

ORIGINAL

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BY FEDERAL EXPRESS

Office of the Secretary
Federal Trade Commission
Room 159-H
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580



ValueClick

Performance Advertising

**Re: Spyware Workshop – Request to Participate, P044509
Spyware Workshop – Comment, P044509**

AdWare Systems, Inc., a ValueClick company, submits these preliminary comments and requests the opportunity to participate in the Federal Trade Commission's Public Workshop, "Monitoring Software on Your PC: Spyware, Adware, and Other Software," on April 19, 2004.

1. About AdWare Systems

AdWare Systems, Inc. is an application service provider that has been serving the marketing communications industry under the AdWare® name since 1981. AdWare® primarily offers software that enables advertising agencies and other companies to operate their businesses more efficiently, through effective agency management, media management, and content management and has nothing to do with monitoring individual consumer's online activities.

AdWare applauds the Federal Trade Commission ("FTC") for responding to public concern with respect to *spyware*, but we want to make clear that AdWare Systems absolutely does not create, support or deploy any software related to *spyware* or tools that remove *spyware* or cookies from local desktops. In fact, the vast majority of our clients use AdWare® solutions for *offline* activities.

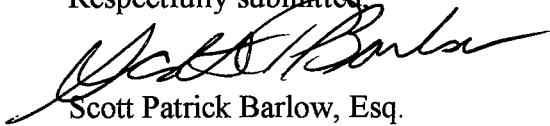
2. The AdWare Trademarks

AdWare Systems holds registered trademarks under ADWARE (Serial Nos. 73337076 and 75145927) and ADWARE.COM (Serial No. 75145928) that date back as early as 1983. Given the twenty-three years we have spent developing good will with respect to our AdWare® products and trademark, you can understand our company's dismay seeing the AdWare® name used in connection with such odious products. We request that the FTC either refrain from using the AdWare® name in connection with *spyware* or at least issue a statement making it as clear as possible that AdWare Systems has nothing whatsoever to do with such products.

3. Request to Participate

Given the misuse of its longstanding trademark in connection with spyware, AdWare Systems has a compelling interest in participating in the panel discussing the definition of spyware in order to eliminate any confusion among those attending and reporting on the forum as to the nature of the AdWare® mark. If the Commission were to proceed without including AdWare Systems in such a panel, it would be denigrating AdWare System's rights under federal trademark law.

Respectfully submitted,



Scott Patrick Barlow, Esq.
General Counsel