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CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY RM DEPUTY

1 WILLIAM BLUMENTHAL  
General Counsel  
2  
3 DEBORAH MATTIES  
PATRICIA POSS  
Federal Trade Commission  
4 600 Pennsylvania Avenue, NW, H-286  
Washington, DC 20580  
5 (202) 326-2047, 2413  
(202) 326-3395 (fax)

6 JOHN D. JACOBS  
7 Cal. Bar No. 134154  
Federal Trade Commission  
8 10877 Wilshire Boulevard  
Suite 700  
9 Los Angeles, CA 90024  
(310) 824-4360  
10 (310) 824-4380 (fax)

11 *Attorneys for Plaintiff*

12 UNITED STATES DISTRICT COURT  
13 SOUTHERN DISTRICT OF CALIFORNIA

ORIGINAL

14 FEDERAL TRADE COMMISSION,

Plaintiff,

v.

16 NEOVI, INC., d/b/a NEOVI DATA  
17 CORPORATION and QCHEX.COM;

18 G7 PRODUCTIVITY SYSTEMS, INC.,  
d/b/a QCHEX.COM;

19 JAMES M. DANFORTH, individually, and  
20 as an officer of Neovi, Inc. and G7  
Productivity Systems, Inc.; and

21 THOMAS VILLWOCK, individually, and as  
22 an officer of Neovi, Inc.;

23 Defendants.

'06CV 1952

R JMA

CIVIL NO. \_\_\_\_\_

COMPLAINT FOR  
INJUNCTIVE AND OTHER  
EQUITABLE RELIEF

24  
25 Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), for its complaint  
26 alleges as follows:

OR



1 business using the *www.qchex.com* Internet website. Neovi transacts or has transacted business  
2 in this District.

3 6. Defendant G7 Productivity Systems, Inc., d/b/a Qchex.com ("G7") is a California  
4 corporation that does or has done business at 10710 Thornmint Rd., San Diego, California and  
5 10946 Willow Court, Suite 100, San Diego, California. G7 does or has done business using the  
6 *www.qchex.com* Internet website. G7 transacts or has transacted business in this District.

7 7. Defendant James M. Danforth ("Danforth") is the Chief Operations Officer of  
8 Neovi and the Chief Financial Officer of G7. Individually or in concert with others, he has  
9 formulated, directed, controlled, or participated in the acts and practices of Neovi and G7,  
10 including the acts and practices set forth in this complaint, and has done so at all times pertinent  
11 to this action. Danforth resides or has resided in and transacts or has transacted business in this  
12 District.

13 8. Defendant Thomas Villwock ("Villwock") is the Chief Executive Officer of  
14 Neovi. Individually or in concert with others, he has formulated, directed, controlled, or  
15 participated in the acts and practices of Neovi and G7, including the acts and practices set forth  
16 in this complaint, and has done so at all times pertinent to this action. Villwock transacts or has  
17 transacted business in this District.

18 **COMMON ENTERPRISE**

19 9. Corporate defendants Neovi and G7 have operated as a common enterprise while  
20 engaging in the unfair acts and practices alleged below. Individual defendants Villwock and  
21 Danforth have formulated, directed, controlled or had authority to control, or participated in the  
22 acts and practices of the corporate defendants that comprise the common enterprise.

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1 **COMMERCE**

2 10. At all times relevant to this complaint, defendants have maintained a substantial  
3 course of trade in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act,  
4 15 U.S.C. § 44.

5 **DEFENDANTS' BUSINESS PRACTICES**

6 11. Since 2000, in numerous instances, defendants have created and delivered a check  
7 drawn on a bank account identified to defendants by a customer without first verifying the  
8 authority of a customer to draw checks on the identified bank account.

9 12. Defendants operate a website at *www.qchex.com* ("Qchex website") at which  
10 members of the public can access defendants' check creation and delivery services ("Qchex  
11 services") on the Internet. Through the Qchex website, defendants create and deliver checks  
12 ("Qchex checks") drawn on bank accounts identified by their customers.

13 13. To use the Qchex website, a customer establishes a Qchex account by entering his  
14 or her name and email address and creating a password for his or her Qchex account. Once a  
15 customer has established a Qchex account, to create a check drawing on an identified bank  
16 account, the customer need only provide: a name and address for the payer; a name and address  
17 for the bank at which the account is held; the bank routing number and bank account number;  
18 and a starting check number. The customer can then start requesting individual checks by  
19 providing, for each check, the name and address of the payee and the payment amount.

20 14. In the signature line of a Qchex check, defendants place either a digital signature  
21 that the customer provides, the payer's name, or a statement that no signature is required.

22 15. In the past, defendants also placed a bank logo on the check if the customer  
23 submitted one.

24 16. Once a customer has requested that a check be created, defendants offer the  
25 customer two options for delivering the check. If the customer chooses U.S. Mail, defendants  
26

1 print the check on G7-produced security check paper, print the check with G7 magnetic ink, and  
2 use a bank-certified font for the bank routing and account information; and they then mail the  
3 check to the payee. Alternatively, if the customer chooses electronic delivery, defendants create  
4 an electronic image of the check and send it to the payee via email. Qchex recommends that the  
5 payee print the check using special software, paper, and ink sold by G7.

6 17. Defendants collect fees for Qchex services. Until the spring of 2006, defendants  
7 required customers to prepay for Qchex services. When a customer established a Qchex account,  
8 defendants typically charged the customer's credit card or bank account \$10, \$20, \$50 or more to  
9 create a prepayment balance in the customer's Qchex account. Thereafter, each time defendants  
10 created and delivered a check for the customer, the defendants deducted between \$0.25 and \$0.50  
11 from the customer's Qchex account balance. If the defendants printed and mailed the check, they  
12 would also deduct the cost of postage from the balance. During the spring of 2006, defendants  
13 stated that they would create and deliver by email up to 1,000 checks for any customer each  
14 month without requiring any payment. If a customer wanted delivery by U.S. Mail, defendants  
15 stated that the customer had to pay a monthly membership fee for which defendants created and  
16 delivered by U.S. Mail a certain number of checks each month. Since approximately July 3,  
17 2006, defendants have stated that they will charge a monthly membership fee whether a customer  
18 wants checks sent by email or U.S. Mail.

19 18. During their course of business, in numerous instances, defendants have created  
20 and delivered a check for a customer even when the customer's name differed from the name on  
21 the bank account listed on the checks or from the name on the credit card account the customer  
22 used to pay for defendants' services.

23 19. During their course of business, in numerous instances, defendants have created  
24 and delivered a check for a customer even when the customer's mailing address listed in the  
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1 customer's Qchex account profile differed from the mailing address on the bank account listed  
2 on the check or on the credit card account the customer used to pay for defendants' services.

3 20. Before approximately September 5, 2005, defendants created and delivered  
4 checks for any customer who visited the Qchex website without taking any steps to first verify  
5 that customer's authority to draw checks on the bank account the customer identified to  
6 defendants.

7 21. On or about September 5, 2005, defendants began implementing a procedure  
8 purportedly designed to verify the authority of a customer to draw checks on the bank account the  
9 customer identified to defendants. Defendants represented that, before they would create and  
10 deliver checks for a customer, the customer had to demonstrate that he or she had access to the  
11 identified bank account. To allow a customer to make this demonstration, defendants  
12 represented that they would make a small deposit (termed a "micro-deposit") into the identified  
13 bank account and subsequently the customer would confirm the amount of the micro-deposit,  
14 which would show that the customer had access to such information about the identified bank  
15 account.

16 22. Despite defendants' representations that they implemented the procedure  
17 described in paragraph 21, since September 5, 2005, defendants created and delivered checks for  
18 some customers without requiring the micro-deposit procedure described in paragraph 21.

19 23. Sometime during the spring of 2006, defendants represented that they  
20 implemented another purported verification procedure for Qchex customers. Defendants  
21 represented that, before they would create and deliver checks for a customer, the customer was  
22 required to fax, mail, or upload images to Qchex of (a) a voided check from the identified bank  
23 account, and (b) a signed copy of the Qchex terms of service agreement.

24 24. Despite defendants' representations that they implemented the procedure  
25 described in paragraph 23, since the spring of 2006, defendants have created and delivered  
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1 checks for customers without requiring the voided check verification procedure described in  
2 paragraph 23.

3 25. Since on or about July 3, 2006, defendants have represented that they are  
4 implementing other purported verification procedures for Qchex customers. In some instances,  
5 defendants have represented that, before creating and delivering a check for a customer,  
6 defendants will: (a) mail an authorization code to the mailing address provided by the customer  
7 and require the customer to enter this authorization code on the Qchex website; and (b) create a  
8 check drawn on the identified bank account to pay the fees for Qchex's services and wait for that  
9 check to clear.

10 26. The purported verification procedures described in paragraph 25, if implemented  
11 by defendants, would not provide defendants with verification that the customers have authority  
12 to draw checks on the bank accounts that the customers identify to defendants.

13 **DEFENDANTS' PRACTICES HAVE CAUSED SUBSTANTIAL CONSUMER INJURY**  
14 **THAT CANNOT REASONABLY BE AVOIDED AND IS NOT OUTWEIGHED BY**  
15 **COUNTERVAILING BENEFITS TO CONSUMERS OR TO COMPETITION**

16 27. Defendants have injured individuals and businesses by creating and delivering  
17 checks without first verifying that the customers using the Qchex services have had authority to  
18 draw such checks on the bank accounts that the customers have identified to defendants.  
19 Defendants' actions have resulted in financial losses to victims in several scenarios, including  
20 those described in the following paragraphs.

21 **Persons Whose Bank Accounts Have Been Debited as a Result of**  
22 **Defendants' Creation of Unauthorized Checks**

23 28. In numerous instances, defendants have caused injury to a bank account holder by  
24 causing funds to be debited from the holder's bank account without the account holder's  
25 authorization or knowledge and by causing other related harm such as incurring the costs of  
26 closing accounts, opening new accounts, and ordering new checks.



1 into which the recipient deposited it. In numerous instances, the recipients of these bogus Qchex  
2 checks have not been reimbursed for the losses they incurred.

3 35. In numerous instances, a seller has received payment in the form of a Qchex  
4 check – apparently genuine but in fact, bogus – made out in an amount greater than the purchase  
5 price of the goods or services, and has been asked by the purchaser, a Qchex customer, to wire  
6 the excess amount back to the purchaser or the purchaser's associate. In reliance upon the  
7 unauthorized Qchex check, the seller has wired the money as requested. When the Qchex check  
8 later has proved to be unauthorized, the seller's bank account has been debited to return the  
9 money to the bank account on which the bogus check was drawn. These sellers have been  
10 injured because they incurred the loss of the funds that they wired.

11 36. In numerous instances, Qchex has created and delivered a check at the request of a  
12 customer conducting an employment scheme as follows: The Qchex customer recruits an  
13 unsuspecting individual who becomes an "employee" of the customer. The customer requests  
14 that Qchex create and deliver a check to the employee and instructs the employee to deposit the  
15 Qchex check into his or her account, retain a percentage as the employee's commission, and wire  
16 the remainder to the Qchex customer or the customer's associate. After the employee wires the  
17 funds to the Qchex customer, he or she learns that the Qchex check is worthless, and the amount  
18 of the check is debited from the employee's bank account.

19 37. Individuals and businesses who have accepted as payment checks that defendants  
20 created and delivered that later proved bogus could not reasonably have avoided the injury. Such  
21 individuals and businesses have had no relationship with defendants and they could not have  
22 known that the apparently genuine checks were unauthorized. Defendants have printed the  
23 checks on security paper, have used magnetic ink, have used bank-certified fonts for the bank  
24 routing and account information, have delivered them via U.S. Mail or email, and, in many  
25 instances, the checks initially have cleared the accounts upon which they were drawn. Thus,  
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