

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

MICROSOFT CORPORATION, a Washington Corporation, FORTRA, LLC, a Delaware Limited Liability Company, and HEALTH-ISAC, INC., a Florida Corporation,

Plaintiffs,

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.

FILED UNDER SEAL

DECLARATION OF GARYLENE JAVIER IN SUPPORT OF PLAINTIFFS' EMERGENCY MOTION TO TEMPORARILY FILE CASE UNDER SEAL

1. I am an attorney admitted to practice in the District of Columbia. I am an associate at the law firm of Crowell & Moring LLP ("Crowell"), counsel of record for the Plaintiffs in this matter, Microsoft Corporation ("Microsoft"), Fortra LLC, and Health-ISAC, Inc. ("H-ISAC"). I make this declaration in support of Plaintiffs' Motion for a Protective Order Temporarily Sealing Documents. I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, could and would testify to the following under oath.

2. This case arises out of the harmful and malicious Internet activities of Defendants John Does 1-16 (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 Plaintiffs' services and software, hack into a target's

computer network, and in particular infringe and fraudulently use Plaintiffs' intellectual property to infiltrate Plaintiffs' software, install malware on those networks giving them long-term and surreptitious access to those networks, and then locate and exfiltrate sensitive information, including bank account information, from them.

3. I am informed and believe that, for reasons explained in detail in the declaration of Jason 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 Plaintiffs' *Ex Parte* Motion for an Emergency Temporary Restraining Order and Order to Show Cause re Preliminary Injunction—in particular the portion to disable the IP addresses and domains in **Appendix A** to the Complaint—would preclude Plaintiffs' 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 Plaintiffs' remediation efforts.

4. I am informed and believe that, absent a protective order, there is a substantial risk that Defendants will learn of these proceedings before the temporary *ex parte* relief to disable the IP addresses and domains in **Appendix A** to the Complaint 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 many similar cases. These cases all involved similar litigation strategies and claims and have involved John Doe defendants conducting illegal activities through identifiable but movable online command and control infrastructures similar to that used by Defendants here. In several of those cases, I personally observed that several defendants there immediately acted to

attempt to defy and evade the court's order as soon as they detected legal action being taken against them.

6. Thus, given the foregoing experiences in cases with very similar circumstances and similarly situated defendants as those here, it is my belief that even disclosing that Plaintiffs have initiated this action to disable the IP addresses and domains at **Appendix A** to the Complaint gives Defendants the opportunity to adapt the command and control infrastructure so that they can continue to perpetrate their unlawful conduct. For this reason, Plaintiffs respectfully request that all documents filed in this case 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 30th day of March, 2023 in New York, New York.



Garylene Javier