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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICROSOFT CORPORATION,  
Plaintiff,

v.

JOHN DOES 1-11 CONTROLLING A  
COMPUTER BOTNET THEREBY  
INJURING MICROSOFT AND ITS  
CUSTOMERS,  
Defendants.

Case No. **C11-0222** JR

**DECLARATION OF PATRICK M.  
FORD IN SUPPORT OF MICROSOFT  
CORPORATION'S APPLICATION  
FOR AN EMERGENCY  
TEMPORARY RESTRAINING  
ORDER, SEIZURE ORDER AND  
ORDER TO SHOW CAUSE RE  
PRELIMINARY INJUNCTION**

**\*\*FILED UNDER SEAL\*\***



11-CV-00222-STMT

DECLARATION OF PATRICK M. FORD IN SUPPORT  
OF TRO, SEIZURE ORDER AND ORDER TO SHOW  
CAUSE RE PRELIMINARY INJUNCTION

Orrick Herrington & Sutcliffe LLP  
701 5th Avenue, Suite 5600  
Seattle, Washington 98104-7097  
tel+1-206-839-4300

1 I, Patrick M. Ford, declare as follows:

2 1. I am Senior Director Americas Region of Pfizer Global Security, a practice group  
3 within Pfizer Inc. I make this declaration in support of Microsoft Corporation's Application for  
4 an Emergency Temporary Restraining Order, Seizure Order and Order to Show Cause Re  
5 Preliminary Injunction. Except where otherwise indicated, this declaration is based on my own  
6 personal knowledge and my experience and knowledge as Senior Director Americas Region of  
7 Pfizer Global Security and upon the business records of Pfizer relating to this role. If called as a  
8 witness, I could and would testify competently to the truth of the matters set forth herein.

9 2. As Senior Director Americas Region, I manage and supervise investigations initiated  
10 throughout North America, South America and the Caribbean under Global Security's anti-  
11 counterfeiting program, the goal of which is to detect and disrupt major manufacturers and  
12 distributors of counterfeit Pfizer medicines.

13 3. For Pfizer, counterfeit medicines are, first and foremost, a matter of patient health and  
14 safety.

15 4. Lured by the ease and convenience of the Internet, many patients order medicines  
16 online. Because this introduces a lack of transparency as to the authenticity and source of those  
17 medicines, they are potentially placing their health at risk by purchasing medicines online.

18 5. SPAM – the use of electronic messaging systems to send unsolicited bulk emails – acts  
19 as a portal, often directing “patients” to rogue on-line pharmacies (“OLPs”) that dispense  
20 counterfeit or other unapproved products to unsuspecting patients.

21 6. BOTNETs (roBOT NETwork) are collections of software agents, or robots that run  
22 autonomously and automatically used to create and send SPAM or viruses.

23 7. Microsoft Corporation has provided me with sample SPAM which Microsoft has  
24 advised was disseminated by a BOTNET identified as “Rustock”. Based on my review of those  
25 five samples, and the results of test purchases from those sites, it appears that SPAM disseminated  
26 by Rustock exposes unsuspecting patients to the risk of receiving counterfeit or other unapproved  
27 products.  
28

1  
2 8. Upon information and belief, if the Rustock botnet is permitted to continue its  
3 operations, more patients will be exposed to those risks.

4 **Counterfeit Medicines Pose a Threat to Patient Health and Safety**

5 9. The World Health Organization has defined a counterfeit medicine as “one which is  
6 deliberately and fraudulently mislabeled with respect to identity and/or source.” As defined by  
7 Pfizer, it is a product manufactured by someone other than Pfizer that appears the same as an  
8 authentic Pfizer medicine.

9 10. Pharmaceutical counterfeiting is, in essence, a crime of fraud, trick and deceit.  
10 Counterfeiters deceive patients into believing that the products they offer are safe and effective  
11 medicines, trusted brands from pharmaceutical companies such as Pfizer, upon whose integrity  
12 they have relied to receive medicines that permit them to live happier and healthier lives. In  
13 reality, however, the products produced and dispensed by those engaged in pharmaceutical  
14 counterfeiting place human lives at risk.

15 11. Because of the conditions under which they are manufactured, and the lack of  
16 regulation of the products produced, counterfeit medicines pose a threat to patient health and  
17 safety.

18 12. Raids of manufacturing sites by enforcement authorities, acting on evidence  
19 provided by Pfizer Global Security have shown the unsanitary conditions under which those  
20 products are frequently manufactured. Attached as Exhibit A is a photo taken during one such  
21 raid. Counterfeit VIAGRA® manufactured at that site was distributed over the internet via a  
22 network of brokers, many of whom were located in the United States. Working in cooperation  
23 with Chinese authorities, US authorities arrested one of those brokers, a resident of Shelton,  
24 Washington and the owner of an unlicensed online pharmacy, bestonlineviagra.com, which  
25 dispensed counterfeit VIAGRA® to patients in the United States.

26 13. Unsuspecting patients to whom counterfeits are dispensed are exposed to products  
27 that may deprive them of the therapeutic benefit of the medicines prescribed by their physicians –  
28

1 because they contain the incorrect active pharmaceutical ingredient (API) or the incorrect dosage  
2 of the API – or may place their lives at risk because they contain ingredients harmful or not  
3 approved / tested for human, such as pesticides, leaded highway paint and floor wax.

4 14. While it is impossible to gauge the true scope of the counterfeit problem, one  
5 available metric is the seizure of counterfeit medicines reported to us by enforcement authorities  
6 with whom we have partnered in our anti-counterfeiting efforts. Since 2004, through those  
7 efforts, we have prevented more than 63 million doses of counterfeit Pfizer medicines from  
8 reaching patients around the world, as well as enough API to manufacture another 64 million, for  
9 a total of 127 million doses.

10 15. As of September 30, 2010, we have confirmed the presence of counterfeit versions  
11 of more than 40 Pfizer medicines – including Aricept<sup>®</sup>, Celebrex<sup>®</sup>, Lipitor<sup>®</sup>, Norvasc<sup>®</sup>, Zoloft<sup>®</sup> and  
12 Viagra<sup>®</sup> – in at least 92 countries, including the United States and Canada.

13 16. Due to advances in technology, it is easier for those who engage in pharmaceutical  
14 counterfeiting to make convincing copies of our medicines that are virtually impossible to  
15 distinguish from the authentic Pfizer medicines without being subjected to laboratory analysis.

16 17. VIAGRA<sup>®</sup>, for the treatment of erectile dysfunction, is the most frequently  
17 counterfeited Pfizer medicine and the one most likely to be the subject of SPAM.

18  
19 **The Risk from Counterfeit Medicines is Great for Patients Who Order Medicines Online**

20 18. Although the legitimate supply chain in the United States is among the safest in the  
21 world, patients are potentially placing their health at risk when they order medicines online.  
22 Despite the ease with which medicines can be obtained from OLPs they introduce a lack of  
23 transparency concerning the source of the medicines they dispense as well as uncertainty as to  
24 their authenticity.

25 19. While some OLPs are registered or licensed, most are not. To assist patients in  
26 identifying safe online pharmacies, the NABP (National Association of Board of Pharmacies)  
27 developed an accreditation program, awarding Verified Internet Pharmacy Practices Sites (VIPPS)  
28

1 certificates to those that meet stringent licensing and inspection requirements of the states in  
2 which they dispense medicines. Many unlicensed OLPs that conceal their true location attempt to  
3 deceive patients into believing that they are from countries perceived to be "safe", such as Canada  
4 or the United Kingdom.

5 20. With respect to such "rogue" pharmacies, the World Health Organization has stated  
6 that there is a more than 50% chance of receiving a counterfeit medicine.

7 21. In August 2006 the FDA cautioned patients not to take medicines they received  
8 from RxNorth and its affiliated OLPs. The medicines offered by RxNorth, purportedly a  
9 "Canadian" pharmacy dispensing safe and effective medicines intended for the Canadian market,  
10 were in reality counterfeits manufactured in China. Among the products they dispensed were  
11 counterfeit Lipitor tablets that contained only 82 to 86% of claimed dosage of API as well  
12 counterfeit versions of non-Pfizer medicines found to contain heavy metals.

13 22. In 2007 a Coroner in British Colombia attributed the death of a woman to heavy  
14 metal poisoning from counterfeit medicines she obtained over the internet.

15  
16 **The Use of SPAM and BOTNETS Increase the Number of Patients Exposed to Those Risks**

17 23. Based on my experience, SPAM generated by BOTNETS is a mechanism by  
18 which counterfeit and other unapproved versions of Pfizer medicines are distributed to  
19 unsuspecting patients who order their medicines online.

20 24. Beyond the dangers to patient health and safety, the prevalence of SPAM  
21 pertaining to VIAGRA® can cause confusion among patients, who believe that the SPAM is  
22 generated by Pfizer and lose confidence in the Pfizer brand when the sites to which they are  
23 referred dispense counterfeit or other unapproved versions of branded Pfizer medicines.

24 25. Pfizer does not promote VIAGRA® or any of its branded medicines through  
25 Rustock or any other BOTNET or SPAM, increasing the likelihood that the products promoted are  
26 counterfeit or unauthorized versions of Pfizer medicines that may place patients at risk.

27 26. I have reviewed select SPAM email provided to me by Microsoft, that Microsoft  
28

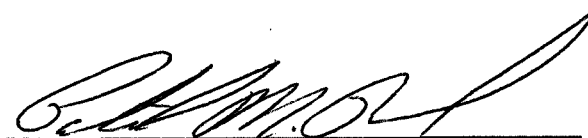
1 has advised was generated by the Rustock Botnet. The SPAM e-mails reviewed purport to  
2 promote Pfizer's VIAGRA®. True and exact copies of those emails are attached as Exhibit B.

3 27. Pursuant to my instructions, a consultant was retained in the United States to make  
4 test purchases from the five websites identified from those SPAM emails. Although each SPAM  
5 e-mail was associated with a separate URL, the vendor was redirected to the same OLP –  
6 doctorroe.com – to complete each purchase. At no time during the purchasing process, was the  
7 vendor required to submit a prescription.

8 28. Upon receipt of the test samples, the consultant forwarded them to the Pfizer lab  
9 for testing. Of the five samples, three were counterfeit versions of VIAGRA® sourced from  
10 China, and two were unapproved generic versions of VIAGRA® sourced from India. None of the  
11 sites dispensed authentic VIAGRA® tablets as a result of the orders placed with them.

12 29. A consultant was also retained in France to make a test purchase of "VIAGRA"  
13 from one of the websites identified in the SPAM emails. As with the United States purchases, the  
14 consultant was redirected to the OLP – doctorroe.com – to complete the purchase. Upon receipt  
15 of the test sample, the consultant forwarded it to the Pfizer lab in Sandwich, England for testing.  
16 The Pfizer lab determined that the sample was a counterfeit version of VIAGRA® sourced from  
17 Hong Kong.

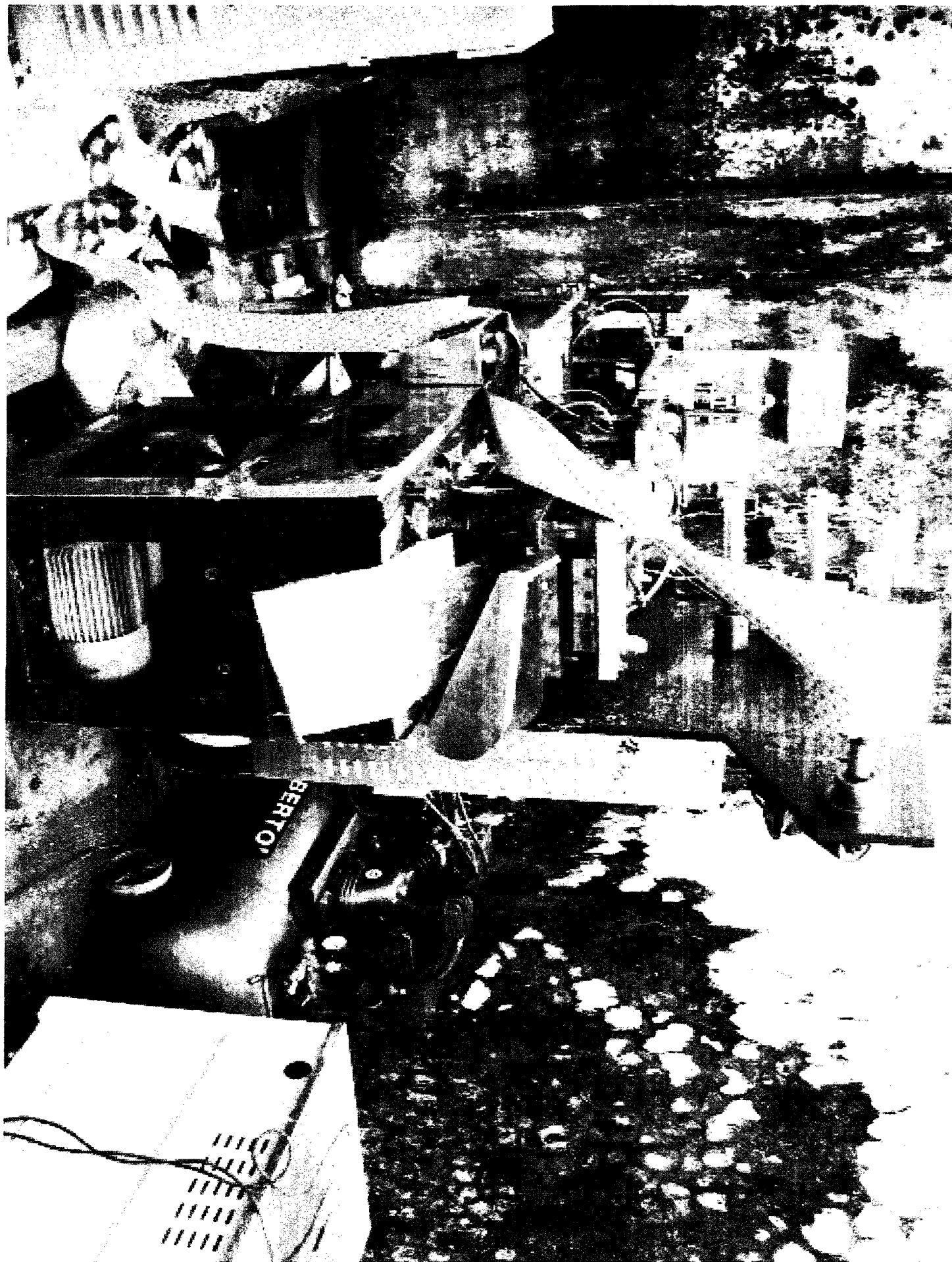
18  
19 I declare under penalty of perjury under the laws of the United States of America that the  
20 foregoing is true and correct to the best of my knowledge.

21  
22  
23 

24 **PATRICK M. FORD**

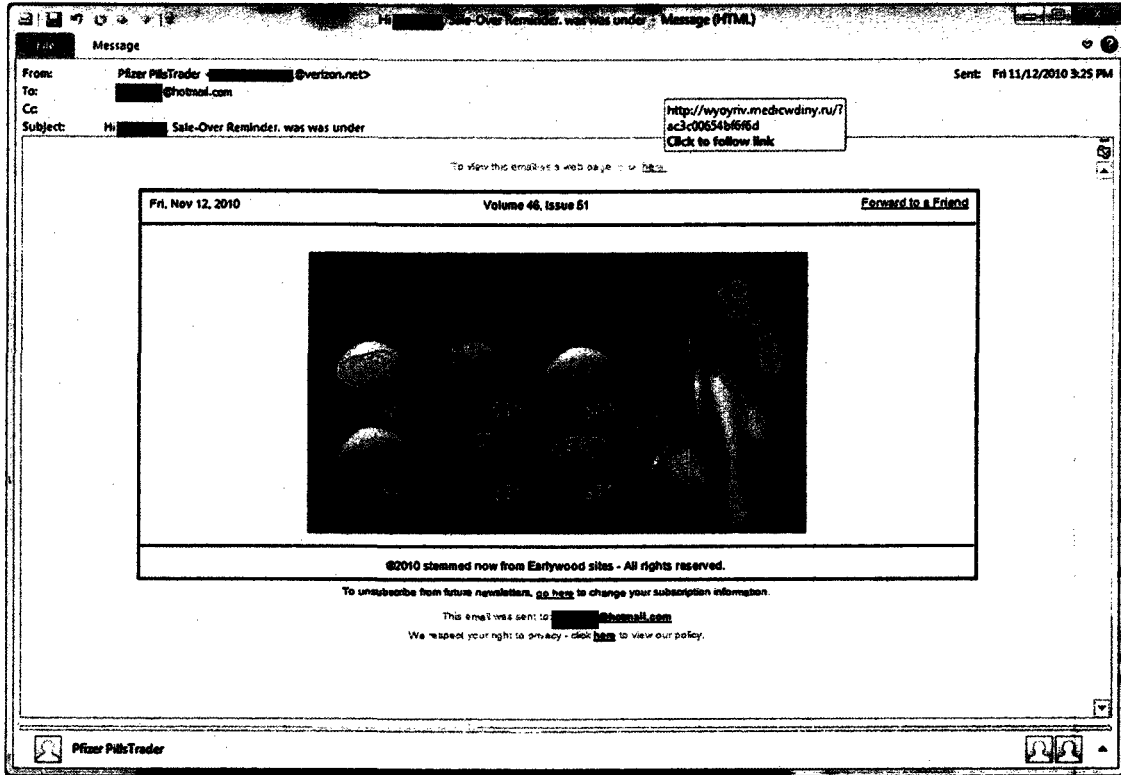
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26 Executed this 18<sup>th</sup> day of January 2011  
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# **Exhibit A**

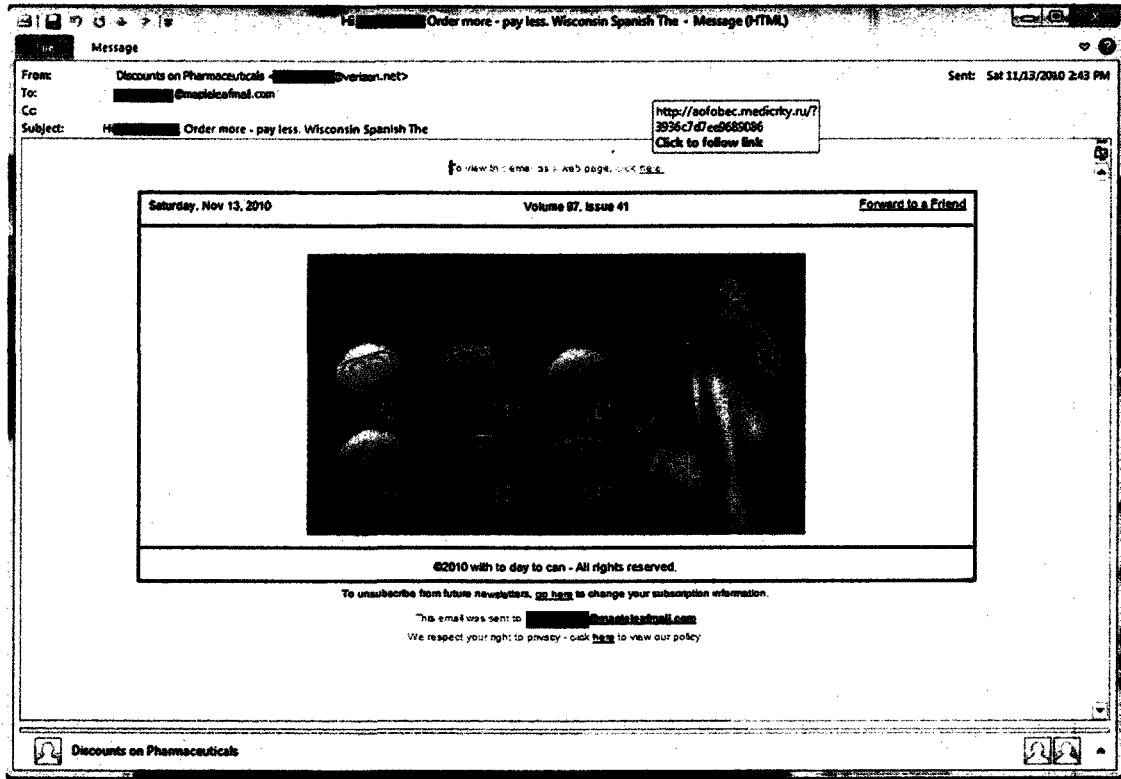




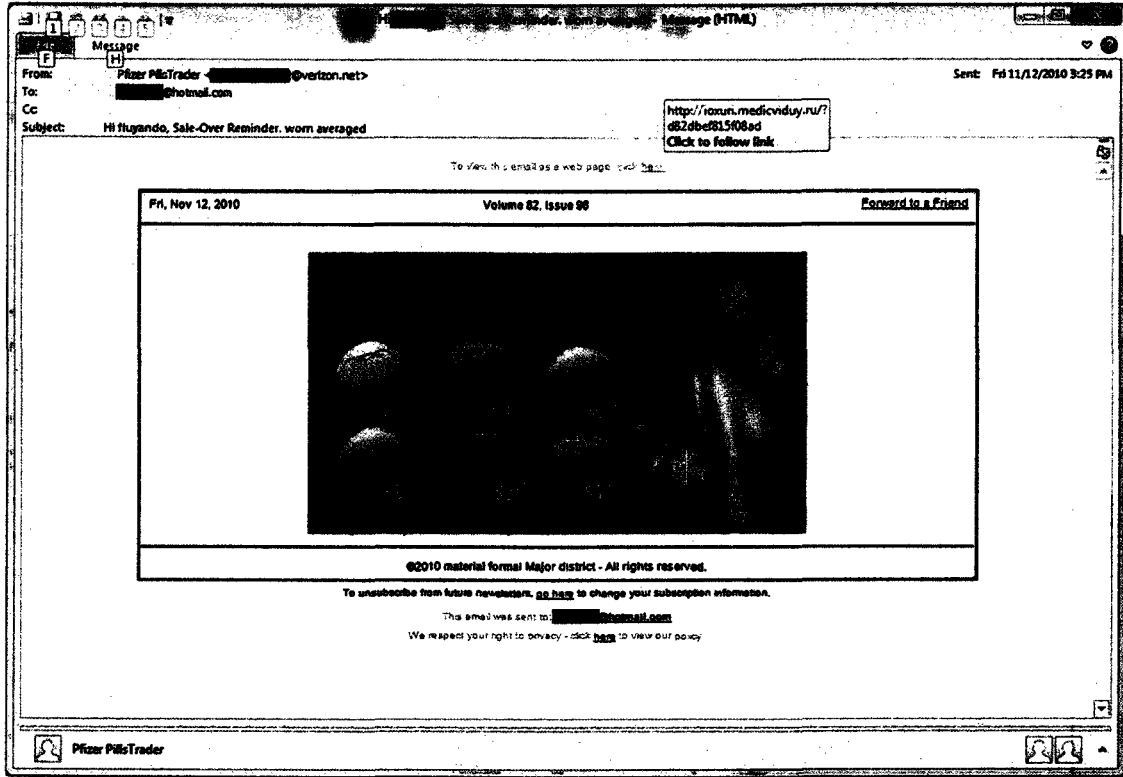
# Exhibit B



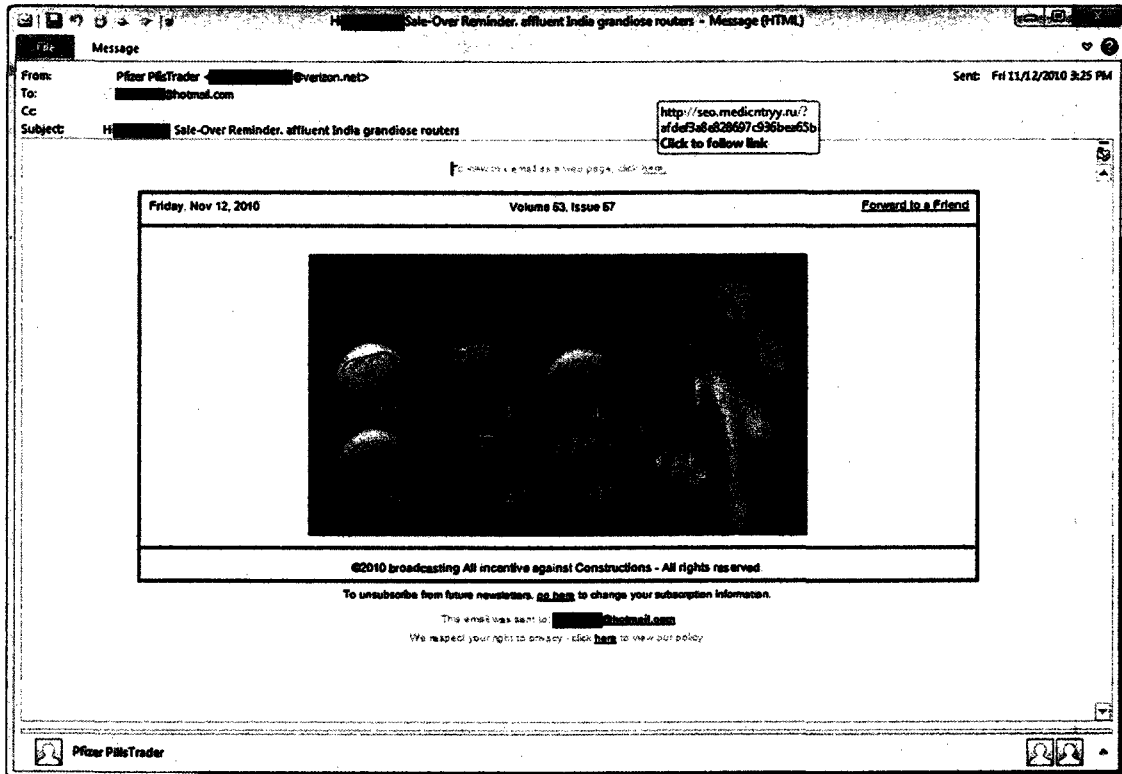
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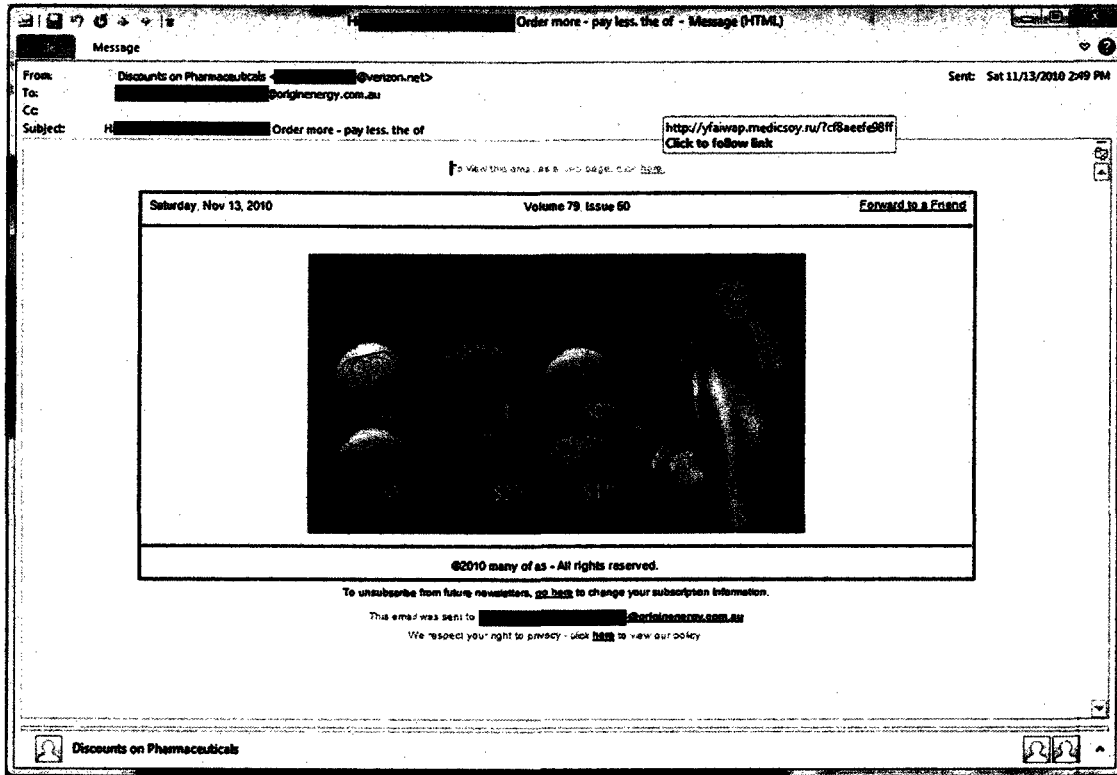
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