

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,	)	
	)	
Plaintiff,	)	Case No. 10 C 3168
	)	
v.	)	Judge Matthew F. Kennelly
	)	
IMM INTERACTIVE, INC., a New York Corporation formerly known as INTERMARK COMMUNICATIONS, INC., also d/b/a COPEAC and INTERMARK MEDIA,	)	Magistrate Judge Jeffrey T. Gilbert
	)	
Defendant.	)	
	)	

**PLAINTIFF’S MOTION FOR A TEMPORARY RESTRAINING  
ORDER WITH OTHER EQUITABLE RELIEF AND ORDER TO SHOW  
CAUSE WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE**

Plaintiff, the Federal Trade Commission (“FTC”), having filed its Complaint in this matter seeking preliminary and permanent injunctive and other equitable relief, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), moves this Court for entry of a Temporary Restraining Order with Other Equitable Relief, and for an Order to Show Cause Why a Preliminary Injunction Should Not Issue (“TRO”).<sup>1</sup> In support thereof, Plaintiff states:

1. The FTC seeks an Order:
  - A. Temporarily restraining Defendant from further violations of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a), 52, as alleged in the Complaint;

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<sup>1</sup> Plaintiff’s Proposed TRO is attached as Exhibit 1.

B. Temporarily restraining and enjoining Defendant from dissipating assets other than those that are actual, ordinary and necessary business expenses that Defendant reasonably incurs;

C. Temporarily restraining and enjoining Defendant from destroying or concealing documents;

D. Requiring Defendant to complete financial statements and provide a detailed accounting;

E. Granting Plaintiff leave for expedited discovery; and

F. Requiring Defendant to show cause why this Court should not issue a preliminary injunction extending such temporary relief pending an adjudication on the merits.

2. This Court has full authority to grant the relief requested. A district court may issue injunctions to enjoin violations of the FTC Act. *See* 15 U.S.C. 53(b); *FTC v. Febre*, 128 F.3d 530, 534 (7th Cir. 1997); *FTC v. World Travel Vacation Brokers, Inc.*, 861 F.2d 1020, 1028 (7th Cir. 1988). To obtain a temporary restraining order, the FTC must merely demonstrate: (1) a likelihood of success on the merits, and (2) that the balance of the equities tips in its favor. *World Travel*, 861 F.2d at 1029. Courts in this district have repeatedly exercised their authority to grant TROs in similar FTC actions.<sup>2</sup>

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<sup>2</sup> *See, e.g., FTC v. Central Coast Nutraceuticals, Inc.*, 10 C 4931 (N.D. Ill. Aug. 5, 2010) (Norgle, J.) (entering *ex parte* TRO for false claims regarding acai berry supplements); *FTC v. Atkinson*, 08C5666 (N.D. Ill. Oct. 6, 2008) (Kendall, J.) (*ex parte* TRO and asset freeze for violations of FTC Act involving deceptive sale of pharmaceuticals and dietary supplements); *FTC v. Spear Systems, Inc.*, 07C 5597 (N.D. Ill. Oct. 5, 2007) (Andersen, J.) (*ex parte* TRO and asset freeze for violations of FTC Act involving sale of dietary supplement); *FTC v. Sili Nutraceuticals, LLC*, 07C 4541 (N.D. Ill. Aug. 13, 2007) (Kennelly, J.) (same); *FTC v. Harry*, 04 C 4790 (N.D. Ill. July 27, 2004) (Manning, J.) (same); *FTC v. AVS Marketing, Inc.*, 04 C 6915 (N.D. Ill. Oct. 27, 2004) (Moran, J.) (same); *FTC v. Phoenix Avatar LLC, et al.*, No. 04 C 2897 (N.D. Ill. April 23, 2004) (Holderman, J.) (same).

3. As explained in more detail in the FTC's memorandum and exhibits filed herewith in support of this Motion, the injunctive relief requested by the FTC is warranted in this case. Defendant is engaging in deceptive practices in violation of the FTC Act in connection with the advertising of acai berry weight loss products on websites crafted to look like legitimate news sites. Many of Defendant's websites feature a purported reporter's first-hand account of losing twenty-five pounds after using an acai berry supplement for four weeks. The weight loss claims are false, and the websites are simply advertisements aimed at deceptively enticing consumers to purchase the products from the third party websites recommended by Defendant. The FTC has received numerous complaints from consumers who, having been deceived by fake news sites like those of Defendant, were charged between \$60 and \$100 for the products. Defendant's practices have affected thousands of consumers, and the conduct is ongoing.

**WHEREFORE**, Plaintiff FTC respectfully requests that this Court grant its Motion for a Temporary Restraining Order, Other Equitable Relief, and Order to Show Cause Why a Preliminary Injunction Should Not Issue.

Respectfully Submitted,

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