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- 1 WILLARD K. TOM  
General Counsel
- 2 SERENA VISWANATHAN  
viswanathan@fca.gov

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1 against Defendants for engaging in deceptive acts or practices in violation of  
2 Section 5(a) of the FTC Act, 15 U.S.C. §§ 45(a), and the Commission's Trade  
3 Regulation Rule Concerning the SafeMail or Telephone Order Merchandise  
4 ("Mail Order Rule"), 16 C.F.R. Part 435.

5 JURISDICTION AND VENUE

6 2. This Court has jurisdiction over this matter pursuant to 15 U.S.C.  
7 §§ 45(a) and 53(b) and 28 U.S.C. §§ 1331, 1337(a), and 1345.

8 3. Venue in the Central District of California is proper under 28 U.S.C.  
9 §§ 1391(b) and (c) and 15 U.S.C. § 53(b).

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1 California limited liability company that was voluntarily dissolved in June 2007.  
2 At all times material to this Complaint, Defendants acting alone or in concert with others, he  
3 has formulated, directed, controlled, and participated in the acts and practices set  
4 forth in this Complaint. Defendant Kami transacts or has transacted business in  
5 this district.

6 COMMERCE

7 7. At all times material herein, Defendants have maintained a course of  
8 trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC  
9 Act, 15 U.S.C. § 44.

10 DEFENDANTS’ COURSE OF CONDUCT

11 8. Since at least November 2006 and continuing thereafter, Defendants  
12 have engaged in a plan, program, or campaign to deceptively advertise and sell  
13 consumer electronic products, such as e-readers, video game systems, and computer  
14 software, in the UK via the internet at [www.bestpricedbrands.co.uk](http://www.bestpricedbrands.co.uk) and  
15 [www.bitesizedeals.co.uk](http://www.bitesizedeals.co.uk)

16 9. Through these internet sites, Defendants induce UK consumers to  
17 purchase their products under the pretense of being located within the UK.  
18 Defendants accomplish this by using websites ending in “co.uk,” exclusively  
19 stating prices in pounds sterling, promising a low total price delivered (often lower  
20 than other UK competitors), and referring to the “Royal Mail,” the UK’s postal  
21 service. Defendants do not disclose applicable customs duties and import taxes  
22 typically imposed on shipments from outside the UK, or clearly and conspicuously  
23 disclose their physical address or phone number in the United States. In some  
24 communications, Defendants list an address in the UK, furthering the false  
25 impression that they are physically located in the UK.

26 10. The UK has enacted regulations known as the Consumer “DSRs a  
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1 protections to consumers, including the right to cancel a transaction within seven  
2 days of receipt of the goods and the right to receive full refunds for cancelled  
3 orders or returned goods. Because Defendants purport to be located in the UK via  
4 the means described in Paragraph 9, many UK consumers who deal with  
5 Defendants assume they are protected by the DSRs, including these specific  
6 provisions.

7 11. Defendants frequently ship products to UK consumers that are not the  
8 products ordered, but are instead different models, or are products not intended for  
9 distribution in the UK and the European Union (“EU”). In many instances, these  
10 products have US-compatible chargers that are incompatible with UK power  
11 systems. Defendants sometimes include a power converter. In other instances the  
12 user manuals and camera controls are entirely in Spanish or Chinese.

13 12. Defendants advertise that their products come with “full warranties”  
14 and that products are warranted “directly by us through the manufacturers.”  
15 Consumers expect to receive full manufacturer warranties. Because Defendants  
16 substitute products not intended for distribution in the UK or in the EU, consumers  
17 do not receive manufacturer warranties. When consumers complain about this  
18 after purchase Defendants respond that they offer an undefined “warranty,” which  
19 requires consumers to ship back defective or damaged products to California.  
20 Consumers do not receive any paperwork or description of what Defendants’  
21 “warranty” covers.

22 13. Although Defendants represent that merchandise will be shipped  
23 quickly (for example, in 48 hours), Defendants fail to deliver products in the time  
24 frame stated on their website and by their representatives. In numerous instances,  
25 consumers do not receive their orders in weeks or more. Consumers who do not  
26 receive their orders on time are frequently charged on their credit cards right away,  
27 are not notified of the delay, and are given an opportunity to consent to the  
28 delay or cancel the order and receive a refund.

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1 FALSE AND MISLEADING REPRESENTATIONS IN VIOLATION  
2 OF SECTION 5(a) OF THE FTC ACT

3 COUNT ONE

4 18. In numerous instances, in connection with the offering for sale or  
5 selling of goods over the internet, Defendants have represented to consumers,  
6 expressly or by implication, that they are located in the UK and that their goods are  
7 intended for sale within the UK, and thus, come with valid manufacturers'  
8 warranties.

9 19. In truth and in fact, Defendants are not in the UK and on many  
10 occasions they have sold goods in the UK which were not intended for sale in the  
11 UK, and do not come with valid manufacturers' warranties.

12 20. Therefore, the representation set forth in Paragraph 18 is false and  
13 misleading and constitutes a deceptive act or practice in violation of Section 5(a) of  
14 the FTC Act, 15 U.S.C. § 45(a).

15 COUNT TWO

16 21. In numerous instances, in connection with the offering for sale or  
17 selling of goods over the internet, Defendants have represented to consumers,  
18 expressly or by implication, that the price for goods sold was the total cost  
19 delivered.

20 22. In truth and in fact, the price for goods sold was not the total cost  
21 delivered. Rather, consumers were required by law to pay substantial customs  
22 duties and import taxes in addition to the Defendants' advertised total price for the  
23 goods.

24 23. Therefore, the representation set forth in Paragraph 21 is false and  
25 misleading and constitutes a deceptive act or practice in violation of Section 5(a) of  
26 the FTC Act, 15 U.S.C. § 45(a).

27 COUNT THREE

28 24. In numerous instances, in connection with the offering for sale or

1 selling of goods over the internet, Defendants have represented to consumers,  
2 expressly or by implication, that they were located in the UK and thus subject to  
3 UK DSRs giving consumers the unconditional right to cancel orders within seven  
4 days of receiving merchandise, and prohibiting the imposition of restocking fees for  
5 returned merchandise.

6 25. In truth and in fact, defendants are not located in the UK, and do not  
7 comply with the UK DSRs. In fact, on numerous occasions, defendants have  
8 refused to accept cancellation of orders received within seven days of receipt of  
9 merchandise, and they have imposed large restocking fees when merchandise was  
10 returned to them by consumers.

11 26. Therefore, the representation set forth in Paragraph 24 is false and  
12 misleading, and constitutes deceptive acts or practices in violation of Section 5(a) of  
13 the FTC Act, 15 U.S.C. § 45(a).

#### 14 JOINT US - EU SAFE HARBOR FRAMEWORK

15 27. The European Union Data Directive ("Directive") requires Member  
16 States of the European Union ("EU") to implement legislation that prohibits the  
17 transfer of personal data outside the EU. Unless the EU has made a determination  
18 that the laws of the recipient jurisdiction are substantially equivalent to those of the  
19 EU. See Directive 95/46/EC of the European Parliament and of the Council (Oct.  
20 24, 1995) available at [http://ec.europa.eu/justice\\_home/fsj/privacy/docs/  
21 95-46-ce/dir1995-46\\_part1\\_en.pdf](http://ec.europa.eu/justice_home/fsj/privacy/docs/95-46-ce/dir1995-46_part1_en.pdf). This determination is commonly referred to as  
22 meeting the EU's "adequacy" standard.

23 28. Because the EU has determined that laws of the United States do not  
24 meet its adequacy standard, a Commerce and the EU developed the Safe Harbor,  
25 which went into effect in November 2000. The Safe Harbor allows U.S. companies  
26 to transfer personal data lawfully from the EU. To join the Safe Harbor, a company  
27 must self-certify to the U.S. Department of Commerce ("Commerce") that it  
28 complies with seven principles that have been deemed to meet the EU's adequacy

1 standard.

2 29. Commerce maintains a public website [www.export.gov/safeharbor](http://www.export.gov/safeharbor)  
3 where it posts the names of companies that have self-certified to Commerce that  
4 they adhere to a set of principles under the Safe Harbor. The listing of companies  
5 indicates whether their self-certification is "current" or "not current." Companies  
6 are required to re-certify every year in order to retain their status as "current"  
7 members of the Safe Harbor.

8 30. Companies under the jurisdiction of the FTC or the U.S. Department of  
9 Transportation are eligible to join the Safe Harbor. A company under the FTC's  
10 jurisdiction that self-certifies to the Safe Harbor principles but fails to implement  
11 them may be subject to an enforcement action based on the FTC's deception  
12 authority under Section 5 of the FTC Act.

#### 13 COUNT FOUR

14 31. In numerous instances, in connection with the offering for sale or  
15 selling of goods over the internet, Defendants have represented to consumers,  
16 expressly or by implication, that they have self-certified to Commerce that they are  
17 complying with the Safe Harbor.

18 32. In truth and in fact, Defendants have never self-certified to Commerce  
19 that they are complying with the Safe Harbor.

20 33. Therefore, the representation set forth in Paragraph 31 is false and  
21 misleading and constitutes a deceptive act or practice in violation of Section 5(a) of  
22 the FTC Act, 15 U.S.C. § 45(a).

#### 23 THE MAIL ORDER RULE

24 34. The Mail Order Rule was promulgated by the Commission on October  
25 22, 1975, under the FTC Act, 15 U.S.C. § 411, seq. and became effective  
26 February 2, 1976. The Commission amended the Rule on September 21, 1993,  
27 under Section 18 of the FTC Act, 15 U.S.C. § 57a, and these amendments became  
28 effective on March 1, 1994. The Rule applies to orders placed by telephone, by



1 facsimile transmission, or on the Internet.

2 VIOLATIONS OF THE MAIL ORDER RULE

3 COUNT FIVE

4 35. Beginning in 2006, Defendants ~~have~~ engaged in the sale of  
5 merchandise in commerce, as “commerce” defined in Section 4 of the FTC Act.  
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2 e. Violated Section 435.1(c)(3) of the Rule by failing to deem  
3 orders cancelled and make prompt consumer refunds when consumers  
4 have not consented to further delay of shipments.

5 37. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), provides that “unfair or  
6 deceptive acts or practices in or affecting commerce are hereby declared unlawful.”

7 38. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a  
8 violation of the Mail Order Rule constitutes an unfair or deceptive act or practice in  
9 violation of Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1).

10 PRAYER FOR INJUNCTIVE AND MONETARY RELIEF

11 WHEREFORE, Plaintiff Federal Trade Commission, pursuant to Section  
12 13(b) of the FTC Act, 15 U.S.C. § 53(b) and the Court’s own equitable powers,  
13 requests that the Court:

14 39. Enter a permanent injunction to prevent future violations by  
15 Defendants of the FTC Act and the Mail Order Rule;

16 40. Award such relief as the Court finds necessary to redress injury to  
17 consumers resulting from Defendants’ violations of the FTC Act and the Mail  
18 Order Rule, including but not limited to restitution and disgorgement of ill-gotten  
19 gains by Defendants; and

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