

1 Randall D. Haimovici (*Pro Hac Vice Approved*)
rhaimovici@shb.com

2 Rachael M. Smith (*Pro Hac Vice Approved*)
rxsmith@shb.com

3 SHOOK, HARDY & BACON L.L.P.
4 One Montgomery, Suite 2700
San Francisco, California 94104-4505
Telephone: 415.544.1900
5 Facsimile: 415.391.0281

6 Tony M. Diab (Nevada State Bar No. 12954)
tdiab@shb.com

7 SHOOK, HARDY & BACON L.L.P.
8 5 Park Plaza, Suite 1600
Irvine, California 92614-2546
Telephone: 949.475.1500
9 Facsimile: 949.475.0016

10 Robert J.B. Flummerfelt (Nevada State Bar No. 11122)
rflummerfelt@hotmail.com

11 Rami Hernandez (Nevada State Bar No. 13146)
rhernandeznsj@hotmail.com

12 CANON LAW SERVICES, LLC
13 7251 W. Lake Mead Blvd., Suite 300
Las Vegas, Nevada 89128
Telephone: 702.562.4144
14 Facsimile: 702.866.9868

15 Attorneys for Plaintiff
16 MICROSOFT CORPORATION

17 UNITED STATES DISTRICT COURT
18 DISTRICT OF NEVADA

20 MICROSOFT CORPORATION,

21 Plaintiff,

22 vs.

23 NASER AL MUTAIRI, an individual;
24 MOHAMED BENABDELLAH, an individual;
25 VITALWERKS INTERNET SOLUTIONS,
26 LLC, d/b/a NO-IP.com; and DOES 1-500,

26 Defendants.

) Case No. 2:14-cv-00987-GMN-GWF

)
) **DECLARATION OF RACHAEL M. SMITH**
) **IN SUPPORT OF MICROSOFT'S MOTION**
) **FOR DEFAULT JUDGMENT**

) Filed Concurrently Herewith:
) Motion for Default; Memorandum of Points &
) Authorities; Declaration of Jason Lyons;
) [Proposed] Order

1 I, Rachael M. Smith, declare as follows:

2 1. I am an attorney with the law firm of Shook, Hardy & Bacon L.L.P. (“SHB”), located
3 at One Montgomery, Suite 2700, San Francisco, California 94104, counsel of record for Plaintiff
4 Microsoft Corporation in this case. This declaration is made in support of Microsoft’s Motion for an
5 Entry of Default by Clerk. This declaration is based on my own personal knowledge and, if called as
6 a witness, I could and would competently testify to the truth of the matters set forth below.

7 2. On June 30, 2014, at 8:49 a.m. Pacific Daylight Time (“PDT”), I served Defendant
8 Mutairi with the summons and complaint by sending an e-mail to the following e-mail addresses that
9 Microsoft has identified as belonging to this Defendant: njq8@ymail.com, xnjq8x@hotmail.com,
10 and xxnjq8xx@gmail.com. I did not receive a “bounce-back” notification that the e-mail could not be
11 delivered.

12 3. On July 3, 2014, at 5:37 PDT, I sent Defendant Mutairi an e-mail to the three e-mail
13 addresses listed above, attaching a copy of the Court’s order unsealing this case. I immediately received
14 a bounce-back notification stating that the e-mail could not be delivered to addresses
15 xxnjq8xx@gmail.com and njq8@ymail.com because either the account did not exist or that the user
16 does not have an account with that provider. Because I was able to send a message to these
17 addresses on June 30, 2014, with no problem, it would appear that Defendant Mutairi did receive
18 notice of this lawsuit and has since deleted those accounts.

19 4. On June 30, 2014, at 8:49 a.m. PDT, I served Defendant Benabdellah with a copy of
20 the summons and complaint by sending an e-mail to the following e-mail address that Microsoft has
21 identified as belonging to this Defendant: mi-dou93@hotmail.com. I did not receive a “bounce-
22 back” notification that the e-mail could not be delivered.

23 5. On July 2, 2014, at 5:09 a.m. PDT, I received an e-mail from Defendant Benabdellah
24 indicating that he was the named Defendant in this lawsuit who resides in Algeria and that he was
25 “ready to cooperate with the U.S. authorities and Microsft [sic] in any form.” Defendant
26 Benabdellah also stated that “I hope that my words reach and i [sic] am sorry for the damage caused
27 by me.” I responded to his e-mail on July 7, 2014, and as of the date of this declaration, I have had
28 no further communication with this Defendant.

1 I declare under the penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct to the best of my knowledge.

3 Executed on 29th day of October, 2014.

4 A handwritten signature in black ink, appearing to read 'RMS', is written over a horizontal line.

5
6 Rachael M. Smith

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28