

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RECEIVED

OCT 27 2004

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

Case No.

04C 690

INTERNATIONAL RESEARCH AND
DEVELOPMENT CORPORATION OF
NEVADA,

JUDGE HIBBLER

ANTHONY RENDA, individually and d/b/a
INTERNATIONAL RESEARCH &
DEVELOPMENT and/or IRD,

MAGISTRATE JUDGE LEVIN

NET MARKETING GROUP, LLC, also d/b/a
MICRO SYSTEM TECHNOLOGIES,

FLOYD J. TASSIN, JR., individually and d/b/a
MICRO SYSTEM TECHNOLOGIES,

MARCIA TASSIN, individually and d/b/a
MICRO SYSTEM TECHNOLOGIES,

DIVERSE MARKETING GROUP, INC.,

DIVERSE MARKETING GROUP, LLC, and

MARK C. AYOUB, individually and d/b/a
EPRO2000, Inc.,

Defendants.

COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission ("FTC" or "the Commission"), for its Complaint
alleges as follows:

1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, to obtain preliminary and permanent injunctive relief, rescission of contracts, restitution, redress, disgorgement and other equitable relief for Defendants’ deceptive and unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and for violations of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (“CAN-SPAM”), 15 U.S.C. § 7701 *et seq.*

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 15 U.S.C. §§ 45(a) and 53(b), and 28 U.S.C. §§ 1331, 1337(a), and 1345.
3. Venue in the United States District Court for the Northern District of Illinois is proper under 15 U.S.C. § 53(b).

PLAINTIFF

4. Plaintiff FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC is charged, *inter alia*, with enforcing Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC is also charged with enforcing CAN-SPAM as if statutory violations of CAN-SPAM “were an unfair or deceptive act or practice proscribed under Section 18(a)(1)(B) of the [FTC Act] (15 U.S.C. 57a(a)(1)(B)).” *See* 15 U.S.C. § 7706(a).
5. The FTC may initiate federal district court proceedings, in its own name by its designated attorneys, to enjoin violations of any provision of law enforced by the FTC, and to secure

such equitable relief as may be appropriate in each case, including restitution for injured consumers. 15 U.S.C. §§ 53(b), 57b.

DEFENDANTS

6. **Defendant International Research and Development Corporation of Nevada** is a Nevada corporation with a registered agent at 2533 N. Carson St., Carson City, Nevada and principal place of business at 5212 Chelsea St., San Diego, California 92037. Defendant International Research and Development Corporation of Nevada transacts or has transacted business in the Northern District of Illinois and throughout the United States.
7. **Defendant Anthony Renda**, also doing business as IRD and/or International Research & Development, is a principal of International Research and Development Corporation of Nevada and is president, secretary, and treasurer of that corporation. Anthony Renda has registered the fictitious business names International Research & Development and IRD in San Diego County and holds himself out as vice-president of those entities. International Research & Development and IRD have a registered office at 13321 Old Winery Road, Poway, CA 92064 with a principal place of business at 5212 Chelsea Street, San Diego, CA 92037. At all times relevant to this Complaint, acting alone or in concert with others, Anthony Renda has formulated, directed, controlled, or participated in the acts and practices of International Research and Development Corporation of Nevada, including the acts and practices set forth in this Complaint. Anthony Renda transacts or has transacted business in the Northern District of Illinois and throughout the United States.

8. **Defendant Diverse Marketing Group, LLC** is a Florida limited liability company with a registered address at 2247 Citrus Boulevard, #251, Leesburg, FL 34748 and principal place of business at 33235 Kaylee Way, Leesburg, FL 34788. Diverse Marketing Group, LLC transacts or has transacted business in the Northern District of Illinois and throughout the United States.
9. **Defendant Diverse Marketing Group, Inc.** is a Florida corporation with a registered address at 2247 Citrus Boulevard, #251, Leesburg, FL 34748. Diverse Marketing Group, Inc. transacts or has transacted business in the Northern District of Illinois and throughout the United States.
10. **Defendant Mark C. Ayoub** is an owner and principal of Diverse Marketing Group, Inc. and Diverse Marketing Group, LLC. Mark Ayoub also does business as EPRO2000, Inc., a Florida corporation administratively dissolved on October 4, 2002. At all times relevant to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of Diverse Marketing Group, Inc., Diverse Marketing Group, LLC, and EPRO2000, Inc., including the acts and practices set forth in this Complaint. Mark Ayoub transacts or has transacted business in the Northern District of Illinois and throughout the United States.
11. **Defendant Net Marketing Group, LLC** is a New Mexico limited liability company with registered office at 7111 Prospect Pl., Ste. D-302, Albuquerque, NM 87110 and principal place of business at 1003 Rushing Dr., Arnaudville, LA 70512. Net Marketing Group transacts or has transacted business in the Northern District of Illinois and throughout the United States.

12. **Defendant Floyd J. Tassin, Jr.**, also known as Jay Tassin, is a principal of Net Marketing Group, LLC. At all times material to this Complaint, acting alone or in concert with others, Floyd J. Tassin, Jr. has formulated, directed, controlled, or participated in the acts or practices of Net Marketing Group, LLC, including the acts and practices set forth in this Complaint. Floyd J. Tassin, Jr. transacts or has transacted business in the Northern District of Illinois and throughout the United States.
13. **Defendant Marcia Tassin** is a principal of Net Marketing Group, LLC. At all times material to this Complaint, acting alone or in concert with others, Marcia Tassin has formulated, directed, controlled, or participated in the acts or practices of Net Marketing Group, LLC, including the acts and practices set forth in this Complaint. Marcia Tassin transacts or has transacted business in the Northern District of Illinois and throughout the United States.

DEFINITIONS

14. **“Defendants”** means International Research and Development Corporation of Nevada; Anthony Renda, individually and d/b/a International Research & Development and/or IRD; Diverse Marketing Group, Inc.; Diverse Marketing Group, LLC; Mark C. Ayoub, individually and d/b/a EPRO2000, Inc.; Net Marketing Group, LLC, also d/b/a Micro System Technologies; Floyd J. Tassin, Jr., individually and d/b/a Micro System Technologies; and Marcia Tassin, individually and d/b/a Micro System Technologies. Defendants have transacted business in the Northern District of Illinois within the meaning of 15 U.S.C. § 53(b).

15. **“Fuel Saver Pro Defendants”** means Diverse Marketing Group, Inc.; Diverse Marketing Group, LLC; Mark C. Ayoub, individually and d/b/a EPRO2000, Inc.; Net Marketing Group, LLC, also d/b/a Micro System Technologies; Floyd J. Tassin, Jr., individually and d/b/a Micro System Technologies; and Marcia Tassin, individually and d/b/a Micro System Technologies.
16. **“Header information”** means the source, destination, and routing information attached to an electronic mail message, including the originating domain name and originating electronic mail address, and any other information that appears in the line identifying, or purporting to identify, a person initiating the message.
17. **“Initiate,”** when used with respect to a commercial e-mail message, means to originate or transmit such message or to procure the origination or transmission of such message.
18. **“IRD Defendants”** means International Research and Development Corporation of Nevada and Anthony Renda, individually and d/b/a International Research & Development and/or IRD.
19. **“Magnetic Devices”** means FuelMAX, Super FuelMAX, and/or Fuel Saver Pro.

COMMERCE

20. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS’ BUSINESS ACTIVITIES

21. Defendants market and sell magnetic devices that purportedly increase automobile gas mileage and decrease harmful pollutants and emissions. Defendants have marketed and

sold these magnetic devices under the names FuelMAX, Super FuelMAX, and/or Fuel Saver Pro. The magnetic devices, which are purportedly comprised of neodymium, are designed to be affixed to an automobile fuel line. Once applied to a fuel line, the magnets supposedly fracture gasoline hydrocarbon chains through magnetic resonance – resulting in a myriad of alleged beneficial results, set forth more fully below.

22. Since at least September 2000 and continuing to the present, the **IRD Defendants** have manufactured, advertised, offered for sale, sold and/or distributed the FuelMAX and/or Super FuelMAX throughout the United States.
23. To induce consumers to purchase the FuelMAX and/or Super FuelMAX, the IRD Defendants' Web sites, www.irdusa.com and www.maxinstall.com, as well as the product packaging inserts for FuelMAX and Super FuelMAX, contain numerous materially false and/or materially misleading statements.
24. These statements include:
 - INCREASE MILEAGE UP TO 27%
 - Reduces Fuel Consumption
 - Reduces Emissions
 - Certified Laboratory Tested
 - By way of its patented Neodymium super conductors it generates the specific resonance frequency that when installed over the fuel line, will fracture the hydrocarbon chains in the passing fuel providing accelerated combustion.
 - The Super FuelMAX accelerates combustion and burns more of the fuel that is normally exhausted as un-burned pollution.
25. The **IRD Defendants** have continued to advertise and sell their products in the foregoing manner despite a warning issued November 2001 from the Federal Trade Commission

that their product claims and advertising were false, lacked substantiation, and likely violated Section 5(a) of the FTC Act.

26. Since at least January 2004 and continuing to the present, the **Fuel Saver Pro Defendants** have advertised, offered for sale, sold and/or distributed Fuel Saver Pro, which in actuality is the Super FuelMAX and/or FuelMAX manufactured and sold by the IRD Defendants, throughout the United States via dozens of Internet Web sites. These Web sites include: www.fuelsaverpro.com; www.eoei.com; www.gasep.com; www.realfuelsnow.com; www.great10foryou.biz; and www.puresfuel.com.

27. To induce consumers to purchase the Fuel Saver Pro, the Fuel Saver Pro Defendants' Web sites contain numerous materially false and/or materially misleading statements.

28. These statements include:

- This amazing, revolutionary device Increases Gas Mileage 27%+ by helping fuel burn better.
- Reduces emissions 43%
- Smoother Engine
- Pays for Itself FAST!!!!
- Gives an extra 10% more horsepower
- Based on the size of your gas tank you will save from \$8 for a typical 15 gallon gas tank, but larger V8 SUVs and trucks will save up to \$20 per tank.

29. The Fuel Saver Pro Defendants have marketed their Web sites by initiating millions of commercial e-mail messages. The text of these e-mail messages contains numerous materially false and/or materially misleading statements. The e-mails generally state:

Fuel Costs are reaching all time highs. OPEC is planning further cuts in production. We have the answer.

Fuel-Saver-Pro

This revolutionary device Boosts Gas Mileage 27%+ by helping fuel burn better using three patented processes from General Motors.

PROVEN TECHNOLOGY

A certified U.S. Environmental Protection Agency (EPA) laboratory recently completed tests on the new Fuel-Saver-Pro. The results were astounding. Master Service, a subsidiary of Ford Motor Company, also conducted extensive emissions testing and obtained similar, unheard results. The achievements of the Fuel Saver is so noteworthy to the environmental community, that Commercial News has featured it as their cover story in their June, 2000 edition. Take a test drive Today.

30. The text of the Fuel Saver Pro Defendants' e-mails also contains hyperlinks to the Fuel Saver Pro Defendants' Web sites.
31. Commercial e-mail messages initiated by the Fuel Saver Pro Defendants contain header information, including "from" and "reply-to" fields. The "from" field purports to identify who sent the e-mail; the "reply-to" field identifies to whom a return e-mail will be sent if the e-mail recipient clicks the "reply" button.
32. In numerous instances, commercial e-mail messages initiated by the Fuel Saver Pro Defendants utilize header information that is materially false and/or materially misleading. In numerous instances, commercial e-mail messages initiated by the Fuel Saver Pro Defendants contain fictitious email addresses in the "reply-to" and/or "from" field of the e-mail and/or contain an e-mail address or domain name of an unrelated third-party in the "reply-to" or "from" field of the e-mail without the third party's consent or authorization ("spoofing").
33. In numerous instances, commercial e-mail initiated by the Fuel Saver Pro Defendants fails to provide a valid physical postal address of the sender.

34. From January 1, 2004 through present, consumers forwarded approximately 36,000 e-mails advertising Defendants' products to the FTC's spam database at uce@ftc.gov.
35. The Fuel Saver Pro Defendants have operated as a common enterprise to advertise, market, and sell products over the Internet.

VIOLATION OF THE FTC ACT

36. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or deceptive acts or practices in or affecting commerce. As set forth below, Defendants have engaged in unlawful practices in violation of Section 5(a) of the FTC Act in connection with the marketing and/or sale of their magnetic devices.

COUNT ONE (against all Defendants)

37. Through the means described in Paragraphs 21-35, Defendants have represented, expressly or by implication, that when applied to a fuel line in a motor vehicle, their magnetic devices:
 - a. Substantially increase gas mileage, including as much as 27%, and/or
 - b. Substantially reduce emissions, including as much as 43%.
38. In truth and in fact Defendants' magnetic devices:
 - a. Do not substantially increase gas mileage, including as much as 27%; and
 - b. Do not substantially reduce emissions, including as much as 43%.
39. Therefore, Defendants' representations as set forth in Paragraph 37 are false or misleading and constitute a deceptive practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT TWO
(against all Defendants)

40. Defendants provide distributors, resellers, and/or affiliates with promotional materials that contain false and misleading representations, including, but not limited to, the false and misleading representations described above in paragraphs 24 through 39.
41. By providing distributors, resellers and/or affiliates with the promotional materials described in paragraph 40, Defendants have provided the means and instrumentalities for the commission of deceptive acts and practices.
42. Therefore, Defendants' practices, as described in paragraph 40, constitute deceptive acts and practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

**VIOLATIONS OF THE CONTROLLING THE ASSAULT OF
NON-SOLICITED PORNOGRAPHIC AND MARKETING ACT OF 2003**

43. The Controlling The Assault of Non-Solicited Pornography and Marketing Act of 2003 ("CAN-SPAM"), 15 U.S.C. § 7701 *et seq.*, became effective on January 1, 2004, and has since remained in full force and effect.
44. Section 5(a)(1) of CAN-SPAM states:
- It is unlawful for any person to initiate the transmission, to a protected computer, of a commercial electronic mail message . . . that contains, or is accompanied by, header information that is materially false or materially misleading.
- 15 U.S.C. § 7704(a)(1).
45. Section 5(a)(6) of CAN-SPAM states:

For purposes of [section 5(a)(1)], the term "materially," when used with respect to false or misleading header information, includes the alteration or concealment of header information in a manner that would impair the ability of an Internet access service, processing the

message on behalf of a recipient, a person alleging a violation of this section, or a law enforcement agency to identify, locate, or respond to a person who investigated the alleged violation, or the ability of a recipient of the message to respond to a person who initiated the electronic message.

15 U.S.C. § 7704(a)(6).

46. Section 5(a)(5)(A) of CAN-SPAM states:

It is unlawful for any person to initiate the transmission of any commercial electronic mail message to a protected computer unless the message provides:

- (I) clear and conspicuous identification that the message is an advertisement or solicitation;
- (ii) clear and conspicuous notice of the opportunity under [section 5(a)(3)] to decline to receive further commercial electronic mail messages from the sender; and
- (iii) a valid physical postal address of the sender.

15 U.S.C. § 7704(a)(5)(A).

47. Section 7(a) of CAN-SPAM states:

[T]his Act shall be enforced by the [FTC] as if the violation of this Act were an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the [FTC Act] (15 U.S.C. 57a(a)(1)(B)).

15 U.S.C. § 7706(a).

COUNT THREE

(against Fuel Saver Pro Defendants only)

48. In numerous instances, the Fuel Saver Pro Defendants have initiated the transmission, to protected computers, of commercial e-mail messages that contained, or were accompanied by, header information that is materially false or materially misleading.

49. The Fuel Saver Pro Defendants' acts or practices as described in Paragraph 48 violate 15 U.S.C. § 7704(a)(1).

COUNT FOUR

(against Fuel Saver Pro Defendants only)

50. In numerous instances, the Fuel Saver Pro Defendants have initiated the transmission of commercial e-mail messages to protected computers that fail to provide a valid physical postal address of the sender.
51. The Fuel Saver Pro Defendants' acts or practices as described in Paragraph 50 violate 15 U.S.C. § 7704(a)(5)(A).

CONSUMER INJURY

52. Consumers throughout the United States have suffered, and continue to suffer, substantial monetary loss and other injury as a result of Defendants' unlawful acts or practices. In addition, Defendants have been unjustly enriched as a result of their unlawful practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

53. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and other ancillary relief, including redress, disgorgement, and restitution, to prevent and remedy violations of any provision of law enforced by the FTC.
54. Section 19 of the FTC Act, 15 U.S.C. § 57b, and Section 7(a) of CAN-SPAM, 15 U.S.C. § 7706(a), empower the Court to grant to the FTC such relief as the Court finds necessary to redress injury to consumers and other persons resulting from Defendants' violations of CAN-SPAM, including rescission or reformation of contracts and the refund of monies.

55. This Court, in the exercise of its equitable jurisdiction, may award other ancillary relief to remedy injury caused by Defendants' law violations.

PRAYER FOR RELIEF

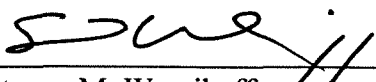
WHEREFORE, Plaintiff FTC, pursuant to Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, Section 7(a) of CAN-SPAM, 15 U.S.C. § 7706(a), and the Court's own equitable powers, requests that the Court:

1. Award Plaintiff such preliminary and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action, and to preserve the possibility of effective final relief;
2. Permanently enjoin Defendants from violating the FTC Act and CAN-SPAM, as alleged herein;
3. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act and CAN-SPAM, including, but not limited to, rescission of contracts, the refund of monies paid, and the disgorgement of ill-gotten monies; and
4. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Dated: October 27, 2004

Respectfully submitted,

William E. Kovacic
General Counsel



Steven M. Wernikoff
Christina M. Hinkle
Federal Trade Commission

55 East Monroe, Suite 1860
Chicago, IL 60603
Telephone: (312) 960-5634
Facsimile: (312) 960-5600