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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICROSOFT CORPORATION, a	)	Case No.: No. CV04-0515
	)	
Washington corporation,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
JDO MEDIA, INC., a Florida corporation, and	)	
	)	
JOHN DOES 1-50,	)	
	)	
Defendant.	)	
	)	

**AFFIDAVIT OF JOHN MCLEOD**  
**IN SUPPORT OF MOTION TO DISMISS**

1. My name is John McLeod. I am over eighteen (18) years of age, I have personal knowledge of the matters set forth in this Affidavit and am otherwise qualified to make this Affidavit.

2. I am president and founder of JDO Media, Inc. ("JDO"). I incorporated JDO in the state of Florida in January 2003. JDO Media is a small corporation with its principal place

1  
2 of business in Ocala, Florida. JDO is in the business of providing software development  
3 services, website design, and hosting services to clients desiring these services.

4           3.       JDO, at the request of Tim Roland, Tony Lampert, and Erik Summers  
5 (customers), registered the domain name of 1upautomated.com and oneupautomated.com.  
6 Thereafter, JDO acted as a webmaster, constructing or developing the 1upautomated.com  
7 website (the “website”), to the customers’ request.

8           4.       At the request of customers like Tim Roland, Tony Lampert, as well as vendors  
9 that provided services such as autoresponders, leads, etc., JDO posted materials provided by  
10 the customers or the vendors. The requested materials provided by the customers and vendors  
11 were posted on the password protected private, or backoffice side of the website.

12           5.       JDO, as the webmaster for 1upautomated, also provided certain email accounts  
13 such as support@1upautomated.com.

14           6.       The public side of the website was not active and instead only provided limited  
15 information such as the Terms of Use. To access the backoffice side of the website, a visitor  
16 must have a user identification and password.

17           7.       JDO has not advertised the website ever, let alone advertised in the state of  
18 Washington or any other state in the United States, including Florida.

19           8.       JDO has not transacted any business within the state of Washington.

20           9.       JDO has not advertised its software development, website design, or hosting  
21 services or any other service or product within the state of Washington.

22           10.      JDO has not registered as a foreign corporation with the state of Washington.

23           11.      JDO has no offices within the state of Washington.

1  
2 12. JDO does not maintain any telephone number, fax number or other  
3 communication device in the state of Washington.

4 13. JDO does not have any employees, directors, agents, or subcontractors that  
5 reside in or have even visited the state of Washington.

6 14. JDO has not committed any acts, let alone tortious acts, within the state of  
7 Washington.

8 15. JDO does not own any real property in the state of Washington.

9 16. JDO has not used any personal property in the state of Washington.

10 17. JDO has not initiated the transmission of any commercial electronic mail (e-  
11 mail) to any person or entity in the state of Washington unless communication was a response  
12 to an e-mail communication sent or transmitted by a Washington resident to  
13 support@lupautomated.com.

14 18. JDO has never initiated the transmission of any commercial electronic mail  
15 constituting "spam" under the federal CAN-SPAM Act of 2003 (15 U.S.C. §7701 et seq.).

16 19. JDO has only two (2) employees and very limited financial resources. All of  
17 JDO's employees are located in Ocala, Florida. The financial burden on JDO should it be  
18 forced to defend the case brought by Microsoft in the state of Washington is tremendous and  
19 will ultimately force the company into closing.

20 FURTHER AFFIANT SAYETH NAUGHT.

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24 JOHN MCLEOD


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STATE OF FLORIDA )

COUNTY OF HILLSBOROUGH )

The foregoing instrument was acknowledged before me this 15th day of April, 2004, by JOHN MCLEOD who is personally known to me or has produced Florida D.L. as identification and did/did not take an oath.

*Patricia J. Levy*  
NOTARY PUBLIC

My Commission Expires:  Patricia J. Levy  
Commission # DD 036904  
Expires July 23, 2008  
Bonded Thru  
Atlantic Bonding Co., Inc.