

Exhibit 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICROSOFT CORPORATION, :
: :
Plaintiff, : **Case No. 23-cv-10685**
-against- :
: :
DUONG DINH TU, :
LINH VAN NGUYEN, and :
TAI VAN NGUYEN, :
: :
Defendants. :
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[PROPOSED] ORDER FOR PRELIMINARY INJUNCTION

Plaintiff Microsoft Corporation (“Microsoft”) has filed a Complaint for injunctive and other relief for (1) violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (2) trademark infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (3) false designation of origin, federal false advertising, and federal unfair competition under the Lanham Act, 15 U.S.C. § 1125(a); (4) trademark dilution under the Lanham Act, 15 U.S.C. § 1125(c); (5) tortious interference with business relationships; (6) conversion; (7) trespass to chattels; and (8) unjust enrichment. On December 7, 2023, the Court granted Microsoft’s Motion for an Emergency *Ex Parte* Temporary Restraining Order and Order to Show Cause, pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(d) (the Lanham Act), and 28 U.S.C. § 1651(a) (the All Writs Act) (“TRO Motion”), and thereby entered an Emergency *Ex Parte* Temporary Restraining Order and Order to Show Cause (“TRO”). On December 13, 2023, following Microsoft’s representation to the Court that the TRO had been executed, Microsoft duly served Defendants with the TRO, Complaint, TRO Motion, and Memorandum of Law and Declarations

in Support of the TRO Motion. Defendants have failed to respond to the Court's Order to Show Cause. Microsoft now moves for an Order for Preliminary Injunction seeking to keep in place the relief granted by the TRO.

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the papers, declarations, exhibits, and memorandum filed in support of Plaintiff's request for a Preliminary Injunction, which are the same as those filed in support of Plaintiff's TRO Motion, the Court hereby makes the following findings of fact and conclusions of law:

1. This Court has jurisdiction over the subject matter of this case and there is good cause to believe that it has jurisdiction over all parties hereto. The Complaint adequately states claims upon which relief may be granted against Defendants for (1) violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (2) trademark infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (3) false designation of origin, federal false advertising, and federal unfair competition under the Lanham Act, 15 U.S.C. § 1125(a); (4) trademark dilution under the Lanham Act, 15 U.S.C. § 1125(c); (5) tortious interference with business relationships; (6) conversion; (7) trespass to Chattels; and (8) unjust enrichment.

2. Microsoft owns the following registered trademarks: (1) Outlook launch icon mark, (2) Outlook word mark, and (3) Hotmail word mark. Copies of the trademark registrations for the Microsoft marks are attached as **Appendix B** to the Complaint.

3. There is good cause to believe that Defendants have engaged in and are likely to engage in acts or practices that constitute (1) violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (2) trademark infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (3) false designation of origin, federal false advertising, and federal unfair

competition under the Lanham Act, 15 U.S.C. § 1125(a); (4) trademark dilution under the Lanham Act, 15 U.S.C. § 1125(c); (5) tortious interference with business relationships; (6) conversion; (7) trespass to chattels; and (8) unjust enrichment.

4. There is good cause to believe that, unless Defendants are restrained and enjoined by Order of this Court, immediate and irreparable harm will result from Defendants' ongoing (1) violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (2) trademark infringement under the Lanham Act, 15 U.S.C. § 1114 *et seq.*; (3) false designation of origin, federal false advertising, and federal unfair competition under the Lanham Act, 15 U.S.C. § 1125(a); (4) trademark dilution under the Lanham Act, 15 U.S.C. § 1125(c); (5) tortious interference with business relationships; (6) conversion; (7) trespass to chattels; and (8) unjust enrichment. The evidence set forth in Plaintiff's TRO Motion and the accompanying declarations and exhibits demonstrates that Plaintiff is likely to prevail on its claims that Defendants have engaged in violations of the foregoing laws, including by participating in the conduct and affairs of a criminal enterprise, hereinafter referred to as the "Fraudulent Enterprise," through a pattern of racketeering activity, by perpetrating an ongoing scheme to use Internet "bots" to improperly access Microsoft's security systems, deceive those systems into believing that they are legitimate human consumers of Microsoft services, open Microsoft Outlook email accounts in names of fictitious users, and sell those fraudulent accounts to cybercriminals for use as tools in perpetrating a wide variety of online crimes. There is good cause to believe that if such conduct continues, irreparable harm will occur to Plaintiff and the public, including Plaintiff's customers. There is

good cause to believe that the Defendants are engaging, and will continue to engage, in such unlawful actions if not immediately restrained from doing so by Order of this Court.

5. There is good cause to believe that immediate and irreparable damage to this Court's ability to grant effective final relief will result from the sale, transfer, or other disposition or concealment by Defendants of the technological infrastructure used by the Fraudulent Enterprise to carry out its illegal objectives. This infrastructure is hosted at and otherwise operates through the Internet domains listed in **Appendix A** to this Order, through (1) VeriSign, Inc., as the manager and operator of several websites (namely, 1stcaptcha.com, Anycaptcha.com, and Nonecaptcha.com) where the Defendants' Enterprise has been selling tools for fraudulently obtaining Microsoft accounts and other criminal services; (2) Identity Digital Inc. (formerly Afiliis Inc.), as the manager and operator of another website (namely, Hotmailbox.me) where Defendants' Enterprise has been selling fraudulently-obtained Microsoft accounts and other criminal services; (3) Cloudflare, Inc., as the proxy service provider of 1stcaptcha.com, Anycaptcha.com, Nonecaptcha.com, and Hotmailbox.me; (4) Cloud South, as the hosting service provider of Hotmailbox.me; (5) Vultr, as the hosting service provider of 1stcaptcha.com, Anycaptcha.com, and Nonecaptcha.com; and (6) through the following Internet Protocol ("IP") addressees, which are associated with Defendants' Fraudulent Enterprise: 104.22.5.58, 104.22.4.58, 172.67.13.19, 104.26.11.230, 172.67.69.233, 172.67.12.153, 154.27.66.194, 154.27.66.246, 172.66.41.15, 172.66.42.241, 188.114.98.229, 104.26.13.192, 172.67.72.186, 104.26.12.192, 188.114.98.229, 188.114.99.229, 45.77.246.81, 154.27.66.175, 154.27.66.176, 154.27.66.193, 154.27.66.194, 154.27.66.196, 154.27.66.197, 154.27.66.199, 154.27.66.203, 154.27.66.231, 154.27.66.246, 154.27.72.229, 154.27.72.189, 154.27.72.177, 154.27.72.113, 154.27.88.244, 154.27.88.216, 154.27.88.215, 154.27.88.214, 154.27.88.189, 154.27.86.182, 154.27.86.181, 154.27.86.180,

154.27.80.182, 154.27.80.181, 154.27.80.174, 172.81.185.90, 64.71.78.185, 8.38.79.198, and 8.38.79.158 (“Defendants’ IP Addresses”), and from the destruction or concealment of other discoverable evidence of Defendants’ misconduct available at those locations. Based on the evidence cited in Plaintiff’s TRO Motion and accompanying declarations and exhibits, Plaintiff is likely to be able to prove that: (1) Defendants are engaged in activities that directly violate U.S. law and harm Plaintiff and the public, including Plaintiff’s customers; and (2) Defendants have continued their unlawful conduct despite the clear injury to the foregoing interests.

6. There is good cause to believe that Defendants have specifically directed their products and services to cybercriminals located in the Southern District of New York. There is also good cause to believe that, in carrying out their Fraudulent Enterprise, Defendants utilize an Internet Service Provider (“ISP”) data center located in the Southern District of New York, as well as services provided by third parties located in the Southern District of New York, including payment processors and ISPs.

7. There is good cause to believe that Defendants have engaged in illegal activity using the data centers and/or Internet hosting providers identified in **Appendix A** to this Order to host the Hotmailbox and 1stCAPTCHA Websites, which Defendants use to operate and maintain their Fraudulent Enterprise.

8. There is good cause to believe that to immediately halt the injury caused by Defendants, data and evidence at Defendants’ IP Addresses must be preserved and securely maintained pending further order of the court, Defendants’ computing resources related to such IP addresses must then be disconnected from Defendants’ infrastructure, Defendants must be

prohibited from accessing Defendants' computer resources related to such IP addresses, and the data and evidence located on those computer resources must be secured and preserved.

9. There is good cause to believe that Defendants have engaged in illegal activity using the Internet domains identified in **Appendix A** to this Order to host the Hotmailbox and 1stCAPTCHA Websites, which are used to maintain and operate the Defendants' Fraudulent Enterprise. There is good cause to believe that to immediately halt the injury caused by Defendants, each of Defendants' current and prospective domains set forth in **Appendix A** to this Order must remain in the control of Microsoft where they will be kept secure and inaccessible to Defendants.

10. There is good cause to direct third-party Internet registries, registrars, data centers, and hosting providers with a presence in the United States to reasonably assist in the implementation of this Order and refrain from frustrating the implementation and purposes of this Order, pursuant to 28 U.S.C. § 1651(a) (the All Writs Act).

11. There is good cause to permit notice of the instant Order by formal and alternative means, given the exigency of the circumstances and the need for prompt relief. The following means of service are authorized by law, satisfy Due Process, satisfy Fed. R. Civ. P. 4(f)(3), and are reasonably calculated to notify Defendants of the instant Order: (1) emailing the instant Order to duongdinhtu93@gmail.com, duongdinhtu93@outlook.com, 17021195@vnu.edu.vn, nguyenlinh.uet@gmail.com, nvt.kscentt@gmail.com, and daukho1112@gmail.com; (2) publishing the instant Order 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 1stcaptcha.com, Anycaptcha.com, Nonecaptcha.com, or Hotmailbox.me; (3) transmitting the instant Order by registered mail to Defendant Tu at Can ho

C18.08 Sai Gon Avenue, so 11, Tam Binh, Thu Duc, Ho Chi Minh, Vietnam, 700000; and (4) engaging a process server to personally deliver the instant Order to Defendant Tu at Can ho C18.08 Sai Gon Avenue, so 11, Tam Binh, Thu Duc, Ho Chi Minh, Vietnam, 700000.

II. ORDER FOR PRELIMINARY INJUNCTION

IT IS THEREFORE ORDERED as follows:

12. Defendants, their representatives, and persons who are in active concert or participation with them are temporarily restrained and enjoined from: making or causing others to make false or misleading representations or omissions to obtain any access to any Microsoft accounts or services; using Internet “bots” to improperly access Microsoft’s security systems; using Internet “bots” to deceive Microsoft’s security systems into believing that they are legitimate human consumers of Microsoft services; creating Microsoft Outlook email accounts in names of fictitious users or otherwise in violation of Microsoft’s Services Agreement; selling those fraudulently-procured accounts to cybercriminals for use as tools in perpetrating a wide variety of online crimes; and otherwise configuring, deploying, operating, or maintaining the Hotmailbox and 1stCAPTCHA Websites.

13. Defendants, their representatives and persons who are in active concert or participation with them are temporarily restrained and enjoined from infringing or otherwise misappropriating Plaintiff’s registered trademarks, as set forth in **Appendix B** to the Complaint.

14. Defendants, their representatives and persons who are in active concert or participation with them are temporarily restrained and enjoined from using in connection with Defendants’ activities any false or deceptive designation, advertisement, representation or description of Defendants’ or of their representatives’ activities, whether by symbols, words,

designs or statements, which would damage or injure Plaintiff or give Defendants an unfair competitive advantage or result in deception of consumers.

IT IS FURTHER ORDERED, pursuant to the All Writs Act:

15. VeriSign, Inc., the manager and operator of the .com registry, shall maintain Plaintiff's registrar of choice, MarkMonitor, Inc., as the registrar of record for 1stcaptcha.com, Anycaptcha.com, and Nonecaptcha.com in the .com registry, and MarkMonitor, Inc., shall maintain Plaintiff as the registrant of those domains;

16. Identity Digital, (formerly Afilias Inc.), the manager and operator of the .me registry, shall maintain MarkMonitor, Inc. as the registrar of record for Hotmailbox.me in the .me registry, and MarkMonitor, Inc. shall maintain Plaintiff as the registrant of that domain;

17. Cloudflare, Inc., the proxy service provider of 1stcaptcha.com, Anycaptcha.com, Nonecaptcha.com, and Hotmailbox.me; Cloud South, the hosting service provider of Hotmailbox.me; and Vultr, the hosting service provider of 1stcaptcha.com, Anycaptcha.com, and Nonecaptcha.com, shall (1) preserve and produce to Plaintiff the computers, servers, electronic data storage devices, software, data, or media assigned to or otherwise associated with Defendants' IP Addresses and the domains listed in **Appendix A** to this Order; (2) preserve and produce to Plaintiff all evidence of any kind related to the content, data, software, or accounts associated with such IP addresses, domains, and such computer hardware; (3) maintain the disablement of the computers, servers, electronic data storage devices, software, data, or media assigned to or otherwise associated with Defendants' use of Defendants' IP Addresses and the domains listed in **Appendix A** to this Order and continue making them inaccessible from any other computer on the Internet, any internal network, or in any other manner, to Defendants, Defendants' representatives, and all other persons, except as otherwise ordered herein; (4) completely, and until further order

of this Court, maintain the suspension of all services to Defendants or Defendants' representatives or resellers associated with Defendants' IP Addresses and the domains listed in **Appendix A** to this Order; and (5) maintain the isolation and disablement of any content and software associated with the Defendants hosted at Defendants' IP Addresses in a manner that does not impact any content or software not associated with Defendants' IP Addresses. In determining the methods and mechanisms to effectuate the directives in this paragraph, the relevant data centers and/or hosting providers shall reasonably confer with Plaintiff's counsel, Brian T. Markley, Cahill Gordon & Reindel LLP, 32 Old Slip, 19th Floor, New York, NY 10005, bmarkley@cahill.com, (Tel: 212.701.3230) and Samson A. Enzer, Cahill Gordon & Reindel LLP, 32 Old Slip, 19th Floor, New York, NY 10005, senzer@cahill.com, (Tel: 212.701.3125), to facilitate any follow-on action;

18. VeriSign, Inc., Identity Digital, Cloudflare, Inc., Cloud South, and Vultr shall (1) not enable, and shall take all reasonable steps to prevent, any circumvention of this order by Defendants or Defendants' representatives associated with Defendants' IP Addresses or the domains listed in **Appendix A** to this Order, including but not limited to enabling, facilitating, and/or allowing Defendants or Defendants' representatives or resellers to rent, lease, purchase, or otherwise obtain another IP Address associated with your services; and (2) provide reasonable assistance in implementing the terms of this Order and take no action to frustrate the implementation of this Order.

IT IS FURTHER ORDERED that copies of the instant Order may be served by any means authorized by law, including by (1) emailing the instant Order to duongdinhtu93@gmail.com, duongdinhtu93@outlook.com, 17021195@vnu.edu.vn, nguyenlinh.uet@gmail.com, nvt.kscntt@gmail.com, and daukho1112@gmail.com; (2) publishing the instant Order 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 1stcaptcha.com, Anycaptcha.com, Nonecaptcha.com, or Hotmailbox.me; (3) transmitting the instant Order by registered mail to Defendant Tu at Can ho C18.08 Sai Gon Avenue, so 11, Tam Binh, Thu Duc, Ho Chi Minh, Vietnam, 700000; and (4) engaging a process server to personally deliver the instant Order to Defendant Tu at Can ho C18.08 Sai Gon Avenue, so 11, Tam Binh, Thu Duc, Ho Chi Minh, Vietnam, 700000.

IT IS SO ORDERED

Entered this ____ day of December, 2023.

Hon. Paul A. Engelmayer