

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

MICROSOFT CORP.,

Plaintiff,

v.

JOHN DOES 1-2, CONTROLLING COMPUTER
BOTNETS AND THEREBY INJURING
PLAINTIFF AND ITS CUSTOMERS,

Defendants.

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ MAR - 5 2020 ★

BROOKLYN OFFICE

Case No.

FILED UNDER SEAL

CV 20 - 1217

DeARCY HALL, J.

REYES, M.J.

**DECLARATION OF GABRIEL M. RAMSEY IN SUPPORT OF MICROSOFT'S
EMERGENCY MOTION TO TEMPORARILY FILE CASE UNDER SEAL**

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

2. This case arises out of the harmful and malicious Internet activities of Defendants John Does 1 and 2 (collectively "Defendants"). I am informed and on that basis believe that Defendants are sophisticated cybercriminals who specialize in stealing sensitive information from computer networks. I am informed and on that basis believe that Defendants make and have continued to make unauthorized access to Microsoft's software, hack into a target's computer network, and in particular Microsoft's software, install malware on those networks and computers, giving them long-term and surreptitious access to those networks.

3. I am informed and believe that, for reasons explained in detail in the declaration of Jason B. Lyons in Support of Emergency *Ex Parte* Temporary Restraining Order and Order to Show Cause re Preliminary Injunction, filed contemporaneously herewith, permitting Defendants to learn of these proceedings prior to execution of the temporary ex parte relief sought in Microsoft's Motion For—in particular the portion to disable the domains in Appendices A and B to that Order—would preclude Microsoft's ability to obtain effective relief against Defendants. This is because Defendants are highly sophisticated cybercriminals capable of quickly adapting the command and control infrastructure used to perpetrate Defendants' unlawful conduct in order to overcome Microsoft's remediation efforts and can and have done so repeatedly.

4. I am informed and believe that, absent temporarily sealing this action, there is a substantial risk that Defendants will learn of these proceedings before the temporary ex parte relief to disable the domains in Appendices A and B can be effected and will take steps to evade the relief sought.

5. Over the past nine years, I, on behalf of Microsoft, have been involved with prosecuting fifteen similar cases. These cases all involved similar litigation strategies and claims and have involved John Doe defendants conducting illegal activities through identifiable but movable online command and control infrastructures similar to that used by Defendants here. In several of those cases, I personally observed that defendants also immediately took action to attempt to defy and evade the court's order as soon as they detected legal action being taken against them.

6. Thus, given Defendants' defiance of this Court's injunctive orders and my past experience with cases with very similar circumstances as those here, it is my belief that even

disclosing that Microsoft has initiated this action to disable the domains at Appendices A and B gives Defendants the opportunity to adapt the command and control infrastructure so that they can continue to perpetrate their unlawful conduct.

For this reason, Microsoft respectfully requests that all documents filed in connection with the this action be temporarily sealed.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge. Executed on this 4th day of March 2020, in New York, New York.



Gabriel M. Ramsey