

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Federal Trade Commission,

Plaintiff,

v.

ERG Ventures, LLC, et. al.,
Defendants.

3:06-CV-00578-HDM-VPC

**STIPULATED PRELIMINARY INJUNCTION
AS TO THE ERG DEFENDANTS**

Plaintiff, the Federal Trade Commission ("FTC" or the "Commission"), pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), filed a Complaint for Injunctive and Other Equitable Relief, and applied *ex parte* for a Temporary Restraining Order and for an Order to Show Cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure. On October 31, 2006, Judge McKibben of the District Court of Nevada granted the FTC's application and entered a Temporary Restraining Order and Order to Show Cause against defendants ERG Ventures, LLC and d/b/a ERG Ventures, LLC2, Media Motor, Joysticksavers.com, and PrivateinPublic.com;

1 Elliott S. Cameron, individually and d/b/a ERG Ventures, LLC2, Media Motor,
2 Joysticksavers.com, and PrivateinPublic.com; Robert A. Davidson, II, individually and d/b/a
3 ERG Ventures, LLC2, Media Motor, Joysticksavers.com, and PrivateinPublic.com; Garry E.
4 Hill, individually and d/b/a ERG Ventures, LLC2, Media Motor, Joysticksavers.com, and
5 PrivateinPublic.com; and Timothy P. Taylor, individually and d/b/a Team Taylor Made. The
6 Court has considered the pleadings, declarations, exhibits, and memoranda filed in connection
7 with the Commission's motion for a preliminary injunction and finds that:

8 **FINDINGS**

- 9 1. This Court has jurisdiction over the subject matter of this case, and there is good cause to
10 believe that it will have jurisdiction over all parties hereto;
- 11 2. There is good cause to believe that Defendants ERG Ventures LLC, a Nevada Limited
12 Liability Company d/b/a ERG Ventures LLC2, Media Motor, Joysticksavers.com, and
13 PrivateInPublic.com; Elliott S. Cameron, individually and as an officer of ERG Ventures
14 LLC; Robert A. Davidson, II, individually and as an officer of ERG Ventures LLC; Garry
15 E. Hill, individually and as an officer of ERG Ventures LLC, (collectively the "ERG
16 Defendants") have engaged and are likely to engage in acts or practices that violate
17 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and that the Commission is therefore
18 likely to prevail on the merits of this action;
- 19 3. The evidence set forth in the Commission's Memorandum of Law in Support of *Ex Parte*
20 Motion for Temporary Restraining Order and Order to Show Cause, supplemental
21 memoranda, and the accompanying declarations and exhibits demonstrates that the
22 Commission is likely to prove that the ERG Defendants have engaged in deceptive and
23 unfair practices in violation of Section 5 of the FTC Act. The Commission is likely to
24 prove that the ERG Defendants have deceived consumers into downloading exploitive
25 software by hiding exploitive code within the free software they offer the public. The
26 Commission is likely to prove that the exploitive code created by the ERG Defendants and
27

