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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;
24 VITALWERKS INTERNET SOLUTIONS,
25 LLC, d/b/a NO-IP.com; and DOES 1-500,

26 Defendants.
27

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

)
) **DECLARATION OF RACHAEL M. SMITH**
) **IN SUPPORT OF APPLICATION OF**
) **MICROSOFT CORPORATION FOR AN**
) **EMERGENCY TEMPORARY**
) **RESTRAINING ORDER AND ORDER TO**
) **SHOW CAUSE REGARDING A**
) **PRELIMINARY INJUNCTION**

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 Application
5 for an Emergency Temporary Restraining Order and Order to Show Cause Regarding a Preliminary
6 Injunction. This declaration is based on my own personal knowledge and, if called as a witness, I
7 could and would competently testify to the truth of the matters set forth below.

8 2. On June 30, 2014, this Court issued a Second Amended Temporary Restraining Order
9 (“TRO”) authorizing Microsoft to serve Defendants Mutairi and Benabdellah by e-mail, Facebook,
10 and by publishing notice on a publicly available Internet website. (See ECF Dkt. No. 12.) The
11 Court ordered that this service be effected no later than July 1, 2014.

12 3. On June 30, 2014, at 8:49 a.m. Pacific Daylight Time (“PDT”), I served Defendant
13 Mutairi by sending an e-mail to the following e-mail addresses that Microsoft has identified as
14 belonging to this Defendant: njq8@ymail.com, xnjq8x@hotmail.com, and xxnjq8xx@gmail.com. I
15 did not receive a “bounce-back” notification that the e-mail could not be delivered. I attached to the e-
16 mail the summons, complaint, all exhibits to the complaint, the TRO, and Appendices A and B to the
17 TRO. In the body of the e-mail, I indicated that we were serving Defendant Mutairi with notice of a
18 lawsuit in which he was named as a defendant; where the lawsuit was pending; that the case had been
19 sealed prohibiting any party from publicly discussing the case; and that there was a hearing on July 10,
20 2014, at 3:00 p.m. in Courtroom 7D to show cause why a preliminary injunction should not be issued
21 against the Defendants. I also directed him to the web address, www.noticeoflawsuit.com, where all of
22 the documents that have been filed in the case would be publicly available for viewing after the case was
23 unsealed.

24 4. In addition to service by e-mail, which included a link to website where notice was
25 publicly available, I also sent Defendant Mutairi a private message on Facebook
26 (www.facebook.com/naser.naser.9066) on June 30, 2014, at 8:49 a.m. PDT. The body of the message
27 was identical to the e-mail message referenced in Paragraph 3 above. Additionally, I was able to attach
28 the summons, complaint and exhibits, and the TRO and Appendices A and B to the Facebook message.

1 5. On June 30, 2014, at 8:49 a.m. PDT, I served Defendant Benabdellah by sending an
2 e-mail to the following e-mail address that Microsoft has identified as belonging to this Defendant:
3 mi-dou93@hotmail.com. I did not receive a “bounce-back” notification that the e-mail could not be
4 delivered. I attached the same documents and included the same information in the body of the e-mail to
5 Defendant Benabdellah that I did for the e-mail to Defendant Mutairi, discussed in Paragraph 3 above.

6 6. I also sent Defendant Benabdellah a private message on Facebook
7 (www.facebook.com/bennabdellah) on June 30, 2014, at 8:51 a.m. PDT. The body of the message was
8 identical to the e-mail message referenced in Paragraph 5 above. However, I was only able to attach the
9 complaint and exhibits to the message. I immediately sent a follow-up private message to this Defendant
10 indicating that I was unable to attach the summons and the TRO and Appendices A and B. However, I
11 indicated that I had already e-mailed these documents to him at the address identified in Paragraph 5 and
12 again indicated that all documents would be available after the case was unsealed on
13 www.noticeoflawsuit.com.

14 7. On July 2, 2014, at 5:09 a.m. PDT, I received an e-mail response from Defendant
15 Benabdellah indicating that he was the named Defendant in this lawsuit who resides in Algeria and
16 that he was “ready to cooperate with the U.S. authorities and Microsoft [sic] in any form.” On July 7,
17 2014, at 10:36 a.m. PDT, I sent an e-mail response to Defendant Benabdellah in an effort to try to
18 resolve the case with this Defendant. As of the date of signing this declaration, I have not received a
19 reply to my July 7 e-mail.

20 8. I have never received a response from Defendant Mutairi by e-mail or Facebook
21 message. I sent Defendant Mutairi an e-mail on July 3, 2014, at 5:37 p.m. PDT to the three e-mail
22 addresses listed in Paragraph 3, attaching a copy of the Court’s order unsealing the case. I
23 immediately received a bounce-back notification stating that the e-mail could not be delivered to
24 addresses xxnjq8xx@gmail.com and njq8@ymail.com because either the account did not exist or
25 that the user does not have an account with that provider. Because I was able to send a message to
26 these addresses on June 30, 2014, with no problem, it would appear that Defendant Mutairi did
27 receive notice of this lawsuit and has since deleted those accounts.

1 9. In addition to the e-mail and Facebook service, the summons, complaint, TRO, and
2 all moving papers have been publicly available for anyone to view and download at
3 www.noticeoflawsuit.com since the Court ordered the case unsealed.

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

6 Executed on 9th day of July, 2014.

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9 Rachael M. Smith

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