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12 **NIBI, INC.**

13
14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

16 NIBI, INC.,

17 Plaintiff,

18 v.

19 JOHN DOE, ET AL.,

20 Defendants.
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Case No.: 5:24-cv-06184-EKL

CASE MANAGEMENT STATEMENT

1 Plaintiff Nibi, Inc. (“Nibi”) submits this Case Management Statement pursuant to the Standing
2 order for All Judges of the Northern District of California and Civil Local Rule 16-9.

3 **I. JURISDICTION AND SERVICE**

4 This Court has jurisdiction over the subject matter of this dispute because Nibi is incorporated in
5 Delaware with its principal place of business in Delaware, and is, therefore, a citizen of Delaware for
6 purposes of diversity jurisdiction. (Compl. at ¶9.) The Doe Defendants are individuals of unknown
7 citizenship. (*Id.*) Nibi and Defendants are consequently citizens of different states for purposes of diversity
8 jurisdiction under 28 U.S.C. § 1332(a)(2). (*Id.*) The matter in controversy exceeds the sum or value of
9 \$75,000.00, exclusive of interest and cost. (*Id.* at ¶10.)

10 This Court has personal jurisdiction over Doe Defendants because the Doe Defendants launched
11 their attack through the use of Internet Protocol Addresses located in Mountain View, California. (*Id.* at
12 ¶11.)

13 **II. STATEMENT OF FACTS**

14 Nibi was the victim of a spoofing attack wherein scammers impersonated an email domain of Deltec
15 International Group bank (“Deltec”), a bank that serves cryptocurrency firms, in order to steal
16 approximately \$4 million of Nibi’s digital assets. (*Id.* at ¶¶ 1, 3-4, 6, 14, 18-40.)

17 Nibi is a Delaware corporation that develops software related to the Nibiru Chain. (*Id.* at ¶¶2, 13.)
18 Nibiru is a layer-1 blockchain and smart contract ecosystem. (*Id.* at ¶2.) Its developer-friendly and user-
19 friendly smart contract ecosystem enables web3 adoption by innovating at each layer of the stack, including
20 decentralized application development, infrastructure, and consensus. (*Id.*)

21 In Fall of 2023, Nibi contacted Deltec in order to open a banking account, initially communicating
22 with several Deltec employees regarding how to open and fund an account. (*Id.* at ¶¶19-20.) Nibi did so
23 in performance of its services agreement with MTRX Services Ltd., and Matrix Foundation, a Cayman
24 Islands Foundation (collectively “MTRX”), which maintain a treasury of digital assets—including those
25 that were stolen in the attack at issue—and provide services related to the Nibiru Chain. (*Id.* at ¶¶ 3, 13.)
26 MTRX has assigned its claims arising out of the attack to Nibi for purposes of this action. (*Id.* at ¶3).

27 When Nibi was working to open an account with Deltec, Deltec sent its communications to Nibi
28 using the email domain URL www.deltecbank.com. (*Id.* at ¶¶4, 20.) During the course of these

1 communications, malicious attackers compromised the email thread where Nibi was communicating with
2 Deltec and introduced a set of imposter email addresses impersonating Deltec using the email domain URL
3 [sbank.com">www.deltecsbank.com](http://www.deltec<span style=). (*Id.* at ¶¶4, 30-31.)

4 Eventually, Nibi received an email in the same chain from [sbank.com">vswan@deltecsbank.com](mailto:vswan@deltec<span style=), which it
5 understood to be a legitimate Deltec email address. (*See id.* at ¶31). Nibi further understood this email to
6 include wire instructions to fund the account with a stablecoin known as Tether, which is a cryptocurrency
7 that aims to maintain its stable value by pegging it to another asset, here, the U.S. Dollar. (*Id.* at ¶¶29, 31-
8 32.) Ultimately, Doe Defendants, masquerading as a bank account services manager, exchanged numerous
9 emails with Nibi and used this conversation to manipulate Nibi, tricking it into sending approximately \$4
10 million in cryptocurrency over the course of several days. (*Id.* at ¶¶30-40.)

11 It is still unknown how Doe Defendants were able to introduce the imposter [sbank.com">www.deltecsbank.com](http://www.deltec<span style=)
12 email addresses into the email thread with Deltec and Nibi. (*Id.* at ¶¶5, 47.) Nibi's forensic security
13 investigation to date has uncovered no indicators or evidence of compromise of its own email systems
14 related to its email communications with Deltec. (*Id.*) Nibi's investigation has revealed, however, that the
15 Doe Defendants leveraged malicious Internet Protocol Addresses whose location is in this district, in
16 Mountain View, California. (*Id.* at ¶¶11, 48.)

17 Through email communications sent from the spoofed [sbank.com">www.deltecsbank.com](http://www.deltec<span style=) domain on the
18 legitimate email thread between Nibi and Deltec, the Doe Defendants lied to make Nibi and MTRX believe
19 they were legitimate personnel from Deltec. (*Id.* at ¶¶1, 4, 6, 18, 30-40, 70-75.) Deltec, during the time
20 that these imposter emails were being sent, or before, did not alert Nibi and MTRX to the fact that the
21 [sbank.com">www.deltecsbank.com](http://www.deltecwww.deltecsbank.com](http://www.deltec<span style=) domain. (*Id.* at ¶6).
22 Nibi and MTRX, as a result, reasonably believed that the imposter email addresses were authentic and did
23 belong to Deltec. (*Id.* at ¶¶1, 4, 6, 18, 30-40, 70-75.) Nibi and MTRX were consequently under the
24 false impression that they were communicating with and sending digital assets to Deltec. (*Id.*) Due
25 to the spoofing attack, unfortunately, the transactions went to the malicious attackers instead. (*Id.*)

26 After executing their fraud and theft, the Doe Defendants dissipated the converted digital assets
27 through a series of blockchain wallet addresses and cryptocurrency exchanges. (*Id.* at ¶¶7, 44-51.)

28 On August 30, 2024, Nibi filed its Doe Complaint naming the unidentified hackers as defendants.

1 **III. LEGAL ISSUES**

2 Defendants are Does who have not yet been identified. Nibi has filed a motion seeking leave to
3 serve early discovery on third parties who have information on the attack as well as to serve the Doe
4 attackers via a Non-Fungible Token (“NFT”) to a blockchain wallet address that the Doe attackers have
5 used to launder the stolen funds.

6 **IV. MOTIONS**

7 Nibi’s motion for early discovery and alternative service is pending.

8 **V. AMENDMENT OF PLEADINGS**

9 Nibi will amend the pleadings or add additional parties when it discovers the identities of Doe
10 Defendants.

11 **VI. EVIDENCE PRESERVATION**

12 Nibi has reviewed the Guidelines Relating to the Discovery of Electronically Stored Information
13 (“ESI Guidelines”) and will take reasonable and proportionate steps to preserve evidence relevant to the
14 issues reasonably evident in this action.

15 **VII. DISCLOSURES**

16 Nibi will comply with its initial disclosure obligations under Federal Rule of Procedure 26 when
17 Doe Defendants are identified and served.

18 **VIII. DISCOVERY**

19 Nibi’s pending motion requests targeted early discovery regarding how the Doe Defendants
20 infiltrated the email chain with Deltec Bank, and information regarding the scope of the breach. Deltec is
21 likely to have relevant information regarding the identity and whereabouts of Doe Defendants. There are
22 also other victims about which Nibi is aware who Nibi is informed and believes have faced similar attacks
23 involving Deltec and the same threat actors that attacked Nibi. Discovery to Deltec and those other victims
24 is likely to provide information relevant to identify the attackers.

25 Nibi’s pending motion also requests targeted early discovery into the attackers’ use of Internet and
26 blockchain infrastructure to conduct their attacks and launder the stolen funds. This includes information
27 from digital currency exchanges that Defendants used to receive and transfer the stolen funds. These
28 entities are likely to have relevant information that could identify the attackers as well as other information

relevant to Nibi's claims in this case, as well as to mitigate the ongoing risk of further attacks.

IX. CLASS ACTION

This is not a class action or a complex matter.

X. RELATED CASES

No related cases exist.

XI. RELIEF

Nibi seeks to recover approximately \$4 million in digital assets that were fraudulently obtained in a spoofing attack. Because Doe Defendants have not yet been identified, Nibi cannot compute, the following damages: (i) punitive damages; (ii) statutory penalties as the law permits; (iii) reimbursement of reasonable legal fees, costs, and disbursements; (iv) prejudgment interest at a reasonable rate to be determined; and (v) post-judgment interest at the statutory rate.

XII. SETTLEMENT AND ADR

Nibi is not opposed to early settlement discussions or mediation but must first identify Doe Defendants and conduct some fact discovery before engaging in earnest in any such resolution efforts. Whether settlement is likely is unknown at this time.

XIII. CONSENT TO MAGISTRATE FOR ALL FUTURE PURPOSES

Nibi has not agreed to have a magistrate conduct all future proceedings in this matter.

XIV. OTHER REFERENCES

This case is not suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

XV. NARROWING OF ISSUES

There are no issues that can be narrowed at this time.

XVI. EXPEDITED TRIAL PROCEDURE

This is not the type of case that can be handled under the Expedited Trial Procedure of General Order 64.

XVII. SCHEDULING

Nibi proposes that if the Court grants its motion for alternative service, then Nibi would propose a schedule for the case flowing from the date of that alternative service.

XVIII. TRIAL

Nibi requests a jury trial and expects that a trial will require approximately 5 days.

XIX. DISCLOSURE OF INTERESTED ENTITIES OR PERSONS

Plaintiff will file a Certification of Interested Entities or Persons.

XX. PROFESSIONAL CONDUCT

All attorneys of record have reviewed the Guidelines for Professional Conduct in the Northern District of California.

XXI. OTHER MATTERS

Nibi has no other matters to report at this time.

DATED: December 4, 2024

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