

IN THE MATTER OF

MICRON ELECTRONICS, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE CONSUMER LEASING ACT, REGULATION M AND
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3887. Complaint, July 28, 1999--Decision, July 28, 1999

This consent order, among other things, requires Micron Electronics, Inc., a manufacturer and marketer of computer systems, to provide consumers with clear, readable, and understandable information in their lease advertising. The consent order also prohibits respondent from stating the amount of any payment or that any or no initial payment is required at lease signing, without disclosing all of the terms required by law.

Participants

For the Commission: *Sally Pitofsky, Rolando Berrelez, and David Medine.*

For the respondent: *John Geering*, in-house counsel, Nampa, ID.

COMPLAINT

The Federal Trade Commission, having reason to believe that Micron Electronics, Inc., a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, 15 U.S.C. 45-58, as amended, the Consumer Leasing Act, 15 U.S.C. 1667-1667e, as amended, and its implementing Regulation M, 12 CFR 213, as amended, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Micron Electronics, Inc. is a Minnesota corporation with its principal office or place of business at 900 East Karcher Road, Nampa, Idaho. Respondent markets computer systems for sale or lease to consumers.
2. Respondent has disseminated advertisements to the public that promote consumer leases, as the terms "advertisement" and "consumer lease" are defined in Section 213.2 of Regulation M, 12 CFR 213.2, as amended.
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, 15 U.S.C. 44.

4. Respondent has disseminated or has caused to be disseminated consumer lease advertisements ("lease advertisements") for computer systems, including but not necessarily limited to the attached Micron Exhibits A, B, and C. Micron Exhibit A is a magazine advertisement. Micron Exhibit B is a newspaper advertisement. Micron Exhibit C is an electronic advertisement. These lease advertisements contain the following statements:

A. **"Millennia 300 Personal Edition . . . \$2,099**

Consumer lease \$84/mo.

. . .

Millennia 333 DVD Edition . . . \$2,999

Consumer lease \$119/mo."

[A fine print disclosure at the bottom of the ad states:

" . . . prices do not include shipping and handling and any applicable taxes. . . . Business lease prices based on 36-month lease, and consumer lease prices based on 30-month lease. . . ."] (Micron Exhibit A)

B. [The ad states five lease offers, including:]

"Millennia LXE 166 . . .

Starting at: **\$1,199**⌘

Consumer lease \$48/mo.

. . .

Millennia XKU 266 . . .

Starting at: **\$2,299**⌘

Consumer lease \$92/mo.

[A fine print disclosure at the bottom of the ad states:

" . . . prices do not include shipping and handling and any applicable taxes. . . . Business lease prices based on 36-month lease, and consumer lease prices based on 30-month lease. . . ."] (Micron Exhibit B)

C. **"TRANSPORT TREK.266.13.3"**

A true desktop replacement you can actually afford

. . .

Total System Price as Configured: \$2499

How would you like to purchase?

*** Order online with credit card (Secure)**

*** Business Lease \$86.72 per month* (Secure)**

☆ Consumer Lease \$98.96 per month (Secure) . . ."**

[A fine print disclosure at the bottom of the ad, on the last screen in a series of screens, states:

*** Based on 15% purchase option 30 month"] (Micron Exhibit C).

FEDERAL TRADE COMMISSION ACT VIOLATIONS

Count I: Failure to Disclose, and/or Failure to
Disclose Adequately, Lease Terms

5. In lease advertisements, including but not necessarily limited to Micron Exhibits A, B, and C, respondent has represented, expressly or by implication, that consumers can obtain the advertised computer systems at the terms prominently stated in the advertisements, including but not necessarily limited to the monthly payment amount.

6. These lease advertisements have failed to disclose, and/or failed to disclose adequately, additional terms pertaining to the lease offer, such as the total amount of any payments due at lease inception and/or the term of the lease. This information would be material to consumers in deciding whether to lease a computer system from respondent. The failure to disclose, and/or to disclose adequately, these additional terms, in light of the representation made, was, and is, a deceptive practice.

7. Respondent's practices constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. 45(a).

CONSUMER LEASING ACT AND REGULATION M VIOLATIONS

Count II: Failure to Disclose, and/or Failure to Disclose
Clearly and Conspicuously, Required Information

8. Respondent's lease advertisements, including but not necessarily limited to Micron Exhibits A, B, and C, state a monthly payment amount, but fail to disclose, and/or fail to disclose clearly and conspicuously, certain additional terms required by the Consumer Leasing Act and Regulation M, including one or more of the following terms:

- a. That the transaction advertised is a lease;
- b. The total amount due prior to or at consummation, or by delivery, if delivery occurs after consummation. This total amount may: 1) exclude third-party fees that vary by state or locality, such as taxes, and disclose that fact or 2) provide a total that includes third-party fees based on a particular state or locality as long as that fact and the fact that such fees may vary by state or locality are disclosed;

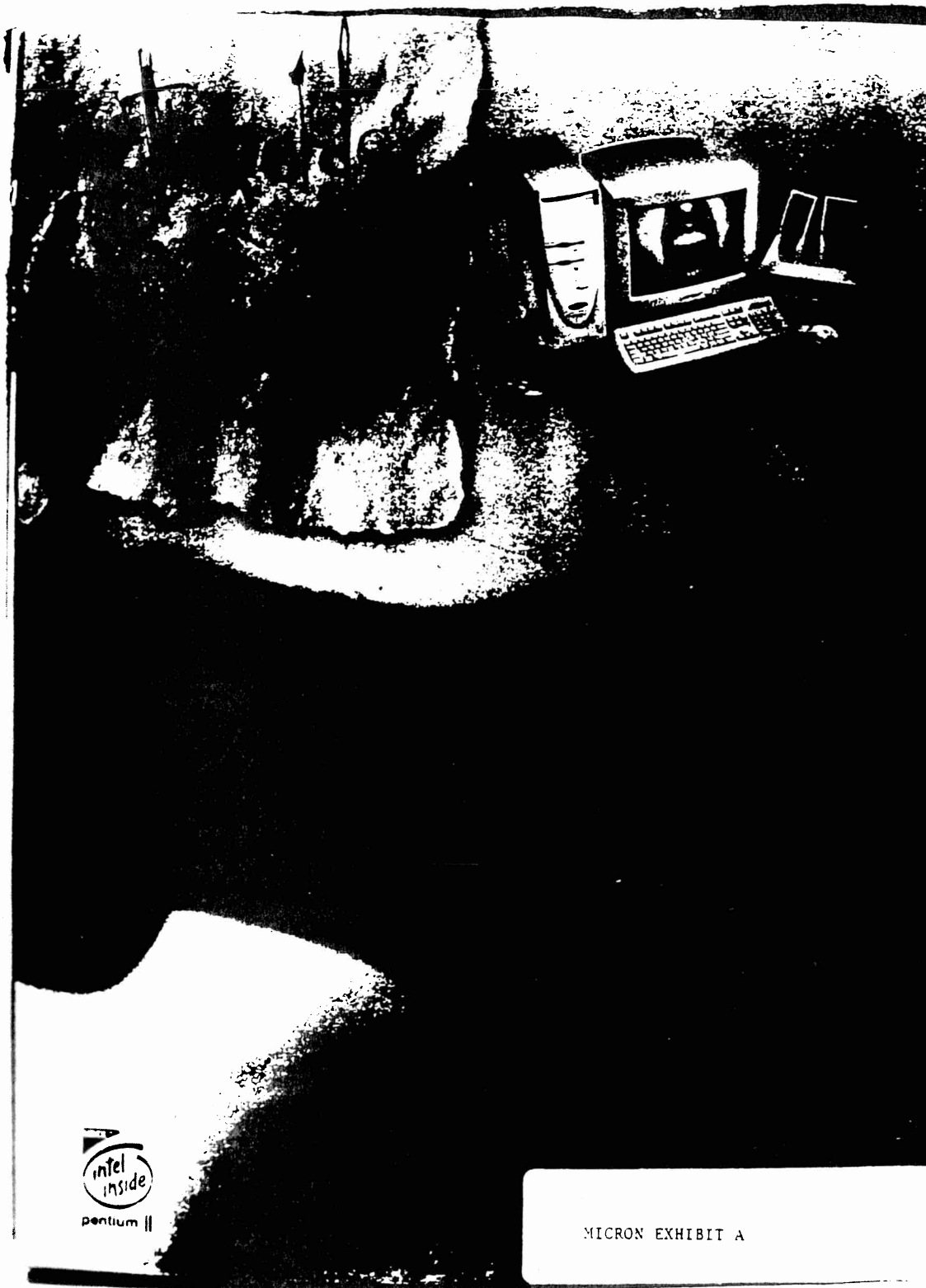
- c. Whether or not a security deposit is required;
- d. The number, amounts, and timing of scheduled payments; and
- e. That an extra charge may be imposed at the end of the lease term in a lease where the liability of the consumer is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

9. Respondent's practices have violated Section 184 of the Consumer Leasing Act, 15 U.S.C. 1667c, and Section 213.7 of Regulation M, 12 CFR 213.7:

137

Complaint

EXHIBIT A



Complaint

128 F.T.C.

EXHIBIT B

MICRON EXHIBIT B

Micron has a system to Meet Your Needs

The Micron™ Showroom has everything you or your business needs in a PC system. Everything is in stock and priced to move today. Limited quantity units are available on a first come, first served basis only. This week we're reducing the price on all Micron Millennium® Mic desktop PCs in stock — until they're gone! Visit today to take advantage of these in-house prices. Plus, every Micron system you purchase is backed by Micron's industry-leading limited warranties and phone support — all included in the price. You can't find a better deal in town!

Desktop

Portable

Millennia LMI 166

Intel 166MHz Pentium® processor
with MMX™ technology
32MB SDRAM
3.2GB EIDE hard drive
16X DSI CD-ROM drive
56K fax/modem
15" Mon., 20hp monitor (13.7" display)
Microsoft Windows 95
Microsoft Office Small Business Edition
Lexmark 1000 color printer

Starting at **\$1,199***

Consumer Price \$1,449

Millennia Mmi 200

Intel 200MHz Pentium processor
with MMX technology
32MB SDRAM
4GB hard drive
100MB Rampage Zip drive
24X CD-ROM drive
15" Mon., 20hp monitor (13.7" display)
Microsoft Windows 95
Microsoft Office Pro 97

Starting at **\$1,399***

Consumer Price \$1,449

With additional 1GB RAM

Millennia Xmi 266

Intel 266MHz Pentium II processor
(including MMX technology)
64MB SDRAM
8.4GB hard drive
32X CD-ROM drive
32X CD-ROM Zip drive
56K fax/modem
17" Mon., 20hp monitor (15" display)
Microsoft Windows 95
Microsoft Office Small Business Edition

Starting at **\$2,299***

Consumer Price \$2,549

TransPort Xmi 150

Intel 150MHz Pentium processor
with MMX technology
16MB SDRAM
2.1GB EIDE hard drive
32X CD-ROM drive
12.1" Active matrix, 600000 display
Microsoft Windows 95
Microsoft Office Small Business Edition

Starting at **\$1,699***

Consumer Price \$1,949

TransPort Xmi 166

Intel 166MHz Pentium processor
with MMX technology
32MB SDRAM
2.1GB EIDE hard drive
32X CD-ROM drive
12.1" Active matrix, 600000 display
Microsoft Windows 95
Microsoft Office Small Business Edition

Starting at **\$1,799***

Consumer Price \$1,949

For a limited time take \$100
off any reconditioned system
and get your choice of a
Lexmark 1000 printer or a
black Advent AV370 speaker
system.¹⁾ Plus take \$100 off
any canceled system in stock.²⁾

For information, call 801-256-4200. *Prices in quotes are subject to change.

¹⁾ Configuration may vary. Price with cable modem. Limited to stock on hand.
²⁾ Maximum transactional spend of up to \$1000 when downloading data and 33.4Mbps
wireless capability. However, actual performance is dependent upon network factors
and network bandwidth. See www.micronpc.com for details.

Stop By Or Call
801-256-4200
Web site: www.micronpc.com



EXHIBIT B

Millennia 300 Personal Edition

- Intel 300MHz Pentium® II processor (features MMX™ technology)
- 38MB SDRAM
- 4.0GB Ultra ATA hard drive
- 15" Micron 900 PGx... 28dp monitor (13.7" display)
- 82440LX chip set
- 512KB internal cache, 2MB BIOS
- 3.5" floppy
- 32X CDD variable speed CD-ROM drive
- 128-bit AGP 3D video with uMB SGRAM
- 32 voice PCI Wavetable sound, stereo speakers
- 56Kbps data/fax modem*
- 104-key enhanced keyboard
- Microsoft® IntelliMouse™, USB connections
- Microsoft Windows® 95 and MS Plus!
- Microsoft Home Essentials
- 5-year/3-year Micron Power™ limited warranty

\$2,099

Millennia 333 DVD Edition

- Intel 333MHz Pentium II processor (features MMX technology)
- 64MB SDRAM
- 8.4GB Ultra ATA hard drive
- 19" Hitachi Superscan CM751 monitor (18" display)
- 82440LX chip set
- 512KB internal cache, 2MB BIOS
- Integrated 100MB Iomega Zip drive
- 3.5" floppy
- DVD-ROM drive and PCI decoder card
- 128-bit AGP 3D video with uMB SGRAM
- AWE 64 ISA sound card, speakers with powered subwoofer
- 56Kbps data/fax modem*
- 104-key enhanced keyboard
- Microsoft IntelliMouse, USB connections
- Microsoft Windows 95 and MS Plus!
- Microsoft Home Essentials
- 5-year/3-year Micron Power limited warranty

\$3,999

Limited Offer

buy
the Micron PC and get
\$200
in savings
on leading product lines

Limited offer from Microsoft — buy a Micron Millennium system and receive a coupon book worth over \$200 in savings on leading Microsoft products! Call for details.

MICRON ELECTRONICS

LEASING AVAILABLE

Complaint

128 F.T.C.

EXHIBIT C

Micron Electronics, Inc. - Micronpc.com

http://www.micronpc.com/store/Order.htm

MICRON *100% customer built just for you* 1 800 209 9696

TRANSPORT TREK.266.13.3"

A true desktop replacement you can actually afford




[Order Status](#)
[Accessories](#)
[How to Order](#)
[Online](#)
[Financing](#)
[Options](#)

- 64MB.EDO DRAM
- 3.2GB.HARD DRIVE FOR TREK
- TEAC.IN TRANSPORT.3.5"
- ALPHA TOP.24X.CD-ROM FOR TREK
- MS.OFFICE 97 SBE.CD.
- NO MODEM
- MICROSOFT.WIN 98.CD.TREK
- SMART LI-ION.TREK PRIMARY BATTERY
- NO CARRYING CASE
- 5 YR PROC/MEM 1YR PARTS&LABOR.3RD - GTS
- CUSTOMER SELECTS.NO ADDITIONAL.WARRANTY SERVICE OPTIONS
- NO MICRON.SOFTWARE SOLUTION PK

Total System Price as Configured: \$2499

How would you like to purchase?

☐ Order online with credit card **(Secure)**
☐ Request Quote and have salesperson contact me
☐ Business Lease \$86.72 per month***(Secure)**
☒ Consumer Lease \$98.96 per month** **(Secure)**

[Reconfigure](#)

Order using [text chat](#)

If you are interested in purchasing the system you just configured, or if you would like to receive additional information concerning the system, please click the appropriate button above. All requests will automatically be sent to Micron's Sales Department for processing and a representative will contact you shortly to provide you either additional information concerning your system, or to provide you the exact price of your configured system and to confirm your order.

The prices calculated by the MicronOpt Online Configurator are approximations only. The calculated prices do not include shipping and handling charges or any applicable taxes. If you place an order with the MicronOpt Online Configurator, your credit card will not be charged until we confirm your acceptance of the exact charge for your configured system.

If you would like to purchase your system now, please press the "Order Now!" button. NOTE: pressing either button will send you to a secure form. If

EXHIBIT C

Micron Electronics, Inc. - Micronpc.com

<http://www.micronpc.com/store/Order.n>

your browser does not support security, or if you are unsure whether it supports security, please contact Micron Sales at (800) 209-9686.

To learn about quantity discounts, click on the "Request Information" button or call 1-800-209-9686.

All prices and specifications are subject to change without notice. Your order must be accepted by a Micron representative before it will be processed. Micron Electronics, Inc., is not responsible for omissions and/or errors in photography or text, or from any losses incurred through your use of the MicronOpt Online Configurator. Because your order will be controlled by the limited warranty covering your Micron system and Micron's terms and conditions of sale, you should review these documents before making your purchase.

* Based on Fair Market Value 36 month

** Based on 15% purchase option 30 month

© 1998 Micron Electronics, Inc. All rights reserved.
Legal Information.

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 Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorneys, 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 the 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, 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 Micron Electronics, Inc. is a Minnesota corporation with its principal office or place of business at 900 East Karcher Road, Nampa, Idaho.

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.

ORDER

DEFINITIONS

For the purposes of this order, the following definitions shall apply:

1. "*Clearly and conspicuously*" shall mean as follows:

a. In a television, video, radio, or Internet or other electronic advertisement, an audio disclosure shall be delivered in a volume, cadence, and location sufficient for an ordinary consumer to hear and comprehend it. A video disclosure shall be of a size and shade, and shall appear on the screen for a duration and in a location, sufficient for an ordinary consumer to read and comprehend it.

b. In a print advertisement, a disclosure shall be in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.

The disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement.

2. "*Equal prominence*" shall mean as follows:

a. In a television, video, radio, or Internet or other electronic advertisement, a video disclosure shall be presented in the same or similar format, including but not necessarily limited to type size, shade, contrast, duration, and placement. An audio disclosure shall be delivered in the same or similar manner, including but not necessarily limited to volume, cadence, pace, and placement.

b. In a print advertisement, a disclosure shall be presented in the same or similar format, including but not necessarily limited to type size, shade, contrast, and placement.

Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement.

3. "*Total amount due at lease signing or delivery*" as used herein shall mean the total amount of any initial payments required to be paid by the lessee on or before consummation of the lease or delivery of the computer equipment, whichever is later, as required by Regulation M, 12 CFR 213, as amended. The total amount due at lease signing or delivery may: 1) exclude third-party fees, such as taxes, and disclose that fact or 2) provide a total that includes third-party fees based on a particular state or locality as long as that fact and the fact that such fees may vary by state or locality are disclosed. (Section 213.7 of Regulation M, 12 CFR 213.7, as amended.)

4. "*Commerce*" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

5. Unless otherwise specified, "*respondent*" shall mean Micron Electronics, Inc., a corporation, its successors and assigns and its officers; and each of the above's agents, representatives, and employees.

I.

It is ordered, That respondent, directly or through any corporation, subsidiary, division, or any other device, in connection with any advertisement to promote, directly or indirectly, any consumer lease in or affecting commerce, as "advertisement" and "consumer lease" are defined in Section 213.2 of Regulation M, 12 CFR 213.2, as amended, shall not, in any manner, expressly or by implication:

A. Make any reference to any charge that is part of the total amount due at lease signing or delivery or that no such charge is required, not including a statement of the periodic payment, unless the advertisement also states with equal prominence the total amount due at lease signing or delivery.

B. State the amount of any payment or that any or no initial payment is required at lease signing or delivery, if delivery occurs after consummation, without disclosing clearly and conspicuously all of the terms required by Regulation M, as follows:

1. That the transaction advertised is a lease;
2. The total amount due at lease signing or delivery;
3. Whether or not a security deposit is required;
4. The number, amounts, and timing of scheduled payments; and
5. That an extra charge may be imposed at the end of the lease term in a lease where the liability of the consumer is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

(Section 184(a) of the Consumer Leasing Act ("CLA"), 15 U.S.C. 1667c(a), as amended, and Section 213.7 of Regulation M, 12 CFR 213.7, as amended.)

For radio advertisements, respondent may also comply with the requirements of this subparagraph by utilizing Section 184(c) of the CLA, 15 U.S.C. 1667c(C), and Section 213.7(f) of Regulation M, 12

137

Decision and Order

CFR 213.7(f), as amended. For television advertisements, respondent may also comply with the requirements of this subparagraph by utilizing Section 213.7(f) of Regulation M, as amended.

C. Fail to comply in any other respect with Regulation M, 12 CFR 213, as amended, and the CLA, 15 U.S.C. 1667-1667e, as amended.

II.

It is further ordered, That respondent Micron Electronics, Inc., and its successors and assigns, shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying all records that will demonstrate compliance with the requirements of this order.

III.

It is further ordered, That respondent Micron Electronics, Inc., and its successors and assigns, shall deliver a copy of this order to all current and future principals, officers, directors, managers, employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to such current personnel within thirty (30) days after the date of service of this order, and to such future personnel within thirty (30) days after the person assumes such position or responsibilities.

IV.

It is further ordered, That respondent Micron Electronics, Inc., and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not necessarily limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30)

days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C.

V.

It is further ordered, That respondent Micron Electronics, Inc., and its successors and assigns, shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade 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.

VI.

This order will terminate on July 28, 2019, 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 Part 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 Part.

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 Part as though the complaint had never been 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.

IN THE MATTER OF

DELL COMPUTER CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
CONSUMER LEASING ACT, REGULATION M AND
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3888. Complaint, July 28, 1999--Decision, July 28, 1999

This consent order, among other things, prohibits Dell Computer Corporation, a marketer of computer systems, from failing to disclose clearly that any advertised lease terms pertain to a lease offer. The consent order also prohibits respondent from stating the amount of any payment or that any or no initial payment is required at lease signing, without disclosing all of the terms required by law.

Participants

For the Commission: *Sally Pitofsky, Rolando Berrelez, and David Medine.*

For the respondent: *Barry Cutler, Baker & Hostetler, Washington, D.C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Dell Computer Corporation, a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, 15 U.S.C. 45-58, as amended, the Consumer Leasing Act, 15 U.S.C. 1667-1667e, as amended, and its implementing Regulation M, 12 CFR 213, as amended, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Dell Computer Corporation is a Delaware corporation with its principal office or place of business at One Dell Way, Round Rock, Texas. Respondent markets computer systems for sale or lease to consumers.

2. Respondent has disseminated advertisements to the public that promote consumer leases, as the terms "advertisement" and "consumer lease" are defined in Section 213.2 of Regulation M, 12 CFR 213.2, as amended.

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, 15 U.S.C. 44.