



action, the Bamital botnet's ability to grow and continue to cause damage.

**A. John Doe 12**

Microsoft engaged with John Doe 12 and John Doe 12's counsel and has entered into a settlement agreement. Microsoft has filed a voluntary dismissal of John Doe 12.

**B. John Does 17 and 18**

Microsoft has filed a voluntary dismissal of John Doe 17 and 18. After observing technical information relating to the domains associated with these Defendants, it has been determined that these Defendants are the same person as other John Does named in the action.

**C. No Registrants Of Domains Or IP Addresses Have Requested That The Domains Or IP Addresses Be Reinstated**

Despite being provided notice by email and publication, no Defendants have requested reinstatement of the domains or IP addresses. Other than John Doe 12, no Defendants have responded to email communications sent by Microsoft's counsel providing the papers, information about the case and information about the February 13, 2013 preliminary injunction hearing. Similarly, there have been no communications from Defendants through any of the domain registrars, registries or hosting companies.

**D. Notice To Defendants**

**Publication:** On February 6, 2013, Microsoft provided notice of the preliminary injunction and served the pleadings and orders in this case, including English, Russian, Romanian and Korean translated documents, through the publicly available website [www.noticeofpleadings.com](http://www.noticeofpleadings.com). Further, the Court's order and notice regarding this action have been widely reported in international media, including news media in the Russian Federation and elsewhere. Given the obvious impact of the Court's order on the Bamital botnet and the domains and IP addresses supporting the botnet, and the widespread publication regarding these

proceedings in the Russian Federation and elsewhere, the Defendants are very likely to have notice of these proceedings and the action.

**Notice And Service By Email:** Microsoft has provided notice of the preliminary injunction hearing and service of the complaint by email to the Defendants. Between February 7, 2013 and February 8, 2013, a series of emails were sent to the email addresses associated with the Bamital botnet domains being misused by the Defendants. The emails provided notice of the February 13, 2013 preliminary injunction hearing and this action and service of the Complaint. The emails providing notice and service were successfully sent to each of the email addresses associated with the botnet domains. The recipients have not responded to the notice. Microsoft's counsel has conducted additional research but has not discovered any other information enabling further contact information associated with the domains, beyond the email addresses and addresses found in the public "WHOIS" database.

**Notice And Personal Service To Defendants By International Delivery Service:** On February 7 and February 8, 2013, copies of all pleadings and orders in this action were delivered to the Defendants, via United Parcel Service, at their mailing addresses in the Russian Federation, United Kingdom and Romania set forth in the domain WHOIS information, and were delivered to the attention of Defendants care of third-party domain service providers in the United States, South Korea and Australia. Each of the mailing addresses in the Russian Federation, United Kingdom and Romania provided by Defendants in their domain WHOIS information was falsified by Defendants, and the documents were returned as undeliverable by the United Parcel Service.

**Notice And Personal Service To Defendants Pursuant To The Hague Convention:** Microsoft has prepared pleadings and orders in this action to be delivered to the Central

Authorities in the United Kingdom and Romania once sufficient personal identifying and physical address information is gathered through the Doe discovery process to comply with the Hague Convention. The Russian Federation has currently suspended adherence to the Hague Convention. Once sufficient personal identifying and physical address information is obtained to comply with the Hague Convention, Microsoft will request that the Central Authorities in the United Kingdom and Romania personally serve the documents on the Defendants at the physical address information that are obtained. It is believed that it may take 3 and 6 months for the Central Authorities to attempt personal service, once the materials are provided to the Central Authorities.

**Notice And Service By Facsimile:** Between February 7 and 8, 2013 several attempts were made to provide notice and service to the facsimile numbers associated with the botnet domains. None of the facsimile numbers provided by the Defendant domain registrants are in operation.

**E. Limited Discovery**

Microsoft wishes to address with the Court at the preliminary injunction hearing the possibility of a limited, expedited discovery period directed at further specifically identifying the John Doe defendants behind the Bamital botnet. In particular, Microsoft would like to discuss the following limited discovery: a 120-day period to serve subpoenas to third party hosting companies, registrars and other third parties who may have information concerning the specific, true identities and contact information of the John Doe Defendants.

Dated: February 12, 2013

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

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**Certificate of Service**

I hereby certify that on the 12<sup>th</sup> day of February, 2013, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system. Copies of the foregoing were also served on the defendants listed below by electronic mail:

**John Doe 1:**

Artem Trusov  
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**John Doe 2:**

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taxi.1979@mail.ru

**John Doe 3:**

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**John Doe 5:**

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**John Doe 6:**

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**John Doe 7:**

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**John Doe 8:**

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**John Doe 9:**

c/o

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**John Doe 10:**

Peter Venedito

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**John Doe 11:**

c/o

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globalcloudcontroller.com@monikerprivacy.net

**John Doe 13:**

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**John Doe 14:**

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**John Doe 15:**

c/o

Above.com Domain Privacy

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ffcloudcontrol.info@privacy.above.com

**John Doe 16:**

c/o  
InTrust Domain Names  
sales@intrustdomains.com

Dated: February 12, 2013

Respectfully submitted,

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