identified in **Appendix A** to the computers of Microsoft's customers.

12. There is good cause to believe that Defendants have engaged in illegal activity using the Internet domains identified in **Appendix A** to host the command and control software and content used to infect and compromise the computers and networks of Microsoft's customers and to steal information from them. There is good cause to believe that to immediately halt the injury caused by Defendants, each of Defendants' current and prospective domains set forth in **Appendix A** must be immediately redirected to the Microsoft-secured name-servers named NS149.microsoftinternetsafety.net and NS150.microsoftinternetsafety.net, thus making them inaccessible to Defendants for command and control purposes.

13. There is good cause to believe that to immediately halt the injury, the execution of this Order should be carried out in a coordinated manner by Microsoft and by the domain

registries identified in **Appendix A** on such date and time within ten days of this Order as may be reasonably requested by Microsoft.

14. There is good cause to believe that Defendants may change the Internet domains that they use to conduct illegal activities, and that Microsoft may identify and update the domains listed in **Appendix A** as may be reasonably necessary to account for additional Internet domains associated with Defendants just prior to the execution of this Order and within a reasonable time thereafter should Defendants attempt to evade and defy this Order.

15. There is good cause to permit notice of the instant Order, notice of the Preliminary Injunction hearing and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. 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, the Preliminary Injunction hearing and of this action: (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to Defendants' domain registrars and hosting companies and as agreed to by Defendants in Defendants' domain registration and/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.; and (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 signatories to such treaties.

TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

IT IS THEREFORE ORDERED that, Defendants, Defendants' representatives, and persons who are in active concert or participation with Defendants, are temporarily 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 infect 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) configuring, deploying, operating, or otherwise participating in or facilitating a command and control infrastructure described in the TRO Application, including but not limited to the command and control software hosted at and operating through the Internet domains set forth in **Appendix A** and through any other 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 temporarily restrained and enjoined from (1) using and infringing Microsoft's trademarks, including specifically Microsoft's registered trademark "Microsoft," bearing registration number 5449084, "Hotmail," bearing registration number 2165601, "Outlook," bearing registration number 4255129, "Windows Live," bearing registration number 3765517, "OneDrive," bearing registration number 4941897, "OneDrive," bearing registration number 4661770, "OneDrive," bearing registration number 4827884, "Office 365," bearing registration number 4380754, 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, with respect to any currently registered Internet domains set forth in **Appendix A**, the domain registries shall take the following actions:

A. Within five (5) business days of receipt of this Order, shall unlock and change the registrar of record for the domain to MarkMonitor or such other registrar specified by Microsoft. To the extent the registrar of record does not assist in changing the registrar of record for the domain under its control, the domain registry for the domain, or its administrators, including backend registry operators or administrators, within five (5) business days of receipt of this Order, shall change, or assist in changing, the registrar of record for the domain to MarkMonitor or such other registrar specified by Microsoft. The purpose of this paragraph is to ensure that Microsoft has control over the hosting and administration of the domain in its registrar account at MarkMonitor or such other registrar specified by Microsoft. Microsoft shall provide to the domain registry or registrar of record any requested registrar information or account details necessary to effectuate the foregoing.

B. The domain shall be made active and shall resolve in the manner set forth in this order, or as otherwise specified by Microsoft, upon taking control of the domain;

C. The domain shall be redirected to secure servers by changing the authoritative name servers to NS151.microsoftinternetsafety.net and NS152.microsoftinternetsafety.net and, as may be necessary, the IP addresses associated with name servers or taking other reasonable steps to work with Microsoft to ensure the redirection of the domain and to ensure that Defendants cannot use it to make unauthorized access to computers, infect computers, compromise computers and computer networks, monitor the owners and users of computers and computer networks, steal information from them or engage in any other activities prohibited by the Injunction;

D. 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

E. Prevent transfer, modification or deletion of the domain by Defendants and prevent transfer or control of the domain to the account of any party other than Microsoft;

F. Take all steps required to propagate to the foregoing changes through the Domain Name System ("DNS"), including domain registrars.

IT IS FURTHER ORDERED that copies of this Order, notice of the Preliminary Injunction hearing and service of the Complaint 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 and/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.; and (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 signatories to such treaties.

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that the Defendants shall appear before this Court on April 3, 2019 at 10:00 AM to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against Defendants, enjoining Defendants from the conduct temporarily restrained by the preceding provisions of this Order.

IT IS FURTHER ORDERED that Microsoft shall post bond in the amount of $50,000 to be paid into the Court registry.

IT IS FURTHER ORDERED that Microsoft may identify and update the domains in **Appendix A** to the Complaint as may be reasonably necessary to account for additional Internet domains associated with Defendants' illegal conduct just prior to or within a reasonable time after the execution of this Order.

IT IS FURTHER ORDERED that Defendants shall file with the Court and serve on Microsoft's counsel any answering affidavits, pleadings, motions, expert reports or declarations and/or legal memoranda no later than one (1) day prior to the hearing on Microsoft's request for a preliminary injunction.

IT IS SO ORDERED

Entered this 15th day of March, 2019

11:18 a.m.

UNITED STATES DISTRICT JUDGE

Exhibit 9

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

***EX PARTE* TEMPORARY RESTRAINING ORDER AND**
ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION

Plaintiff Microsoft Corporation ("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 Electronic Communications Privacy Act (18 U.S.C. § 2701); (3) the Lanham Act (15 U.S.C. §§ 1114(a)(1), 1125(a), (c)); (4) the Anticybersquatting Consumer Protection Act (15 U.S.C. § 1125(d)); and (5) the common law of trespass to chattels, unjust enrichment, conversion and intentional interference with contractual relationships. Microsoft has moved *ex parte* for an emergency temporary restraining order and an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(a) (the Lanham Act), 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 *Ex Parte* Application for an Emergency Temporary Restraining Order and Order to

Show Cause re Preliminary Injunction, the Court hereby makes the following findings of fact and conclusions of law:

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 Defendants John Doe 1 and 2 ("Defendants") under 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, 1125), the Anticybersquatting Consumer Protection Act (15 U.S.C. § 1125(d)), and common law of trespass to chattels, unjust enrichment, conversion, and intentional interference with contractual relationships.

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), the Electronic Communications Privacy Act (18 U.S.C. § 2701), the Lanham Act (15 U.S.C. §§ 1114, 1125), the Anticybersquatting Consumer Protection Act (15 U.S.C. § 1125(d)) and constitute common law of trespass to chattels, unjust enrichment, conversion, and intentional interference with contractual relationships, and that Microsoft is, therefore, likely to prevail on the merits of this action;

3. Microsoft owns the registered trademarks Microsoft, Windows, Hotmail, Outlook, and Office 365 and numerous other trademarks used in connection with its services, software and products. 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 set forth in Microsoft's Brief in Support of *Ex Parte* Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction ("TRO Application"), 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 law by:

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

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

   iii. 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;

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 activities of users, and theft of information;

c. corrupting 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;

4. 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 immediately restrained from doing so by Order of this Court.

5. 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 command and control software that is hosted at and otherwise operates through the Internet domains listed in **Appendix A** to the Complaint and from the destruction or concealment of other discoverable evidence of Defendants' misconduct

available via those domains, including on user computers infected by Defendants, if Defendants receive advance notice of this action. Based on the evidence cited in Microsoft's TRO Application and accompanying declarations and exhibits, Microsoft is likely to be able to prove that:

a. Defendants are engaged in activities that directly violate United States law and harm Microsoft and the public, including Microsoft's customers;

b. Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests;

c. Defendants are likely to delete or to relocate the command and control software at issue in Microsoft's TRO Application and the harmful and malicious software disseminated through the Internet domains listed in **Appendix A** to the Complaint, thereby permitting them to continue their illegal acts; and

d. Defendants are likely to warn their associates engaged in such activities if informed of Microsoft's action.

6. Microsoft's request for this emergency *ex parte* relief is not the result of any lack of diligence on Microsoft's part, but instead based upon the nature of Defendants' unlawful conduct. Therefore, in accordance with Fed. R. Civ. P. 65(b), 15 U.S.C. § 1116(a) and 28 U.S.C. § 1651(a), good cause and the interest of justice require that this Order be Granted without prior notice to Defendants, and accordingly, Microsoft is relieved of the duty to provide Defendants with prior notice of Microsoft's motion.

7. There is good cause to believe that Defendants have specifically directed their activities to computers of Microsoft's customers located in Virginia and the Eastern District of Virginia, have engaged in illegal activity using the Internet domains identified in **Appendix A** to the Complaint by using those domains to deceive users of Microsoft's products and services and by directing malicious code and content to said computers of Microsoft's customers to further perpetrate their illegal conduct victimizing Microsoft's customers. There is good cause

to believe that Defendants have directed said malicious code and content through certain instrumentalities – specifically the domains and the domain registration facilities of the domain registries identified in **Appendix A** to the Complaint.

8. There is good cause to believe that Defendants have engaged in illegal activity by using the domain registration facilities of the domain registries identified in **Appendix A** to the Complaint to register the Internet domains identified in **Appendix A**, so as to deceive Microsoft's customers to steal credentials for their Microsoft accounts, and to deliver from those domains the malicious code, content, and commands that Defendants use to access Microsoft's services without authorization and to infect and compromise the computers of Microsoft's customers, and to receive the information stolen from those accounts and computers.

9. There is good cause to believe that Defendants have engaged in illegal activity by using deceptive and fraudulent methods to steal computer users' account credentials and to use such credentials for illegal purposes.

10. There is good cause to believe that to immediately halt the injury caused by Defendants, Defendants must be prohibited from accessing Microsoft's services without authorization and prohibited from sending malicious code, content and commands from the Internet domains identified in **Appendix A** to the Complaint to the computers of Microsoft's customers.

11. There is good cause to believe that Defendants have engaged in illegal activity using the Internet domains identified in **Appendix A** to the Complaint to host the command and control software and content used to infect and compromise the computers and networks of Microsoft's customers and to steal information from them. There is good cause to believe that to immediately halt the injury caused by Defendants, each of Defendants' current and

prospective domains set forth in **Appendix A** to the Complaint must be immediately redirected to the Microsoft-secured name-servers named NS151.microsoftinternetsafety.net and NS152.microsoftinternetsafety.net, thus making them inaccessible to Defendants for command and control purposes.

12. There is good cause to believe that to immediately halt the injury, the execution of this Order should be carried out in a coordinated manner by Microsoft and by the domain registries identified in **Appendix A** to the Complaint on such date and time within five (5) days of this Order as may be reasonably requested by Microsoft.

13. There is good cause to believe that Defendants may change the Internet domains that they use to conduct illegal activities, and that Microsoft may identify and update the domains listed in **Appendix A** to the Complaint as may be reasonably necessary to account for additional Internet domains associated with Defendants just prior to the execution of this Order and within a reasonable time thereafter should Defendants attempt to evade and defy this Order.

14. There is good cause to permit notice of the instant Order, notice of the Preliminary Injunction hearing and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. 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, the Preliminary Injunction hearing and of this action: (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to Defendants' domain registrars and hosting companies and as agreed to by Defendants in Defendants' domain registration and/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.; and (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 signatories to such treaties.

TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

IT IS THEREFORE ORDERED that, Defendants, Defendants' representatives, and persons who are in active concert or participation with Defendants, are temporarily 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 infect 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) configuring, deploying, operating, or otherwise participating in or facilitating a command and control infrastructure described in the TRO Application, including but not limited to the command and control software hosted at and operating through the Internet domains set forth in **Appendix A** to the Complaint and through any other 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 temporarily restrained and

enjoined from (1) using and infringing Microsoft's trademarks, including specifically Microsoft's registered trademarks Microsoft, Windows, Hotmail, Outlook, and Office 365 and/or other trademarks, trade names, service marks, or Internet Domain addresses or names containing or infringing such trademarks, trade names or service marks; (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, with respect to any currently registered Internet domains set forth in **Appendix A** to this Order and the Complaint, the domain registries shall take the following actions:

A. Within five (5) business days of receipt of this Order, shall unlock and change the registrar of record for the domain to MarkMonitor or such other registrar specified by Microsoft. To the extent the registrar of record does not assist in changing the registrar of record for the domain under its control, the domain registry for the domain, or its administrators, including backend registry operators or administrators, within five (5) business days of receipt of this Order, shall change, or assist in changing, the registrar of record for the domain to MarkMonitor or such other registrar specified by Microsoft. The purpose of this paragraph is to ensure that Microsoft has control over the hosting and administration of the domain in its registrar account at MarkMonitor or such other registrar specified by Microsoft. Microsoft shall

provide to the domain registry or registrar of record any requested registrar information or account details necessary to effectuate the foregoing.

B. The domain shall be made active and shall resolve in the manner set forth in this order, or as otherwise specified by Microsoft, upon taking control of the domain;

C. The domain shall be redirected to secure servers by changing the authoritative name servers to NS096A.microsoftinternetsafety.net and NS096B.microsoftinternetsafety.net and, as may be necessary, the IP addresses associated with name servers or taking other reasonable steps to work with Microsoft to ensure the redirection of the domain and to ensure that Defendants cannot use it to make unauthorized access to computers, infect computers, compromise computers and computer networks, monitor the owners and users of computers and computer networks, steal information from them or engage in any other activities prohibited by the Injunction;

D. 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

E. Prevent transfer, modification or deletion of the domain by Defendants and prevent transfer or control of the domain to the account of any party other than Microsoft;

F. Take all steps required to propagate to the foregoing changes through the Domain Name System ("DNS"), including domain registrars.

IT IS FURTHER ORDERED that copies of this Order, notice of the Preliminary Injunction hearing and service of the Complaint 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 and/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.; and (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 signatories to such treaties.

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that the Defendants shall appear before this Court on Jan 3, 2020 at 10:00 am to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against Defendants, enjoining Defendants from the conduct temporarily restrained by the preceding provisions of this Order.

IT IS FURTHER ORDERED that Microsoft shall post bond in the amount of $50,000 to be paid into the Court registry.

IT IS FURTHER ORDERED that Microsoft may identify and update the domains in **Appendix A** to this Order and the Complaint as may be reasonably necessary to account for additional Internet domains associated with Defendants' illegal conduct just prior to or within a reasonable time after the execution of this Order.

IT IS FURTHER ORDERED that Defendants shall file with the Court and serve on Microsoft's counsel any answering affidavits, pleadings, motions, expert reports or

declarations and/or legal memoranda no later than one (1) day prior to the hearing on Microsoft's request for a preliminary injunction.

IT IS SO ORDERED

Entered this 17th day of December, 2019

2:10 pm

/s/ LOG
UNITED STATES DISTRICT JUDGE
United States District Judge

Exhibit 10

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

SOPHOS LIMITED, a United Kingdom limited company, and SOPHOS INC., a Massachusetts corporation, Plaintiffs, v. JOHN DOES 1-2, Defendants.	Civil Action No: 1:20cv502 **FILED UNDER SEAL PURSUANT TO LOCAL RULE 5**

***EX PARTE* TEMPORARY RESTRAINING ORDER AND**
ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION

Plaintiffs Sophos Limited and Sophos Inc. (collectively, "Sophos") have filed a complaint for injunctive and other relief pursuant to: (1) the Computer Fraud and Abuse Act, 18 U.S.C. § 1030; (2) Trademark Infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (3) False Designation of Origin under the Lanham Act, 15 U.S.C. § 1125(a); (4) Trademark Dilution under the Lanham Act, 15 U.S.C. § 1125(c); and (5) Unjust Enrichment. Sophos has moved *ex parte* for an emergency temporary restraining order and an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(a) (the Lanham Act), 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 Sophos's *Ex Parte* Application for an Emergency Temporary Restraining Order and Order to Show Cause re Preliminary Injunction, the Court hereby makes the following findings of fact

and conclusions of law:

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 Defendants John Doe 1 and 2 ("Defendants") under the Computer Fraud and Abuse Act (18 U.S.C. § 1030), the Lanham Act (15 U.S.C. §§ 1114, 1125), the Anticybersquatting Consumer Protection Act (15 U.S.C. § 1125(d)), and common law of unjust enrichment.

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), the Lanham Act (15 U.S.C. §§ 1114, 1125), the Anticybersquatting Consumer Protection Act (15 U.S.C. § 1125(d)) and constitute common law unjust enrichment, and that Sophos is, therefore, likely to prevail on the merits of this action;

3. Sophos owns the registered trademark "Sophos" used in connection with its services, software and products. 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 set forth in Sophos's Brief in Support of *Ex Parte* Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction ("TRO Application"), and the accompanying declarations and exhibits, demonstrates that Sophos is likely to prevail on its claim that Defendants have engaged in violations of the foregoing law by:

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

      i. infect those computers and operating systems with malicious code and thereby attempt to gain control over those computers and operating systems;

ii. attack the security of those computers by conducting remote reconnaissance, and attempting to access information on those computers, without authorization;

b. deploying computers and Internet domains to establish a command and control infrastructure by which means Defendants conduct the foregoing illegal activities;

4. There is good cause to believe that if such conduct continues, irreparable harm will occur to Sophos. 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.

5. 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 command and control software that is hosted at and otherwise operates through the Internet domains listed in **Appendix A** to this Order and from the destruction or concealment of other discoverable evidence of Defendants' misconduct available via those domains, including on user computers infected by Defendants, if Defendants receive advance notice of this action. Based on the evidence cited in Sophos's TRO Application and accompanying declarations and exhibits, Sophos is likely to be able to prove that:

a. Defendants are engaged in activities that directly violate United States law and harm Sophos;

b. Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests;

c. Defendants are likely to delete or to relocate the command and control software at issue in Sophos's TRO Application and the harmful and malicious software disseminated through the Internet domains listed in **Appendix A** to this Order, thereby permitting them to continue their illegal acts; and

d. Defendants are likely to warn their associates engaged in such activities if informed of Sophos's action.

6. Sophos's request for this emergency *ex parte* relief is not the result of any lack of

diligence on Sophos's part, but instead based upon the nature of Defendants' unlawful conduct. Therefore, in accordance with Fed. R. Civ. P. 65(b), 15 U.S.C. § 1116(a) and 28 U.S.C. § 1651(a), good cause and the interest of justice require that this Order be Granted without prior notice to Defendants, and accordingly, Sophos is relieved of the duty to provide Defendants with prior notice of Sophos's motion.

7. There is good cause to believe that Defendants have specifically directed their activities to Sophos's firewall devices located in Virginia, including in the vicinity of Alexandria, Virginia, and the Eastern District of Virginia, have engaged in illegal activity using the Internet domains identified in **Appendix A** to this Order by using those domains to direct malicious code to Sophos's firewall devices to further perpetrate their illegal conduct. There is good cause to believe that Defendants have directed said malicious code and content through certain instrumentalities—specifically the domains and the domain registration facilities of the domain registries identified in **Appendix A** to this Order.

8. There is good cause to believe that to immediately halt the injury caused by Defendants, Defendants must be prohibited from accessing Sophos's firewall devices without authorization and prohibited from sending malicious code, content and commands from the Internet domains identified in **Appendix A** to this Order to Sophos's firewall devices.

9. 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 used to deliver malicious software to Sophos's firewall devices. There is good cause to believe that to immediately halt the injury caused by Defendants, each of Defendants' current and prospective domains set forth in **Appendix A** to this Order must be immediately transferred to the control of Sophos, thus making them inaccessible to Defendants for command

and control purposes.

10. There is good cause to believe that to immediately halt the injury, the execution of this Order should be carried out in a coordinated manner by Sophos and by the domain registries identified in **Appendix A** to this Order on such date and time within five (5) days of this Order as may be reasonably requested by Sophos.

11. There is good cause to believe that Defendants may change the Internet domains that they use to conduct illegal activities, and that Sophos may identify and update the domains listed in **Appendix A** to this Order as may be reasonably necessary to account for additional Internet domains associated with Defendants just prior to the execution of this Order and within a reasonable time thereafter should Defendants attempt to evade and defy this Order.

12. There is good cause to permit notice of the instant Order, notice of the Preliminary Injunction hearing and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. 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, the Preliminary Injunction hearing and of this action: (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to Defendants' domain registrars and hosting companies and as agreed to by Defendants in Defendants' domain registration and/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.; and/or (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 signatories to such treaties.

TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

IT IS THEREFORE ORDERED that, Defendants, Defendants' representatives, and persons who are in active concert or participation with Defendants, are temporarily restrained and enjoined from: (1) intentionally accessing and sending malicious software or code to Sophos's protected computers, including its firewall devices, or the computers or networks of any other party, without authorization; (2) intentionally attacking and compromising computers of Sophos, including its firewall devices, or the computers or networks of any other party, to access computing resources and information on those devices, or for any other illegal purpose; (3) configuring, deploying, operating, or otherwise participating in or facilitating a command and control infrastructure described in the TRO Application, including but not limited to the command and control software hosted at and operating through the Internet domains set forth in **Appendix A** to this Order and through any other component or element of the command and control infrastructure at any location; (4) stealing information from Sophos or any other party, including through the foregoing activities; (5) misappropriating that which rightfully belongs to Sophos or any other party, or in which Sophos or any other party has a proprietary interest, including through the foregoing activities; (6) downloading or offering to download additional malicious software onto Sophos's firewalls or the computer of any other party; or (7) undertaking any similar activity that inflicts harm on Sophos, any other party or the public.

IT IS FURTHER ORDERED that, Defendants, Defendants' representatives, and persons who are in active concert or participation with Defendants are temporarily restrained and enjoined from (1) using and infringing Sophos's trademark, including specifically Sophos's registered trademark "Sophos" and/or other trademarks, trade names, service marks, or Internet Domain addresses or names containing or infringing such trademarks, trade names or service

marks; (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 Sophos or give Defendants an unfair competitive advantage or result in deception in Sophos's markets and channels of trade; 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 Sophos, or passing off Defendants' activities, products or services as Sophos's.

IT IS FURTHER ORDERED that, with respect to any currently registered Internet domains set forth in **Appendix A** to this Order, the domain registries set forth in Appendix A shall take the following actions:

A. Within five (5) business days of receipt of this Order, shall unlock and change the registrar of record for the domains to Lexsynergy Ltd. or such other registrar specified by Sophos. To the extent the registrar of record does not assist in changing the registrar of record for the domains under its control, the domain registry for the domains, or its administrators, including backend registry operators or administrators, within five (5) business days of receipt of this Order, shall change, or assist in changing, the registrar of record for the domains to Lexsynergy Ltd. or such other registrar specified by Sophos. The purpose of this paragraph is to ensure that Sophos has control over the hosting and administration of the domains in its registrar account at Lexsynergy Ltd. or such other registrar specified by Sophos. Sophos shall provide to the domain registry or registrar of record any requested registrar information or account details necessary to effectuate the foregoing.

B. The WHOIS registrant, administrative, billing and technical contact and identifying information should be the following, or other information as may be specified by Sophos:

Domain Administrator
Sophos Ltd.
The Pentagon, Abingdon Science Park
Abingdon OX14 3YP
United Kingdom
registrar@sophos.com

C. Prevent transfer, modification or deletion of the domain by Defendants and prevent transfer or control of the domain to the account of any party other than Sophos;

D. Take all steps required to propagate to the foregoing changes through the Domain Name System ("DNS"), including domain registrars.

IT IS FURTHER ORDERED that copies of this Order, notice of the Preliminary Injunction hearing and service of the Complaint 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 and/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.; and (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 signatories to such treaties.

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that the Defendants shall appear before this Court on May 12, 2020 at 2:00 PM by teleconference to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final

ruling on the Complaint against Defendants, enjoining Defendants from the conduct temporarily restrained by the preceding provisions of this Order.

IT IS FURTHER ORDERED that Sophos shall post bond in the amount of $10,000 to be paid into the Court registry.

IT IS FURTHER ORDERED that Sophos may identify and update the domains in **Appendix A** to this Order and the Complaint as may be reasonably necessary to account for additional Internet domains associated with Defendants' illegal conduct just prior to or within a reasonable time after the execution of this Order.

IT IS FURTHER ORDERED that Defendants shall file with the Court and serve on Sophos's counsel any answering affidavits, pleadings, motions, expert reports or declarations and/or legal memoranda no later than one (1) day prior to the hearing on Sophos's request for a preliminary injunction.

IT IS SO ORDERED

Entered this 1st day of May, 2020
2:28pm

/s/
Liam O'Grady
United States District Judge
UNITED STATES DISTRICT JUDGE

Exhibit 11

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: 1:20CV730 **FILED UNDER SEAL PURSUANT TO LOCAL CIVIL RULE 5**

***EX PARTE* TEMPORARY RESTRAINING ORDER AND**
ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION

Plaintiff Microsoft Corporation ("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 Lanham Act (15 U.S.C. §§ 1114(a)(1), 1125(a), (c)); and (3) the common law of trespass to chattels, conversion and unjust enrichment. Microsoft has moved *ex parte* for an emergency temporary restraining order and an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(a) (the Lanham Act), 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 *Ex Parte* Application for an Emergency Temporary Restraining Order and Order to Show Cause re Preliminary Injunction, the Court hereby makes the following findings of fact and conclusions of law:

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 Defendants John Doe 1 and 2 ("Defendants") under 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, conversion and unjust enrichment.

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) and the Lanham Act (15 U.S.C. §§ 1114, 1125), and constitute trespass to chattels, conversion and unjust enrichment, and that Microsoft is, therefore, likely to prevail on the merits of this action;

3. Microsoft owns the registered trademarks Microsoft, Microsoft corporate logo, OneDrive, SharePoint and Office 365 and numerous other trademarks used in connection with its services, software and products. 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 set forth in Microsoft's Brief in Support of *Ex Parte* Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction ("TRO Application"), and the accompanying declarations and exhibits, demonstrates that Microsoft is likely to prevail on its claim that Defendants have engaged and are likely to engage in violations of the foregoing law by:

   a. intentionally accessing protected computers and sending malicious Web Apps to protected computers and computer networks of Microsoft, and to the online accounts of Microsoft's customers, without authorization or exceeding authorization, and/or attempting the activities, in order to:

      i. steal and exfiltrate information from those computers, online accounts, and computer networks;

      ii. attack and compromise the security of Microsoft's protected computers

and networks, and the online accounts of Microsoft's customers, by conducting remote reconnaissance, stealing authentication tokens and credentials, monitoring the activities of users, and using other instrumentalities of theft; and

iii. defraud Microsoft's customers.

b. deploying computers, internet domains and IP addresses by which means Defendants conduct and/or attempt to conduct illegal activities, including attacks on computers, online accounts, and networks, monitoring activities of users, theft of information stored in online accounts and defrauding Microsoft's customers;

4. 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 immediately restrained from doing so by Order of this Court.

5. 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 evidence of Defendants' misconduct that is hosted at and otherwise operates through the internet domains listed in Appendix A to this Order, if Defendants receive advance notice of this action. Based on the evidence cited in Microsoft's TRO Application and accompanying declarations and exhibits, Microsoft is likely to be able to prove that:

a. Defendants are engaged in activities that directly violate United States law and harm Microsoft and the public, including Microsoft's customers;

b. Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests;

c. Defendants are likely to delete or to relocate the technical infrastructure at issue in Microsoft's TRO Application and listed in Appendix A, thereby permitting them to continue their illegal acts; and

d. Defendants are likely to warn their associates engaged in such activities if informed of Microsoft's action.

6. Microsoft's request for this emergency *ex parte* relief is not the result of any lack of diligence on Microsoft's part, but instead based upon the nature of Defendants' unlawful conduct. Therefore, in accordance with Fed. R. Civ. P. 65(b), 15 U.S.C. § 1116(a) and 28 U.S.C. § 1651(a), good cause and the interest of justice require that this Order be Granted without prior notice to Defendants, and accordingly, Microsoft is relieved of the duty to provide Defendants with prior notice of Microsoft's motion.

7. There is good cause to believe that Defendants have specifically directed their activities at Microsoft's customers located in Virginia and the Eastern District of Virginia, have engaged in illegal activity using the internet domains identified in Appendix A by using those domains to deceive users of Microsoft's products and services and by directing and/or attempting to direct Web Apps software, code, commands and content to protected computers and networks of Microsoft and to the online accounts of Microsoft's customers for the purpose of perpetuating illegal conduct and causing damage to Microsoft. There is good cause to believe that Defendants have directed said Web Apps software, code, commands and content through certain instrumentalities – specifically the internet domains and the internet domain registration facilities of the domain registries identified in Appendix A.

8. There is good cause to believe that Defendants have engaged in illegal activity by using the internet domain registration facilities of the internet domain registries identified in Appendix A to register the internet domains identified in Appendix A, so as to deceive Microsoft's customers to attempt to steal authentication tokens and credentials for their Microsoft online accounts, and to deliver and/or attempt to deliver from those domains the malicious Web Apps software, code, commands and content that Defendants use to attempt to access Microsoft's services without authorization and to attempt to obtain information stolen

from those accounts and computers.

9. There is good cause to believe that Defendants have engaged in illegal activity by using deceptive and fraudulent methods to attempt to steal computer users' account authentication tokens and credentials and to attempt to use such tokens and credentials for illegal purposes, including unlawful access of online accounts.

10. There is good cause to believe that to immediately halt the injury caused by Defendants, Defendants must be prohibited from accessing Microsoft's services without authorization and prohibited from sending Web Apps software, code, commands and content from the internet domains identified in Appendix A to the protected computers and networks of Microsoft and to the online accounts of Microsoft's customers.

11. There is good cause to believe that Defendants have engaged in illegal activity using the internet domains identified in Appendix A to attempt to compromise accounts of Microsoft's customers and to attempt to steal information from them. There is good cause to believe that to immediately halt the injury caused by Defendants, each of Defendants' domains set forth in Appendix A must be immediately transferred beyond the control of Defendants, thus making them inaccessible to Defendants.

12. There is good cause to believe that to immediately halt the injury, the execution of this Order should be carried out in a coordinated manner by Microsoft and by the domain registries and the internet hosting companies identified in Appendix A on such date and time within five (5) days of this Order as may be reasonably requested by Microsoft.

13. There is good cause to permit notice of the instant Order, notice of the Preliminary Injunction hearing and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. 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, the Preliminary Injunction hearing and of this action: (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to Defendants' domain registrars and hosting companies and as agreed to by Defendants in Defendants' domain registration and/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.; and (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 signatories to such treaties.

TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

IT IS THEREFORE ORDERED that, Defendants, Defendants' representatives, and persons who are in active concert or participation with Defendants, are temporarily restrained and enjoined from: (1) intentionally accessing protected computers and sending malicious Web Apps software, code, commands and content to the protected computers and computer networks of Microsoft and to the online accounts of customers of Microsoft, without authorization or exceeding authorization; (2) stealing and exfiltrating information from the foregoing computers, computer networks and online accounts; (3) attacking and compromising the security of the foregoing computers, computer networks and online accounts by conducting remote reconnaissance, stealing authentication tokens and credentials, monitoring the activities of users, and using other instrumentalities of theft; (4) defrauding Microsoft's customers, (5) deploying computers, internet domains and IP addresses to conduct illegal activities, including attacks on computers and networks, monitoring activities of users, and theft of information stored in online

accounts; (6) using deceptive and fraudulent methods to attempt to steal computer users' authentication tokens and online account credentials and to attempt to use such tokens and credentials for illegal purposes; (6) accessing Microsoft's services without authorization and sending malicious Web Apps software, code, commands and content from the internet domains identified in Appendix A to the computers and computer networks of Microsoft and to the online accounts of Microsoft's customers; (7) using the internet domains identified in Appendix A to attempt to compromise accounts of Microsoft's customers and to attempt to steal information from them; (8) configuring, deploying, operating, or otherwise participating in or facilitating infrastructure described in the TRO Application, including but not limited to the software operating through the internet domains set forth in Appendix A and through any other component or element of the Defendants' illegal infrastructure at any location; (9) stealing information from Microsoft's customers; (10) misappropriating that which rightfully belongs to Microsoft, its customers, or in which Microsoft or its customers have a proprietary interest; or (11) 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 temporarily restrained and enjoined from (1) using and infringing Microsoft's trademarks, including specifically Microsoft's registered trademarks Microsoft, Microsoft corporate logo, OneDrive, SharePoint and Office 365 and/or other trademarks, trade names, and/or service marks; (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, with respect to any currently registered internet domains set forth in Appendix A to this Order, the domain registries located in the United States shall take the following actions:

A. Within five (5) business days of receipt of this Order, shall unlock and change the registrar of record for the domain to MarkMonitor or such other registrar specified by Microsoft. To the extent the registrar of record does not assist in changing the registrar of record for the domain under its control, the domain registry for the domain, or its administrators, including backend registry operators or administrators, within five (5) business days of receipt of this Order, shall change, or assist in changing, the registrar of record for the domain to MarkMonitor or such other registrar specified by Microsoft. The purpose of this paragraph is to ensure that Microsoft has control over the hosting and administration of the domain in its registrar account at MarkMonitor or such other registrar specified by Microsoft. Microsoft shall provide to the domain registry or registrar of record any requested registrar information or account details necessary to effectuate the foregoing.

B. 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

C. Prevent transfer, modification or deletion of the domain by Defendants and prevent transfer or control of the domain to the account of any party other than Microsoft;

D. Take all steps required to propagate to the foregoing changes through the Domain Name System ("DNS"), including domain registrars.

E. With regard to any domain registries or registrars located outside of the United States, the Court respectfully requests, but does not order, that they take the same or substantially similar actions as the foregoing so as to neutralize the threat posed by the Defendants to the citizens of all countries, including their own. Defendants, their representatives and persons who are in active concert or participation with them are ordered to consent to whatever actions are necessary for non-United States registries, registrars and registrants or hosts, set forth in Appendix A, to effectuate this request.

IT IS FURTHER ORDERED that, with respect to the internet domains set forth in Appendix A, the domain registrars located in the United States shall preserve, retain and produce to Microsoft all documents and information sufficient to identify and contact Defendants and Defendants' representatives operating or controlling the internet domains set forth in Appendix A, including any and all individual or entity names, mailing addresses, e-mail addresses, facsimile numbers and telephone numbers or similar contact information, including but not limited to such contact information reflected in billing, usage, access and contact records and all records, documents and logs associated with Defendants' or Defendants' representatives' use of or access to the internet domains.

IT IS FURTHER ORDERED that copies of this Order, notice of the Preliminary

Injunction hearing and service of the Complaint 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' internet domain registrars and/or hosting companies and as agreed to by Defendants in the internet domain registration and/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.; and (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 signatories to such treaties.

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that the Defendants shall appear before this Court on July 10, 2020 at 10:00 am by telephone to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against Defendants, enjoining Defendants from the conduct temporarily restrained by the preceding provisions of this Order.

IT IS FURTHER ORDERED that Microsoft shall post a surety bond in the amount of $50,000 to be paid into the Court registry.

IT IS FURTHER ORDERED that Defendants shall file with the Court and serve on Microsoft's counsel any answering affidavits, pleadings, motions, expert reports or declarations and/or legal memoranda no later than one (1) day prior to the hearing on Microsoft's request for a preliminary injunction.

IT IS SO ORDERED

Entered this 1st day of ~~June~~ July, 2020

/s/
Liam O'Grady
United States District Judge

UNITED STATES DISTRICT JUDGE

EXHIBIT 12

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

DXC TECHNOLOGY COMPANY, a Nevada corporation, Plaintiff, v. JOHN DOES 1-2, Defendants.	Civil Action No: 1:20-cv-00814-RDA-MSN *SEALED* **FILED UNDER SEAL PURSUANT TO LOCAL RULE 5**

[PROPOSED] *EX PARTE* TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION

Plaintiff DXC Technology Company has filed a complaint for injunctive and other relief pursuant to: (1) the Computer Fraud and Abuse Act, 18 U.S.C. § 1030; (2) Electronic Communications Privacy Act, 18 U.S.C. § 2701(a); and (3) the common law of trespass to chattels, conversion, and unjust enrichment. DXC has moved *ex parte* for an emergency temporary restraining order and an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure 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 DXC's *Ex Parte* Application for an Emergency Temporary Restraining Order and Order to Show Cause re Preliminary Injunction, the Court hereby makes the following findings of fact and conclusions of law:

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 Defendants John Doe 1 and 2 ("Defendants") under the Computer Fraud and Abuse Act (18 U.S.C. § 1030), the Electronic Communications Privacy Act (18 U.S.C. § 2701), and common law of trespass to chattels, conversion, and unjust enrichment.

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), the Electronic Communications Privacy Act (18 U.S.C. § 2701), and constitute common law of trespass to chattels, conversion, and unjust enrichment, and that DXC is, therefore, likely to prevail on the merits of this action.

3. DXC has been the target of directed malicious acts intended to disrupt DXC's services, infiltrate DXC systems, and infect DXC's and its customers' systems with malicious ransomware software and exfiltrate information, including credentials. 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 set forth in DXC's Brief in Support of *Ex Parte* Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction ("TRO Application"), and the accompanying declarations and exhibits, demonstrates that DXC is likely to prevail on its claim that Defendants have engaged in violations of the foregoing law by:

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

      i. infect those computers and operating systems with malicious code and thereby attempt to gain control over those computers and operating systems;

      ii. attack the security of those computers by conducting remote

reconnaissance, and attempting to access information on those computers, without authorization;

4. There is good cause to believe that if such conduct continues, irreparable harm will occur to DXC. 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.

5. 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 command and control software that is hosted at and otherwise operates through the Internet domains listed in **Appendix A** to this Order and from the destruction or concealment of other discoverable evidence of Defendants' misconduct available via those domains, including on user computers infected by Defendants, if Defendants receive advance notice of this action. Based on the evidence cited in DXC's TRO Application and accompanying declarations and exhibits, DXC is likely to be able to prove that:

b. Defendants are engaged in activities that directly violate United States law and harm DXC;

c. Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests;

d. Defendants are likely to delete or to relocate the command and control software at issue in DXC's TRO Application and the harmful and malicious software disseminated through the Internet domains listed in **Appendix A** to this Order, thereby permitting them to continue their illegal acts; and

e. Defendants are likely to warn their associates engaged in such activities if informed of DXC's action.

6. DXC's request for this emergency *ex parte* relief is not the result of any lack of diligence on DXC's part, but instead based upon the nature of Defendants' unlawful conduct. Therefore, in accordance with Fed. R. Civ. P. 65(b) and 28 U.S.C. § 1651(a), good cause and the interest of justice require that this Order be Granted without prior notice to Defendants, and

accordingly, DXC is relieved of the duty to provide Defendants with prior notice of DXC's motion.

7. There is good cause to believe that Defendants have specifically directed their activities to DXC's computers and networks devices located in Virginia, including in the vicinity of Alexandria, Virginia, and the Eastern District of Virginia, have engaged in illegal activity using the Internet domains identified in **Appendix A** to this Order by using those domains to direct malicious code to DXC's computers and networks devices to further perpetrate their illegal conduct. There is good cause to believe that Defendants have directed said malicious code and content through certain instrumentalities—specifically the domains and the domain registration facilities of the domain registries identified in **Appendix A** to this Order.

8. There is good cause to believe that to immediately halt the injury caused by Defendants, Defendants must be prohibited from accessing DXC's computers and networks devices without authorization and prohibited from sending malicious code, content and commands from the Internet domains identified in **Appendix A** to this Order to DXC's computers and networks devices.

9. 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 used to deliver malicious software to DXC's computers and networks devices. There is good cause to believe that to immediately halt the injury caused by Defendants, each of Defendants' current and prospective domains set forth in **Appendix A** to this Order must be immediately transferred to the control of DXC, thus making them inaccessible to Defendants for command and control purposes.

10. There is good cause to believe that to immediately halt the injury, the execution of

this Order should be carried out in a coordinated manner by DXC and by the domain registries identified in **Appendix A** to this Order on such date and time within five (5) days of this Order as may be reasonably requested by DXC.

11. There is good cause to believe that Defendants may change the Internet domains that they use to conduct illegal activities, and that DXC may identify and update the domains listed in **Appendix A** to this Order as may be reasonably necessary to account for additional Internet domains associated with Defendants just prior to the execution of this Order and within a reasonable time thereafter should Defendants attempt to evade and defy this Order.

12. There is good cause to permit notice of the instant Order, notice of the Preliminary Injunction hearing and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. 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, the Preliminary Injunction hearing and of this action: (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to Defendants' domain registrar and registries and hosting companies and as agreed to by Defendants in Defendants' domain registration and/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.; and/or (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 signatories to such treaties.

TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

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

persons who are in active concert or participation with Defendants, are temporarily restrained and enjoined from: (1) intentionally accessing and sending malicious software or code to DXC's protected computers, including its computers and networks devices, or the computers or networks of any other party, without authorization; (2) intentionally attacking and compromising computers or networks of DXC or the computers or networks of any other party, to access computing resources and information on those devices, or for any other illegal purpose; (3) configuring, deploying, operating, or otherwise participating in or facilitating a command and control infrastructure described in the TRO Application, including but not limited to the command and control software hosted at and operating through the Internet domains set forth in **Appendix A** to this Order and through any other component or element of the command and control infrastructure at any location; (4) stealing or exfiltrating information from DXC or any other party, including through the foregoing activities; (5) delivering malicious software designed to steal account credentials, (6) delivering malicious "ransomware" software designed to lock access to computers and demand a ransom from victims, (7) carrying out fraudulent schemes, (8) misappropriating that which rightfully belongs to DXC or any other party, or in which DXC or any other party has a proprietary interest, including through the foregoing activities; (9) downloading or offering to download additional malicious software onto DXC's computers and networks or the computer of any other party; (10) monitoring the activities of DXC's customers and stealing information from them, (11) attacking computers and networks, monitoring activities of users, and theft of information or (12) undertaking any similar activity that inflicts harm on DXC, any other party or the public.

IT IS FURTHER ORDERED that, with respect to any currently registered Internet domains set forth in **Appendix A** to this Order, the domain registrar and registries set forth in

Appendix A shall take the following actions:

A. Within two (2) business days of receipt of this Order, and as soon as is possible, shall unlock and change the registrar of record for the domains to MarkMonitor or such other registrar specified by DXC. To the extent the registrar of record does not assist in changing the registrar of record for the domains under its control, the domain registry for the domains, or its subsidiaries, within two (2) business days of receipt of this Order, shall change, or assist in changing, the registrar of record for the domains MarkMonitor or such other registrar specified by DXC. The purpose of this paragraph is to ensure that DXC has control over the hosting and administration of the domains in its registrar account at MarkMonitor or such other registrar specified by DXC. DXC shall provide to the domain registry or registrar of record any requested registrar information or account details necessary to effectuate the foregoing.

B. The WHOIS registrant, administrative, billing and technical contact and identifying information should be the following, or other information as may be specified by DXC:

Domain Administrator
DXC Technology Company
1775 Tysons Blvd
Tysons, Virginia 22102
United States
Webmaster@dxc.com

C. Prevent transfer, modification or deletion of the domain by Defendants and prevent transfer or control of the domain to the account of any party other than DXC;

D. Take all steps required to propagate to the foregoing changes through the Domain Name System ("DNS"), including domain registrar and registries.

IT IS FURTHER ORDERED that copies of this Order, notice of the Preliminary Injunction hearing and service of the Complaint 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 registrar and registries and/or hosting companies and as agreed to by Defendants in the domain registration and/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.; and (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 signatories to such treaties.

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that the Defendants shall appear before this Court on **August 5, 2020 at 11:00 A.M.** to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against Defendants, enjoining Defendants from the conduct temporarily restrained by the preceding provisions of this Order.

IT IS FURTHER ORDERED that DXC shall post bond in the amount of $ 50,000 to be paid into the Court registry.

IT IS FURTHER ORDERED that DXC may identify and update the domains in **Appendix A** to this Order and the Complaint as may be reasonably necessary to account for additional Internet domains associated with Defendants' illegal conduct just prior to or within a reasonable time after the execution of this Order.

It is FURTHER ORDERED that Defendants shall file with the Court and serve on DXC's counsel any answering affidavits, pleadings, motions, expert reports or declarations and/or legal memoranda no later the Friday prior to the hearing on DXC's request for preliminary injunction.

It is SO ORDERED.

Alexandria, Virginia
July 22, 2020 at 1:20 p.m.

/s/
Rossie D. Alston, Jr.
United States District Judge

EXHIBIT 13

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

MICROSOFT CORPORATION, a Washington corporation, and FS-ISAC, INC., a Delaware corporation, Plaintiffs, v. JOHN DOES 1-2, CONTROLLING A COMPUTER BOTNET AND THEREBY INJURING PLAINTIFFS, AND THEIR CUSTOMERS AND MEMBERS, Defendants.	Civil Action No: 1:20cv1171 **FILED UNDER SEAL**

***EX PARTE* TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION**

Plaintiffs Microsoft Corp. ("Microsoft") and Financial Services – Information Sharing And Analysis Center, Inc. ("FS-ISAC") (collectively "Plaintiffs") have filed a complaint for injunctive and other relief pursuant to: (1) the Copyright Act (17 U.S.C. § 101, *et seq.*); (2) the Computer Fraud and Abuse Act (18 U.S.C. § 1030); (3) the Electronic Communications Privacy Act (18 U.S.C. § 2701); (4) the Lanham Act (15 U.S.C. §§ 1114(a)(1), 1125(a), (c)); and (5) the common law of trespass, unjust enrichment and conversion. Plaintiffs have moved *ex parte* for an emergency temporary restraining order and an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(a) (the Lanham Act), 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 Plaintiffs' Application for an Emergency Temporary Restraining Order, the Court hereby makes the following findings of fact and conclusions of law:

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 Defendants John Does 1-2 ("Defendants") under the Copyright Act (17 U.S.C. §§ 106 and 501 *et seq.*), 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 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 Copyright Act (17 U.S.C. §§ 106 and 501 *et seq.*), 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, and that Microsoft is, therefore, likely to prevail on the merits of this action;

3. Microsoft owns the registered copyrights in the Windows 8 Software Development Kit ("SDK"), Reg. No. TX 8-888-365 ("Copyrighted Work"). Microsoft's Copyrighted Work is an original, creative work and copyrightable subject matter under the laws of the United States. *See* 17 U.S.C. § 102(a); *see also Oracle America, Inc. v. Google Inc.*, 750 F.3d 1339 (Fed. Cir. 2014) (holding the structure, sequence, and organization of declaring computer code qualifies as an original work under the Copyright Act).

4. Microsoft owns the registered trademarks "Microsoft" and "Windows" used in connection with its services, software and products. FS-ISAC's member organizations have invested in developing their brands, trademarks, and trade names in association with the financial services they offer.

5. 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 set forth in Plaintiffs' Brief in Support of Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction ("TRO Application"),

and the accompanying declarations and exhibits, demonstrates that Plaintiffs are likely to prevail on their claims that Defendants have engaged in violations of the foregoing law by:

a. directly, contributorily and through inducement, infringing Microsoft's Copyrighted Work by reproducing, distributing, and creating derivative works in their malicious software, which includes code that is literally copied from, substantially similar to and derived from the Copyrighted Work, in violation of Microsoft's exclusive rights at least under 17 U.S.C. § 101 *et seq.* without any authorization or other permission from Microsoft;

b. transmitting malicious code containing the Copyrighted Work through Internet Protocol addresses ("IP Addresses") to configure, deploy and operate a botnet;

c. intentionally accessing and sending malicious software, code, and instructions to the protected computers and operating systems of the customers or associated member organizations of Microsoft and FS-ISAC, without authorization and exceeding authorization, in order to

   i. install on those computers and computer networks malicious code and thereby gain control over those computers and computer networks in order to make them part of the computer botnet known as the "Trickbot" botnet (the "botnet");

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

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

d. corrupting Microsoft's operating system and applications on victims' computers and networks, thereby using them to carry out the foregoing activities

e. creating false websites that falsely indicate that they are associated with or approved by Plaintiffs or Plaintiffs' member organizations;

f. stealing personal and financial account information from computer users; and

g. using stolen information to steal money from the financial accounts of those users.

6. There is good cause to believe that if such conduct continues, irreparable harm will occur to Plaintiffs, Plaintiffs' customers and member organizations, 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;

7. 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 botnet command and control software that is hosted at and otherwise operates through the IP addresses listed in **Appendix A** and from the destruction or concealment of other discoverable evidence of Defendants' misconduct available at those locations if Defendants receive advance notice of this action. Based on the evidence cited in Plaintiffs' TRO Application and accompanying declarations and exhibits, Plaintiffs are likely to be able to prove that:

a. Defendants are engaged in activities that directly violate United States law and harm Plaintiffs and the public, including Plaintiffs' customers and member-organizations;

b. Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests;

c. Defendants are likely to delete or to relocate the botnet command and control software at issue in Plaintiffs' TRO Application and the harmful and malicious software, infringing Microsoft's Copyrighted Work and trademarks, disseminated through the IP Addresses listed in **Appendix A** to this Order, thereby permitting them to continue their illegal acts; and

d. Defendants are likely to warn their associates engaged in such activities if informed of Plaintiffs' action.

8. Plaintiffs' request for this emergency *ex parte* relief is not the result of any lack of diligence on Plaintiffs' part, but instead based upon the nature of Defendants' unlawful conduct. Therefore, in accordance with Fed. R. Civ. P. 65(b), 15 U.S.C. § 1116(a) and 28 U.S.C. § 1651(a), good cause and the interest of justice require that this Order be Granted without prior notice to Defendants, and accordingly, Plaintiffs are relieved of the duty to provide Defendants with prior notice of Plaintiffs' motion.

9. There is good cause to believe that Defendants have specifically directed their activities to computers of Plaintiffs' customers and member organizations located in the Eastern District of Virginia, have engaged in illegal activity using the IP Addresses identified in **Appendix A** to this Order that are registered to command and control servers located at data

centers and/or hosting companies set forth in **Appendix A**, to direct malicious botnet code and content through the Internet to said computers of Plaintiffs' customers and member organizations to further perpetrate their fraud on Plaintiffs' customers and member organizations.

10. There is good cause to believe that Defendants have engaged in illegal activity using the data centers and/or Internet hosting providers identified in **Appendix A** to host command and control software and the malicious botnet code and content used to maintain and operate the botnet at computers, servers, electronic data storage devices, or media at the IP Addresses listed in **Appendix A**.

11. There is good cause to believe that to immediately halt the injury caused by Defendants, Defendants' IP Addresses identified in **Appendix A** must be immediately disabled; Defendants' computer resources related to such IP Addresses must be disconnected from the Internet; Defendants must be prohibited from accessing Defendants' computer resources related to such IP Addresses; and to prevent the destruction of data and evidence located on those computing resources.

12. There is good cause to believe that in order to immediately halt the injury caused by Defendants and to ensure the future prosecution of this case it not rendered fruitless by attempts to delete, hide, conceal, or otherwise render inaccessible the software components that create, distribute, and are involved in the creation, perpetuation, and maintenance of the botnet and prevent the unauthorized copying, reproduction, distribution, public display, and creation of derivative works in Microsoft's Copyrighted Work and prevent the creation and distribution of unauthorized copies of the registered trademarks of Microsoft and FS-ISAC's member organizations and carry out other harmful conduct, with respect to the Defendants' most current, active command and control servers hosted at the IP Addresses, the following actions should be taken. The data centers and/or hosting companies set forth in **Appendix A** should take reasonable steps to block incoming and/or outgoing traffic on their respective networks that originates or has been sent from and/or to the IP Addresses identified in **Appendix A**, such that

said traffic will not reach victim end-user computers on the ISPs' respective networks and/or the computers at the IP Addresses in **Appendix A**, and should take other reasonable steps to block such traffic to and/or from any other IP addresses to which Defendants may move the botnet infrastructure, identified by Plaintiffs and which the Court may order to be subject to this Order, to ensure that Defendants cannot use such infrastructure to control the botnet.

13. There is good cause to believe that Defendants may change the IP Addresses that they use to conduct illegal activities, and that Plaintiffs may identify and update the IP Addresses listed in **Appendix A** to this Order as may be reasonably necessary to account for additional IP Addresses associated with Defendants just prior to the execution of this Order and within a reasonable time thereafter should Defendants attempt to evade and defy this Order.

14. There is good cause to permit notice of the instant Order, notice of the Preliminary Injunction hearing and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. 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, the Preliminary Injunction hearing and of this action: (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to Defendants' data centers and/or hosting companies and as agreed to by Defendants in Defendants' data center and/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.; and (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 signatories to such treaties.

15. There is good cause to believe that the harm to Microsoft and FS-ISAC's member organizations of denying the relief requested in the TRO Application outweighs any harm to any legitimate interests of Defendants and that there is no undue burden to any third party.

TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

IT IS THEREFORE ORDERED that, Defendants, their representatives and persons who are in active concert or participation with them are temporarily restrained and enjoined from: (1) intentionally accessing and sending malicious software or code to Plaintiffs and the protected computers and operating systems of Plaintiffs' 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) attacking and compromising the security of the computers and networks of Plaintiffs, their customers, and any associated member organizations, (4) stealing and exfiltrating information from computers and computer networks, (5) creating false websites that falsely indicated that they are associated with or approved by Plaintiffs or Plaintiffs' member organizations; (6) 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 IP Addresses set forth herein and through any other component or element of the botnet in any location; (7) delivering malicious software designed to steal financial account credentials, (8) monitoring the activities of Plaintiffs, Plaintiffs' customers or member associations and stealing information from them, (9) attacking computers and networks, monitoring activities of users, and theft of information, (10) corrupting Microsoft's operating system and applications on victims' computers and networks, thereby using them to carry out the foregoing activities, (11) misappropriating that which rightfully belongs to Plaintiffs, Plaintiffs' customers or member associations or in which Plaintiffs have a proprietary interests, and (12) undertaking any similar activity that inflicts harm on Plaintiffs, Plaintiffs' customers or member associations, or the public.

IT IS FURTHER ORDERED that, Defendants, their representatives and persons who are in active concert or participation with them are temporarily restrained and enjoined from: (1) reproducing, distributing, creating derivative works, and/or otherwise infringing Microsoft's

Copyrighted Work, bearing registration number TX 8-888-365; (2) using and infringing Microsoft's trademarks, including specifically Microsoft's registered trademarks "Microsoft," "Windows," "Outlook" and "Word" logo bearing registration numbers 2872708, 5449084, 2463526, 4255129 and 77886830; and/or the trademarks of financial institution members of FS-ISAC; (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 Plaintiffs or their member organizations 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 Plaintiffs' or their member organizations.

IT IS FURTHER ORDERED that, with respect to any of the IP Addresses set forth in **Appendix A** to this Order, the data centers and/or hosting providers identified in **Appendix A** to this Order shall take reasonable best efforts to implement the following actions:

A. Take reasonable steps to identify incoming and/or outgoing Internet traffic on their respective networks that originates and/or is being sent from and/or to the IP Addresses identified in **Appendix A**;

B. Take reasonable steps to block incoming and/or outgoing Internet traffic on their respective networks that originate and/or are being sent from and/or to the IP Addresses identified in **Appendix A**, by Defendants or Defendants' representatives or resellers, except as explicitly provided for in this Order;

C. Take other reasonable steps to block such traffic to and/or from any other IP addresses or domains to which Defendants may move the botnet infrastructure, identified by Microsoft in a supplemental request to this Order, to ensure that Defendants cannot use such infrastructure to control the botnet.

D. Completely disable the computers, servers, electronic data storage devices, software, data or media assigned to or otherwise associated with the IP Addresses set forth in **Appendix A** and make them inaccessible from any other computer on the Internet, any internal network, or in any other manner, to Defendants, Defendants' representatives and all other persons, except as otherwise ordered herein;

E. Completely, and until further order of this Court, suspend all services to Defendants or Defendants' representatives or resellers associated with the IP Addresses set forth in **Appendix A**;

F. Transfer any content and software hosted at the IP Addresses listed in **Appendix A** that are not associated with Defendants, if any, to new IP Addresses not listed in **Appendix A**; notify any non-party owners of such action and the new IP addresses, and direct them to contact Microsoft's counsel, Gabriel M. Ramsey, Crowell & Moring LLP, 3 Embarcadero Ctr., 26th Floor, San Francisco, CA 94111, gramsey@crowell.com, (Tel: 415-365-7207), to facilitate any follow-on action;

G. Refrain from providing any notice or warning to, or communicating in any way with Defendants or Defendants' representatives and refrain from publicizing this Order until this Order is executed in full, except as necessary to communicate with hosting companies, data centers, the Plaintiffs or other ISPs to execute this order;

H. Not enable, and shall take all reasonable steps to prevent, any circumvention of this order by Defendants or Defendants' representatives associated with the IP Addresses, including without limited to enabling, facilitating, and/or allowing Defendants or Defendants' representatives or resellers to rent, lease, purchase, or otherwise obtain another IP Address associated with your services;

I. Preserve, retain and produce to Plaintiffs all documents and information sufficient to identify and contact Defendants and Defendants' representatives operating or controlling the IP Addresses set forth in **Appendix A**, including any and all individual or entity names, mailing

addresses, e-mail addresses, facsimile numbers and telephone numbers or similar contact information, including but not limited to such contact information reflected in billing, usage, access and contact records and all records, documents and logs associated with Defendants' or Defendants' Representatives' use of or access to the IP Addresses;

J. Provide reasonable assistance in implementing the terms of this Order and take no action to frustrate the implementation of this Order; and

K. Completely preserve the computers, servers, electronic data storage devices, software, data or media assigned to or otherwise associated with the IP Addresses set forth in **Appendix A**, and preserve all evidence of any kind related to the content, data, software or accounts associated with such IP addresses and such computer hardware, such that such evidence of Defendants' unlawful activities is preserved.

IT IS FURTHER ORDERED that copies of this Order, notice of the Preliminary Injunction hearing and service of the Complaint may be served by any means authorized by law, including any one or combination of (1) personal delivery upon Defendants who provided accurate contact information in the U.S., if any; (2) personal delivery through the Hague Convention on Service Abroad or similar treaties upon defendants who provided accurate contact information in foreign countries that are signatory to such treaties, if any, (3) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to their hosting companies and as agreed to by Defendants in their hosting agreements, (4) publishing notice on a publicly available Internet website and/or in newspapers in the communities where Defendants are believed to reside.

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that the Defendants shall appear before this Court on October 20th, 2020, at 2:00 p.m. to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against the Defendants, enjoining them from the conduct temporarily restrained by the preceding provisions of this Order.

IT IS FURTHER ORDERED that Microsoft shall post bond in the amount of $75,000 as cash to be paid into the Court registry.

IT IS FURTHER ORDERED that Plaintiffs may identify and update the IP addresses to this Order as may be reasonably necessary to account for additional IP addresses associated with the Trickbot Botnet just prior to the execution of this Order.

IT IS FURTHER ORDERED that the Defendants shall file with the Court and serve on Plaintiffs' counsel any answering affidavits, pleadings, motions, expert reports or declarations and/or legal memoranda no later than two (2) days prior to the hearing on Microsoft's request for a preliminary injunction. Plaintiffs may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on counsel for the Defendants no later than one (1) day prior to the preliminary injunction hearing in this matter. Provided that service shall be performed by personal or overnight delivery, facsimile or electronic mail, and documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m. (Eastern Standard Time) on the appropriate dates listed in this paragraph.

IT IS SO ORDERED

Entered this 6th day of October, 2020.

/s/
Anthony J. Trenga
United States District Judge

Exhibit 14

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MICROSOFT CORPORATION, a Washington corporation, FS-ISAC, INC., a Delaware corporation and HEALTH-ISAC, INC., a Florida corporation, Plaintiffs, v. DENIS MALIKOV AND JOHN DOES 1-7, Defendants.	Case No.: 1:22-CV-1328-MHC **FILED UNDER SEAL**

EX PARTE TEMPORARY RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION

Plaintiffs Microsoft Corp. ("Microsoft"), FS-ISAC, Inc. ("FS-ISAC") and HEALTH-ISAC, Inc. ("H-ISAC") have filed a complaint for injunctive and other relief pursuant to, *inter alia*: (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(a)(1), 1125(a), (c)); (7) the Georgia Computer Systems Protection Act (O.C.G.A. § 16-9-93) and (4) the common law of trespass

to chattels, unjust enrichment and conversion. Plaintiffs have moved *ex parte* for an emergency temporary restraining order and an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(a) (the Lanham Act), 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 Plaintiffs' Application for an Emergency Temporary Restraining Order, the Court hereby makes the following findings of fact and conclusions of law:

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 Defendants Denis Malikov and John Does 1 through 7 ("Defendants") under 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(a)(1), 1125(a), (c)), the Georgia Computer Systems Protection Act (O.C.G.A. § 16-9-93) 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), the Electronic Communications Privacy Act (18 U.S.C. § 2701), the Lanham Act (15 U.S.C. §§ 1114(a)(1), 1125(a), (c)), the Georgia Computer Systems Protection Act (O.C.G.A. § 16-9-93) 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. Microsoft owns the registered trademarks "Microsoft," "Windows," "Excel" and "Word," used in connection with its services, software and products. FS-ISAC's members own registered trademarks in their names and logos used in connection with their online financial services.

4. 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 set forth in Plaintiffs' Brief in Support of Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction ("TRO Application"), and the accompanying declarations and exhibits, demonstrates that Plaintiffs are likely to prevail on their claim that Defendants have engaged in violations of the foregoing law by:

a. intentionally accessing and sending malicious software, code, and instructions to the protected computers, operating systems, and

computer networks of Microsoft, the customers of Microsoft and the members of FS-ISAC and H-ISAC, 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;

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 activities of users, and theft of information;

c. corrupting 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;

5. There is good cause to believe that if such conduct continues, irreparable harm will occur to Microsoft, Microsoft's customers, FS-ISAC's and H-ISAC's members 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.

6. 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 command and control software that is hosted at and otherwise operates through the Internet domains listed in **Appendix A** to this Order and from the destruction or concealment of other discoverable evidence of Defendants' misconduct available via those domains, including on user computers infected by Defendants, if Defendants receive advance notice of this action. Based on the evidence cited in Plaintiffs' TRO Application and accompanying declarations and exhibits, Plaintiffs are likely to be able to prove that:

a. Defendants are engaged in activities that directly violate United States law and harm Microsoft, Microsoft's customers, FS-ISAC's and H-ISAC's members and the public;

b. Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests;

c. Defendants are likely to delete or to relocate the command and control software at issue in Plaintiffs' TRO Application and the harmful and malicious software disseminated through the Internet domains listed in Appendix A, thereby permitting them to continue their illegal acts; and

7. Plaintiffs' request for this emergency *ex parte* relief is not the result of any lack of diligence on Plaintiffs' part, but instead based upon the nature of Defendants' unlawful conduct. Therefore, in accordance with Fed. R. Civ. P. 65(b), 15 U.S.C. § 1116(a) and 28 U.S.C. § 1651(a), good cause and the interest of justice require that this Order be Granted without prior notice to Defendants, and

accordingly, Plaintiffs are relieved of the duty to provide Defendants with prior notice of Microsoft's motion.

8. There is good cause to believe that Defendants have specifically directed their activities to computers of Plaintiffs customers and members located in the Northern District of Georgia, have engaged in illegal activity using the Internet domains identified in **Appendix A** to this Order by directing malicious code and content to said computers of Plaintiffs' customers and members to further perpetrate their illegal conduct victimizing those parties. There is good cause to believe that Defendants have directed said malicious code and content through certain instrumentalities – specifically the domains and the domain registration facilities of the domain registries identified in **Appendix A**.

9. There is good cause to believe that Defendants have engaged in illegal activity by using the domain registration facilities of the domain registries identified in **Appendix A** to register the Internet domains identified in **Appendix A**, so as to deliver from those domains the malicious code, content, and commands that Defendants use to access Plaintiffs' and their customers' and members' computers, networks and services without authorization and to infect and compromise the computers of Microsoft's customers and FS-ISAC's and H-ISAC's members, and to receive the information stolen from those computers.

10. There is good cause to believe that Defendants have engaged in illegal activity by using deceptive and fake methods to steal computer users' login and/or account credentials and to use such credentials for illegal purposes.

11. There is good cause to believe that to immediately halt the injury caused by Defendants, Defendants must be prohibited from accessing Plaintiffs' and their customers' and members' computers, networks and services without authorization and be prohibited from sending malicious code, content and commands from the Internet domains identified in **Appendix A** to the computers of Plaintiffs, their customers and their members.

12. There is good cause to believe that Defendants have engaged in illegal activity using the Internet domains identified in **Appendix A** to host the command and control software and content used to infect and compromise the computers and networks of Plaintiffs and their customers and members and to steal information from them. There is good cause to believe that to immediately halt the injury caused by Defendants, each of Defendants' current and prospective domains set forth in **Appendix A** must be immediately redirected to the Plaintiff-secured name-servers ns081a.microsoftinternetsafety.net and ns081b.microsoftinternetsafety.net, thus making them inaccessible to Defendants for command and control purposes.

13. There is good cause to believe that to immediately halt the injury, the execution of this Order should be carried out in a coordinated manner by Plaintiffs and by the domain registries identified in **Appendix A** on such date and time within five (5) business days of this Order as may be reasonably requested by Plaintiffs.

14. There is good cause to permit notice of the instant Order, notice of the Preliminary Injunction hearing and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. 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, the Preliminary Injunction hearing and of this action: (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to Defendants' domain registrars and hosting companies and as agreed to by Defendants in Defendants' domain registration and/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.; and/or (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 signatories to such treaties.

TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

IT IS THEREFORE ORDERED that, Defendants, Defendants' representatives, and persons who are in active concert or participation with Defendants, are temporarily restrained and enjoined from: (1) intentionally accessing and sending malicious software or code to Plaintiffs, their customers and members, and the protected computers and operating systems of Microsoft, Microsoft's customers, and FS-ISAC's and H-ISAC's members without authorization, in order to infect those computers; (2) intentionally attacking and compromising computers or computer networks of Plaintiffs, their customers and members, 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) configuring, deploying, operating, or otherwise participating in or facilitating a command and control infrastructure described in the TRO Application, including but not limited to the command and control software hosted at and operating through the Internet domains set forth in **Appendix A** and through any other component or element of the command and control infrastructure at any location; (4) stealing information from Plaintiffs, or their customers and members; (5) misappropriating that which rightfully belongs to Plaintiffs, their customers or

members, or in which Plaintiffs, their customers or members have a proprietary interest; (6) downloading or offering to download additional malicious software onto the computers of Plaintiffs, their customers or members; or (7) undertaking any similar activity that inflicts harm on Plaintiffs, their customers or members, or the public.

IT IS FURTHER ORDERED that, Defendants, Defendants' representatives, and persons who are in active concert or participation with Defendants are temporarily restrained and enjoined from (1) using and infringing Microsoft's trademarks, including specifically "Microsoft," bearing registration number 5449084, "Windows," bearing registration number 2463509 and serial number 90792752, "Excel," bearing registration numbers 2942050 and 85467589, "Word," bearing registration numbers 4355444 and 6148514 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 FS-ISAC's members 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 FS-ISAC's members, or passing off Defendants' activities, products or services as Microsoft's or FS-ISAC's members.

IT IS FURTHER ORDERED that, with respect to any currently registered Internet domains set forth in **Appendix A**, the domain registries shall take the following actions:

A. Within five (5) business days of receipt of this Order, shall unlock and change the registrar of record for the domain to MarkMonitor or such other registrar specified by Plaintiffs. To the extent the registrar of record does not assist in changing the registrar of record for the domain under its control, the domain registry for the domain, or its administrators, including backend registry operators or administrators, within five (5) business days of receipt of this Order, shall change, or assist in changing, the registrar of record for the domain to MarkMonitor or such other registrar specified by Plaintiffs. The purpose of this paragraph is to ensure that Plaintiffs have control over the hosting and administration of the domain in its registrar account at MarkMonitor or such other registrar specified by Plaintiffs. Plaintiffs shall provide to the domain registry or registrar of record any requested registrar information or account details necessary to effectuate the foregoing.

B. The domain shall be made active and shall resolve in the manner set forth in this order, or as otherwise specified by Plaintiffs, upon taking control of the domain;

C. The domain shall be redirected to secure servers by changing the authoritative name servers to ns081a.microsoftinternetsafety.net and ns081b.microsoftinternetsafety.net and taking other reasonable steps to work with Plaintiffs to ensure the redirection of the domain and to ensure that Defendants cannot use it to make unauthorized access to computers, infect computers, compromise computers and computer networks, monitor the owners and users of computers and computer networks, steal information from them or engage in any other activities prohibited by this order;

D. The WHOIS registrant, administrative, billing and technical contact and identifying information should be the following, or other information as may be specified by Plaintiffs:

Domain Administrator
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052
United States
Phone: +1.4258828080
Facsimile: +1.4259367329
domains@microsoft.com

E. Prevent transfer, modification or deletion of the domain by

Defendants and prevent transfer or control of the domain to the account of any party other than Plaintiffs;

F. Take all steps required to propagate to the foregoing changes through the Domain Name System ("DNS"), including domain registrars.

IT IS FURTHER ORDERED that as soon as reasonably possible after the foregoing actions are taken by the domain registries or other appropriate internet authorities, Plaintiffs shall move the Court to unseal this case and make the appropriate portions of the filings in this action accessible to the public.

IT IS FURTHER ORDERED that copies of this Order, notice of the Preliminary Injunction hearing and service of the Complaint 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 and/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.; and/or (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 signatories to such

treaties.

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that the Defendants shall appear before this Court on **April 20, 2022 at 3:00 p.m.** to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against Defendants, enjoining Defendants from the conduct temporarily restrained by the preceding provisions of this Order.

IT IS FURTHER ORDERED that Plaintiffs shall post bond in the amount of $50,000 to be paid into the Court registry.

IT IS FURTHER ORDERED that Defendants shall file with the Court and serve on Plaintiffs' counsel any answering affidavits, pleadings, motions, expert reports or declarations and/or legal memoranda no later than one (1) day prior to the hearing on Plaintiffs' request for a preliminary injunction.

IT IS SO ORDERED this 8th day of April, 2022, at 10:15 AM.

Mark H. Cohen

MARK H. COHEN
UNITED STATES DISTRICT JUDGE

Exhibit 15

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. 1:22-cv-607 (AJT/WEF) **FILED UNDER SEAL PURSUANT TO LOCAL RULE 5**

***EX PARTE* TEMPORARY RESTRAINING ORDER AND**
ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION

Plaintiff Microsoft Corporation ("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) Trademark Infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.;* (3) False Designation of Origin under the Lanham Act, 15 U.S.C. § 1125(a); (4) Trademark Dilution under the Lanham Act, 15 U.S.C. § 1125(c)(5) Common Law Trespass to Chattels; (6) Unjust Enrichment; and (7) Conversion. Microsoft has moved *ex parte* for an emergency temporary restraining order and an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(a) (the Lanham Act), and 28 U.S.C. § 1651(a) (the All-Writs Act).

Having reviewed the papers, declarations, exhibits, and memorandum filed in support of Microsoft's *Ex Parle* Application for an Emergency Temporary Restraining

Order and Order to Show Cause re Preliminary Injunction, the Court hereby makes the following findings of fact and conclusions of law:

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 Defendants John Doe 1-2 ("Defendants") under the Computer Fraud and Abuse Act (18 U.S.C. § 1030), the Lanham Act (15 U.S.C. §§ 1114, 1125), the common law of trespass to chattels, unjust enrichment and conversion, pursuant to Defendants' breach of contract.

2. Microsoft has made a clear showing that it is likely to succeed on the merits of its claims 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), the Lanham Act (15 U.S.C. §§ 1114, 1125), and constitute trespass to chattels, unjust enrichment, conversion, and breach of contract, and that Microsoft is, therefore, likely to prevail on the merits of this action;

3. Microsoft owns the registered trademarks Microsoft, Microsoft corporate logo, OneDrive, Share Point and Office 365 and numerous other trademarks used in connection with its services, software and products. 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 set forth in Microsoft's Brief in Support of *Ex Parte* Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction ("TRO Application"), 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 law by:

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

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

   iii. 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;

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

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

4. Microsoft has made a clear showing that if such conduct continues, irreparable harm will occur to Microsoft, Microsoft's customers, and the public and that the Defendants will continue to engage in such unlawful actions if not immediately restrained from doing so by Order of this Court. In that regard, 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 command and control software that is hosted at and otherwise operates through the Internet domains listed in **Appendix A** to this Order, and from the destruction or concealment of other discoverable evidence of Defendants' misconduct available via those domains, including on user computers infected by Defendants, if Defendants receive advance notice of this action. Based on the evidence cited in Microsoft's TRO Application

and accompanying declarations and exhibits, Microsoft is likely to be able to prove that:

a. Defendants are engaged in activities that directly violate United States law and harm Microsoft and the public, including Microsoft's customers;

b. Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests;

c. Defendants are likely to delete or to relocate the command and control software at issue in Microsoft's TRO Application and the harmful and malicious software disseminated through the Internet domains listed in **Appendix A,** thereby permitting them to continue their illegal acts; and

d. Defendants are likely to warn their associates engaged in such activities if informed of Microsoft's action.

5. Microsoft has made a sufficient showing that the balance of equities strongly favors granting their requested injunctive relief. Defendants can claim no legally cognizable harm because an injunction would only require Defendants to cease illegal activities while failure to grant an injunction would allow Microsoft and its customers to continue to be harmed by Defendants' conduct.

6. Microsoft has made a sufficient showing that granting injunctive relief is in the public interest. Granting injunctive relief would protect additional members of the public from falling victim to Defendants' illegal conduct and having their accounts, computers, and devices unlawfully hacked and their information stolen. Furthermore, the public interest is clearly served by enforcing statutes designed to protect the public

7. Microsoft's request for this emergency *ex parte* relief is not the result of any lack of diligence on Microsoft's part, but instead based upon the nature of Defendants' unlawful conduct. Therefore, in accordance with Fed. R. Civ. P. 65(b), 15 U.S.C. § 1116(a) and 28 U.S.C. § 1651(a), good cause and the interest of justice require that this

Order be Granted without prior notice to Defendants, and accordingly, Microsoft is relieved of the duty to provide Defendants with prior notice of Microsoft's motion.

8. There is good cause to believe that Defendants have operated their spearphishing campaigns through certain instrumentalities - specifically the domains and the domain registration facilities of the domain registries in Virginia identified in **Appendix A.**

9. There is good cause to believe that Defendants have engaged in illegal activity by using the domain registration facilities of the domain registries identified in **Appendix A** to register the Internet domains identified in **Appendix A,** and violated the trademarks of the Microsoft products so as to deceive Microsoft's customers to steal credentials for their Microsoft accounts, and to deliver from those domains the malicious code, content, and commands that Defendants use to access Microsoft's services without authorization and to receive the information stolen from those accounts and computers.

10. There is good cause to believe that Defendants have engaged in illegal activity by using deceptive and fraudulent methods to steal computer users' account credentials and to use such credentials for illegal purposes.

11. There is good cause to believe that to immediately halt the injury caused by Defendants, Defendants must be prohibited from accessing Microsoft's services without authorization and prohibited from sending malicious code, content and commands from the Internet domains identified in **Appendix A** to the computers of Microsoft's customers or to Microsoft's servers.

12. There is good cause to believe that Defendants have engaged in illegal activity using the Internet domains identified in **Appendix A** to host the malicious content used to

compromise the computers and servers of Microsoft and Microsoft's customers and to steal information from them. There is good cause to believe that to immediately halt the injury caused by Defendants, each of Defendants' domains set forth in **Appendix A** must be immediately transferred beyond the control of Defendants, thus making them inaccessible to Defendants.

13. There is good cause to believe that to immediately halt the injury, the execution of this Order should be carried out in a coordinated manner by Microsoft and by the domain registries identified in **Appendix A** on such date and time within five (5) days of this Order as may be reasonably requested by Microsoft.

14. There is good cause to believe that Defendants may change the Internet domains that they use to conduct illegal activities, and that Microsoft may identify and update the domains listed in **Appendix A** as may be reasonably necessary to account for additional Internet domains associated with Defendants just prior to the execution of this Order and within a reasonable time thereafter should Defendants attempt to evade and defy this Order.

15. There is good cause to permit notice of the instant Order, notice of the Preliminary Injunction hearing and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. The following means of service are authorized by law, satisfy Due Process, and satisfy Fed. R. Civ. P. 4(t)(3) and are reasonably calculated to notify Defendants of the instant order, the Preliminary Injunction hearing and of this action: (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to Defendants' domain registrars and hosting companies and as agreed to by Defendants in

Defendants' domain registration and/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.; and (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 signatories to such treaties.

TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

IT IS THEREFORE ORDERED that, Defendants, Defendants' representatives, and persons who are in active concert or participation with Defendants, are temporarily 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) configuring, deploying, operating, or otherwise participating in or facilitating infrastructure described in the TRO Application, including but not limited to the software hosted at and operating through the Internet domains set forth in **Appendix A** and through any other component or element of the Defendants' illegal 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 temporarily restrained and enjoined from (I) using and infringing Microsoft's trademarks, including specifically Microsoft's registered trademarks Microsoft, Microsoft corporate logo, OneDrive, SharePoint and Office 365 and/or other trademarks, trade names, service marks, or Internet Domain addresses or names containing or infringing such trademarks, trade names or service marks; (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, with respect to any currently registered Internet domains set forth in **Appendix A** to this Order, the domain registries located in the United States shall take the following actions:

A. Within five (5) business days of receipt of this Order, shall unlock and change the registrar of record for the domain to MarkMonitor or such other registrar

specified by Microsoft. To the extent the registrar of record does not assist in changing the registrar of record for the domain under its control, the domain registry for the domain, or its administrators, including backend registry operators or administrators, within five (5) business days of receipt of this Order, shall change, or assist in changing, the registrar of record for the domain to MarkMonitor or such other registrar specified by Microsoft. The purpose of this paragraph is to ensure that Microsoft has control over the hosting and administration of the domain in its registrar account at MarkMonitor or such other registrar specified by Microsoft. Microsoft shall provide to the domain registry or registrar of record any requested registrar information or account details necessary to effectuate the foregoing.

B. 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

C. Prevent transfer, modification or deletion of the domain by Defendants and prevent transfer or control of the domain to the account of any party other than Microsoft;

D. Take all steps required to propagate to the foregoing changes through the Domain Name System ("DNS"), including domain registrars.

2. With regard to the domain registries and registrars located outside of the United States, the Court respectfully requests, but does not order, that they take the same or substantially similar actions as the foregoing so as to neutralize the threat posed by the Defendants to the citizens of all countries, including their own. Defendants, their representatives and persons who are in active concert or participation with them are ordered to consent to whatever actions are necessary for non-United States registries, registrars and registrants or hosts, set forth in Appendix A, to effectuate this request.

IT IS FURTHER ORDERED that copies of this Order, notice of the Preliminary Injunction hearing and service of the Complaint 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 and/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.; and (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 signatories to such treaties.

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that a hearing on Microsoft's Motion for a Preliminary Injunction is scheduled for June 10, 2022, at 10:00 am., in which it may request a preliminary injunction pending a final ruling on the Complaint against Defendants, enjoining Defendants from the conduct temporarily restrained by the preceding provisions of this Order.

IT IS FURTHER ORDERED that Microsoft shall post bond in the amount of $15,000 to be paid into the Court registry.

IT IS FURTHER ORDERED that Defendants shall file with the Court and serve on Microsoft's counsel any answering affidavits, pleadings, motions, expert reports or declarations and/or legal memoranda no later than one (1) day prior to the hearing on Microsoft's request for a preliminary injunction.

IT IS SO ORDERED

Entered this 27th day of May, 2022
at 11:30 a.m.

/s/
Anthony J. Trenga
United States District Judge
UNITED STATES DISTRICT JUDGE

Exhibit 16

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MICROSOFT CORPORATION, a Washington Corporation, FORTRA, LLC, a Minnesota Corporation, and HEALTH-ISAC, INC., a Florida Corporation,
Plaintiff,
v.

JOHN DOES 1-2, JOHN DOES 3-4 (AKA CONTI RANSOMWARE GROUP), JOHN DOES 5-6 (AKA LOCKBIT RANSOMWARE GROUP), JOHN DOES 7-8 (AKA DEV-0193), JOHN DOES 9-10 (AKA DEV-0206), JOHN DOES 11-12 (AKA DEV-0237), JOHN DOES 13-14 (AKA DEV-0243), JOHN DOES 15-16 (AKA DEV-0504), Controlling Computer Networks and Thereby Injuring Plaintiffs and Their Customers,

Defendants.

Case No. 23-cv-2447-LDH-JRC

FILED UNDER SEAL

***EX PARTE* TEMPORARY RESTRAINING ORDER, SEIZURE ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION**

Plaintiffs Microsoft Corp. ("Microsoft"), Fortra LLC ("Fortra"), and Health-ISAC, Inc. ("Health-ISAC") have filed a Complaint for injunctive and other relief pursuant to, Digital Millennium Copyright Act (17 U.S. § 1201); the Copyright Act (17 U.S.C. §§ 101 *et seq.*); the Computer Fraud and Abuse Act (18 U.S.C. § 1030); the Electronic Communications Privacy Act (18 U.S.C. § 2701); Trademark Infringement, False Designation of Origin, and Trademark Dilution under the Lanham Act (15 U.S.C. §§ 1114 *et seq.*); violations of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. § 1962); conspiracy to violate the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. § 1962); and the common law of trespass, conversion, and unjust enrichment. Plaintiffs have also moved *ex parte* for an emergency temporary restraining order and seizure order pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, 15 U.S.C § 1116(d) (the "Lanham Act") and 28 U.S.C. § 1651(a) (the "All Writs Act"), and an order to show cause why a preliminary injunction should not be granted.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the papers, declarations, exhibits, and memorandum filed in support of Plaintiffs' Application for an Emergency Temporary Restraining Order, Seizure Order, and Order to Show Cause for Preliminary Injunction ("TRO Application"), the Court hereby makes the following findings of fact and conclusions of law:

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 Defendants under the Digital Millennium Copyright Act (17 U.S. § 1201); the Copyright Act (17 U.S.C. §§ 101 *et seq.*); the Computer Fraud and Abuse Act (18 U.S.C. § 1030); the Electronic Communications Privacy Act (18 U.S.C. § 2701); Trademark Infringement, False Designation of Origin, and Trademark Dilution under the Lanham Act (15 U.S.C. §§ 1114 *et seq.*); violations of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. § 1962); conspiracy to violate the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. § 1962); and the common law of trespass, conversion, and unjust enrichment.

2. Microsoft owns the registered trademarks "Microsoft" and "Windows" used in connection with its services, software, and products. Copies of the trademark registrations

for the Microsoft marks are attached as **Appendix B** to the Complaint.

3. Microsoft also owns copyrights in the code, documentation, specifications, libraries, and other materials that comprise the Windows operating system, including the Declaring Code (the code at issue in this case encompasses a type of code called "declarations" within header files and within libraries contained in the software development kit ("SDK")). Specifically, Microsoft owns the registered copyrights in the Windows 8 SDK, Reg. No. TX 8-999-365 (Copyrighted Work). Microsoft's Copyrighted Work is an original, creative work and copyrightable subject matter under the laws of the United States. Copies of the registration are attached to the Complaint as **Appendix C**.

4. Fortra also owns the copyrights in the code, documentation, specifications, libraries, and other materials that comprise the Cobalt Strike proprietary software. Fortra's copyrights are registered with the United States Copyright Office. Copies of the registration are attached to the Complaint as **Appendix D**.

5. Fortra owns the registered trademark in Cobalt Strike. Copies of the trademark registration for Fortra are attached to the Complaint as **Appendix E.**

6. Health-ISAC's members have invested in developing their brands, trademarks and trade names in association with the healthcare industry. Health-ISAC represents the interests of its members in maintaining security and maintaining their brand integrity regarding security matters.

7. There is good cause to believe that Defendants have engaged in and are likely to engage in acts or practices that violate Digital Millennium Copyright Act (17 U.S. § 1201); the Copyright Act (17 U.S.C. §§ 101 *et seq.*); the Computer Fraud and Abuse Act (18 U.S.C. § 1030); the Electronic Communications Privacy Act (18 U.S.C. § 2701); Trademark Infringement, False Designation of Origin, and Trademark Dilution under the Lanham Act (15 U.S.C. §§ 1114 *et seq.*); violations of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. § 1962); conspiracy to violate the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. § 1962); and the common law of trespass, conversion, and unjust enrichment.

8. 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 Defendants' ongoing violations of the Digital Millennium Copyright Act (17 U.S. § 1201); the Copyright Act (17 U.S.C. §§ 101 *et seq.*); the Computer Fraud and Abuse Act (18 U.S.C. § 1030); the Electronic Communications Privacy Act (18 U.S.C. § 2701); Trademark Infringement, False Designation of Origin, and Trademark Dilution under the Lanham Act (15 U.S.C. §§ 1114 *et seq.*); violations of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. § 1962); conspiracy to violate the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. § 1962); and the common law of trespass, conversion, and unjust enrichment. The evidence set forth in Plaintiffs' TRO Application and the accompanying declarations and exhibits, demonstrates that Plaintiffs are likely to prevail on their claim that Defendants have engaged in violations of the foregoing laws by: (1) using cracked versions of the Cobalt Strike software[1] to force their way into victim machines; (2) once inside the victims' machines, use unauthorized versions of Cobalt Strike to deploy ransomware and malware; (3) crippling victims' machines computer infrastructure and/or deleting files to force the payment of ransom from the victims; (4) stealing personal account information from users; (5) using the stolen personal information to carryout further illegal acts; (6) operate as a Ransom as a Service ("RaaS") model whereby affiliates pay to Defendants to launch ransomware attacks developed by other operators; and (7) associating with one another in a common enterprise engaged in these illegal acts. There is good cause to believe that if such conduct continues, irreparable harm will occur to Plaintiffs and the public, including Plaintiffs' customers and associated member organizations. There is good cause to believe that the Defendants are engaging, and will continue to engage, in such unlawful actions if not immediately restrained from doing so by Order of this Court.

9. There is good cause to believe that the malicious use of unauthorized Cobalt Strike software infringes Microsoft's copyright by copying literal lines of Microsoft Windows code, commands, system files, and file structures, and the structure, sequence, and organization of such code. For example, the malicious software's "beacon.dll" file copies literal code and the structure sequence and organization

[1] As used in this action, "cracked versions of Cobalt Strike" refer to stolen, unlicensed, or otherwise unauthorized versions or copies of Cobalt Strike.

of Windows code such as the GetUserObjectInformationA, RegCloseKey, LookupAccountSid, CryptGenRandom, LogonUserA, AdjustTokenPrivileges, ReadProcessMemory, TerminateProcess, CopyFileA, HttpSendRequestA code, and many other Windows code elements.

10. There is good cause to believe that the malicious use of unauthorized Cobalt Strike also infringes Fortra's copyright by literally copying the entirety of its copyrighted Cobalt Strike "team server" code in a cracked, unauthorized version used for malicious purposes. The infringement involves unauthorized copying of executable code for all of the Cobalt Strike team server's web server, beacon and configuration features and functionality, including all of Fortra's creative and original method implementations, interfaces, parameters, variables, arrays, data types, operators, and objects.

11. 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 unauthorized Cobalt Strike command and control ("C2") infrastructure that is hosted at and otherwise operates through the Internet domains listed in **Appendix A** or through the Internet Protocol ("IP") addressees, also listed in **Appendix A**, and from the destruction or concealment of other discoverable evidence of Defendants' misconduct available at those locations if Defendants receive advance notice of this action. Based on the evidence cited in Plaintiffs' TRO Application and accompanying declarations and exhibits, Plaintiffs are likely to be able to prove that: (1) Defendants are engaged in activities that directly violate U.S. law and harm Plaintiffs and the public, including Plaintiffs' customers and member-organizations; (2) Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests; (3) Defendants are likely to delete or relocate the command and control software at issue in Plaintiffs' TRO Application and the harmful, malicious, and trademark infringing software disseminated through these IP addresses and domains and to warn their associates engaged in such activities if informed of Plaintiffs' action. Plaintiffs' request for this emergency *ex parte* relief is not the result of any lack of diligence on Plaintiffs' part, but instead is based upon the nature of Defendants' unlawful conduct. Therefore, in accordance with Fed. R. Civ. P. 65(b) and 15 U.S.C. § 1116(d), good cause and the interests of justice require that this Order be granted without prior notice to Defendants, and accordingly Plaintiffs are relieved of the duty to provide Defendants with prior notice of Plaintiffs' motion.

12. There is good cause to believe that Defendants have specifically directed their activities to computers of Plaintiffs' customers and member organization located in the Eastern District of New York.

13. There is good cause to believe that Defendants have engaged in illegal activity using the data centers and/or Internet hosting providers identified in Appendix A to host the unauthorized Cobalt Strike C2 infrastructure used to maintain and operate the unauthorized Cobalt Strike software at computers, servers, electronic data storage devices or media at the IP addresses identified in Appendix A.

14. There is good cause to believe that to immediately halt the injury caused by Defendants, data and evidence at Defendants' IP addresses identified in Appendix A must be preserved and held in escrow pending further order of the court, Defendants' computing resources related to such IP addresses must then be disconnected from Defendants' infrastructure, Defendants must be prohibited from accessing Defendants' computer resources related to such IP addresses and the data and evidence located on those computer resources must be secured and preserved.

15. 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 Defendants' harmful infrastructure. There is good cause to believe that to immediately halt the injury caused by Defendants, each of Defendants' current and prospective domains set forth in Appendix A must be immediately transferred to the control of Microsoft where they can be secured and thus made inaccessible to Defendants.

16. There is good cause to direct that third party Internet registries, registrars, data centers, and hosting providers with a presence in the United States to reasonably assist in the implementation of this Order and refrain from frustrating the implementation and purposes of this Order, pursuant to 28 U.S.C. § 1651(a) (the All Writs Act).

17. There is good cause to believe that if Defendants are provided advance notice of Plaintiffs' TRO Application or this Order, they would move the Defendants'

infrastructure, allowing them to continue their misconduct and that they would destroy, move, hide, conceal, or otherwise make inaccessible to the Court evidence of their misconduct, the Defendants' infrastructure's activity, the infringing materials, the instrumentalities used to make the infringing materials, and the records evidencing the manufacture and distributing of the infringing materials.

18. There is good cause to permit notice of the instant Order, notice of the Preliminary Injunction hearing and service of the Complaint by formal and alternative means, given the exigency of the circumstances 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 Defendants who provided to the data centers and Internet hosting providers contact information in the U.S.; (2) personal delivery through the Hague Convention on Service Abroad or other treaties upon Defendants who provided contact information outside the United States; (3) transmission by e-mail, electronic messaging addresses, facsimile, and mail to the known email and messaging addresses of Defendants and to their contact information provided by Defendants to the domain registrars, registries, data centers, Internet hosting providers, and website providers who host the software code associated with the IP addresses or through which domains are registered, both of which are identified in Appendix A.; and (4) publishing notice to the Defendants on a publicly available Internet website and in newspapers in jurisdictions where Defendants are believed to reside.

19. There is good cause to believe that the harm to Plaintiffs of denying the relief requested in their TRO Application outweighs any harm to any legitimate interests of Defendants and that there is no undue burden to any third party.

TEMPORARY RESTRAINING ORDER AND SEIZURE ORDER

IT IS THEREFORE ORDERED as follows:

A. Defendants, their representatives and persons who are in active concert or participation with them are temporarily restrained and enjoined from: Using unauthorized versions of Cobalt Strike to brutally force access into victims' computers; using unauthorized versions of Cobalt Strike to operate a global malware and ransomware infrastructure, using unauthorized versions of Cobalt Strike to deploy malware and ransomware to victims' machines; using unauthorized version of Cobalt Strike to offer RaaS to other malicious actors; using the Conti and LockBit ransomware deployed via unauthorized Cobalt Strike to run and add its own protocols to the Microsoft operating system to go through the list of services and terminates services that are related to backup and recoveries as well as terminating security processes related to operating tool, which causes hundreds of lines of Microsoft's declaring code and the structure, sequence, and organization of that code are copied with and across unauthorized, cracked Cobalt Strike modules and ransomware like LockBit; using the infected victims' computers to send commands and instructions to the infected computing device to control it surreptitiously and deliver malware that, among other things, enables Defendants to take control of the victim's computer and extort money from them. Defendants' primary goal is to deliver ransomware and enable attacks against other computers; or stealing information, money or property from Plaintiffs, Plaintiffs' customers or Plaintiffs' member organizations, or undertaking any similar activity that inflicts harm on Plaintiffs, or the public, including Plaintiffs' customers or associated member organizations.

B. Defendants, their representatives and persons who are in active concert or participation with them are temporarily restrained and enjoined from configuring, deploying, operating or otherwise using or unauthorized Cobalt Strike to facilitate the deployment of defendants' malware and ransomware activities described in the TRO Application, including but not limited to the C2 infrastructure hosted at and operating through the domains and IP addresses set forth herein and through any other deployments of unauthorized Cobalt Strike in any location.

C. Defendants, their representatives and persons who are in active concert or

participation with them are temporarily restrained and enjoined from using the trademarks or logos "Microsoft" or "Windows" the logos and trademarks "Cobalt Strike," the trademarks, brands or logos of healthcare institution members of Health-ISAC; and/or other trademarks; trade names; service marks; or Internet domain addresses or names; or acting in any other manner which suggests in any way that Defendants' products or services come from or are somehow sponsored or affiliated with Plaintiffs or Plaintiffs' associated member organizations, and from otherwise unfairly competing with Plaintiffs, misappropriating that which rightfully belongs to Plaintiffs or Plaintiffs' customers or Plaintiffs' associated member organizations, or passing off their goods or services as Plaintiffs or Plaintiffs' associated member organizations.

D. Defendants, their representatives and persons who are in active concert or participation with them are temporarily restrained and enjoined from infringing Plaintiffs' registered trademarks, as set forth in Appendix B and E.

Defendants, their representatives and persons who are in active concert or participation with them are temporarily restrained and enjoined from using in connection with Defendants' activities any false or deceptive designation, representation or description of Defendants' or of their representatives' activities, whether by symbols, words, designs or statements, which would damage or injure Plaintiffs or give Defendants an unfair competitive advantage or result in deception of consumers.

IT IS FURTHER ORDERED, pursuant to the All Writs Act, with respect to any of the IP Addresses set forth in **Appendix A** to this Order, the data centers and/or hosting providers identified in **Appendix A** to this Order shall take reasonable best efforts to implement the following actions:

A. Take reasonable steps to identify incoming and/or outgoing Internet traffic on their respective networks associated with Defendants that originates and/or is being sent from and/or to the IP Addresses identified in Appendix A;

B. Take reasonable steps to block incoming and/or outgoing Internet traffic on

their respective networks associated with Defendants that originate and/or are being sent from and/or to the IP Addresses identified in Appendix A, by Defendants or Defendants' representatives or resellers, except as explicitly provided for in this Order;

C. Completely disable the computers, servers, electronic data storage devices, software, data or media assigned to or otherwise associated with Defendants' use of the IP Addresses set forth in Appendix A and make them inaccessible from any other computer on the Internet, any internal network, or in any other manner, to Defendants, Defendants' representatives and all other persons, except as otherwise ordered herein;

D. Completely, and until further order of this Court, suspend all services to Defendants or Defendants' representatives or resellers associated with the IP Addresses set forth in Appendix A;

E. Isolate and disable any content and software associated with the Defendants hosted at the IP Addresses listed in Appendix A in a manner that does not impact any content or software not associated with Defendants hosted at the IP Addresses listed in Appendix A. In determining the method and mechanism to disable content and software associated with the Defendants, the relevant data centers and/or hosting providers shall reasonably confer with Plaintiffs' counsel, Gabriel M. Ramsey, Crowell & Moring LLP, 3 Embarcadero Ctr., 26th Floor, San Francisco, CA 94111, gramsey@crowell.com, (Tel: 415-365-7207), to facilitate any follow-on action;

F. Refrain from providing any notice or warning to, or communicating in any way with Defendants or Defendants' representatives and refrain from publicizing this Order until this Order is executed in full, except as necessary to communicate with hosting companies, data centers, the Plaintiffs or other ISPs to execute this order;

G. Not enable, and shall take all reasonable steps to prevent, any circumvention of this order by Defendants or Defendants' representatives associated with the IP Addresses, including without limited to enabling, facilitating, and/or allowing Defendants or Defendants' representatives or resellers to rent, lease, purchase, or otherwise obtain another

IP Address associated with your services;

H. Preserve, retain and produce to Plaintiffs all documents and information sufficient to identify and contact Defendants and Defendants' representatives operating or controlling the IP Addresses set forth in Appendix A, including any and all individual or entity names, mailing addresses, e-mail addresses, facsimile numbers and telephone numbers or similar contact information, including but not limited to such contact information reflected in billing, usage, access and contact records and all records, documents and logs associated with Defendants' or Defendants' Representatives' use of or access to the IP Addresses;

I. Provide reasonable assistance in implementing the terms of this Order and take no action to frustrate the implementation of this Order; and

J. Completely preserve the computers, servers, electronic data storage devices, software, data or media assigned to or otherwise associated with the IP Addresses set forth in Appendix A, and preserve all evidence of any kind related to the content, data, software or accounts associated with such IP addresses and such computer hardware, such that such evidence of Defendants' unlawful activities is preserved.

IT IS FURTHER ORDERED that, pursuant to the All Writs Act, with respect to any currently registered Internet domain set forth in **Appendix A**, the domain registries shall take the following actions:

A. Within three (3) business days of receipt of this Order, shall unlock and change the registrar of record for the domain to MarkMonitor or such other registrar specified by Microsoft. To the extent the registrar of record does not assist in changing the registrar of record for the domain under its control, the domain registry for the domain, or its administrators, including backend registry operators or administrators, within five (5) business days of receipt of this Order, shall change, or assist in changing, the registrar of record for the domain to MarkMonitor or such other registrar specified by Microsoft. The purpose of this paragraph is to ensure that Microsoft has control over the hosting and administration of the domain in its registrar account at MarkMonitor or such other registrar specified by Microsoft. Microsoft shall

provide to the domain registry or registrar of record any requested registrar information or account details necessary to effectuate the foregoing.

B. The domain shall be made active and shall resolve in the manner set forth in this order, or as otherwise specified by Microsoft, upon taking control of the domain;

C. The domain registries shall take reasonable steps to work with Microsoft to ensure the transfer of the domain and to ensure that Defendants cannot use it to make unauthorized access to computers, infect computers, compromise computers and computer networks, monitor the owners and users of computers and computer networks, steal information from them or engage in any other activities prohibited by this Order;

D. 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

E. Prevent transfer, modification or deletion of the domain by Defendants and prevent transfer or control of the domain to the account of any party other than Microsoft;

F. Take all steps required to propagate to the foregoing changes through the Domain Name System ("DNS"), including domain registrars.

IT IS FURTHER ORDERED that copies of this Order, notice of the Preliminary Injunction hearing and service of the Complaint may be served by any means authorized by law, including any one or combination of (1) personal delivery upon Defendants who provided accurate contact information in the U.S., if any; (2) personal delivery through the Hague Convention on Service Abroad or similar treaties upon defendants who provided accurate contact information in foreign countries that are signatory to such treaties, if any, (3) transmission by email, facsimile, mail and/or personal delivery to the contact information

provided by Defendants to their hosting companies and as agreed to by Defendants in their hosting agreements, (4) publishing notice on a publicly available Internet website and/or in newspapers in the communities where Defendants are believed to reside.

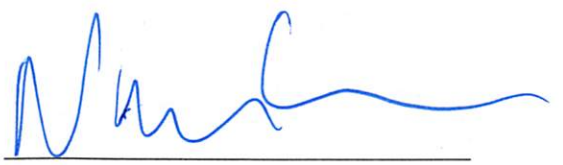
IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that the Defendants shall appear before the Hon. LaShann DeArcy Hall on April 13, 2023, at 1:00 p.m. to show cause, if there is any, why the Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against the Defendants, enjoining them from the conduct temporarily restrained by the preceding provisions of this Order.

IT IS FURTHER ORDERED that Microsoft, on behalf of Plaintiffs, shall post bond in the amount of $15,000 as cash to be paid into the Court registry.

IT IS FURTHER ORDERED that the Defendants shall file with the Court and serve on Plaintiffs' counsel any answering affidavits, pleadings, motions, expert reports or declarations and/or legal memoranda no later than two (2) days prior to the hearing on Plaintiffs' request for a preliminary injunction. Plaintiffs may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on counsel for the Defendants no later than one (1) day prior to the preliminary injunction hearing in this matter. Provided that service shall be performed by personal or overnight delivery, facsimile or electronic mail, and documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m. (Eastern Standard Time) on the appropriate dates listed in this paragraph.

IT IS SO ORDERED

Entered this 31st day of March, 2023.



Hon. Nina R. Morrison, U.S.D.J.

(Miscellaneous Duty Judge)

Exhibit 17

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Microsoft Corporation, a Washington State Corporation, NGO-ISAC, a New York State Non-Profit Organization, Plaintiffs, v. John Does 1-2, Controlling A Computer Network and Thereby Injuring Plaintiff and Its Customers, Defendants.	Civil Action No.: 24-2719 (RC) **FILED UNDER SEAL PURSUANT TO LOCAL RULE 5.1**

***EX PARTE* TEMPORARY RESTRAINING ORDER AND**
ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION

Plaintiffs Microsoft Corporation ("Microsoft") and NGO Information Sharing and Analysis Center ("NGO-ISAC") have filed a complaint for injunctive and other relief 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) Trademark Infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (4) False Designation of Origin under the Lanham Act, 15 U.S.C. § 1125(a); (5) Trademark Dilution under the Lanham Act, 15 U.S.C. § 1125(c) (6) Common Law Trespass to Chattels; (7) Conversion; and (8) Unjust Enrichment. Plaintiffs have moved *ex parte* for an emergency temporary restraining order and an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(a) (the Lanham Act), 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 Plaintiffs' *Ex Parte* Application for an Emergency Temporary Restraining Order and Order to

Show Cause re Preliminary Injunction, the Court hereby makes the following findings of fact and conclusions of law:

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 Defendants John Doe 1-2 ("Defendants") under 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, 1125), and the common law of trespass to chattels, conversion, and unjust enrichment.

2. There is good cause to believe that John Does 1-2 operate a sophisticated Russia-based, cybercriminal operation known as "Star Blizzard."

3. There is good cause to believe that Star Blizzard targets Microsoft's customers, including NGO-ISAC and its member organizations, and the general public, that work to oppose the Russian government and are adverse to Russia's interests or global and domestic policy (such as its invasion of Ukraine).

4. There is good cause to believe that the Star Blizzard 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 Electronic Communications Privacy Act (18 U.S.C. § 2701), the Lanham Act (15 U.S.C. §§ 1114, 1125), and constitute trespass to chattels, conversion, and unjust enrichment, and Plaintiffs, therefore, are likely to prevail on the merits of this action.

5. Microsoft owns the registered trademarks Microsoft, Microsoft corporate logo, Outlook, OneDrive, Microsoft Word and Office 365 and numerous other trademarks used in connection with its services, software and products.

6. NGO-ISAC is an organization that has organizational standing to bring claims on

behalf of its member organization. NGO-ISAC's members, including the Carnegie Corporation of New York, owns registered trademarks in its names and logos used in connection with its nonprofit work.

7. There is good cause to believe that, unless the Star Blizzard Defendants are restrained and enjoined by Order of this Court, immediate and irreparable harm will result from the Star Blizzard Defendants' ongoing violations. The evidence set forth in Plaintiffs' Brief in Support of *Ex Parte* Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction ("TRO Application"), and the accompanying declarations of Sean Ensz, Ian Gottesman, Yotaro Sherman, and Natalia Krapiva, and supporting exhibits, demonstrates that Plaintiffs are likely to prevail on its claim that the Star Blizzard Defendants have engaged in violations of the foregoing law by:

a. Intentionally accessing the protected computers and computer networks of Microsoft and the customers of Microsoft, including NGO-ISAC, and NGO-ISAC's member organizations, without authorization or exceeding authorization, in order to steal and exfiltrate information from those computers and computer networks;

b. Engaging in spear phishing operations to steal credentials from unsuspecting victims who are tricked into believing they are accessing legitimate websites;

c. Intentionally accessing, without authorization, the email inboxes of Microsoft customers, NGO-ISAC, NGO-ISAC's member organization in order to view and exfiltrate sensitive data including email contents, attachments to emails, and contact lists for the purpose of data theft;

d. Infringing the protected marks of Plaintiffs for the purpose of causing confusion or mistake, whereby the victims of the Star Blizzard Defendants' attacks mistakenly believe that such conduct is endorsed by Plaintiffs.

8. There is good cause to believe that if such conduct continues, irreparable harm will occur to Microsoft, Microsoft's customers, NGO-ISAC, NGO-ISAC's members, and the public. There is good cause to believe that the Star Blizzard Defendants will continue to engage in such unlawful actions if not immediately restrained from doing so by Order of this Court.

9. 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 the Star Blizzard Defendants of command and control software that is hosted at and otherwise operates through the Internet domains listed in **Appendix A** to this Order, and from the destruction or concealment of other discoverable evidence of the Star Blizzard Defendants' misconduct available via those domains, including on user computers infected by the Star Blizzard Defendants, if they receive advance notice of this action. Based on the evidence cited in Plaintiffs' TRO Application and accompanying declarations and exhibits, Plaintiffs are likely to be able to prove that:

a. The Star Blizzard Defendants are engaged in activities that directly violate United States law and harm Microsoft, its customers, NGO-ISAC, its member organizations, and the public;

b. The Star Blizzard Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests;

c. The Star Blizzard Defendants are likely to delete or to relocate the command and control software at issue in Plaintiffs' TRO Application and the harmful and malicious software disseminated through the Internet domains listed in **Appendix A**, thereby permitting them to continue their illegal acts; and

d. The Star Blizzard Defendants are likely to warn their associates engaged in such activities if informed of Plaintiffs' action.

10. Plaintiffs' request for this emergency *ex parte* relief is not the result of any lack of diligence on Plaintiffs' part, but instead, is based upon the nature of the Star Blizzard Defendants' unlawful conduct. Therefore, in accordance with Fed. R. Civ. P. 65(b), 15 U.S.C. § 1116(a) and 28 U.S.C. § 1651(a), good cause and the interest of justice require that this Order be **Granted** without prior notice to the Star Blizzard Defendants, and accordingly, Plaintiffs are relieved of the duty to provide the Star Blizzard Defendants with prior notice of Plaintiffs' motion and requested relief.

11. There is good cause to believe that the Star Blizzard Defendants have operated their spearphishing campaigns through certain instrumentalities – specifically through the website domains identified in **Appendix A**.

12. There is good cause to believe that the Star Blizzard Defendants have (i) engaged in illegal activity by using the domain registration facilities of the domain registries identified in **Appendix A,** to register the Internet domains identified in **Appendix A**, (ii) violated Plaintiffs' trademarks in order to: (iii) deceive Plaintiffs' customers to steal credentials for their email accounts, infiltrate the email systems, and have unfettered access to the contents of those email accounts for purposes of data exfiltration.

13. There is good cause to believe that the Star Blizzard Defendants have engaged in illegal activity by using deceptive and fraudulent methods to steal computer users' account credentials and to use such credentials for illegal purposes.

14. There is good cause to believe that to immediately halt the injury caused by the Blizzard Defendants, they must be prohibited from accessing Plaintiffs' services without authorization, prohibited from the unlawful intrusion and data theft of the victims' email accounts, from using Plaintiffs' marks to perpetrate their unlawful and criminal scheme, and prevented from using the Internet domains identified in **Appendix A** to operate the command and control infrastructure to further its spear phishing operation.

15. There is good cause to believe that the Star Blizzard Defendants have engaged in illegal activity using the Internet domains identified in **Appendix A** to carry out their illegal spear phishing campaign. There is good cause to believe that to immediately halt the injury caused by the Star Blizzard Defendants, each of Star Blizzard's domains set forth in **Appendix A** must be immediately transferred beyond the control of the Star Blizzard criminal operation, thus making

them inaccessible to the Star Blizzard Defendants.

16. There is good cause to believe that to immediately halt the injury, the execution of this Order should be carried out in a coordinated manner by Plaintiffs and by the domain registries identified in **Appendix A** on such date and time within five (5) days of this Order as may be reasonably requested by Plaintiffs.

17. There is good cause to believe that the Star Blizzard Defendants have specifically directed their activities in the District of Columbia.

18. There is good cause to believe that if the Star Blizzard Defendants are provided advance notice of Plaintiffs' TRO Application or this Order, they would move the Star Blizzard Defendants' infrastructure, allowing them to continue their misconduct and that they would destroy, move, hide, conceal, or otherwise make inaccessible to the Court evidence of their misconduct, the Star Blizzard Defendants' infrastructure's activity, the infringing materials, the instrumentalities used to make the infringing materials, and the records evidencing the manufacture and distributing of the infringing materials.

19. There is good cause to permit notice of the instant Order, notice of the Preliminary Injunction hearing and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. 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 the Star Blizzard Defendants of the instant order, the Preliminary Injunction hearing and of this action: (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by the Star Blizzard Defendants to the Star Blizzard Defendants' domain registrars and hosting companies and as agreed to by the Star Blizzard Defendants in their domain registration and/or hosting agreements, (2) publishing notice on a publicly available

Internet website, (3) by personal delivery upon the Star Blizzard Defendants, to the extent the Star Blizzard Defendants provided accurate contact information in the U.S.; and (4) personal delivery through the Hague Convention on Service Abroad or similar treaties upon the Star Blizzard Defendants, to the extent the Star Blizzard Defendants provided accurate contact information in foreign countries that are signatories to such treaties.

20. There is good cause to believe that the Star Blizzard Defendants have no legitimate interest in carrying out their cybercriminal activities.

21. There is good cause to believe that the harm to Plaintiffs in denying the relief requested in their TRO Application outweighs any harm to any legitimate interest of the Star Blizzard Defendants (of which there is none) and that there is no undue burden to any third party.

TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

IT IS THEREFORE ORDERED that, the Star Blizzard Defendants, their representatives, and persons who are in active concert or participation with the Star Blizzard Defendants and associated criminal operation, are temporarily restrained and enjoined from: (1) intentionally accessing the protected computers without authorization, (2) engaging in spear phishing campaigns, (3) stealing credentials from victims of spear phishing campaigns, (4) using the credentials to access the email inboxes of victims, (4) unlawfully accessing, viewing, exfiltrating, or otherwise stealing the contents of the compromised email inboxes, (5) capitalizing on the trademarks of Plaintiffs to fabricate legitimacy of the spear phishing campaign, (6) misappropriating that which rightfully belongs to Microsoft, its customers, or in which Microsoft or its customers have a proprietary interest; (7) destroying the goodwill and reputation of Plaintiffs, (8) impersonating Plaintiffs, their systems, products, and services, (9) configuring, deploying, operating, or otherwise participating in or facilitating infrastructure described in the TRO

Application, including but not limited to the Internet domains set forth in **Appendix A** and through any other component or element of the Star Blizzard Defendants' illegal infrastructure at any location, including infrastructure that the Star Blizzard Defendants may attempt to rebuild, and (10) undertaking any similar activity that inflicts harm on Microsoft, Microsoft's customers, NGO-ISAC, its member organizations, or the public.

IT IS FURTHER ORDERED that, the Star Blizzard Defendants, their representatives, and persons who are in active concert or participation with the Star Blizzard Defendants and associated criminal operation are temporarily restrained and enjoined from (1) using and infringing Plaintiffs' trademarks, including specifically Microsoft's registered trademarks Microsoft, Microsoft corporate logo, OneDrive, Outlook, Microsoft Word and Office 365 and the trademarks of NGO-ISAC's member organizations, including specifically Carnegie Corporation's register trademarks Carnegie Corporation of New York and its corporate logo, and/or other trademarks, trade names, service marks, or Internet domain addresses or names containing or infringing such trademarks, trade names or service marks, as set forth in **Appendix B and C** to this Order; (2) using in connection with the Star Blizzard Defendants' activities, products, or services any false or deceptive designation, representation or description of the Star Blizzard Defendants or of their activities, whether by symbols, words, designs or statements, which would damage or injure Plaintiffs or give the Star Blizzard Defendants an unfair competitive advantage or result in deception of consumers; or (3) acting in any other manner which suggests in any way that the Star Blizzard Defendants' activities, products or services come from or are somehow sponsored by or affiliated with Plaintiffs, or passing off the Star Blizzard Defendants' activities, products or services as Plaintiffs'.

IT IS FURTHER ORDERED that, with respect to any currently registered Internet

domains set forth in **Appendix A** to this Order, the domain registries located in the United States shall take the following actions:

A. Within three (3) business days of receipt of this Order, shall unlock and change the registrar of record for the domain to MarkMonitor or such other registrar specified by Microsoft. To the extent the registrar of record does not assist in changing the registrar of record for the domain under its control, the domain registry for the domain, or its administrators, including backend registry operators or administrators, within three (3) business days of receipt of this Order, shall change, or assist in changing, the registrar of record for the domain to MarkMonitor or such other registrar specified by Microsoft. The purpose of this paragraph is to ensure that Microsoft has control over the hosting and administration of the domain in its registrar account at MarkMonitor or such other registrar specified by Microsoft. Microsoft shall provide to the domain registry or registrar of record any requested information or account details necessary to effectuate the foregoing.

B. The domain registries shall be made active and shall resolve in the manner set forth in this order, or as otherwise specified by Microsoft, upon taking control of the domain.

C. The domain registries shall take reasonable steps to work with Microsoft to ensure the transfer of the domain and to ensure that the Star Blizzard Defendants cannot use it to make unauthorized access to computers, infect computers, compromise computers and computer networks, monitor the owners and users of computers and computer networks, steal information from them, or engage in any other activities prohibited by this Order;

D. 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

E. Prevent transfer, modification or deletion of the domain by the Star Blizzard Defendants and prevent transfer or control of the domain to the account of any party other than Microsoft;

F. Take all steps required to propagate to the foregoing changes through the Domain Name System ("DNS"), including domain registrars.

2. With regard to the domain registries and registrars located outside of the United States, the Court respectfully requests, but does not order, that they take the same or substantially similar actions as the foregoing so as to neutralize the threat posed by the Star Blizzard Defendants to the citizens of all countries, including their own. The Star Blizzard Defendants, their representatives and persons who are in active concert or participation with them are ordered to consent to whatever actions are necessary for non-United States registries, registrars and registrants or hosts, set forth in **Appendix A** to this Order, to effectuate this request.

IT IS FURTHER ORDERED that copies of this Order, notice of the Preliminary Injunction hearing and service of the Complaint 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 the Star Blizzard Defendants to their domain registrars and/or hosting companies and as agreed to by the Star Blizzard Defendants in the domain registration and/or hosting agreements, (2) publishing notice on a publicly available Internet website, (3) by personal delivery upon Defendants, to the extent the Star Blizzard Defendants provided accurate contact

information in the U.S.; and (4) personal delivery through the Hague Convention on Service Abroad or similar treaties upon the Star Blizzard Defendants, to the extent they provided accurate contact information in foreign countries that are signatories to such treaties.

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that the Star Blizzard Defendants shall appear before this Court on October 8, 2024 at 11:00 a.m., to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against the Star Blizzard Defendants, enjoining the Star Blizzard Defendants from the conduct temporarily restrained by the preceding provisions of this Order.

IT IS FURTHER ORDERED that Microsoft, on behalf of Plaintiffs, shall post bond in the amount of $15,000 to be paid into the Court registry.

IT IS FURTHER ORDERED that the Star Blizzard Defendants shall file with the Court and serve on Plaintiffs any answering affidavits, pleadings, motions, expert reports or declarations and/or legal memoranda no later than two (2) days prior to the hearing on Plaintiffs' request for a preliminary injunction. Plaintiffs may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on counsel for the Star Blizzard Defendants no later than one (1) day prior to the preliminary injunction hearing in this matter. Provided that service shall be performed by personal or overnight delivery, facsimile or electronic mail, and documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m. (Eastern Standard Time) on the appropriate dates listed in this paragraph.

IT IS SO ORDERED

Entered this 25th day of September, 2024

RUDOLPH CONTRERAS
UNITED STATES DISTRICT JUDGE

Exhibit 18

FILED

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

2016 AUG -3 A 8:40

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

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: 1:16-cv-993

FILED UNDER SEAL PURSUANT TO LOCAL RULE 5

***EX PARTE* TEMPORARY RESTRAINING ORDER AND**
ORDER TO SHOW CAUSE RE 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 Electronic Communications Privacy Act (18 U.S.C. § 2701); (3) the Lanham Act (15 U.S.C. §§ 1114(a)(1), 1125(a), (c)); (4) the Anticybersquatting Consumer Protection Act (15 U.S.C. § 1125(d)); and (5) the common law of trespass, unjust enrichment and conversion. Microsoft has moved *ex parte* for an emergency temporary restraining order and an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(a) (the Lanham Act), 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 Application for an Emergency Temporary Restraining Order, the Court hereby makes the following findings of fact and conclusions of law:

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 Defendants John Doe 1 and 2 ("Defendants") under 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), the Anticybersquatting Consumer Protection Act (15 U.S.C. § 1125(d)), 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), Electronic Communications Privacy Act (18 U.S.C. § 2701), the Lanham Act (15 U.S.C. §§ 1114, 1125), Anticybersquatting Consumer Protection Act (15 U.S.C. § 1125(d)) and constitute trespass to chattels, unjust enrichment and conversion, and that Microsoft is, therefore, likely to prevail on the merits of this action;

3. Microsoft owns the registered trademarks "Microsoft," "Internet Explorer," "Outlook," "Hotmail" and "OneDrive" used in connection with its services, software and products.

4. 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 set forth in Microsoft's Brief in Support of Application for a Temporary Restraining Order, Seizure Order and Order to Show Cause Re Preliminary Injunction ("TRO Application"), 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 law by:

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;

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;

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;

5. 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 immediately restrained from doing so by Order of this Court;

6. 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 command and control software that is hosted at and otherwise operates through the Internet domains listed in Appendix A to this Order ("Appendix A") and from the destruction or concealment of other discoverable evidence of Defendants' misconduct available via those domains, including on user computers infected by Defendants, if Defendants receive advance notice of this action. Based on the evidence cited in Microsoft's TRO Application and accompanying declarations and exhibits, Microsoft is likely

to be able to prove that:

a. Defendants are engaged in activities that directly violate United States law and harm Microsoft and the public, including Microsoft's customers;

b. Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests;

c. Defendants are likely to delete or to relocate the command and control software at issue in Microsoft's TRO Application and the harmful and malicious software disseminated through the Internet domains listed in Appendix A, thereby permitting them to continue his illegal acts; and

7. Microsoft's request for this emergency *ex parte* relief is not the result of any lack of diligence on Microsoft's part, but instead based upon the nature of Defendants' unlawful conduct. Therefore, in accordance with Fed. R. Civ. P. 65(b), 15 U.S.C. § 1116(a) and 28 U.S.C. § 1651(a), good cause and the interest of justice require that this Order be Granted without prior notice to Defendants, and accordingly, Microsoft is relieved of the duty to provide Defendants with prior notice of Microsoft's motion;

8. 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 Virginia, have engaged in illegal activity using the Internet domains identified in Appendix A to this Order by directing malicious code and content to said computers of Microsoft's customers, to further perpetrate their illegal conduct victimizing Microsoft's customers. There is good cause to believe that Defendants have directed said malicious code and content through certain instrumentalities – specifically the domains and the domain registration facilities of the domain registries identified in Appendix A.

9. There is good cause to believe that Defendants have engaged in illegal activity by using the domain registration facilities of the domain registries identified in Appendix A to register the Internet domains identified in Appendix A, so as to deliver from those domains the malicious code, content, and commands that Defendants use to access Microsoft's services

without authorization and to infect and compromise the computers of Microsoft's customers, and to receive the information stolen from those computers.

10. There is good cause to believe that Defendants have engaged in illegal activity by using deceptive and fake methods to steal computer users' login and/or account credentials and to use such credentials for illegal purposes.

11. There is good cause to believe that to immediately halt the injury caused by Defendants, Defendants must be prohibited from accessing Microsoft's services without authorization and prohibited from sending malicious code, content and commands from the Internet domains identified in Appendix A to the computers of Microsoft's customers.

12. There is good cause to believe that Defendants have engaged in illegal activity using the Internet domains identified in Appendix A to host the command and control software and content used to infect and compromise the computers and networks of Microsoft's customers and to steal information from them. There is good cause to believe that to immediately halt the injury caused by Defendants, each of Defendants' current and prospective domains set forth in Appendix A must be immediately redirected to the Microsoft-secured name-servers named NS149.microsoftinternetsafety.net and NS150.microsoftinternetsafety.net, thus making them inaccessible to Defendants for command and control purposes.

13. There is good cause to believe that to immediately halt the injury, the execution of this Order should be carried out in a coordinated manner by Microsoft and by the domain registries identified in Appendix A on such date and time within ten days of this Order as may be reasonably requested by Microsoft.

14. There is good cause to believe that Defendants may change the Internet domains that they use to conduct illegal activities, and that Microsoft may identify and update the domains listed in Appendix A as may be reasonably necessary to account for additional Internet domains associated with the Defendants just prior to the execution of this Order and within a reasonable time thereafter should Defendants attempt to evade and defy this Order.

15. There is good cause to permit notice of the instant Order, notice of the

Preliminary Injunction hearing and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. 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, the Preliminary Injunction hearing and of this action: (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to Defendants' domain registrars and hosting companies and as agreed to by Defendants in Defendants' domain registration and/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.

TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

IT IS THEREFORE ORDERED that, Defendants, Defendants' representatives, and persons who are in active concert or participation with Defendants, are temporarily 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 infect 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) configuring, deploying, operating, or otherwise participating in or facilitating a command and control infrastructure described in the TRO Application, including but not limited to the command and control software hosted at and operating through the Internet domains set forth in Appendix A and through any other 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 temporarily restrained and enjoined from (1) using and infringing Microsoft's trademarks, including specifically Microsoft's registered trademark "Microsoft," bearing registration number 2872708,"Windows," bearing registration number 2463526,"Internet Explorer," bearing registration number 0861311,"Outlook," bearing registration number 4255129,"Hotmail," bearing registration number 2165601,"OneDrive," bearing registration number 4941897, 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, with respect to any currently registered Internet domains set forth in Appendix A, the domain registries located in the United States shall take the following actions:

A. Maintain unchanged the WHOIS or similar contact and identifying information as of the time of receipt of this Order and maintain the domains with the current registrar;

B. The domains shall remain active and continue to resolve in the manner set forth in this Order;

C. Prevent transfer or modification of the domains by Defendants or third parties at the registrar;

D. The domains shall be redirected to secure servers by changing the authoritative name servers to NS149.microsoftinternetsafety.net and NS150.microsoftinternetsafety.net and, as may be necessary, the IP address associated with name server or taking other reasonable steps to work with Microsoft to ensure the redirection of the domains and to ensure that Defendants cannot use them to make unauthorized access to computers, infect computers, compromise computers and computer networks, monitor the owners and users of computers and computer networks, or steal information from them;

E. Take all steps required to propagate to the foregoing changes through the Domain Name System ("DNS"), including domain registrars;

F. Preserve all evidence that may be used to identify the Defendants using the domains;

G. Refrain from providing any notice or warning to, or communicating in any way with Defendants or Defendants' representatives and refrain from publicizing this Order until this Order is executed in full, except as necessary to communicate with domain registrars and registries to execute this order.

IT IS FURTHER ORDERED that copies of this Order, notice of the Preliminary Injunction hearing and service of the Complaint 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 and/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 FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that the Defendants shall appear before this Court on August 12, 2016 at 10:00 am to show

cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against the Defendants, enjoining Defendants from the conduct temporarily restrained by the preceding provisions of this Order.

IT IS FURTHER ORDERED that Microsoft shall post cash bond in the amount of $100,000 to be paid into the Court registry.

IT IS FURTHER ORDERED that Microsoft may identify and update the domains in Appendix A to this Order as may be reasonably necessary to account for additional Internet domains associated with the Defendants' illegal conduct just prior to or within a reasonable time after the execution of this Order.

IT IS FURTHER ORDERED that the Defendants shall file with the Court and serve on Microsoft's counsel any answering affidavits, pleadings, motions, expert reports or declarations and/or legal memoranda no later than one (1) days prior to the hearing on Microsoft's request for a preliminary injunction.

IT IS SO ORDERED

Entered this 5th day of August, 2016

/s/
Gerald Bruce Lee
United States District Judge

UNITED STATES DISTRICT JUDGE

A True Copy, Teste:
Clerk, U.S. District Court
By _____
Deputy Clerk

Exhibit 19

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-822 (RDA)

ORDER

This matter comes before the Court on Plaintiff Microsoft Corporation's ("Microsoft") *Ex Parte* Application for an Emergency Temporary Restraining Order ("Motion"). Dkt. 7. For the reasons that follow and for good cause shown, the Court GRANTS Plaintiff's Motion.

I. BACKGROUND

On July 13, 2021, Microsoft filed its Complaint in this Court requesting injunctive and other relief pursuant to: (1) the Computer Fraud and Abuse Act (18 U.S.C. § 1030), (2) the Stored Communications Act (18 U.S.C. § 2701 *et seq.*), (3) the Virginia Computer Crimes Act (Virginia Code Ann. § 18.2-152.5:1), and (4) the common law of trespass to chattels and conversion. Microsoft also moved *ex parte* for an emergency temporary restraining order and an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, 18 U.S.C. § 1030, 18 U.S.C. § 2701 *et seq.*, 28 U.S.C. § 1651(a) (the All-Writs Act), and pursuant to this Court's inherent equitable authority.

On July 16, 2021, the Court held a hearing on Plaintiff's Motion. Dkt. 16. At that

hearing, the Court received evidence and heard argument from Plaintiff's counsel. *Id.*

II. STANDARD OF REVIEW

A motion for a temporary restraining order ("TRO") is subject to the requirements of Federal Rule of Civil Procedure 65(b). To obtain this relief without first providing notice to the adverse party, a movant must show specific facts that clearly demonstrate the risk of immediate and irreparable injury if the order does not issue. "While a preliminary injunction preserves the status quo pending a final trial on the merits, a temporary restraining order is intended to preserve the status quo only until a preliminary injunction hearing can be held." *Hoechst Diafoil Co. v. Nan Ya Plastics Corp.*, 174 F.3d 411, 422 (4th Cir. 1999). A grant of temporary injunctive relief requires the movant to establish the same four factors that govern preliminary injunctions: (1) the likelihood of irreparable harm to the plaintiff if the TRO is denied; (2) the likelihood of harm to the defendants if the TRO is granted; (3) the likelihood that the plaintiff will succeed on the merits; and (4) the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has reviewed the papers, declarations, exhibits, and memorandum filed in support of Microsoft's Motion. Dkt. Nos. 7; 8; 9; 10. Based on Donal Keating's July 16, 2021 testimony, the Court's judicial notice of the declarations and exhibits submitted in support thereof, and the legal argument set forth in the memorandum of law and presented at the hearing, the Court hereby makes the following findings of fact and conclusions of law:

1. This Court is satisfied, at this stage, that it 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; based upon the arguments and facts that have been presented, in the Complaint,

Microsoft states a claim upon which relief may be granted against Defendants John Doe 1 and 2 ("Defendants") under the Computer Fraud and Abuse Act (18 U.S.C. § 1030), the Stored Communications Act (18 U.S.C. § 2701 *et seq.*), the Virginia Computer Crimes Act (Virginia Code Ann. § 18.2-152.5:1), and the common law of trespass to chattels 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), the Stored Communications Act (18 U.S.C. § 2701 *et seq.*), the Virginia Computer Crimes Act (Virginia Code Ann. § 18.2-152.5:1), and the common law of trespass to chattels 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 Defendants are restrained and enjoined by Order of this Court, immediate and irreparable harm will result from the Defendants' ongoing violations. The evidence set forth in Microsoft's Brief in Support of the Motion, and the accompanying Declarations and Exhibits, demonstrates that Microsoft is likely to prevail on its claim that Defendants have engaged and are likely to engage in violations of the foregoing law by:

a. intentionally attempting to access protected computers and computer networks of Microsoft and accessing the online accounts of Microsoft's customers, without authorization or exceeding authorization, and/or attempting the activities, in order to:

   i. steal and exfiltrate information from those computers, online accounts, and computer networks;

   ii. attack and compromise the security of Microsoft's protected computers and networks, and the online accounts of Microsoft's customers, by conducting remote reconnaissance, stealing information, credentials and funds, monitoring the activities of users, carrying out fraudulent schemes to steal information, credentials and funds, and using other instrumentalities of theft; and

   iii. defraud Microsoft's customers.

b. deploying computers and internet domains by which means Defendants conduct and/or attempt to conduct illegal activities, including attacks on computers, online accounts, and networks, monitoring activities of users, theft of information stored in online accounts and defrauding Microsoft's customers;

4. 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 immediately restrained from doing so by Order of this Court.

5. There is good cause to believe that immediate and irreparable damage to Microsoft and to this Court's ability to grant effective final relief will result from the Defendants' continued use of the internet domains listed in Appendix A to this order and from Defendants' sale, transfer, or other disposition or concealment of evidence of Defendants' misconduct that is hosted at and otherwise operates through the internet domains listed in Appendix A to this Order, if Defendants receive advance notice of this action. Based on the evidence cited in Microsoft's Motion and accompanying Declarations and Exhibits, Microsoft is likely to be able to prove that:

a. Defendants are engaged in activities that directly violate United States law and harm Microsoft and the public, including Microsoft's customers;

b. Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests;

c. Defendants are likely to continue to use the technical infrastructure at issue in Microsoft's Motion and listed in Appendix A, thereby permitting them to continue their illegal acts and cause irreparable injury; and

d. Defendants are likely to warn their associates engaged in such activities if informed of Microsoft's action.

6. Microsoft's request for this emergency, *ex parte* relief is not the result of any lack of diligence on Microsoft's part, but instead based upon the nature of Defendants' unlawful

conduct. Therefore, in accordance with Fed. R. Civ. P. 65(b), 18 U.S.C. § 1030, 18 U.S.C. § 2701 *et seq.*, 28 U.S.C. § 1651(a) (the All-Writs Act), and pursuant to this Court's inherent equitable authority, good cause and the interest of justice require that this Order be Granted without prior notice to Defendants, and accordingly, Microsoft is relieved of the duty to provide Defendants with prior notice of Microsoft's motion.

7. There is good cause to believe that Defendants have engaged in illegal activity using the internet domains identified in Appendix A by using those domains to (1) use information stolen from O365 accounts and computers to solicit fraudulent financial transactions, (2) deceive O365 users and their networks into making fraudulent financial transactions through imitation email accounts, and (3) to cause injury to Microsoft, its customers, and their networks who may wrongfully attribute these malicious actions to Microsoft.

8. There is good cause to believe that Defendants have engaged in illegal activity by using the internet domain registration facilities of the internet domain registrars identified in Appendix A to register the internet domains identified in Appendix A, so as to carry out the acts set forth in this Order.

9. There is good cause to believe that to immediately halt the injury caused by Defendants, Defendants must be prohibited from taking any act and from utilizing the internet domains identified in Appendix A to (1) use information stolen from O365 accounts and computers to solicit fraudulent financial transactions, (2) deceive O365 users and their networks into making fraudulent financial transactions through imitation email accounts, and (3) to cause injury to Microsoft, its customers, and their networks who may wrongfully attribute these malicious actions to Microsoft.

10. There is good cause to believe that to immediately halt the injury caused by Defendants, each of Defendants' domains set forth in Appendix A must be immediately be placed beyond the control of or use by the Defendants, thus making them inaccessible to Defendants.

11. There is good cause to believe that to immediately halt the injury, the execution of this Order should be carried out in a coordinated manner by Microsoft and by the domain registrars identified in Appendix A on such date and time within five (5) days of this Order as may be reasonably requested by Microsoft.

12. There is good cause to permit notice of the instant Order, notice of the Preliminary Injunction hearing and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. 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, the July 16, 2021 hearing and of this action: (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to Defendants' domain registrars and hosting companies and as agreed to by Defendants in Defendants' domain registration and/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 United States; and (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 signatories to such treaties.

IV. TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

IT IS HEREBY ORDERED that, Defendants, Defendants' representatives, and persons

who are in active concert or participation with Defendants, are temporarily restrained and enjoined from taking any act and from using the internet domains identified in Appendix A (1) to deceive users of Microsoft's products and services and by using those domains to obtain access to the protected computers and networks of Microsoft and to the online accounts of Microsoft's customers without authorization and in excess of authorization, (2) to attempt to obtain or obtain information stolen from those accounts and computers, (3) to carry out deceptive and fraudulent methods to attempt to steal computer users' account credentials, information and funds, and (4) to undertake any similar activity that inflicts harm on Microsoft, Microsoft's customers, or the public; and

IT IS FURTHER ORDERED that, with respect to any currently registered internet domains set forth in Appendix A to this Order, the domain registrars located in the United States shall take the following actions:

A. Within five (5) business days of receipt of this Order, shall place the domains on client hold status to prevent the domains from resolving in the domain name system, on client transfer prohibited status to prevent the domains from being transferred, on client update status to prevent the domains from being updated by Defendants, and otherwise taking all steps to prevent Defendants from accessing, modifying, transferring or using in any manner the domains until the expiration of the domains at the end of the current registration period.

B. With regard to any domain registrars located outside of the United States, the Court respectfully requests, but does not order, that they take the same or substantially similar actions as the foregoing so as to neutralize the threat posed by the Defendants to the citizens of all countries, including their own. Defendants, their representatives and persons who are in active concert or participation with them are ordered to consent to whatever actions are

necessary for non-United States registrars, set forth in Appendix A, to effectuate this request; and

IT IS FURTHER ORDERED that, with respect to the internet domains set forth in Appendix A, the domain registrars located in the United States shall preserve, retain and produce to Microsoft all documents and information sufficient to identify and contact Defendants and Defendants' representatives operating or controlling the internet domains set forth in Appendix A, including any and all individual or entity names, mailing addresses, e-mail addresses, facsimile numbers and telephone numbers or similar contact information, including but not limited to such contact information reflected in billing, usage, access and contact records and all records, documents and logs associated with Defendants' or Defendants' representatives' use of or access to the internet domains; and

IT IS FURTHER ORDERED that copies of this Order, notice of the July 16, 2021 hearing and service of the Complaint 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' internet domain registrars and/or hosting companies and as agreed to by Defendants in the internet domain registration and/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 United States; and/or (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 signatories to such treaties; and

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that the Defendants shall appear before this Court in Courtroom 601 of the Albert V. Bryan Courthouse on July 28, 2021, at 10:00 a.m., to show cause, if there is any, why this Court should not enter a

Preliminary Injunction, pending final ruling on the Complaint against Defendants, enjoining Defendants from the conduct temporarily restrained by the preceding provisions of this Order; and

IT IS FURTHER ORDERED that Microsoft shall post a bond in the amount of $50,000.00 to be paid into the Court registry; and

IT IS FURTHER ORDERED that Defendants shall file with the Court and serve on Microsoft's counsel any answering affidavits, pleadings, motions, expert reports or declarations and/or legal memoranda no later than one (1) day prior to the hearing on Microsoft's request for a preliminary injunction; and

IT IS FURTHER ORDERED that this Temporary Restraining Order shall remain in effect until the date for the preliminary injunction hearing set forth above, or until such further date as set by the Court or stipulated to by the parties.

It is SO ORDERED.

Alexandria, Virginia
July 16, 2021

/s/
Rossie D. Alston, Jr.
United States District Judge

Exhibit 20

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

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 01346 **FILED UNDER SEAL PURSUANT TO LOCAL CIVIL RULE 5**

EX PARTE TEMPORARY RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE 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 Electronic Communications Privacy Act (18 U.S.C. § 2701); (3) the Lanham Act (15 U.S.C. §§ 1114(a)(1), 1125(a), (c)); and (4) the common law of trespass to chattels, unjust enrichment, conversion and intentional interference with contractual relationships. Microsoft has moved ex parte for an emergency temporary restraining order and an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(a) (the Lanham Act), 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 Application for an Emergency Temporary Restraining Order, the Court hereby makes the following findings of fact and conclusions of law:

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 Defendants John Doe 1 and 2 ("Defendants") under 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 common law of trespass to chattels, unjust enrichment, conversion, and intentional interference with contractual relationships.

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), Electronic Communications Privacy Act (18 U.S.C. § 2701), the Lanham Act (15 U.S.C. §§ 1114, 1125), and constitute common law of trespass to chattels, unjust enrichment, conversion, and tortious interference with contractual relationships, and that Microsoft is, therefore, likely to prevail on the merits of this action;

3. Microsoft owns the registered trademarks "Microsoft," "Windows" and "Microsoft 365," as well as the brand and product name "Internet Explorer" used in connection with its services, software and products.

4. 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 set forth in Microsoft's Brief in Support of Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction ("TRO Application"), 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 law by:

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;

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 activities of users, and theft of information;

c. corrupting 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;

5. 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 immediately restrained from doing so by Order of this Court;

6. 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 command and control software that is hosted at and otherwise operates through the Internet domains listed in **Appendix A** to this Order and from the destruction or concealment of other discoverable evidence of Defendants' misconduct available via those domains, including on user computers infected by Defendants, if Defendants receive advance notice of this action. Based on the evidence cited in Microsoft's TRO Application and accompanying declarations and exhibits, Microsoft is likely to be able to prove

that:

a. Defendants are engaged in activities that directly violate United States law and harm Microsoft and the public, including Microsoft's customers;

b. Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests;

c. Defendants are likely to delete or to relocate the command and control software at issue in Microsoft's TRO Application and the harmful and malicious software disseminated through the Internet domains listed in Appendix A, thereby permitting them to continue their illegal acts; and

7. Microsoft's request for this emergency ex parte relief is not the result of any lack of diligence on Microsoft's part, but instead based upon the nature of Defendants' unlawful conduct. Therefore, in accordance with Fed. R. Civ. P. 65(b), 15 U.S.C. § 1116(a) and 28 U.S.C. § 1651(a), good cause and the interest of justice require that this Order be Granted without prior notice to Defendants, and accordingly, Microsoft is relieved of the duty to provide Defendants with prior notice of Microsoft's motion.

8. 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 Virginia, have engaged in illegal activity using the Internet domains identified in **Appendix A** to this Order by directing malicious code and content to said computers of Microsoft's customers to further perpetrate their illegal conduct victimizing Microsoft's customers. There is good cause to believe that Defendants have directed said malicious code and content through certain instrumentalities – specifically the domains and the domain registration facilities of the domain registries identified in **Appendix A**.

9. There is good cause to believe that Defendants have engaged in illegal activity by using the domain registration facilities of the domain registries identified in **Appendix A** to register the Internet domains identified in **Appendix A**, so as to deliver from those domains the

malicious code, content, and commands that Defendants use to access Microsoft's services without authorization and to infect and compromise the computers of Microsoft's customers, and to receive the information stolen from those computers.

10. There is good cause to believe that Defendants have engaged in illegal activity by using deceptive and fake methods to steal computer users' login and/or account credentials and to use such credentials for illegal purposes.

11. There is good cause to believe that to immediately halt the injury caused by Defendants, Defendants must be prohibited from accessing Microsoft's services without authorization and prohibited from sending malicious code, content and commands from the Internet domains identified in **Appendix A** to the computers of Microsoft's customers.

12. There is good cause to believe that Defendants have engaged in illegal activity using the Internet domains identified in **Appendix A** to host the command and control software and content used to infect and compromise the computers and networks of Microsoft's customers and to steal information from them. There is good cause to believe that to immediately halt the injury caused by Defendants, each of Defendants' current and prospective domains set forth in **Appendix A** must be immediately redirected to the Microsoft-secured name-servers NS104a.microsoftinternetsafety.net and NS104b.microsoftinternetsafety.net, thus making them inaccessible to Defendants for command and control purposes.

13. There is good cause to believe that to immediately halt the injury, the execution of this Order should be carried out in a coordinated manner by Microsoft and by the domain registries identified in **Appendix A** on such date and time within ten days of this Order as may be reasonably requested by Microsoft.

14. There is good cause to believe that Defendants may change the Internet domains

that they use to conduct illegal activities, and that Microsoft may identify and update the domains listed in **Appendix A** as may be reasonably necessary to account for additional Internet domains associated with Defendants just prior to the execution of this Order and within a reasonable time thereafter should Defendants attempt to evade and defy this Order.

15. There is good cause to permit notice of the instant Order, notice of the Preliminary Injunction hearing and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. 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, the Preliminary Injunction hearing and of this action: (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to Defendants' domain registrars and hosting companies and as agreed to by Defendants in Defendants' domain registration and/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.; and (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 signatories to such treaties.

TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

IT IS THEREFORE ORDERED that, Defendants, Defendants' representatives, and persons who are in active concert or participation with Defendants, are temporarily 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 infect 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) configuring, deploying, operating, or otherwise participating in or facilitating a command and control infrastructure described in the TRO Application, including but not limited to the command and control software hosted at and operating through the Internet domains set forth in **Appendix A** and through any other 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 temporarily restrained and enjoined from (1) using and infringing Microsoft's trademarks, including specifically Microsoft's registered trademark "Microsoft," bearing registration number 5449084, "Microsoft 365," serial number 87640393, "Internet Explorer," bearing registration number 2277112, 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, with respect to any currently registered Internet domains set forth in **Appendix A**, the domain registries shall take the following actions:

A. Within three (3) business days of receipt of this Order, shall unlock and change the registrar of record for the domain to MarkMonitor or such other registrar specified by Microsoft. To the extent the registrar of record does not assist in changing the registrar of record for the domain under its control, the domain registry for the domain, or its administrators, including backend registry operators or administrators, within five (5) business days of receipt of this Order, shall change, or assist in changing, the registrar of record for the domain to MarkMonitor or such other registrar specified by Microsoft. The purpose of this paragraph is to ensure that Microsoft has control over the hosting and administration of the domain in its registrar account at MarkMonitor or such other registrar specified by Microsoft. Microsoft shall provide to the domain registry or registrar of record any requested registrar information or account details necessary to effectuate the foregoing.

B. The domain shall be made active and shall resolve in the manner set forth in this order, or as otherwise specified by Microsoft, upon taking control of the domain;

C. The domain shall be redirected to secure servers by changing the authoritative name servers to NS104a.microsoftinternetsafety.net and NS104b.microsoftinternetsafety.net and taking other reasonable steps to work with Microsoft to ensure the redirection of the domain and to ensure that Defendants cannot use it to make unauthorized access to computers, infect computers, compromise computers and computer

networks, monitor the owners and users of computers and computer networks, steal information from them or engage in any other activities prohibited by the Injunction;

D. 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

E. Prevent transfer, modification or deletion of the domain by Defendants and prevent transfer or control of the domain to the account of any party other than Microsoft;

F. Take all steps required to propagate to the foregoing changes through the Domain Name System ("DNS"), including domain registrars.

IT IS FURTHER ORDERED that copies of this Order, notice of the Preliminary Injunction hearing and service of the Complaint 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 and/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.; and (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 signatories to such treaties.

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that the Defendants shall appear before this Court on December 7, 2021 at 10:00 am to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against Defendants, enjoining Defendants from the conduct temporarily restrained by the preceding provisions of this Order.

IT IS FURTHER ORDERED that Microsoft shall post bond in the amount of $50,000 to be paid into the Court registry.

IT IS FURTHER ORDERED that Defendants shall file with the Court and serve on Microsoft's counsel any answering affidavits, pleadings, motions, expert reports or declarations and/or legal memoranda no later than one (1) day prior to the hearing on Microsoft's request for a preliminary injunction.

IT IS SO ORDERED

Entered this 2nd day of December, 2021

/s/

Leonie M. Brinkema
United States District Judge

Exhibit 21

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

Microsoft Corporation, a Washington State Corporation and LF Projects, LLC, a Delaware State Series Limited Liability Company, Plaintiffs, v. Abanoub Nady (also known as MRxC0DER), and John Does 1-4, Controlling A Computer Network and Thereby Injuring Plaintiffs and Its Customers, Defendants.	Civil Action No. 1:24-cv-2013 **FILED UNDER SEAL PURSUANT TO LOCAL RULE 5**

***EX PARTE* TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION**

Plaintiffs Microsoft Corporation ("Microsoft") and LF Projects, LLC ("LF Projects") have filed a complaint for injunctive and other relief pursuant to: (1) the Computer Fraud and Abuse Act, 18 U.S.C. § 1030; (2) Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (3) Conspiracy to Violate the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(d); (4) The Electronic Communications Privacy Act, 18 U.S.C. § 2701; (5) False Designation of Origin under the Lanham Act, 15 U.S.C. § 1125(a); (6) Trademark Infringement under the Lanham Act, 15 U.S.C. § 1114 et seq.; (7) Trademark Dilution under the Lanham Act, 15 U.S.C. § 1125(c); (8) common law trespass to chattels; (9) conversion; and (10) unjust enrichment. Plaintiffs have moved *ex parte* for an emergency temporary restraining order and an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal

23 CV 10685

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICROSOFT CORPORATION,	:	
Plaintiff,	:	**Case No.**
-against-	:	
DUONG DINH TU, LINH VAN NGUYEN, and TAI VAN NGUYEN,	:	**REQUEST TO FILE UNDER SEAL**
Defendants.	:	

[~~PROPOSED~~] EMERGENCY *EX PARTE* TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

Plaintiff Microsoft Corp. ("Microsoft") has filed a Complaint for injunctive and other relief for (1) violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (2) trademark infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (3) false designation of origin, federal false advertising, and federal unfair competition under the Lanham Act, 15 U.S.C. § 1125(a); (4) trademark dilution under the Lanham Act, 15 U.S.C. § 1125(c); (5) tortious interference with business relationships; (6) conversion; (7) trespass to chattels; and (8) unjust enrichment. Plaintiff has also moved *ex parte* for an emergency temporary restraining order pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(d) (the Lanham Act) and 28 U.S.C. § 1651(a) (the All Writs Act), and an order to show cause why a preliminary injunction should not be granted.

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the papers, declarations, exhibits, and memorandum filed in support of Plaintiff's Motion for an Emergency *Ex Parte* Temporary Restraining Order and Order to Show Cause Regarding Preliminary Injunction ("TRO Motion"), the Court hereby makes the following findings of fact and conclusions of law:

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 adequately states claims upon which relief may be granted against Defendants for (1) violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (2) trademark infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (3) false designation of origin, federal false advertising, and federal unfair competition under the Lanham Act, 15 U.S.C. § 1125(a); (4) trademark dilution under the Lanham Act, 15 U.S.C. § 1125(c); (5) tortious interference with business relationships; (6) conversion; (7) trespass to Chattels; and (8) unjust enrichment.

2. Microsoft owns the following registered trademarks: (1) Outlook launch icon mark, (2) Outlook word mark, and (3) Hotmail word mark. Copies of the trademark registrations for the Microsoft marks are attached as **Appendix B** to the Complaint.

3. There is good cause to believe that Defendants have engaged in and are likely to engage in acts or practices that constitute (1) violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (2) trademark infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (3) false designation of origin, federal false advertising, and federal unfair competition under the Lanham Act, 15 U.S.C. § 1125(a); (4) trademark dilution under the Lanham

Act, 15 U.S.C. § 1125(c); (5) tortious interference with business relationships; (6) conversion; (7) trespass to chattels; and (8) unjust enrichment.

4. 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 Defendants' ongoing (1) violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (2) trademark infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (3) false designation of origin, federal false advertising, and federal unfair competition under the Lanham Act, 15 U.S.C. § 1125(a); (4) trademark dilution under the Lanham Act, 15 U.S.C. § 1125(c); (5) tortious interference with business relationships; (6) conversion; (7) trespass to chattels; and (8) unjust enrichment. The evidence set forth in Plaintiff's TRO Motion and the accompanying declarations and exhibits demonstrates that Plaintiff is likely to prevail on its claims that Defendants have engaged in violations of the foregoing laws, including by participating in the conduct and affairs of a criminal enterprise, hereinafter referred to as the "Fraudulent Enterprise," through a pattern of racketeering activity, by perpetrating an ongoing scheme to use Internet "bots" to hack into and deceive Microsoft's security systems into believing that they are legitimate human consumers of Microsoft services, open Microsoft Outlook email accounts in names of fictitious users, and sell those fraudulent accounts to cybercriminals for use as tools in perpetrating a wide variety of online crimes. There is good cause to believe that if such conduct continues, irreparable harm will occur to Plaintiff and the public, including Plaintiff's customers. There is good cause to believe that the Defendants are engaging, and will continue to engage, in such unlawful actions if not immediately restrained from doing so by Order of this Court.

5. 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 technological infrastructure used by the Fraudulent Enterprise to carry out its illegal objectives that is hosted at and otherwise operates through the Internet domains listed in **Appendix A**, through (1) VeriSign, Inc., as the manager and operator of 1stcaptcha.com, anycaptcha.com, and nonecaptcha.com; (2) Identity Digital Inc. (formerly Afilias Inc.), as the manager and operator of hotmailbox.me; (3) Cloudflare, Inc., as the service provider of 1stcaptcha.com, anycaptcha.com, nonecaptcha.com, and hotmailbox.me; (4) Cloud South, as the service provider of 1stcaptcha.com, anycaptcha.com, nonecaptcha.com, and hotmailbox.me, and (5) through the following Internet Protocol ("IP") addressees, which are associated with Defendants' Fraudulent Enterprise: 104.22.5.58, 104.22.4.58, 172.67.13.19, 104.26.11.230, 172.67.69.233, 172.67.12.153, 154.27.66.194, 154.27.66.246, 172.66.41.15, 172.66.42.241, 188.114.98.229, 104.26.13.192, 172.67.72.186, 104.26.12.192, 188.114.98.229, and 188.114.99.229 ("Defendants' IP Addresses"), and from the destruction or concealment of other discoverable evidence of Defendants' misconduct available at those locations if Defendants receive advance notice of this action. Based on the evidence cited in Plaintiff's TRO Motion and accompanying declarations and exhibits, Plaintiff is likely to be able to prove that: (1) Defendants are engaged in activities that directly violate U.S. law and harm Plaintiff and the public, including Plaintiff's customers; (2) Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests; (3) Defendants are likely to delete or relocate the Fraudulent Enterprise infrastructure at issue in Plaintiff's TRO Motion and the harmful, malicious, and trademark-infringing products and services disseminated through Defendants' IP Addresses and the domains listed in **Appendix A** and to warn their associates engaged in such activities if informed of Plaintiff's action. Plaintiff's request for this emergency *ex parte* relief is not the result of any lack of diligence on Plaintiff's part, but instead is based upon the nature of Defendants'

unlawful conduct and the likelihood that notice of this action before the temporary restraining order sought by Plaintiff can be fully executed risks frustrating the relief sought. Therefore, in accordance with Fed. R. Civ. P. 65(b) and 15 U.S.C. § 1116(d), good cause and the interests of justice require that this Order be granted without prior notice to Defendants, and accordingly Plaintiff is relieved of the duty to provide Defendants with prior notice of Plaintiff's TRO Motion.

6. There is good cause to believe that Defendants have specifically directed their products and services to cybercriminals located in the Southern District of New York. There is also good cause to believe that, in carrying out their Fraudulent Enterprise, Defendants utilize an Internet Service Provider ("ISP") data center located in the Southern District of New York, as well as services provided by third parties located in the Southern District of New York, including payment processors and ISPs.

7. There is good cause to believe that Defendants have engaged in illegal activity using the data centers and/or Internet hosting providers identified in **Appendix A** to host the Hotmailbox and 1stCAPTCHA Websites, which Defendants use to operate and maintain their Fraudulent Enterprise.

8. There is good cause to believe that to immediately halt the injury caused by Defendants, data and evidence at Defendants' IP Addresses must be preserved and held in escrow pending further order of the court, Defendants' computing resources related to such IP addresses must then be disconnected from Defendants' infrastructure, Defendants must be prohibited from accessing Defendants' computer resources related to such IP addresses, and the data and evidence located on those computer resources must be secured and preserved.

9. 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 Hotmailbox and

1stCAPTCHA Websites, which are used to maintain and operate the Defendants' Fraudulent Enterprise. There is good cause to believe that to immediately halt the injury caused by Defendants, each of Defendants' current and prospective domains set forth in **Appendix A** must be immediately transferred to the control of Microsoft where they can be secured and thus made inaccessible to Defendants.

10. There is good cause to direct third-party Internet registries, registrars, data centers, and hosting providers with a presence in the United States to reasonably assist in the implementation of this Order and refrain from frustrating the implementation and purposes of this Order, pursuant to 28 U.S.C. § 1651(a) (the All Writs Act).

11. There is good cause to believe that if Defendants are provided advance notice of Plaintiff's TRO Motion or this Order, they would move the technological infrastructure supporting their Fraudulent Enterprise, permitting them to continue their misconduct, and would destroy, move, hide, conceal, or otherwise make inaccessible to the Court evidence of their misconduct, the Defendants' infrastructure's activity, the infringing materials, the instrumentalities used to make the infringing materials, and the records evidencing the manufacture and distributing of the infringing materials.

12. There is good cause to permit notice of the instant Order, notice of the Preliminary Injunction hearing, and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. The following means of service are authorized by law, satisfy Due Process, satisfy Fed. R. Civ. P. 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 Defendants at any physical addresses in the United States provided to the data centers and Internet hosting providers; (2) personal delivery through the

Hague Convention on Service Abroad or other treaties upon Defendants who provided contact information outside the United States; (3) transmission by e-mail, electronic messaging addresses, facsimile, and mail to the known email and messaging addresses of Defendants and to their contact information provided by Defendants to the domain registrars, registries, data centers, Internet hosting providers, and website providers who host the software code associated with Defendants' IP Addresses or the domains identified in **Appendix A**; and (4) publishing notice to the Defendants on a publicly available Internet website.

13. There is good cause to believe that the harm to Plaintiff of denying the relief requested in their TRO Motion outweighs any harm to any legitimate interests of Defendants and that there is no undue burden to any third party.

II. TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

IT IS THEREFORE ORDERED as follows:

14. Defendants, their representatives, and persons who are in active concert or participation with them are temporarily restrained and enjoined from: making or causing others to make false or misleading representations or omissions to obtain any access to any Microsoft accounts or services; using Internet "bots" to hack into Microsoft's security systems; using Internet "bots" to deceive Microsoft's security systems into believing that they are legitimate human consumers of Microsoft services; creating Microsoft Outlook email accounts in names of fictitious users or otherwise in violation of Microsoft's Services Agreement; selling those fraudulently-procured accounts to cybercriminals for use as tools in perpetrating a wide variety of online crimes;

and otherwise configuring, deploying, operating, or maintaining the Hotmailbox and 1stCAPTCHA Websites.

15. Defendants, their representatives and persons who are in active concert or participation with them are temporarily restrained and enjoined from infringing or otherwise misappropriating Plaintiff's registered trademarks, as set forth in **Appendix B**.

16. Defendants, their representatives and persons who are in active concert or participation with them are temporarily restrained and enjoined from using in connection with Defendants' activities any false or deceptive designation, advertisement, representation or description of Defendants' or of their representatives' activities, whether by symbols, words, designs or statements, which would damage or injure Plaintiff or give Defendants an unfair competitive advantage or result in deception of consumers.

IT IS FURTHER ORDERED, pursuant to the All Writs Act:

17. VeriSign, Inc., the manager and operator of the .com registry, shall change the registrar of record for 1stcaptcha.com, anycaptcha.com, and nonecaptcha.com in the .com registry to Plaintiff's registrar of choice, MarkMonitor, Inc., and that MarkMonitor, Inc., shall change the registrant of those domains to Plaintiff;

18. Identity Digital, (formerly Afilias Inc.), the manager and operator of the .me registry, shall change the registrar of record for hotmailbox.me in the .me registry to Plaintiff's registrar of choice, MarkMonitor, Inc., and that MarkMonitor, Inc., shall change the registrant of those domains to Plaintiff;

19. Cloudflare, Inc. and Cloud South, the service providers of 1stcaptcha.com, anycaptcha.com, nonecaptcha.com, and hotmailbox.me, shall (1) preserve the computers, servers, electronic data storage devices, software, data, or media assigned to or otherwise associated with

Defendants' IP Addresses and the domains listed in **Appendix A**; (2) preserve all evidence of any kind related to the content, data, software or accounts associated with such IP addresses, domains, and such computer hardware; (3) completely disable the computers, servers, electronic data storage devices, software, data, or media assigned to or otherwise associated with Defendants' use of Defendants' IP Addresses and the domains listed in **Appendix A** and make them inaccessible from any other computer on the Internet, any internal network, or in any other manner, to Defendants, Defendants' representatives, and all other persons, except as otherwise ordered herein; (4) completely, and until further order of this Court, suspend all services to Defendants or Defendants' representatives or resellers associated with Defendants' IP Addresses and the domains listed in **Appendix A**; and (5) isolate and disable any content and software associated with the Defendants hosted at Defendants' IP Addresses in a manner that does not impact any content or software not associated with Defendants' IP Addresses. In determining the method and mechanism to disable content and software associated with the Defendants, the relevant data centers and/or hosting providers shall reasonably confer with Plaintiff's counsel, Brian T. Markley, Cahill Gordon & Reindel LLP, 32 Old Slip, 19th Floor, New York, NY 10005, bmarkley@cahill.com, (Tel: 212.701.3230) and Samson A. Enzer, Cahill Gordon & Reindel LLP, 32 Old Slip, 19th Floor, New York, NY 10005, senzer@cahill.com, (Tel: 212.701.3125), to facilitate any follow-on action;

20. VeriSign, Inc., Identity Digital, Cloudflare, Inc., and Cloud South shall (1) refrain from providing any notice or warning to, or communicating in any way with Defendants or Defendants' representatives, and refrain from publicizing this Order until this Order is executed in full, except as necessary to communicate with hosting companies, data centers, the Plaintiff, or other ISPs to execute this order; (2) not enable, and shall take all reasonable steps to prevent, any circumvention of this order by Defendants or Defendants' representatives associated with

Defendants' IP Addresses or the domains listed in **Appendix A**, including but not limited to enabling, facilitating, and/or allowing Defendants or Defendants' representatives or resellers to rent, lease, purchase, or otherwise obtain another IP Address associated with your services; (3) preserve, retain, and produce to Plaintiff all documents and information sufficient to identify and contact Defendants and Defendants' representatives operating or controlling Defendants' IP Addresses, including any and all individual or entity names, mailing addresses, e-mail addresses, facsimile numbers, and telephone numbers or similar contact information, including but not limited to such contact information reflected in billing, usage, access and contact records and all records, documents and logs associated with Defendants' or Defendants' Representatives' use of or access to Defendants' IP Addresses or the domains listed in **Appendix A**; and (4) provide reasonable assistance in implementing the terms of this Order and take no action to frustrate the implementation of this Order.

IT IS FURTHER ORDERED that copies of this Order, notice of the Preliminary Injunction hearing and service of the Complaint may be served by any means authorized by law, including any one or combination of (1) personal delivery upon Defendants who provided to the data centers and Internet hosting providers contact information in the United States; (2) personal delivery through the Hague Convention on Service Abroad or other treaties upon Defendants who provided contact information outside the United States; (3) transmission by e-mail, electronic messaging addresses, facsimile, and mail to the known email and messaging addresses of Defendants and to their contact information provided by Defendants to the domain registrars, registries, data centers, Internet hosting providers, and website providers who host the software code associated with

Defendants' IP Addresses or the domains identified in **Appendix A**; and (4) publishing notice to the Defendants on a publicly available Internet website. Plaintiffs are directed to attempt service by all available such means, and to effect service by December 13, 2023.

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that the Defendants shall appear before the Hon. Paul A. Engelmayer on December 20, 2023, at 9 a.m. to show cause, if there is any, why the Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against the Defendants, enjoining them from the conduct temporarily restrained by the preceding provisions of this Order. in courtroom 1305 of the Thurgood Marshall United States Courthouse, 40 Centre St., NYC, NY 10007.

IT IS FURTHER ORDERED that Microsoft, on behalf of Plaintiff, shall post bond in the amount of $15,000 as cash to be paid into the Court registry.

IT IS FURTHER ORDERED that the Defendants shall file with the Court and serve on Plaintiff's counsel any answering affidavits, pleadings, motions, expert reports or declarations, and/or legal memoranda no later than ~~five (5)~~ two (2) days prior to the hearing on Plaintiff's request for a preliminary injunction, (i.e., by Monday, December 18, 2023, at 9 a.m.) Plaintiff may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on counsel for the Defendants no later than one (1) day prior to the preliminary injunction hearing in this matter. Provided that service shall be performed by personal or overnight delivery, facsimile or electronic mail, and documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m. (Eastern Standard Time) on the appropriate dates listed in this paragraph.

IT IS SO ORDERED

Entered this 7th day of December, 2023.

Paul A. Engelmayer

Hon. Paul A. Engelmayer

Rules of Civil Procedure, 15 U.S.C. § 1116(a) (the Lanham Act), 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 Plaintiffs' *Ex Parte* Application for an Emergency Temporary Restraining Order and Order to Show Cause re Preliminary Injunction, the Court hereby makes the following findings of fact and conclusions of law:

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 Abanoub Nady and John Does 1-4 ("Fake ONNX Defendants") under the Computer Fraud and Abuse Act, 18 U.S.C. § 1030; (2) Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (3) Conspiracy to Violate the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(d); (4) The Electronic Communications Privacy Act, 18 U.S.C. § 2701; (5) False Designation of Origin under the Lanham Act, 15 U.S.C. § 1125(a); (6) Trademark Infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (7) Trademark Dilution under the Lanham Act, 15 U.S.C. § 1125(c); (8) common law trespass to chattels; (9) conversion; and (10) unjust enrichment.

2. There is good cause to believe that Fake ONNX Defendants manufacture and sell illegal phishing kits deceptively branded as "ONNX" designed to steal sensitive information and perpetrate business email compromise, ransomware, and financial fraud against Microsoft customers.

3. There is good cause to believe that Fake ONNX Defendants target Microsoft's customers, including LF Projects, and the general public. Fake ONNX Defendants manufacture,

sell, and facilitate the deployment of pre-packaged sets of tools ("phishing kits") that enable other cybercriminals to launch phishing attacks with relative ease. This business model of selling phishing kits and services for use by other cybercriminals is also referred to as "Phishing-as-a-Service" or "PhaaS."

4. There is good cause to believe that Fake ONNX 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 Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. § 1962, 1962(d)), the Electronic Communications Privacy Act (18 U.S.C. § 2701), the Lanham Act (15 U.S.C. §§ 1114, 1125), and constitute trespass to chattels, conversion, and unjust enrichment, and Plaintiffs, therefore, are likely to prevail on the merits of this action.

5. Microsoft owns the registered trademarks Microsoft®, Windows®, Microsoft 365®, Office365®, Office®, Microsoft Office®, SharePoint®, OneDrive®, Outlook®, Microsoft Exchange Server®, Teams®, Microsoft Defender®, Windows Vista®, Sway®, and Azure® and numerous other trademarks used in connection with its services, software and products.

6. LF Projects is a collection of limited liability companies that owns the registered trademarks associated with technology projects and ecosystems. LF Projects owns the trademarks for both the "ONNX" name and logo. These are linked to a project under LF Projects known as the Open Neural Network Exchange, or "ONNX."

7. There is good cause to believe that, unless Fake ONNX Defendants are restrained and enjoined by Order of this Court, immediate and irreparable harm will result from Fake ONNX Defendants' ongoing violations. The evidence set forth in Plaintiffs' Memo in Support of *Ex Parte* Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary

Injunction ("TRO Application"), and the accompanying declarations of Jason Lyons, Michael Dolan, Jeffrey L. Poston, and supporting exhibits, demonstrates that Plaintiffs are likely to prevail on its claim that Fake ONNX Defendants have engaged in violations of the foregoing law by:

a. Intentionally accessing the protected computers and computer networks of Microsoft and the customers of Microsoft, without authorization or exceeding authorization, in order to steal and exfiltrate information from those computers and computer networks;

b. Engaging in phishing operations to steal credentials from unsuspecting victims who are tricked into believing they are accessing legitimate websites;

c. Developing mechanisms to circumvent technological security protocols;

d. Intentionally accessing, without authorization, the email inboxes of Microsoft customers, to support credentials theft, information exfiltration, and subsequent end-user terminal attacks which include business email compromise, ransomware, and financial fraud;

e. Operating a Racketeering Enterprise by leveraging each other's work to: (i) create, distribute, and operate the phishing technical infrastructure, (ii) sell, distribute, and use ONNX-branded phishing kits, (iii) to steal credentials from victims, and (iv) gain access to victim computers to further additional criminal activities like financial fraud, business email compromise, and deploying ransomware.

f. Infringing the protected marks of Plaintiffs for the purpose of causing confusion or mistake, whereby the victims of Fake ONNX Defendants' attacks mistakenly associate such conduct with Plaintiffs.

8. There is good cause to believe that if such conduct continues, irreparable harm will occur to Microsoft, Microsoft's customers, LF Projects, and the public. There is good cause to believe that Fake ONNX Defendants will continue to engage in such unlawful actions if not immediately restrained from doing so by Order of this Court.

9. 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, distribution, deployment, or use of the ONNX-branded phishing kits by Fake ONNX Defendants that is hosted at and otherwise operates through the Internet domains listed in **Appendix A** to this Order, and from the

destruction or concealment of other discoverable evidence of Fake ONNX Defendants' misconduct available via those domains, including on victims targeted by Fake ONNX Defendants, if they receive advance notice of this action. Based on the evidence cited in Plaintiffs' TRO Application and accompanying declarations and exhibits, Plaintiffs are likely to be able to prove that:

a. Fake ONNX Defendants are engaged in activities that directly violate United States law and harm Microsoft, its customers, LF Projects, and the public;

b. Fake ONNX Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests;

c. Fake ONNX Defendants are likely to delete or to relocate Internet infrastructure in Plaintiffs' TRO Application and the harmful and malicious phishing kits disseminated through the Internet domains listed in **Appendix A**, thereby permitting them to continue their illegal acts; and

d. Fake ONNX Defendants are likely to warn their associates engaged in such activities if informed of Plaintiffs' action.

10. Plaintiffs' request for this emergency *ex parte* relief is not the result of any lack of diligence on Plaintiffs' part, but instead, is based upon the nature of Fake ONNX Defendants' unlawful conduct. Therefore, in accordance with Fed. R. Civ. P. 65(b), 15 U.S.C. § 1116(a) and 28 U.S.C. § 1651(a), good cause and the interest of justice require that this Order be **GRANTED** without prior notice to Fake ONNX Defendants, and accordingly, Plaintiffs are relieved of the duty to provide Fake ONNX Defendants with prior notice of Plaintiffs' motion and requested relief.

11. There is good cause to believe that Fake ONNX Defendants have operated their phishing operations through certain instrumentalities – specifically through the website domains identified in **Appendix A**.

12. There is good cause to believe that Fake ONNX Defendants have (i) engaged in illegal activity by using the domain registration facilities of the domain registries identified in

Appendix A, to register the Internet domains identified in **Appendix A**, (ii) violated Plaintiffs' trademarks in order to: (iii) deceive Plaintiffs' customers to steal credentials for their email accounts, infiltrate the email systems, and have unfettered access to the contents of those email accounts for purposes of data exfiltration.

13. There is good cause to believe that Fake ONNX Defendants have engaged in illegal activity by using deceptive and fraudulent methods to steal computer users' account credentials and to use such credentials for illegal purposes.

14. There is good cause to believe that to immediately halt the injury caused by Fake ONNX Defendants, they must be prohibited from accessing Plaintiffs' services without authorization, prohibited from the unlawful intrusion and data theft of the victims' email accounts, from using Plaintiffs' marks to perpetrate their unlawful and criminal scheme, and prevented from using the Internet domains identified in **Appendix A** to operate the Internet infrastructure to further its phishing operation.

15. There is good cause to believe that Fake ONNX Defendants have engaged in illegal activity using the Internet domains identified in **Appendix A** to carry out their illegal phishing campaign. There is good cause to believe that to immediately halt the injury caused by Fake ONNX Defendants, each of Fake ONNX Defendants' domains set forth in **Appendix A** must be immediately transferred beyond the control of Fake ONNX Defendants' criminal operation, thus making them inaccessible to Fake ONNX Defendants.

16. There is good cause to believe that to immediately halt the injury, the execution of this Order should be carried out in a coordinated manner by Plaintiffs and by the domain registries identified in **Appendix A** on such date and time within five (5) days of this Order as may be reasonably requested by Plaintiffs.

17. There is good cause to believe that Fake ONNX Defendants have specifically directed their activities to Eastern District of Virginia.

18. There is good cause to believe that if Fake ONNX Defendants are provided advance notice of Plaintiffs' TRO Application or this Order, they would move Fake ONNX Defendants' infrastructure, allowing them to continue their misconduct and that they would destroy, move, hide, conceal, or otherwise make inaccessible to the Court evidence of their misconduct, Fake ONNX Defendants' infrastructure's activity, the infringing materials, the instrumentalities used to make the infringing materials, and the records evidencing the manufacture and distributing of the infringing materials.

19. There is good cause to permit notice of the instant Order, notice of the Preliminary Injunction hearing and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. 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 Fake ONNX Defendants of the instant order, the Preliminary Injunction hearing and of this action: (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Fake ONNX Defendants to Fake ONNX Defendants' domain registrars and hosting companies and as agreed to by Fake ONNX Defendants in their domain registration and/or hosting agreements, (2) publishing notice on a publicly available Internet website, (3) by personal delivery upon Fake ONNX Defendants, to the extent Fake ONNX Defendants provided accurate contact information in the U.S.; and (4) personal delivery through the Hague Convention on Service Abroad or similar treaties upon Fake ONNX Defendants, to the extent Fake ONNX Defendants provided accurate contact information in foreign countries that are signatories to such treaties.

20. There is good cause to believe that Fake ONNX Defendants have no legitimate interest in carryout their cybercriminal activities.

21. There is good cause to believe that the harm to Plaintiffs in denying the relief requested in their TRO Application outweighs any harm to any legitimate interest of Fake ONNX Defendants (of which there is none) and that there is no undue burden to any third party.

TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

IT IS THEREFORE ORDERED that, Fake ONNX Defendants, their representatives, and persons who are in active concert or participation with Fake ONNX Defendants and associated criminal operation, are temporarily restrained and enjoined from: (1) intentionally accessing the protected computers without authorization, (2) engaging in phishing campaigns, (3) stealing credentials from victims of phishing campaigns, (4) using the credentials to access the email inboxes of victims, (4) unlawfully accessing, viewing, exfiltrating, or otherwise stealing the contents of the compromised email inboxes, (5) capitalizing on the trademarks of Plaintiffs to fabricate legitimacy of the phishing campaign, (6) misappropriating that which rightfully belongs to Microsoft, its customers, or in which Microsoft or its customers have a proprietary interest; (7) destroying the goodwill and reputation of Plaintiffs, (8) impersonating Plaintiffs, their systems, products, and services, (9) configuring, deploying, operating, or otherwise participating in or facilitating infrastructure described in the TRO Application, including but not limited to the Internet domains set forth in **Appendix A** and through any other component or element of Fake ONNX Defendants' illegal infrastructure at any location, including infrastructure Fake ONNX Defendants may attempt to rebuild, and (10) undertaking any similar activity that inflicts harm on Microsoft, Microsoft's customers, LF Projects, or the public.

IT IS FURTHER ORDERED that, Fake ONNX Defendants, their representatives, and

persons who are in active concert or participation with Fake ONNX Defendants and associated criminal operation are temporarily restrained and enjoined from (1) using and infringing Plaintiffs' trademarks, including specifically Microsoft's registered trademarks Microsoft®, Windows®, Microsoft 365®, Office365®, Office®, Microsoft Office®, SharePoint®, OneDrive®, Outlook®, Microsoft Exchange Server®, Teams®, Microsoft Defender®, Windows Vista®, Sway®, and Azure®, and the trademarks of LF Projects, and its projects, including specifically the Open Neural Network Exchange's registered trademarks and its logo, and/or other trademarks, trade names, service marks, or Internet domain addresses or names containing or infringing such trademarks, trade names or service marks, as set forth in **Appendix B and C** to this Order; (2) using in connection with Fake ONNX Defendants' activities, products, or services any false or deceptive designation, representation or description of Fake ONNX Defendants or of their activities, whether by symbols, words, designs or statements, which would damage or injure Plaintiffs or give Fake ONNX Defendants an unfair competitive advantage or result in deception of consumers; or (3) acting in any other manner which suggests in any way that Fake ONNX Defendants' activities, products or services come from or are somehow sponsored by or affiliated with Plaintiffs, or passing off Fake ONNX Defendants' activities, products or services as Plaintiffs'.

IT IS FURTHER ORDERED that, with respect to any currently registered Internet domains set forth in **Appendix A** to this Order, the domain registries located in the United States shall take the following actions:

A. Within **five (5) business days** of receipt of this Order, shall unlock and change the registrar of record for the domain to MarkMonitor or such other registrar specified by Microsoft. To the extent the registrar of record does not assist in changing the registrar of record for the domain under its control, the domain registry for the domain, or its administrators, including

backend registry operators or administrators, within five (5) business days of receipt of this Order, shall change, or assist in changing, the registrar of record for the domain to MarkMonitor or such other registrar specified by Microsoft. The purpose of this paragraph is to ensure that Microsoft has control over the hosting and administration of the domain in its registrar account at MarkMonitor or such other registrar specified by Microsoft. Microsoft shall provide to the domain registry or registrar of record any requested information or account details necessary to effectuate the foregoing.

B. The domain registries shall be made active and shall resolve in the manner set forth in this order, or as otherwise specified by Microsoft, upon taking control of the domain.

C. The domain registries shall take reasonable steps to work with Microsoft to ensure the transfer of the domain and to ensure that Fake ONNX Defendants cannot use it to make unauthorized access to computers, infect computers, compromise computers and computer networks, monitor the owners and users of computers and computer networks, steal information from them, or engage in any other activities prohibited by this Order;

D. 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

E. Prevent transfer, modification or deletion of the domain by Fake ONNX Defendants and prevent transfer or control of the domain to the account of any party other than

Microsoft;

F. Take all steps required to propagate to the foregoing changes through the Domain Name System ("DNS"), including domain registrars.

2. With regard to the domain registries and registrars located outside of the United States, the Court respectfully requests, but does not order, that they take the same or substantially similar actions as the foregoing so as to neutralize the threat posed by Fake ONNX Defendants to the citizens of all countries, including their own. Fake ONNX Defendants, their representatives and persons who are in active concert or participation with them are ordered to consent to whatever actions are necessary for non-United States registries, registrars and registrants or hosts, set forth in **Appendix A** to this Order, to effectuate this request.

IT IS FURTHER ORDERED that copies of this Order, notice of the Preliminary Injunction hearing and service of the Complaint 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 Fake ONNX Defendants to their domain registrars and/or hosting companies and as agreed to by Fake ONNX Defendants in the domain registration and/or hosting agreements, (2) publishing notice on a publicly available Internet website, (3) by personal delivery upon Defendants, to the extent Fake ONNX Defendants provided accurate contact information in the U.S.; and (4) personal delivery through the Hague Convention on Service Abroad or similar treaties upon Fake ONNX Defendants, to the extent they provided accurate contact information in foreign countries that are signatories to such treaties.

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that Fake ONNX Defendants shall appear before this Court on December 4, 2024 at 1:00 p.m., to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling

on the Complaint against Fake ONNX Defendants, enjoining Fake ONNX Defendants from the conduct temporarily restrained by the preceding provisions of this Order. Due to the Thanksgiving holiday and this Court's schedule, this order shall remain in place until that date.

IT IS FURTHER ORDERED that Microsoft, on behalf of Plaintiffs, shall post bond in the amount of $50,000 to be paid into the Court registry.

IT IS FURTHER ORDERED that Fake ONNX Defendants shall file with the Court and serve on Plaintiffs' any answering affidavits, pleadings, motions, expert reports or declarations and/or legal memoranda no later than two (2) days prior to the hearing on Plaintiffs' request for a preliminary injunction. Plaintiffs may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on counsel for Fake ONNX Defendants no later than one (1) day prior to the preliminary injunction hearing in this matter. Provided that service shall be performed by personal or overnight delivery, facsimile or electronic mail, and documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m. (Eastern Standard Time) on the appropriate dates listed in this paragraph.

IT IS SO ORDERED

Entered this 13 day of November, 2024

UNITED STATES DISTRICT JUDGE
ED VA

Exhibit 22

23 CV 10685

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICROSOFT CORPORATION,	:	
Plaintiff,	:	**Case No.**
-against-	:	
DUONG DINH TU, LINH VAN NGUYEN, and TAI VAN NGUYEN,	:	**REQUEST TO FILE UNDER SEAL**
Defendants.	:	

[~~PROPOSED~~] EMERGENCY *EX PARTE* TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

Plaintiff Microsoft Corp. ("Microsoft") has filed a Complaint for injunctive and other relief for (1) violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (2) trademark infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (3) false designation of origin, federal false advertising, and federal unfair competition under the Lanham Act, 15 U.S.C. § 1125(a); (4) trademark dilution under the Lanham Act, 15 U.S.C. § 1125(c); (5) tortious interference with business relationships; (6) conversion; (7) trespass to chattels; and (8) unjust enrichment. Plaintiff has also moved *ex parte* for an emergency temporary restraining order pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(d) (the Lanham Act) and 28 U.S.C. § 1651(a) (the All Writs Act), and an order to show cause why a preliminary injunction should not be granted.

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the papers, declarations, exhibits, and memorandum filed in support of Plaintiff's Motion for an Emergency *Ex Parte* Temporary Restraining Order and Order to Show Cause Regarding Preliminary Injunction ("TRO Motion"), the Court hereby makes the following findings of fact and conclusions of law:

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 adequately states claims upon which relief may be granted against Defendants for (1) violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (2) trademark infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (3) false designation of origin, federal false advertising, and federal unfair competition under the Lanham Act, 15 U.S.C. § 1125(a); (4) trademark dilution under the Lanham Act, 15 U.S.C. § 1125(c); (5) tortious interference with business relationships; (6) conversion; (7) trespass to Chattels; and (8) unjust enrichment.

2. Microsoft owns the following registered trademarks: (1) Outlook launch icon mark, (2) Outlook word mark, and (3) Hotmail word mark. Copies of the trademark registrations for the Microsoft marks are attached as **Appendix B** to the Complaint.

3. There is good cause to believe that Defendants have engaged in and are likely to engage in acts or practices that constitute (1) violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (2) trademark infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (3) false designation of origin, federal false advertising, and federal unfair competition under the Lanham Act, 15 U.S.C. § 1125(a); (4) trademark dilution under the Lanham

Act, 15 U.S.C. § 1125(c); (5) tortious interference with business relationships; (6) conversion; (7) trespass to chattels; and (8) unjust enrichment.

4. 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 Defendants' ongoing (1) violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (2) trademark infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (3) false designation of origin, federal false advertising, and federal unfair competition under the Lanham Act, 15 U.S.C. § 1125(a); (4) trademark dilution under the Lanham Act, 15 U.S.C. § 1125(c); (5) tortious interference with business relationships; (6) conversion; (7) trespass to chattels; and (8) unjust enrichment. The evidence set forth in Plaintiff's TRO Motion and the accompanying declarations and exhibits demonstrates that Plaintiff is likely to prevail on its claims that Defendants have engaged in violations of the foregoing laws, including by participating in the conduct and affairs of a criminal enterprise, hereinafter referred to as the "Fraudulent Enterprise," through a pattern of racketeering activity, by perpetrating an ongoing scheme to use Internet "bots" to hack into and deceive Microsoft's security systems into believing that they are legitimate human consumers of Microsoft services, open Microsoft Outlook email accounts in names of fictitious users, and sell those fraudulent accounts to cybercriminals for use as tools in perpetrating a wide variety of online crimes. There is good cause to believe that if such conduct continues, irreparable harm will occur to Plaintiff and the public, including Plaintiff's customers. There is good cause to believe that the Defendants are engaging, and will continue to engage, in such unlawful actions if not immediately restrained from doing so by Order of this Court.

5. 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 technological infrastructure used by the Fraudulent Enterprise to carry out its illegal objectives that is hosted at and otherwise operates through the Internet domains listed in **Appendix A**, through (1) VeriSign, Inc., as the manager and operator of 1stcaptcha.com, anycaptcha.com, and nonecaptcha.com; (2) Identity Digital Inc. (formerly Afilias Inc.), as the manager and operator of hotmailbox.me; (3) Cloudflare, Inc., as the service provider of 1stcaptcha.com, anycaptcha.com, nonecaptcha.com, and hotmailbox.me; (4) Cloud South, as the service provider of 1stcaptcha.com, anycaptcha.com, nonecaptcha.com, and hotmailbox.me, and (5) through the following Internet Protocol ("IP") addressees, which are associated with Defendants' Fraudulent Enterprise: 104.22.5.58, 104.22.4.58, 172.67.13.19, 104.26.11.230, 172.67.69.233, 172.67.12.153, 154.27.66.194, 154.27.66.246, 172.66.41.15, 172.66.42.241, 188.114.98.229, 104.26.13.192, 172.67.72.186, 104.26.12.192, 188.114.98.229, and 188.114.99.229 ("Defendants' IP Addresses"), and from the destruction or concealment of other discoverable evidence of Defendants' misconduct available at those locations if Defendants receive advance notice of this action. Based on the evidence cited in Plaintiff's TRO Motion and accompanying declarations and exhibits, Plaintiff is likely to be able to prove that: (1) Defendants are engaged in activities that directly violate U.S. law and harm Plaintiff and the public, including Plaintiff's customers; (2) Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests; (3) Defendants are likely to delete or relocate the Fraudulent Enterprise infrastructure at issue in Plaintiff's TRO Motion and the harmful, malicious, and trademark-infringing products and services disseminated through Defendants' IP Addresses and the domains listed in **Appendix A** and to warn their associates engaged in such activities if informed of Plaintiff's action. Plaintiff's request for this emergency *ex parte* relief is not the result of any lack of diligence on Plaintiff's part, but instead is based upon the nature of Defendants'

unlawful conduct and the likelihood that notice of this action before the temporary restraining order sought by Plaintiff can be fully executed risks frustrating the relief sought. Therefore, in accordance with Fed. R. Civ. P. 65(b) and 15 U.S.C. § 1116(d), good cause and the interests of justice require that this Order be granted without prior notice to Defendants, and accordingly Plaintiff is relieved of the duty to provide Defendants with prior notice of Plaintiff's TRO Motion.

6. There is good cause to believe that Defendants have specifically directed their products and services to cybercriminals located in the Southern District of New York. There is also good cause to believe that, in carrying out their Fraudulent Enterprise, Defendants utilize an Internet Service Provider ("ISP") data center located in the Southern District of New York, as well as services provided by third parties located in the Southern District of New York, including payment processors and ISPs.

7. There is good cause to believe that Defendants have engaged in illegal activity using the data centers and/or Internet hosting providers identified in **Appendix A** to host the Hotmailbox and 1stCAPTCHA Websites, which Defendants use to operate and maintain their Fraudulent Enterprise.

8. There is good cause to believe that to immediately halt the injury caused by Defendants, data and evidence at Defendants' IP Addresses must be preserved and held in escrow pending further order of the court, Defendants' computing resources related to such IP addresses must then be disconnected from Defendants' infrastructure, Defendants must be prohibited from accessing Defendants' computer resources related to such IP addresses, and the data and evidence located on those computer resources must be secured and preserved.

9. 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 Hotmailbox and

1stCAPTCHA Websites, which are used to maintain and operate the Defendants' Fraudulent Enterprise. There is good cause to believe that to immediately halt the injury caused by Defendants, each of Defendants' current and prospective domains set forth in **Appendix A** must be immediately transferred to the control of Microsoft where they can be secured and thus made inaccessible to Defendants.

10. There is good cause to direct third-party Internet registries, registrars, data centers, and hosting providers with a presence in the United States to reasonably assist in the implementation of this Order and refrain from frustrating the implementation and purposes of this Order, pursuant to 28 U.S.C. § 1651(a) (the All Writs Act).

11. There is good cause to believe that if Defendants are provided advance notice of Plaintiff's TRO Motion or this Order, they would move the technological infrastructure supporting their Fraudulent Enterprise, permitting them to continue their misconduct, and would destroy, move, hide, conceal, or otherwise make inaccessible to the Court evidence of their misconduct, the Defendants' infrastructure's activity, the infringing materials, the instrumentalities used to make the infringing materials, and the records evidencing the manufacture and distributing of the infringing materials.

12. There is good cause to permit notice of the instant Order, notice of the Preliminary Injunction hearing, and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. The following means of service are authorized by law, satisfy Due Process, satisfy Fed. R. Civ. P. 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 Defendants at any physical addresses in the United States provided to the data centers and Internet hosting providers; (2) personal delivery through the

Hague Convention on Service Abroad or other treaties upon Defendants who provided contact information outside the United States; (3) transmission by e-mail, electronic messaging addresses, facsimile, and mail to the known email and messaging addresses of Defendants and to their contact information provided by Defendants to the domain registrars, registries, data centers, Internet hosting providers, and website providers who host the software code associated with Defendants' IP Addresses or the domains identified in **Appendix A**; and (4) publishing notice to the Defendants on a publicly available Internet website.

13. There is good cause to believe that the harm to Plaintiff of denying the relief requested in their TRO Motion outweighs any harm to any legitimate interests of Defendants and that there is no undue burden to any third party.

II. TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

IT IS THEREFORE ORDERED as follows:

14. Defendants, their representatives, and persons who are in active concert or participation with them are temporarily restrained and enjoined from: making or causing others to make false or misleading representations or omissions to obtain any access to any Microsoft accounts or services; using Internet "bots" to hack into Microsoft's security systems; using Internet "bots" to deceive Microsoft's security systems into believing that they are legitimate human consumers of Microsoft services; creating Microsoft Outlook email accounts in names of fictitious users or otherwise in violation of Microsoft's Services Agreement; selling those fraudulently-procured accounts to cybercriminals for use as tools in perpetrating a wide variety of online crimes;

and otherwise configuring, deploying, operating, or maintaining the Hotmailbox and 1stCAPTCHA Websites.

15. Defendants, their representatives and persons who are in active concert or participation with them are temporarily restrained and enjoined from infringing or otherwise misappropriating Plaintiff's registered trademarks, as set forth in **Appendix B**.

16. Defendants, their representatives and persons who are in active concert or participation with them are temporarily restrained and enjoined from using in connection with Defendants' activities any false or deceptive designation, advertisement, representation or description of Defendants' or of their representatives' activities, whether by symbols, words, designs or statements, which would damage or injure Plaintiff or give Defendants an unfair competitive advantage or result in deception of consumers.

IT IS FURTHER ORDERED, pursuant to the All Writs Act:

17. VeriSign, Inc., the manager and operator of the .com registry, shall change the registrar of record for 1stcaptcha.com, anycaptcha.com, and nonecaptcha.com in the .com registry to Plaintiff's registrar of choice, MarkMonitor, Inc., and that MarkMonitor, Inc., shall change the registrant of those domains to Plaintiff;

18. Identity Digital, (formerly Afilias Inc.), the manager and operator of the .me registry, shall change the registrar of record for hotmailbox.me in the .me registry to Plaintiff's registrar of choice, MarkMonitor, Inc., and that MarkMonitor, Inc., shall change the registrant of those domains to Plaintiff;

19. Cloudflare, Inc. and Cloud South, the service providers of 1stcaptcha.com, anycaptcha.com, nonecaptcha.com, and hotmailbox.me, shall (1) preserve the computers, servers, electronic data storage devices, software, data, or media assigned to or otherwise associated with

Defendants' IP Addresses and the domains listed in **Appendix A**; (2) preserve all evidence of any kind related to the content, data, software or accounts associated with such IP addresses, domains, and such computer hardware; (3) completely disable the computers, servers, electronic data storage devices, software, data, or media assigned to or otherwise associated with Defendants' use of Defendants' IP Addresses and the domains listed in **Appendix A** and make them inaccessible from any other computer on the Internet, any internal network, or in any other manner, to Defendants, Defendants' representatives, and all other persons, except as otherwise ordered herein; (4) completely, and until further order of this Court, suspend all services to Defendants or Defendants' representatives or resellers associated with Defendants' IP Addresses and the domains listed in **Appendix A**; and (5) isolate and disable any content and software associated with the Defendants hosted at Defendants' IP Addresses in a manner that does not impact any content or software not associated with Defendants' IP Addresses. In determining the method and mechanism to disable content and software associated with the Defendants, the relevant data centers and/or hosting providers shall reasonably confer with Plaintiff's counsel, Brian T. Markley, Cahill Gordon & Reindel LLP, 32 Old Slip, 19th Floor, New York, NY 10005, bmarkley@cahill.com, (Tel: 212.701.3230) and Samson A. Enzer, Cahill Gordon & Reindel LLP, 32 Old Slip, 19th Floor, New York, NY 10005, senzer@cahill.com, (Tel: 212.701.3125), to facilitate any follow-on action;

20. VeriSign, Inc., Identity Digital, Cloudflare, Inc., and Cloud South shall (1) refrain from providing any notice or warning to, or communicating in any way with Defendants or Defendants' representatives, and refrain from publicizing this Order until this Order is executed in full, except as necessary to communicate with hosting companies, data centers, the Plaintiff, or other ISPs to execute this order; (2) not enable, and shall take all reasonable steps to prevent, any circumvention of this order by Defendants or Defendants' representatives associated with

Defendants' IP Addresses or the domains listed in **Appendix A**, including but not limited to enabling, facilitating, and/or allowing Defendants or Defendants' representatives or resellers to rent, lease, purchase, or otherwise obtain another IP Address associated with your services; (3) preserve, retain, and produce to Plaintiff all documents and information sufficient to identify and contact Defendants and Defendants' representatives operating or controlling Defendants' IP Addresses, including any and all individual or entity names, mailing addresses, e-mail addresses, facsimile numbers, and telephone numbers or similar contact information, including but not limited to such contact information reflected in billing, usage, access and contact records and all records, documents and logs associated with Defendants' or Defendants' Representatives' use of or access to Defendants' IP Addresses or the domains listed in **Appendix A**; and (4) provide reasonable assistance in implementing the terms of this Order and take no action to frustrate the implementation of this Order.

IT IS FURTHER ORDERED that copies of this Order, notice of the Preliminary Injunction hearing and service of the Complaint may be served by any means authorized by law, including any one or combination of (1) personal delivery upon Defendants who provided to the data centers and Internet hosting providers contact information in the United States; (2) personal delivery through the Hague Convention on Service Abroad or other treaties upon Defendants who provided contact information outside the United States; (3) transmission by e-mail, electronic messaging addresses, facsimile, and mail to the known email and messaging addresses of Defendants and to their contact information provided by Defendants to the domain registrars, registries, data centers, Internet hosting providers, and website providers who host the software code associated with

Defendants' IP Addresses or the domains identified in **Appendix A**; and (4) publishing notice to the Defendants on a publicly available Internet website. Plaintiffs are directed to attempt service by all available such means, and to effect service by December 13, 2023.

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that the Defendants shall appear before the Hon. Paul A. Engelmayer on December 20, 2023, at 9 a.m. to show cause, if there is any, why the Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against the Defendants, enjoining them from the conduct temporarily restrained by the preceding provisions of this Order. in courtroom 1305 of the Thurgood Marshall United States Courthouse, 40 Centre St., NYC, NY 10007.

IT IS FURTHER ORDERED that Microsoft, on behalf of Plaintiff, shall post bond in the amount of $15,000 as cash to be paid into the Court registry.

IT IS FURTHER ORDERED that the Defendants shall file with the Court and serve on Plaintiff's counsel any answering affidavits, pleadings, motions, expert reports or declarations, and/or legal memoranda no later than ~~five (5)~~ two (2) days prior to the hearing on Plaintiff's request for a preliminary injunction, (i.e., by Monday, December 18, 2023, at 9 a.m.) Plaintiff may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on counsel for the Defendants no later than one (1) day prior to the preliminary injunction hearing in this matter. Provided that service shall be performed by personal or overnight delivery, facsimile or electronic mail, and documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m. (Eastern Standard Time) on the appropriate dates listed in this paragraph.

IT IS SO ORDERED

Entered this 7th day of December, 2023.

Paul A. Engelmayer

Hon. Paul A. Engelmayer

Exhibit 23

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Microsoft Corporation, a Washington State Corporation and Health-ISAC, Inc., a Florida non-profit organization,

Plaintiffs,

v.

Joshua Ogundipe,

and

John Does 1-4, Controlling A Computer Network and Thereby Injuring Plaintiffs and Their Customers,

Defendants.

Civil Action No. 25-cv-7111 (JSR)

FILED UNDER SEAL PURSUANT TO LOCAL RULE 5

[PROPOSED] *EX PARTE* TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION

Plaintiffs Microsoft Corporation ("Microsoft") and Health-ISAC, Inc. ("Health-ISAC") have filed a complaint for injunctive and other relief pursuant to: (1) the Computer Fraud and Abuse Act, 18 U.S.C. § 1030; (2) the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (3) Conspiracy to Violate the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(d); (4) the Electronic Communications Privacy Act, 18 U.S.C. § 2701; (5) False Designation of Origin under the Lanham Act, 15 U.S.C. § 1125(a); (6) Trademark Infringement under the Lanham Act, 15 U.S.C. § 1114 et seq.; (7) Trademark Dilution under the Lanham Act, 15 U.S.C. § 1125(c); (8) common law trespass to chattels; (9) conversion; and (10) unjust enrichment. Plaintiffs have moved *ex parte* for an emergency temporary restraining order and an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(a) (the Lanham Act), 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 Plaintiffs' *Ex Parte* Application for an Emergency Temporary Restraining Order and Order to Show Cause re Preliminary Injunction, the Court hereby makes the following findings of fact and conclusions of law:

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 Joshua Ogundipe and John Does 1-4 ("RaccoonO365Defendants") under the Computer Fraud and Abuse Act, 18 U.S.C. § 1030; (2) the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (3) Conspiracy to Violate the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(d); (4) The Electronic Communications Privacy Act, 18 U.S.C. § 2701; (5) False Designation of Origin under the Lanham Act, 15 U.S.C. § 1125(a); (6) Trademark Infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (7) Trademark Dilution under the Lanham Act, 15 U.S.C. § 1125(c); (8) common law trespass to chattels; (9) conversion; and (10) unjust enrichment.

2. There is good cause to believe that RaccoonO365 Defendants manufacture and sell illegal phishing kits deceptively branded as "RaccoonO365," designed to steal sensitive information and perpetrate business email compromise, ransomware, and financial fraud against Microsoft customers, Health-ISAC member organizations, and the public.

3. There is good cause to believe that RaccoonO365 Defendants target Microsoft's customers, Health-ISAC member organizations, and the general public. RaccoonO365 Defendants manufacture, sell, and facilitate the deployment of pre-packaged sets of tools

("phishing kits") that enable other cybercriminals to launch phishing attacks with relative ease. This business model of selling phishing kits and services for use by other cybercriminals is also referred to as "Phishing-as-a-Service" or "PhaaS."

4. There is good cause to believe that RaccoonO365 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 Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. § 1962, 1962(d)), the Electronic Communications Privacy Act (18 U.S.C. § 2701), the Lanham Act (15 U.S.C. §§ 1114, 1125), and constitute trespass to chattels, conversion, and unjust enrichment, and Plaintiffs, therefore, are likely to prevail on the merits of this action.

5. Microsoft owns the registered trademarks Microsoft®, Windows®, Microsoft 365®, Office365®, Office®, Microsoft Office®, SharePoint®, OneDrive®, Outlook®, and Azure® and numerous other trademarks used in connection with its services, software and products.

6. Health-ISAC is a membership organization comprised of public and private hospitals, ambulatory providers, health insurance payers, pharmaceutical/biotech manufacturers, laboratories, diagnostic, medical device manufacturers, medical schools, medical R&D organizations and other relevant health sector stakeholders. Health-ISAC represents the interests of its healthcare industry members in combating and defending against cyber threats that pose risk and loss to the industry.

7. There is good cause to believe that, unless RaccoonO365 Defendants are restrained and enjoined by Order of this Court, immediate and irreparable harm will result from RaccoonO365 Defendants' ongoing violations. The evidence set forth in Plaintiffs' Memorandum of Law in Support of *Ex Parte* Application for a Temporary Restraining Order and Order to Show

Cause Re Preliminary Injunction ("TRO Application"), and the accompanying declarations of Jason Lyons, Nick Monaco, and Errol Weiss, and supporting exhibits, demonstrate that Plaintiffs are likely to prevail on their claim that RaccoonO365 Defendants have engaged in violations of the foregoing law by:

a. Intentionally accessing the protected computers and computer networks of Microsoft and the customers of Microsoft, without authorization or exceeding authorization, in order to steal and exfiltrate information from those computers and computer networks;

b. Engaging in phishing operations to steal credentials from unsuspecting victims who are tricked into believing they are accessing legitimate websites;

c. Developing mechanisms to circumvent technological security protocols;

d. Intentionally accessing, without authorization, the email inboxes of Microsoft customers, to support credentials theft, information exfiltration, and subsequent end-user terminal attacks which include business email compromise, ransomware, and financial fraud;

e. Operating a Racketeering Enterprise by leveraging each other's work to: (i) create, distribute, and operate the phishing technical infrastructure, (ii) sell, distribute, and use RaccoonO365 branded phishing kits, (iii) to steal credentials from victims, and (iv) gain access to victim computers to further additional criminal activities like financial fraud, business email compromise, and deploying ransomware.

f. Infringing the protected marks of Plaintiffs for the purpose of causing confusion or mistake, whereby the victims of RaccoonO365 Defendants' attacks mistakenly associate such conduct with Plaintiffs.

8. There is good cause to believe that if such conduct continues, irreparable harm will occur to Microsoft, Microsoft's customers, Health-ISAC member organizations, and the public. There is good cause to believe that RaccoonO365 Defendants will continue to engage in such unlawful actions if not immediately restrained from doing so by Order of this Court.

9. 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, distribution, deployment, or use of the RaccoonO365-branded phishing kits by RaccoonO365 Defendants that is hosted at and

otherwise operates through the Internet domains listed in **Appendix A** to this Order, and from the destruction or concealment of other discoverable evidence of RaccoonO365 Defendants' misconduct available via those domains, including on victims targeted by RaccoonO365 Defendants, if they receive advance notice of this action. Based on the evidence cited in Plaintiffs' TRO Application and accompanying declarations and exhibits, Plaintiffs are likely to be able to prove that:

a. RaccoonO365 Defendants are engaged in activities that directly violate United States law and harm Microsoft, its customers, Health-ISAC member organizations, and the public;

b. RaccoonO365 Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests;

c. RaccoonO365 Defendants are likely to delete or to relocate Internet infrastructure in Plaintiffs' TRO Application and the harmful and malicious phishing kits disseminated through the Internet domains listed in **Appendix A**, thereby permitting them to continue their illegal acts; and

d. RaccoonO365 Defendants are likely to warn their associates engaged in such activities if informed of Plaintiffs' action.

10. Plaintiffs' request for this emergency *ex parte* relief is not the result of any lack of diligence on Plaintiffs' part, but instead, is based upon the nature of RaccoonO365 Defendants' unlawful conduct. Therefore, in accordance with Fed. R. Civ. P. 65(b), 15 U.S.C. § 1116(a) and 28 U.S.C. § 1651(a), good cause and the interest of justice require that this Order be **GRANTED** without prior notice to RaccoonO365 Defendants, and accordingly, Plaintiffs are relieved of the duty to provide RaccoonO365 Defendants with prior notice of Plaintiffs' motion and requested relief.

11. There is good cause to believe that RaccoonO365 Defendants have operated their phishing operations through certain instrumentalities – specifically through the website domains identified in **Appendix A.**

12. There is good cause to believe that RaccoonO365 Defendants have (i) engaged in illegal activity by using the domain registration facilities of the domain registries identified in **Appendix A**, to register the Internet domains identified in **Appendix A**, (ii) violated Plaintiffs' trademarks in order to: (iii) deceive Plaintiffs' customers to steal credentials for their email accounts, infiltrate the email systems, and have unfettered access to the contents of those email accounts for purposes of data exfiltration and the perpetration of further cybercrime.

13. There is good cause to believe that RaccoonO365 Defendants have engaged in illegal activity by using deceptive and fraudulent methods to steal computer users' account credentials and to use such credentials for illegal purposes.

14. There is good cause to believe that to immediately halt the injury caused by RaccoonO365 Defendants, they must be prohibited from accessing Plaintiffs' services without authorization, prohibited from the unlawful intrusion and data theft of the victims' email accounts, from using Plaintiffs' marks to perpetrate their unlawful and criminal scheme, and prevented from using the Internet domains identified in **Appendix A** to operate the Internet infrastructure to further its phishing operation.

15. There is good cause to believe that RaccoonO365 Defendants have engaged in illegal activity using the Internet domains identified in **Appendix A** to carry out their illegal phishing campaign. There is good cause to believe that to immediately halt the injury caused by RaccoonO365 Defendants, each of RaccoonO365 Defendants' domains set forth in **Appendix A** must be immediately transferred beyond the control of RaccoonO365 Defendants' criminal operation, thus making them inaccessible to RaccoonO365 Defendants.

16. There is good cause to believe that to immediately halt the injury, the execution of this Order should be carried out in a coordinated manner by Plaintiffs and by the domain registries

identified in **Appendix A** on such date and time within three (3) days of this Order as may be reasonably requested by Plaintiffs.

17. There is good cause to believe that RaccoonO365 Defendants have specifically directed their activities to the Southern District of New York.

18. There is good cause to believe that if RaccoonO365 Defendants are provided advance notice of Plaintiffs' TRO Application or this Order, they would move RaccoonO365 Defendants' infrastructure, allowing them to continue their misconduct and that they would destroy, move, hide, conceal, or otherwise make inaccessible to the Court evidence of their misconduct, RaccoonO365 Defendants' infrastructure's activity, the infringing materials, the instrumentalities used to make the infringing materials, and the records evidencing the manufacture and distributing of the infringing materials.

19. There is good cause to permit notice of the instant Order, notice of the Preliminary Injunction hearing and service of the Complaint by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. 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 RaccoonO365 Defendants of the instant order, the Preliminary Injunction hearing and of this action: (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by RaccoonO365 Defendants to RaccoonO365 Defendants' domain registrars and hosting companies and as agreed to by RaccoonO365 Defendants in their domain registration and/or hosting agreements, (2) publishing notice on a publicly available Internet website, (3) by personal delivery upon RaccoonO365 Defendants, to the extent RaccoonO365 Defendants provided accurate contact information in the U.S.; and (4) personal delivery through the Hague Convention on Service Abroad or similar treaties upon RaccoonO365

Defendants, to the extent RaccoonO365 Defendants provided accurate contact information in foreign countries that are signatories to such treaties.

20. There is good cause to believe that RaccoonO365 Defendants have no legitimate interest in carrying out their cybercriminal activities.

21. There is good cause to believe that the harm to Plaintiffs in denying the relief requested in their TRO Application outweighs any harm to any legitimate interest of RaccoonO365 Defendants (of which there is none) and that there is no undue burden to any third party.

TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

IT IS THEREFORE ORDERED that RaccoonO365 Defendants, their representatives, and persons who are in active concert or participation with RaccoonO365 Defendants and associated criminal operation, are temporarily restrained and enjoined from: (1) intentionally accessing the protected computers without authorization, (2) engaging in phishing campaigns, (3) stealing credentials from victims of phishing campaigns, (4) using the credentials to access the email inboxes of victims, (4) unlawfully accessing, viewing, exfiltrating, or otherwise stealing the contents of the compromised email inboxes, (5) capitalizing on the trademarks of Plaintiffs to fabricate legitimacy of the phishing campaign, (6) misappropriating that which rightfully belongs to Microsoft, its customers, or in which Microsoft or its customers have a proprietary interest; (7) destroying the goodwill and reputation of Plaintiffs, (8) impersonating Plaintiffs, their systems, products, and services, (9) configuring, deploying, operating, or otherwise participating in or facilitating infrastructure described in the TRO Application, including but not limited to the Internet domains set forth in **Appendix A** and through any other component or element of RaccoonO365 Defendants' illegal infrastructure at any location, including infrastructure

RaccoonO365 Defendants may attempt to rebuild, and (10) undertaking any similar activity that inflicts harm on Microsoft, Microsoft's customers, Health-ISAC member organizations, or the public.

IT IS FURTHER ORDERED that, RaccoonO365 Defendants, their representatives, and persons who are in active concert or participation with RaccoonO365 Defendants and associated criminal operation are temporarily restrained and enjoined from (1) using and infringing Plaintiffs' trademarks, including specifically Microsoft's registered trademarks Microsoft®, Windows®, Microsoft 365®, Office365®, Office®, Microsoft Office®, SharePoint®, OneDrive®, Outlook®, and Azure®, and/or other trademarks, trade names, service marks, or Internet domain addresses or names containing or infringing such trademarks, trade names or service marks, as set forth in **Appendix B** to this Order; (2) using in connection with RaccoonO365 Defendants' activities, products, or services any false or deceptive designation, representation or description of RaccoonO365 Defendants or of their activities, whether by symbols, words, designs or statements, which would damage or injure Plaintiffs or give RaccoonO365 Defendants an unfair competitive advantage or result in deception of consumers; or (3) acting in any other manner which suggests in any way that RaccoonO365 Defendants' activities, products or services come from or are somehow sponsored by or affiliated with Plaintiffs, or passing off RaccoonO365 Defendants' activities, products or services as Plaintiffs'.

IT IS FURTHER ORDERED that, with respect to any currently registered Internet domains set forth in **Appendix A** to this Order, the domain registries located in the United States shall take the following actions:

A. Within **three (3) business days** of receipt of this Order, shall unlock and change the registrar of record for the domain to MarkMonitor or such other registrar specified by

Microsoft. To the extent the registrar of record does not assist in changing the registrar of record for the domain under its control, the domain registry for the domain, or its administrators, including backend registry operators or administrators, within three (3) business days of receipt of this Order, shall change, or assist in changing, the registrar of record for the domain to MarkMonitor or such other registrar specified by Microsoft. The purpose of this paragraph is to ensure that Microsoft has control over the hosting and administration of the domain in its registrar account at MarkMonitor or such other registrar specified by Microsoft. Microsoft shall provide to the domain registry or registrar of record any requested information or account details necessary to effectuate the foregoing.

B. The domain registries shall be made active and shall resolve in the manner set forth in this order, or as otherwise specified by Microsoft, upon taking control of the domain.

C. The domain registries shall take reasonable steps to work with Microsoft to ensure the transfer of the domain and to ensure that RaccoonO365 Defendants cannot use it to make unauthorized access to computers, infect computers, compromise computers and computer networks, monitor the owners and users of computers and computer networks, steal information from them, or engage in any other activities prohibited by this Order;

D. 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

Name Server Information: ns2246a.microsoftinternetsafety.net, ns2246b.microsoftinternetsafety.net

E. Prevent transfer, modification or deletion of the domain by RaccoonO365 Defendants and prevent transfer or control of the domain to the account of any party other than Microsoft;

F. Take all steps required to propagate to the foregoing changes through the Domain Name System ("DNS"), including domain registrars.

2. With regard to the domain registries and registrars located outside of the United States, the Court respectfully requests, but does not order, that they take the same or substantially similar actions as the foregoing so as to neutralize the threat posed by RaccoonO365 Defendants to the citizens of all countries, including their own. RaccoonO365 Defendants, their representatives and persons who are in active concert or participation with them are ordered to consent to whatever actions are necessary for non-United States registries, registrars and registrants or hosts, set forth in **Appendix A** to this Order, to effectuate this request.

IT IS FURTHER ORDERED that copies of this Order, notice of the Preliminary Injunction hearing and service of the Complaint 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 RaccoonO365 Defendants to their domain registrars and/or hosting companies and as agreed to by RaccoonO365 Defendants in the domain registration and/or hosting agreements, (2) publishing notice on a publicly available Internet website, (3) by personal delivery upon Defendants, to the extent RaccoonO365 Defendants provided accurate contact information in the U.S.; and (4) personal delivery through the Hague Convention on Service Abroad or similar treaties upon RaccoonO365 Defendants, to the extent they provided accurate contact information in foreign countries that are signatories to such treaties.

by no later than September 6, 2025

by no later than September 6, 2025

by no later than September 10, 2025

as soon as reasonably convenient

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b) that RaccoonO365 Defendants shall appear before this Court in Courtroom 14B at the US Courthouse at 500 Pearl St, New York, NY on September 11, 2025 at 4:00 a.m. (p.m.) to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against RaccoonO365 Defendants, enjoining RaccoonO365 Defendants from the conduct temporarily restrained by the preceding provisions of this Order.

IT IS FURTHER ORDERED that Microsoft, on behalf of Plaintiffs, shall post bond in the amount of $ 10,000 to be paid into the Court registry by no later than 6:00 pm on September 2, 2025.

IT IS FURTHER ORDERED that RaccoonO365 Defendants shall file with the Court and serve on Plaintiffs' counsel any answering affidavits, pleadings, motions, expert reports or declarations and/or legal memoranda no later than two (2) days prior to the hearing on Plaintiffs' request for a preliminary injunction. Plaintiffs may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on counsel for RaccoonO365 Defendants no later than one (1) day prior to the preliminary injunction hearing in this matter. Provided that service shall be performed by personal or overnight delivery, facsimile or electronic mail, and documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m. (Eastern Standard Time) on the appropriate dates listed in this paragraph.

IT IS SO ORDERED

Entered this 27 day of August, 2025 at 6:00 pm

Jed S. Rakoff

UNITED STATES DISTRICT JUDGE
Hon. Jed S. Rakoff