



United States of America
FEDERAL TRADE COMMISSION
Washington, D.C. 20580

Division of Advertising Practices

Mary K. Engle

October 31, 2013

Lewis Rose, Esq.
Kelley Drye & Warren LLP
3050 K Street NW, Suite 400
Washington, DC 20007-5108

Re: Oracle SPARC T5 Server

Dear Mr. Rose:

As you know, the staff of the Federal Trade Commission's Division of Advertising Practices has conducted an inquiry into certain advertising representations made by your client, Oracle Corporation ("Oracle"), for its SPARC T5 Server. The National Advertising Division of the Council of Better Business Bureaus ("NAD") referred this matter to us after a compliance proceeding concluded that Oracle failed to modify its advertising as recommended by NAD. The challenged advertisement claimed that an Oracle server priced at \$299,000 performed 2.6 times better than an IBM server priced at \$805,000. NAD concluded that the benchmark test Oracle chose for its ad, comparing one specific Oracle server configuration to one specific IBM server configuration, was "wholly insufficient" to substantiate broad server comparisons.

Upon review of this matter, we have determined not to take additional action at this time. In arriving at this conclusion, we considered a number of factors related to resource allocation and enforcement priorities, including the nature of the product (expensive enterprise servers, typically highly customized for each client) and the complex sales and purchasing process for the product, as well as the nature of any FTC Act violation and the type and severity of any consumer injury. The Commission reserves the right to take such further action as the public interest may require.

Very truly yours,

Mary Koelbel Engle
Associate Director

cc: Andrea C. Levine, Esq.
National Advertising Division