

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

MICROSOFT CORPORATION,)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
DOES 1-6,)	<u>FILED UNDER SEAL</u>
)	
Defendants.)	
)	
)	
)	

**[PROPOSED] ORDER GRANTING PLAINTIFFS’ MOTION FOR
ISSUANCE OF SUMMONS AND AUTHORIZATION TO SERVE
PROCESS ON DEFENDANTS BY ELECTRONIC MEANS PURSUANT TO
FED. R. CIV. P. 4(f)(3)**

This matter comes before the Court on Plaintiff’s Ex Parte Motion for Authorization to Serve Process on Defendants by Electronic Means Pursuant to FED. R. CIV. P. 4(f)(3) (the “Motion”). Having considered the Motion, Memorandum in Support, the Complaint, and the arguments therein, the Court finds as follows.

I. APPLICABLE LEGAL STANDARDS

Pursuant to Fed. R. Civ. P. 4(h), corporations may be served outside the United States in any manner prescribed by Rule 4(f) for serving an individual, except personal service.

Rule 4(f), in turn, provides that an individual outside the United States may be served in one of the following ways:

- (1) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;
- (2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:
 - (A) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;
 - (B) as the foreign authority directs in response to a letter rogatory or letter of request; or
 - (C) unless prohibited by the foreign country's law, by: [...] (ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or
- (3) by other means not prohibited by international agreement, as the court orders.

Fed. R. Civ. P. 4(f).

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Defendants Does 1 through 6 (“Defendants”) are accused of creating, distributing, operating, and selling a data-stealing malware commonly known as “Lumma.” *See* Complaint at ¶¶3-12, 30, 43-52. All Doe Defendants 1-6 are believed to be located outside the United States. *See id.* at ¶¶3-9. In particular, Doe Defendant 1 (aka “Shamel”) is believed to potentially be located in Russia, but this has not been

confirmed and Plaintiff has been unable to obtain a specific physical address for Doe Defendant 1 or any of the other Doe Defendants 2-6 despite making diligent efforts to do so. *See id.* at ¶10; Richardson Decl. at ¶5, 47. The Doe Defendants 1-6, however, do use and can be communicated with via electronic means, such as via email addresses and abuse contact information that Defendants have provided to Internet Service Providers (ISPs) and via messages posted on Internet locations that Defendants are known to visit. Proliferators and operators of data-stealing malware prefer to stay anonymous to avoid being held accountable for their malfeasance. *See* Richardson Decl. at ¶47. For example, Defendants do not disclose their legal name, physical address, or other physical contact information if they can avoid doing so. *See id.* When Defendants do provide a physical address, these addresses are nearly always inaccurate and/or incomplete. Defendants purposefully communicate and transact business exclusively by electronic means. Defendants conceal their identities and physical locations in an effort to avoid being served, thereby attempting to avoid liability for their conduct. The only current means of communicating with Defendants is by electronic means, such as email addresses and abuse contact information. *See id.*

Because Defendants' physical addresses are not known or not ascertainable, Plaintiff is not required to serve Defendants pursuant to the Hague Service Convention. Even if the Hague Service Convention did apply, in June 2003 Russia

suspended all cooperation with the United States under the Hague Service Convention. See <https://travel.state.gov/content/travel/en/legal/Judicial-AssistanceCountry-Information/RussianFederation.html> (section concerning service of process). Russia also has not specifically objected to service by electronic means in connection with its objection to Article 10 of the Hague Service Convention. In light of the foregoing and consistent with the findings of numerous other courts, this Court find that service on Defendants by electronic means is reasonably calculated under the circumstances to apprise Defendants of the pendency of this action, to afford them a fair opportunity to appear and be heard, and otherwise comports with Due Process. See *Microsoft Corp. v. Does 1-10*, No. 1:25-CV-2695-MHC, 2025 WL 2901888, at *2 (N.D. Ga. May 15, 2025) (“*Lumma I*”) (authorizing service by email where defendants addresses were unknown, where at least one defendant was believed to be in Russia, and where it was shown that defendants were likely to receive notice by email); *AMPB Metals Exports, Inc. v. Metal Scrap Sol., LLC*, No. 1:22-CV-04026-SEG, 2023 WL 9915427, at *3 (N.D. Ga. June 30, 2023) (authoring service by email, WhatsApp, and LinkedIn on defendant believed to be located in India where no physical address was available); *Microsoft Corp. v. Malikov*, No. 1:22-CV-1328, 2022 WL 1694773, at *2 (N.D. Ga. Apr. 8, 2022) (also authorizing service by email where defendants addresses were unknown, where at least one defendant was believed to be in Russia, and where it

was shown that defendants were likely to receive notice by email); *Richemont Int'l SA v. Individuals, P'ships & Unincorporated Ass'ns* identified on Schedule A, No. 20-cv-61367, 2020 U.S. Dist. LEXIS 210762, at *3 (S.D. Fla. July 10, 2020) (authoring service by email where defendants addresses were unknown, but where it was shown that defendants were likely to receive notice by email, for defendants residing in Russia, China, Australia, India, Japan, Korea, Morocco, Sri Lanka, Ukraine, Indonesia, and Singapore); *see also In re Int'l Telemedia Associates, Inc.*, 245 B.R. 713 (Bankr. N.D. Ga. 2000); *Rio Props. Inc., v. Rio Int'l Interlink*, 284 F.3d 1007, 1014 (9th Cir. 2002); *National Association for Stock Car Auto Racing, Inc. v. Does*, 584 F. Supp.2d 824, 826 (W.D.N.C. 2008); *Popular Enters., LLC v. Webcom Media Group, Inc.*, 225 F.R.D. 560, 562 (E.D. Tenn. 2004).

III. CONCLUSION

Accordingly, Plaintiff's Motion is here by GRANTED, and the Court ORDERS as follows:

1. The Clerk is directed to issue summonses for Does 1-6 with email addresses listed and without the need for a physical address to be listed on the summonses;

2. Pursuant to Fed. R. Civ. P. 4(f)(3), Plaintiff is authorized to serve the Summonses, Complaint, Motions, Orders, and all other pleadings and papers on Defendants or their counsel (if any appear) by electronic means, including by email,

to addresses currently known or later determined to be associated with Defendants or provided by Defendants themselves; and

3. Unless otherwise ordered by the Court, Plaintiff may affect service and provide notice to Defendants after execution of the Temporary Restraining Order sought by Plaintiff.

IT IS SO ORDERED.

Entered this ____ day of _____, 2025.

United States District Judge