

Complaint

IN THE MATTER OF

SOYO, INC.CONSENT ORDER, ETC. , IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket No. C-4193; File No. 062 3094
Complaint, June 4, 2007 – Order, June 4, 2007

This consent order addresses cash rebate offers that Soyo advertised to consumers. The complaint alleges that Soyo engaged in deceptive practices relating to these rebate offers and that thousands of consumers who submitted valid requests for rebates since 2004 experienced substantial, unreasonable delays, including delays of one year or longer. The order prevents Soyo from engaging in similar acts and practices in the future by prohibiting Soyo from misrepresenting any material terms of any rebate program, including the status of or reasons for any delay in providing any rebate. Additionally the order prohibits misrepresenting the time in which any rebate will be mailed and from failing to provide any rebate within the time specified, or if no time is specified, within thirty days.

Participants

For the *Commission*: *Linda K. Badger, Matthew D. Gold, and Kerry O'Brien.*

For the *Respondent*: *Dan P Sedor, Jeffer Mengels Butler & Marmaro LLP.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Soyo, Inc., a corporation (“Soyo” or “respondent”), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent is a Nevada corporation with its principal office or place of business at 1420 South Vintage Avenue, Ontario, California 91761.

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2. Respondent has advertised, labeled, offered for sale, sold, and distributed products to the public, including computer-related hardware and other consumer electronics products. Respondent has distributed these products to the public through retailers of consumer electronics products. To make its products more attractive to these retailers and their customers, Soyo has offered numerous mail-in rebates ranging from \$15.00 to \$500.00 in value.

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.

SOYO’s REBATE ADVERTISEMENTS

4. Respondent has disseminated or has caused to be disseminated advertisements and rebate forms for mail-in rebates, including but not necessarily limited to the attached Exhibits A and B. These advertisements contain the following statements:

A. **“SOYO
20 GB 1.8" POCKET HARD DRIVE**

...

\$134.99	-	35	=	\$99.99
In-Store Price		Mail-In Rebate		Price After Rebate

...”

(Exhibit A, excerpt from a retailer’s advertisement for a pocket hard drive).

B. **“SOYO
Innovation by design**

Complaint

Buy one SY-K7VME
Get \$30.00 USD Mail-in Rebate
Offer valid 01/03/2005 to 01/30/2005

**THIS REQUEST MUST BE POSTMARKED BY
02/15/2005**

TERMS AND CONDITIONS -

...

Rebate checks will be mailed in 10 - 12 weeks after
postmark date of program.

....”

(Exhibit B, excerpt from a Soyo rebate form for a rebate
offered on a motherboard).

FALSE SHIPMENT REPRESENTATIONS

5. Through the means described in Paragraph 4, including but not necessarily limited to Exhibit A, respondent has represented, expressly or by implication, that rebate checks will be mailed to purchasers of advertised Soyo products within a reasonable period of time after receipt of their valid requests.
6. Through the means described in Paragraph 4, including but not necessarily limited to Exhibit B, respondent has represented, expressly or by implication, that:
 - A. Rebate checks will be mailed to purchasers of advertised Soyo products within ten to twelve weeks after receipt of their valid requests; and
 - B. Rebate checks will be mailed to purchasers of advertised Soyo products within ten to twelve weeks of the last date on which a valid request could be postmarked.

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7. In truth and in fact, in numerous instances, rebate checks were not mailed to purchasers of advertised Soyo products within a reasonable period of time after receipt of their valid requests, within twelve weeks after receipt of their valid requests, or within twelve weeks of the last date on which a valid request could be postmarked. Thousands of consumers who submitted valid requests for rebates since 2004 have experienced substantial delays, including delays of one year or longer. From October 2004 to March 2006, over 95 percent of respondent's rebate checks were delivered later than twelve weeks after the last date on which a valid request could be postmarked, with an average delivery time of approximately 24 weeks. Therefore, the representations set forth in Paragraphs 5 and 6 were, and are, false or misleading.

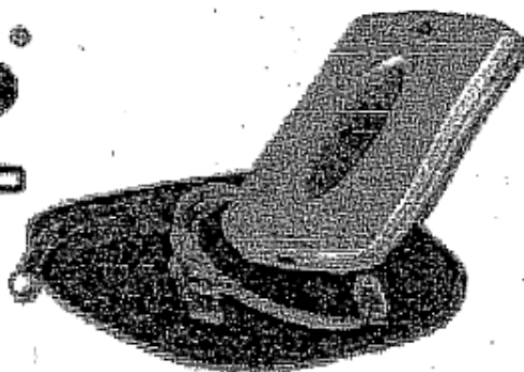
8. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this fourth day of June, 2007, has issued this complaint against respondent.

By the Commission.

Complaint

Exhibit A



20GB

1.8" POCKET HARD DRIVE

- Support USB 2.0 or 1.1 Interface
- Magnesium Alloy Casing

\$134⁹⁹ - 35 = \$99⁹⁹

In-Store
Price

Mail-In
Rebate

Price After Rebate

#4201324

Limit 1 Per Customer

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Exhibit B

SOYO
Innovation by design

Mail-in Rebate Form

Here is how you get your rebate:

1. Register your rebate at <http://www.verifyrebate.com> with Rebate ID 1506 and print out the confirmation form.
2. Mail the confirmation form with the following proof of purchase on the specific product(s) to the address below:
 - a. Original UPC barcode (see sample below)
 - b. Original sales receipt (packing slip if ordered online)
3. Check your rebate status at <http://www.verifyrebate.com>

Mail To:
SOYO Rebate Center, #1506
1142 S. Diamond Bar Blvd. #704
Diamond Bar, CA 91765

**Buy one SY-K7VME
Get \$30.00 USD Mail-in Rebate**

Offer Valid 01/03/2005 to 01/30/2005

THIS REQUEST MUST BE POSTMARKED BY 02/15/2005

TERMS AND CONDITIONS: Offer valid on purchase of SY-K7VME between 01/03/2005 and 01/30/2005 at Micro Center only. Register your rebate online at <http://www.verifyrebate.com> and submit the confirmation page together with original UPC barcode, and original sales receipt. All rebates must be mailed in separate envelopes with the appropriate outside to the address listed on the rebate form. Rebate forms with names and address different from the one on sales receipt will be denied. Your request must be postmarked prior to 02/15/2005. Manufacturer is not responsible for lost or misdirected mail. Limit ONE rebate per person, receipt, household, family or address. Rebate value will not exceed purchase price. Request from P.O. Boxes will not be accepted. Requests with invalid or undeliverable mailing address will be denied. Offer limited to cash-cases only. Your rebate rights cannot be transferred, and this offer is void where taxed, restricted or prohibited by law. This offer is valid in USA only. Keep copies of all materials submitted; originals become Manufacturer's property and will not be returned. Warning: Fraudulent submission could result in Federal prosecution under mail fraud statutes (Title 18, USC Section 1341 & 1342). Rebate checks will be mailed in 10 - 12 weeks after postmark date of program.

To verify your rebate status, please go to <http://www.verifyrebate.com>. If you have not received your check 14 weeks after rebate program postmark date, or have any questions about your rebate, please contact rebate@soyomfg.com.

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 Western Region 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

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The respondent 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 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 thirty (30) days, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Soyo, Inc. is a Nevada corporation with its principal office or place of business at 1420 South Vintage Avenue, Ontario, California 91761.

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 purposes of this order, the following definitions shall apply:

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1. Unless otherwise specified, “respondent” shall mean Soyo, Inc., a corporation, its successors and assigns and its officers, agents, representatives, and employees.
2. “Rebate” shall mean a check, cash, credit towards future purchases, or any other consideration offered to consumers who purchase products or services, and which is to be provided, subsequent to the purchase, to consumers who submit a request for redemption after satisfying the terms and conditions of the offer.
3. “Receiving a properly completed request” shall mean the time at which the respondent receives from the rebate applicant all documentation, information, and other materials required by the express terms of the rebate offer and in compliance with such terms.
4. “Eligible purchaser” shall mean each consumer:
 - a. from whom respondent has received all documentation necessary to qualify that consumer for a rebate under the terms of any Soyo rebate offer; and
 - b. whose rebate is past due as of the date of service of this order.
5. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that respondent, 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 product or service sold to consumers, in or affecting commerce, shall not:

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- A. misrepresent, in any manner, expressly or by implication, the time in which any rebate will be mailed, or otherwise provided to consumers;
- B. fail to provide any rebate within the time specified or, if no time is specified, within thirty (30) days of receiving a properly completed request; or
- C. misrepresent, in any manner, expressly or by implication, any material terms of any rebate program, including the status of or reasons for any delay in providing any rebate.

II.

IT IS FURTHER ORDERED that respondent Soyo, Inc., and its successors and assigns, shall, in accordance with this Part, provide a rebate to each eligible purchaser.

- A. Within fifteen (15) business days from the date of service of this order, respondent shall compile: (1) a mailing list or database containing the name and last known mailing address of each eligible purchaser; and (2) the rebate amount(s) each such person is owed. To compile this mailing list, respondent must consult all records in its possession, including records of those eligible purchasers who have complained to the company, any retailer, or consumer protection agency regarding unpaid Soyo rebates. In addition, respondent shall retain a National Change of Address System (“NCOA”) licensee to update this list by processing the list through the NCOA database.
- B. Within thirty-five (35) business days from the date of service of this order, respondent shall mail via first-class mail, postage prepaid, the rebate amount(s) owed to each eligible purchaser whose name appears on the list or database required by sub part A of this Part.

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- C. For a period of seventy-five (75) days from the date of service of this order, respondent shall mail via first-class mail, postage prepaid, the rebate amount(s) owed to each eligible purchaser who has not been provided a rebate pursuant to sub part — of this Part, and who contacts the respondent or the Commission in any manner. Each such rebate shall be mailed within ten (10) business days after the respondent receives such person's name and contact information.
- D. Respondent may provide, along with the rebate check, only information enabling eligible purchasers to contact respondent with questions regarding the rebate. The envelope that contains the rebate check shall contain in the upper left hand corner the following return address: Soyo, Inc., Rebate Department, 1420 South Vintage Avenue, Ontario, California 91761.
- E. Within one hundred fifty (150) days from the date of service of this order, respondent shall furnish to Commission staff the following:
 - 1. The mailing list or database required by sub part A of this Part in computer readable form;
 - 2. In computer readable form, a list of the names and addresses of all consumers who were sent rebate checks pursuant to this Part, and for each name included on the list, the amount, check number, and mailing date of every rebate check sent;
 - 3. In computer readable form, a list of the names and addresses of all consumers who contacted respondent or were referred to respondent by the Commission in accordance with sub part C of this Part;

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4. Copies of all correspondence and other communications to, from, or concerning all consumers who, after the date of service of this order, requested a rebate but were refused, and the reason(s) for denying the rebate;
5. In computer readable form, a list of the names and addresses of all consumers whose rebate checks were returned to respondent as undeliverable; and
6. All other documents and records evidencing efforts made and actions taken by respondent to identify, locate, contact, and provide funds to consumers requesting a rebate.

III.

IT IS FURTHER ORDERED that respondent Soyo, 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:

- A. A specimen copy of all advertisements or rebate forms containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All written or electronic complaints relating to rebates (whether received directly, indirectly, or through any third party) and any responses to those complaints.

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IV.

IT IS FURTHER ORDERED that respondent Soyo, Inc., and its successors and assigns, shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives whose duties include the exercise of managerial responsibility 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, to future personnel within thirty (30) days after the person assumes such position or responsibilities.

V.

IT IS FURTHER ORDERED that respondent Soyo, 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 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, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

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VI.

IT IS FURTHER ORDERED that respondent Soyo, 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.

VII.

This order will terminate on June 4, 2027, 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.

By the Commission.

Analysis to Aid Public Comment

**ANALYSIS OF CONSENT ORDER TO AID PUBLIC
COMMENT**

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Soyo, Inc. (“Soyo”). Soyo, located in Ontario, California, is a distributor of computer-related hardware and other consumer electronics products.

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement’s proposed order.

This matter concerns cash rebate offers that Soyo advertised to consumers. The complaint alleges that Soyo engaged in deceptive practices relating to these rebate offers. Specifically, the complaint alleges that Soyo falsely represented that: 1) rebates would be mailed within a reasonable period of time after receipt of a consumer’s valid request, 2) within ten to twelve weeks after receipt of a consumer’s valid request, and 3) within ten to twelve weeks of the last date on which a valid request could be postmarked. The complaint alleges that thousands of consumers who submitted valid requests for rebates since 2004 experienced substantial, unreasonable delays, including delays of one year or longer. It is further alleged that from October 2004 to March 2006, over 95 percent of respondent’s rebate checks were delivered later than twelve weeks after the last date on which a valid request could be postmarked, with an average delivery time of approximately 24 weeks.

The proposed order contains provisions designed to prevent Soyo from engaging in similar acts and practices in the future. Part I of the proposed order prohibits Soyo from misrepresenting

Analysis to Aid Public Comment

the time in which any rebate will be mailed and from failing to provide any rebate within the time specified, or if no time is specified, within thirty days. This provision also prohibits the company from misrepresenting any material terms of any rebate program, including the status of or reasons for any delay in providing any rebate. Part II of the proposed order is a redress provision which requires Soyo to pay all valid rebate requests to consumers who purchased Soyo products and whose rebates are past due. This provision also requires Soyo to send a rebate to any eligible purchaser who contacts it or the FTC for a period of seventy-five (75) days after service of the order.

Parts III through VI of the proposed order are reporting and compliance provisions. Part VII provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Complaint

IN THE MATTER OF

**DIRECTREVENUE LLC,
DIRECTREVENUE HOLDINGS LLC,
JOSHUA ABRAM, DANIEL KAUFMAN,
ALAN MURRAY AND RODNEY HOOK**

CONSENT ORDER, ETC. , IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket C-4194; File No. 052 3131
Complaint, June 26, 2007 — Decision, June 26, 2007*

This consent order addresses respondents' advertising software programs (adware) that monitor consumers' Internet use in order to display targeted pop-up ads. The order, among other things, prohibits the respondents from communicating with any consumer's computer on which the adware was installed prior to October 1, 2005, except to notify such users that they will no longer receive any advertising or communication from the respondents unless they so choose, and telling them how they can fully remove the respondents' adware from their computers. The order prohibits the respondents from downloading or installing any software program or application without consumers' express consent. The respondents are required to establish and maintain a user-friendly mechanism through which consumers can report and the respondents can timely address complaints. In addition, the respondents are required to identify advertisements served via the respondents' adware so that consumers can easily locate the source of the advertisement, the respondents' complaint mechanism, and instructions on how to uninstall such adware; and the respondents must provide reasonable and effective means to uninstall the adware. The order also requires the respondents to pay \$1.5 million to the Commission, which may be used to provide appropriate relief, including the rescission of contracts, payment of damages, and/or public notification respecting unfair or deceptive acts or practices. If the Commission determines that such relief is wholly or partially impracticable, any or all such funds shall be paid to the United States Treasury.

Participants

For the Commission: *Alysa S. Bernstein, Stacey Ferguson,
and Mamie Kresses.*