

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
BRYAN J. KRUCHTEN, doing business as)	
PAGE CREATORS d/b/a PAGECREATORS.NET,)	
)	
and)	
)	
TRINITY HOST, LLC d/b/a TRINITYHOST.COM,)	
)	
Defendants.)	

COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission (“FTC” or “the Commission”), for its Complaint alleges as follows:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to secure temporary, preliminary, and permanent injunctive relief, restitution, rescission of contracts, disgorgement and other equitable relief for Defendants’ deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 15 U.S.C. §§ 45(a) and 53(b), and 28 U.S.C. §§ 1331, 1337(a) and 1345.

3. Venue in the United States District Court for the District of Minnesota is proper under 15 U.S.C. § 53(b), and 28 U.S.C. §§ 1391(b) and (c).

PARTIES

4. Plaintiff FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC is charged, *inter alia*, with enforcement of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such equitable relief as may be appropriate in each case, including restitution for injured consumers. 15 U.S.C. § 53(b).

5. Defendant Bryan J. Kruchten (“Kruchten”) is a citizen of Minnesota. Kruchten is the sole owner of, and does business as, Page Creators. Page Creators’ principal place of business is located at 1213 Lark Street, Alexandria, Minnesota 56308. Page Creators also does business at 1424 Broadway Street, Suite 272, Alexandria, Minnesota 56308. Page Creators does business on the Internet at the Web site www.pagecreators.net. Kruchten also controls Defendant Trinity Host LLC. At all times material to this Complaint, acting alone or in concert with others, Kruchten has formulated, directed, controlled or participated in the acts and practices set forth in this Complaint.

6. Defendant Trinity Host is a Minnesota limited liability company. Trinity Host’s registered office address is located at 1424 Broadway Street, Suite 272, Alexandria, MN 56308. Trinity Host also conducts business at 3010 Hennepin Avenue, Suite 609, Minneapolis, Minnesota 55408 and 108 5th Avenue East, Osakis, MN 56360. Trinity Host does business on the Internet at the Web site www.trinityhost.com.

7. The foregoing Defendants operate together as part of a common business enterprise.

COMMERCE

8. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' BUSINESS ACTIVITIES

9. Since around November 1999, Page Creators has been in the business of providing Internet Web site hosting and attendant services for hundreds of consumers, including many small businesses. These services include, for example, obtaining a domain name on the consumer’s behalf, designing a Web page, providing computer server space for storage of the Web site, registering the Web site with search engines, and providing a variety of customer service and other support functions for Web sites.

10. Page Creators advertises its services primarily over the Internet, operating and promoting its Internet Web site hosting service at its Web site, www.pagecreators.net.

11. Consumers typically sign up with Page Creators online, providing a credit or debit card for payment for Web site hosting packages generally costing approximately \$10 to \$15 per month.

12. Page Creators’ Web site advertises that many of its Web hosting packages offer “unlimited” bandwidth transfer. Bandwidth transfer is a term which describes the level of data flowing to and from a Web site on a telephone line or some other means of data transmission.

Bandwidth transfer usage is caused mostly by visitors visiting the pages of a Web site, viewing images and downloading files.

13. In the course of running its business, Page Creators has often caused additional unauthorized charges to be posted on, or monies to be withdrawn from, its customers' accounts without its customers' authorization. These charges and withdrawals have often been in amounts over \$1000 and, in some cases, over \$10,000. Many of these charges have purported to be for bandwidth transfer usage.

14. On some occasions, Page Creators has charged or debited, or attempted to charge or debit, its customers' accounts after its customers' accounts with Page Creators were terminated.

15. On or about December 15, 2000, Page Creators notified its customers that they had been purchased by Trinity Host LLC.

16. Trinity Host LLC presently offers Web hosting services similar to the services offered by Page Creators. Trinity Host LLC operates and promotes its Web hosting services at the Web site www.trinityhost.com.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

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

18. As set forth below, Defendants, individually or in concert with others, have violated Section 5(a) of the FTC Act in connection with the advertising, offering for sale, or selling of services over the Internet.

COUNT I – DECEPTIVE PRACTICES

19. In numerous instances, in the course of billing, attempting to collect, and collecting money from consumers, Defendants have represented to consumers, expressly or by implication, that consumers owe money for the use of excess bandwidth or other non-standard services.

20. In truth and in fact, in many instances, consumers did not use excess bandwidth or other non-standard services.

21. Therefore, Defendants' representations, as set forth in paragraph 19, above, are false and deceptive, in violation of Section 5 of the FTC Act, 15 U.S.C. § 45.

COUNT II – UNFAIR PRACTICES

22. In numerous instances, Defendants charge, debit or bill the accounts of consumers for various services and fees.

23. Often, consumers have not received services or authorized the charges which Defendants debit or bill to them.

24. Defendants' acts or practices of charging, debiting or billing consumers' accounts without authorization causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.

25. Therefore, Defendants' practices, as outlined in ¶¶ 22-24 above, are unfair and violate Sections 5(a) and 5(n) of the FTC Act, 15 U.S.C. §§ 45(a).

CONSUMER INJURY

26. Defendants' violations of Section 5(a) of the FTC Act have injured, and will continue to injure consumers. As a result of Defendants' unfair or deceptive acts or practices, consumers throughout the United States have suffered substantial monetary loss. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers and harm public interest.

THIS COURT'S POWER TO GRANT RELIEF

27. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and 28 U.S.C. § 1367, empower this Court to grant injunctive and other relief to prevent and remedy any violations of the FTC Act, and in the exercise of its equitable jurisdiction this Court may award redress to remedy the injury to consumers, order disgorgement of monies resulting from Defendants' unlawful acts or practices, and order other ancillary equitable relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court, as authorized by Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and 28 U.S.C. § 1367, and pursuant to its own equitable powers:

1. Enjoin Defendants preliminarily and permanently from violating Section 5(a) of the FTC Act;
2. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act, including, but not limited to, the refund of monies paid, and the disgorgement of ill-gotten gains; and
3. Award Plaintiffs the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

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