



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL  
120 BROADWAY  
NEW YORK, NY 10271

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

(212) 416-8050

May 10, 2013

VIA ELECTRONIC & EXPRESS MAIL

Steven A. Ballmer  
Chief Executive Officer  
Microsoft Corporation  
One Microsoft Way  
Redmond, WA 98052-6399

Dear Mr. Ballmer:

My office has been exploring the surge in thefts of iPhones and other handheld electronic devices in New York City and throughout the State of New York. Given Microsoft's publicly advertised commitment to safety and security for its customers, and the New York State Attorney General's responsibility to enforce deceptive trade practices statutes, including without limitation, Executive Law § 63(12) and General Business Law § 349, I would like to know what Microsoft is doing to combat this growing public safety problem. Further, I write to ask that you collaborate with my office to develop a comprehensive approach to discourage theft, protect your customers, and fulfill Microsoft's expressed commitment to making its customers "secure by design."<sup>1</sup>

In particular, I seek to understand why companies that can develop sophisticated mobile operating systems, such as Microsoft, cannot also create technology to render stolen devices inoperable and thereby eliminate the expanding black market on which they are sold. I would be especially concerned if device theft accrues to your company's financial benefit through increased sales of replacement devices. A recent study found that lost and stolen cell phones cost consumers over \$30 billion last year.<sup>2</sup>

---

<sup>1</sup> <http://www.windowsphone.com/en-us/how-to/wp8/basics/tips-to-help-keep-my-phone-secure>

<sup>2</sup> <http://www.businesswire.com/news/home/20120322005325/en/Lookout-Projects-Lost-Stolen-Phones-Cost-U.S.>

In New York City, theft of Apple products has driven much of the increase in electronics thefts. Between January 1 and September 23, 2012, a total of 11,447 cases of stolen “iDevices” (iPhones and other iOS devices) were reported to the New York City Police Department (NYPD), a rise of 3,280 over 2011.<sup>3</sup> In fairness, the problem is not limited to Apple. A 2011 NYPD analysis found that companies other than Apple, including Microsoft, manufactured roughly 30% of all electronic devices stolen on subways and buses.<sup>4</sup>

In too many cases, these incidents turn violent. Consider some recent examples:

- On April 19, 2012, a 26-year-old chef at the Museum of Modern Art was killed for his iPhone on his way home to the Bronx.<sup>5</sup>
- In April 2012, twenty-year-old Alex Herald was stabbed during an iPhone theft.<sup>6</sup>
- In September 2012, in three separate incidents, women were violently attacked for Apple and Samsung devices.<sup>7</sup>
- In February 2013, three people were stabbed on a subway platform in Queens in a fight over an iPhone.<sup>8</sup>
- Earlier this month, a woman was mugged at gunpoint in Crown Heights for her Android device.<sup>9</sup>

Microsoft has made clear public representations with regard to safety and security. The “Security” section of your website includes promises of “[r]obust security...” and “[c]omprehensive security...”<sup>10</sup> Microsoft has also asserted: “Even as more people and businesses rely on computing every day, the threats that can undermine trust in computing are increasingly sophisticated and malicious. We continually evolve our approach to meet this challenge and remain an industry leader in *privacy, safety, and security*.”<sup>11</sup> (Emphasis added.) Additionally, Microsoft has represented itself as a responsible corporate citizen: “Fundamental to this commitment is the role we serve as a responsible global corporate citizen. As our company has grown, this commitment has extended far beyond our own products and services and has been amplified many times over through our network of partners, including governments, nonprofits and other organizations.”<sup>12</sup>

The impression to the consumer is that the devices that run Microsoft’s mobile operating system include an array of features that, together, ensure safety. This drives sales and creates good will with customers. I am concerned, however, that Microsoft may have failed to live up to

<sup>3</sup> [http://news.cnet.com/8301-13579\\_3-57519902-37/iphone-ipad-thefts-jump-40-percent-in-nyc/](http://news.cnet.com/8301-13579_3-57519902-37/iphone-ipad-thefts-jump-40-percent-in-nyc/)

<sup>4</sup> <http://www.nydailynews.com/new-york/nypd-thefts-smartphones-ipads-prevalent-cash-criminals-turn-focus-electronics-article-1.987406>

<sup>5</sup> [http://www.huffingtonpost.com/2013/03/06/apple-picking-stolen-iphones\\_n\\_2818488.html](http://www.huffingtonpost.com/2013/03/06/apple-picking-stolen-iphones_n_2818488.html)

<sup>6</sup> [http://www.huffingtonpost.com/2013/03/06/apple-picking-stolen-iphones\\_n\\_2818488.html](http://www.huffingtonpost.com/2013/03/06/apple-picking-stolen-iphones_n_2818488.html)

<sup>7</sup> <http://newyork.cbslocal.com/2012/09/21/nypd-looking-for-violent-smartphone-robbery-suspect-in-astoria/>

<sup>8</sup> [http://www.huffingtonpost.com/2013/02/05/brief-nypd-3-stabbed-on-queens-subway-iphone\\_n\\_2620347.html](http://www.huffingtonpost.com/2013/02/05/brief-nypd-3-stabbed-on-queens-subway-iphone_n_2620347.html)

<sup>9</sup> <http://crownheights.info/crime/384045/woman-mugged-at-gun-point-on-president-street/>

<sup>10</sup> <http://www.windowsphone.com/en-us/business/security>

<sup>11</sup> <http://www.microsoft.com/about/corporatecitizenship/en-us/working-responsibly/principled-business-practices/privacy-safety/>

<sup>12</sup> <http://www.microsoft.com/about/corporatecitizenship/en-us/default.aspx>

these representations, limiting its focus to information security, without providing safeguards that would truly deter theft and thereby protect the safety of your customers.

Please designate appropriate Microsoft representatives to meet with attorneys in my office to discuss Microsoft's existing efforts in this area. In addition, I am inviting the industry's leading handset manufacturers and mobile operating system developers to work with my office to develop better solutions to this escalating problem. Lookout, Inc., which has broad expertise in mobile security, has agreed to advise us on this work and help us find solutions. We hope and would expect that Microsoft will engage meaningfully in this process.

Please contact me at your earliest convenience.

Very truly yours,

A handwritten signature in black ink, appearing to read "Eric T. Schneiderman". The signature is fluid and cursive, with a long horizontal stroke at the end.

ERIC T. SCHNEIDERMAN  
Attorney General of the State of New York