

FILED

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

2014 JUN 27 A 9:52

CLERK U.S. DISTRICT COURT
ALEXANDRIA, VIRGINIA

MICROSOFT CORPORATION, a)
Washington corporation, and FS-ISAC, INC.,)
a Delaware corporation,)

Plaintiffs,)

v.)

JOHN DOES 1-8, CONTROLLING A)
COMPUTER BOTNET THEREBY)
INJURING PLAINTIFFS, AND THEIR)
CUSTOMERS AND MEMBERS,)

Defendants.)

Civil Action No:

1:14 CV 011
LOG/TCB

FILED UNDER SEAL

**APPLICATION OF MICROSOFT CORPORATION AND FS-ISAC, INC. FOR AN
EMERGENCY *EX PARTE* TEMPORARY RESTRAINING ORDER, SEIZURE ORDER,
AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION**

Plaintiffs Microsoft Corp. and Financial Services—Information Sharing and Analysis Center, Inc. (FS-ISAC, Inc.) (collectively “Plaintiffs”), by counsel, pursuant to Federal Rule of Civil Procedure 65(b) and (c), the Computer Fraud and Abuse Act (18 U.S.C. § 1030), the Electronic Communications Privacy Act (18 U.S.C. § 2701), the Lanham Act (15 U.S.C. §§ 1114, 1116, & 1125) and the common law, and the All Writs Act, (28 U.S.C. § 1651), respectfully move the Court for an emergency *ex parte* temporary restraining order, and order to show cause why a preliminary injunction should not issue.

As discussed in Plaintiffs’ brief in support of this Application, Plaintiffs request an order disabling a number of Internet Domains and Internet Protocol (IP) addresses and seizing the command and control servers and software by which Defendants control a harmful “botnet” known as the “Shylock botnet.” Botnets are computer networks made up of tens of thousands

and sometimes millions of user computers infected with malicious software that puts the infected computers under the control of individuals and organizations who use them for illegal activities, including "click-fraud," the theft of end-user's personal identifying information, and infringing companies' trademarks. The requested relief is necessary to halt the growth of the Shylock botnets that are causing irreparable injury to Plaintiffs' customers, Plaintiffs' member institution and the public. As discussed in Plaintiffs' brief in support of this Application, *ex parte* relief is essential because if Defendants are given prior notice, they will be able to destroy, move, conceal, or otherwise make inaccessible the facilities through which Defendants direct the harmful Shylock botnet. Therefore, Plaintiffs respectfully request that the Court grant this Application.

Plaintiffs' Application is based on: this Application; Plaintiffs' Brief In Support Of This Application; the Declarations of Vishant Patel, Edgardo Diaz, Jr., and Jacob M. Heath in support of Plaintiffs' Application and the exhibits attached hereto; the pleadings on file in this action; and on such argument and evidence as may be presented at the hearing on this Application.

Plaintiffs further respectfully requests oral argument on this motion to be set for June 27, 2014 or soon thereafter.

Dated: June 27, 2014

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP



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