

Complaint

124 F.T.C.

IN THE MATTER OF

APPLE COMPUTER, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3763. Complaint, Aug. 18, 1997--Decision, Aug. 18, 1997*

This consent order requires, among other things, the respondent to offer to eligible consumers who purchased the Performa 550 or 560, or the Macintosh LC 550 computers on or after April 1, 1994, the upgrade kits at less than half the original list price and to rebate \$776 to consumers who already have purchased the upgrade. The consent order also prohibits Apple Computer from misrepresenting the availability of any microprocessor upgrade product, and from representing that computer hardware is currently upgradeable unless the upgrade is then available in reasonable quantities.

Appearances

For the Commission: *Matthew Gold, Linda Badger and Jeffrey Klurfeld.*

For the respondent: *James Spears, Gadsby & Hannah,*
Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that Apple Computer, Inc., ("Apple" or "respondent"), a corporation, has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Apple is a California corporation with its offices and principal place of business located at One Infinite Loop, Cupertino, California.

PAR. 2. Apple has manufactured, advertised, labeled, offered for sale, sold, and distributed the "Performa 550," "Macintosh LC 550," and "Performa 560" personal computers, and other computer hardware and software to consumers. The Performa 550, Macintosh LC 550, and Performa 560 models are based on the Motorola 68030 microprocessor. While continuing to promote the sale of these computers, respondent introduced a new series of computers based on the faster, more powerful "PowerPC" microprocessor. Beginning approximately April 1, 1994, subsequent to this introduction of the

new chip, respondent advertised Performa 550, Macintosh LC 550, and Performa 560 computers as upgradeable to PowerPC performance.

PAR. 3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PAR. 4. Respondent disseminated or caused to be disseminated advertisements for the "PowerPC" upgrade to the Performa 550 and Performa 560 computers, including but not necessarily limited to a red sticker that was placed on the boxes containing these computers, attached as Exhibit A. These advertisements contain the following statement:

"Ready for PowerPC upgrade." [Exhibit A]

PAR. 5. Respondent disseminated or caused to be disseminated advertisements for the "PowerPC" upgrade to the Performa 550, Macintosh LC 550, and Performa 560 computers, including but not necessarily limited to the attached Exhibits B-D. These advertisements contain the following statements:

A. "And when you're ready to expand your [Macintosh LC 550] system for more performance, you can install an optional CD-ROM drive, add an Ethernet card, or upgrade to our new Power Macintosh TM technology."

[Exhibit B (Print: "Apple Education Recommended Products At a Glance")]

B. "Can a personal computer grow up with your family?"

With technology changing so quickly, it's only natural to wonder whether the computer you buy today will become obsolete tomorrow. That's why Apple designed the Macintosh Performa to work as well tomorrow as it does today.

... You can even add extra memory or upgrade your Performa to the PowerPC chip (making it virtually impossible to outgrow).

Performa

The Family Macintosh"

[Exhibit C (Print: "Can a personal computer grow up with your family?")]

C. "A PARENT'S GUIDE TO COMPUTERS

... Every Performa can grow with your family. Each one has enough memory, power, and storage space to serve your family for years. However, should you decide you want to upgrade in the future, you can expand your Performa's RAM, hard drive storage, and even microprocessor to keep step with improvements in technology (such as the hot new PowerPC chip)."

[Exhibit D (Special Advertising Section insert: "A Parent's Guide To Computers.")]

PAR. 6. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisement attached as Exhibit A, respondent has represented, directly or by implication, that a PowerPC upgrade was available to consumers at the time that they purchased a Performa 550 or Performa 560 computer.

PAR. 7. In truth and in fact, a PowerPC upgrade was not available to consumers at the time that they purchased a Performa 550 or Performa 560 computer. Therefore, the representation set forth in paragraph six was, and is, false and misleading.

PAR. 8. Through the use of the statements contained in the advertisements referred to in paragraphs four and five, including but not necessarily limited to the advertisements attached as Exhibits A-D, respondent has represented, directly or by implication, that a PowerPC upgrade would be available within a reasonable period of time after the purchase of a Performa 550, Macintosh LC 550, or Performa 560 computer.

PAR. 9. In truth and in fact, the PowerPC upgrade was not available within a reasonable period of time after the purchase of a Performa 550, Macintosh LC 550, or Performa 560 computer. No such upgrade was offered by respondent for at least one year after it began representing that the Performa 550, Macintosh LC 550, or Performa 560 computers were upgradeable. Indeed, by the time respondent made the upgrade available, the cost of the upgrade approached the cost of an entirely new computer with a PowerPC microprocessor. Therefore, the representation set forth in paragraph eight was, and is, false and misleading.

PAR. 10. Through the use of the statements contained in the advertisements referred to in paragraphs four and five, including but not necessarily limited to the advertisements attached as Exhibits A-D, respondent has represented, directly or by implication, that at the time it made the representations set forth in paragraphs six and eight, respondent possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 11. In truth and in fact, at the time it made the representations set forth in paragraphs six and eight, respondent did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph ten was, and is, false and misleading.

PAR. 12. In its advertising of the Performa 550, Macintosh LC 550, and Performa 560 computers, respondent represented that these computers were upgradeable to PowerPC technology. Respondent failed to disclose that, in order to obtain the PowerPC technology, consumers would need to purchase and install an upgrade package that included not only a PowerPC upgrade card, but also a new logic board. As a result, consumers were not aware that they would have to incur the cost and inconvenience associated with the replacement of the logic board. The fact that a logic board was a component of the upgrade package would be material to consumers in their decision to purchase the computer. The failure to disclose this fact, in light of the representations made, was a deceptive practice.

PAR. 13. The acts and practices of respondent as 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.

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EXHIBIT A

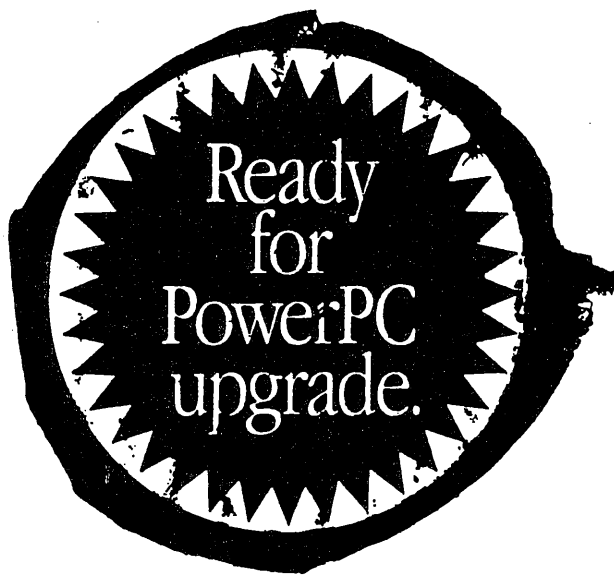


EXHIBIT B

April 1994

Apple Education
Recommended Products

At a Glance

K-12 Institutional purchase only



**Macintosh LC 550**

Perfect for general student use, the Mac LC 550 combines our all-in-one design with a price that's hard to beat. Our recommended system includes a built-in Sony Trinitron™ 14" RGB color display, stereo speakers and microphone. And when you're ready to expand your system for more performance, you can install an optional CD-ROM drive, add an Ethernet card, or upgrade to our new Power Macintosh™ technology.

— 33MHz 68030 processor

— 4MB memory (expandable to 36MB)

— 160MB hard drive

— Apple SuperDrive™ (reads and writes Macintosh, Windows, DOS, and OS/2 files with optional Macintosh PC Exchange software)

— LC-compatible processor direct expansion slot for high-speed Ethernet networking, Apple IIe compatibility, or video input/output card

— Ready for PowerPC™ processor upgrade

— Expressway bus for built-in LID-RISC drive upgrade

— Sony Trinitron high-resolution 14" display (256 colors)

Macintosh LC 550 Color System includes Mac LC 550 with built-in Sony Trinitron 14" color display, stereo speakers, microphone, Apple Keyboard II and mouse. Without setup (#B189011, A) \$1199. With setup (#B189011, A) \$1259.

**Macintosh LC 575**

The new Macintosh LC 575 whips through math problems, science experiments, class recordkeeping, and multimedia presentations up to 300 percent faster than a Mac LC III. Which makes this an ideal system for classrooms, labs, and teacher desktops alike. Its monitor, speakers, microphone, hard drive, and CD-ROM are all inside a single case—there's just one cord to plug in, and no tangle of wires to contend with. Upgradable to our new RISC-based Power Macintosh technology.

— 33MHz 68030 processor

— 5MB memory (expandable to 36MB)

— 160MB hard drive

— Apple SuperDrive

— Internal AppleCD™ 300i Plus dual-speed CD-ROM drive

— Two expansion slots—one for LC-type PDS cards (for video capture and display, for example) and one for either low-cost Ethernet networking or a modem

— Ready for PowerPC processor upgrade

— Sony Trinitron high-resolution 14" display (over 32,000 colors)

Macintosh LC 575 CD Color System includes Mac LC 575 with built-in CD-ROM drive, built-in Sony Trinitron 14" color display, stereo speakers, microphone, Apple Keyboard II and mouse. Without setup (#B189211, A) \$1699. With setup (#B189211, A) \$1759.

EXHIBIT B

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EXHIBIT C

Can

a personal computer grow up with your family?

With technology changing so quickly, it's only natural to wonder whether the computer you buy today will become obsolete tomorrow. That's why Apple designed the Macintosh® Performa® to work as well tomorrow as it does today.

You grow with your Performa.

Performa comes with all the software you're ever likely to need — enough to write letters, do a household budget, bring work home from the office and more.

Performa is also easy to learn and use, right out of the box. So this computer can help your kids from the first day of kindergarten through the last day of college.

If your interests grow or change, there are thousands of different programs available to meet your needs. Plus, since more homes and schools use Apple® computers



than any other brand, you're assured access to the newest, most exciting software.

Performa grows with you.

Apple's unique plug-and-play philosophy makes it easy to add new capabilities to your Macintosh Performa — today, tomorrow, even years down the road.

Plug-and-play means just what it sounds like. If you want to add a printer, just plug it in. If you need more storage space, just plug in a hard drive. And so on.

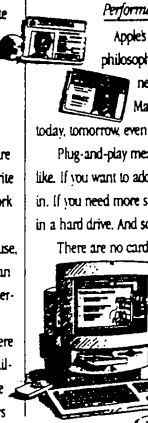
There are no cards to fool with. There

are no AUTOEXEC.BAT or CONFIG.SYS files to modify. No other computer makes it this simple to add what you need.

You can even add extra memory or upgrade your Performa to the PowerPC™ chip (making it virtually impossible to outgrow).

And every Performa also comes with a full year of in-home service and a lifetime of toll-free telephone support (making your future virtually worry-free).

So year after year, your family can enjoy the kind of power you buy a computer for in the first place. The power to be your best.



The Macintosh Performa comes with a keyboard, a color monitor, a mouse, and lots of software. Not to mention built-in speakers and a floppy drive — even a CD-ROM drive, if you want. Oh, and one other thing: room to grow.

Performa



The Family Macintosh

A PARENT'S GUIDE TO COMPUTERS

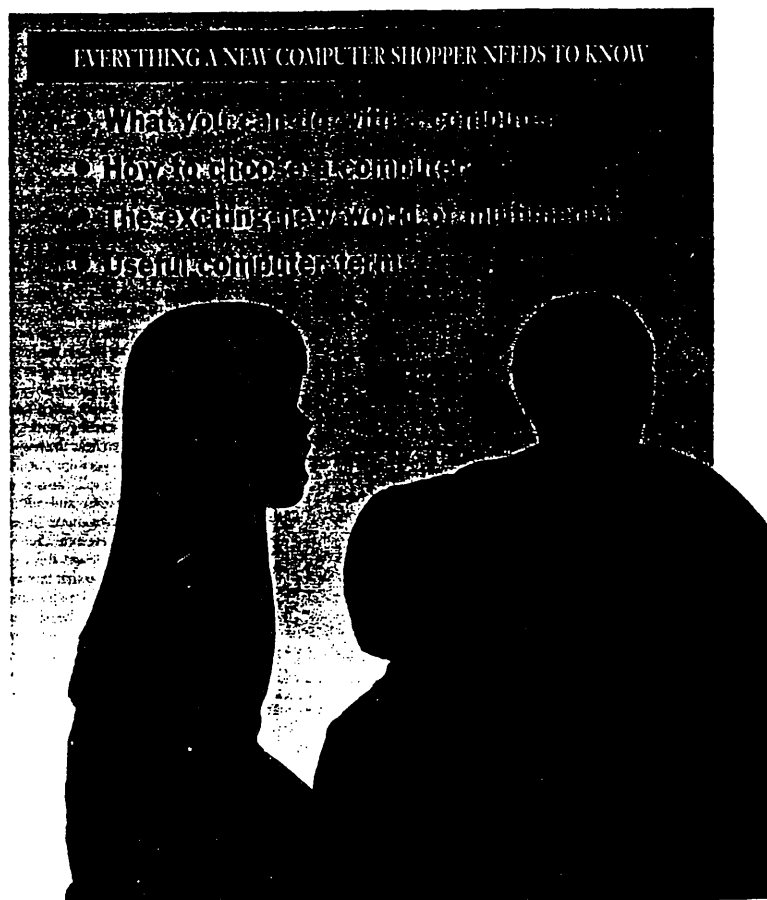


EXHIBIT D

Special Advertising Section

THE MACINTOSH PERFORMA

THE PERFECT CHOICE

THE POWER AND SIMPLICITY of the Mac makes it the perfect choice for everyone in the family. More students use Apple personal computers than any other brand, so chances are your kids are already using them in school. The Macintosh's easy-to-use point-and-click operation opens computing to any kid—or adult—who can use a mouse.

The Performa family is designed to be right at home with your family. It's easy to buy, easy to set up, and easy to use. And each Performa can run any of the literally thousands of educational, business, home productivity, and entertainment programs available.

EVERYTHING YOU NEED TO GET STARTED

A PERFORMA MAKES computer shopping as easy as can be. All you have to decide is which model best suits your needs. Apple has done all the rest. Everything you need is in one box: the computer, a color monitor, a keyboard, a mouse, fax/modem, up to 16 software programs, digital sound, and speaker(s). Some models even have

CD-ROM drive built right in.

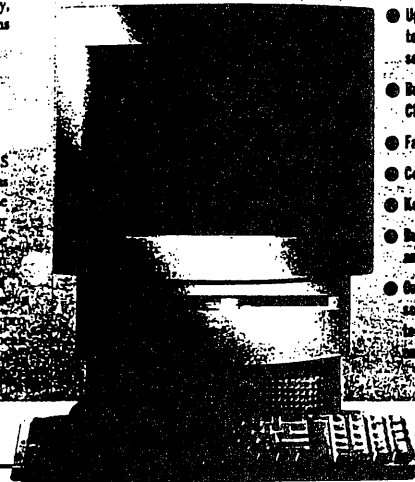
Your work and play springs to life in brilliant color on the Performa's high-resolution color monitor. Its 14-inch screen gives you plenty of workspace.

The built-in fax/modem not only can connect you to the vast realm of telecommunications and on-line services, but you can also send faxes directly from your computer to any fax machine.

Every Performa can grow with your family. Each one has

enough memory, power, and storage space to serve your family for years. However, should you decide you want to upgrade in the future, you can expand your Performa's RAM, hard drive storage, and even microprocessor to keep step with improvements in technology (such as the hot new PowerPC chip). Adding another hard drive, scanner, or CD-ROM drive is as simple as plugging one into a socket in back of the computer.

A COMPLETE COMPUTER SYSTEM:



- Up to 16 top-of-the-line software programs
- Built-in or optional CD-ROM drive
- Fax/modem
- Color monitor
- Keyboard and mouse
- Built-in digital sound and speaker(s)
- One year of in-home service, lifetime toll-free help, and a three-year warranty

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the San Francisco Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules, and having modified the order in several respects, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Apple Computer, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California with its offices and principal place of business located at One Infinite Loop, in the City of Cupertino, State of California.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

Decision and Order

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ORDER

I.

It is ordered, That respondent, Apple Computer, Inc., a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of any computer hardware product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the availability of any microprocessor upgrade product.

II.

It is further ordered, That respondent, Apple Computer, Inc. a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, or sale of any computer hardware product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that any such product is currently upgradeable, unless at the time such representation is made, the upgrade is then available, in reasonable quantities to the public, given good-faith projections of anticipated demand.

III.

It is further ordered, That respondent, Apple Computer, Inc., a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, or sale of any microprocessor upgrade product that incorporates a new logic board as part of the upgrade product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall not represent that such product is an "upgrade," in any manner, expressly or by implication, unless it discloses, clearly and prominently, and in close proximity to the

representation, that a new logic board is a component of the upgrade product.

IV.

A. Within fourteen (14) days of the date of service on respondent of this order, respondent shall publish notice of this redress provision in a nationally circulated newspaper. This notice shall be in the form set out in Appendix A.

B. Within ten (10) days of the date of service on respondent of this order, respondent shall compile:

1. A mailing list containing the name and last known address of each consumer who purchased a Performa 550, Macintosh LC 550, or Performa 560 computer in the United States or in a territory of the United States on or after April 1, 1994; and

2. A mailing list containing the name and last known address of each consumer who purchased a PowerPC upgrade for a Performa 550, Macintosh LC 550, or Performa 560 computer in the United States or in a territory of the United States.

C. Respondent shall compile the lists required by Parts IV.B.1 and IV.B.2 from all customer service records under its control, including, but not limited to, registration cards, telephone logs, electronic mail logs, and written correspondence.

D. Within fifteen(15) days of the date of service of this order, respondent shall send via first class-mail, postage prepaid, a notice in the form set forth in Appendix B to this order, to all Performa 550, Macintosh LC 550, or Performa 560 purchasers listed on the mailing list required by Part IV.B.1. Respondent shall send the items set forth in Appendix B via electronic mail to any purchaser for whom respondent has only an electronic mail address. No information other than that contained in Appendix B shall be included. No additional materials, other than a postage pre-paid envelope for return of the offer form, shall be transmitted therewith.

E. The envelope containing the items set forth in Appendix B shall be in the form set forth in Appendix C to this order. For each mailing returned by the U.S. Postal Service as undeliverable for which respondent thereafter obtains a corrected address, respondent shall, within fifteen (15) business days after receiving the corrected address, send the items set forth in Appendix B to the corrected address.

F. Any consumer who, within seventy-five (75) days of the date of service of this order, returns to respondent both: 1) the form contained in Appendix A or Appendix B; and 2) payment in the amount of five hundred and ninety-nine (599) dollars, will be eligible to receive a PowerPC Upgrade Kit, or its equivalent. Apple will not be required to honor any request that is postmarked after the seventy-fifth day.

G. Respondent shall send, delivery charges prepaid, the PowerPC Upgrade Kit (or product equivalent) by common carrier appropriate to the fragility of the product, within ninety (90) days of the date of service of this order.

H. If respondent chooses to provide a product equivalent to the PowerPC Upgrade Kit to some consumers, those consumers will be chosen at random.

I. Respondent shall extend the warranty on the Performa 550, Macintosh LC 550, and Performa 560 to include all parts and labor charges necessary for installation of a PowerPC Upgrade Kit. Within thirty (30) days of the date of service of this order, respondent shall arrange for its authorized service locations to perform this installation. Respondent shall also provide each location with any installation instructions that they might not otherwise possess which are unique to the installation of a PowerPC Upgrade Kit.

J. Within fifteen (15) days of the date of service of this order, respondent shall send via first class-mail, postage prepaid, a notice in the form set forth in Appendix D to this order to each purchaser listed on the mailing list required by Part IV.B.2. No information other than that contained in Appendix D shall be included. No additional materials, other than a postage pre-paid envelope for return of the offer form, shall be transmitted therewith. Respondent shall send seven hundred and seventy-six (776) dollars to each consumer who, within seventy-five (75) days of service of this order, returns the form contained in Appendix D and either: (1) has previously submitted the registration card included in the PowerPC upgrade; or (2) provides reasonable proof of purchase of the PowerPC upgrade.

K. The envelope containing the items set forth in Appendix D shall be in the form set forth in Appendix E to this order. For each mailing returned by the U.S. Postal Service as undeliverable for which respondent thereafter obtains a corrected address, respondent shall, within fifteen (15) business days after receiving the corrected address, send the items set forth in Appendix D.

L. Respondent shall adequately staff an 800 number to answer questions from any consumer who receives a notice described in this redress provision, and any questions resulting from the publication of the notice described in Part III.A.

M. Within two hundred forty (240) days of the date of service of this order, respondent shall furnish to Commission staff the following:

1. In computer readable form and in computer print out form, the following:

a. A list of the names and addresses of all purchasers who obtain a PowerPC Upgrade Kit (or the equivalent) pursuant to this order;

b. A list of the names and addresses of all recipients of rebate checks;

c. A copy of the records used to identify these purchasers or recipients; and

d. A description of what respondent sent to each purchaser or recipient (including the check number if applicable) and the mailing date of every upgrade or rebate sent.

2. Copies of all notices returned to respondent as undeliverable (previously described in Parts IV.E and IV.K of this order); and

3. All other documents and records evidencing efforts made and actions taken by respondent to identify, locate, contact and provide rebates or upgrades to consumers.

N. For the purposes of this Part, "PowerPC Upgrade Kit" includes a 575 logic board, an upgrade card, four megabytes of RAM, Macintosh System 7.5 Operating System software, the most recent version of Claris Works for PowerPC, and a coupon for free installation of the hardware components of the PowerPC Upgrade Kit. The term "equivalent" means a computer based on the PowerPC microprocessor along with all the hardware necessary to supply a Performa 550, Macintosh LC 550, or Performa 560 owner with a complete computer system, including but not limited to a comparable keyboard and monitor. The term "consumer" includes an educational institution or any other organization.

V.

It is further ordered, That for three (3) years after the last date of dissemination of any representation covered by this order, respondent shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in its possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

VI.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the company such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

VII.

It is further ordered, That respondent, and its successors and assigns, shall deliver a copy of this order to all current and future principals and directors; to all current and future officers and managers with responsibilities or duties affecting compliance with the terms of this order; and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and, for a period of five (5) years from the date of issuance of this order, to future personnel within thirty (30) days after the person assumes such position or responsibilities.

VIII.

It is further ordered, That this order will terminate on August 18, 2017, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging

any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any paragraph in this order that terminates in less than twenty (20) years;

B. This order's application to any respondent that is not named as a defendant in such complaint; and

C. This order if such complaint is filed after the order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this paragraph as though the complaint was never filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

IX.

It is further ordered, That respondent shall, within sixty (60) days from the date of service of this order upon it, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.¹

APPENDIX A

[Newspaper Notice]

NOTICE TO PURCHASERS OF APPLE PERFORMA 550, MACINTOSH LC 550 AND PERFORMA 560 COMPUTERS:

IF YOU PURCHASED AN APPLE PERFORMA 550, A MACINTOSH LC550 OR A PERFORMA 560 COMPUTER ON OR AFTER APRIL 1, 1994, YOU ARE ENTITLED TO PURCHASE A POWERPC UPGRADE KIT OR ITS EQUIVALENT FOR THE SUM OF \$599.00.

When we sold you your Apple computer, we advertised that it was "Ready for PowerPC upgrade." While a PowerPC upgrade was

¹ Prior to leaving the Commission, former Commissioner Varney registered her vote in the affirmative for issuing the complaint and decision and order in this matter.

subsequently offered for these models, the Federal Trade Commission ("FTC") and Apple have examined the representations that Apple made in connection with the sales of these models. While Apple believes that the upgrade representations were appropriate, customer satisfaction is our highest priority and, to this end, we have reached a settlement with the FTC that gives purchasers of these computers who would like to upgrade their computers an opportunity to secure a PowerPC upgrade at an attractive price.

For a limited time, Apple is offering its Performa 550/560 and Macintosh LC 550 customers a PowerPC upgrade kit for \$599. This upgrade kit will include the components necessary to make the PowerPC upgrade, and will also include an additional 4 megabytes of RAM. In addition, the kit will contain System 7.5 (the operating system for the PowerPC), and a PowerPC upgrade for Claris Works. Included in the upgrade kit will be a coupon for the installation of the hardware components of the upgrade at no additional cost to you.

To take advantage of this offer, please fill out the information on the attached form and return it, along with a payment in the amount of \$599. You may wish to make a copy of the form for your records. Upon receipt of payment and a properly completed form, Apple will ship the upgrade kit directly to you within approximately 90 days.

For customers who purchased a PowerPC upgrade for their Performa 550/560 or Macintosh LC 550 prior to [date of service of order], Apple is offering a cash rebate upon certification and proof of purchase. For additional information on this rebate offer, please contact Apple at the toll-free number noted below.

Please note that these offers are being made for a limited time only. To receive an upgrade kit at this price, customers must respond with payment and a properly completed form, postmarked no later than [70 days from date of publication]. You should also note that this upgrade opportunity is only available to customers who purchased Performa 550/560 and Macintosh LC 550 computers after April 1, 1994.

Should you have any questions regarding this upgrade offer, please call 1-800- ____ - ____

APPLE COMPUTER, INC.

[Form to be Attached to Newspaper Notice]

RETURN THIS FORM WITH YOUR PAYMENT TO THE FOLLOWING ADDRESS:
[ADDRESS]

I am the purchaser of a Performa 550/ Performa 560/ Macintosh LC 550 (circle the correct model number) computer. I understand that I must have purchased my computer after April 1, 1994 to participate in this offer and that I must include the serial number of my computer with my order. I would like to order a PowerPC Upgrade Kit. Please deliver my purchase to the following address:

NAME: _____
STREET ADDRESS: _____
CITY AND STATE: _____ ZIP CODE: _____

____ My check for \$599.00 is enclosed (make checks payable to Apple Computer, Inc.)

__ Please charge my ____ Visa __ MasterCard __ American Express

Credit Card Number _____ Expiration Date (Month/Year) _____

CREDIT CARD HOLDER: PLEASE PROVIDE THE FOLLOWING INFORMATION:

NAME: _____
BILLING ADDRESS _____
ZIP CODE: ____ DAYTIME TELEPHONE NUMBER: _____

I hereby certify that I bought an Apple Performa 550, Performa 560 or Macintosh LC 550 in _____ (month you purchased your computer), ____ (year you purchased your computer). The serial number of my computer is _____ .

DATED: _____, 1997.

Signature

APPENDIX B

[Apple Computer, Inc. Letterhead]
[Date]

Re: Performa 550/560/Macintosh LC 550 Upgrade Offer

Dear [Customer Name]:

Our records show that during 1994 or 1995, you purchased a Performa 550, a Macintosh LC 550 or a Performa 560 from Apple Computer, Inc.

When we sold you your Apple computer, we advertised that it was "Ready for PowerPC upgrade." While a PowerPC upgrade was subsequently offered for these models, the Federal Trade Commission ("FTC") and Apple have examined the representations that Apple made in connection with the sales of these models. While Apple believes that the upgrade representations were appropriate, customer satisfaction is our highest priority and, to this end, we have reached a settlement with the FTC that gives purchasers of these computers who would like to upgrade their computers an opportunity to secure a PowerPC upgrade at an attractive price.

For a limited time, Apple is offering its Performa 550/560 and Macintosh LC 550 customers a PowerPC upgrade kit for \$599. This upgrade kit will include the components necessary to make the PowerPC upgrade, and will also include an additional 4 megabytes of RAM which will allow the PowerPC chip to operate effectively. In addition, the kit will contain two key software packages: System 7.5, the operating system for the PowerPC; and the PowerPC upgrade for Claris Works. Included in the upgrade kit will be a coupon which will cover the cost of installing the upgrade's hardware components. Upon receiving your upgrade kit, you will only need to take your computer, the upgrade kit and the upgrade coupon to your local authorized Apple dealer, who will install the hardware for you at not additional cost.

To take advantage of this offer, please fill out the information on the enclosed form and return it, along with a payment in the amount of \$599 in the enclosed envelope or in an envelope addressed to Apple Computer, Inc. [address] You may wish to make a copy of the form for your records. Upon receipt of payment and a properly completed form, Apple will ship the upgrade kit directly to you within approximately 75 days.

Please note that this offer is being made for a limited time only and that to receive an upgrade kit at this price, customers must respond with payment and a properly completed form by no later than [75 days from date of service of order]. Because of the limited availability of upgrade kits, we will not be able to extend this deadline, and we will not be offering this upgrade opportunity in the future. You should also note that this upgrade opportunity is only available to customers who purchased Performa 550/560 and Macintosh LC 550 computers after April 1, 1994. Should you have any questions regarding this upgrade offer, please call our information line at 1(800) --. As always, we at Apple view customer

satisfaction as our most important product. We appreciate your choosing Apple and look forward to serving you again in the future.

Sincerely,

David Manovich
Executive Vice-President for Global Sales
Apple Computer, Inc.

[Form to be Enclosed with Above Letter]

RETURN THIS FORM WITH PAYMENT

I am the purchaser of a Performa 550 / 560 / Macintosh LC 550 (circle the correct model number) computer. I understand that I must have purchased my computer after April 1, 1994, to participate in this offer and that I must include the serial number of my computer with my order. I would like a PowerPC Upgrade Kit. Please deliver my purchase to the following address:

NAME: _____
STREET ADDRESS: _____
CITY AND STATE: _____
ZIP CODE: _____

____ My check for \$599 is enclosed (make checks payable to Apple Computer, Inc.)

____ Please charge my ____ Visa ____ Master Card ____ American Express

Credit Card Number

Expiration Date (Month/Year)

CREDIT CARD HOLDER: PLEASE PROVIDE THE FOLLOWING INFORMATION:

NAME: _____
BILLING ADDRESS: _____
ZIP CODE: ____ DAYTIME TELEPHONE NUMBER: _____

I hereby certify that I bought an Apple Performa 550, Performa 560 or Macintosh LC 550 in _____ (month you purchased your computer), ____ (year you purchased your computer). The serial number of my computer is _____.

DATED: _____, 1997.

Signature

Decision and Order

124 F.T.C.

APPENDIX C

Apple Computer, Inc.

[address]

FORWARDING AND RETURN POSTAGE GUARANTEED

[ADDRESS]

ATTENTION: IMPORTANT POWERPC UPGRADE OFFER FOR YOUR
PERFORMA 550, MACINTOSH LC 550, OR PERFORMA 560 COMPUTER
INSIDE

APPENDIX D

[Apple Computer, Inc. Letterhead]

[Date]

Re: Performa 550/560/Macintosh LC 550 Upgrade Rebate

Dear [Customer Name]:

Our records show that during 1994 or 1995, you purchased a PowerPC upgrade for either a Performa 550, a Macintosh LC 550 or a Performa 560 computer.

When we sold you your Apple computer, we advertised that it was "Ready for PowerPC upgrade." For the past several months, the Federal Trade Commission ("FTC") and Apple have examined the upgrade representations that Apple made in connection with the sales of these models. While Apple believes that the upgrade representations were appropriate, customer satisfaction is our highest priority and, to this end, we have reached a settlement with the FTC which will give purchasers of these computers who have not yet upgraded their computers an opportunity to secure a PowerPC upgrade at an attractive price.

Both we and the FTC believe that it is appropriate and fair to provide customers who have already purchased a PowerPC upgrade a cash rebate in order to put them on an equal footing with customers taking advantage of the new upgrade offer. Accordingly, we would ask that you fill out the enclosed form, verifying that you did, in fact, purchase a PowerPC upgrade for a Performa 550, a Macintosh LC 550 or a Performa 560 computer. Upon receipt of your completed form and proof of purchase, Apple will mail you a check in the amount of \$776 to the address designated on your form. (Proof of purchase is not required for customers who filled out and mailed to Apple the registration card included in the PowerPC upgrade). Please

note that this offer is being made for a limited time only and that to receive a cash rebate qualified customers must respond with a completed form and proof of purchase by no later than [75 days from date of service of order]. Should you have any questions regarding this rebate offer, please call our information line at 1(800) --.

As always, we at Apple view customer satisfaction as our most important product. We appreciate your choosing Apple and look forward to serving you again in the future.

Sincerely,

David Manovich
Executive Vice-President for Global Sales
Apple Computer, Inc.

[Form to be Enclosed with Above Letter]

RETURN THIS FORM TO RECEIVE REBATE
(AN ENVELOPE IS ENCLOSED FOR YOUR CONVENIENCE)

My name is _____. I purchased a PowerPC upgrade for a Performa 550 / 560 / Macintosh LC 550 computer (circle the correct model number). I understand that Apple is prepared to provide a rebate of \$776.00 for those who purchased PowerPC upgrades for these computers and that to be entitled to the rebate, customers must have either registered the upgrade with Apple at the time of purchase or now provide proof of purchase.

Please Check One:

- _____ I previously filled out and mailed the registration card that accompanied my Power PC upgrade to Apple Computer, Inc.
- _____ I did not fill out the registration card when I received my PowerPC upgrade, but I have enclosed proof-of-purchase (receipt, canceled check, credit card charge, or original packing list or original label from PowerPC upgrade box).

Please deliver my rebate check to the following address:

NAME:

STREET ADDRESS:

CITY/STATE/ZIP

Signature

Decision and Order

124 F.T.C.

APPENDIX E

Apple Computer, Inc.

[address]

FORWARDING AND RETURN POSTAGE GUARANTEED

[Address]

ATTENTION: CASH REBATE OFFER ENCLOSED FOR POWERPC UPGRADE
PURCHASERS

IN THE MATTER OF

ALDI, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FAIR CREDIT REPORTING ACT AND SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-3764. Complaint, Sept. 5, 1997--Decision, Sept. 5, 1997*

This consent order requires, among other things, the Illinois-based grocery chain to comply with the provisions of the Fair Credit Reporting Act requiring the consumers to be notified when they are denied credit, insurance or a job based in whole or in part on information in their credit report and requiring the denying company to provide the name and address of the consumer reporting agency that supplied the report.

Appearances

For the Commission: *John Hallerud* and *C. Steven Baker*.

For the respondent: *Keith Reed, Seyfarth, Shaw, Fairwether & Geraldson*, Chicago, IL.

COMPLAINT

Pursuant to the provisions of the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.*, and the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Aldi, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said Acts, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

DEFINITIONS

For the purposes of this complaint, the following definitions are applicable. The terms "*consumer*," "*consumer report*," and "*consumer reporting agency*" shall be defined as provided in Sections 603(c), 603(d), and 603(f), respectively, of the Fair Credit Reporting Act, 15 U.S.C. 1681a(c), 1681a(d) and 1681a(f).

PARAGRAPH 1. Respondent Aldi, Inc. is a corporation organized, existing and doing business under and by virtue of the