

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

ZAAPPAAZ LLC, also d/b/a Wrist-Band.com,
WBpromotion.com, CustomLanyard.net, and WB
Promotions; and

AZIM MAKANOJIYA, individually and as an
officer of ZAAPPAAZ LLC,

Defendants.

Civil Matter No. _____

**COMPLAINT FOR PERMANENT INJUNCTION
AND OTHER EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), for its Complaint alleges:

1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b; and the Mail, Internet, or Telephone Order Merchandise Rule (“MITOR”), 16 C.F.R. Part 435, to obtain temporary, preliminary, and permanent injunctive relief, restitution, rescission or reformation of contracts, the refund of money or return of property, the payment of damages, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and in violation of MITOR, 16 C.F.R. Part 435.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345.

3. Venue is proper in this District under 28 U.S.C. § 1391(b)(1), (c)(1), (c)(2), and (d), and 15 U.S.C. § 53(b).

PLAINTIFF

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41–58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces MITOR, 16 C.F.R. Part 435, which requires mail-, Internet-, or phone-based sellers to have a reasonable basis for advertised shipping times, and, when sellers cannot meet promised shipping times or ship within 30 days, to provide buyers with the option to consent to a delay in shipping or to cancel their orders and receive a prompt refund.

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and MITOR, and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 57b; 16 C.F.R. Part 435.

DEFENDANTS

6. Defendant Zaappaaz LLC (“Zaappaaz”), also doing business as Wrist-Band.com, WBpromotion.com, CustomLanyard.net, and WB Promotions, is a Texas corporation with its principal place of business at 35 Cadence Court, Richmond, Texas, 77469. Zaappaaz transacts or has transacted business in this District and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Zaappaaz has advertised, marketed, distributed, or sold merchandise to consumers throughout the United States.

7. Defendant Azim Makanojiya is the founder, president, and a director of Zaappaaz, a company he created in 2008. In 2017, Mr. Makanojiya pled guilty, individually and on behalf of Zaappaaz, to charges of price fixing brought by the Department of Justice’s antitrust criminal division. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Zaappaaz, including the acts and practices set forth in this Complaint. Defendant Makanojiya resides in this District and, in connection with the matters alleged herein, transacts or has transacted business in this District and throughout the United States.

COMMERCE

8. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' BUSINESS ACTIVITIES

Overview

9. Seeking to capitalize on demand for personal protective equipment (“PPE”) because of the COVID-19 pandemic, Defendants began marketing facemasks, face shields, gloves, and other merchandise advertised as PPE through their website in March 2020. Defendants promised consumers the PPE was “in stock” and would ship the same day, and offered guaranteed delivery dates, with higher shipping costs for faster delivery.

10. Defendants’ same-day shipping promises and guaranteed delivery dates were, in many cases, false. In fact, Defendants frequently waited weeks to ship products and failed to inform consumers of the delay. “Guaranteed” delivery dates passed without delivery of purchased goods, and Defendants ignored persistent consumer questions and refund demands.

Defendants’ Shipping Practices

11. Zaappaaz markets and sells consumer goods, including customized merchandise such as wristbands, lanyards, keychains, can coolers, and various PPE, to consumers throughout the United States and internationally.

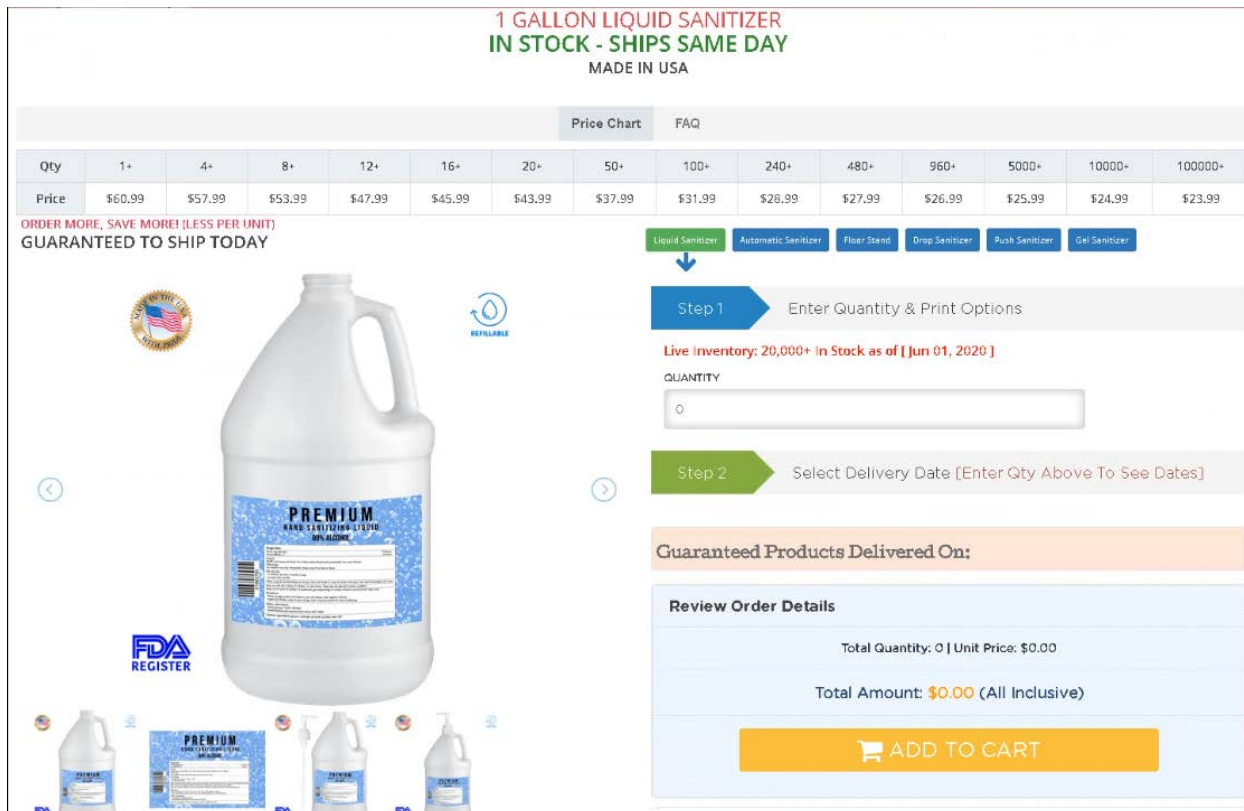
12. Zaappaaz sells these goods through its websites, www.Wrist-Band.com, WBpromotion.com, and CustomLanyard.net.

13. During the early months of the pandemic in the United States, obtaining PPE and related products as quickly as possible was paramount for many consumers. PPE was in high demand and difficult to find.

14. In response, Zaappaaz began selling PPE, claiming its products were in stock and shipped the same day as the order. At the same time, Zaappaaz also began offering consumers guaranteed delivery dates, allowing consumers to pay for faster delivery.

15. Zaappaaz clearly and conspicuously displays these shipping, delivery, and in-stock guarantees across multiple product pages.

16. For example, Zaappaaz tells consumers that its 1 Gallon Liquid Sanitizer is “IN STOCK,” “GUARANTEED TO SHIP TODAY,” and offers the option to select the desired guaranteed delivery date.



Ex. A (June 1, 2020, wrist-band.com website).

17. Similarly, Zaappaaz represents that it has face shields and no contact infrared thermometers “IN STOCK” and available to “SHIP[] SAME DAY.”

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