

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,
HEALTH-ISAC, INC., a Florida
corporation,

Plaintiffs,

v.

DENIS MALIKOV, and
JOHN DOES 1-7,

Defendants.

Civil Action No: 1:22-cv-1328-MHC

FILED UNDER SEAL

ORDER GRANTING PLAINTIFFS' MOTION
FOR ISSUANCE OF SUMMONS AND AUTHORIZATION
TO SERVE PROCESS ON DEFENDANTS BY
ELECTRONIC MEANS PURSUANT TO FED. R. CIV. P. 4(f)(3)

THIS CAUSE has come before the Court on Plaintiffs' *Ex Parte* Motion for Authorization to Serve Process on Defendants by Electronic Means Pursuant to FED. R. CIV. P. 4(f)(3) (the "Motion"). The Court, having considered the Motion, the arguments therein, and for good cause shown, finds as follows:

I. APPLICABLE LEGAL STANDARDS

Pursuant to Fed. R. Civ. P. 4(h), corporations may be served outside the United States in any manner prescribed by Rule 4(f) for serving an individual,

except personal service. Rule 4(f), in turn, provides that an individual outside the United States may be served in one of the following ways:

(1) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

(A) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;

(B) as the foreign authority directs in response to a letter rogatory or letter of request; or

(C) unless prohibited by the foreign country's law, by:
[...] (ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or

(3) by other means not prohibited by international agreement, as the court orders.

Fed. R. Civ. P. 4(f).

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Defendants Denis Malikov and John Does 1-7 (“Defendants”) are accused of proliferating and operating “ZLoader,” which is allegedly a malicious financial malware and ransomware software distributed via the internet. Defendant Malikov is believed to be located in Simferopol, Crimea. The location of Doe Defendants 1-7 is unknown. Proliferators and operators of ransomware and malware prefer to

stay anonymous to avoid being held accountable for their malfeasance.

Defendants do not disclose their legal name, physical address, or other physical contact information if they can avoid doing so. When Defendants do provide a physical address, these addresses are nearly always inaccurate and/or incomplete. Defendants purposefully communicate and transact business exclusively by electronic means. Defendants conceal their identities and physical locations in an effort to avoid being served, thereby attempting to avoid liability for their conduct. The only current means of communicating with Defendants is by electronic mail.

Because Defendants' physical addresses are not known or not ascertainable, Plaintiffs are not required to serve Defendants pursuant to the Hague Service Convention. Even if the Hague Service Convention did apply, Russia has suspended all cooperation with the United States under the Hague Service Convention. *See* <https://travel.state.gov/content/travel/en/legal/Judicial-Assistance-Country-Information/RussianFederation.html> (section concerning service of process). Russia also has not specifically objected to service by electronic means in connection with its objection to Article 10 of the Hague Service Convention.

In light of the foregoing and consistent with the findings of numerous other courts, this Court find that service on Defendants by e-mail is reasonably calculated under the circumstances to apprise Defendants of the pendency of this

action, to afford them a fair opportunity to appear and be heard, and otherwise comports with Due Process. See *Richemont Int'l SA v. Individuals, P'ships & Unincorporated Ass'ns identified on Schedule A, No. 20-cv-61367*, 2020 U.S. Dist. LEXIS 210762, at *3 (S.D. Fla. July 10, 2020) (authoring service by email where defendants addresses were unknown, but where it was shown that defendants were likely to receive notice by email, for defendants residing in Russia, China, Australia, India, Japan, Korea, Morocco, Sri Lanka, Ukraine, Indonesia, and Singapore); see also *In re Int'l Telemedia Associates, Inc.*, 245 B.R. 713 (Bankr. N.D. Ga. 2000); *Rio Props. Inc., v. Rio Int'l Interlink*, 284 F.3d 1007, 1014 (9th Cir. 2002); *National Association for Stock Car Auto Racing, Inc. v. Does*, 584 F. Supp.2d 824, 826 (W.D.N.C. 2008); *Popular Enters., LLC v. Webcom Media Group, Inc.*, 225 F.R.D. 560, 562 (E.D. Tenn. 2004).

III. CONCLUSION

Accordingly, Plaintiffs' Motion is here by **GRANTED**, and the Court

ORDERS as follows:

1. The Clerk is directed to issue summons for Denis Malikov and John Does 1-7 with their email addresses listed and without the need for a physical address to be listed on the summons; and
2. Pursuant to Fed. R. Civ. P. 4(f)(3), Plaintiffs are authorized to serve the Summonses, Complaint, Motions, Orders, and all other pleadings and papers on Defendants or their counsel (if any appear) by electronic

means, including by email to addresses known to be associated with Defendants or provided by Defendants themselves.

3. Unless otherwise ordered by the Court, Plaintiffs may affect service and provide notice to Defendants after execution of the Temporary Restraining Order sought by Plaintiffs.

SO ORDERED this 8th day of April, 2022.



HON. MARK H. COHEN
UNITED STATES DISTRICT JUDGE