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December 18, 2023

The Honorable Paul A. Engelmayer
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Courtroom 1305
New York, NY 10007

Re: *Microsoft Corporation v. Duong Dinh Tu et al.*, Case No. 23-cv-10685

Dear Judge Engelmayer:

In advance of the Order to Show Cause hearing scheduled for December 20, 2023, at 9:00 AM, Plaintiff Microsoft Corporation (“Microsoft”) writes to (1) update the Court regarding the status of service to Defendants, and (2) respectfully request that Your Honor convert the Emergency *Ex Parte* Temporary Restraining Order entered on December 7, 2023 (“TRO”) into an Order for Preliminary Injunction. A Proposed Order for Preliminary Injunction is attached hereto as Exhibit 1.

On December 7, 2023, Microsoft filed the above-captioned case—seeking injunctive and other relief for violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962, the Lanham Act, 15 U.S.C. §§ 1114 *et seq.*, 1125(a), (c), and state law torts including conversion and trespass to chattels—under temporary seal. On December 12, 2023, Microsoft represented to the Court that the TRO had been executed. On December 13, 2023, the Court unsealed the action and Microsoft duly served Defendants with the TRO, Complaint, Microsoft’s Motion for an Emergency *Ex Parte* Temporary Restraining Order and Order to Show Cause (“TRO Motion”), and Microsoft’s Memorandum of Law and Declarations in Support Thereof.

I. Status of Service to Defendants

As proposed in its December 12, 2023 letter to the Court, Microsoft has effectuated service to the Defendants in this action through four different methods.

- Email: Microsoft has emailed the TRO, Complaint, TRO Motion, and Memorandum of Law and the supporting Declarations of Jason Lyons, Maurice Mason, Patrice Boffa, Christopher Stangl, Shinesa Cambric, and Jason Rozbruch to the following email addresses, which, upon information and belief,¹ can be used to contact the Defendants: duongdinhthu93@gmail.com, duongdinhthu93@outlook.com, 17021195@vnu.edu.vn, nguyenlinh.uet@gmail.com, nvt.kscntt@gmail.com, and daukho1112@gmail.com;
- Publication: Microsoft has published the above-referenced documents and accompanying clarifying text (*see* Rozbruch Declaration ¶ 12) on the publicly-available webpage, <https://dcu-noticeofpleadings.azurewebsites.net/>, a link to which will be provided for at least the next six months to anyone that visits the websites used by the Defendants to sell fraudulently-obtained Microsoft accounts, as well as technology that may be used to fraudulently obtain such accounts, as described in our TRO moving papers, namely 1stcaptcha.com, Anycaptcha.com, Nonecaptcha.com, and Hotmailbox.me;
- Registered Mail: Microsoft has transmitted the above-referenced documents by registered mail to Can ho C18.08 Sai Gon Avenue, so 11, Tam Binh, Thu Duc, Ho Chi Minh, Vietnam, 700000, which, upon information and belief,² is the physical address of Defendant Duong Dinh Tu, at which he may be contacted;
- Personal Service: Microsoft has engaged a process server to personally deliver the above-referenced documents to Defendant Tu at his physical address. Microsoft plans to use this same process server engagement to personally deliver to Defendant Tu any Order for Preliminary Injunction entered by this Court. Effectuation of service through this method could take as approximately three to six months or longer (*see* Rozbruch Decl. ¶ 15);
- Facsimile: Microsoft was unable to transmit the above-referenced documents to Defendant Tu by facsimile to +84.903206359. This facsimile number was provided to

¹ Such information includes intelligence provided to Microsoft by third parties Cloud South and Vultr in connection with executing the TRO. Prior to the execution of the TRO, Cloud South provided hosting services for Hotmailbox.me, and Vultr provided hosting services for 1stcaptcha.com, Anycaptcha.com, and Nonecaptcha.com. In executing the TRO, Cloud South disabled Hotmailbox.me, and Vultr disabled 1stcaptcha.com, Anycaptcha.com, and Nonecaptcha.com.

² Such information includes intelligence provided to Microsoft by Identity Digital, the manager and operator of the .me registry, in connection with executing the TRO. In executing the TRO, Identity Digital facilitated the transfer of Hotmailbox.me to Plaintiff's control.

Microsoft by Identity Digital in connection with the execution of the TRO, and upon that basis Microsoft had believed that the number could be used to contact Defendant Tu. However, despite numerous attempts to deliver the above-referenced documents to +84.903206359, Microsoft was unable to do so. Upon attempting to send the documents to +84.903206359, we were presented with an error code reading “no fax detected,” which indicates that the facsimile number is invalid.

On behalf of Microsoft, we respectfully submit that, through these methods, Microsoft has “attempt[ed] service by all available means,” and has “effect[uated] service by December 13, 2023.” TRO at 11.

II. Requested Order for Preliminary Injunction

Defendants were directed to serve answering papers upon Plaintiff’s counsel by December 18, 2023, at 9:00 AM. Because Defendants have failed to do so, Plaintiff requests that the TRO entered by Your Honor on December 7, 2023 be converted into the Proposed Order for Preliminary Injunction annexed as Exhibit 1. The Proposed Order for Preliminary Injunction (1) seeks to keep in place the relief granted by the TRO; (2) identifies additional Internet Protocol addresses that, through information provided by Cloud South during the execution of the TRO, are believed to be connected to Defendants’ unlawful conduct (*see* Proposed Order ¶ 5); (3) identifies an additional third-party service provider, Vultr (*see* Proposed Order ¶¶ 5, 17–18), which was identified by Cloudflare, Inc. during the execution of the TRO as the “host” of the 1stcaptcha.com, Anycaptcha.com, and Nonecaptcha.com domains (Vultr then confirmed this fact to Microsoft and subsequently disabled those domains); and (4) sets forth that Microsoft will effect service of any Order for Preliminary Injunction through the email, publication, registered mail, and personal service methods identified above in Section I of this letter (*see* Proposed Order ¶ 11 & pp. 10–11).

As always, we remain available to confer about this matter at the Court’s convenience.

CAHILL GORDON & REINDEL LLP

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Respectfully submitted,

CAHILL GORDON & REINDEL LLP

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