

TABLE OF AUTHORITIES

CASES

American Can Co. v. Mansukhani,
742 F.2d 314 (7th Cir. 1984) 42

381 F.3d 1309 (11th Cir. 2004) 23

FTC v. Think Achievement Corp.,

21

FTC v. Transnet Wireless Corp.,

506 F. Supp. 2d 1247 (S.D. Fla. Mar. 20, 2007)..... 25, 26, 33

FTC v. U.S. Mortgage Funding, Inc.,

No. 11-CV-80155 (S.D. Fla. Feb. 20, 2011)..... 24, 37

FTC v. U.S. Oil & Gas Corp.,

748 F.2d 1431 (11th Cir. 1984) 23, 37, 40

FTC v. Univ. Health, Inc.,

938 F.2d 1206 (11th Cir. 1991)..... 24

FTC v. USA Beverages, Inc.,

No. 05-CV-61682 2005 WL 5654219 (S.D. Fla. Dec. 6, 2005) 24

FTC v. USA Financial, LLC

In re Thompson Medical Co.,
104 F.T.C. 648 (1984) *aff'd* 791 F.2d 189 (D.C. Cir. 1986) 28

In re Vuitton et Fils, S.A.,
606 F.2d 1102 (2d Cir. 1979) 35, 42

Kraft, Inc. v. FTC,
970 F.2d 311 (7th Cir. 1992) 25

Kulesa v. PC Cleaner, Inc.,
Case No. 8:12-cv-00725 (C.D. Cal. May 4, 2012) 18

Leone Indus. v. Assoc. Packaging, Inc.,
795 F. Supp. 117 (D.N.J. 1992) 40

Levi Strauss & Co. v. Sunrise International Trading, Inc.,
51 F.3d 982 (11th Cir. 1995) 2

15 U.S.C. § 53(b) 23

15 U.S.C. § 45(a) 25

Cleaner Pro, which costs between \$29.97 and \$39.97.⁷ As described below, the scan is designed to identify hundreds, or even thousands of problems on nearly any computer, even a computer

~~that is in perfect operating condition and performing at its ideal capacity.~~⁸

According to the Plaintiffs' expert, the scan deceptively categorizes many common and innocuous items – including every temporary file and web browsing cookie and even some Windows default settings – as “problems” that require repair.⁹ Many applications use temporary files as part of their normal operations, and these files do not imperil the security or performance of a computer.¹⁰ Similarly, web browsing cookies are commonly used for many benign purposes, such as keeping a user logged into an e-mail account, and typically are not a cause for

concern.¹¹ Nonetheless, the PC Cleaner Pro scan counts each individual temp file and cookie as

malware program.¹⁴ The result is that almost every computer currently in operation will fail to

block these 926 malware specimens, and accordingly, PC Cleaner Pro's scan will always find at least 926 additional "problems" on nearly any computer, even though these specimens are not active and blocking them provides no defense against modern malware.¹⁵



have identified problems on consumers' computers, including viruses, spyware, system errors

and/or damage. In particular, using "msconfig" and the "Event Viewer" screen as demonstrable aids, the ICE Defendants tell consumers that their computers are likely to crash due to "running viruses" and "spam elements" that build up over time causing errors and computer crashes. 116

As discussed in Section II.B.1 & 2 above, these representations are false. In fact, the tools



Corporate Defendants' primary domain, advancedtechsupport.com,¹²⁸ and (5) ICE instructs its

employees to tell consumers that they work for Advanced Tech Support.¹²⁹



4. The Court Should Grant Expedited Discovery, Turnover of Business Records, and Immediate Access to the ICE Corporate Defendants' Business Premises

In order to locate documents and assets related to the Defendants' scam, the TRO should

Defendants' business records, and allow the Plaintiffs and the temporary receiver immediate



