UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CIVIL ACTION NO.

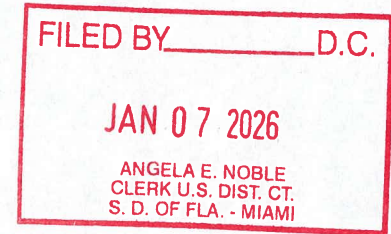MICROSOFT CORPORATION, H2
PHARMA LLC, and GATEHOUSE DOCK
CONDUMINIUM ASSOCIATION

        Plaintiffs

        v.

DOES 1-7

        Defendants

<u>**FILED UNDER SEAL**</u>

DECLARATION OF DONAL KEATING

I, Donal Keating, declare as follows:

1.   I am the Director of Innovation and Research at Microsoft Corporation. I have served in this role for approximately 9 years. During my 27-year tenure at Microsoft, I have served in a wide range of roles including as a CD Plant Manager, Anti-Piracy Technology Manager, and Senior Manager of Forensics. I hold a degree in Physics from the Technological University of Dublin.

2.   My responsibilities at Microsoft over the past 27 years required me to develop an understanding of Microsoft's licensing practices, including the technologies used to enforce license restrictions.

3.   I am one of the persons at Microsoft responsible for assisting with the investigation into an entity known as RedVDS that is involved in distributing, monetizing, and using unauthorized copies of Windows Server 2022 in connection with an elaborate paid

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phishing enabling service used to defraud victims around the world. My work investigating

RedVDS has included collaboration with my colleagues Sean Ensz and Maurice Mason. I am

familiar with the contents of the declarations they are submitting in this case.

Microsoft's Windows Server Product

4.   The software at issue in this case is known as Windows Server 2022. Windows

Server is Microsoft's enterprise server platform that enables organizations to run and secure

applications, services, and workloads across on-premises, hybrid, and cloud environments. From

a user interface perspective, Windows Server is similar to the common version of Windows that

most users are familiar with, but Windows Server has additional features designed to help

manage data and applications across multiple computers. Like many Microsoft products,

Windows Server is a software product that is licensed, not sold to end users. In order to lawfully

use Windows Server, users must agree to a license agreement that requires, among other things,

an agreement not to use Microsoft's software for harmful purposes. One element of Microsoft's

licensing program is a crypotgraphically generated key, sometimes referred to as a product key,

license key, or license certificate ("Windows Server Key"). Windows Server Keys are unique

alphanumeric codes used to validate the license status of a copy of Windows Server.

5.   Microsoft's Windows Server software is generally licensed through Microsoft

Commercial Licensing programs. Specific license terms for Windows Server are defined in the

Microsoft Commercial Licensing Product Terms, the Microsoft Commercial Licensing

agreement under which it was acquired, and/or its original equipment manufacturer (OEM) or

Retail Software License Terms.

6.   Windows Server software licenses are sold through channels designed to meet the

unique needs of customers. These sales channels include online retailers offering full packaged

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product (FPP) licenses of Windows Server software, original equipment manufacturers (OEMs) offering pre-installed licenses with their hardware systems, as well as Licensing Solutions Partners (LSPs) and Enterprise Software Advisors (ESAs) offering Windows Server software through Microsoft Commercial Licensing programs for end-customer organizations.

7.   The current version of Windows Server is Windows Sever 2025. There are three versions of Windows Server 2025 commercially licensed by Microsoft. Windows Server Data Center Edition is ideal for highly virtualized and software-defined datacenter environments. Standard edition is ideal for customers with low density or non-virtualized environments. Essentials edition is a cloud-connected first server, ideal for small businesses with up to 25 users and 50 devices. Windows Server 2025 Essentials edition is available to purchase from OEMs only.

8.   Windows Server includes technologies designed to simplify the task of configuring the distribution and management of an organization's volume software licenses. For example, Microsoft's Volume Activation is a set of technologies and tools designed to automate the product activation process for systems that are deployed under a Microsoft Commercial Licensing agreement. Volume Activation Services is a server role in Windows Server (2012 or later editions) that enables a customer to automate and simplify the issuance and management of Microsoft software volume licenses for a variety of scenarios and environments. With Volume Activation Services, customers can install and configure the Key Management Service (KMS) and enable Active Directory-based Activation.

9.   KMS is a role service that allows organizations to activate systems within their network from a server where a KMS host has been installed. With KMS, IT pros can complete activations on their local network, eliminating the need for individual computers to connect to

Microsoft for product activation. KMS does not require a dedicated system, and it can be cohosted on a system that provides other services. By default, volume editions of Windows client and server operating systems connect to a system that hosts the KMS service to request activation. No action is required from the user.

10.　　Active Directory-based activation is another role service customers can use to manage volume licensing. Active Directory-based activation allows the customer to use Active Directory Domain Services (Active Directory DS) to store activation objects, which can further simplify the task of maintaining volume activation services for a network. With Active Directory-based activation, no additional host server is needed, and activation requests are processed during computer startup.

11.　　Any computers running Windows Server 2016 (or later editions) with a Generic Volume License Key (GVLK) that are connected to the domain will activate automatically and transparently. They will stay activated as long as they remain members of the domain and maintain periodic contact with a domain controller. Activation takes place after the licensing service starts. When this service starts, the computer running Windows Server 2016 (or later editions) contacts Active Directory DS automatically, receives the activation object, and activates without user intervention.

12.　　In addition to commercially licensed versions of Windows Server, Microsoft also licenses evaluation versions of Windows Server for customers who wish to evaluate the software before entering into a commercial license. Microsoft currently only offers evaluation licenses for Windows Server 2025 on Azure, Windows Server 2025 64-bit ISO, and Windows Server 64-bit VHD. Evaluation versions of Windows Server must be activated over the internet in the first 10 days to avoid automatic shutdown.

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RedVDS's Piracy of Microsoft's Windows Server Software

13. RedVDS offers unauthorized copies of Windows Server in a virtual environment that can be remotely accessed from any computer connected to the internet. The "VDS" in RedVDS stands for "virtual desktop server" because it allows users to remotely access a virtual Windows desktop that can then be used as a server to facilitate network operations for multiple computers. For example, a user can use one computer to remote into a RedVDS virtual Windows Server running on a different computer and use that Windows Server computer as a hub for controlling networks of other computers. RedVDS engages the services of other third-party hosting providers and installs unauthorized copies of Windows Server on those hosting providers' servers. RedVDS then sells access to these copies of Windows Server to end users, most of whom appear to be engaged in illegal activities like phishing, business email compromise fraud schemes, and other cybercrime activities that often involve gaining unauthorized access to computer systems and data. RedVDS obtained a copy of Windows Server from Microsoft or a third party. In order to download and install Windows Server, the operators of RedVDS were required by Microsoft's systems to agree to Microsoft's terms of use and license agreement for the Windows Server software.

14. The copy of Windows Server obtained by RedVDS contains an embedded evaluation Windows Server Key that enables 180 days of usage; after 180 days of usage, a user receives a message informing them that their evaluation license has expired and prompting them to obtain a proper usage license. RedVDS unlawfully cloned this copy of Windows Server and its embedded Windows Sever Evaluation key in order to enable an unlimited number of users to run copies of the cloned RedVDS Windows Server instance.

15. In violation of Microsoft's licensing terms, RedVDS installed one copy of Windows Server onto a virtual computer with the identifying Computer Net Bios Name "WIN-BUNS25TD77J". RedVDS then created numerous images of this virtual computer for distribution to multiple end users. In this context, the term "image" refers to a snapshot of the entire state of a system, disk, or environment at a specific point in time. An image usually includes operating system files, installed applications, configurations settings, and sometimes boot sector data.

16. These images were then mounted across a variety of hosting sites in locations all over the world. The virtualization software QEMU is used to manage the deployments of these images. Because each image represents a copy of the original system as it existed at the time of imaging, the evaluation license timer in the Windows Server software reflects the number of days left in the evaluation period at the time of the imaging. In other words, because RedVDS created the image at a time when there were 180 days remaining on the Windows Server evaluation license, each instantiation of that image will also show 180 days remaining evaluation usage, even after the original 180 day period has expired.

17. RedVDS traffics the unauthorized images and copies of the original Windows Server and Windows Server Key through the website located at the URL redvds[.]com. Microsoft believes RedVDS has distributed thousands of unauthorized copies of Windows Server.

18. Commencing in 2024, Microsoft observed the existence of numerous malicious Windows hosts with the Computer Net Bios Name WIN-BUNS25TD77J. Further investigation revealed that the WIN-BUNS25TD77J identifier is associated with thousands of stolen
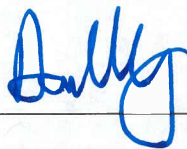
credentials, invoices, mass mailers, and phish kits. Microsoft determined that the host machines associated with WIN-BUNS25TD77J were all created from the same virtual computer image.

19.   Investigation into RedVDS revealed that is not a registered company or legal entity in any state or nation. The Terms of Service indicate it is governed by Bahamian Law, and the domain registration for the RedVDS URL provides what appears to be a fake name ("David Rico") and fake address. For example, the domain registrant address given for RedVDS corresponds to a University of the Bahamas International Building that has been demolished. The use of fake name and address information is consistent with trade craft commonly used by perpetrators of software piracy and cybercrime schemes.

20.   Microsoft is the owner of U.S. Copyright Registration No. TX0009008683 for the software offered commercially as Windows Server and U.S. Trademark Registrations 1689468 and 7706415 for the marks MICROSOFT® and WINDOWS®, respectively. Copies of Microsoft's registration certificates are attached to this declaration as **Exhibits 1, 2, and 3**.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 7th day of January, 2026 at Miami, Florida.

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Donal Keating

Exhibit 1

Title

Title of Work: Windows Server 2022

Completion/Publication

Year of Completion: 2021
Date of 1st Publication: August 18, 2021
Nation of 1st Publication: United States

Author

- **Author:** Microsoft Corporation
  Author Created: computer program
  Work made for hire: Yes
  Citizen of: United States

Copyright Claimant

Copyright Claimant: Microsoft Corporation
One Microsoft Way, Redmond, WA, 98052, United States

Limitation of copyright claim

Material excluded from this claim: computer program, previous version and third party licensed code throughout
Previous registration and year: TX 8-659-104, 2018

New material included in claim: computer program, revised version

Certification

Name: Dave Green
Date: September 03, 2021
Applicant's Tracking Number: CPT-0067

Exhibit 2

Int. Cl.: 16

Prior U.S. Cl.: 38

United States Patent and Trademark Office

TRADEMARK
Principal Register

MICROSOFT

Microsoft Corporation (Washington corporation)
10700 Northup Way
Bellevue, Wash. 98004

For: COMPUTER HARDWARE AND SOFT-
WARE MANUALS; NEWSLETTER FEATUR-
ING INFORMATION ABOUT COMPUTER
HARDWARE AND SOFTWARE AND GENER-
AL INFORMATION RELATING TO COMPUT-
ERS FOR MANUFACTURERS, DISTRIBUTORS,
AND USERS OF COMPUTERS AND COMPUT-
ER SOFTWARE; AND COMPUTER DOCUMEN-
TATION—NAMELY, REFERENCE, USER,
INSTRUCTIONAL, AND GENERAL UTILITIES
MANUALS AND DATA SHEETS FOR COM-
PUTER HARDWARE AND SOFTWARE USERS,
in CLASS 16 (U.S. Cl. 38).

First use Nov. 1975; in commerce Nov. 1975.

Ser. No. 373,992, filed Jul. 12, 1982.

J. H. WEBB, Examining Attorney

Exhibit 3

United States of America

United States Patent and Trademark Office

WINDOWS

Reg. No. 7,706,415

Registered Feb. 25, 2025

Int. Cl.: 9

Trademark

Principal Register

Microsoft Corporation (Washington CORPORATION)
255 East Fifth Street, Suite 1900
Cincinnati, OHIO 45202

CLASS 9: Downloadable computer software for operating word processing, scheduling, e-mail administration, and Internet access and downloadable navigation software for wallet-sized personal computers; Downloadable computer software for operating word processing, spread sheets, database management, e-mail, scheduling, games, electronic reference materials, financial management, and Internet access and navigation; Downloadable computer software for accessing a virtual desktop platform and server applications; Downloadable computer software for accessing and using a cloud computing network; Downloadable computer software for accessing virtual computer systems and environments; Downloadable cloud computing software for data storage and backup, database management, virtualization, networking, collaboration, remote access, remote support, data sharing, data security, access to applications and services through a web operating system or portal interface; Downloadable cloud computing software for managing virtual machines on a cloud computing platform; Downloadable cloud computing software for managing cloud computing resources; Downloadable computer software for communication and data exchange on computer networks and global computer networks

FIRST USE 11-00-2023; IN COMMERCE 11-00-2023

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 98-759,172, FILED 09-19-2024

Acting Director of the United States Patent and Trademark Office

REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.

Requirements in the First Ten Years*
What and When to File:

- *First Filing Deadline:* You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

- *Second Filing Deadline:* You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

*ATTENTION MADRID PROTOCOL REGISTRANTS: The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see http://www.wipo.int/madrid/en/.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at http://www.uspto.gov.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at http://www.uspto.gov.