



1 Malware Defendants on its claims brought under the Computer Fraud and Abuse Act and Nevada's  
2 Unlawful Acts Regarding Computers and Information Services Statute.<sup>1</sup> Specifically, Microsoft  
3 seeks an order from this Court to permanently enjoin Malware Defendants from their unlawful  
4 conduct and award of damages in the amount of \$750,000 for the costs related to its investigation of  
5 the Bladabindi/Jenxcus malware infections and for loss of goodwill.

6 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

7 Having considered the papers, declarations, and memorandum filed in support of Microsoft's  
8 Motion for Default Judgment, as well as all pleadings, motions, and papers on file in this action, the  
9 Court hereby makes the following findings of fact and conclusions of law:

10 1. This Court has jurisdiction over the subject matter of this case, and there is good  
11 cause to believe that it will have jurisdiction over the remaining parties; the complaint states a claim  
12 upon which relief may be granted against Malware Defendants under the Computer Fraud and Abuse  
13 Act (18 U.S.C. § 1030), the Anti-Cybersquatting Consumer Protection Act (15 U.S.C. § 1125),  
14 Nevada's Unlawful Acts Regarding Computers and Information Services (N.R.S. § 205.4765), and  
15 the common law of trespass to chattels, conversion, and negligence.

16 2. Microsoft served Malware Defendants with copies of the summons, complaint, and  
17 all exhibits to the complaint on June 30, 2014 by e-mail. Microsoft also provided notice to these  
18 Defendants by Facebook message and by publishing the documents on a publicly-available website,  
19 [www.noticeoflawsuit.com](http://www.noticeoflawsuit.com). This Court finds that these Defendants have been given notice of the  
20 lawsuit.

21 3. Malware Defendants have not appeared in this action.

22 4. Microsoft requested that the Clerk enter a default against the Malware Defendants,  
23 and the default was entered on July 22, 2014.

24 5. The factors stated in *Eitel v. McCool* weigh in favor of a default judgment against  
25 Defendants. First, Microsoft will be greatly prejudiced if it is not able to permanently enjoin  
26 Defendants from creating, promoting, and distributing the Bladabindi/Jenxcus malware or to seek  
27

28 <sup>1</sup> Microsoft is not seeking a default judgment as to its Anti-Cybersquatting Consumer Protection Act  
trespass, conversion, and negligence claims.

1 compensation for the harm these Defendants have caused. Second, Microsoft has sufficiently stated  
2 a claim against Defendants for violation of the Computer Fraud and Abuse Act (“CFAA”) and  
3 Nevada’s Unlawful Acts Regarding Computers and Information Services Statute (“UARC”).  
4 Fourth, the amount of money Microsoft spent investigating and remediating the Bladabindi/Jenxcus  
5 malware is proportionate to the harm caused by Defendants’ unlawful actions. Fifth, there is little to  
6 no possibility that there are disputed material facts or whether default was due to excusable neglect  
7 of the Malware Defendants. And last, although a case’s resolution of the merits is generally  
8 preferable, in this case Defendants have refused to respond or otherwise defendant against  
9 Microsoft’s claims. Thus, the other *Eitel* factors favor default judgment.

10 **DEFAULT JUDGMENT**

11 **IT IS THEREFORE ORDERED** as follows:

12 A. A default judgment is entered against the Malware Defendants as to Microsoft’s  
13 claims under the Computer Fraud and Abuse Act and the Unlawful Acts Regarding Computers and  
14 Information Services Statute.

15 B. Microsoft is entitled to seek a permanent injunction pursuant to 18 U.S.C. § 1030(g).

16 C. This Court has already found that the requirements for a preliminary injunction have  
17 been met as set forth in the Court’s July 10, 2014 Order.

18 D. Microsoft meets the actual success requirement for a preliminary injunction because  
19 this Court has entered a default judgment.

20 E. Microsoft is also entitled to compensatory damages pursuant to 18 U.S.C. § 1030(g)  
21 and N.R.S. § 205.511(1)(a), (c). This includes the costs associated with investigating the Malware  
22 Defendants’ activities, ascertaining loss or damage, and loss of goodwill as a result of Defendants’  
23 actions.

24 **PERMANENT INJUNCTION**

25 **IT IS THEREFORE ORDERED** as follows:

26 A. The Malware Defendants, their representatives, and persons who are in active concert  
27 or participation with them are permanently restrained and enjoined from intentionally accessing and  
28 sending malicious software or code to Microsoft’s and its customers’ computers and operating

1 systems, without authorization, to infect those computers with the Bladabindi/Jenxcus or other  
2 malware in order to access, remotely control, collect data or information from, and/or download  
3 additional malware onto the infected computers.

4 B. The Malware Defendants, their representatives, and persons who are in active concert  
5 or participation with them are temporarily restrained and enjoined from using command-and-control  
6 dashboards to communicate with, access, and/or send commands to infected computers.

7 C. The Malware Defendants, their representatives, and persons who are in active concert  
8 or participation with them are permanently restrained and enjoined from intentionally creating and/or  
9 spreading new or updated versions of the Bladabindi/Jenxcus malware or other malware that can be  
10 used to access or control Microsoft's and its customers' computers and operating systems without  
11 authorization.

12 D. The Malware Defendants, their representatives, and persons who are in active concert  
13 or participation with them are permanently restrained and enjoined from making malware available  
14 for others to use or download.

15 E. Defendants, their representatives, and persons who are in active concert or  
16 participation with them are permanently restrained and enjoined from teaching, instructing, or  
17 educating others on how to use or spread the malware the Malware Defendants created. This  
18 includes, but is not limited to, enjoining these Defendants from posting online tutorials on how to  
19 use or spread the malware.

20 **IT IS FURTHER ORDERED** that, the Malware Defendants, their representatives, and  
21 persons who are in active concert or participation with them are permanently restrained and enjoined  
22 from configuring, deploying, operating or otherwise participating in or facilitating the spread of the  
23 Bladabindi, Jenxcus, or other malware, or other malware-related activity including communicating  
24 with infected computers through the domains set forth in Appendix A or through any other domain  
25 leased, registered, or hosted by, or otherwise obtained from, Vitalwerks Internet Solutions, LLC  
26 d/b/a No-IP.

27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**IT IS FURTHER ORDERED** that copies of this Order may be served by any means authorized by law, including by means previously authorized for the complaint and other orders issued by this Court.

**DAMAGES**

**IT IS THEREFORE ORDERED** as follows:

Microsoft has proved to the Court that it has suffered damages as a result of the Malware Defendants' actions. This Court hereby enters a judgment against the Malware Defendants in the amount of \$750,000.

**IT IS SO ORDERED**

Entered this \_\_\_\_ day of November, 2014.

\_\_\_\_\_  
Gloria M. Navarro, Chief Judge  
United States District Judge