

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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MICROSOFT CORPORATION, :  
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 Plaintiff, : **Case No. 23 Civ. 10685 (PAE)**  
 -against- :  
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 DUONG DINH TU, :  
 LINH VAN NGUYEN, and :  
 TAI VAN NGUYEN, :  
 :  
 :  
 Defendants. :  
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**DECLARATION OF BRIAN T. MARKLEY IN SUPPORT OF  
REQUEST FOR CLERK’S CERTIFICATE OF DEFAULT**

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I, Brian T. Markley, an attorney duly admitted to practice law in the State of New York and the Southern District of New York, hereby affirm the truth of the following under penalty of perjury:

1. I am an attorney with the law firm of Cahill Gordon & Reindel LLP and am counsel for Plaintiff Microsoft Corporation (“Microsoft”) in the above-captioned action.
2. I submit this affirmation in accordance with Rule 55(a) of the Federal Rules of Civil Procedure, in support of Microsoft’s application for a certificate of default against Defendants Duong Dinh Tu, Linh Van Nguyen (a/k/a Nguyen Van Linh), and Tai Van Nguyen (collectively, “Defaulting Defendants”). Upon information and belief, Defaulting Defendants are (1) not presently in the military service of the United States, and (2) neither minors nor incompetent persons under Rule 55.2(a)(1)(C) of the Civil Rules for the Southern District of New York.
3. The Court has jurisdiction over the subject matter of this action based upon 28 U.S.C. § 1331 and 28 U.S.C. § 1367(a).

4. The Court has personal jurisdiction over Defaulting Defendants because, in carrying out their unlawful scheme, Defaulting Defendants have utilized 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. (Dkt. No. 23 ¶¶ 1, 6.)

5. This action was initiated on December 7, 2023 when Microsoft filed, under seal, a Complaint and Emergency Motion for an *Ex Parte* Temporary Restraining Order and Order to Show Cause (“TRO Motion”) (Dkt. Nos. 10, 12.)

6. A true and correct copy of the Complaint and the motion papers associated with Microsoft’s TRO Motion were served upon Defaulting Defendants on December 13, 2023. (*See* Dkt. No. 20.) On December 18, 2023, Microsoft submitted a letter to the Court detailing such service. (Dkt. No. 20.)

7. Consequently, pursuant to Federal Rule of Civil Procedure 12(a)(1)(A)(i), an answer was due from Defaulting Defendants on or before January 3, 2024. (Dkt. No. 25.)

8. To date, Defaulting Defendants have not responded to or answered Microsoft’s Complaint and the time for Defaulting Defendants to answer Microsoft’s Complaint has expired.

9. This action seeks judgment against Defaulting Defendants for liability and for entry of a permanent injunction. Microsoft is not seeking damages or fees.

Dated: August 9, 2024  
New York, New York

CAHILL GORDON & REINDEL LLP

By: /s/ Brian T. Markley  
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