UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA WESTERN DIVISION

Case No.
v.

CASHIER MYRICKS JR. d/b/a
MP3DOWNLOADCITY.COM, ORDER AND ORDER TO SHOW CAUSE VVMU A
PRELIMINARY INJUNCTION
Defendant. SHOULD NOT ISSm

Plaintiff, the Federal

Authorities, Declarations and Efibits in support of Plaintiffs TRO Application, and all other papers filed herein. It appears to the satisfaction of the Court that: a. Ths Court has jurisdiction over the subject matter of ths case, and there is good cause to believe the Court will have jurisdiction over the parties. b.

2. "Clearly and conspicuously'' shall mean:

11 A. In an advertisement communicated through an electronic
3 II medium (such as television, video, radio, and interactive media such as the
4 /I Internet, online services and software), the disclosure shall be presented
5 II simultaneously in both the audio and visual portions of the advertisement. I
6 Provided, however, that in any advertisement presented solely through visual or
7 audio means, the disclosure may be made through the same means in whch the ad

8 II is presented. The audio disclosure shall be any2Tj�1.147 Tc 4.394 0 Td�(0ervlosure )volu7 T throug334 0 T�0 Tc 14.125 8re4.125 0 0 13 I c 2.6

I. IPROHIBHTED BBJSmSS PRACTICES

IT IS THEH23EFOPCLE ORDE D that Defendant, directly or through any corporation, partnershp, subsidiary, division, trade name, or other device, and bs officers, agents, servants, representatives, employees, and all persons or entities in active concert or participation with lum who receive actual notice of this Order by personal service or otherwise, in connection with the advertising, promotion, offering for sale, sale, or distribution of any product or service, are hereby temporarily restrained and enjoined fiom:
A. Misrepresenting, or assisting others in misrepresenting, expressly or
by implication, including through the use of a trade name or endorsement, any fact material to a consumer's decision. to purchase any product or service, including but not limited to:

1. the legality of the possession, installation, or use of any computer
software program or computer software program service, including any peer-to-peer file-sharing software program or software program service;
2. the legality of downloading movies that are currently playing in
theaters;
3. the legality of downloading computer games, including games for Playstation, XBOX, Dreamcast, and Nintendo;
4. the legality of downloading music files; and
B. Failing to clearly and conspicuously disclose, prior to the time that a consumer purchases any good or service from Defendant, all material information relating to the consumer's decision to purchase any good or service, including, where' applicable:
1. that persons who download copyrighted material, or who make it
available to others, without the copyright owner's permission, may be liable for copyright infhngement, whch can result in significant monetary damages, fines, and even criminal penalties; and

2. that persons who subscribe to Defendant's MP3DownloadCity.com service do not thereby obtain a license to download copyrighted music, movies, or games.
11.

2. the conmencement or continuation of an action or proceeding
by a governmental unit to enforce such governmental unit's police or regulatory power;

3. the enforcement of a judgment, other than a

2 written statement disclosing:
3 1. the name of the business entity;
2. the address and telephone number of the business entity;
3. the names of the business entity's officers, directors, principals,
6 managers and employees; and
7 4. a detailed description of the business entity's intended

8 activities.

9 V. REQUIRED DISTRIBUTION OF 0
10 ERED that Defendant shall immediately provide a I 1 copy of this Order to each subsidiary, partner, branch, division, sales entity,

12 I/ successor, assign, employee, independent contractor, agent, attorney, I
13 representative, and any closely held corporation, partnership, or proprietorship
14 owned, controlled, or managed by Defendant and shall, withn ten (10) calendar 15 days fiom the date of entry of this Order, serve upon counsel for the Commission a

16 /I sworn statement that he has complied with ths provision of the Order. The
17 statement shall include the names and addresses of each such person or entity who

18 received a copy of the Order. I
VI. SERVICE OF ORDER

21 I/ serve ths Order upon any financial institution, or other entity or person that may I 22 I/ have possession, custody, control, or knowledge of any documents or assets of
23 Defendant, or any other entity or person that may be otherwise subject to any
24 provision of ths Order, by delivering a copy of the Order by any means, including 25 facsimile transmission and electronic mail, to any office, branch, or location.
26 W.DURATION OF TEMPO RESTRAINING ORDER
27 ERED that the Temporary Restraining Order shall

i.e., ,2005, unless withn such time, the Order, for good cause shown, is extended for an additional period not to exceed ten (10)
business days pursuant to Fed. R. Civ. P. 6(a), or unless it is hrther extended with
the consent of the parties.
VIII. ORDER TO SHOW CAUSE

IT IS PmTmR 0 ERED that pursuant to Federal Rule of Civil
fendant shall appear before ths Court, -eft

il?

Lcf5 Angeles, CA 90012 Federal Courthouse, on the
,2005, at (O:m o'clock a .m., to show cause, if there is any,
why ths Court should not enter a preliminary injunction, pending final ruling on the Complaint against Defendant, enjoining hm fiom further violations of Section 5(a) of the FTC Act, 15 U.S.C. 5 45(a), and imposing such additional relief as may be appropriate.
IX. SERVICE OF DOCUMENTS AND EVIDENCE
IT IS FURTHER ORDERED that Defendant, in responding to this
Court's Order to Show Cause, shall serve all memoranda, affidavits, and other :vidence on whch he intends to rely not later than 4:00 p.m. of the fourth business jay prior to the preliminary injunction hearing set in ths matter. Service on the 2ommission shall be performed by personal delivery, or confirmed facsimile ielivery, to Jennifer M. Brennan Esq. at the following address: Federal Trade Somrnission, 10877 Wilshu0.0086 Tc 1.622 r 10877 45 34(affidavits3�/T1_2 1- )Tj�-0.007t matter. 7.0086 Tc Angelesto Som8j�-sion,

followings, all confirmed1,

NATION OF WITNESSES
D that there will be no direct examination of

witnesses at the preliminary injunction hearing in ths matter. By noon of the second business day prior to the preliminary injunction hearing each party must serve and file a list of the opposing party's declarants that the party will cross-examine at the hearing. Any declarants not so listed on a timely served and filed list will not be subject to such cross-examination.
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D that ths Court shall retain jurisdiction of
matter for all purposes.
m. NO BOND REQ
No security is required of any agency of the United States for the issuance restraining order. Fed. R. Civ. P. 65(c).

SO ORDERED, this day of ,2005, at

.m.

CHRISTINAA. SNYDER

United States Uistnct Judge

Presented by:

A+&,
MattKew Da nard
Jennifer M. Zirennan
Raymond E. McKown
Attorneys for Plaintiff
Federal Trade Commission