042-3196

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISSIONERS: **Deborah Platt Majoras, Chairman**
Thomas B. Leary
Pamela Jones Harbour
Jon Leibowitz

In the Matter of	)	
ADVERTISING.COM, INC.,	)	**DOCKET NO. C-4147**
a corporation,	)	
also doing business as	)	
TEKNOSURF.COM, and	)	
JOHN FERBER,	)	
individually and	)	
as an officer of the corporation.	)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Advertising.com, Inc., a corporation, also doing business as Teknosurf.com, and John Ferber, individually and as an officer of the corporation ("respondents"), have 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 Advertising.com, Inc., also doing business as Teknosurf.com, is a Maryland corporation with its principal office or place of business at 1020 Hull Street, Baltimore, Maryland 21230.

2. Respondent John Ferber is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of the corporation, including the acts or practices alleged in this complaint. His principal office or

place of business is the same as that of Advertising.com, Inc.

3. Respondents have developed, advertised, promoted, and distributed to the public computer software products, including the SpyBlast computer software product.

4. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

5. Respondents caused ads for SpyBlast to be served on consumers' computers (including Exhibit A). These ads represented that because the consumer's computer was broadcasting an Internet IP address, it was at risk from hackers. Consumers who clicked on this advertisement were shown an ActiveX "security warning" installation box with a hyperlink describing SpyBlast as "Personal Computer Security and Protection Software from unauthorized users" and telling them "once you agree to the License Terms and Privacy Policy – click YES to continue." (Exhibit B).

6. If a consumer clicked "Yes," the software was installed, even if the consumer had not clicked on the hyperlink. Only if a consumer clicked on the hyperlink describing SpyBlast as "Personal Computer Security and Protection Software from unauthorized users" before clicking "YES," did SpyBlast's End User Licensing Agreement ("EULA") appear. (Exhibit C). The EULA contained a statement that consumers agreed to receive marketing messages, including pop-up ads, in exchange for getting SpyBlast. It also stated that respondent Advertising.com collected information about SpyBlast users, including "URLs of visited pages and [the user's] IP address," and that this information allowed the company "to send [a user] advertisements that might be of interest to [the user]."

7. SpyBlast could also be downloaded directly from the www.SpyBlast.com website. (Exhibit D). At the very bottom of the www.SpyBlast.com home page, below several hyperlinks to download SpyBlast, a small disclosure appeared. This disclosure stated that "In exchange for usage of the SpyBlast software, user agrees to receive . . . offers on behalf of SpyBlast's marketing partners."

8. Respondents downloaded bundled adware onto the computers of consumers who installed SpyBlast. The adware collected information about SpyBlast users, including URLs of visited pages and the user's IP address, and this information allowed respondents to send users advertisements that respondents believed might be of interest to them. Consumers received a substantial number of pop-up advertisements as result of respondents' installation of this adware onto their computers.

9. Respondents represented to consumers that Spyblast is an Internet security program. Respondents failed to disclose adequately that SpyBlast includes adware that causes consumers to receive pop-up advertisements, as described in Paragraph 8. The installation of such adware would be material to consumers in their decision whether to install the SpyBlast program. The

failure to adequately disclose this fact, in light of the representation made, was, and is, a deceptive act or practice.

10. The acts and practices 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 twelfth day of September, 2005, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary