

critical to Strontium's operation. The most effective way of disabling Strontium's operation is to disable the Internet domains used by John Does 1-2 ("Defendants").

BACKGROUND

On August 5, 2016, the Court granted an Emergency *Ex Parte* Temporary Restraining Order ("TRO") tailored to halt the illegal activities and the growth of the Strontium operation. The Strontium operation causes great damage to Microsoft and its customers by making unauthorized access to Microsoft's customer accounts hosted on Microsoft's servers, by compromising the networks of Microsoft's customers, and stealing their sensitive data. It causes great damage to Microsoft by damaging the products that Microsoft licenses to its customers, and by exploiting Microsoft's famous and highly-regarded trademarks, products, and services to disguise and further its criminal conduct, thereby causing Microsoft irreparable reputational and other harms for which no monetary recourse is available. Strontium conducts its operations using an online command and control infrastructure consisting of a set of websites and domains.

This Court's TRO ordered that the Strontium-controlled Internet domains, listed in the Appendix A to the TRO, be redirected to secure servers by changing the authoritative name servers. Microsoft was able execute the TRO and cut off communications between compromised computers and the Internet domains listed in Appendix A to the TRO. On August 12, 2016, the Court converted the TRO into a Preliminary Injunction.

In issuing the Preliminary Injunction Order, the Court found that Defendants are likely to delete or relocate the command and control infrastructure at issue in Microsoft's TRO Application. Dkt. No. 33. Since the execution of the TRO, Defendants have repaired Strontium's command and control infrastructure by adding new Internet domains. In making these changes, Defendants attempt to continue their illegal activity.

ARGUMENT

Based on the Court's Temporary Restraining Order and Preliminary Injunction Order, Microsoft was able to cut off communications between computers and networks compromised by the Defendants and certain Internet domains used by Defendants as command and control

infrastructure. Declaration of Jason L. Norton In Support Of Microsoft's Motion To Amend Preliminary Injunction Order ("Norton Decl.") ¶ 4. However, it is not uncommon for individuals such as Defendants to try to reestablish new command and control domains and other command and control infrastructure so that they can continue their illegal activities. *Id.* ¶ 6. Following the execution of the TRO—and in defiance of that TRO—Defendants started to rebuild their command and control infrastructure by adding new or previously unidentified Internet domains to Strontium's command and control infrastructure. *Id.* ¶ 5. Defendants are currently using these domains to launch fresh attacks on victim networks. *Id.* Strontium command and control domains misuse Microsoft's trademarks and brand names in the domain name in order to give them an air of legitimacy and disguise their illegal purpose. *Id.* ¶ 7.

In fact, *after* Microsoft executed the Court's TRO, Strontium sent phishing e-mails to intended victims exploiting the Microsoft trademarks. *Id.* ¶ 8. By clicking the links in the email, the intended victims will be connected to the new or previously unidentified Internet domains that are now part of Strontium's command and control infrastructure. *Id.* ¶ 9. Microsoft now seeks to amend the Preliminary Injunction Order by replacing the original Appendix A with the Amended Appendix A that includes the newly active Strontium-controlled Internet domains. A list of these domains is provided in the Amended Appendix A to the Proposed Order filed concurrently with this brief. The domains added to Appendix A are contained on page 6 under the heading "August 26, 2016 Amendment."

Thus, pursuant to Federal Rule of Civil Procedure 65, disabling that infrastructure is necessary to prevent harm to Microsoft and its customers. In addition, such supplemental relief has been granted in prior cases when defendants began using new domains after the court granted a temporary restraining order. *See Microsoft Corp. v. John Does 1-8*, Case No. 1:14-cv-00811-LOG-TCB (E.D. Va. 2014) (O'Grady, J.) at Dkt. No. 32 (disabling the "Shylock" botnet).

CONCLUSION

For the reasons set forth in the TRO Application and in this brief, and based on the evidence submitted with the TRO Application and the Norton Declaration submitted with this

brief, Microsoft respectfully requests that the Court grant Microsoft's Motion To Amend Preliminary Injunction Order. Microsoft further respectfully requests that in all other aspects, the Preliminary Injunction Order remain unchanged.

Dated: August 26, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of August, 2016, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system. Copies of the forgoing were also served on the defendants listed below by electronic mail:

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