Bricetti, J.

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

18 CV 01210

INTERNATIONAL BUSINESS MACHINES CORPORATION,

Plaintiff,

v.

LINDSAY RAE MCINTYRE,

Defendant.

18 Civ. JUDGE BRICCETTI

~~[PROPOSED]~~ ORDER TO SHOW CAUSE FOR AN ORDER FOR A PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER

Upon the Summons and Complaint of Plaintiff International Business Machines Corporation ("IBM"), the Declaration of Pietro J. Signoracci, executed on February 11, 2018, the Declaration of Diane J. Gherson, executed on February 2, 2018, and the accompanying Memorandum of Law in Support of Plaintiff's Application for a Temporary Restraining Order and Preliminary Injunction, and good and sufficient reason appearing to me therefor, it is hereby

ORDERED that Defendant Lindsay Rae McIntyre or her counsel show cause at a hearing to be held in this Court before the Honorable Vincent L. Briccetti, United States District Judge, in Courtroom 620, United States Courthouse, 300 Quarropas Street, White Plains, New York, on 3/12, 2018 at 11:00 a.m., or as soon thereafter as counsel may be heard, why the Court should not enter an order for a preliminary injunction pursuant to Rule 65(a) of the Federal Rules of Civil Procedure and the Court's inherent powers, pending final determination of this action:

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DATE FILED: 2/12/18

(a) enjoining and restraining Defendant McIntyre from commencing employment with Microsoft Corporation ("Microsoft") or otherwise associating with Microsoft prior to January 29, 2019;

(b) enjoining Defendant McIntyre, prior to January 29, 2019, from soliciting for competitive business purposes any customer of IBM with which Defendant McIntyre was involved as part of her job responsibilities at IBM during the last twelve months of her employment at IBM;

(c) enjoining Defendant McIntyre, prior to January 29, 2020, from directly or indirectly hiring, soliciting, or making an offer to any employee of IBM to be employed or perform services outside IBM;

(d) enjoining Defendant McIntyre from using, disclosing, or transmitting for any purpose records, documents, or information containing any confidential or proprietary information of IBM; and

(e) ordering such further relief the Court deems just and proper;

AND it being shown by the above-referenced declarations and memorandum of law that Plaintiff will suffer immediate and irreparable harm unless, pending the hearing of the motion brought on by this Order to Show Cause, a temporary restraining order be in effect, providing the relief requested by Plaintiff on this motion for a preliminary injunction, pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, it is hereby

ORDERED that Defendant Lindsay Rae McIntyre is temporarily ENJOINED AND RESTRAINED, until the hearing and determination of Plaintiff's motion for a preliminary injunction, from: (i) working at, or providing any services for, Microsoft; (ii) soliciting any customer of IBM with which Defendant McIntyre was involved as part of her

; provided however that Ms. McIntyre may be placed on the payroll of Microsoft for payroll and benefits purposes only;

job responsibilities at IBM during the last year of her employment at IBM; (iii) contacting any current employees of IBM for the purpose of influencing them to leave IBM; and (iv) retaining, using, or disclosing IBM confidential or proprietary information; and it is further

ORDERED that security in the sum of _____ shall be posted by Plaintiff on or before _____; and it is further

ORDERED that Plaintiff shall effect personal delivery of a copy of this order and supporting papers, by hand delivery service and email to Defendant or Defendant's counsel, no later than 5:00 p.m. on 2/12, 2018, which shall be deemed good and sufficient service and notice thereof; and it is further

ORDERED that Defendant shall file with the Court and serve any responsive papers by overnight delivery and email on Plaintiff's counsel, Robert A. Atkins, Esq., Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019-6064, ratkins@paulweiss.com, on or before ____ _.m. on _____, 2018 and that Plaintiff shall file with the Court and serve any reply papers by overnight delivery and email on Defendant or Defendant's counsel, on or before ____ _.m. on _____, 2018.

Dated: 2/12/18

SO ORDERED

U.S.D.J.

Vincent L. Briccetti