

1 WILLIAM BLUMENTHAL  
General Counsel

2 Kerry O'Brien (Cal. Bar No. 149264)  
3 Linda K. Badger (Cal. Bar No. 122209)  
4 Matthew D. Gold  
5 Federal Trade Commission  
901 Market Street, Suite 570  
6 San Francisco, CA 94103  
Telephone: (415) 848-5189  
7 Fax: (415) 848-5184  
E-mail address: kobrien@ftc.gov

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NORTHERN DISTRICT OF CALIFORNIA

8 Attorneys for Plaintiff  
Federal Trade Commission

EMC

10 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
11 San Francisco Division

12 FEDERAL TRADE COMMISSION,

13 Plaintiff,

14 v.

15 MARKET DEVELOPMENT SPECIALISTS,  
16 INC., a corporation, also d/b/a  
17 Wintergreen Systems, and

18 JOHN LEVY, individually and as an officer of  
Market Development Specialists, Inc.,

19 Defendants.

CV 09

Case No. \_\_\_\_\_

0124

COMPLAINT FOR INJUNCTIVE  
AND OTHER EQUITABLE RELIEF

21  
22 Plaintiff, the Federal Trade Commission ("FTC"), through its undersigned attorneys,  
23 alleges as follows:

24 1. Plaintiff FTC brings this action under Section 13(b) of the Federal Trade  
25 Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to secure a permanent injunction, rescission of  
26 contracts, restitution, disgorgement of ill-gotten gains, and other equitable relief against the  
27 Defendants for engaging in deceptive acts or practices in connection with the advertising of  
28 mail-in rebates, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).



1 participated in the acts and practices of MDS, including the acts and practices set forth in this  
2 complaint. He transacts or has transacted business in this District.

3 8. In April 2006, Defendant MDS entered into an Assurance of Voluntary  
4 Compliance ("Assurance") with the State of Indiana relating to its rebate practices. Among  
5 other things, the Assurance required MDS to promptly process all timely requests and to deliver  
6 rebates within eight weeks of receiving a properly completed rebate request. Defendant Levy  
7 signed the Assurance as president of MDS.

8 **COMMERCE**

9 9. The acts and practices of the Defendants, as alleged herein, have been in or  
10 affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

11 **DEFENDANTS' BUSINESS ACTIVITIES**

12 10. Since April 2006, Defendants have disseminated or have caused to be  
13 disseminated rebate forms for mail-in rebates, including but not necessarily limited to the  
14 attached Exhibits A-B. These rebate forms contain the following statements:

- 15 a. Get \$100 Back by mail  
16 Hanns-G 19" LCD Monitor  
17 .....  
18 "It's Fast & Easy"  
19 .....  
20 • Purchase must be made between 10/9/06 and 12/31/06  
21 • All requests must be postmarked by 01/30/07  
22 .....  
23 Allow at least 10 weeks for processing.

(Exhibit A, rebate form for a MDS-sponsored rebate program for  
Hanns-G monitors purchased at Buy.com).

- 24 b. Get \$90 Back by mail  
25 Hanns-G 19" LCD Monitor  
26 .....  
27 "It's Fast & Easy"  
28 .....  
29 • Purchase must be made between 11/02/06 and 12/31/06  
30 • All requests must be postmarked by 01/30/07  
31 .....  
32 Allow at least 10 weeks for processing.

(Exhibit B, rebate form for a MDS-sponsored rebate program for  
Hanns-G monitors purchased at Office Depot).

11. In numerous instances, defendants did not mail rebate checks to consumers who

1 purchased the advertised products or did not mail them to consumers within the time promised.  
2 In fact, defendants failed to mail rebate checks to the vast majority of consumers who submitted  
3 valid requests for rebates. As a result, thousands of consumers never received a rebate check  
4 from defendants. Moreover, those minority of consumers who actually received a rebate check  
5 from defendants experienced substantial delays, including delays of ten weeks or longer.

#### 6 VIOLATIONS OF SECTION 5 OF THE FTC ACT

7 12. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts  
8 or practices in or affecting commerce.”

#### 9 COUNT I

10 13. Through the means described in Paragraph 10, Defendants have represented,  
11 expressly or by implication, that rebate checks will be mailed to purchasers of the advertised  
12 product within approximately ten weeks after receipt of their valid requests.

13 14. The representation set forth in Paragraph 13 is false. Therefore, the making of the  
14 representation set forth in Paragraph 13 above constitutes a deceptive practice, in or affecting  
15 commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

#### 16 CONSUMER INJURY

17 15. Consumers throughout the United States have suffered substantial monetary loss  
18 as a result of Defendants’ unlawful acts or practices. In addition, Defendants have been unjustly  
19 enriched as a result of their unlawful practices. Absent relief by this Court, Defendants are  
20 likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

#### 21 THIS COURT’S POWER TO GRANT RELIEF

22 16. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant  
23 injunctive and such other relief as the Court may deem appropriate to halt and redress violations  
24 of the FTC Act. The Court, in the exercise of its equitable jurisdiction, may award other  
25 ancillary relief, including, but not limited to, rescission of contracts, restitution, and the  
26 disgorgement of ill-gotten gains, to prevent and remedy injury caused by Defendants’ law  
27 violations.  
28

1 PRAYER FOR RELIEF

2 WHEREFORE, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. §  
3 53(b), and the Court's own equitable powers, requests that the Court:

4 1. Enter a permanent injunction to prevent future violations of the FTC Act by  
5 Defendants.

6 2. Award such relief as the Court finds necessary to redress injury to consumers  
7 resulting from Defendants' violations of the FTC Act, including, but not limited to, rescission or  
8 reformation of contracts, restitution, the refund of monies paid, and the disgorgement of  
9 ill-gotten monies; and


10 3. Award Plaintiff the costs of bringing this action, as well as such other and  
11 additional relief as the Court may determine to be just and proper.

12  
13 Respectfully submitted,

14 WILLIAM BLUMENTHAL  
15 General Counsel

16 JEFFREY A. KLURFELD  
17 Regional Director

18  
19 Dated: 1/9/09

20   
21 KERRY O'BRIEN  
22 LINDA K. BADGER  
23 MATTHEW D. GOLD  
24 Attorneys for Plaintiff  
25 Federal Trade Commission  
26 901 Market Street, Suite 570  
27 San Francisco, CA 94103  
28 (415) 848-5100 (phone)  
(415) 848-5184 (facsimile)

# Exhibit A

Get  
**\$100**

**Back  
by mail**

- Purchase a Hanns-G 19" LCD Monitor (Model #HC194D or #HC194DP) at Buy.com only
- Purchase must be made between 10/9/06 and 12/31/06.
- All requests must be postmarked by 01/30/07
- Send the original UPC bar code and original serial number sticker from the box, and a copy of the Proof of Purchase.

**Hanns-G 19" LCD Monitor  
(Model #HC194D or #HC194DP)**

UPC # 842651000141 or  
UPC # 842651000349

**Register or check  
rebate status online:  
[www.RebatesHQ.com](http://www.RebatesHQ.com)**

**It's Fast & Easy**

06-57291

Hanns-G 19" LCD Monitors (Model #HC194D or HC194DP)      \$100 Rebate      Dept.# 06-57291

Name:

Address:

City:  State:  ZIP:

Telephone:  -  -

E-mail:

*We will notify you by email of the status of your rebate submission.*

**Mall requested items to:**  
**19" LCD Monitor \$100 Rebate**  
**#06-57291**  
**P.O. Box 540009**  
**El Paso, TX 88554-0009**

Rebate applies to Hanns-G 19" LCD Monitors (Models HC194D or HC194DP) purchased only at Best Buy.com. Sale must be made between 10/29/05 and 12/31/05 and must be premarked by 01/30/07. Submit this completed coupon, original copy of the UPC symbol, original serial number sticker from the box, and a copy of the Packing list or Invoice for qualifying products. Copies of the UPC symbol or serial number sticker from the box will not be accepted. Only end-user customers are eligible for this rebate. Offer not valid with any other rebates, offers or promotions. Offer valid only in the U.S. and will be paid by check/money order for U.S. currency. Rebate rights cannot be transferred and are void where prohibited or restricted by law. Allow at least 10 weeks for processing. If these terms and conditions are not met, rebate will not be sent. Rebate check/money order valid if not cashed within 90 days of issuance and cannot be resubmitted. Not responsible for lost, damaged, misdirected or delayed or altered mail or illegible errors. One (1) rebate per name/family/address/household. Fraudulent submissions of multiple requests could result in criminal prosecution under the U.S. Mail Fraud Statutes (18 USC, Section 1341 & 1342). Keep photocopies of materials submitted; originals will not be returned.

**Register or check status online at <http://www.RebatesHQ.com>**



# Exhibit B

Get  
**\$90**

**Back  
by mail**

- Purchase a Hanns-G 19" LCD Monitor (Model #JC199DPB) at Office Depot only
- Purchase must be made between 11/02/06 and 12/31/06.
- All requests must be postmarked by 01/30/07
- Send the original UPC bar code and original serial number sticker from the box, and a copy of the Proof of Purchase.

**Hanns-G 19" LCD Monitor  
(Model #JC199DPB)  
UPC # 842651000134**

**Register or check  
rebate status online:  
[www.RebatesHQ.com](http://www.RebatesHQ.com)**

**"It's Fast & Easy!"**

**06-58879**

Hanns-G 19" LCD Monitor (Model #JC199DPB)

\$90 Rebate

Dept.# 06-58879

Name:

Address:

City:  State:  ZIP:

Telephone:  -  -

E-mail:

We will notify you by email of the status of your rebate submission.

**Mail requested items to:**  
**19" LCD Monitor \$90 Rebate**  
**#06-58879**  
**P.O. Box 540009**  
**El Paso, TX 88554-0009**

Rebate applies to Hanns-G 19" LCD Monitors (Model #JC199DPB) purchased only at Office Depot. Sale must be made between 11/02/06 and 12/31/06 and must be postmarked by 01/30/07. Submit the completed coupon, original only of the UPC symbol, original serial number sticker from the box, and a copy of the Packing list and invoice for qualifying products. Copies of the UPC symbol or serial number sticker from the box will not be accepted. Only end-user customers are eligible for this rebate. Offer not valid with any other rewards, offers or promotions. Offer good only in the U.S. and will be paid by check/transfer for U.S. currency. Rebate rights cannot be transferred and are void where prohibited or restricted by law. Allow at least 10 weeks for processing. If any terms and conditions are not met, rebate will not be sent. Rebate checks/cheques are void if not cashed within 90 days of issuance and cannot be reissued. Not responsible for lost, damaged, misdirected or delayed in transit mail or illegible entries. One (1) rebate per name/family/office/household. Frequent submission of multiple requests could result in federal prosecution under the U.S. Mail Fraud Statutes (18 USC, Section 1341 & 1342) Keep photocopies of materials submitted; originals will not be returned.

**Register or check status online at <http://www.RebatesHQ.com>**