IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

MICROSOFT CORPORATION, a Washington corporation,

Plaintiff,

v.

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

Defendants.

Civil Action No: 1:19cv1582 LO/JFA

FILED UNDER SEAL PURSUANT TO LOCAL CIVIL RULE 5

COMPLAINT

Plaintiff MICROSOFT CORP. ("Microsoft") hereby complains and alleges that JOHN DOES 1-2 (collectively "Defendants"), have established an Internet-based cyber-theft operation referred to as "Thallium." Through Thallium, Defendants are engaged in breaking into the Microsoft accounts and computer networks of Microsoft's customers and stealing highly sensitive information. To manage and direct Thallium, Defendants have established and operate a network of websites, domains, and computers on the Internet, which they use to target their victims, compromise their online accounts, infect their computing devices, compromise the security of their networks, and steal sensitive information from them. Internet domains used by Defendants to operate Thallium are set forth at **Appendix A** to this Complaint and are referred to as the "Command and Control Infrastructure." Microsoft alleges as follows:

NATURE OF THE ACTION

1. This is an action based upon: (1) the Computer Fraud and Abuse Act, 18 U.S.C. §

1030; (2) Electronic Communications Privacy Act, 18 U.S.C. § 2701; (3) Trademark Infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (4) False Designation of Origin under the Lanham Act, 15 U.S.C. § 1125(a); (5) Trademark Dilution under the Lanham Act, 15 U.S.C. § 1125(c); (6) Cybersquatting under the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d); (7) Common Law Trespass to Chattels; (8) Unjust Enrichment; (9) Conversion; and (10) Intentional Interference with Contractual Relationships. Plaintiff seeks injunctive and other equitable relief and damages against Defendants who operate and control a network of computers known as the Thallium Command and Control Infrastructure. Defendants, through their illegal activities involving Thallium, have caused and continue to cause irreparable injury to Microsoft and its customers, and the public.

PARTIES

2. Plaintiff Microsoft is a corporation duly organized and existing under the laws of the State of Washington, having its headquarters and principal place of business in Redmond, Washington.

3. On information and belief, John Doe 1 controls the Thallium Command and Control Infrastructure in furtherance of conduct designed to cause harm to Microsoft, its customers, and the public. Microsoft is informed and believes and thereupon alleges that John Doe 1 can likely be contacted directly or through third-parties using the information set forth in **Appendix A**.

4. On information and belief, John Doe 2 controls the Thallium Command and Control Infrastructure in furtherance of conduct designed to cause harm to Microsoft, its customers, and the public. Microsoft is informed and believes and thereupon alleges that John Doe 2 can likely be contacted directly or through third-parties using the information set forth in **Appendix A**.

5. Third parties VeriSign, Inc., VeriSign Information Services, Inc., and VeriSign Global Registry Services (collectively, "VeriSign") are the domain name registries that oversee the registration of all domain names ending in ".com" and ".net" and are located at 12061 Bluemont Way, Reston, Virginia 20190.

6. Third party Public Interest Registry is the domain name registry that oversees the registration of all domain names ending in ".org," and is located at 1775 Wiehle Avenue, Suite 100, Reston, Virginia 20190.

7. Third party .Club Domains, LLC is the domain name registry that oversees the registration of all domain names ending in ".club," and is located at 100 SE 3rd Ave. Suite 1310, Fort Lauderdale, Florida 33394.

8. Third party Afilias Limited c/o Afilias USA, Inc. is the domain name registry that oversees the registration of all domain names ending in ".info" and ".mobi," and is located at 300 Welsh Road, Building 3, Suite 105, Horsham, Pennsylvania 19044.

9. Third parties Binky Moon, LLC and Donuts Inc. (collectively "Donuts") are the domain name registries that oversee the registration of all domain names ending in ".cash," and are located at 5808 Lake Washington Blvd NE, Suite 300, Kirkland, Washington 98033.

10. Third party Neustar, Inc. is the domain name registry backend that oversees the registration of all domains ending in ".biz." Neustar, Inc. is located at 21575 Ridgetop Circle, Sterling, Virginia 20166.

11. Set forth in **Appendix A** are the identities of and contact information for third party domain registries that control the domains used by Defendants.

12. On information and belief, John Does 1-2 jointly own, rent, lease, or otherwise have dominion over the Thallium Command and Control Infrastructure and related infrastructure and through those control and operate Thallium. Microsoft will amend this complaint to allege

the Doe Defendants' true names and capacities when ascertained. Microsoft will exercise due diligence to determine Doe Defendants' true names, capacities, and contact information, and to effect service upon those Doe Defendants.

13. Microsoft is informed and believes and thereupon alleges that each of the fictitiously named Doe Defendants is responsible in some manner for the occurrences herein alleged, and that Microsoft's injuries as herein alleged were proximately caused by such Defendants.

14. On information and belief, the actions and omissions alleged herein to have been undertaken by John Does 1-2 were actions that Defendants, and each of them, authorized, controlled, directed, or had the ability to authorize, control or direct, and/or were actions and omissions each Defendant assisted, participated in, or otherwise encouraged, and are actions for which each Defendant is liable. Each Defendant aided and abetted the actions of Defendants set forth below, in that each Defendant had knowledge of those actions and omissions, provided assistance and benefited from those actions and omissions, in whole or in part. Each Defendant was the agent of each of the remaining Defendants, and in doing the things hereinafter alleged, was acting within the course and scope of such agency and with the permission and consent of other Defendants.

JURISDICTION AND VENUE

15. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because this action arises out of Defendants' violation of The Computer Fraud and Abuse Act (18 U.S.C. § 1030), Electronic Communications Privacy Act (18 U.S.C. § 2701), the Lanham Act (15 U.S.C. §§ 1114, 1125), and the Anticybersquatting Consumer Protection Act (15 U.S.C. § 1125(d)). The Court also has subject matter jurisdiction over Microsoft's claims for trespass to chattels, conversion, unjust enrichment, and intentional interference with contractual

relationships pursuant to 28 U.S.C. § 1367.

16. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to Microsoft's claims has occurred in this judicial district, because a substantial part of the property that is the subject of Microsoft's claims is situated in this judicial district, and because a substantial part of the harm caused by Defendants has occurred in this judicial district. Defendants maintain Internet domains registered in Virginia, engage in other conduct availing themselves of the privilege of conducting business in Virginia, and utilize instrumentalities located in Virginia and the Eastern District of Virginia to carry out acts alleged herein.

17. Defendants have affirmatively directed actions at Virginia and the Eastern District of Virginia by directing their activities, including theft of information, at individual users located in the Eastern District of Virginia and directing malicious computer code at the computers of individual users located in Virginia and the Eastern District of Virginia and attempting to and in fact infecting those user computers with the malicious computer code and instructions to Microsoft's Windows operating system, the computing devices and high-value computer networks of individual users and entities located in Virginia and the Eastern District of Virginia, in order to compromise the security of those systems and to steal sensitive information from those networks, all to the grievous harm and injury of Microsoft, its customers and licensees, and the public.

18. Defendants maintain certain of the Thallium Command and Control Infrastructure registered through VeriSign, Public Interest Registry and Neustar which reside in the Eastern District of Virginia. Defendants use these domains to communicate with and control the Thallium-infected computers that Defendants communicate with, control, steal from, update, and maintain in this judicial district. Defendants have undertaken the acts alleged herein with

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