

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

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)	
In the Matter of)	
)	
BUY.COM INC.,)	DOCKET NO. C-3978
a corporation.)	
)	
)	

COMPLAINT

The Federal Trade Commission, having reason to believe that BUY.COM Inc., a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent BUY.COM Inc. is a Delaware corporation with its principal office or place of business at 85 Enterprise, Aliso Viejo, California 92656.
2. Respondent has advertised, offered for sale, sold, and distributed products to the public, including books, music and video recordings, personal electronic devices, computer software, and personal computers. BUY.COM sells these products through its Internet Web site, www.buy.com.
3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.
4. Respondent has disseminated or has caused to be disseminated advertisements for a Compaq Presario 5304 computer system, including but not necessarily limited to the attached Exhibits A through C. Exhibit A is a newspaper advertisement. Exhibit B is a subsequent newspaper and magazine advertisement. Exhibit C is a Web site advertisement. The advertisements contain the following statements:

A.

[Depiction: A Compaq Presario 5304 computer system.]

"COMPAQ PRESARIO 5304 SYSTEM

WITH REBATES, INCLUDES 15" MONITOR, SPEAKERS, COLOR INKJET PRINTER, KEYBOARD, MOUSE, AND FREE SHIPPING. VISIT WWW.BUY.COM TODAY FOR REBATE DETAILS.

\$269

CAN YOU FIND
THE TYPPO
IN THIS AD?"

[An extremely fine print disclosure, in approximately 4 point type, at the very top of the ad states:

"BUY.COM,TM BUYCOMP.COM,TM BUYSOFT.COM,TM BUYBOOKS.COM,TM BUYVIDEOS.COM,TM BUYGAMES.COM,TM BUYMUSIC.COM,TM and BUYSURPLUS.COMTM are trademarks or servicemarks of BUY.COM Inc. Prices subject to change. Quantities limited. Requires Compuserve activation. See site for details. Buy.com reserves the right to cancel this offer at any time. ©1999"]

(Exhibit A, Full page newspaper advertisement that appeared in USA Today, The Washington Post, The New York Times, The Sacramento Bee, The San Jose Mercury News, and The Wall Street Journal.)

B.

[Depiction: A Compaq Presario 5304 computer system.]

"COMPAQ PRESARIO 5304 SYSTEM

WITH REBATES, INCLUDES 15" MONITOR, SPEAKERS, COLOR INKJET PRINTER, KEYBOARD, MOUSE, AND FREE SHIPPING. REQUIRES 36-MONTH COMPUSERVE 2000 PREMIER INTERNET SERVICE CONTRACT AT \$21.95 PER MONTH. VISIT WWW.BUY.COM TODAY FOR ALL THE REBATE DETAILS.

\$269*

CAN YOU FIND
THE TYPPO
IN THIS AD?"

*[A very fine print disclosure, in approximately 5 point type, at the very top of the ad states: "*BUY.COM,™ BUYCOMP.COM,™ BUYSOFT.COM,™ BUYBOOKS.COM,™ BUYVIDEOS.COM,™ BUYGAMES.COM,™ BUYMUSIC.COM,™ and BUYSURPLUS.COM™ are trademarks or servicemarks of BUY.COM Inc. Prices subject to change. Quantities limited. Complete System \$869.00 - \$400 CompuServe 2000 Premier Internet Mail-in Rebate - \$200 Compaq Bundle Mail-in Rebate. Requires 36 months of CompuServe 2000 Internet service at \$21.95 a month. Early cancellation may result in additional charges. See site for details. BUY.COM reserves the right to cancel this offer at any time. 1999"]*

(Exhibit B, Full page newspaper and magazine advertisement that appeared in The Wall Street Journal and PC Week Magazine).

C.1.

"BUYCOMP.COM
The Internet Computer Superstore

COMPAQ

\$269*

*[Depiction: A Compaq Presario 5304
computer system]*

FREE Ground Shipping!

* After rebates

A Complete System \$269.00" *[Hyperlink to: Exhibit C.3.]*

(Exhibit C.1., The home page of respondent's Web site, <www.buy.com>).

C.2.

"COMPAQ

*[Depiction: A Compaq Presario 5304
computer system]*

\$269*

includes: computer, monitor
with speakers, and printer.

Click Here Now!

[Hyperlink to: Exhibit C.3.]

FREE Ground Shipping!

***With rebates. Requires three year subscription to CompuServe internet service."**

(Exhibit C.2., The main page of BUYCOMP.COM, the computer section of respondent's Web site, <www.buy.com/comp/default.asp>).

C.3.

"COMPAQ Savings from BUY.COM

<i>[Depiction: A Compaq Presario 5304 computer system.]</i>	System Price	\$869.00
	iSave Rebate	-\$400.00
	5304 Rebate	-\$200.00
	<u>Ground Shipping</u>	\$0.00
	Your Price	\$269.00!

Click Here To Buy

[Hyperlink to: Purchase application]

Save a bundle...

when you combine the Compaq iSave \$400 Internet rebate *[Hyperlink to: Exhibit C.4.]* with an additional \$200 cash back *[Hyperlink to: Rebate form]* from Compaq.

Here's How It Works

1. Order your new Compaq system.
2. Sign up for three years of CompuServe2000 Internet service within 30 days of your purchase).
3. Fill out both the iSave \$400 Internet rebate form *[Hyperlink to: Exhibit C.4.]* and the \$200 cash back form *[Hyperlink to: Rebate form]* and mail to Compaq. See full details on rebate forms.

Here's What You Get. . ."

(Exhibit C.3., Page of respondent's Web site devoted to Compaq Presario 5304 computer system package offer, <www.buy.com/comp/stores/compaq/600_promo.asp>)

C.4.

"\$400 Rebate (Mail-in Rebate) on the purchase of any Compaq Presario desktop PC and Compaq Monitor or Compaq Presario notebook PC, 7/25-10/9/99. Sign up for 3 years of CompuServe 2000 Premier Internet Service for \$21.95 a month. Mail-in-rebate must be postmarked by 11/30/99.

To redeem this rebate offer, simply:

1. **Purchase** an eligible Compaq product
2. **Sign** up for CompuServe 2000 service using your Compaq/CompuServe CD rebate kit
(**CD kits are available from your local authorized reseller**)
3. **Fill** in the form, then print it out; or **print** out the blank form, and fill it in by hand
4. **Mail** it to the address below with proof of purchase "

[A fine print disclosure at the very bottom of this web page states:
"Terms and Conditions

\$400 Mail-In Rebate requires (1) purchase of any eligible Compaq Presario desktop & monitor or notebook computer, (2) contract commitment to a 3 year (36 months) subscription for CompuServe 2000 Internet Service at the monthly rate of \$21.95 or full prepayment of \$790.20 at the time of registration, (3) a completed mail-in rebate form, and (4) a dated purchase receipt with a copy of your receipt and UPC Code. All of the above must be completed and received by CompuServe within 30 days of purchase. Offer subject to your acceptance of CompuServe Terms of Service. If prepayment is not chosen, membership termination prior to 36 months requires pro-rated repayment of the rebate plus a \$50 cancellation fee, based on the following repayment schedule: Months 1-12/\$400, Months 13-24/\$300.00, and Months 25-36/\$200.00. Within 60 days of rebate approval, the rebate will be credited to your designated credit card or fulfilled by check sent to the name and address provided on the mail-in rebate form. Offer valid in the U.S. only for purchases through 10/9/99. You must be 18 years or older. Limit one per household. A major credit card is required. Premium CompuServe services carry surcharges, and communications surcharges may apply to AK and outside of the U.S. You may incur telephone charges, depending on your calling plan and location. Availability Access to CompuServe may be limited, especially during peak times."]

(Exhibit C.4., Page of respondent's Web site containing the application form for the iSave \$400 Internet rebate, <www.buy.com/comp/stores/compaq/400_rebate_form.asp>. Consumers could purchase the Compaq Presario 5304 computer system without viewing this page.)

5. Through the means described in Paragraph 4, including but not necessarily limited to Exhibit A, respondent has represented, expressly or by implication, that the total cost of a Compaq Presario 5304 computer system is \$269.

6. In truth and in fact, the total cost of a Compaq Presario 5304 computer system is not \$269. In order to obtain the Compaq Presario 5304 computer system for \$269, consumers are required to subscribe to CompuServe 2000 Internet service for 36 months at an additional cost of \$21.95 per month or a full pre-payment of \$790.20. Therefore, the representation set forth in Paragraph 5 was, and is, false or misleading.

7. In its advertisements, including but not limited to Exhibits A through C, for the Compaq Presario 5304 computer system respondent has represented that the total cost of the Compaq Presario 5304 computer system is \$269 after rebates. In these advertisements, respondent has failed to disclose or failed to disclose adequately:

(a) with respect to Exhibits A and C, that in order to obtain the Compaq Presario 5304 computer system for \$269, consumers are required to subscribe to CompuServe 2000 Internet service for 36 months at an additional cost of \$21.95 per month or a full pre-payment of \$790.20;

- (b) with respect to Exhibits A and B, the amounts of the rebates, \$200 and \$400, and the total price of the computer system before rebates, \$869;
- (c) that consumers who cancel the Internet service within 3 years must repay all or a portion of the \$400 rebate and pay a \$50 cancellation fee; and
- (d) that CompuServe does not provide local access telephone numbers for its Internet service in all areas and, therefore that many consumers must either pay long distance telephone charges or surcharges of \$6.00 per hour to access its Internet service.

These facts would be material to consumers in their purchase or use of the product. The failure to disclose these facts, in light of the representation made, was, and is, a deceptive practice.

8. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this fifth day of September, 2000, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary

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