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Via Facsimile to (202) 637-0968 and First Class Mail

Ari Schwartz
Alissa Cooper
Center For Democracy & Technology
1634 Eye Street NW #1100
Washington DC, 20006

Re: SoftwareOnline.com

Dear Mr. Schwartz and Ms. Cooper

We represent SoftwareOnline.com. We write to bring to your attention misleading characterizations of certain litigation published on the Center For Democracy & Technology's website. The litigation is State of Washington v. SoftwareOnline.com. It is discussed on the "Spyware Enforcement – State" portion of your website under the "Consumer Privacy" Section (located at: <http://www.cdt.org/privacy/spyware/20060626spyware-enforcement-state.php>). Your website's miscategorization of this matter as a "spyware case" and "spyware enforcement" creates the potential for serious damage to SoftwareOnline.com's brand, goodwill, and business prospects.

SoftwareOnline voluntarily settled Consumer Protection Act claims brought by the Washington Attorney General's Office on April 11, 2006. The complaint filed by the State of Washington against SoftwareOnline.com and the judgment voluntarily entered by SoftwareOnline.com do not contain any claims under anti-spyware statutes or laws. If you go to the Washington State Attorney General's website (located at www.atg.wa.gov) and type the word "spyware" in the searchbox, you will *not* find any references to SoftwareOnline.com. Further, if you search through press releases on the WSAG website, you will see that the Attorney General reports the Secure Computer action filed on January 25, 2006 as the "first lawsuit under the state's new computer spyware act" (see http://www.atg.wa.gov/releases/2006/rel_Spyware_Lawsuit_012506.html) and the Movie Land

action filed on August 14, 2006 to be the "second lawsuit under the state's computer spyware act" (see http://www.atg.wa.gov/releases/2006/rel_Movieland_Spyware_Lawsuit_081406.html). The SoftwareOnline.com action was filed between these two, and the complaint filed against SoftwareOnline did not contain any claims under the state's computer spyware act.

Additionally, none of SoftwareOnline.com's products are (or ever were) "spyware" under the Anti-Spyware Coalition's broad definition of Spyware (and Other Potentially Unwanted Technologies) that is published on your site.

SoftwareOnline.com entered into the stipulated judgment and order for the purpose of avoiding the costs of unnecessary litigation in a manner that promptly, completely and definitively resolved the issues of concern to the Attorney General. It took the issues raised by the Attorney General very seriously and worked cooperatively to take steps to address those issues. SoftwareOnline.com has produced several award-winning applications since it was formed back in 1993, including VisualZip which was acquired by Microsoft for inclusion in their operating systems. It has been the focus of SoftwareOnline.com's history to develop applications to assist computer users to maintain and protect their computers from, among other things, spyware and other unwanted web content. The two products at issue, InternetShield and Registry Cleaner were designed respectively to help computer users avoid potentially dangerous web content and to correct errors in the Windows registry database that can cause the computer to operate slowly or inefficiently. SoftwareOnline.com continues to contend that these programs are effective and are helping computer users throughout the world, and there were no contrary findings in the litigation. SoftwareOnline.com continues to invest significant time, energy and resources into developing innovative software products, and has recently launched a new destination storefront (www.softwareonline.com) for consumers to inform themselves, browse and then purchase high quality security, privacy and utility software. In addition to the "spyware" mischaracterizations, the statements regarding SoftwareOnline.com on your website, including the following descriptions, do not accurately capture the facts.

- 1 Misrepresenting the risk of harm to a user's computer (by falsely finding computers to be at risk and by listing Web sites to which the computer is vulnerable even though the computer blocks access to those sites) in order to induce the user to purchase a security product.*

There was no finding that the subject software "falsely" found computers to be at risk. Further, it was only in the highly unlikely event that a user had accessed their system Hosts files and manually blocked the websites on of the list of more than 2000 websites found to be malicious and harmful that there could be a false positive. SoftwareOnline.com has always contended that the patent pending product and technology actually does work--it scans the computer and finds potential security and privacy exploits--and there were no contrary findings in the litigation.

2. Leaving software files on users' computers without their knowledge or consent after they have uninstalled the associated software program.

There were no findings that SoftwareOnline had intentionally left software files on any user's computer without their knowledge or consent, or that any registry entries left behind were in any way malicious. On a small percentage of computers with certain Windows configurations, the uninstall function for Registry Cleaner and InternetShield failed to work properly. Like the vast majority of software applications, the installation and uninstallation functionality for Registry Cleaner and InternetShield were built using a third party installation tool. At the time the Attorney General made its concerns known to SoftwareOnline last Spring, SoftwareOnline immediately replaced the installation and uninstallation functionality for Registry Cleaner, InternetShield and all software products and versions developed since that date. It is important to note that the uninstallation problem is a problem that has been widely reported by other software developers, and is not a problem unique to SoftwareOnline.com. In any case, SoftwareOnline has significantly increased the time, energy and resources allocated to testing its products to ensure, among other things, that they install and uninstall properly.

3. Engaging in other behaviors including offering misleading negative-option billing to customers.

There was no finding that SoftwareOnline.com's billing was misleading. It had pre-checked boxes for end users to receive a "backup CD" and "extended download service." As you may be aware, this remains a common practice in the consumer software industry.

SoftwareOnline.com applauds your core mission and principles of, among others, promoting freedom of expression and encouraging the free flow of information. Of course, accurate information goes hand-and-hand with your goals. Your statements regarding SoftwareOnline have the capacity to be misunderstood by readers and consumers and could result in significant damage to the reputation of SoftwareOnline and its products. Please correct these mischaracterizations and refrain from further publication of such statements.

Thank you for your prompt attention to this matter.

Very truly yours,

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