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MICROSOFT CORPORATION

12
13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION

16 MICROSOFT CORPORATION,

17 Plaintiff,

18 v.

19 GAMEEST INTERNATIONAL NETWORK
SALES CO.; WEIWEI CHU; and DOES 1-20,

20 Defendants.
21

Case No. 5:17-cv-2883

**COMPLAINT FOR DAMAGES AND
EQUITABLE RELIEF**

I. INTRODUCTION

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1. Defendants, through their website *igsky.com* (“iGSKY”), are engaged in the international trafficking of stolen Microsoft Account (“MSA”) credentials, together with fraudulently obtained virtual gaming currencies for the Xbox video game console. These virtual gaming currencies are commonly referred to as “Points,” “Coins,” “Credits,” or “Stored Value,” among other things (collectively, “virtual gaming currencies”).

2. In order to perpetrate their scheme, Defendants unlawfully obtain stolen MSA credentials and use those credentials to gain unauthorized access to MSAs and the account holders’ linked credit cards. Defendants then fraudulently purchase virtual gaming currencies from Microsoft with the credit cards.

3. Using iGSKY’s internet sales platform, Defendants globally advertise and sell access to the compromised MSAs, together with the fraudulently obtained virtual gaming currencies.

4. Defendants are reaping millions of dollars in illicit profits from their illegal enterprise.

5. Microsoft brings this action to: 1) protect its customers’ MSAs and related payment instruments from Defendants’ illegal activities; and 2) seek redress for the significant financial and other damages caused to Microsoft by Defendants’ unlawful scheme.

6. Microsoft asserts claims against Defendants for violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961 *et seq.* (“RICO”), Computer Fraud and Abuse Act, 18 U.S.C. § 1030 (“CFAA”), Lanham Act, 15 U.S.C. § 1051 *et seq.*, and for common law fraud, conversion, and unjust enrichment.

II. PARTIES

7. Microsoft is a Washington corporation with its principal place of business in Redmond, Washington. Among other products and services, Microsoft has developed the Xbox video game platform.

1 the general public in California, including in this District. Additionally, one or more of the
2 Defendants entered into a contract in this District with PayPal Holdings, Inc. (“PayPal”) for
3 services Defendants used as a routine and regular part of their business in furtherance of their
4 scheme. On information and belief, proceeds of Defendants’ scheme are currently being held by
5 PayPal for the benefit of Defendants in this District.

6 16. Venue is proper in this Court pursuant to 28 U.S.C. § 1400(a) because Defendants
7 are subject to personal jurisdiction in the Northern District of California. Venue is also proper in
8 this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to
9 Microsoft’s claims in this suit occurred in the Northern District of California.

10 17. Pursuant to Local Civil Rule 3-2(e), intra-district assignment to the San Jose
11 Division is proper because the claims arose in Santa Clara County, where certain of the injuries
12 giving rise to the suit occurred, and where Defendants directed their unlawful conduct.

13 **IV. FACTS**

14 18. Microsoft launched the Xbox video game console in 2001. It quickly became one
15 of the most popular video game platforms in the world. Along with the original Xbox console
16 (sold from 2001 to 2009), Microsoft created and sold two updated generations: the Xbox 360 (sold
17 from 2005 to 2016), and the Xbox One (launched in 2013). Users of any of these consoles can
18 play a wide range of Xbox games, which are developed and sold by Microsoft and third-party
19 game developers. The most common way for an Xbox user to purchase Xbox games, whether
20 developed by Microsoft or a third-party game developer, is on Microsoft.com, Microsoft’s
21 Windows 10 Store, or directly through the Xbox console.

22 19. In addition to selling the games themselves, Microsoft and third-party game
23 developers sell various types of virtual gaming currencies, which allow users to enjoy their Xbox
24 gaming experience with upgrades or other enhancements. Xbox users’ virtual gaming currencies
25 are deposited in their MSAs where they are available to purchase a wide array of items associated
26 with their Xbox games. MSAs and their deposited virtual gaming currencies are personal to the
27 user and their transfer or sale to third parties is not permitted.

1 20. In late 2016, Microsoft investigators became aware that Defendants, through
2 iGSKY, were selling virtual gaming currencies for suspiciously low prices for the following
3 popular Microsoft and third-party games, among others: ArcheAge, Black Desert, Blade and
4 Soul, CSGO, Dofus, Dofus Touch, FIFA 14, FIFA 15, FIFA 16, FIFA 17, Forza Horizon 3, Grand
5 Theft Auto V, Mabinogi, Madden NFL 17, Maple Story, MU Legend, MU Origin, NBA 2K17,
6 NBA Live Mobile, NHL 17, Pokémon GO, Revelation Online, Riders of Icarus, Rocket League,
7 TERA, Tree of Savior, Trove, Twin Saga, and Wildstar.

8 21. Microsoft promptly undertook an investigation which included test purchasing
9 virtual gaming currencies from iGSKY. Specifically, from December 5, 2016, to January 19,
10 2017, Microsoft investigators made a series of six test purchases of MSAs with virtual gaming
11 currencies. On each occasion, Defendants sold the investigators access to hijacked MSAs with
12 virtual gaming currencies fraudulently purchased with the authorized MSA holders' credit cards.
13 The payments for the six test purchases were all made to Defendant Gameest's credit card
14 merchant account. All of this was done without the knowledge or permission of Microsoft or the
15 authorized MSA holders and with the intent to steal virtual gaming currencies for resale.

16 22. Microsoft's test purchases from the Websites demonstrate that Defendants are
17 engaging in a systematic pattern and practice of unlawfully obtaining stolen MSA credentials,
18 using those credentials to fraudulently gain access to MSAs and the authorized MSA holders'
19 linked credit cards, changing the credentials in order to hijack the MSAs, and then unlawfully
20 purchasing virtual gaming currencies with the credit cards. Defendants then sell access to the
21 compromised MSAs, together with the fraudulently obtained virtual gaming currencies, through
22 iGSKY.

23 23. As part of the "Microsoft Runs on Trust" commitment to its customers to provide a
24 safer digital world, Microsoft has developed highly sophisticated fraud detection systems. In this
25 case, these systems have successfully detected and prevented tens of thousands of attempts by
26 Defendants to gain unauthorized access to MSAs in order to purchase virtual gaming currencies
27 with the authorized MSA holders' credit cards. However, despite these efforts, because
28 Defendants unlawfully obtained account credentials previously compromised outside of

1 Microsoft's systems and used those credentials to gain access to the MSAs, Defendants were able
2 to complete nearly \$2 million in fraudulent purchases of virtual gaming currencies. Microsoft has
3 issued customer refunds or has received chargebacks from the credit card issuing banks for all of
4 these unauthorized and fraudulent purchases.

5 24. Microsoft has duly and properly registered a number of trademarks in the United
6 States Patent and Trademark Office on the Principal Register, including without limitation:

- 7 a. "XBOX," Trademark Registration No. 2,663,880, for interactive video games
8 devices.
9 b. "XBOX 360," Trademark Registration No. 3,252,556, for interactive video
10 game devices.
11 c. "XBOX ONE," Trademark Registration No. 4,557,248, for video game
12 software and consoles.

13 True and correct copies of the Trademark Registrations for (a) through (c) above are
14 attached as Exhibits 1-3 to this Complaint.

15 25. These trademarks are used by Defendants on iGSKY in connection with the illegal
16 sales and marketing activity described above.

17 **V. CAUSES OF ACTION**

18 **FIRST CAUSE OF ACTION**

19 **Violation of Racketeer Influenced Corrupt Organization Act
20 (18 U.S.C. § 1961 *et seq.*)**

21 26. Plaintiff re-alleges each paragraph above as if fully set forth here.

22 27. Each individual Defendant constitutes a "person" within the meaning of 18 U.S.C.
23 § 1961(3), as each is capable of holding a legal or beneficial interest in property.

24 28. Defendants collectively constitute an "Enterprise" within the meaning of 18 U.S.C.
25 § 1961(4).

26 29. Defendants' enterprise engages in and affects interstate and foreign commerce,
27 including through the hijacking of MSAs and theft of virtual gaming currencies, as set forth above.
28 These transactions take place through the use of interstate telecommunication wires.

1 30. Defendants are each separate entities, distinct from the Enterprise itself, and
2 unlawfully use the Enterprise as a vehicle through which unlawful activity is being committed.

3 31. The common and shared purpose of the Enterprise is to illegally obtain control over
4 MSAs and associated payment methods (such as credit cards), use the authorized MSA holders'
5 credit cards to purchase and load virtual gaming currencies on the MSAs, and sell access to the
6 hijacked MSAs and fraudulently obtained virtual gaming currencies to the public over the internet.

7 32. The Enterprise has an ongoing organization with a framework for making
8 decisions, functions as a continuing unit, and has an ascertainable structure and system of
9 authority guiding its operations, separate and apart from the pattern of racketeering in which the
10 Enterprise is engaged.

11 33. Defendants each participate in the operation and management of the Enterprise and
12 perpetrate particular racketeering acts in furtherance thereof.

13 34. The predicate acts which constitute the period of racketeering activity pursuant to
14 18 U.S.C. § 1961(5) are acts of wire fraud in violation of 18 U.S.C. § 1343, acts of transferring or
15 transmitting stolen or fraudulently obtained property in violation of 18 U.S.C. § 2314, and acts of
16 receiving, possessing, storing, selling, or disposing of stolen or fraudulently obtained property in
17 violation of 18 U.S.C. § 2315. Each act involves Defendants and/or the Enterprise knowingly
18 causing the use of wire communication to illegally obtain and/or exercise control over the MSAs
19 of other account holders, knowingly causing the use of wire communications to fraudulently and
20 illegally use those MSAs to obtain goods from Microsoft, and then knowingly causing the use of
21 wire communications to sell those goods to the public through iGSKY.

22 35. This period of racketeering activity began no later than July 6, 2015, and remains
23 ongoing.

24 36. Defendants facilitate, engage in, and/or direct the pattern of racketeering with
25 knowledge of the fraudulent and illegal nature of the Enterprise's acts, and they operate the
26 Enterprise with the specific intent to deceive and defraud Microsoft, its customers, and the public
27 for Defendants' own financial gain.

28

- 1 b. displaying any intellectual property bearing any simulation, reproduction,
2 counterfeit, copy, or colorable imitation of any of Microsoft's registered
3 trademarks, and/or service marks, including but not limited to the Trademark
4 Numbers listed above;
- 5 c. using any simulation, reproduction, counterfeit, copy, or colorable imitation of
6 Microsoft's registered trademarks or service marks, including but not limited to
7 the Trademark Registration Numbers listed above, in connection with the
8 distribution, offering for distribution, circulation, sale, offering for sale, import,
9 advertisement, promotion, or display of any product not authorized by
10 Microsoft;
- 11 d. using any false or misleading representation that can or is likely to lead the
12 trade or public or individuals erroneously to believe that any item has been
13 distributed, offered for distribution, circulated, sold, offered for sale, imported,
14 advertised, promoted, displayed, licensed, sponsored, approved, or authorized
15 by or for Microsoft, when such is not true in fact;
- 16 e. engaging in any other activity constituting an infringement of any of
17 Microsoft's trademarks and/or service marks, or of Microsoft's rights in, or
18 right to use or to exploit, these trademarks and/or service marks;
- 19 f. distributing, offering for distribution, circulating, selling, offering for sale,
20 advertising, importing, promoting, or displaying any items fraudulently
21 obtained from Microsoft; and
- 22 g. assisting, aiding, or abetting any other person or business entity in engaging in
23 or performing any of the activities listed above;

24 72. That the Court enter an order enjoining the display or operation of the Websites
25 listed above until Defendants have established that no fraudulent activity or infringements on
26 Microsoft's intellectual property are occurring thereon;

27 73. That the Court enter an order declaring that Defendants hold in trust, as
28 constructive trustees for the benefit of Microsoft, the illegal profits obtained from their fraudulent

1 purchase and distribution of virtual gaming currencies, and requiring Defendant to provide
2 Microsoft a full and complete accounting of all amounts due and owing to Microsoft as a result of
3 Defendants' unlawful activities;

4 74. That Defendants be required to pay all general, special, actual, and statutory
5 damages which Microsoft has sustained, or will sustain, as a consequence of Defendants' unlawful
6 acts, and that such damages be enhanced as provided for by 15 U.S.C. § 1117(b) and RCW
7 19.86.090;

8 75. That Defendants be required to pay to Microsoft both the costs of this action and
9 the reasonable attorneys' fees incurred by Microsoft in prosecuting this action, as provided for by
10 15 U.S.C. § 1117 and RCW 19.86.090;

11 76. That Defendants be required to pay to Microsoft all damages and/or losses suffered
12 as a consequence of Defendants' unlawful acts, as provided for by 18 U.S.C. § 1030; and

13 77. That the Court grant Microsoft such other, further, and additional relief as the Court
14 deems just and equitable.

15 DATED: May 19, 2017

Respectfully submitted,

DAVIS WRIGHT TREMAINE LLP

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