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SUPERIOR COURT OF THE STATE OF CALIFORNIA

9

COUNTY OF SAN DIEGO

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11 LARRY NELSON and
JOHN DAUB,
12 individually and on behalf of all others
similarly situated,

13
14 Plaintiffs,

15 vs.

16 SYSTEM1, INC., a Delaware corporation;
TOTAL SECURITY LIMITED, a UK private
17 company;
18 PROTECTED.NET LLC, a Delaware limited
liability company;
19 and DOES 1-50, inclusive,

20 Defendants.

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CASE NO. 37-2023-00045878-CU-BT-CTL

CLASS ACTION

FIRST AMENDED COMPLAINT FOR:

(1) FALSE ADVERTISING (BASED ON
VIOLATION OF THE CALIFORNIA
AUTOMATIC RENEWAL LAW)
[Bus. & Prof. Code, §§ 17535 et seq. &
17600]; and

(2) UNFAIR COMPETITION
[Bus. & Prof. Code, § 17200 et seq.]

1 **INTRODUCTION**

2 1. Defendants System1, Inc., Total Security Limited, and Protected.net LLC advertise
3 and sell software that (supposedly) protects computers or smartphones against unwanted ads,
4 viruses, or other online annoyances. In most instances, the software is offered as a low-cost “trial”
5 for a limited period (e.g., \$1.99 or \$2.99 for one month). However, when a consumer requests such
6 a trial, Defendants unlawfully enroll the consumer into an automatic renewal subscription and
7 thereafter charge recurring fees without the consumer’s consent. This conduct constitutes false
8 advertising, based on violation of the California Automatic Renewal Law (Bus. & Prof. Code,
9 § 17600 et seq.), and it also violates the Unfair Competition Law (Bus. & Prof. Code, § 17200 et
10 seq.). This action seeks restitution for Plaintiffs and other affected California consumers, and a
11 public injunction for the benefit of the People of the State of California.

12 **THE PARTIES**

13 2. Plaintiff Larry Nelson (“Nelson”) is an individual residing in San Diego County,
14 California.

15 3. Plaintiff John Daub (“Daub”) is an individual residing in San Diego County,
16 California.

17 4. Nelson and Daub are collectively referred to herein as “Plaintiffs.”

18 5. System1, Inc. (“System1”) is a Delaware corporation with an office in Los Angeles
19 County, California. However, System1 has not registered to do business in the State of California
20 and has not filed documents with the California Secretary of State that designate a principal office
21 in California.

22 6. Total Security Limited (“Total Security”) is a private company limited by shares
23 incorporated under the laws of England and Wales, Company Number 10161957, with offices in
24 England and in Los Angeles County, California. However, Total Security has not registered to do
25 business in the State of California and has not filed documents with the California Secretary of State
26 that designate a principal office in California. Total Security is a wholly-owned subsidiary of
27 System1.

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1 they were making a one-time purchase of a product, only to receive continued
2 shipments of the product and charges on their credit card. These unforeseen charges
3 are often the result of agreements enumerated in the “fine print” on an order or
4 advertisement that the consumer responded to.

4 (See Exhibit 1 at p. 4.)

5 12. The Assembly Committee on Judiciary provided the following background for the
6 legislation:

7 This non-controversial bill, which received a unanimous vote on the Senate floor,
8 seeks to protect consumers from unwittingly consenting to “automatic renewals” of
9 subscription orders or other “continuous service” offers. According to the author and
10 supporters, consumers are often charged for renewal purchases without their consent
11 or knowledge. For example, consumers sometimes find that a magazine subscription
12 renewal appears on a credit card statement even though they never agreed to a
13 renewal.

11 (See Exhibit 2 at p. 8.)

12 13. The ARL seeks to ensure that, before there can be a legally-binding automatic
13 renewal or continuous service arrangement, there must first be adequate disclosure of certain terms
14 and conditions and affirmative consent by the consumer. To that end, § 17602(a) makes it unlawful
15 for any business making an automatic renewal offer or a continuous service offer to a consumer in
16 California to do any of the following:

17 a. Fail to present the automatic renewal offer terms or continuous service offer
18 terms in a clear and conspicuous manner before the subscription or purchasing agreement is fulfilled
19 and in visual proximity to the request for consent to the offer. (Bus. & Prof. Code, § 17602(a)(1).)
20 For this purpose, “clear and conspicuous” means “in larger type than the surrounding text, or in
21 contrasting type, font, or color to the surrounding text of the same size, or set off from the
22 surrounding text of the same size by symbols or other marks, in a manner that clearly calls attention
23 to the language.” (Bus. & Prof. Code, § 17601(c).) The statute defines “automatic renewal offer
24 terms” to mean the “clear and conspicuous” disclosure of the following: (a) that the subscription or
25 purchasing agreement will continue until the consumer cancels; (b) the description of the
26 cancellation policy that applies to the offer; (c) the recurring charges that will be charged to the
27 consumer’s credit or debit card or payment account with a third party as part of the automatic
28 renewal plan or arrangement, and that the amount of the charge may change, if that is the case, and

1 the amount to which the charge will change, if known; (d) the length of the automatic renewal term
2 or that the service is continuous, unless the length of the term is chosen by the consumer; and (e) the
3 minimum purchase obligation, if any. (Bus. & Prof. Code, § 17601(b).)

4 b. Charge the consumer’s credit or debit card, or the consumer’s account with a
5 third party, for an automatic renewal or continuous service without first obtaining the consumer’s
6 affirmative consent to the agreement containing the automatic renewal offer terms or continuous
7 service offer terms, including the terms of an automatic renewal offer or continuous service offer
8 that is made at a promotional or discounted price for a limited period of time. (Bus. & Prof. Code,
9 § 17602(a)(2).)

10 c. Fail to provide an acknowledgment that includes the automatic renewal or
11 continuous service offer terms, cancellation policy, and information regarding how to cancel in a
12 manner that is capable of being retained by the consumer. (Bus. & Prof. Code, § 17602(a)(3).) If the
13 offer includes a free trial, the business must also disclose in the acknowledgment how to cancel and
14 allow the consumer to cancel before the consumer pays for the goods or services. (*Ibid.*) Section
15 17602(c) requires that the acknowledgment specified in § 17602(a)(3) include a toll-free telephone
16 number, electronic mail address, a postal address if the seller directly bills the consumer, or it shall
17 provide another cost-effective, timely, and easy-to-use mechanism for cancellation.

18 14. Violation of the ARL gives rise to restitution and injunctive relief under the general
19 remedies provision of the False Advertising Law, § 17535. (Bus. & Prof. Code, § 17604(a).)

20 15. If a business sends any goods, wares, merchandise, or products to a consumer under
21 an automatic renewal or continuous service agreement without first obtaining the consumer’s
22 affirmative consent to an agreement containing clear and conspicuous disclosure of all automatic
23 renewal offer terms, such material is an “unconditional gift” to the consumer. (Bus. & Prof. Code,
24 § 17603.)

25 16. In this Complaint, references to an “automatic renewal” arrangement encompass a
26 “continuous service” arrangement, unless otherwise specified.

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1 **Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.)**

2 17. The Unfair Competition Law (“UCL”) defines unfair competition as including any
3 unlawful, unfair, or fraudulent business act or practice; any unfair, deceptive, untrue, or misleading
4 advertising; and any act of false advertising. (Bus. & Prof. Code, § 17200.)

5 18. Violation of the UCL gives rise to restitution and injunctive relief. (Bus. & Prof.
6 Code, § 17203.) The remedies of the UCL are cumulative to each other and to the remedies available
7 under all other laws of California. (Bus. & Prof. Code, § 17205.)

8 **OVERVIEW OF DEFENDANTS’ BUSINESS PRACTICES**

9 19. Defendants advertise and sell software products under tradenames including (without
10 limitation) Total Adblock (which operates through the website <https://totaladblock.com>), TotalAV
11 (which operates through the website <https://totalav.com>), and Total Password (which operates
12 through the website <https://www.totalpassword.com>). Defendants’ software products are offered for
13 sale through the respective websites.

14 20. On each website, the order flow consists of several screens. For example, for Total
15 Adblock, the first step is for the consumer to enter an email address on the screen depicted in Exhibit
16 3. Next, the consumer is shown a screen with a price (in this instance, represented to be “70% OFF”
17 with a “100% Risk-Free Guarantee”), as depicted in Exhibit 4. After the consumer clicks the
18 “CONTINUE SECURELY” button, the consumer is then presented with a payment screen for entry
19 of credit card, debit card, or other payment account details, as depicted in Exhibit 5. Exhibits 3-5
20 are incorporated herein by reference. The order flow for Defendants’ other products is in all material
21 respects similar to that shown in Exhibits 3-5.

22 21. It is evident that the screens shown in Exhibits 3-5 do not meet the requirements of
23 California law for creation of an automatic renewal subscription and do not constitute affirmative
24 consent for subsequent charges. In particular, and without limitation, there is no “clear and
25 conspicuous” disclosure that a subscription will continue until the consumer cancels, or of the
26 cancellation policy, or of recurring charges to be charged to the consumer’s credit or debit card or
27 third-party payment account. Rather, in violation of California law, Defendants’ screens mention
28 renewal only in type that is smaller than surrounding text, or in text that is the same size as

1 surrounding text but without contrasting type, font, or color, or in text that is not set off from
2 surrounding text of the same size by symbols or other marks, such as would clearly call attention to
3 the language.

4 22. Nevertheless, when a consumer completes the order flow, Defendants unilaterally
5 enroll the consumer in an automatic renewal program. Thereafter, without the consumer's
6 affirmative consent, Defendants post subsequent charges to the consumer's credit card, debit card,
7 or third-party payment account, in violation of California law.

8 **CONSUMER COMPLAINTS ABOUT DEFENDANTS' BUSINESS PRACTICES**

9 23. Many consumers report that they have been wrongfully charged by Defendants.
10 Some consumers report that they were charged without ever ordering Defendants' software. Other
11 consumers report that they ordered only a free or low-cost trial for a limited period, but were
12 thereafter charged without authorization. Still other consumers report that, after contacting
13 Defendants to cancel a subscription, Defendants thereafter continued to post charges to the
14 consumer's credit card, debit card, or third-party payment account. Regardless of the particular
15 circumstances, the common theme is that Defendants charge consumers for automatic renewal
16 subscriptions, without consent. This theme runs throughout the multitude of consumer complaints
17 posted on the Better Business Bureau ("BBB") website.

18 24. Illustrative customer complaints or reviews posted on the BBB website for TotalAV
19 (<<https://www.bbb.org/us/ca/venice/profile/computer-software/total-av-antivirus-1216-716805>>
20 [as of October 20, 2023]) include the following (copied verbatim):

21 **Problems with Product/Service. (Sept. 5, 2023).** Signed up for an introductory
22 offer, that included "Free" offers. There were no * to indicate that there were fine
23 prints, nor was there any mention that these free offers would auto-renew the NEXT
24 day at full prices. But that's not even the main part of my complaint. I tried calling
25 them to cancel, and was told by an automated assistant to visit their website at their
26 help address/URL. I can't even access it because it tells me that option isn't available
because my account is a free account. Yet I have invoices sent to my email that
specifically shows that I have been charged, and it also shows on my credit card
statement. So I paid for no access to any service, and their website just continuously
loops to other offers, when all I want to do is to cancel the service and reject any and
all auto-renewals.

27 A true and correct printout of that complaint is attached as Exhibit 6.
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1 **Problems with Product/Service. (August 25, 2023).** There was an unauthorized
2 charge to my debit card by totalav.com. I requested a refund online and they said
3 they “have no record” I then made a phone call and it was VERY difficult to speak
4 to the person in the call center due to all the background noise and people talking. It
5 truly sounded like a scam. They requested my card # and I refused to give it to them.
I said you only need the last four digits; you took the money, you need to give it
back. They offered 80%, I refused and demanded a 100% refund. I was put on hold
and the person came back and said the refund had been issued. I still do not have it.
I have been trying to get it for almost a week.

6 A true and correct printout of that complaint is attached as Exhibit 7.

7 **Problems with Product/Service. (August 17, 2023).** Ive been enrolled in a monthly
8 subscription without my knowledge. I wish to get it cancelled and charges refunded.

9 A true and correct printout of that complaint is attached as Exhibit 8.

10 **Problems with Product/Service. (May 9, 2023).** I recently noticed that since
11 September 2022, my credit card was charged \$1.99 and then \$9.95 per month
12 thereafter for a TotalAV smartphone protection. I never requested or approved this
13 charge. I believe it was a scam through a pop up ad. The phone number provided to
the company on my credit card charge was false. I contacted the company for a
refund and they would not provide one.

14 A true and correct printout of that complaint is attached as Exhibit 9.

15 **Problems with Product/Service. (March 27, 2023).** Totalav has been billing my
16 Discover card for \$9.95 monthly for approximately 6 months. I did not buy this
17 service. I do not have a computer and have no use for this service. I have called
18 Discover to dispute the charge. I have also called Totalav and spoke to a
19 representative that said I could not cancel by phone. He gave me a link, which I have
tried repeatedly to cancel but to no avail. Discover issued me a new card. Totalav
found a way to bill me. I WANT this Totalav acct. Canceled. I want a refund. I want
an apology from them for their service I don’t even have.

20 A true and correct printout of that complaint is attached as Exhibit 10.

21 **Problems with Product/Service. (Dec. 14, 2022).** I have been getting charged by
22 TotalAV for a LONG time now, despite opening multiple tickets and emailing. I
23 have never used the product and I have never installed it on any of my devices,
therefore the continued charges are quite literally ridiculous. I want my account
24 canceled, and all of my charges refunded. I have received the following charges:
25 12/12/22: \$10.25 11/14/22: \$9.95 10/06/22: \$10.25 09/06/22: \$10.25 08/08/22:
\$10.25 07/05/22: \$10.25 06/03/22: \$9.95 04/18/22: \$9.26 03/23/22: \$9.26 02/18/22:
\$3.08

26 A true and correct printout of that complaint is attached as Exhibit 11.

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1 **Problems with Product/Service. (Nov. 10, 2022).** I discovered a charge on my
2 credit card and found it came from totalav and found charges every month from last
3 December. I have not used the service don't want it didn't sign up for it they can't
tell me how I joined and have the town I live in wrong. I have never received an
email or a notification that I am signed up.

4 A true and correct printout of that complaint is attached as Exhibit 12.

5 **Problems with Product/Service. (Oct. 9, 2022).** TotalAV has been charging me for
6 antivirus services that I never requested, nor authorized. They took monthly
7 payments for almost 2years. This is not my main checking account that I use
8 regularly. It was an account that I used for dividend deposits. I only caught the fraud
9 when the account was overdrawn. I couldn't believe that it was overdrawn when I
10 looked at the account. This started 1/21 through 9/22. TotalAV only refunded me
11 \$14.99 for the last month. I uploaded one of the emails that I sent them requesting
12 that they refund the entire amount that they stole from me. They took a total of
13 \$209.79 from my account in monthly payments. What's interesting is that if you look
14 at their pricing plans, the price for 1 yr is only \$19. for the year 2021. Yet they
withdrew much more than that with their monthly payments for the year. I never
even downloaded their virus protection on my phone. I didn't know that it existed. I
never received any correspondence from this company either. This company is
completely fraudulent and I wasn't surprised to see other people who were defrauded
also. Isn't there some way to expose this company for the thieves that they are?
Especially in this economy, we are all trying to save any way we can. We don't need
people stealing from us too. I would appreciate any help that you can give me.
Sincerely, *****

15 A true and correct printout of that complaint is attached as Exhibit 13.

16 **Problems with Product/Service. (Sept. 18, 2022).** I signed up for a free trial of
17 Totalav anti virus protective software. The program was garbage so I cancelled the
18 subscription. Two weeks ago, they tried to renew my subscription after i told them
19 last year to cancel it. They are trying desperately to get me to renew but they cannot
20 understand that I don't want their program. I want them to be told to stop the renewal
attempts and to never contact me again. I want it to be publicly known that it is my
OPINION that Totalav is a scam and they are ripoff artists. Because of their attempts
to renew the subscription, my debit card has been blocked and I'm going to have a
problem buying groceries this week. Please leash and muzzle them.

21 A true and correct printout of that complaint is attached as Exhibit 14.

22 **Billing/Collection Issues. (Feb. 18, 2022).** I noticed monthly charges of ***** from
23 this company on *** ***. ***** The charges go way back to *** ***** I never
24 knowingly signed up for this service. Apple iPhones do not need antivirus protection.
I would like a refund back to *** ***** Customer ID XXXXXXXX

25 A true and correct printout of that complaint is attached as Exhibit 15.

26 **Billing/Collection Issues. (Dec. 15, 2021).** Total AV charged my account *****
27 on ***** without my consent for any type of renewal or continued service with
28 them. I want my money back. This automatic withdrawal was not approved. I do not
and did not want to continue any type of service from them. I want a full refund of

1 my money from them. I am not happy with a “business” that operates in this manner.
2 I feel it’s very deceitful. I want a complete refund and do not wish to have any open
account with Total AV

3 A true and correct printout of that complaint is attached as Exhibit 16.

4 **Problems with Product/Service. (Sept. 5, 2021).** I signed up for a trial order with
5 TotalAV not realizing they started to charge me after the trial period ends without
6 my consent and authorization . I was quite upset upon seeing half a year worth of
7 monthly charges on my credit card. Called to cancel today but was not offered a
refund. Their practice is very dishonest. Please assist me with a full refund from
them. Other people must know and be aware and not get ripped off.

8 A true and correct printout of that complaint is attached as Exhibit 17.

9 **Problems with Product/Service. (Aug. 31, 2021).** I signed up for a trial of Total
10 AV for \$2.99 on 4/25/2021. Next thing I know I’m paying \$8.99/month in May. On
11 top of that I start receiving messages on my cell phone the repeatedly stating my
12 protection has expired, when in fact I’ve been paying \$8.99/mo. Finally, I had enough
13 and have been trying to cancel ever since. However, it seems to be impossible to get
14 these moron crooks off my back! As of today, on blocked the autopayment on
PayPal, obviously should have done that first thing -- lesson learned!!! This company
just won’t stop even if you try to do it exactly as explained! I will never use this
service again -- providing it can ever be stopped! Their practices are deceptive and
unwarranted!

15 A true and correct printout of that complaint is attached as Exhibit 18.

16 **Problems with Product/Service. (July 28, 2021).** This company keep billing my
17 visa it took 8.99 today from my cash app. I have no subscription with them and
18 several months ago cancelled any subscription they thought I made with them. They
continue to bill my visa card. I want my refund for each month they took my money
and for this company to stop their predatory practice!

19 A true and correct printout of that complaint is attached as Exhibit 19.

20 **Billing/Collection Issues. (Nov. 7, 2020).** Total Av keeps billing my Visa without
21 my authorization. I never ordered it. B of A denies it thankfully. The keep on trying
22 to bill my visa. Stop it. My Visa was billed by Total AV without my authorization
23 and was declined by B of A. I changed to a new Visa card # and some how Total AV
24 hacked that new number and tried billing again and was denied. I never bought or
25 used Total AV but some how they find my Visa card # and keep trying. How are they
getting my Visa # when I never gave it to Total AV. This is illegal activity and must
be stopped immediately. B of A declines it because my 3 digit security pin on my
card is not supplied by Total AV so my bank declines it! They are illegally getting
my **** # by hacking or other illegal source.

26 A true and correct printout of that complaint is attached as Exhibit 20.

27 25. The persistent pattern of unauthorized charges reflected in the foregoing BBB
28 complaints aptly characterize what happened to Plaintiffs.

1 **FACTS GIVING RISE TO THIS ACTION**

2 **Plaintiff Larry Nelson's Transaction**

3 26. Nelson does not recall ordering any software from Defendants. If Nelson did submit
4 an order, it would have been done in San Diego County on or about October 2, 2022, which is the
5 date Defendants first charged him for Total Adblock. On information and belief, the order flow of
6 the Total Adblock website in October 2022 was in all material respects the same as the order flow
7 described above in paragraph 20 and depicted in Exhibits 3-5.

8 27. On October 2, 2022, Defendants posted a \$2.99 charge to Nelson's PayPal account,
9 which was described as a charge for Total Adblock. On information and belief, that \$2.99 charge
10 reflects Defendants' charge associated with a one-month "trial" of the Total Adblock software. If
11 Nelson submitted a request for a trial of Total Adblock, he nevertheless was not aware that
12 Defendants would enroll him in a subscription that would automatically renew and for which
13 Defendants would post subsequent charges to Nelson's PayPal account.

14 28. During the ensuing months, Defendants posted additional charges to Nelson's PayPal
15 account. To begin, Defendants posted charges for Total Adblock on November 2, 2022 and
16 December 2, 2022, both for \$9.95. Then, in January 2023, Defendants posted two charges (a \$1.99
17 charge on January 1, 2023, and a \$9.95 charge on January 2, 2023), both for Total Adblock. During
18 the ensuing months, from February 2023 through July 2023, Defendants posted two monthly charges
19 of \$9.95 each, both for Total Adblock. Then, on July 23, 2023, Defendants posted a \$1.99 charge
20 for Total AV. In August 2023, Defendants posted three charges of \$9.95 each (two for Total
21 Adblock on August 1 and August 2, respectively, and one for TotalAV on August 23). The charges
22 continued into September 2023, with \$9.95 charges posted on September 1 and September 2, both
23 for Total Adblock. Nelson did not authorize any of those charges, and he received no value in return
24 for any of those charges.

25 29. Nelson did not discover that he was being charged for Total Adblock and/or Total
26 AV until in or about September 2023. Upon discovering unauthorized charges, Nelson called
27 Defendants' customer service department to stop further charges and seek a refund. Initially, Nelson
28 encountered difficulty getting through to a live agent. Eventually, on or about September 20, 2023,

1 Nelson was able to get through to an agent to cancel the purported subscriptions.

2 30. Nelson did not consent to be enrolled in any automatic renewal subscription, and
3 Nelson did not authorize Defendants to post the foregoing charges to his PayPal account. Nelson
4 therefore seeks restitution all amounts paid to Defendants between October 2022 and September
5 2023.

6 **Plaintiff John Daub's Transaction**

7 31. Daub does not recall ordering any software from Defendants. If Daub did submit an
8 order, it would have been done in San Diego County on or about August 28, 2022, which is the date
9 Defendants first charged him for TotalAV. On information and belief, the order flow of the TotalAV
10 website in August 2022 was in all material respects the same as the order flow described above in
11 paragraph 20 and depicted in Exhibits 3-5.

12 32. On August 28, 2022, Defendants posted a \$2.99 charge to Daub's credit card, which
13 was described as a charge for TotalAV. On information and belief, that \$2.99 charge reflects
14 Defendants' charge associated with a one-month "trial" of the TotalAV software. If Daub submitted
15 a request for a trial of TotalAV, he nevertheless was not aware that Defendants would enroll him in
16 a subscription that would automatically renew and for which Defendants would post subsequent
17 charges to Daub's credit card.

18 33. During the ensuing months, Defendants posted unauthorized charges to Daub's
19 credit card in the amount of \$9.95 for each month from September 2022 through August 2023.

20 34. Daub did not discover the unauthorized charges until September 2023, at which time
21 Daub called TotalAV to request cancellation and a refund of prior charges. TotalAV agreed to
22 refund only the most recent charge of \$9.95 (charged in August 2023). Daub received no value in
23 return for the charges by Defendants.

24 35. Daub did not consent to be enrolled in any automatic renewal subscription, and did
25 not authorize Defendants to post the foregoing charges to his credit card. Daub therefore seeks
26 restitution all amounts paid to Defendants between August 2022 and July 2023.

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CLASS ACTION ALLEGATIONS

36. Plaintiffs bring this lawsuit as a class action under Code of Civil Procedure § 382 on behalf of the following Class: “All California residents who, between October 20, 2019 and June 30, 2024, were enrolled in and charged for an automatic renewal or continuous service subscription for Protected Software offered by any of the Defendants, limited to individuals who did not receive a full refund of any amounts paid towards such automatic renewal or continuous service subscription. Excluded from the Class are all employees of Defendants, all employees of Plaintiffs’ counsel, and the judicial officers to whom this case is assigned.” The term “Protected Software” means one or more of the following software as a service products made available to consumers via the internet for download or via application marketplaces: PC Protect, ScanGuard, Total Adblock, TotalAV, Total Password, Total VPN, and Total WebShield.

37. Ascertainability. The members of the Class may be ascertained by reviewing records in the possession of Defendants and/or third parties, including without limitation Defendants’ marketing and promotion records, customer records, and billing records.

38. Common Questions of Fact or Law. There are questions of fact or law that are common to the members of the Class, which predominate over individual issues. Common questions regarding the Class include, without limitation: (1) whether Defendants present all statutorily-mandated automatic renewal offer terms, within the meaning of § 17601(b); (2) whether Defendants present automatic renewal offer terms in a manner that is “clear and conspicuous,” within the meaning of § 17601(c), and in “visual proximity” to a request for consent to the offer, as required by § 17602; (3) whether Defendants obtain consumers’ affirmative consent to an agreement containing clear and conspicuous disclosure of automatic renewal offer terms before charging a credit card, debit card, or third-party payment account; (4) whether Defendants provide consumers with an acknowledgment that includes clear and conspicuous disclosure of all statutorily-mandated automatic renewal or continuous service offer terms, the cancellation policy, and information regarding how to cancel; (5) whether Defendants provide an easy-to-use mechanism for cancellation; (6) Defendants’ record-keeping practices; (7) the appropriate remedies for Defendants’ conduct; and (8) the appropriate terms of an injunction.

1 consumer's affirmative consent to an agreement containing clear and conspicuous disclosure of all
2 automatic renewal offer terms or continuous service offer terms, in violation of § 17602(a)(2); and
3 (c) failing to provide an acknowledgment that includes clear and conspicuous disclosure of all
4 required automatic renewal offer terms, the cancellation policy, and information regarding how to
5 cancel, in violation of § 17602(a)(3).

6 44. Plaintiffs have suffered injury in fact and lost money as a result of Defendants'
7 violations alleged herein.

8 45. Pursuant to §§ 17603 and 17535, Plaintiffs and class members are entitled to
9 restitution of all amounts paid to Defendants for any automatic renewal or continuous service
10 subscription during the four years preceding the filing of this Complaint and continuing until
11 Defendants' statutory violations cease.

12 46. Unless enjoined and restrained by this Court, Defendants will continue to commit
13 the violations alleged herein. Pursuant to § 17535, for the benefit of the general public of the State
14 of California, Plaintiffs seek a public injunction prohibiting Defendants from continuing the
15 unlawful practices as alleged herein.

16 **SECOND CAUSE OF ACTION**

17 Unfair Competition

18 (Bus. & Prof. Code, § 17200 et seq.)

19 47. Plaintiffs incorporate the previous allegations as though fully set forth herein.

20 48. The Unfair Competition Law defines unfair competition as including any unlawful,
21 unfair or fraudulent business act or practice; any unfair, deceptive, untrue, or misleading advertising;
22 and any act of false advertising under § 17500. (Bus. & Prof. Code, § 17200.)

23 49. During the applicable limitations period, Defendants committed unlawful and unfair
24 business practices, and engaged in unfair, deceptive, untrue, or misleading advertising, by, inter alia
25 and without limitation: (a) failing to present the automatic renewal or continuous service offer terms
26 in a clear and conspicuous manner before a subscription or purchasing agreement is fulfilled and in
27 visual proximity to a request for consent to the offer, in violation of § 17602(a)(1); (b) charging the
28 consumer in connection with an automatic renewal or continuous service without first obtaining the

1 consumer's affirmative consent to an agreement containing clear and conspicuous disclosure of
2 automatic renewal offer terms or continuous service offer terms, in violation of § 17602(a)(2); and
3 (c) failing to provide an acknowledgment that includes clear and conspicuous disclosure of all
4 required automatic renewal offer terms, the cancellation policy, and information regarding how to
5 cancel, in violation of § 17602(a)(3). Plaintiffs reserve the right to identify other acts or omissions
6 that constitute unlawful or unfair business acts or practices, unfair, deceptive, untrue or misleading
7 advertising, and/or other prohibited acts.

8 50. Defendants' acts and omissions as alleged herein violate obligations imposed by
9 statute, are substantially injurious to consumers, offend public policy, and are immoral, unethical,
10 oppressive, and unscrupulous as the gravity of the conduct outweighs any alleged benefits
11 attributable to such conduct.

12 51. There were reasonably available alternatives to further Defendants' legitimate
13 business interests, other than the conduct described herein.

14 52. Defendants' acts, omissions, nondisclosures, and misleading statements as alleged
15 herein were and are false, misleading, and/or likely to deceive the consuming public.

16 53. Plaintiffs have suffered injury in fact and lost money as a result of Defendants' acts
17 of unfair competition.

18 54. Pursuant to § 17203, Plaintiffs and the class members are entitled to restitution of all
19 amounts paid to Defendants for any automatic renewal or continuous service subscription during
20 the four years preceding the filing of this Complaint and continuing until Defendants' acts of unfair
21 competition cease.

22 55. Unless enjoined and restrained by this Court, Defendants will continue to commit
23 the violations alleged herein. Pursuant to § 17203, for the benefit of the general public of the State
24 of California, Plaintiffs seek a public injunction prohibiting Defendants from continuing the
25 unlawful and unfair practices as alleged herein.

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PRAYER

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

On the First Cause of Action:

1. For restitution to Plaintiff and all class members;
2. For a public injunction;

On the Second Cause of Action:

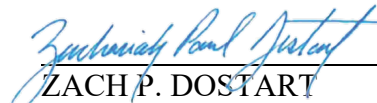
3. For restitution to Plaintiff and all class members;
4. For a public injunction;

On All Causes of Action:

5. For an award of attorneys' fees pursuant to Code Civ. Proc. § 1021.5;
6. For costs of suit;
7. For pre-judgment interest; and
8. For such other relief that the Court deems just and proper.

Dated: December 6, 2024

DOSTART HANNINK LLP


ZACH P. DOSTART
Attorneys for Plaintiffs

1022104.1

Exhibit 1

SENATE JUDICIARY COMMITTEE
Senator Ellen M. Corbett, Chair
2009-2010 Regular Session

SB 340
Senator Yee
As Amended April 2, 2009
Hearing Date: April 14, 2009
Business and Professions Code
ADM;jd

SUBJECT

Advertising: Automatic Renewal Purchases

DESCRIPTION

This bill would require, in any automatic renewal offer, a business to clearly and conspicuously state the automatic renewal offer terms and obtain the customer's affirmative consent to those terms before fulfilling any subscription or purchasing agreement on an automatic renewal basis. This bill would also require all marketing materials to clearly and conspicuously display a toll-free telephone number, if available, telephone number, postal address, or electronic mechanism the customer could use for cancellation.

This bill would require the order form to clearly and conspicuously disclose that the customer is agreeing to an automatic renewal subscription or purchasing agreement.

This bill would impose similar requirements for any automatic renewal offer made over the telephone or on an Internet Web page.

(This analysis reflects author's amendments to be offered in committee.)

BACKGROUND

Current consumer protection statutes do not address automatic renewal clauses or provisions in subscriptions or purchasing agreements. Senate Bill 340 is intended to close this gap in the law.

When some businesses began using automatic renewals for subscriptions and purchase agreements for products and services, consumer complaints began to surface regarding those automatic renewals. Consumers complained that they were unaware of and had



not requested the automatic renewals until they either received a bill or a charge on their credit card.

An example of this problem is illustrated by the Time, Inc. (Time) case. After receiving numerous consumer complaints, the Attorneys General of 23 states, including California, launched an investigation into Time's automatic renewal subscription offers. In 2006, the investigation resulted in a settlement agreement between the Attorneys General and Time that includes a number of reforms to automatic renewals that Time sends to their customers. Those reforms include, among others, expanded disclosure requirements and customers' affirmative consent to automatic renewals. (See Comment 2 for details.)

CHANGES TO EXISTING LAW

Existing law, the Unfair Competition Law (UCL), provides that unfair competition means and includes any unlawful, unfair, or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising, and any act prohibited by the False Advertising Act (FAA). (Bus. & Prof. Code Sec. 17200 et seq.)

Existing law, the FAA, includes the following:

- prohibits any person with the intent, directly or indirectly, to dispose of real or personal property, to perform services, or to make or disseminate or cause to be made or disseminated to the public any statement concerning that real or personal property that is untrue or misleading and known or should be known to be untrue or misleading; and
- prohibits any person from making or disseminating any untrue or misleading statement as part of a plan or scheme with the intent not to sell that personal property or those services at the stated or advertised price. (Bus. & Prof. Code Sec. 17500.)

Existing law provides that any violation of the FAA is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine of \$2,500, or by both. (Bus. & Prof. Secs. 17500, 17534.)

Existing law provides that any person who violates any provision of the FAA is liable for a civil penalty not to exceed \$2,500 for each violation that must be assessed and recovered in a civil action by the Attorney General or by any district attorney, county counsel, or city attorney. (Bus. & Prof. Code Sec. 17536.)

Existing law provides that a person who has suffered injury in fact and has lost money or property as a result of unfair competition may bring a civil action for relief. (Bus. & Prof. Code Sec. 17204.)

Existing law provides for injunctive relief, restitution, disgorgement, and civil penalties. (Bus. & Prof. Code Secs. 17203, 17206.)



This bill would require all printed marketing materials containing an offer with an automatic renewal term to comply with the following: the customer's agreement to the automatic renewal offer must be obtained in accordance with either (1) or (2) below so that the customer is given the opportunity to expressly consent to the offer:

1. All automatic renewal offer terms must appear on the order form in immediate proximity to the area on the form where the customer selects the subscription or purchasing agreement billing terms or where the subscription or purchasing agreement billing terms are described; the order form must clearly and conspicuously disclose that the customer is agreeing to an automatic renewal subscription or purchasing agreement; and the automatic renewal offer terms must appear on materials that can be retained by the customer.
2. Both of the following:
 - a. on the front of the order form, the marketing materials must (i) refer to the subscription or purchasing agreement using the term "automatic renewal" or "continuous renewal," (ii) clearly and conspicuously state that the customer is agreeing to the automatic renewal, and (iii) specify where the full terms of the automatic renewal offer may be found; and
 - b. the marketing materials must clearly and conspicuously state the automatic renewal offer terms presented together preceded by a title identifying them specifically as the "Automatic Renewal Terms," "Automatic Renewal Conditions," "Automatic Renewal Obligations," or "Continuous Renewal Service Terms," or other similar description.

This bill would require all marketing materials that offer an automatic renewal, when viewed as a whole, to clearly and conspicuously disclose the material terms of the automatic renewal offer and must not misrepresent the material terms of the offer.

This bill would require an automatic renewal to clearly and conspicuously describe the cancellation policy and how to cancel, including, but not limited to, a toll-free telephone number, if available, telephone number, postal address, or electronic mechanism on the Internet Web page or on the publication page of the printed materials.

This bill would require, in any automatic renewal offer made over the telephone, a business to clearly and conspicuously state the automatic renewal terms prior to obtaining a customer's consent and payment information. The business must obtain a clear affirmative statement from the customer agreeing to the automatic renewal offer terms and must send a written acknowledgement that contains the toll-free number, if available, telephone number, postal address, or electronic mechanism for cancellation.

This bill would require, in any automatic renewal offer made on an Internet Web page, the business to clearly and conspicuously disclose the automatic renewal offer terms prior to the button or icon on which the customer must click to submit the order. In any automatic renewal offer made on an Internet Web page where the automatic renewal terms do not appear immediately above the submit button, the customer must be required to affirmatively consent to the automatic renewal offer terms. The automatic



renewal terms must be preceded by a title identifying them as the “Automatic Renewal Terms,” “Automatic Renewal Conditions,” “Automatic Renewal Obligations,” “Continuous Renewal Service Terms,” or other similar description.

This bill would require, in any automatic renewal offer, a business to clearly and conspicuously state the automatic renewal offer terms and obtain the customer’s affirmative consent to those terms before fulfilling any subscription or purchasing agreement on an automatic renewal basis and all marketing materials that offer an automatic renewal subscription or purchasing agreement must clearly and conspicuously display the cancellation policy and how to cancel.

This bill would provide that no business may represent that a product is “free” if the cost of the product is incorporated in the price of the accompanying item purchased under automatic renewal conditions.

This bill would provide that a violation of the bill’s provisions would not be a crime, but all applicable civil remedies would be available.

This bill would define key terms, including “automatic renewal” and “automatic renewal terms.” (See Comment 4.)

COMMENT

1. Stated need for the bill

The author writes:

It has become increasingly common for consumers to complain about unwanted charges on their credit cards for products or services that the consumer did not explicitly request or know they were agreeing to. Consumers report they believed they were making a one-time purchase of a product, only to receive continued shipments of the product and charges on their credit card. These unforeseen charges are often the result of agreements enumerated in the “fine print” on an order or advertisement that the consumer responded to. The onus falls on the consumer to end these product shipments and stop the unwanted charges to their credit card.

A widespread instance of these violations resulted in the 2006 Time, Inc. case, in which Time settled a multi-state investigation into its automatic renewal offers and solicitations. The states launched their probe after receiving complaints from consumers that Time was billing them or charging their credit cards for unwanted magazine subscriptions. The states’ investigation found that these mail solicitations misled some consumers into paying for unwanted or unordered subscriptions.



2. Time's Assurance of Voluntary Compliance or Discontinuance (Assurance) with Attorneys General; SB 340 modeled after the Assurance

The Attorneys General of 23 states (States), including California, investigated Time's automatic renewal subscription offers. Time publishes over 150 magazines worldwide, including Time, People, Sports Illustrated, This Old House, Entertainment Weekly, Fortune, and Popular Science. Time required customers to notify it if they did not want a subscription renewal; otherwise Time charged customers' credit cards or billed customers. The automatic renewal terms replaced "the industry's prior practice of offering limited-term subscriptions that were renewed at the Customer's affirmative election." The States investigated:

[W]hether the [automatic renewal] terms were clearly and adequately disclosed; whether the Customer was given an opportunity to expressly consent to the offer; whether the Customer was likely to believe the purchase was for a limited-term subscription, rather than an automatically renewed subscription; whether Customers were subsequently informed of the activation of an Automatic Renewal, and, if so, the manner in which they were so informed; the manner by which Customers were billed or charged; and how Time sought to collect payments for charges resulting from an Automatic Renewal. (Matters Investigated set forth in the Assurance.)

As a result of the investigation, in 2006, the States reached a settlement agreement – the Assurance – with Time. In the Assurance, Time agreed to:

- provide clear and conspicuous disclosures to consumers concerning all the material terms for automatic subscription renewals and, for the next five years, provide consumers the option to affirmatively choose an automatic renewal option and Time will send those consumers who have chosen an automatic subscription renewal written reminders, including information on the right and procedure to cancel;
- honor all requests to cancel subscriptions as soon as reasonably possible and to provide refunds to consumers charged for magazines they did not order;
- stop mailing solicitations to consumers for subscriptions that resemble bills, invoices, or statements of amounts due; and
- not submit unpaid accounts of automatic renewal customers for third party collection.

Time also agreed to refund to customers up to \$4.3 million, which included up to \$828,463 to 20,238 eligible California consumers, approximately \$41 per consumer. Senate Bill 340 is modeled in large part after the Assurance.

3. Remedies available under the bill

Senate Bill 340 would provide that a violation of its provisions would not be a crime, but all applicable civil remedies would be available.



Under the FAA, any person who violates any provision of the FAA is liable for a civil penalty not to exceed \$2,500 for each violation that must be assessed and recovered in a civil action by the Attorney General or by any district attorney, county counsel, or city attorney. Under the UCL, a private party may bring a civil action for injunctive relief and/or for restitution of profits that the defendant unfairly obtained from that party. However, the party must have suffered injury in fact and lost money or property.

4. Key terms defined

This bill would define the following key terms:

- a. "Automatic renewal" would mean a plan or agreement in which a subscription or purchasing agreement is automatically renewed at the end of a definite term for a subsequent term.
- b. "Automatic renewal offer terms" would mean the following clear and conspicuous disclosure:
 - that the subscription or purchasing agreement will continue unless the customer notifies the business to stop;
 - that the customer has the right to cancel;
 - that the customer will be billed, credit card charged, or other appropriate description of the payment method depending on the method described to the customer, or chosen by the customer on the front of the order form, and that the bill, charge, or other payment method will take place before the start of each new automatic renewal term;
 - the length of the automatic renewal term or that the renewal is continuous, unless the length of the term is chosen by the customer;
 - that the price paid by the customer for future automatic renewal terms may change; and
 - the minimum purchase obligation, if any.
- c. "Clear and conspicuous" or "clearly and conspicuously" would mean a statement or communication, written or oral, presented in a font, size color, location, and contrast against the background in which it appears, compared to the other matter which is presented, so that it is readily understandable, noticeable, and readable.
- d. "Marketing materials" would include any offer, solicitation, script, product description, publication, or other promotional materials, renewal notice, purchase order device, fulfillment material, or any agreement for the sale or trial viewing of products that are delivered by mail, in person, television or radio broadcast, e-mail, Internet, Internet Web page, or telephone device, or appearing in any newspaper or magazine or on any insert thereto, or Internet link or pop-up window.

5. Recording of telephone automatic renewal offers

Assembly Bill 88 (Corbett, Ch. 77, Stats. 2003) incorporated into state law a rule adopted by the Federal Trade Commission intended to protect consumers from "abusive" telemarketing practices. The rule requires, among other things, that telemarketers make



and maintain an audio recording of all telephone solicitations. (Telemarketing Sales Rule, 16 C.F.R. Part 310, 310.4(a)(6)(i), and 310.5(a)(5), effective March 31, 2009.)

The author may want to consider requiring that telephone automatic renewal offers be audio recorded and that the recording be maintained.

6. Author's amendments

On page 3, line 17, insert:

(c) "Continuous renewal" means a plan or arrangement in which a subscription or purchasing agreement is continuously renewed until the customer cancels the renewal.

On page 3, line 19, delete (c) and insert (d).

On page 3, line 34, delete (d) and insert (e).

On page 3, line 36, delete (e) and insert (f).

On page 4, line 4, insert (f).

On page 4, line 5, insert:

(g) All automatic renewal provisions in this article shall apply to continuous renewals.

Support: California Public Interest Research Group; Consumer Federation of California; American Federation of State, County and Municipal Employees; California Alliance for Consumer Protection

Opposition: None Known

HISTORY

Source: Author

Related Pending Legislation: None Known

Prior Legislation: None Known



Exhibit 2

Date of Hearing: June 30, 2009

ASSEMBLY COMMITTEE ON JUDICIARY
Mike Feuer, Chair
SB 340 (Yee) – As Amended: June 24, 2009

PROPOSED CONSENT (As Proposed to be Amended)

SENATE VOTE: 37-0

SUBJECT: AUTOMATIC RENEWAL AND CONTINUOUS SERVICE OFFERS

KEY ISSUE: SHOULD A BUSINESS THAT MARKETS A PRODUCT WITH AN "AUTOMATIC RENEWAL OFFER" BE REQUIRED TO CLEARLY AND CONSPICUOUSLY DISCLOSE RENEWAL TERMS AND CANCELLATION POLICIES, AND TO OBTAIN THE CUSTOMER'S AFFIRMATIVE CONSENT TO AN AUTOMATIC RENEWAL?

FISCAL EFFECT: As currently in print this bill is keyed non-fiscal.

SYNOPSIS

This non-controversial bill, which received a unanimous vote on the Senate floor, seeks to protect consumers from unwittingly consenting to "automatic renewals" of subscription orders or other "continuous service" offers. According to the author and supporters, consumers are often charged for renewal purchases without their consent or knowledge. For example, consumers sometimes find that a magazine subscription renewal appears on a credit card statement even though they never agreed to a renewal. Indeed, this problem led 23 state attorneys general to launch an investigation of Time, Inc., in response to claims that the company used deceptive practices in signing up customers for automatic subscription renewals. As part of a settlement of this dispute, Time agreed to institute new practices so that customers are fully aware of and affirmatively consent to automatic renewals. This bill, following the lead of the Times' settlement, would require that renewal terms and cancellation policies be clearly and conspicuously presented to the consumer, whether the offer is made on printed material or through a telephone solicitation. In addition, the bill would require that the consumer make some affirmative acknowledgement before an order with an automatic renewal can be completed. Finally, the bill specifies that violation of the bill's provisions do not constitute a crime. The author has worked closely with affected business interests and has made several amendments that appear to address all stakeholders' concerns. There is no registered opposition to the bill.

SUMMARY: Requires any business making an "automatic renewal" or "continuous service" offer to clearly and conspicuously, as defined, disclose terms of the offer and obtain the consumer's affirmative consent to the offer. Specifically, this bill:

- 1) Makes it unlawful for any business making an automatic renewal offer or a continuous service offer to a consumer to do any of the following:



- a) Fail to present the offer terms in a clear and conspicuous manner, as defined, before the subscription or purchasing agreement is fulfilled and in visual proximity, or in the case of an offer conveyed by voice, in temporal proximity, to the request for consent to the offer.
 - b) Charge the consumer's credit or debit card or the consumer's account with a third party for an automatic renewal or continuous service offer without first obtaining the consumer's affirmative consent.
 - c) Fail to provide automatic renewal or continuous service offer terms, cancellation policy, and information regarding how to cancel in a manner that is capable of being retained by the consumer. If the offer includes a free trial, the business shall disclose how to cancel and allow the consumer to cancel before the consumer pays for the goods or services.
- 2) Requires a business making automatic renewal or continuous service offers to provide a toll-free telephone number, electronic mail address, a postal address if the seller directly bills the customer, or another cost-effective, timely, and easy-to-use mechanism for cancellation that shall be described in the written acknowledgment.
 - 3) Specifies that in the case of a material change in the terms of an automatic renewal or continuous service offer that has been accepted by the consumer, the business shall provide the consumer with a clear and conspicuous notice of the material change and provide information regarding how to cancel in a manner that is capable of being retained by the consumer.
 - 4) Specifies that the requirements of this bill shall only apply to the completion of the initial order for the automatic renewal or continuous service, except as provided.
 - 5) Provides that in any case in which a business sends any goods, wares, merchandise, or products to a consumer, under a continuous service or automatic renewal, without first obtaining the consumer's affirmative consent, in the manner required by this bill, then the goods, wares, merchandise, or products shall be deemed an unconditional gift to the consumer, and the business shall bear any shipping or other related costs.
 - 6) Provides that violation of the provisions of this bill shall not be a crime, but that all civil remedies that apply to a violation may be employed. Specifies, however, that if a business complies with the provisions of this bill in good faith, it shall not be subject to civil remedies.
 - 7) Exempts from the provisions of this bill any service provided by certain businesses or entities, including those regulated by the California Public Utilities Commission, the Federal Communication Commission, or the Federal Energy Regulatory Commission.

EXISTING LAW:

- 1) Provides, under the Unfair Competition Law (UCL), that unfair competition includes any unlawful, unfair, or fraudulent business act or practice, including any unfair, deceptive, or untrue advertising, or any act prohibited by the False Advertising Act (FAA). (Business & Professions Code Section 17200 *et seq.*)
- 2) Prohibits any person with the intent, directly or indirectly, to sell any goods or services by making or disseminating statements that the person knows, or should know, to be untrue or misleading, and prohibits any person from making or disseminating any untrue or misleading

statement as part of a plan or scheme to sell goods or services at other than the stated or advertised price. (Business & Professions Code section 17500.)

- 3) Provides that any violation of the FAA is a misdemeanor. (Business & Professions Code sections 17500, 17534.)
- 4) Provides that any person who violates any provision of the FAA is liable for a civil penalty not to exceed \$2,500 for each violation that must be assessed and recovered in a civil action by the Attorney General or by any district attorney, county counsel, or city attorney. (Business & Professions Code section 17536.)
- 5) Provides that a person who has suffered injury in fact and has lost money or property as a result of unfair competition may bring a civil action for relief. (Business & Professions Code section 17204.)
- 6) Provides for injunctive relief, restitution, disgorgement, and civil penalties for FAA violations. (Business & Professions Code sections 17203, 17206.)

COMMENTS: This non-controversial bill is a response to reported consumer complaints that certain businesses, especially those offering magazine subscriptions or other potentially continuous services, lure customers into signing up for "automatic renewals" without the consumer's full knowledge or consent. This bill seeks to address this problem by requiring clear disclosures and affirmative acts of customer consent. The author states:

It has become increasingly common for consumers to complain about unwanted charges on their credit cards for products or services that the consumer did not explicitly request or know they were agreeing to. Consumers report they believed they were making a one-time purchase of a product, only to receive continued shipments of the product and charges on their credit card. These unforeseen charges are often the result of agreements enumerated in the 'fine print' on an order or advertisement that the consumer responded to. The onus falls on the consumer to end these product shipments and stop the unwanted charges to their credit card.

As noted in the author's background material, this bill was prompted in part by an investigation brought by the attorneys general of 23 states, including California, against Time, Inc. The investigations found that subscribers to several magazines published by Time, Inc. were discovering that their subscriptions were automatically renewed even though the customers claimed that they had never knowingly consented to the renewals. In 2006, the investigation resulted in a settlement agreement between the Attorneys General and Time that requires Time to more clearly disclose renewal terms and ensure that the consumer take some affirmative step to acknowledge consent or rejection of the automatic renewal offer. According to the author, the specific disclosure and consent requirements in this measure are modeled after, though not identical to, those set forth in the Time settlement.

ARGUMENTS IN SUPPORT: According to the California Public Interest Research Group (CALPIRG), "this bill will help ensure that consumers only get into an ongoing subscription if they want to." According to the Consumer Federation of California, this measure will curb deceptive marketing practices that are used to sell everything from magazine subscriptions to "free trial" offers that lock consumers into an ongoing purchase agreement. Supporters generally



contend that this is a straightforward measure reflecting the basic premise that consumers deserve to know the terms and conditions to which they are agreeing.

Author's Technical Amendments: The author wishes to take the following technical and clarifying amendments:

- On page 4 after line 9 insert:

(e) "Consumer" means any individual who seeks or acquires, by purchase or lease, any goods, services, money, or credit for personal, family, or household purposes.

- On page 4 line 32 and on page line 16 change "customer" to "consumer"

PRIOR LEGISLATION: AB 88 (Chapter 77, Stats. of 2003) provides that a contract for a good or service that is made in connection with a telephone solicitation is unlawful if the telemarketer is in violation of a recent Federal Trade Commission (FTC) rule requiring that the seller obtain specified information and express consent directly from the consumer and, under certain circumstances, maintain a recording of the call. (This present bill would similarly require that automatic renewal offers made over the telephone comply with federal telephonic marketing regulations.)

REGISTERED SUPPORT/OPPOSITION:

Support:

California Alliance for Consumer Protection
California Public Interest Research Group (CALPIRG)
Consumer Federation of California


Opposition:

None on file

Analysis Prepared by: Thomas Clark / JUD. / (916) 319-2334



Exhibit 3





Turn Off All Annoying Ads On Your iPhone®

- ✔ Remove all annoying ads & pop-ups
- ✔ Stop advertisers tracking you online
- ✔ Enjoy faster browsing with no ads

Get Started Now →

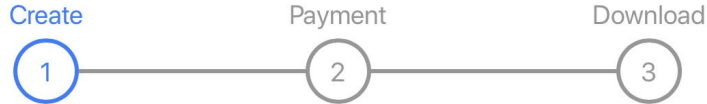
By creating an account you agree to our [Terms](#) and [Privacy Policy](#).


 **Trustpilot** 

iPhone® is a trademark of Apple Inc., registered in the U.S. and other countries and regions.

Exhibit 4

TOTAL Adblock





🟢 70% OFF

Unlimited Adblock 2023

100% Risk-Free Guarantee

~~\$9.95~~

\$2.99

✔ You have a free gift added

2 free Adblock licenses

Block ads on all your devices

CONTINUE SECURELY →



- 📺

Block ads on YouTube™

Keep watching your favorite videos, ad free, with our advanced technology
- ⊗


Block Ads on All Devices

Install across all your devices, including Android and iOS and start blocking

Exhibit 5

TOTAL Adblock




70% OFF
\$9.95
Unlimited Adblock 2023 \$2.99
 100% Risk-Free Guarantee

Express Checkout



OR

Payment



Name

Card Number

Expiry Date

CVV



Card Number

1234 5678 9012 3456 🔒

Expiry Date

MM/YY

CVV

3-4 Digits

Address

Post Code

Regular Rate \$9.95

Introductory Discount (Save 70%) - \$6.96

Total Today USD \$2.99

You agree that the 70% discount is an introductory offer that will auto-renew monthly at the regular rate until canceled

By continuing you agree to Total Adblock's Terms & Conditions

🔒 CHECKOUT SECURELY

Guaranteed Safe Checkout

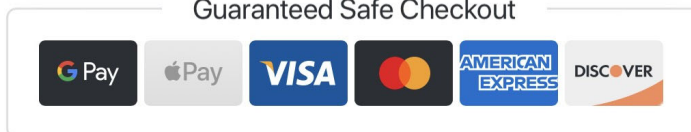



Exhibit 6

Complaint Type:

Problems with Product/Service

Status:Answered **Initial Complaint**

09/05/2023

Signed up for an introductory offer, that included "Free" offers. There were no * to indicate that there were fine prints, nor was there any mention that these free offers would auto-renew the NEXT day at full prices. But that's not even the main part of my complaint. I tried calling them to cancel, and was told by an automated assistant to visit their website at their help address/URL. I can't even access it because it tells me that option isn't available because my account is a free account. Yet I have invoices sent to my email that specifically shows that I have been charged, and it also shows on my credit card statement. So I paid for no access to any service, and their website just continuously loops to other offers, when all I want to do is to cancel the service and reject any and all auto-renewals.

**Business response**

09/07/2023

Hi *****,

Thank you for contacting TotalAV regarding your Billing query.

Upon viewing your account, I can see that you signed up multiple times, the second time being for a paid account.

I can confirm that your paid account has now been fully cancelled and no further payments have been taken. The amount of \$2.99 has been refunded back to you.

Many thanks,

- TotalAV ***** Team

Exhibit 7

Complaint Type:

Problems with Product/Service

Status:Answered **Initial Complaint**

08/25/2023

There was an unauthorized charge to my debit card by totalav.com. I requested a refund online and they said they "have no record" I then made a phone call and it was VERY difficult to speak to the person in the call center due to all the background noise and people talking. It truly sounded like a scam. They requested my card # and I refused to give it to them. I said you only need the last four digits; you took the money, you need to give it back. They offered 80%, I refused and demanded a 100% refund. I was put on hold and the person came back and said the refund had been issued. I still do not have it. I have been trying to get it for almost a week.

**Business response**

08/30/2023

Hi *****,

Thank you for contacting TotalAV regarding your query.

Upon viewing your account, you signed up for our service on 21st January 2023 on a monthly subscription period. We would like to inform you that when you signed up for our services, you agreed to our terms and conditions, which included information about automatic renewals. Our terms and conditions are provided to all customers prior to purchase, and we encourage everyone to review them carefully.

There is no way for us to access your bank details without you entering these manually upon the sign up process. You would have also needed to tick multiple boxes confirming that you agree with our Terms & Conditions for a subscription to be set up in your name, we would not be able to do this ourselves nor is this something we take part in as a business.

The last monthly payment that was taken was debited on 21st July 2023, you would have needed to contact us within 14 days of this payment to be eligible for a refund. I have checked your account and can see no previous requests to cancel prior to this one.

I have however now cancelled your account, and can confirm that no further payments will be taken or attempted to be taken.

Kind regards,

- TotalAV ***** Team

Exhibit 8

Complaint Type:

Problems with Product/Service

Status:

Answered 



Initial Complaint

08/17/2023

Ive been enrolled in a monthly subscription without my knowledge. I wish to get it cancelled and charges refunded.



Business response

08/21/2023

Hi *****,

Thanks for contacting TotalAV.

Please could you confirm some more of your details for us as we are having trouble locating a paid account under the details you have provided.

- Email address used to sign up with us (not *****)
- Name on the card used to make payment
- Last four digits of debit/credit card used to make payment
- Date of charge, currency and charge amount
- First line of payment card address or zip code
- PayPal Email Address if you paid via PayPal

A screenshot of the charge would also be helpful. Please note that without the correct account details, we will be unable to locate an account for you to help your further.

Thank you,

- TotalAV ***** Team

Exhibit 9

Complaint Type:

Problems with Product/Service

Status:

Answered 



Initial Complaint

05/09/2023

I recently noticed that since September 2022, my credit card was charged \$1.99 and then \$9.95 per month thereafter for a TotalAV smartphone protection. I never requested or approved this charge. I believe it was a scam through a pop up ad. The phone number provided to the company on my credit card charge was false. I contacted the company for a refund and they would not provide one.



Business response

05/11/2023

Hi *****,

I hope this email finds you well.

Upon checking your account I can see that my colleague actioned your cancellation request on 2023-05-10. I can confirm they did cancel your subscription and refunded the recent payment as per your cancellation request.

The refund can take up to 48 hours to appear in your account but can take up to 7 days depending on your bank account so please do not worry if it takes slightly longer.

Please let us know if there is anything else we can help with.

Kind regards,

Roo



Customer response

05/11/2023

Complaint: 20039923

I am rejecting this response because: I lost \$71.64 in unauthorized charges. All they refunded was \$9.95. This scam needs to be addressed. There are numerous complaints from others online.

Sincerely,



Business response

06/12/2023

Hi *****,

I hope this email finds you well.

Upon checking your account I can see that a refund of \$9.95 was processed on the day of your cancellation request, 2023-05-10. No further payment were refunded due to the payments being outside of the money back guarantee as per our terms and conditions. I have spoken to my manager about the charges and they have agreed a further two payments to be refunded to you as a good will gesture. I have now processed \$19.90 (\$9.95 x2) back to you, the refund can take up to 48 hours but may take up to 7 days depending on your bank, so please do not worry if it takes slightly longer.

Please let us know if there is anything else we can help you with.

Kind regards,



Customer response

06/23/2023

Complaint: 20039923

I am rejecting this response because: I was improperly and deceptively signed up for this service. They need to refund every month and be told they cannot do this to people. There are numerous complaints against this company. They should not be able to offer less than \$20 to escape accountability.

Sincerely,

Exhibit 10

Complaint Type:

Problems with Product/Service

Status:

Answered 



Initial Complaint

03/27/2023

Totalav has been billing my Discover card for \$9.95 monthly for approximately 6 months. I did not buy this service. I do not have a computer and have no use for this service. I have called Discover to dispute the charge. I have also called Totalav and spoke to a representative that said I could not cancel by phone. He gave me a link, which I have tried repeatedly to cancel but to no avail. Discover issued me a new card. Totalav found a way to bill me. I WANT this Totalav acct. Canceled. I want a refund. I want an apology from them for their service I don't even have.



Business response

03/27/2023

Hi *****,

I can confirm your account has now been cancelled and no further payments will be taken.

A refund has also been issued for the last payment taken.

Please allow up to 48 hours for this, however in some cases this can take up to 7 days to complete.

Kind regards,

Exhibit 11

Complaint Type:

Problems with Product/Service

Status:Answered **Initial Complaint**

12/14/2022

I have been getting charged by TotalAV for a LONG time now, despite opening multiple tickets and emailing. I have never used the product and I have never installed it on any of my devices, therefore the continued charges are quite literally ridiculous. I want my account canceled, and all of my charges refunded. I have received the following charges: 12/12/22: \$10.25 11/14/22: \$9.95 10/06/22: \$10.25 09/06/22: \$10.25 08/08/22: \$10.25 07/05/22: \$10.25 06/03/22: \$9.95 04/18/22: \$9.26 03/23/22: \$9.26 02/18/22: \$3.08

**Business response**

01/04/2023

Business Response /* (1000, 5, 2022/12/15) */ Hi ***** , I am sorry to hear about your experience. Please be aware that not installing the app does not mean there will not be a charge on your account. I can see from your previous interactions with our support team that the first contact to them was August 2022. I have therefore refunded all payments from this date until the current date. Please allow up to 48 hours for this to process, however in some cases this can take up to 7 days. Kind regards, Anna

Exhibit 12

Complaint Type:

Problems with Product/Service

Status:

Answered 



Initial Complaint

11/10/2022

I discovered a charge on my credit card and found it came from totalav and found charges every month from last December. I have not used the service don't want it didn't sign up for it they can't tell me how I joined and have the town I live in wrong. I have never received an email or a notification that I am signed up.



Business response

01/25/2023

Business Response /* (1000, 5, 2022/11/14) */ Hi ***** I can see that your account has been cancelled and a refund was issued to you. Please allow up to 48 hours for this, however in some cases this can take up to 7 days to complete. If you would like our assistance please contact***** Kind Regards, Ellis **Consumer**

Response /* (3000, 7, 2022/11/30) */ (The consumer indicated he/she DID NOT accept the response from the business.) The only acceptable resolution needs to be a full refund from December of 2021. I have never used Totalav's product and didn't even know what it was. I also have no idea how I joined I have asked Totalav this question and have no answer. The reviews and complaints I have read show others that have been tricked into Totalav. I have never given them my credit card info, in my account they have the city I live in wrong and no other information about me. I should not have to pay for a product I have never used or wanted. **Business**

Response /* (4000, 9, 2022/12/07) */ Hi ***** Unfortunately an account was created using these details and a subscription has been active since 2021. Your request for a refund is past our 30-day policy and therefore we cannot refund any more previous payments. Kind Regards, Ellis **Consumer Response** /* (4200, 11, 2022/12/16) */ (The consumer indicated he/she DID NOT accept the response from the business.) How was this account created I did not create it and with what details you don't even have the right address I can prove that I have never used your product.

Exhibit 13

Complaint Type:

Problems with Product/Service

Status:

Answered 



Initial Complaint

10/09/2022

TotalAV has been charging me for antivirus services that I never requested, nor authorized. They took monthly payments for almost 2years. This is not my main checking account that I use regularly. It was an account that I used for dividend deposits. I only caught the fraud when the account was overdrawn. I couldn't believe that it was overdrawn when I looked at the account. This started 1/21 through 9/22. TotalAV only refunded me \$14.99 for the last month. I uploaded one of the emails that I sent them requesting that they refund the entire amount that they stole from me. They took a total of \$209.79 from my account in monthly payments. What's interesting is that if you look at their pricing plans, the price for 1 yr is only \$19. for the year 2021. Yet they withdrew much more than that with their monthly payments for the year. I never even downloaded their virus protection on my phone. I didn't know that it existed. I never received any correspondence from this company either. This company is completely fraudulent and I wasn't surprised to see other people who were defrauded also. Isn't there some way to expose this company for the thieves that they are? Especially in this economy, we are all trying to save any way we can. We don't need people stealing from us too. I would appreciate any help that you can give me. Sincerely, *****



Business response

01/26/2023

Business Response /* (1000, 5, 2022/10/11) */ / Hi ***** I would like to assure you that there is no way that a customer can sign up to our service without entering their payment details themselves - we do not 'steal' details from anyone. All payments made in 2022 have been refunded. These were on a monthly subscription basis, it seems. Please allow up to 48 hours for the refund to show in your account. Kind regards, **** **Consumer Response** /* (3000, 7, 2022/10/20) */ / (The consumer indicated he/she DID NOT accept the response from the business.) ****, I find it interesting that my so called, "subscription", just happened to begin on New Years Day on 1/1/21. I had a New Years Day party on that day and I'm pretty sure that I didn't have time to scroll through my e-mails and accept an offer for antivirus protection that I didn't need. I have had an antivirus protection plan with McAfee for years. I would have deleted your offer as soon as I saw it. You should have some documentation of my enrollment which no one seems to have. A doc-u-sign or a contract of my services contract. Your software must not be very good if your program doesn't have enrollment information. You said that "it seems", as though I was on a "monthly subscription basis". You don't know? Why is that, that you don't know? No record of my enrollment, makes sense. With McAfee, I have to renew my subscription every year. There's no interruption with my protection because they email months in advance to remind me. Hmm, you just keep the subscription rolling for as long as you can until the client finally cancels it. You don't care about their

protection lapsing because you are worried about them. You do it because you want to make money from them, just like gym memberships. What a racket! Your company should be under investigation. I don't know how you get innocent people's credit card information but I'm pretty sure that it's not honestly. What is so strange to me is the account that the funds were drawn from. It wasn't my regular checking account. It was an old account that I haven't used in years. It was an account that I kept for sentimental reasons. That's why you were able to deduct from it for almost 2 years. I never looked at that account until it was overdrawn. I thank God that I didn't have more money in the account. You would still be taking money unbeknownst to me. My deceased husband and I used that account 15 years ago. Now I'm going to have to close that account because I have no idea how you received my account information. I don't even carry that debit card in my wallet. Do you know what you were protecting? I've never received ANY communications from you. I get emails from McAfee from time to time. I'll bet that you didn't even have my email address until I started emailing you. I would appreciate it if you would investigate the information that I've given you. I swear that I'm not responsible for this account. If you investigate you will see that I am right. Sincerely, ***** **Business**

Response /* (4000, 9, 2022/10/27) */ / Hi ***** , The email address you provided with this complaint shows an account that was opened in February 2021. This was on a monthly basis. If you have another account with charges from 1/1/2021 as you have stated, please provide the email address for this account. Sometimes email communications from us end up in spam email folders. It may be that yours appeared there. I have refunded a further two payments from your account. They can take up to 7 days to show in your account. These are already outside of the money-back guarantee period (14 days for monthly subscriptions), as are the other payments and these therefore are not eligible for a refund. Regards, **** **Consumer**

Response /* (4200, 11, 2022/11/07) */ / (The consumer indicated he/she DID NOT accept the response from the business.) Not the total amount paid. I reached out to McAfee for a statement during that time period. I hope that they respond to my request. I'll send it when I receive it.

Exhibit 14

Complaint Type:

Problems with Product/Service

Status:Answered **Initial Complaint**

09/18/2022

I signed up for a free trial of Totalav anti virus protective software. The program was garbage so I cancelled the subscription. Two weeks ago, they tried to renew my subscription after i told them last year to cancel it. They are trying desperately to get me to renew but they cannot understand that I don't want their program. I want them to be told to stop the renewal attempts and to never contact me again. I want it to be publicly known that it is my OPINION that Totalav is a scam and they are ripoff artists. Because of their attempts to renew the subscription, my debit card has been blocked and I'm going to have a problem buying groceries this week. Please leash and muzzle them.

**Business response**

10/07/2022

Business Response /* (1000, 5, 2022/09/20) */ Confirmation that the customer has been unsubscribed from emails and no further contact will be attempted.

Exhibit 15

Complaint Type:

Billing/Collection Issues

Status:Answered **Initial Complaint**

02/18/2022

I noticed monthly charges of **** from this company on *** ** ***** The charges go way back to *** ***** I never knowingly signed up for this service. Apple iPhones do not need antivirus protection. I would like a refund back to *** ***** Customer ID XXXXXXXX

**Business response**

05/10/2022

Business Response /* (1000, 5, 2022/04/01) */ Hello ***** I have investigated your complaint and can confirm the following. We apologize if there has been some confusion regarding the charges to your account. All customers receive an introductory discount upon sign up for antivirus protection, either on a monthly or annual subscription. To ensure our customers devices continue to stay protected, all services automatically renew. The introductory discount does not apply to the renewal payment and all renewals are charged at the regular rate. We send an email giving notice of this occurrence. You purchased a paid monthly subscription on the 29th January 2021. A request was made in October 2021 to cancel, however the request was not confirmed through our cancellation process, so the account remained open. I can confirm that your account has now been cancelled, and a refund until October 2021 has been issued. We are not able to issue refunds for the whole of the account as our money back guarantee is only applicable for a 14 day period. Refunds can take 48 hours however please allow up to 7 days. I hope that this has helped to resolve the issue. Kind Regards ***** **Consumer Response** /* (3000, 7, 2022/04/06) */ (The consumer indicated he/she DID NOT accept the response from the business.) As stated in my complaint, I never knowingly agreed to this service. The charges of \$8.99 per month began Jan 29, 2021. I am requesting refund of all payments. For the 8 months through September, that totals \$71.92. That's the refund I require to settle this complaint. **Business Response** /* (4000, 9, 2022/04/20) */ Hi ***** , I can confirm that your account has now been cancelled, and a refund until October 2021 has been issued. We are not able to issue refunds for the whole of the account as our money back guarantee is only applicable for a 14 day period. Refunds can take 48 hours however please allow up to 7 days. I hope that this has helped to resolve the issue. Kind Regards *****

Exhibit 16

Complaint Type:

Billing/Collection Issues

Status:

Answered 



Initial Complaint

12/15/2021

Total AV charged my account ***** on ***** without my consent for any type of renewal or continued service with them. I want my money back. This automatic withdrawal was not approved. I do not and did not want to continue any type of service from them. I want a full refund of my money from them. I am not happy with a "business" that operates in this manner. I feel it's very deceitful. I want a complete refund and do not wish to have any open account with Total AV



Business response

01/25/2022

Business Response /* (1000, 5, 2022/01/07) */ Hello ***** I have investigated your complaint and can confirm that a discount has been applied to your account and a refund has been issued. I hope that this has helped to resolve the issue. Kind Regards *****

Exhibit 17

Complaint Type:

Problems with Product/Service

Status:

Answered 



Initial Complaint

09/05/2021

I signed up for a trial order with TotalAV not realizing they started to charge me after the trial period ends without my consent and authorization . I was quite upset upon seeing half a year worth of monthly charges on my credit card. Called to cancel today but was not offered a refund. Their practice is very dishonest. Please assist me with a full refund from them. Other people must know and be aware and not get ripped off.



Business response

06/22/2022


Business Response /* (1000, 5, 2021/09/15) */ Hello ***** I have investigated your complaint and can confirm the following. Your account was created on the 3rd January 2021 as a monthly subscription. We apologize if there has been some confusion regarding the charges to your account. All customers receive an introductory discount upon sign up for antivirus protection, either on a monthly or annual subscription. To ensure our customers devices continue to stay protected, all services automatically renew. The introductory discount does not apply to the renewal payment and all renewals are charged at the regular rate. I can confirm that your account has now been cancelled. As a gesture of goodwill I have issued a refund for the last two payments, totalling \$17.98. I can confirm that no further charges will occur. I hope that this has helped to resolve the issue. Kind Regards

Exhibit 18

Complaint Type:

Problems with Product/Service

Status:

Answered 



Initial Complaint

08/31/2021

I signed up for a trial of Total AV for \$2.99 on 4/25/2021. Next thing I know I'm paying \$8.99/month in May. On top of that I start receiving messages on my cell phone the repeatedly stating my protection has expired, when in fact I've been paying \$8.99/mo. Finally, I had enough and have been trying to cancel ever since. However, it seems to be impossible to get these moron crooks off my back! As of today, on blocked the autopayment on PayPal, obviously should have done that first thing -- lesson learned!!! This company just won't stop even if you try to do it exactly as explained! I will never use this service again -- providing it can ever be stopped! Their practices are deceptive and unwarranted!



Business response


07/29/2022

Business Response /* (1000, 5, 2021/09/15) */ Hello *** I'm sorry to hear that the software has not met your expectations. I can confirm that your account has been cancelled and a refund of \$8.99 has been issued. I hope that this has helped to resolve the issue. Kind Regards Sophie

Exhibit 19

Complaint Type:

Problems with Product/Service

Status:Answered **Initial Complaint**

07/28/2021

This company keep billing my visa it took 8.99 today from my cash app. I have no subscription with them and several months ago cancelled any subscription they thought I made with them. They continue to bill my visa card. I want my refund for each month they took my money and for this company to stop their predatory practice!

**Business response**

10/01/2021

Business Response /* (1000, 5, 2021/08/09) */ Hello ***** I have investigated your complaint and can confirm the following information. Your account was created on the 28th March 2021 with the matching address information to this complaint and purchased using a visa card. Order confirmation was sent on the 28th March 2021 via email and the email has been marked as opened. All customers receive an introductory discount upon sign up for antivirus protection, either on a monthly or annual subscription. To ensure our customers devices continue to stay protected, all services automatically renew. The introductory discount does not apply to the renewal payment and all renewals are charged at the regular rate. We advise all customers that if you wish to cancel your account, please do not simply uninstall your software, you need to contact us in order to cancel the account. I can confirm that there has been no instruction received to cancel your account, therefore the account has remained open. I can confirm that the account has now been cancelled and a refund of \$8.99 has been issued as part of our 14-day money-back guarantee. I hope that this has helped to resolve the issue. Kind Regards ***** **Consumer Response** /* (3000, 7, 2021/08/16) */ (The consumer indicated he/she DID NOT accept the response from the business.) I told this company I did not subscribe! They have taken 8.99 from my card since March each month up to now. I want all my money returned. **Business Response** /* (4000, 9, 2021/08/24) */ Hello ***** A refund has been issued in line with our cancellation policy, which also honours our 14-day money-back guarantee. The account is not eligible for any additional refunds. I have also been able to confirm that all of the information on the account, matches the information within your complaint. Kind Regards ***** **Consumer Response** /* (-5, 12, 2021/09/30) */ (The consumer indicated he/she DID NOT accept the response from the business.) This business is a predator business that will continue to bill people way after a cancelled subscription. A movement is being created all their victims are being collected and contacted. We get them before Congress the consumer protection commission... My attorney will contact them with a complaint. Thank you for your endeavors to resolve this matter.

Exhibit 20

Complaint Type:

Billing/Collection Issues

Status:

Answered 



Initial Complaint

11/07/2020

Total Av keeps billing my Visa without my authorization. I never ordered it. B of A denies it thankfully. The keep on trying to bill my visa. Stop it. My Visa was billed by Total AV without my authorization and was declined by B of A. I changed to a new Visa card # and some how Total AV hacked that new number and tried billing again and was denied. I never bought or used Total AV but some how they find my Visa card # and keep trying. How are they getting my Visa # when I never gave it to Total AV. This is illegal activity and must be stopped immediately. B of A declines it because my 3 digit security pin on my card is not supplied by Total AV so my bank declines it! They are illegally getting my **** # by hacking or other illegal source.



Business response

04/09/2021

Business Response /* (1000, 5, 2020/11/24) */ Hello ***** I have investigated your complaint and can confirm the following. All customers receive an introductory discount upon sign up for antivirus protection, either on a monthly or annual subscription. To ensure our customers devices continue to stay protected, all services automatically renew and we send an email giving notice of this occurrence. We advise all customers that if you wish to cancel your account, please do not simply uninstall your software, you need to contact us in order to cancel the account. The account was opened on the *** ***** **** as an annual subscription. An email was sent on the *** ***** **** giving 30 days notice of the upcoming renewal date and no request to cancel the account has been received. The payment for the auto-renewal failed, and the account was cancelled on the *** ***** **** by a member of the Support Team. The account now shows as cancelled and no further charges will occur. I hope that this has helped to resolve the issue. Kind Regards

1 **PROOF OF SERVICE**

2 *Nelson, et al. v. System1, Inc., et al., Case No. 37-2023-00045878-CU-BT-CTL*

3 **STATE OF CALIFORNIA, COUNTY OF SAN DIEGO**

4 At the time of service, I was over 18 years of age and **not a party to this action**. I am
5 employed in the County of San Diego, State of California. My business address is 4225 Executive
6 Square, Suite 600, La Jolla, CA 92037-1484.

7 On December 6, 2024, I served a true copy of the following document described as

8 **FIRST AMENDED COMPLAINT**

9 on the interested parties in this action as follows:

10 Joshua G. Hamilton
joshua.hamilton@lw.com
11 Gregory W. Swartz
Greg.Swartz@lw.com
12 LATHAM & WATKINS LLP
10250 Constellation Blvd., Suite 1100
13 Los Angeles, CA 90067
Phone: (424) 653-5500
14 Fax: (424) 653-5501

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Facsimile: (858) 523-5450

Counsel for Defendants System1, Inc., Total Security Limited, and Protected.net LLC

15 *Counsel for Defendants System1, Inc., Total Security Limited, and Protected.net LLC*

16 **BY E-MAIL:** I caused a copy of the document to be sent from e-mail address
17 cklobucar@sdlaw.com to the persons at the e-mail addresses listed above. I did not receive, within
18 a reasonable time after the transmission, any electronic message or other indication that the
19 transmission was unsuccessful.

20 I declare under penalty of perjury under the laws of the State of California that the foregoing
21 is true and correct. Executed on December 6, 2024, at San Diego, California.

22
23 *Catherine Klobucar*
24 Catherine S. Klobucar