



U.S. Department of Justice

United States Attorney  
Southern District of New York

The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

October 15, 2020

**BY EMAIL**

The Honorable Jed S. Rakoff  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

ORDER

**Re: Microsoft's Appeal of Non-Disclosure Orders, 20 Misc. --- (20 Mag. 7329, 20 Mag. 10620)**

Dear Judge Rakoff:

The Government and Microsoft write jointly to inform the Court of the parties' agreement in principle to resolve the above-referenced matter. As the Court is aware, this matter concerns two court orders requiring Microsoft to produce data associated with an individual account registered to one of Microsoft's enterprise customers (the "Enterprise Customer") and prohibiting Microsoft from notifying anyone about the existence of the orders. Microsoft appealed the nondisclosure orders to this Court, sitting in Part I. The Government's opposition to Microsoft's appeals is due on or before this Thursday, October 15, 2020, and Microsoft's reply is due on or before October 22, 2020.

The Government has agreed, in light of the unique circumstances of this case and the investigation to which it relates, to notify an individual at the Enterprise Customer about the orders, including by providing an individual at the Enterprise Customer with the account targeted. In particular, the Government intends to first notify outside counsel for the Enterprise Customer, and to work with counsel to identify an appropriate individual within the Enterprise Customer for disclosure. The Government will provide an individual at the Enterprise Customer with a copy of this letter.

Microsoft agrees that the Government's notice to an individual at the Enterprise Customer will address Microsoft's concerns in this matter. Accordingly, the parties respectfully request that the current briefing deadlines be continued by two weeks to afford the Government a reasonable opportunity to notify the Enterprise Customer, such that the Government's opposition to Microsoft's appeals would be due on or before October 29, 2020, and Microsoft's reply would be due on or before

Hon. Jed S. Rakoff  
October 15, 2020

Page 2

November 5, 2020. Once notification to the Enterprise Customer's outside counsel occurs, the parties will promptly inform the Court and stipulate to the dismissal of Microsoft's appeals.

The parties further agree that the information disclosed in this letter need not be filed under seal, and accordingly respectfully request that this letter be filed on the public docket.

Respectfully submitted,

AUDREY STRAUSS  
Acting United States Attorney for the  
Southern District of New York

By: s/  
Kyle A. Wirshba  
Assistant United States Attorney  
(212) 637-2493

cc: James M. Garland, Esq., Covington & Burling LLP, Counsel to Microsoft

SO ORDERED

Jed S. Rakoff  
JSDJ

10-16-20