

TADAG Report

Report on Microsoft Breaches of Trust

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Group	Organization	Role	Version	Date
RamTec	Ram Technics Limited	Director	1.2	11 Jan 08

Document Distribution

Name	Organization	Role
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John Mulgrew	Microsoft	Intellectual Property Attorney

Involved Parties

Name	Organisation	Reference
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Adele McLean	SITFO	AM
John Pittaway	Microsoft	JP
Steve Lamb	Microsoft	SL
Scott Charney	Microsoft	SC
Steve Douglas	Microsoft	SD
Daniel Fell	Microsoft	DF
David Martinez	Microsoft	DM
Bill Gates	Microsoft	BG
Gillian Austin	Microsoft	GA
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Gordon McKenzie	Microsoft	GM
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Phil Straddling	Microsoft	PS
Matt Miszewski	Microsoft	MM
Judy Weston	Microsoft	JW
John Mulgrew	Microsoft	JM

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EXECUTIVE SUMMARY

In June 2004, David Gale introduced Microsoft to the concept of the Personal Domain Security model; a concept that evolved to become a major component of TADAG (Trusted, Authenticated Domains & Gateways). The concept was designed by David Gale to address the requirements of identity management and represented a paradigm shift away from the previously accepted norm of organisation-centric security architectures.

TADAG was discussed initially between David Gale and Daniel Fell, the Microsoft LRG account manager for Derby City Council, the two working closely to initiate a strategic partnership between the City Council and Microsoft. The purpose of initial discussions was two-fold: to identify technical resources within Microsoft to act as a sounding board for the TADAG concept; and to identify senior personnel within Microsoft Corp with whom a joint-development project could be initiated.

Between July and November of 2004, David Gale discussed the TADAG concept with multiple Microsoft UK technical personnel including Steve Douglas, Steven Lamb, and John Pittaway. All confirmed that, to their knowledge, this was not something known to or being considered by Microsoft Corp and that the merits of the architecture were such that senior executive sponsorship should be sought to move the concept forward.

By November 2004, Daniel Fell had identified Scott Charney, then Chief Security Strategist, overseeing Microsoft's Trustworthy Computing initiative, as the most appropriate senior executive to deal with TADAG within Microsoft Corp. Gale met with Charney in London on 19th November, when an initial view of the concept was discussed, followed by emails between the two from 22nd November until 13th December 2004. During the course of the email correspondence, Charney agreed that it was an original concept, but broke off communication, failing to answer multiple emails that offered to move forward with a discussion around a joint-development project.

On 23rd March 2005, David Gale, together with representatives of Derby City Council, met with Mier Shmouley in London (flown in from Israel to deliver a Wolverine briefing the following day) and delivered a full briefing on the TADAG concept. Shmouley agreed that this was an original concept and probed deeply into the alternative ASP model espoused by David Gale.

On the 18th April 2005, whilst on an LRG Executive Briefing at Redmond, David Gale received a presentation from David Martinez (Product Manager - Identity & Access Management - MS Corp). During a Q&A session Martinez confided in the audience that they were "working on an exciting new initiative that put the individual at the centre of the security model". He then proceeded to present the TADAG architecture to the assembled audience. Clearly previously unaware of Gale's involvement with TADAG, an embarrassed Martinez responded to Gale's direct questions with "I can't say too much about it, it's a very new development, we've only been working on it for the last 4 or 5 weeks". When asked,

“What’s the relationship between yourself and Scott Charney?”, Martinez answered, “He’s my boss”. Microsoft Corp Legal has since denied any connection between the Product Manager - Identity & Access Management and the Chief Security Strategist.

A formal complaint was logged the following day on the 19th April 2005 with Daniel Fell and an outline TADAG development proposal, that included a suggested proof of concept of TADAG using Microsoft’s Small Business Server as a ‘Home Server’, was sent to Bill Gates, Scott Charney, Mier Shmouley, David Martinez, and John Pittaway.

In May 2005, Brad Fitzpatrick claims to have developed the OpenID concept, using individually assigned URL / DNS-based authentication.

Interest in TADAG continued with, at Microsoft’s request, a further TADAG briefing being delivered, in Derby, UK to Guy Friedel and John Pittaway.

Fell made contact with Gillian Austin (Microsoft UK Legal) but despite raising concerns over ethical conduct Fell was told, in June 2005, that “Microsoft’s ethical code of conduct does not apply to matters relating to IPR” with the suggestion that “in your own words, explain to Mr Gale that Scott Charney is a busy executive and can’t remember the discussions”.

Through 2005 / 2006, there followed representations regarding Microsoft’s use of the TADAG concept to Microsoft UK personnel (Nigel Bates, Katherine Dunkerley, Chris Yapp) without resolution. Discussions continued in 2006 / 2007 with Microsoft EMEA personnel (Gordon McKenzie / Chris Bunio) focussed on resolving what RamTec regarded as a fundamental breach of trust.

On 6th February 2007, Bill Gates announced Microsoft backing for OpenID, an open source initiative with an ASP model for personal certificated domains at its core. Following the launch announcement Gale received multiple emails from UK public sector contacts asking about his involvement, since OpenID uses the core TADAG principle.

On 22nd June 2007, David Gale teleconferenced with Microsoft’s new global head of LRG, Matt Miszewski. Continued partnership activity between RamTec (SITFO) and Microsoft was outlined, with Miszewski giving categorical assurances that he would personally ensure that the fundamental issue of trust around the TADAG dispute would be resolved. Despite multiple prompts, RamTec didn’t receive a single response from Miszewski in three months.

RamTec concluded that as it couldn’t, in good faith, advocate joint development projects between its national and local government clients and Microsoft, it could no longer partner with Microsoft. At the request of Gordon McKenzie, RamTec gave Microsoft a further opportunity to resolve the issue. A teleconference and subsequent emails between Gale and Judy Weston, Manager, Trade Secret Practice at Microsoft Corp confirmed that despite Microsoft having procedures in place for dealing with such complaints, it had been recognised that “there were flaws in these procedures”. Weston claimed that there was no

evidence of the complaint ever being formally recorded and no record of any subsequent investigations.

Five weeks of correspondence, including emails with attached copy documentation, and a detailed teleconference interview between Weston and Fell, yielded a change in emphasis from Microsoft. Microsoft no longer disputed that the original information had been imparted to them; instead now disputing legal technicalities of what may or may not have been covered by the pre-signed NDAs and copyright IPR. RamTec's request to escalate this issue beyond lawyers, for a substantive attempt at resolution via a senior corporate executive, was met by a request from Microsoft to allow a fourth 'investigation' via John Mulgrew (LGA) Intellectual Property Attorney - Microsoft UK.

To date, Microsoft has failed to follow any internal procedures or policies to deal with the complaint and despite various employees, past and present, promising to investigate; RamTec is still awaiting a satisfactory response.

NOTE: June 2008 - Attached is an addendum containing Microsoft's responses to this document

INTRODUCTION

David Gale

David Gale is Managing Director of RamTec, CEO of SITFO (Strategic IT Framework Organisation) and Principal IT Consultant for Derby City Council. He has contributed to the city's leading-edge position for the delivery of sustainable e-Government. His eighteen years involvement in IT includes time at IBM, and BEC Group PLC, working with Lucas Aerospace, 3M Healthcare, as well as government organisations from all over the world. He is an acknowledged global authority on sustainable IT architectures, and has specialist experience in MRP, ERP, CRM, Document Image Processing, and Knowledge Management. His take on public sector IT is as unconventional as his background:

Born in Derby, England, but raised in the north of Scotland, then trained as a Naval Officer at Britannia Royal Naval College, Dartmouth. He's been a Police Officer earning a commendation for detection work, video director, chainsaw mechanic, retail manager, Features Editor, championship winning Grand Prix motorcycle racer, competition fencer, race tyre tester for Continental, athletics coach, senior instructor at the Honda Superbike Race School, a sports psychologist, a professionally trained dancer, an acknowledged grand prix engine design guru working with the likes of Yamaha Japan, he has also been responsible for a number of design patents across a broad spectrum of activities, including the automated domestic pet feeder and the Dual System Exhaust Valve. He is passionate about historic building restoration, living, as he does, in a fifteenth century Tudor farmhouse.

Ram Technics Limited

Ram Technics Limited has three divisions:

- **RamTec** - Until December 2006, focussed on IT consultancy (registered UK company since 1996). Now developing a portfolio of e-commerce web sites, and dealing with matters relating to IPR
- **SITFO** (Strategic IT Framework Organisation) - launched in December 2006 to focus on delivering sustainable IT frameworks into both private and public sector organisations. SITFO has provided strategic briefings and workshops to virtually every government in Europe, with additional involvement in the Far East and southern hemisphere. SITFO has partnered with Microsoft in delivering seminar activity to over 300 local government organisations in the UK and EMEA.
- **McLean Productions** - delivers professional video content for marketing and broadcast

TADAG

At the core of TADAG is the Personal Domain Security model. The initial TADAG paper of 2004/5 was a brief high-level proposal to jointly develop the new security model as a proof of concept. The TADAG concept and outline paper communicated so far to Microsoft represents less than 25% of the total concept. The full-TADAG public sector model cannot, as yet, be shared with Microsoft.

THE ISSUE

The Acknowledgement of IPR

At every stage of discussion prior to April 2005 Microsoft personnel have acknowledged the originality of the TADAG concept and, in particular, the Personal Domain Security model.

Breaches

Multiple NDAs were in place between the time of initial disclosure in 2004 and the initiation of TADAG development by Microsoft Corp, as presented by David Martinez in 2005.

Bill Gates personally announced Microsoft's backing for OpenID in February 2007 when Microsoft was in full knowledge of the origins of that architecture having come from TADAG.

Microsoft Response

Following Gale's complaint of 19th April 2005, Microsoft has moved from a position of complete denial to a focus on disputing legal technicalities of what may or may not have been covered by NDAs and copyright IPR.

Microsoft has initiated no less than four ‘investigations’ on this issue. Not once have they provided a detailed response in response to a formal complaint, nor have they ever provided a clear audit trail of decision-making communications, claiming that access to employee email records is reserved “for serious matters only”.

CONCLUSION

Impact on Microsoft

As enterprise IT has matured, there is an increasing requirement to deliver standards-based strategic frameworks that are vendor agnostic. Key personnel inside Microsoft are acutely aware of the strategic weakness of Microsoft Corp’s short-term, product-focussed sales targets being allowed to override the strategic benefits of the integrated product stack.

RamTec has worked extensively with Microsoft to show potential customers how Microsoft can fit into a vendor-agnostic Strategic IT Framework. This has been a key factor in the ‘Enterprise Agreement’ (EA) decision making process. Trying to do this with a Microsoft branded ‘framework’ alienates a substantial proportion of the market. David Gale has been a major player in refocusing Microsoft internally (e.g. CRM licensing) in a way that encourages strategic deployments.

Two European governments, as well as the Chinese government, were previously engaged with RamTec exploring a strategic partnership for regional government IT development. The risks associated in partnering with Microsoft, where innovative IT IPR is owned by these organisations, forces these opportunities to be put ‘on hold’.

Derby City Council (DCC) has been a key reference site for Microsoft. Given the perceived risk of partnering with Microsoft, DCC has cancelled its EA, ceased its strategic partnership with Microsoft, and cancelled planned joint development projects. DCC was the lead reference site and development partner for the BizTalk Server 2006 Technology Adoption Programme (TAP), as well as the lead partner for CardSpace / CRM integration. Gale was the lead reference presenter for the launch of Microsoft BizTalk Server 2006 at the London Stock Exchange.

The scope of the previously proposed Microsoft Corp / DCC joint-development CRM project is of global significance to Microsoft. A number of internationally-based RamTec customers have already stated that they will not proceed with an MS CRM deployment until the front-end architecture, designed by Gale and developed by DCC’s Information Services Unit, is available as an off-the-shelf product. RamTec does not anticipate that the forthcoming MS CRM v.4 public sector front-end will address the real needs of the public sector market.

RamTec is aware of a number of lost EA opportunities on the back of Derby’s changed position. Additionally, DCC is one of the lead authorities for the development of a regional IT

framework where RamTec has proposed a joint project to develop a proof of concept for the full public sector TADAG architecture.

Trust

RamTec is pursuing a fuller understanding of how key Microsoft employees have benefitted from the theft of IPR relating to TADAG, with an on-going, US-based investigation being carried out by ex-FBI officers. In the meantime, RamTec has to tell public and private sector organisations alike that, as things stand, it cannot recommend a development partnership with Microsoft, where IPR may be involved.

In summary of his position on 9th October 2007, David Gale stated:

1. "If someone wants to discuss my ideas, I expect to be referenced;
2. If someone wants to use my ideas for commercial gain, I expect to be paid;
3. If someone wants me to recommend that my clients work with them, they need to generate, demonstrate, and maintain an unquestionable level of trust, that includes not running off with ideas gained in discussions that are subject to an NDA;
4. When an organisation refuses to even have a procedure that addresses potential breaches of IPR and NDA by their employees, they risk being accused of a 'see you in court' contempt for ethical conduct, that is wholly uncondusive to points 1, 2 & 3 above;
5. If an organisation wants access to the conclusions of my initial thoughts, as well as new, transformational ideas that can deliver significant business advantage, it had better move pretty quickly to assuage any concerns that I might have. This is quite apart from Microsoft's current legal obligation to demonstrate procedural compliance with anti-trust rulings."

Trustworthiness and integrity is of the utmost importance to the reputation of any business. Working globally with national and local government organisations, RamTec requires its partners to be beyond reproach. Microsoft has yet to demonstrate that it can deal appropriately with the basic issue of trust.

Proposed Resolution

In 2004, RamTec was warned on two separate occasions by different Microsoft employees that discussing IPR with Microsoft Corp was potentially fraught with risk. Certainly, if a resolution is to be achieved the issue needs to escalate beyond Microsoft's corporate lawyers, for whom descending into legal technicalities and devices appears to be 'business as usual'. In order to achieve this, Microsoft must urgently secure senior, corporate executive sponsorship of a resolution before RamTec is forced to apply due diligence by including this episode as part of its briefing and advice to its own customers.

RamTec recognises that there are sensitivities in retrospective accreditation. In light of this, RamTec proposes that Microsoft agrees a fee for not just the original idea, but the full-

blown, public sector TADAG model that remains, so far, un-published. This can be done in two ways - Microsoft pays 'x' amount and David Gale is accredited, or it pays multiples of 'x' amount and Microsoft can nominate accreditation. Third parties can be relied upon to regurgitate the architecture if Microsoft considers that it needs to be 'open source'.

Whilst RamTec expects to be remunerated for its IPR, this represents only one part of the resolution. Microsoft needs to demonstrate a complete acceptance of its failed processes, admonish those responsible, and apologise.

Actions

1. By 4th February 2008 – Microsoft to have declared a senior corporate executive owner of the resolution
 2. By 1st March 2008 – Microsoft to have made a full written response to this document, signed by the executive owner, to include the substantive basis of the proposed resolution
 3. By 31st March 2008 – the agreed resolution to be in place and completed
-

CONTACT INFORMATION

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APPENDICES

Appendix A - Chronology of events

16/07/03 – initial meeting between DF & DG to discuss a strategic partnership between MS & DCC.

June 04 – initial discussion on TADAG concept between DG & DF.

June 04 – Nov 04 meetings and discussions re TADAG between DG, DF and MS UK technical resource.

19/11/04 – meeting between DG & SC that included discussion of DG's idea for Personal Certificated Domains.

22/11/04 – email initiation of follow-up discussion on TADAG between DG & SC.

22/11/04 – email response from SC to DG acknowledging an 'interesting concept'.

23/11/04 – email from DG to SC providing further details of the TADAG concept.

10/12/04 – email from DG to SC providing further details of the TADAG concept and introducing the theory of alternate models.

10/12/04 – email clarification request from SC to DG

13/12/04 – email from DG to SD again discussing the TADAG concept further.

11/03/05 – email exchange discussing MS Corporate Security visit to Derby, NDA required for this visit, brokered by MS partner Lynx Technologies.

14/03/05 - NDA sent to Andrew Thomas, DCC legal, for approval.

23/03/05 – Full TADAG briefing in London for Microsoft security specialist Mier Shmouley

30/03/05 – TADAG registered with WHOIS.

05/04/05 – MS UK Security meeting request for 05/05/05.

18/04/05 – DM presentation at Redmond LRG EBC includes TADAG architecture.

19/04/05 – COMPLAINT email from DG to DF confirming DM says they have been working on a “personal certified domain” only very recently and it's very new and highly confidential. DM confirms SC as “my boss”.

20/04/05 – email from DG to SC cc DM, MS, JP & BG – Attached high level summary as per discussion of 2004 on personal, authenticated domains. Email sent whilst DG in Redmond for EBC.

27/04/05 & prior emails between MS & Lynx Technology regarding 04/05/05 meeting, Mention of NDA being required.

01-30/05/05 - Brad Fitzpatrick claims to have developed the OpenID concept, using individually assigned URL / DNS-based authentication.

08/06/05 – email to DF from DG “Feel free to launch down previously suggested (ethical standards) route.

13/06/05 – email from DF to GA, cc NB discussing the fact DM allegedly said “it sounded like an idea he was working on; “With training around corporate ethics what steps should be taken?”

14/06/05 – email from GA to DF cc NB We treat other’s confidential information with utmost respect, put this in your own words.

June 05 – June 07 discussions between DG and multiple MS UK and EMEA personnel attempting to identify route to resolution

08/02/07 – email from DG to OpenID.net requesting confirmation of email account and contact details for discussion of Intellectual Property Rights relating to TADAG.

February 07 – Bill Gates announces Microsoft sponsorship of OpenID

February 07 – emails received by DG from multiple UK government sources requesting information on DG’s role with OpenID, based on assumption that DG was involved, since OpenID copied TADAG core principle.

01/06/07 – GM, CB & DG emails escalated to PS for further discussions and mention of new Head of eGOV “who is a strong sponsor of this type of approach.”

01/06/07 – email from DG to GM confirming he would not be inviting MS to the table to discuss a multi-vendor, pilot regional solution until definitive word is received regarding their involvement.

12/06/07 – email from GM to DG requesting a conference call to discuss TADAG issues with US colleagues with response of same date confirming GM wished to ensure US colleagues understood how DG had been treated and to make sure the message was relayed back internally. “in my position it’s better that your case is presented by the Corp Public Sector guys to get this addressed.”

22/06/07 – Teleconference between DG & MM in which MM confirmed he would deal with the issues.

22/08/07 – email from GM to DG confirming MM was on the case with ID questions.

26/08/07 – email from DG to GM reiterating that “OpenID copies exactly the main thrust of TADAG”.

30/08/07 – email from GM to DG confirming MM is investigating and “will revert shortly” .

13/09/07 email from DG to GM relating to CSIS in which DG mentions that there are issues of trust with Microsoft due to TADAG and OpenID which need to be resolved.

20/09/07 – email from DG to GM - Did MM not investigate as previously promised?

28/09/07 – email from DG to GM due to lack of response in the process of making arrangements to terminate all working relationships with MS and recommending that DCC do not renew their Enterprise Agreement at renewal.

28/09/07 – Email from GM to DG confirming he would be in touch with UK and US folks to at least agree on the ‘protocol’, reply to follow by COP to confirm exact position from MS.

01/10/07 – Email from DG to GM, no response.

02/10/07 – Email from GM to DG, JW to explain MS position.

02/10/07 – Email from JW to DG & GM limited information but willing to discuss following week.

03/10/07 – Email from DG to JW checking the context of JW’s involvement, limited information available.

04/10/07 – Email from JW to DG no file to refer. Response of same date from DG confirming date and time to discuss further but querying why the two previous investigations are not documented anywhere.

05/10/07 – Email from JW to DG, too many employees to enable her to locate one person either in the business division or legal department to assist with background information, “looking for what may be a needle in a haystack”. “Whatever the valid issues are, we are most interested in resolving them amicably.”

10/10/07 & 11/10/07 – Email correspondence between DG & JW supplying copies of relevant email correspondence to date for JW’s perusal.

23/10/07 – Email from JW to DG apologising for the delay in response but having difficulty identifying people to speak to regarding the case as individuals previously involved have left the employment of MS. “Truthfully, in the 17 years that I’ve been handling allegations such as yours, I have never encountered the scenario where I cannot substantiate the events.”

25/10/07 – Email from JW to DG confirming MS do have procedures but there may be some flaws in the procedures which have their attention as a result of recent communications with DG. Also confirming JW would speak to DF followed by emails of the same and

following days confirming a teleconference between JW and DF on 29/10/07 also confirming that JW was looking at the opportunity for one of MS high level execs to have a conversation with DG about this matter.

29/10/07 – Teleconference between DF and JW.

06/11/07 – Email from JW to DG stating that she is clearly not the right person to resolve the issues satisfactorily and introducing JM after providing him with as much background as possible.

07/11/07 – Email from JM to DG to confirm that JW has passed some of the email exchanges between DG & JW for his investigation.

Appendix B - TADAG v2.1 document April 2005

This document can be found at www.tadag.com

NB This was a deliberately brief, high-level document designed to initiate discussion over joint development

Appendix C - Emails to and from Scott Charney

From: Gale, David [mailto:David.Gale@derby.gov.uk]
Sent: Monday, November 22, 2004 3:06 AM
To: Scott Charney
Cc: karen.dallyn@lynxtec.com
Subject: Briefing - London 19 November 12:30

Scott

Many thanks for an interesting and useful session last Friday.

Our discussion on securing phone / PDAs firmed up some ideas that I've had previously:

I already use MS Small Business Server (SBS) for my home office. It provides me with a fully integrated demonstration (including remote / mobile) environment for: Exchange, AD, SPS and ISA. It struck me, some time ago, that MS could turn SBS into a retail (ish) black box solution (X-Box Plus, anyone?). The solution could provide a secure, isolated, fully certificated, personal domain.

AD on my corporate network could then manage a 'trust-style' relationship between the two, if needs be, using the internet as the network.

Result? I could use mobile devices securely on my own (sub) domain with little or no threat to the corporate network.

This may be a little crude but, as an alternative, it could be that MS could offer this as an ASP 'Hotmail' service. I'd be interested to know if you have any thoughts on this philosophy?

Thanks again for your time on Friday.

regards

David Gale
Principal ICT Consultant
Derby City Council

From: Scott Charney [mailto:scharney@microsoft.com]
Sent: 22 November 2004 17:54
To: Gale, David
Cc: karen.dallyn@lynxtec.com
Subject: RE: Briefing - London 19 November 12:30

David –

I had not thought about this. Historically, there has been a demarcation between the office and the home; you seem to be conflating the two, which is an interesting concept.

Scott

From: Gale, David
Sent: 23 November 2004 10:32
To: 'Scott Charney'
Cc: 'karen.dallyn@lynxtec.com'
Subject: RE: Briefing - London 19 November 12:30

Scott

Glad to hear that I'm not covering old ground.

The concept becomes all the more interesting when you consider the combination of a black-boxed 'personal domain' service, made more resilient by a Hotmail back-up. I'd even see a .NET smartcard (dare I say personal ID?) as potentially being part of the offering. The built-in certification would nail spam, since ISPs would be able to block uncertified or specific sources. I can see the ISP offering 'improved' levels of service to those with 'signed' mail servers.

Quite a culture change but I've been working on this idea for a while and have yet to come up with any significant obstacles.

regards

David Gale
Principal ICT Consultant

Derby City Council

From: Gale, David [mailto:David.Gale@derby.gov.uk]
Sent: Friday, December 10, 2004 6:32 AM
To: Scott Charney
Cc: Gruber, Jason; Daniel Fell
Subject: The Personal Domain Security Model - Part III

Scott

Just one more - 'promise!

Back to my paradigm shift on the security model:

In the UK, there's a possible alternative model that gives the UK Gov Gateway the responsibility for the registration of certificated, personal domains?

regards

David Gale
Principal ICT Consultant

Derby City Council

Dan - do you have an e-mail address for John Pittway?

From: Scott Charney [mailto:scharney@microsoft.com]
Sent: 10 December 2004 18:09
To: Gale, David
Cc: Gruber, Jason; Daniel Fell
Subject: RE: The Personal Domain Security Model - Part III

David –

There is a question mark at the end of your statement. Are you telling me it is so, or asking me if it is a good approach?

Scott

From: Gale, David
Sent: 13 December 2004 10:07
To: 'Scott Charney'
Subject: RE: The Personal Domain Security Model - Part III

Scott

The question mark was used to signify a raised inflection at the end of the sentence, the implication being that this area was up for debate. Admittedly, not for grammatical purists! (*! exclamatory rhetorical device*)

The intent was to signify our displeasure at the uncoordinated state of Central Government policy on matters relating to personal identity and authentication. I'm hoping that MS will continue to improve the profile of their input in this area.

regards

David Gale
Principal ICT Consultant

Derby City Council

From: Gale, David
Sent: 20 April 2005 16:51
To: 'scharney@microsoft.com'
Cc: 'davemart@microsoft.com'; 'billgates@microsoft.com'
Subject: Project TADAG - CONFIDENTIAL

Scott

Please find attached high level summary as per our discussions last year on personal, authenticated domains (see below).

The RamTec reference is my own IT consulting company, through which this idea is being developed.

I promised to send a copy to Mier Shmouley but I don't have his e-mail address. I'd be grateful if you could forward this to him.

I'm in Redmond (EBB) at the moment but fly back to the UK tomorrow. I'm also contactable on my personal mobile: +44 773 460360.

Regards

David Gale
Principal ICT Consultant

Derby City Council

Appendix D - Emails to and from Daniel Fell

From: Gale, David
Sent: 19 April 2005 12:25
To: 'Daniel Fell'
Subject: Personal Authenticated Domain - Project TADAG - CONFIDENTIAL

Dan

David Martinez says that they have been working on a 'personally certificated domain' only very recently and that it's very new and highly confidential. He is the first person in Microsoft to indicate that the idea is 'being worked on'. Everyone else has said that this was not something that had yet been contemplated.

So what's the relationship between David Martinez and Scott Charney, with whom I ran through this idea last year? Between us only, please, Dan.

regards

David Gale

From: Gale, David
Sent: 08 June 2005 12:16
To: 'Daniel Fell'
Cc: 'galed@ramtec.net'
Subject: RE: Technet.

Thanks, Dan.

I've now exhausted all channels in search for an appropriate response to the idea first communicated to Scott Charney. Feel free to launch down previously suggested path.

Incidentally, by way of example of 'good will', I've found a terminal bug in an MS application that I've been able to replicate on different devices at will. It scrubs all data and forces a PDA into a hard reset. Someone at MS might be interested in this information before MS are sued but, as things stand, I'm not sure that I want to spend my time reporting it.

regards

David Gale
Principal ICT Consultant
Derby City Council

Appendix E - Witness statement - Daniel Fell

WITNESS STATEMENT

(CRIMINAL PROCEDURE RULES, PART 27)

(*Criminal Procedure Rules, r 27.1(1);*

Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)

STATEMENT OF: Daniel Fell

AGE: Over 21

OCCUPATION: Director - Process Works Limited

This statement, consisting of 3 pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated: 10th January 2008

Signed  Daniel Fell

I am a company director, working in the area of Information Technology. Between February 2004 and September 2005, I was employed by Microsoft UK Ltd, as a Local Government Account Manager. One of my designated accounts was Derby City Council (DCC), where I dealt predominantly with David Gale of RamTec, who was Derby's Principal IT Consultant.

I first met David Gale on 16th July 2003, when we planned a strategic partnership between Microsoft and DCC, based on Mr Gale's desire to build a sustainable, strategic information technology framework, based upon the integrated use of Microsoft's product range. It was clear from the beginning that the scope of Mr Gale's aspirations for DCC, as a global proof of concept for an integrated framework, would require the engagement of Microsoft Corporation in Redmond, USA.

David first broached the subject of a new security model in June 2004, when he introduced me to the concept of using personal certificated domains, later to become known as TADAG. The move away from the organisation-centric model, typified by products like Microsoft's Active Directory, was exciting new ground, not least because it appeared to offer a logical solution to many of the problems inherent within the existing model.

I recognised that the importance of such a ground-breaking design meant that senior executive sponsorship would be required from Microsoft Corp. Over a period of months, I made various enquiries, in an attempt to identify the appropriate individual. In the meantime, I introduced David to numerous Microsoft UK technical engineers, in order to double-check the integrity of the basic design. The feedback from my technical resource was

consistent: that this was a ground-breaking idea that offered significant potential advantage over the existing security model. I was concerned to protect the IPR of TADAG from undue risk, so put considerable time and effort into trying to find the executive contact.

I was informed by John Pittaway that Scott Charney would be visiting the UK in November 2004, and suggested that David should be invited to dine with Scott, at a small, personal luncheon event planned at the Square Restaurant, Bruton Street, Mayfair, London, for 19 November 2004. I spoke to David immediately following the event, and he appeared excited at the prospect of having found someone who was both interested and empowered to move the concept forward. However, on speaking to David in January 2005, he related his dissatisfaction at Mr Charney's failure to continue with communications. David described Mr Charney as having completely cut-off communications. However, I was already arranging for David to visit Redmond in April 2005, so considered that this would allow him to continue with his presentation of TADAG to Microsoft Corp. In the meantime, I was aware of intense interest in TADAG from Microsoft Security specialists and, on the back of this, David was invited to give briefings to numerous security specialists from Microsoft Corp.

I received an email from David on 19 April 2005, whilst he was in Redmond. I was surprised to hear that a security specialist, working in an area within Scott Charney's remit, had presented the personal domain concept as their own. On receiving what I regarded as a serious customer complaint and having just completed the statutory Microsoft ethical standards training, I raised the issue with my then line manager Nigel Bates. I was directed to further escalate to Microsoft LCA, so contacted Gillian Austin Senior Attorney, Law and Corporate Affairs Microsoft. I received the following email response from Gillian "I think you can explain that it's not unusual that Scott, or someone at his level, would not be aware of all the details that everyone working in the security area would be working on. Given the size of the company and the number of developers working in different product groups, it's not always possible for everyone to keep a tag on every initiative - in fact some will be kept secret on purpose. If David is particularly concerned, I think we can explain that we do treat other's confidential information with utmost respect - especially someone in Scott's position who is trusted with highly confidential information from a number of different sources. You should put this in your own words - but something along these lines is OK to say. Gillian". I conveyed the response to Mr Gale, but left Microsoft employment shortly after to further my career at SourceCode UK Ltd.

I was recently contacted by Mr Gale to ask if I would be happy to speak with a Microsoft Attorney Judy Weston. Happy to do so, the call went ahead on Monday the 29th October


Signed Daniel Fell

2007 09:00 Redmond time and the information and events I gave are as detailed in this statement above.

At all times, my primary concern was maintaining the trust of the Microsoft customer and ensuring the correction of any breaches of such.


Signed Daniel Fell


Signature witnessed by David Gale

Dated: 10th January 2008

Appendix F – Executive Briefing April 2005

**STRATEGIC PARTNERSHIP ACCOUNTS
CIO TECHNOLOGY BRIEFING**

"Welcome to Microsoft's Executive Briefing Center, our center of excellence for demonstrating how the business value of our products and services is making enterprises more agile. This visit provides a great opportunity to discuss our technology direction, build closer business relationships, and hear your ideas about how we can best deliver business solutions to benefit your enterprise. I hope your time with us will be informative and enjoyable."

- Steve Ballmer, CEO, Microsoft Corporation

April 18, 2005

7:30 am-8:00 am	Breakfast	
7:45 am-8:00 am	Welcome and Introductions	
8:00 am-9:00 am	Productivity Vision: The Microsoft Center for Information Work	Valerie Dodge Tour Host, Microsoft Center For Information Work
9:00 am-9:15 am	Break	
9:15 am-10:15 am	Customer Presentations	
10:15 am-10:30 am	Break	
10:30 am-11:45 am	Creating Business Value Through Collaboration	Cliff Reeves General Manager, .NET Emerging Business
11:45 am-12:00 pm	Break	
12:00 pm-1:00 pm	Lunch / Microsoft Office Live Communications Server	Brian Holdsworth Senior Product Manager, Realtime Communications
1:00 pm-1:15 pm	Break	

1:15 pm-2:15 pm	Microsoft Security Strategy Overview	Andrew Cushman Group Manager, Security Engineering and Communications
2:15 pm-2:30 pm	Break	
2:30 pm-3:45 pm	Windows Server Operating System Strategy and Direction	John Knie Enterprise Technology Strategist, Customer Advocacy and Technology Management Infrastructure
3:45 pm-4:00 pm	Break	
4:00 pm-5:30 pm	Microsoft's Identity and Access Management Strategy and Solution	Dave Martinez Technical Product Manager, Windows Server
5:30 pm-5:45 pm	Summary / Evaluation and Feedback	

STRATEGIC PARTNERSHIP ACCOUNTS CIO TECHNOLOGY BRIEFING

April 19, 2005

7:45 am-8:00 am	Breakfast / Review Day 2 Objectives	
8:00 am-9:00 am	Customer Presentation	
9:00 am-10:00 am	Executive Discussion: Microsoft and Public Sector	Debbi Gillotti Senior Director of Customer Engagement, Worldwide Public Sector
10:00 am-11:00 am	Enterprise Integration - Connecting Systems, People and Trading Partners through Flexible Business Processes	David Beauparlant Senior Product Manager, Business Process Integration
11:00 am-12:00 pm	Lunch / Microsoft Research Overview	Tom Blank Senior Program Manager, Research Program Management
12:00 pm-12:15 pm	Walk to MS Home	
12:15 pm-1:15 pm	Advanced Consumer Technology (MS Home Tour)	John Gallagher Program Manager, Consumer Prototyping & Strategy
1:15 pm-1:30 pm	Return to Briefing Room	
1:30 pm-2:30 pm	Windows Client Operating System Roadmap and Strategy	Austin Wilson Senior Product Manager, Client Marketing
2:30 pm-2:45 pm	Break	
2:45 pm-3:45 pm	Voice-Enabling the Enterprise with Microsoft Speech Server	Kevin Shaughnessy Product Manager, Speech Management
3:45 pm-4:00 pm	Break	

4:00 pm-5:00 pm	Mobile Enterprise Solutions Overview (Pocket PC, Smartphone and more...)	Steve Conn Product Manager, Mobile Embedded Devices
5:00 pm-6:00 pm	Automotive Solutions based on Windows Automotive for a Connected Car	Peter Wengert Director, Windows Automotive
6:00 pm-6:15 pm	Summary / Evaluation and Feedback	

STRATEGIC PARTNERSHIP ACCOUNTS CIO TECHNOLOGY BRIEFING

April 20, 2005

8:00 am-8:15 am	Breakfast / Review Day 3 Objectives	
8:15 am-9:45 am	Microsoft Business Intelligence / Data Warehousing Strategy	Sudi Bhattacharya Senior Product Manager, SQL Marketing
9:45 am-10:00 am	Breakfast	
10:00 am-12:00 pm	Government Interoperability Workshop	Alan Grose Architectural Consultant, Worldwide Public Sector
12:00 pm-1:00 pm	Lunch / Microsoft Business Solutions ERP Product Strategy	Peter Colsted Senior Director, Microsoft Business Solutions
1:00 pm-1:15 pm	Break	
1:15 pm-2:15 pm	HP Presentation	Paul Turner
2:15 pm-2:30 pm	Break	
2:30 pm-3:30 pm	Cisco Presentation	Chris Blenkhorn Dave Street
3:30 pm-3:45 pm	Break	
3:45 pm-4:45 pm	Discussion: Next Steps and Plans	
4:45 pm-5:00 pm	Conclusion / Evaluation and Feedback	
5:15 pm-6:15 pm	Microsoft Company Store Visit	

ADDENDUM JUNE 2008 - MICROSOFT'S RESPONSE TO THIS REPORT

Introduction

This document was produced by RamTec at the request of Microsoft Corp, to facilitate a full internal investigation. Despite assurances from Microsoft, by 31st March 2008 RamTec had received no formal response, other than an informal email from their lawyer, John Mulgrew.

In 2008, RamTec have received a number of requests from Microsoft for support and references for government sales activity, particularly in Asia and the Middle East. RamTec has cancelled its partnership status and has refused all requests to date on the grounds that the issue of trust has yet to be resolved.

In conclusion, RamTec has never received a response to this its previous, simple question:

With which part of “yes, we signed an NDA; yes, you introduced us to the principal of the personal certificated domain; yes, we started development work around it; yes, we took legal advice about how we could proceed without referencing / paying you; yes, we contrived with a third party to start an Open Source project; no, we’re not going to reference / pay you” does Microsoft disagree?

Below is a summary of more recent correspondence relating to the provision and response to this report.

Emails to / from Microsoft - post receipt of 2008 Report

From: Adele McLean [mailto:adele.mclean@sitfo.org]
Sent: 21 January 2008 08:06
To: john.mulgrew@microsoft.com; judywe@microsoft.com
Cc: 'David Gale'
Subject: Microsoft Breaches of Trust
Importance: High

Dear John,

Further to the exchange of emails in December 2007 please find attached our report detailing Microsoft's Breaches of Trust, as promised.

I would like to take this opportunity to draw your attention in particular to the section entitled 'Actions' and look forward to receiving confirmation by the 4th February 2008, at the latest, that an independent Senior Corporate Executive has been appointed to deal with the complaint accordingly.

For your information, if by chance, the schedule is not adhered to our intention is to circulate the report to a wider audience.

Regards

Adele

Adele McLean | Personal Assistant to the Chief Executive | SITFO - Strategic IT Framework
Organisation | Derby | England | W: www.sitfo.org

From: Adele McLean [mailto:adele.mclean@sitfo.org]
Sent: 24 January 2008 08:16
To: john.mulgrew@microsoft.com; judywe@microsoft.com
Cc: 'David Gale'
Subject: FW: Microsoft Breaches of Trust
Importance: High

Good morning John,

I just wanted to check that you received the attached report on Monday?

I would appreciate it if you could acknowledge receipt by return.

Regards

Adele

Adele McLean | Personal Assistant to the Chief Executive | SITFO - Strategic IT Framework
Organisation | Derby | England | W: www.sitfo.org

From: John Mulgrew (LCA) [mailto:John.Mulgrew@microsoft.com]
Sent: 24 January 2008 10:22
To: Adele McLean; Judy Weston (LCA)
Cc: 'David Gale'
Subject: RE: Microsoft Breaches of Trust

Hi Adele,

Yes, I received the report on Monday and will be in touch with you soon. My first impression is that it only covers the same ground as before, but doesn't address any of the items Judy and I have enumerated in past correspondence. But I'll take a closer look at it and provide a response.

Best regards,

John

By 6 February 2008, no response had been forthcoming from Microsoft

From: Adele McLean [mailto:adele.mclean@sitfo.org]
Sent: 06 February 2008 08:16

To: 'John Mulgrew (LCA)'
Cc: judywe@microsoft.com; 'David Gale'
Subject: RE: Microsoft Breaches of Trust
Importance: High

Dear John

Following Microsoft's failure to meet the deadline of the 4th February to appoint a Senior Corporate Executive to deal with our complaint, the document has now been circulated to regulatory bodies in both the US and the EU.

Further failure to act accordingly will result in circulation to potential third-party TADAG development partners, followed by a full public disclosure and associated media production.

Regards

Adele

Adele McLean | Personal Assistant to the Chief Executive | SITFO - Strategic IT Framework Organisation | Derby | England | W: www.sitfo.org

From: David Gale [mailto:david.gale@sitfo.org]
Sent: 06 February 2008 19:33
To: 'Adele McLean'; 'John Mulgrew (LCA)'
Cc: judywe@microsoft.com; 'David Gale'
Subject: RE: Microsoft Breaches of Trust

Adele

Be aware that I've no intention of ramping up our action in stages.

In their complete failure to even acknowledge your document, Microsoft have demonstrated their contempt for your conciliatory attempts, and this is the company that's supposed to be hot on 'ethical standards'!

I have little time for these ill-mannered, corporate bandits. If they are to be allowed to perpetually block access (act as a protection buffer) to senior executive management, then Microsoft couldn't be considered to be a credible partner for any of our government customers anyway, and we would be duty-bound to brief as such.

So, if we haven't had a written proposal of resolution from Microsoft Corp by 1st March 2008, we will proceed through all of our next stages without delay.

Additionally, in the interests of transparency and honest dealing, we ought to state that we're already engaging with Google and IBM at corporate level.

regards

David

David Gale | CEO | SITFO - Strategic IT Framework Organisation | Derby | England | M: +44 (0)7703 460360 | W: www.sitfo.org

From: John Mulgrew (LCA) [mailto:John.Mulgrew@microsoft.com]
Sent: 07 February 2008 16:14
To: David Gale; 'Adele McLean'
Cc: Judy Weston (LCA)
Subject: RE: Microsoft Breaches of Trust

Hi Adele,

We cannot agree to a meeting for at least two reasons. First, there is not a shred of evidence of wrongdoing by Microsoft after 2 separate reviews. It's not clear that there ever was a signed NDA (we have not located one and Mr. Gale has been unable to provide one either), but even if there was one the TADAG paper Mr. Gale tried to give people in Microsoft wouldn't qualify as confidential anyway. Materials you publish on the web or otherwise disseminate to the public are not confidential. Likewise no IP rights have been violated for reasons already provided both by Judy and myself. Mr. Gale's copyright claim is based on a fundamental misunderstanding of the law, and both Judy and I have tried to explain this to Mr. Gale. I agree completely with Judy's comment that this is a very unusual situation, which your document ironically quotes out of context. It's unusual because typically people either have a basis for their allegation and we are able to correct the problem or they realize through talking with us that there is no basis for their complaint and they withdraw it. We have fully responded several times to each allegation raised by Mr. Gale and firmly believe his complaint fits in this second category.

Our intent all along has been to work together toward a mutual resolution and our communications with David have been open, friendly and respectful. Despite our demonstrated preference and efforts to be amicable, David has been uncooperative, unnecessarily aggressive, disrespectful, overly abusive in his mail to both Judy and me, which is the second reason why we cannot agree to a meeting. There is simply no reason to expose yet another person in the company to the same behavior.

We have made every effort to resolve this matter and yet have been at the same impasse for over two months. Your document consolidates Mr. Gale's e-mail, but does not add anything new to past conversations. We would have liked to have found a solution to this dispute that is satisfactory to everyone, but in this rare instance it seems that this is not possible. It is a regrettable outcome, but one that we have come to accept.

Best regards,

John

From: David Gale [mailto:galed@ramtec.net]
Sent: 07 February 2008 17:21
To: Adele Gladwin
Subject: Mulgrew

Adele

Why would he make such a big deal of the NDAs, if according to him they were irrelevant?

We could have provided them, but neither the NDAs nor specific copyright is the issue. Mulgrew seems to have missed the issue of trust, in his attempt to get this back onto a discussion of legal technicalities.

If you like, you can always let them know that the DoJ have been in touch and that Microsoft's complete lack of adherence to anything remotely resembling a formal procedure will be a matter of evidence.

Neither do I see much evidence of Microsoft's repeated, consistent response. Maybe we missed something?

regards

David

David Gale | CEO | SITFO - Strategic IT Framework Organisation | Derby | England | M: +44 (0)7703 460360 | W: www.sitfo.org

From: Adele Gladwin [mailto:adele@here2assist.co.uk]
Sent: 07 February 2008 18:01
To: David Gale
Subject: RE: Mulgrew

David

I don't think we missed anything, I did think originally adding NDA details would be useful in the report, but as you say, he stated they were irrelevant.

I think the fact is now, as you say, he has reverted back to legal technicalities, at the end of the day he is a lawyer though so it should be expected!

My gut feeling is that if we are working on the basis of breach of trust this has to be fired more towards Sales rather than a lawyer, the point we are trying to make is that MS cannot

be trusted, if they want to continue the relationship that has been built up in the past they need to prove themselves; the lawyers can't do that.

Regards

Adele

Adele Gladwin | Virtual Assistant | Here2Assist | Derby | England | W: www.here2assist.co.uk | M: 07515 337119

From: David Gale [mailto:david.gale@sitfo.org]
Sent: 08 February 2008 04:39
To: 'Adele McLean'
Cc: 'Judy Weston (LCA)'; 'John Mulgrew (LCA)'
Subject: RE: Microsoft Breaches of Trust

Adele

1. The report doesn't ask for a meeting. A meeting without senior executive sponsorship, and without Microsoft having tabled a proposal for resolution, is just an agenda-less talking shop.
2. Remember it was Microsoft, after three years of inactivity, that asked for a report, and Microsoft who didn't even bother to acknowledge receipt of it.
3. The NDAs were breached when Microsoft started development of the concept themselves, before TADAG was published, and before the document was circulated. If they want to dispute that, we could drag a few LRG Heads of IT into the mix to confirm what Martinez presented in April 2005 but that's irrelevant because:
4. I understand the Law perfectly well, which is why the NDAs weren't included in the report appendices. Mulgrew knows this, evidenced by his self-contradictory position on NDAs. Irrespective of NDAs, I can stand on the highest rooftop and bellow a principal, and providing that I can demonstrate that I bellowed it first, I am entitled to be paid when someone else uses it. On this point, are Microsoft now changing their position, yet again, to revert to a dispute over originality? If that's the case, then Microsoft's previous acceptance of originality has been evidenced by multiple parties en route.
5. Mulgrew has chosen to dodge the report's central thrust relating to 'trust', or is he seriously contending that Microsoft's behavior will stand up to public scrutiny as 'trustworthy'? Either way, we've discharged our legal responsibilities before going public.
6. I have yet to see any hint of this getting past the lawyers' vocational discussion of legal technicalities. In business, legal technicalities count for nothing when set against trust, which is utterly fundamental. So, we've been right to put our customers' proposed partnerships on hold, where there is IPR involved. We need to

go back and brief them on Microsoft's response to this, so that they understand the culture at Redmond, and so that the risk is known, owned and quantified by them. Thank goodness I didn't bring Microsoft into the regional agenda in Europe or China.

7. Whilst you're free to carry on your discourse with Mulgrew, we wanted a position statement from Microsoft and we got it in the last email. I'm more interested in the refusal to deliver executive sponsorship than any legal discussions with individuals whose job it is to deflect and protect. I think Mulgrew actually blew it in his last response which, from a lawyer, was irrational and emotional.
8. We've had a sustained attempt at refocusing Microsoft's corporate culture which, as with other issues (remember CRM licensing?) was done in the spirit of true partnership. 'Partners' do the difficult stuff around a table, and that includes honestly kicking chunks out of each other, from time to time. You can't have a partnership discussion with a lawyer. So, this, evidently, is a bridge too far. We need to deliver their wake-up call now.

regards

David

David Gale | CEO | SITFO - Strategic IT Framework Organisation | Derby | England | M: +44 (0)7703 460360 | W: www.sitfo.org

From: David Gale [mailto:david.gale@sitfo.org]
Sent: 31 March 2008 15:19
To: 'Adele McLean'
Cc: 'John Mulgrew (LCA)'; 'Judy Weston (LCA)'
Subject: TADAG Press Conference

Adele

The full report is now ready for publication, to include the results of investigations made elsewhere. The contradictions against Microsoft's 'official' line leave me embarrassed and very angry; although we need to take an early decision about how much we hold back for the media production.

Be aware that we have recently received a number of requests from Microsoft (global) to act as a reference for potential business in the Middle East (and elsewhere). I have explained the situation in detail to those involved and have repeated the position that Microsoft personnel are persona non grata on our customer sites, whilst this issue remains unresolved. Derby won't even allow them on site whilst they seek an alternative partner for their CSIS productisation, and the States of Jersey team have resigned en masse.

We have to assume that the senior Microsoft executives who *have* been made aware of the situation are having their hands tied by the lawyers. Either that, or we can conclude from their silence that it would be career limiting to be seen to want to deal with this inside Microsoft. If we're going to stand any chance of effecting a culture shift, we have to cause them enough pain for the international business to bring the lawyers and corporate executives to heel.

Either way, if you receive any further requests for reference activity they can be rejected without further reference.

regards

David

David Gale | CEO | SITFO - Strategic IT Framework Organisation | Derby | England | M: +44 (0)7703 460360 | W: www.sitfo.org

From: David Gale [mailto:david.gale@sitfo.org]

Sent: 18 July 2008 00:53

To: John Mulgrew (LCA); Business Conduct and Compliance

Cc: 'Adele McLean'; Terry Smith (ENGLAND); Gordon McKenzie; Judy Weston (LCA)

Subject: RE: Alleged Breaches of Trust by Microsoft

John

The question in the last email was whether or not you're the media relations contact too.

For the avoidance of doubt, the questions for Microsoft were condensed in an email sent to you and also contained in the Addendum within the attached report. Bearing in mind that, at every stage of discussions, Microsoft acknowledged the originality of the TADAG concept and that it predates Microsoft's sponsorship of OpenID by three years, the unanswered question for Microsoft to answer, relating to the basic issue of trust, is:

"With which part of "yes, we signed an NDA; yes, you introduced us to the principal of the personal certificated domain; yes, we started development work around it; yes, we took legal advice about how we could proceed without referencing / paying you; yes, we contrived with a third party to start an Open Source project; no, we're not going to reference / pay you" does Microsoft disagree?"

regards

David

From: John Mulgrew (LCA) [mailto:John.Mulgrew@microsoft.com]
Sent: 18 July 2008 15:31
To: David Gale; Business Conduct and Compliance
Cc: 'Adele McLean'; Terry Smith (ENGLAND); Gordon McKenzie; Judy Weston (LCA)
Subject: RE: Alleged Breaches of Trust by Microsoft

Hi David,

If you would like to do so you can direct inquiries to me.

I answered the questions you included in your last mail in November last year when you first raised them, and Judy discussed these issues with you even earlier before I got involved.

But I am happy to talk with you about them because I believe that's where the breakdown is happening. I previously suggested that we move the discussion from each side stating their conclusions to a discussion of the underlying facts so that we can hopefully figure out why we have come to such different positions. You have declined doing this before, but the offer is still open if you are interested.

But to answer your questions below, where we are at the moment is that after two separate reviews we have found that the TADAG paper that you tried to give people at Microsoft would not qualify as confidential information since you published the paper on the web and perhaps elsewhere and that you don't have any more formal IP on which there would be a creditable claim. Also, we have been unable to find the NDA you keep mentioning, so if you have a copy I would appreciate it if you would send it to me.

Best regards,

John

From: David Gale [mailto:david.gale@sitfo.org]
Sent: 18 July 2008 08:18
To: John Mulgrew (LCA); Business Conduct and Compliance
Cc: 'Adele McLean'; Terry Smith (ENGLAND); Gordon McKenzie; Judy Weston (LCA)
Subject: RE: Alleged Breaches of Trust by Microsoft

John

You've already stated, repeatedly, that the NDAs are worthless to this debate, so why are you mentioning them again? Do you really want to admit that Microsoft lost them? Is that the value that Microsoft Corporation places on confidentiality...? 'Second thoughts, don't bother answering that, we already know the answer.

You refer to the TADAG paper as though it was the source of the problem. One look at the timeline and the multiple Microsoft security specialists involved will tell any objective observer that the breaches of trust began well before that.

You're approaching this from entirely the wrong angle. However wealthy the Microsoft Corporation is, and however many lawyers they may gather to protect themselves, trust is the one area that Microsoft cannot afford to mess with. We are already briefing our clients and our clients' clients (last seminar was attended by 112 senior business / IT managers) with this whole sorry story because we cannot countenance having recommended working with Microsoft previously, then to dodge providing information that could prevent our clients from the kind of issue that we have experienced. Loss of customer trust & confidence is a slow drip that will destroy your business.

Someone at Microsoft needs to understand that this is not the kind of issue on which the bean-counters can deliver a risk analysis. They also need to take into account that this is a fundamental issue of principle. So, the sooner this gets away from lawyers and back to the people that pay their salaries the better. However, on current form, I doubt that is going to happen. I think Microsoft's culture is so entrenched that it lacks the flexibility to think beyond a process that perpetuates their presence in a court room. So, unless you have something revelatory to bring to the table, I think we're entitled to move forward with our escalation.

Regards

David

From: John Mulgrew (LCA) [mailto:John.Mulgrew@microsoft.com]
Sent: 18 July 2008 19:31
To: David Gale; Business Conduct and Compliance
Cc: 'Adele McLean'; Terry Smith (ENGLAND); Gordon McKenzie; Judy Weston (LCA)
Subject: RE: Alleged Breaches of Trust by Microsoft

Hi David,

I was just trying to answer your questions, one of which asked about whether an NDA was signed. I am unable to locate the NDA you say was signed. If you don't have a copy of it either then we can just move on, but if you have a copy I would appreciate it if you could send it to me.

Best regards,

John

From: David Gale [mailto:galed@ramtec.net]
Sent: 22 July 2008 11:44
To: John Mulgrew (LCA); Business Conduct and Compliance

Cc: Adele McLean; Terry Smith (ENGLAND); Gordon McKenzie; Judy Weston (LCA)
Subject: RE: Alleged Breaches of Trust by Microsoft

As luck would have it, a recent consolidation of mail archives at this end, linked to our search engine, has turned up a THIRD NDA.

Given that we can find them with our own meagre resources, it demonstrates the disingenuous claim that Microsoft has fully investigated this issue. If Microsoft has investigated, please explain why you haven't got them?

David

From: John Mulgrew (LCA) [mailto:John.Mulgrew@microsoft.com]
Sent: 22 July 2008 22:01
To: David Gale; Business Conduct and Compliance
Cc: Adele McLean; Terry Smith (ENGLAND); Gordon McKenzie; Judy Weston (LCA)
Subject: RE: Alleged Breaches of Trust by Microsoft

David,

If you have a signed copy of an NDA I would appreciate receiving a copy.

Thanks,

John

From: David Gale [mailto:galed@ramtec.net]
Sent: 22 July 2008 15:02
To: John Mulgrew (LCA); Business Conduct and Compliance
Cc: Adele McLean; Terry Smith (ENGLAND); Gordon McKenzie; Judy Weston (LCA)
Subject: RE: Alleged Breaches of Trust by Microsoft

"Please explain why you haven't got them"

From: John Mulgrew (LCA) [mailto:John.Mulgrew@microsoft.com]
Sent: 23 July 2008 07:15
To: David Gale; Business Conduct and Compliance
Cc: Adele McLean; Terry Smith (ENGLAND); Gordon McKenzie; Judy Weston (LCA)
Subject: RE: Alleged Breaches of Trust by Microsoft

Hi David,

Your search of e-mail archives further suggests that you do not have a copy of a signed NDA and that perhaps one wasn't ever signed by both parties.

I have already explained why the existence of an NDA is not likely to change anything about our impasse because it wouldn't apply to materials you published on the Internet, such as the TADAG paper. And from your mail below it seems you also don't view the NDA or even the TADAG paper as relevant to your allegations.

Your uncooperative behavior here is perplexing if there really is a signed NDA since neither of us views it as impacting our conclusions. I've only asked to have a copy of the signed NDA so that we can include it in our NDA records.

Best regards,

John

From: David Gale [mailto:galed@ramtec.net]

Sent: 23 July 2008 00:03

To: John Mulgrew (LCA); Business Conduct and Compliance

Cc: Adele McLean; Terry Smith (ENGLAND); Gordon McKenzie; Judy Weston (LCA)

Subject: RE: Alleged Breaches of Trust by Microsoft

'Quite happy to let you have a copy of them once discussions have been completed elsewhere.

For the moment, your inability to be able to trace a single NDA at your end evidences, for both us and the DOJ, the reality behind Microsoft's claims to have fully investigated the issue, as well as the complete lack of process.

David

From: John Mulgrew (LCA) [mailto:John.Mulgrew@microsoft.com]

Sent: 23 July 2008 11:01

To: David Gale; Business Conduct and Compliance

Cc: Adele McLean; Terry Smith (ENGLAND); Gordon McKenzie; Judy Weston (LCA)

Subject: RE: Alleged Breaches of Trust by Microsoft

Thanks David,

I will look forward to receiving them. In the meantime, I will close this matter due to the impasse we've reached.

Best regards,

John

From: David Gale
Sent: 24 July 2008 12:18
To: 'John Mulgrew (LCA)'; Business Conduct and Compliance
Cc: Adele McLean; Terry Smith (ENGLAND); Gordon McKenzie; Judy Weston (LCA)
Subject: RE: Alleged Breaches of Trust by Microsoft

That's fine. I think we have enough now to progress thru the next stages.

Incidentally, all of our NDAs were signed on behalf of Microsoft by Nigel Bates and the last one we dug up had an NDA ID of 2560.

David

ENDS