



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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Case Number: CGC-18-565008

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ORDER

THE PEOPLE OF THE STATE OF CALIFORNIA VS. HOMEADVISOR, INC. ET AL

001C06348699

Instructions:

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FILED
San Francisco County Superior Court

MAY 24 2018

CLERK OF THE COURT

BY: [Signature]
Deputy Clerk

7 *Attorneys for Plaintiff,*
The People of the State of California

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO
10 UNLIMITED JURISDICTION

11 THE PEOPLE OF THE STATE OF
CALIFORNIA,
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13 Plaintiff,
14
15 v.
16 HOMEADVISOR, INC., a Delaware
Corporation; ANGI HOMESERVICES,
INC., a Delaware Corporation; and DOES 1
through 100, inclusive,
17 Defendants.

Case No. CGC-18-565008
PRELIMINARY INJUNCTION
Date: May 10, 2018
Time: 9:00 a.m.
Dept: 302
Judge: The Hon. Harold Kahn

20 The Court's March 16, 2018 Order to Show Cause Why Preliminary Injunction Should Not
21 Be Issued came on for hearing in Department 302 of the San Francisco Superior Court on April 12,
22 18, 23, May 8, and May 10, 2018. Ernst Halperin and Evan Ackiron appeared for the People.
23 Collie F. James IV of Morgan Lewis & Bockius LLP appeared for the defendants HomeAdvisor,
24 Inc. ("HomeAdvisor") and ANGI Homeservices, Inc. (together, the "Defendants").

25 The Court has reviewed and considered the People's Complaint; the papers submitted by
26 the parties in support of and in opposition to the People's application for a preliminary injunction;
27 the arguments of counsel; the Court Record; and the following evidence:

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- Exhibits 1 through 52 in support of the People’s Application for a Temporary Restraining Order and for a Preliminary Injunction;
- the declarations of Ernst Halperin, June Cravett, and Marlene Stevens in support of the People’s Application;
- the declarations of Collie F. James IV, HomeAdvisor Chief Marketing Officer Allison Lowrie, and HomeAdvisor Senior Vice President of Operations Matt Zurcher in opposition to the People’s Application for a Temporary Restraining Order;
- the declarations of Collie F. James IV, HomeAdvisor Chief Marketing Officer Allison Lowrie, and HomeAdvisor Senior Vice President of Operations Matt Zurcher in response to the Court’s Order to Show Cause Why Preliminary Injunction Should Not Be Issued;
- the Reply Declaration of Ernst Halperin in support of the People’s Application for a Preliminary Injunction; and
- The exhibits and demonstrative evidence presented and submitted by the parties to the Court in connection with the scheduled court hearings, including Defendants’ Exhibits 1 HA – 25 HA.

1. JURISDICTION. The Court has jurisdiction over the subject matter and each of the parties in this action. The Court issues this Preliminary Injunction pursuant to its authority under Business and Professions Code sections 17203 and 17535.

2. FINDINGS. The Court finds that the People have established that it is reasonably probable that the People will prevail on the merits of their False Advertising Law (B&P Code Sections 17500 et seq.) and Unfair Competition Law (B&P Code Sections 17200 et seq.) claims that members of the public are likely to be deceived by the television, radio, and Apple App Store advertisements which are the subject of the People’s motion. Thus, a rebuttable presumption arises that the potential harm to the public from the Defendants’ activities outweighs the potential harm to the Defendants from issuance of a preliminary injunction. (*IT Corp. v. City of Imperial* (1983) 35 Cal.3d 63, 72 [fn. omitted]). The Court further finds that the Defendants have not shown that they would suffer grave or irreparable harm from the issuance of the preliminary injunction described hereinbelow. (*Id.*).

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1 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

2 3. During the pendency of this action the above-named Defendants, and each of them,
3 and their officers, agents, employees, representatives, and all persons acting in concert or
4 participation with them, are hereby enjoined and restrained from:

5 a. Broadcasting into California, whether through the airwaves, cable
6 television, digital streaming television, YouTube, or publicly-available Internet video
7 advertisement webpages controlled by the Defendants, television advertisements that state or
8 imply that all service personnel who come to consumers' homes as a result of consumers' having
9 used the HomeAdvisor service have been background-checked, including the versions of the
10 television advertisements listed below that are cited in the People's Application papers and were
11 presented in the Defendants' Preliminary Injunction Exhibits:

EXHIBIT	ADVERTISEMENT TITLE
People's TRO Ex. 4	<i>CARL</i>
People's TRO Ex. 5	<i>HAPPY HOMEOWNERS</i>
People's TRO Ex. 6	<i>BUSY MOM</i>
People's TRO Ex. 7	<i>TV AD FEATURING JASON CAMERON</i>
People's TRO Ex. 8	<i>HOMEADVISOR TESTIMONIALS</i>
People's TRO Ex. 9	<i>PROS YOU CAN TRUST</i>
People's TRO Ex. 10	<i>NEIGHBORS</i>
People's TRO Ex. 11	<i>REPAIR OR REMODEL</i>
People's TRO Ex. 12	<i>BASIC REPAIRS TO REMODEL</i>
People's TRO Ex. 13	<i>HOMEADVISOR MILLENNIAL - 30 SECOND</i>
People's TRO Ex. 14	<i>BAR-B-QUE</i>
People's TRO Ex. 15	<i>JOGGER</i>
People's TRO Ex. 16	<i>MAILBOXES</i>
People's TRO Ex. 17	<i>GRATEFUL DAD</i>
People's TRO Ex. 18	<i>HOMEADVISOR APP FREE TO USE</i>
Defendants' Exh. 17	<i>FOREVER HOMEADVISOR</i>
Defendants' Exh. 18	<i>START WITH HOMEADVISOR</i>
Defendants' Exh. 19	<i>HAYLEY</i>
Defendants' Exh. 20	<i>JESSICA</i>
Defendants' Exh. 21	<i>USE HOMEADVISOR</i>
Defendants' Exh. 22	<i>FAIR PRICE</i>
Defendants' Exh. 23	<i>SUNDAY NO FUNDAY</i>
Defendants' Exh. 24	<i>TEA TIME</i>
Defendants' Exh. 25	<i>TO-DO LIST</i>

1 b. Broadcasting into California, whether through the airwaves, cable radio,
2 digital streaming radio, or audio-podcasts, radio advertisements that state or imply that all service
3 personnel who come to consumers' homes as a result of consumers' having used the
4 HomeAdvisor service have been background-checked, including the versions of the public-radio
5 sponsorship advertisements that are the subject of the People's Application papers that state that
6 HomeAdvisor "home-improvement professionals" or "home-improvement pros" have been
7 background-checked;

8 c. Including in the description of the HomeAdvisor App in the Apple App
9 Store and the Google Play store words that state or imply that all service personnel who come to
10 consumers' homes as a result of consumers' having used the HomeAdvisor service have been
11 background-checked, including the version of the description of the HomeAdvisor App that is the
12 subject of the People's Application papers which states, "Nationwide, we have a network of
13 hundreds of thousands of background-checked pros specializing in more than 500 home
14 renovation projects."

15 4. Safe Harbor:

16 The Court will allow the broadcasting of certain of Defendants' existing television, radio,
17 and app store advertisements that are subject to Paragraph 3 of this Order while the Defendants
18 create new advertisements, provided that they meet the following requirements.

19 a. Television and Internet Advertisements:

20 i. Advertisements That Do Not State Or Imply That All Service
21 Personnel Have Been Background-Checked:

22 It shall not be a violation of this Preliminary Injunction for HomeAdvisor to broadcast
23 advertisements into California that do not state or imply that all service personnel who come to
24 consumers' homes as a result of consumers' having used the HomeAdvisor service have been
25 background-checked, including, but not limited to, the following 14 advertisements identified in
26 the People's Exhibits 25 through 37 and 52. This Order places no time limit on the Defendants'
27 ability to broadcast advertisements into California that meet the requirements of this subparagraph
4(a)(i) whether identified below or not.

PEOPLE'S EXHIBIT #	DESCRIPTION
25	30-second version of the <u>HAPPY HOMEOWNERS</u> video in TRO Exhibit 5, except without the reference to background checks
26	15-second version of the HAPPY HOMEOWNERS video in TRO Exhibit 5, except without the reference to background checks
27	6-second version of the <u>HAPPY HOMEOWNERS</u> video in TRO Exhibit 5, except without the reference to background checks
28	Video entitled "Listing (30 sec).mp4" without a reference to background checks.
29	Video entitled "Instant Booking with Amy Matthews - HomeAdvisor Commercial (15 Seconds).mp4" without a reference to background checks
30	Video entitled "HomeAdvisor Overview - HomeAdvisor -06.mp4" without a reference to background checks
31	15-second version of the HOMEADVISOR MILLENNIAL video in TRO Exhibit 13, except without the reference to background checks
32	Video entitled "HomeAdvisor Commercial - Testimonials (15 Seconds).mp4" without a reference to background checks
33	Video entitled "HomeAdvisor - -15 second HomeAdvisor Commercial.mp4" without a reference to background checks
34	Video entitled "Amy Revival - HomeAdvisor -06.mp4" without a reference to background checks
35	Video entitled " Amy Matthews HomeAdvisor Commercial (30 seconds, version 2).mp4" without a reference to background checks
36	Video entitled "Amy Matthews HomeAdvisor Commercial (15 seconds).mp4" without a reference to background checks
37	Video entitled "Amy Matthews HomeAdvisor Commercial - Know (15 Seconds).mp4" without a reference to background checks
52	Video referred to by the People as "Retired Couple"

ii. Advertisements with Disclaimers:

It shall not be a violation of this Preliminary Injunction for HomeAdvisor to broadcast into California the existing advertisements listed in the table at the end of this subparagraph that mention background checks until the dates listed in the table, as long as a clear and conspicuous visual disclaimer appears in each television and Internet advertisement that states: **"HomeAdvisor Background-Checks Business Owners But Not Employees."** The disclaimer must appear at every mention of background checks in the advertisement; must appear against a highly-contrasting background; must appear with each word in initial capitals; and must remain on the screen for a minimum of 8 seconds or the duration of the reference to background checks,

1 whichever is longer. If a subsequent mention of background checks appears in an announcer's
 2 voice-over at the end of the advertisement, the disclaimer must remain on the screen for the
 3 duration of the sentence in which background checks are mentioned, but in no event less than 6
 4 seconds. The disclaimers in the advertisements must be substantially similar to the disclaimers in
 5 the following Exhibits ("Exhibits 42-51"): EX 42 PROS YOU CAN TRUST-MODIFIED; EX 43
 6 NEIGHBORS-MODIFIED; EX 44 REPAIR OR REMODEL-MODIFIED, EX 45 BASIC REPAIRS
 7 TO REMODELS-MODIFIED, EX 46 HOMEADVISOR MILLENNIAL-MODIFIED, EX 47 BAR-
 8 B-QUE-MODIFIED, EX 48 JOGGER-MODIFIED, EX 49 MAILBOXES-MODIFIED, EX 50
 9 GRATEFUL DAD-MODIFIED, and EX 51 HOMEADVISOR APP – FREE TO USE-MODIFIED.

10 The term "substantially similar to" in this subparagraph means that the disclaimer appears against
 11 a background color as highly-contrasting and conspicuous as in Exhibits 42-51; the disclaimer
 12 appears in a font as large and easy to read as in Exhibits 42-51; the size of the rectangle in which
 13 the disclaimer appears is as large in relation to the screen size as in Exhibits 42-51; and the manner
 14 in which the visual disclaimer text enters the advertisement is as dynamic as in Exhibits 42-51.

EXHIBIT	ADVERTISEMENT TITLE	LAST DATE ADVERTISEMENT MAY BE SHOWN
People's TRO Ex. 6	<i>BUSY MOM</i>	October 12, 2018
People's TRO Ex. 11	<i>REPAIR OR REMODEL</i>	October 12, 2018
People's TRO Ex. 12	<i>BASIC REPAIRS TO REMODEL</i>	October 12, 2018
People's TRO Ex. 14	<i>BAR-B-QUE</i>	October 12, 2018
People's TRO Ex. 15	<i>JOGGER</i>	October 12, 2018
People's TRO Ex. 16	<i>MAILBOXES</i>	October 12, 2018
People's TRO Ex. 17	<i>GRATEFUL DAD</i>	October 12, 2018
People's TRO Ex. 18	<i>HOMEADVISOR APP FREE TO USE</i>	October 12, 2018
Defendants' Exh. 17	<i>FOREVER HOMEADVISOR</i>	January 12, 2019
Defendants' Exh. 18	<i>START WITH HOMEADVISOR</i>	January 12, 2019
Defendants' Exh. 19	<i>HAYLEY</i>	January 12, 2019
Defendants' Exh. 20	<i>JESSICA</i>	January 12, 2019
Defendants' Exh. 21	<i>USE HOMEADVISOR</i>	January 12, 2019
Defendants' Exh. 22	<i>FAIR PRICE</i>	January 12, 2019
Defendants' Exh. 23	<i>SUNDAY NO FUNDAY</i>	January 12, 2019
Defendants' Exh. 24	<i>TEA TIME</i>	January 12, 2019
Defendants' Exh. 25	<i>TO-DO LIST</i>	January 12, 2019

1 b. Radio Advertisements: It shall not be a violation of this Preliminary
2 Injunction for HomeAdvisor to broadcast into California existing radio advertisements that are
3 subject to Paragraph 3(b) above so long as they include an audio disclaimer at the end of the
4 advertisement which states, “**HomeAdvisor Background-Checks Business Owners But Not**
5 **Employees.**” The audio disclaimer must be louder than any background vocals or music, must be
6 clear and loud enough to be easily heard and understood by an average listener, and must have a
7 cadence such that the disclaimer lasts a minimum of 4 seconds.

8 c. Apple App Store and Google Play: It shall not be a violation of this
9 Preliminary Injunction for HomeAdvisor to place existing advertisements that are subject to
10 Paragraph 3(c) above on the Apple App Store and Google Play that are accessible in California so
11 long as a disclaimer immediately following – and on the same screen as – the statement regarding
12 background-checks states, “**HomeAdvisor Background-Checks Business Owners But Not**
13 **Employees.**” The disclaimer must be in an easy-to-read bold typeface that contrasts brightly with
14 the background and is large enough to be easily visible when viewed at the usual viewing distance
15 from the screen of any device upon which it is displayed.

16 5. The People object to the Safe Harbor provision in its entirety because the People
17 believe the advertisements in question cannot be “saved” by disclaimers. The Defendants object
18 to this Preliminary Injunction in its entirety because they believe that the advertisements in
19 question are not misleading, that members of the public are not likely to be misled by the
20 advertisements, that the terms of the injunction are not authorized by law or in equity, and that the
21 harm to the Defendants if the injunction is granted outweighs the potential harm to the public if
22 the injunction is not granted. Nothing in this Order shall constitute a waiver of either the People
23 or the Defendants’ rights, if any, to appeal any aspect of this Order. This being a preliminary
24 injunction, nothing in this Order constitutes a determination that HomeAdvisor has complied with
25 or violated Business & Professions Code Sections 17200 et. seq. or 17500 et seq. with respect to
26 any advertisement, including any advertisement referred to in Paragraph 3 above or any
27 advertisement made or modified to meet the requirements of Paragraph 4 above.


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IT IS FURTHER ORDERED that this Preliminary Injunction shall become effective on June 4, 2018. The Plaintiff being a governmental entity, no bond is required.

The Court reserves jurisdiction to modify this injunction as the ends of justice may require.

IT IS SO ORDERED.

DATED: 5/23, 2018


The Hon. Harold Kahn
Judge of the Superior Court

SEE EXHIBIT "A" RE
COMPLIANCE WITH CRC 3.1312

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY



George Gascón
District Attorney

Ernst A. Halperin
Assistant District Attorney
Direct Dial (415) 551-9545
email: ernst.halperin@sfgov.org

VIA HAND DELIVERY
The Hon. Harold Kahn
San Francisco Superior Court
400 McAllister Street
Dept. 302
San Francisco, CA 94102

May 18, 2018

Re: *People of the State of California v. HomeAdvisor, Inc. et al.* CGC 18-565008

Your Honor:

Enclosed please find the Preliminary Injunction for your signature in the above-referenced case. I also enclose a copy of the email from the defendants' counsel, Mr. James approving the order as to form.

Very truly yours,

GEORGE GASCÓN
District Attorney
City and County of San Francisco

By Ernst A. Halperin
Assistant District Attorney

cc: Collie James, IV (w/enclosures)
via email: collie.james@morganlewis.com

EXHIBIT "A"

WHITE COLLAR CRIMES DIVISION

732 BRANNAN STREET, THIRD FLOOR • SAN FRANCISCO, CALIFORNIA 94103
RECEPTION: (415) 553-1752 • FACSIMILE: (415) 553-9504

Halperin, Ernst (DAT)

From: James, IV, Collie F. <collie.james@morganlewis.com>
Sent: Friday, May 18, 2018 10:27 AM
To: Halperin, Ernst (DAT)
Cc: Kumar, Radha (DAT)
Subject: RE: People v HomeAdvisor - Typo Corrections to Prelim Injunction

Ernst,

These changes are fine and the order is approved as to form. It is ok to file.

Thank you.

Collie,

Collie F. James, IV

Morgan, Lewis & Bockius LLP

600 Anton Boulevard, Suite 1800 | Costa Mesa, CA 92626-7653

Direct: +1.949.399.7199 | Main: +1.714.830.0600 | Fax: +1.714.830.0700

collie.james@morganlewis.com | www.morganlewis.com

Assistant: Kathleen C. Rosello | +1.949.399.7187 | kathleen.rosello@morganlewis.com

From: Halperin, Ernst (DAT) <ernst.halperin@sfgov.org>
Sent: Friday, May 18, 2018 10:21 AM
To: James, IV, Collie F. <collie.james@morganlewis.com>
Cc: Kumar, Radha (DAT) <radha.kumar@sfgov.org>
Subject: People v HomeAdvisor - Typo Corrections to Prelim.Injunction

[EXTERNAL EMAIL]

Collie,

Following up on my voice-mail message to you. Our paralegal Radha Kumar found a couple of typos in the preliminary injunction as she was getting ready to take it to Dept 302. The first paragraph listed my boss Evan Ackiron as "Kevin Ackiron," and the phrase "requirements of Paragraphs 4 above" at the end of Paragraph 5 should have been "requirements of Paragraph 4 above."

So, attached is a corrected preliminary injunction, along with a PDF redline. Please let me know by email if it is approved as to form.

Thanks,

Ernst

Ernst Halperin
Assistant District Attorney
Office of the San Francisco District Attorney
White Collar Crime Division
732 Brannan Street
San Francisco, CA 94103