

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

	)	
DXC TECHNOLOGY COMPANY, a	)	
Nevada corporation,	)	
	)	
Plaintiff,	)	
	)	
V	)	
	)	Civil Action No: 1:20-cv-00814
JOHN DOES 1-2,	)	
	)	
Defendants.	)	
	)	
	)	

---

**BRIEF IN SUPPORT OF DXC’S MOTION FOR LIMITED AUTHORITY TO  
CONDUCT DISCOVERY NECESSARY TO IDENTIFY AND SERVE DOE  
DEFENDANTS**

Plaintiff DXC Technology Company (“DXC”) respectfully requests an order authorizing it to conduct discovery necessary to identify and serve the Doe Defendants.

On July 22, 2020, the Court granted an Emergency *Ex Parte* Temporary Restraining Order (“TRO”) tailored to halt Defendants’ attack, targeting DXC’s systems and infrastructure with a malicious type of software known as ransomware, in order to exfiltrate information from those systems. In order to obtain unauthorized access, Defendants have developed a command and control infrastructure comprised of server computers hosting certain Internet domains (*i.e.* websites) used in the coordinated cyberattack against DXC. To disable this command and control infrastructure, this Court ordered that these Internet domains controlled by Defendants listed in **Appendix A** filed on July 22, 2020 be redirected to secure DXC servers. On August 3, 2020, the Court issued an order supplementing **Appendix A** to its temporary restraining order.

At present, DXC is in possession of preliminary information regarding Defendants obtained from *inter alia* public sources of information provided by ISPs, registries, and other

service providers whose services Defendants used. While much of the information provided in such records appears to be fictitious, DXC possesses information regarding email addresses, domain names, and IP addresses that DXC has gathered through its own investigation and from third parties that provide leads to be pursued through discovery tailored to identify Defendants.

In order to identify Defendants from information such as email addresses, domain names, and IP addresses, it will be necessary to send subpoenas to third party Internet service providers (ISPs) and hosting companies to obtain account and user information provided by Defendants in association with such email addresses, domain names, and IP addresses. For example, such service providers often maintain billing and account information identifying the purchasers and account holders of such services, and maintain IP address logs reflecting the computers from which Defendants logged into their accounts. Given that the account and user information kept by these third party internet service providers regarding Defendants is generally non-public, the service providers are not likely to provide it to DXC absent a subpoena.

DXC, accordingly, requests an order granting authority to serve limited subpoenas to third party email service providers, domain name registrars, and hosting companies, to pursue the identities of the Defendants. By the instant motion, DXC requests authority to conduct discovery into these sources to identify Defendants. Given the state of the information currently in DXC's possession, DXC believes that limited discovery will assist DXC in its endeavor to identify, name, and serve Defendants.

## **I. ARGUMENT**

Under Federal Rule of Civil Procedure 26(d), discovery may not normally begin "before the parties have conferred as required by Rule 26(f)." Because John Doe Defendants in this case are unknown to DXC, the conference Rule 26(f) contemplates cannot occur. This limitation on

the initiation of discovery, however, can be waived under Rule 26(d) by court order.

Courts recognize that, in certain situations, the identity of the defendant may not be known prior to the filing of a complaint. In such circumstances, courts authorize a plaintiff to undertake discovery to identify the unknown defendants. In *Gordon v. Leeke*, 574 F.2d 1147, 1152 (4th Cir. 1978), the Fourth Circuit explained that, if a plaintiff states a meritorious claim against an unknown defendant, the Court should allow plaintiff to ascertain the identity of the unknown defendant through discovery. Courts in this Circuit have also authorized parties to conduct discovery based on computer IP addresses in order to assist in the identification of John Doe defendants. See *Arista Records LLC v. Does 1-14*, 2008 U.S. Dist. LEXIS 102974 (W.D. Va. 2008) (granting discovery to identify John Does based on IP addresses); *Virgin Records America, Inc. v. John Doe*, 2009 U.S. Dist. LEXIS 21701 (E.D.N.C. 2009) (same).

This Court has repeatedly granted John Doe discovery used to identify registrants of Internet domains supporting in prior cases involving cyberattacks. See, e.g., *Microsoft v. John Does 1-2*, Case No. 1:20-cv-730 (E.D. Va. 2020) (O’Grady, J.), Dkt. 26 (granting discovery so that plaintiff could investigate the identities of registrants of a number of Internet domains used in cyberattack); *Sophos v. John Does 1-2*, Case No. 1:20-cv-502 (E.D. Va. 2020) (O’Grady, J.), Dkt. 28 (same). Likewise, in the instant matter, it is appropriate to grant DXC authority to conduct limited discovery to identify Defendants. DXC seeks only a limited discovery period of 120 days, during which it will move forward diligently with subpoenas to third-party ISPs and web hosting companies in an attempt to further identify Defendants and/or to obtain additional contact information through which to effect service of process.


## **II. CONCLUSION**

For the reasons set forth herein, DXC respectfully requests permission under Rule 26(d)

to conduct such discovery for a period of 120 days, as may be necessary, to further identify and serve Defendants.

Dated: August 6, 2020

Respectfully submitted,



---

Julia Milewski (VA Bar No. 82426)  
Matthew Welling (*pro hac vice*)  
CROWELL & MORING LLP  
1001 Pennsylvania Avenue NW  
Washington DC 20004-2595  
Telephone: (202) 624-2500  
Fax: (202) 628-5116  
jmilewski@crowell.com  
mwelling@crowell.com

Gabriel M. Ramsey (*pro hac vice*)  
Kayvan M. Ghaffari (*pro hac vice*)  
CROWELL & MORING LLP  
3 Embarcadero Center, 26th Floor  
San Francisco, CA 94111  
Telephone: (415) 986-2800  
Fax: (415) 986-2827  
gramsey@crowell.com  
kghaffari@crowell.com

*Attorneys for Plaintiff DXC Technology Company*