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F I L E D
STEPHEN THUNBERG
Clerk of the Superior Court

APR 20 2001

By C. MARCHESANO, Deputy

7
8 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**
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10 APEX WHOLESALE INC., a California
corporation, suing upon its own interest and
11 on behalf of the general public,

12 Plaintiff,

13 v.

14 FRY'S ELECTRONICS INC., a California
corporation; RANDY FRY, an individual;
15 DAVID BICKNELL, an individual; DOES
1-100, BLACK CORPORATIONS, and
GREY PARTNERSHIPS,

16 Defendants.
17
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19

Case No. GIC 734991

I/C Judge: Kevin Enright, Dept. 62

PLAINTIFF'S MOTION IN LIMINE AND
POINTS AND AUTHORITIES TO
EXCLUDE SURVEY EVIDENCE BY
DEFENDANT'S EXPERT SANDRA
COGAN AND REQUEST FOR HEARING
UNDER EVIDENCE CODE SECTION 402

MOTION IN LIMINE NO. 3 OF 3

20 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:

21 Plaintiff Apex Wholesale Inc. ("Apex") submits the following memorandum of points
22 and authorities in support of its motion in limine to exclude from trial the survey prepared by
23 defendants' expert, Sandra Cogan ("Cogan"). Apex contends that the survey should be
24 excluded on the grounds that it is untrustworthy, lacks foundation, and is thus irrelevant.
25 Accordingly, the survey will not only waste time and confuse the jury, but will prejudice Apex.
26 Plaintiff further requests that the court hold a hearing, outside the presence of the jury, to
27 determine whether Cogan is competent to render an opinion regarding the advertising at issue in
28 the case.

I.

INTRODUCTION

In this lawsuit, Apex claims that defendant Fry's Electronics Inc. has used advertising techniques that are untrue and misleading within the meaning of the False Advertising law, e.g., Business and Professions Code § 17500. Apex contends that purchasers within the San Diego market associate defendants' use of the word "sale" with a price reduction from every day prices rather than the notion that the merchandise is solely for-sale. Apex further contends that Fry's use of single unit pricing derived from the price of a multiple unit package is deceptive; that Fry's use of the term "rebate" to refer to an Internet Service Provider \$400 discount is deceptive; and that defendants' have deceptively advertised prices available only after a rebate amount was subtracted from the in-store price. Apex retained a consumer psychologist, San Diego State University Professor of Marketing, Michael Belch, to provide an opinion regarding the potential for consumer deception in Fry's ads. Dr. Belch conducted a survey to determine whether the defendants' advertising created consumer confusion. Dr. Belch's survey determined that a significant percentage of consumers were misled.

Following Dr. Belch's deposition, defendants' commissioned Cogan to perform a survey. The survey was designed and conducted at Cogan's direction. The advertising tested consisted of "three banner ads and three other print ads." (McMillan Dec. Ex. E, Cogan depo 11:15-17.)¹ The three banner ads contained the statements "Fry's Electronics loves Graduates;" Fry's Electronics Summer Sale;" and "Fry's Electronics Fall Event." The three other print ads address the likelihood of confusion as to the discounted Internet service agreement touted as a "rebate;" the single unit pricing on items sold in multiple unit packages; and the use of the word "free."

As shown below in more detail, Cogan followed an unusual protocol to test for consumer confusion:

- The survey participants to Cogan's survey looked at the advertising while responding to survey questions. The advertising was not removed from the participant's view while the

¹ Cogan's survey, survey screener, pilot questionnaire, revised questionnaire, and deposition excerpts are attached to the Declaration of Scott McMillan. The federal case authorities are lodged concurrently.

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survey questions were asked.

- The survey participants were chosen only among persons who have shopped at Fry’s in the last three years or might shop at Fry’s in the next year; and have read advertisements for Fry’s Electronics stores in the past three years. Participants were not allowed to continue if they stated that they had never reviewed Fry’s ads in the past. Cogan didn’t know where the demographic was derived from (McMillan Dec. Ex. E, Cogan 44:22 - 46:06).
- A “Pilot” survey was initially conducted. The survey directions and questionnaires were changed and the “Revised” survey was conducted. The results of the Pilot and Revised surveys were combined. No basis for changing the questions are evident or offered (McMillan Dec. Ex. E, Cogan depo 54:02 - 54:15.)
- The survey questions suggested the answer.
- Advertising exemplar 4 was cut out from the newspaper and enlarged (McMillan Dec. Ex. E, Cogan depo 39:22 - 40:20).
- Advertising exemplar 5 was cut out from the newspaper and the banner was enlarged (McMillan Dec. Ex. E, Cogan depo 40:21 - 41:02).
- Advertising exemplar 6 was cut out from the newspaper and possibly enlarged (McMillan Dec. Ex. E, Cogan depo 41:03 - 41:06.)

Not surprisingly, from the results of the survey, Cogan developed the expert opinion that: “For the advertising tested, there appears to be minimal confusion about the products, services and what’s offered there among the relevant market.” (McMillan Dec. Ex. E, Cogan Depo 11:09 - 11:14.)

II.

THE COGAN SURVEY SHOULD BE EXCLUDED FROM EVIDENCE BECAUSE IT IS UNTRUSTWORTHY AND LACKS FOUNDATION.

Preliminarily, Apex contends that expert testimony is appropriate in this case to aid the jury and the Court in determining whether Fry’s print ads were/are deceptive. In this case, probable consumer confusion may be shown by a scientifically conducted opinion survey in the

1 relevant market area. See, e.g., *North Carolina Dairy Foundation, Inc. v. Foremost - McKesson,*
2 *Inc.* (1979) 92 CA3d 98, 110, 154 CR 794, 901 (trademark infringement - false advertising);
3 *Southland Sod Farms, et al. v. Stover Seed Co., et. al* (9th Cir. 1996) 108 F.3d 1134 (false
4 advertising)(Plaintiff has lodged a copy of this federal decisions as lodgment A). However,
5 regardless of whether the survey evidence based upon a scientific method is deemed reliable in
6 general, and whether the evidence is furnished by a properly qualified expert, the proponent of
7 the evidence must demonstrate that proper scientific procedures were used in the particular case.
8 See, e.g., *People v. Kelly, supra*, 17 C3d at 30, 130 CR at 148; *People v. Venegas* (1998) 18 C4th
9 47, 78, 74 CR2d 262, 282; *People v. Kaurish* (1990) 52 C3d 648, 688, 276 CR 788, 807-808.

10 As outlined above, Cogan's procedures for assaying consumer confusion deviated far
11 afield from established procedures. Proper scientific procedures were not followed in the design,
12 administration, or tabulation of the Cogan survey. The survey is untrustworthy and invalid when
13 measured against the established requirements for a reliable survey set forth below. Thus, the
14 survey should be excluded as a matter of law.

15 **A. Defendants' survey universe is not a representative sampling of the**
16 **relevant market for computers and consumer electronics.**

17 When preparing to take a survey, the first step is to determine the "universe" to be
18 studied. McCarthy, J. Thomas, McCarthy on Trademarks and Unfair Competition (4th ed., 1997)
19 §32:159, p. 32-248. (Pertinent portions submitted as lodgment 'B'). In his treatise, Thomas
20 McCarthy explains:

21 The universe is that segment of the population whose perceptions and state of
22 mind are relevant to the issues in the case. [fn] Selection of the proper universe is a
23 *Id.* crucial step, for even if the proper questions are asked in a proper manner, if the
wrong persons are asked, the results are likely to be irrelevant. (Emphasis added.)

24 If a survey is to be of significant probative value in determining whether the defendants'
25 advertising is likely to confuse, the survey should contain a fair sampling of those purchasers
26 most likely to partake of the alleged false advertiser's goods or services. See *Brooks Shoe*
27 *Manufacturing Co. v. Suave Shoe Corp.*, 221 USPQ 536 (1983)(application to a trade dress and
28 trademark infringement action)(Submitted as lodgment 'C'). Conversely, if the universe is

1 | under-inclusive, the survey lacks foundation and is thus inadmissible. See e.g. *American*
2 | *Basketball Ass 'n v. AMF Voit, Inc.* 358 F.Supp 981 (S.D.N.Y 1973)(Lodgment 'D')(survey
3 | deemed too narrow to give substantial weight because no attempt to survey all persons in market
4 | to buy a basketball); see also *Universal City Studios, Inc. v. Nintendo Co.*, 746 F.2d 112 (2d Cir.
5 | 1984)(Lodgment 'E')(survey of those who purchased defendant's product was too narrow and
6 | should have included those contemplating a purchase).

7 | The universe defined and included in the Ms. Cogan's survey is under-inclusive and
8 | renders the survey fatally defective. Ms. Cogan defines the relevant market or universe of the
9 | survey as "men and women 18 years of age and older, who have read advertisements for Fry's
10 | Electronics stores (*sic*) and have either shopped at Fry's Electronics stores in the past three years
11 | or think they might shop at a Fry's Electronics store in the next year." (McMillan Dec. Ex. A,
12 | page 9). Cogan's definition of the relevant universe is too narrow. It ignores persons who may
13 | purchase a computer and are unfamiliar with Fry's. Fry's is a relatively new entrant to the San
14 | Diego market place – it only took over the Incredible Universe location in April 1997. It is
15 | unreasonable to restrict the survey to potential customers of Fry's, especially given the fact that
16 | the customers' that Apex contends to have lost were not always Fry's customers. The
17 | participant consumer's attention should be directed at the advertising without reference to the
18 | identity of the merchant, as this is not a popularity contest.

19 | A survey universe should take care to include all prospective purchasers, not just those
20 | identified by the advertisers as most likely to purchase its products or as its "target audience."
21 | For instance, a survey of perfume buyers was discounted because its universe failed to include
22 | men, whom research showed were likely to buy the perfume as gifts for women. *Conopco, Inc.*
23 | *v. Cosmair, Inc.* 49 F. Supp. 2d 242, 253 (S.D.N.Y. 1999)(Lodgment 'F'). Cogan chose
24 | members of the public that were already familiar with the Fry's Electronics' advertising, rather
25 | than members of the public that were likely to purchase the computer related merchandise.² The

26 | _____
27 | ² See: Ad Survey Screener. D-1 "Have you read any advertisements for Fry's Electronics
28 | Stores in the past 3 years?"

 Yes ----- 1 Continue
 No ----- 2 Thank, Terminate, Tally.
(McMillan Dec. Ex. B, page marked as 1-53 on lower right hand corner)

1 sample is biased in favor of Fry's.

2 Not only does the intentional exclusion of persons who have never seen a Fry's
3 advertisement skew the survey results towards a lesser finding of deception, the exclusion affects
4 the relevance of the evidence of the survey. A misaligned universe can doom otherwise
5 competent research and trigger an adverse decision by the court." McCarthy, J. Thomas,
6 McCarthy on Trademarks and Unfair Competition (4th ed., 1997) §32:159, p. 32-248, fn 2
7 (Lodgment 'B'). The narrow and limited universe defined by Ms. Cogan and even more limited
8 sampling interviewed for her survey renders the entire survey untrustworthy and inadmissible.

9

10 **B. The execution of the survey was fatally flawed by the questioning techniques.**

11 To obtain an unadulterated result, the survey questions must be unequivocally non-
12 leading and unbiased. Considerations should include not only the content but also the order of
13 questioning. See, e.g., *Johnson & Johnson - Merck v. Rhone - Poulenc River* (3d Cir. 1994) 19
14 F.3d 125 (Lodgment 'G').

15 In Cogan's survey, participants were shown a Fry's advertisement displaying a Compaq
16 Presario with a \$400 Internet Rebate offer. While looking at the advertisement, the survey
17 questions were asked. The first question in the revised questionnaire simply requests the
18 participant to describe what the ad was offering and what the participant would have to do to
19 obtain the computer at the sale price (RQ question 2a.) The second question sought the
20 participants understanding of what would have to be done in order to receive the \$400 rebate (RQ
21 question 2b). After the survey participant has been primed for the ultimate question, the third set
22 in the group asks: "Do you think that you have [to] (*sic*) sign up for Internet service with
23 Compuserve in order to receive the rebate?" (McMillan Dec. Ex. D, RQ question 2c). 92% of the
24 respondents were able to read the advertisement and disclaimer to determine that the Internet
25 service would have to be signed up for before the purchaser received his or her rebate.

26 Rather than a true assay of the advertisements propensity for causing consumer
27 confusion, the test was little more than a guided reading comprehension exam. The question
28 suggests that the Compuserve Internet service must be signed up for. Given that the participant

1 has been cued on two questions immediately preceding the question, the lack of confusion
2 demonstrated is unsurprising.

3 Moreover, Cogan sought to test consumer response to the defendants' use of the word
4 "sale." Rather than individually testing a banner advertisement that displayed the word "sale" or
5 "sale-a-bration," Cogan showed the participants three banners that contained the terms "sale,"
6 "Fry's loves graduates," and "event." (McMillan Dec. Ex. C, D; (first page of each exhibit.)
7 Cogan's determination of consumer response to the three banners as a group does not provide
8 relevant evidence to the consumer response to the use of the word "sale" because there are too
9 many variables. Opinion based upon too many variables may be inadmissible. *Solis v. Southern*
10 *California Rapid Transit Dist.* (1980) 105 CA3d 382, 389 - 390. There is an order bias in the
11 three ads. The third ad presented will naturally be subject to a testing effect.

12 **C. The advertisements used in the survey were not depicted in a comparable**
13 **manner.**

14 First, the advertisement exemplars were held by the survey participants while the
15 questions were responded to. Within the instructions to the survey administrator, the statement
16 "REMOVE THE ADS FROM VIEW" follows the questioning and probes. (McMillan Dec. Ex.
17 C, D.) There is no scientific basis for allowing a participant an extended period of time to study
18 the advertising because it eliminates the ability to measure what a participant has "taken away"
19 from the advertising exemplar. See, e.g., *American Home Products Corp. v. Procter & Gamble*
20 *Co.*, 871 F. Supp. 739, 747 (D. N.J. 1994)(Lodgment 'H')(Court discounted survey results
21 because of repetition of open ended questions; and participants were allowed to study the
22 advertising). Probing while the consumer holds the advertisement provides nothing more than a
23 reading comprehension test.

24 Second, the advertisements that were used were cut out from the advertisements, were
25 enlarged, and were not displayed to the participants as the advertisements appeared in the
26 newspaper (Cogan depo 39:22 - 41:06.) The ads print was enlarged and the ad itself was taken
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1 out of context due to being isolated from the remainder of the Fry's advertisement.³ Nor did
2 Cogan test how many consumers cut out advertisements to study them prior to making a
3 purchase decision. If nothing else, Cogan should have asked the survey participants if they cut
4 out and enlarged the advertisements of merchandise that the participant was considering
5 purchasing.

6 Cogan's failure to follow basic survey procedures and to show the survey participants
7 representative samples, renders the survey fatally flawed and irrelevant to the determination of
8 this case. Thus, the Court should preclude the admission of the survey as a matter of law.

9 **III.**

10 **THE COGAN SURVEY SHOULD BE EXCLUDED BECAUSE THE PROBATIVE**
11 **VALUE IS OUTWEIGHED BY THE LIKELIHOOD OF PREJUDICE AND**
12 **CONFUSION.**

13 Evidence Code section 350 states that "(n)o evidence is admissible except relevant
14 evidence." Relevant evidence is defined by Evidence Code Section 210 as "having any tendency
15 in reason to prove or disprove any disputed fact that is of consequence to the determination of
16 the action." See People v. Kelly (1992) 1 Cal.4th 495, 523 (only relevant evidence is admissible);
17 People v. Haston (1968) 69 Cal.2d 233, 245 (in every case the possibility of severing relevant
18 from irrelevant portions of evidence should be considered to protect against undue prejudice).
19 Because the survey is so odd in comparison to what a consumer will actually experience in
20 looking at defendants' advertising; the survey lacks relevance.

21 Introduction of the survey into evidence will cloud the issues presented in this case.
22 Evidence Code Section 352 states: "The court in its discretion may exclude evidence if its
23 probative value is substantially outweighed by the probability that its admission will (a)
24 necessitate undue consumption of time or (b) create substantial danger of undue prejudice, of
25 confusing the issues, or of misleading the jury." (Emphasis added.) The Cogan survey is just

27 ³ Federal Trade Commission guidelines on advertising surveys suggest that the
28 advertisement must be the actual size and/or the actual ad. Print size makes a difference in recall
and comprehension.

1 such the piece of evidence that Evidence Code 352 is designed to control.

2 Its scientific procedures are fatally flawed as a matter of law. It will confuse the jury in
3 that Dr. Belch used a single issue and single advertisement survey question related to “sale-a-
4 bration.” Instead of meeting this proof, Cogan used a confusing method of three separate banner
5 advertisements stating the terms “sale,” “Fry’s loves its graduates,” and “event?” The
6 comparisons of apples and oranges will consume undue time and will mislead or confuse the
7 jury. Thus, the Cogan survey should be excluded altogether.

8 **IV.**

9 **A HEARING OUTSIDE THE PRESENCE OF THE JURY IS IN ORDER TO**
10 **DETERMINE SANDRA COGAN’S COMPETENCY AS AN EXPERT WITNESS.**

11 If the Court excludes the Cogan survey and if Cogan is called to testify, Apex requests
12 that the Court hold the qualification portion of her testimony outside the presence of the jury in
13 order to determine whether she is qualified. Apex believes that Cogan’s testimony is based
14 solely on the survey and, if the survey is excluded, she has no basis on which to render an expert
15 opinion. *See Evid. Code § 720(b).*

16 Although experts are given considerable leeway concerning the matters upon which they
17 may rely, they may not rely on speculation or conjecture. *Korsak v. Atlaas Hotels, Inc.* (1992) 2
18 CA4th 1516, 1526 (“casual sampling of unknown sources” within industry not reasonable basis
19 for opinion.) Moreover, to the extent that Cogan’s survey does not satisfy *Kelly* standards for
20 admissibility, her opinions based on the survey should be precluded by law. *See, e.g., Evidence*
21 *Code § 801(b).*

22 It is a foundational matter to determine whether the information Cogan has relied upon in
23 forming her opinions was reasonable, and as such, it is a “preliminary fact” to the admissibility of
24 her opinion. *Mosesian v. Pennwalt Corp.* (1987) 191 CA3d 851, 861 (“The question of what is
25 “reasonable” for an expert to rely upon in forming an opinion under the terms of [section 801(b)]
26 is a foundational issue. It affects the credibility and the authority of the expert’s opinion.”)
27 Plaintiff requests a hearing under Evidence Code § 402 in order to make that determination.

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V.

CONCLUSION

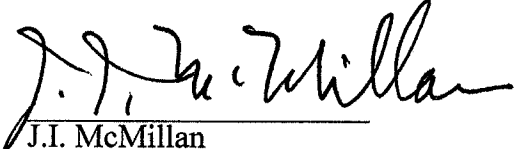
Occasionally several factors combine to produce a survey so flawed that it is rejected entirely. In *Universal City Studios, Inc. v. Nintendo Co., supra* 746 F.2d 112, the court found that a survey utilized an improper universe, the questioning was leading and the survey's inquiry was "unfair" as it failed to address the real issue and sought to mislead respondents, and rejected the survey. Cogan's survey deserves preclusion from evidence as well.

In addition, to the extent Ms. Cogan is unable to provide a basis for her opinion that the subject advertising is not misleading beyond the matters contained in the survey, her opinion is patently unfounded and unreasoned and must similarly be precluded. The only safe way to make this determination is outside the presence of the jury. Plaintiff requests such a hearing.

Respectfully submitted,

Dated: April 19, 2001

Law Office of J.I. McMillan



J.I. McMillan
Attorney for Plaintiff
Apex Wholesale Inc.

APEX-101cogan.motion.63146.1

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By C. MARCHESANO, Deputy

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1-100, BLACK CORPORATIONS, and
16 GREY PARTNERSHIPS,

17 Defendants.
18
19

Case No. GIC 734991

I/C Judge: Kevin Enright, Dept. 62

PLAINTIFF'S DECLARATION OF
COUNSEL IN SUPPORT OF MOTION IN
LIMINE TO EXCLUDE SURVEY
EVIDENCE BY DEFENDANT'S EXPERT
SANDRA COGAN AND REQUEST FOR
HEARING UNDER EVIDENCE CODE
SECTION 402

MOTION IN LIMINE NO. 3 OF 3

20 I, Scott A. McMillan, declare as follows:

21 1. I am an attorney licensed to practice in California, and associated with J.I. McMillan,
22 the lead attorney for plaintiff Apex Wholesale Inc. I have personal knowledge of the facts set
23 forth below and, if called as a witness, I could and would competently testify as follows:
24

25 2. On February 28, 2001, defendants' designated advertising expert Sandra Cogan
26 ("Cogan") was deposed. At her deposition, Cogan produced her expert report containing her
27 opinions and the results of her survey. A true and correct copy of such report is attached as
28 Exhibit A.

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3. A true and correct copy of the Ad Survey Screener, produced at the deposition, is attached hereto as Exhibit B.

4. A true and correct copy of the Pilot Survey Questionnaire, produced at the deposition, is attached hereto as Exhibit C.

5. A true and correct copy of the Revised Survey Questionnaire, produced at the deposition, is attached hereto as Exhibit D.

6. A true and correct copy of the relevant portions of Cogan's deposition is attached hereto as Exhibit E.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated this 20th of April, 2001.



Scott A. McMillan

APEX-101cogan.declaration.63146.1

EXHIBIT A

Survey Report

Advertising Survey

Prepared for

Foley McIntosh Frey & Claytor

February 2001

Project # 1391



COGAN RESEARCH GROUP

MARKET & OPINION SURVEYS

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Torrance, California 90503
(310) 316-4289 FAX (310) 316-4939

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Dr. Sandra R. Cogan

Declaration and Qualifications

of

Dr. Sandra R. Cogan

Exhibit A -- Resume

Exhibit B -- Cases testified or deposed in past four years

I, Dr. Sandra R. Cogan, declare:

1. I am the principal of Cogan Research Group. Cogan Research Group specializes in designing and conducting market research surveys, including trademark, design patent, unfair competition, and right of publicity surveys. I have personal knowledge of the facts stated herein and I believe the opinions stated herein to be true, and if called to do so, I could and would competently testify thereto.

2. I specialize in the design and implementation of trademark, design patent, unfair competition, right of publicity, and other consumer surveys. Attached as Exhibit A is a true and correct copy of my resume, the information of which is accurate. In particular, I wish to emphasize the following aspects of my background:
 - a) I have a Bachelors of Science degree in Marketing from UCLA (1965), a Masters of Business Administration from UCLA in Marketing (1966), and a Doctorate in Business Administration from the University of Southern California (1980);

 - b) I have taught graduate classes in Marketing in MBA programs at Loyola Marymount University, Pepperdine University, and at California State University, Dominguez Hills. I taught a course at UCLA Extension in Winter quarter, 1995 entitled, "Marketing and Advertising Research";

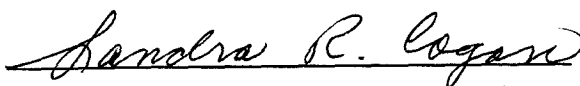
 - c) I have been employed in survey research for over 30 years and have designed and supervised the implementation of over 400 surveys, including over 100 trademark, design patent, and unfair competition surveys.

- d) I created a seminar, "Survey Research for Commercial Litigation," which is approved for one unit MCLE credit by the State Bar of California. I have presented this seminar to over 40 law firms and to the San Diego County Bar Association's Intellectual Property section and the Los Angeles Intellectual Property Law Association and;
 - e) I also created a seminar, "Survey Research for Trademark Cases," which is approved for one unit of MCLE credit by the State Bar of California. I have presented this seminar to the Orange County Patent Law Association, State Bar of Utah Intellectual Property Law Section, South Bay Trademark Association (Palo Alto, CA), Oregon Bar Intellectual Property Law Section, Southwestern University School of Law Intellectual Property Law class, a joint meeting of the High Technology Section of the Santa Clara County Bar Association and the Intellectual Property Section of the Bar Association of San Francisco, and to California law firms and;
 - f) I was a speaker at the International Trademark Association's Annual Meeting in May, 1999 on the topic, "Survey Evidence: Exploring Dilution."
 - g) I have been retained as an expert witness for litigation regarding surveys over 100 times, and have testified both through trial and deposition. I have testified as an expert at trial in twelve cases in which I had conducted surveys;
 - g) Representative clients for whom I have done surveys include: O'Melveny & Myers, Brown & Bain, Latham & Watkins, Loeb & Loeb, Howrey & Simon, Greenberg Glusker Fields Claman & Machtinger, and Fulbright & Jaworski.
3. Attached as Exhibit B is a copy of the list of cases in which I have testified or been deposed during the past four years.

4. I have had no publications in the past ten years.
5. The estimated cost of the survey to date is approximately \$25,000. My billing rate is \$300 per hour.
6. Attached hereto as Exhibit C is a true and exact copy of the Cogan Research Group's project report, "Advertising Survey" which is incorporated by reference into this declaration. I designed and supervised the survey, analyzed the data and wrote the report. The survey facts and data are the type reasonably relied upon by trademark survey experts. I believe each of the opinions stated therein to be true.

I declare under penalty of perjury of the laws of the State of California and the United States of America that the above statements are true and correct.

Executed on February 27, 2001 at Torrance, California.



Sandra R. Cogan

Sandra R. Cogan, D.B.A.
President, Cogan Research Group

Dr. Cogan's experience covers market research from several perspectives: Manager and project director in market research firms, corporate research manager, syndicated research services, marketing professor, and expert witness in law cases.

EDUCATION	B.S. in Business Administration, University of California at Los Angeles, 1965. M.B.A. in Marketing, University of California at Los Angeles, 1966. Doctorate in Business Administration: Marketing, organizational behavior, and research methods; University of Southern California, 1980.
WORK EXPERIENCE	
1992 to present	Cogan Research Group: President: Specializing in consumer and business-to-business research and surveys for litigation.
1986-1992	Elrick and Lavidge: Vice President, Los Angeles office: Plan, conduct, and analyze survey research studies; manage office; expert witness in law cases.
1985-1986	S.R. Cogan Research: Specializing in expert research consulting and full service studies for the power utility industry.
1982-1984	Yankelovich, Skelly and White: Senior Associate. Syndicated life style research sales/consulting. Clients included Fortune 500 companies in a wide range of industries and services.
1980-1982	S.R. Cogan Research: Consulting and research studies.
1967-1980	Southern California Edison Co.: Began as research analyst. From 1972 to 1980, Director of Survey Research responsible for all corporate customer research including: public attitude surveys, conservation and load management studies, program evaluation, and marketing information systems.
1966-1967	Market Research Firm Project Director: Involved in all phases of survey research including: sample design, questionnaire design, data coding and processing, statistical analysis, and reports.
TEACHING EXPERIENCE	UCLA Extension: Taught Market Research class: 1995 California State University, Dominguez Hills: Taught graduate marketing classes: 1991, 1993, 1994 Pepperdine University: Taught graduate marketing classes: 1984 Loyola Marymount University: Visiting Assistant Professor, taught undergraduate and graduate classes in marketing and strategic marketing planning: 1981-1982 Seminars: Presented "Survey Research in Commercial Litigation" and "Survey Research for Trademark Cases" to over 60 law firms and Intellectual Property Law Associations: 1991-present; American Marketing Association: Market Research Seminar; Market Research Association Seminar: Using Market Research Surveys in Litigation
PROFESSIONAL ACTIVITIES	American Marketing Association, President - Southern California Chapter: 1991-1992. Other offices held: V.P. Continuing Education, V.P. Chapter Affairs, Chapter Secretary. International Trademark Association, Membership Committee Member: 1992-94, Chair of the Survey Subcommittee: 1992-93. Intellectual Property Section/State Bar of CA, Associate Member. Direct Marketing Club of Southern California, Member

Dr. Sandra R. Cogan
Court cases testified or deposed in for past four years:

Exhibit B

- 5/97 Quiksilver, Inc. v. Brunswick Corp., United States District Court, Central District of California
- 5/97 Alan F. Shugart vs. Consumers and Their Attorneys Against Propositions 200, 201 & 202, Superior Court of California, County of Monterey
- 10/97 Brady Marketing Co., Inc. vs. Bodum, Inc., United States District Court, Central District of CA
- 3/98 *Al-Or International, Ltd, et al. v. Grandeur Creations, Inc., et al, U.S. Dist. Court, Central Dist. of CA
- 9/98 *Avent America, Inc. vs. Playtex Products, Inc., U.S. Dist. Court, N. Dist. of Illinois, E. Division
- 10/98 *Westchester Media v. PRL USA Holdings Inc. et al, U.S. Dist. Court, S. Dist. TX, Houston Division
- 12/98 *Dustin Hoffman v. Capital Cities/ABC, Inc. et al, U.S. District Court, Central District of CA
- 4/99 *Abbott Laboratories vs. Unlimited Beverages, Inc., U.S. District Court, So. District of FL
- 4/99 Karsten Manufacturing Corp. vs. Pingo, Inc., U.S. District Court, District of Arizona
- 5/99 E. & J. Gallo Winery v. Kendall-Jackson Winery, Ltd., Superior Court State of CA, Stanislaus Co.
- 6/99 ZZ TOP et al v. Chrysler Corp., U.S. District Court, Western District of Washington
- 6/99 Elite Access Systems vs. Manaras Door & Gate Operator Co., Superior Ct. CA, Orange Co.
- 7/99 Anex Electrical Co. v. Sun-Mate Corp., U.S. District Court, Central District of CA
- 10/99 Performance Labs, Inc. v. Immunex Corp., U.S. District Court, Central District of CA
- 3/00 Mark Carter and Intl. E-Z Up, Inc. v. Variflex, Inc. et al., U.S. Dist. Court Central Dist. Of CA
- 4/00 State Farm Insurance vs. State Farm Home Improvements, U.S. District Court, E. Dist. Of LA
- 4/00 Iron Grip Barbell Co. vs. Ivanko Barbell Co., U.S. District Court, Central Dist. of CA
- 6/00 *E-Stamp Corp. vs. Dave Lahoti, U.S. District Court, Central Dist. of CA
- 6/00 In A Lather, Inc. v. The Royal Soap Co., U.S. District Court, Central District of CA
- 8/00 Pharmavite Corp. v. Omega Nutrition U.S.A., Inc. et al., U.S. Dist. Court, Central Dist. of CA
- 9/00 Neiman Marcus v. Phillippe Charriol, U.S. District Court, So. District of New York
- 9/00 Rose America Corp. V. Chariton Vet Supply, Inc., U.S. District Court, Kansas
- 9/00 Twin Labs vs. Metabolife Intl., U.S. District Court, So. District of New York
- 12/00 *Elite Access Systems vs. Ramset Automatic Gate Systems, Superior Ct. CA, Orange Co.

* Testified at trial or hearing
Publications 1991-2001: None
2/27/1

Report

Advertising Survey

Purpose of the Survey

The survey was conducted by Cogan Research Group (CRG) to provide objective evidence about relevant consumers' beliefs and opinions regarding several of Fry's Electronics' advertisements.

Research Procedure

A survey of a total of 150 in-person interviews was completed with consumers in the relevant market who were surveyed about the advertisements in question.

Dr. Sandra R. Cogan designed the survey plan, wrote the survey screener and questionnaire, directed the data collection, analyzed the data, and wrote the survey report.

The "relevant market" for the survey was defined as men and women 18 years of age and older, who have read advertisements for Fry's Electronics stores in the past three years and have either shopped at Fry's Electronics stores in the past three years or think they might shop at a Fry's Electronics store in the next year.

A two step survey procedure was used:

Step One -- Survey Respondents Were Qualified to Be Interviewed

First, consumers were "screened" in large shopping center malls to determine whether they qualified for participation in the survey. (A permanent market research interviewing center which is located in each mall was retained to "screen" potential survey respondents according to the "relevant market" qualification requirements, and to conduct the interviews). Respondents qualified to be interviewed if they:

- Q.A: Lived less than 100 miles from the mall interviewing location
- Q.B: Were 18 years of age or older
- Q.D-1 Had read any advertisements for Fry's Electronics stores in the past 3 years
- Q.D-2/3: Had shopped at Fry's Electronics stores in the past three years and/or thought they might shop at Fry's Electronics stores in the next year
- Q.E Did not work for an advertising agency or a marketing research firm
- Q.F: Had not been interviewed for a survey in that shopping center in the past three months
- Q.G: Had their eyeglasses with them, if needed

See the Questionnaires and Instructions Section of this report for copies of the survey screener, questionnaire, and supervisor's and interviewer's instructions. See Display Section of this report for copies of the advertisements show in the survey.

Step Two -- Qualified Survey Respondents Viewed the Advertisements and Were Asked the Survey Questions

Those who met the survey qualification requirements were invited individually to accompany the interviewers to the interviewing center in the mall, and escorted to an interviewing booth. Survey respondents were shown into the display area and if they wore glasses for reading or shopping they were asked to please put them on.

All 150 of the survey respondents were shown Display "A" which included three Fry's Electronics' four page banner ads and asked survey questions.

Display A: Three Fry's Electronics banner ads

- Ad #1 = "Fry's Electronics Loves Graduates"
- Ad #2 = "Fry's Electronics Summer Sale"
- Ad #3 = "Fry's Electronics Fall Event"

These ads were then removed and then handed three more ads, one at a time and asked survey questions.

- Ad #4 = Compaq Presario @ \$1999 minus CompuServe \$400 mail-in rebate
- Ad #5 = 10 Pack recordable CD - 99¢ per CD
- Ad #6 = Free Computer! emachines @ \$449 minus emachines \$50 mail-in rebate and CompuServe \$400 mail-in rebate

The remainder of the survey questions and information reflect standard survey research shopping mall intercept interviewing quality control measures. Survey respondents signed a statement guaranteeing to them that their names and responses would remain confidential and gave their telephone numbers so that the interview could be verified. The interviewer signed a statement that he or she had completed the interview.

Survey Sampling Methodology and Geographic Locations of Interviews

The "relevant market" for the survey was defined as men and women 18 years of age and older, who have read advertisements for Fry's Electronics stores in the past three years and have either shopped at Fry's Electronics stores in the past three years or think they might shop at a Fry's Electronics store in the next year. These are the types of people who would be most likely to read the ads and shop at Fry's Electronics stores.

Survey respondents were also "screened" according to standard market research survey screening requirements in order to exclude individuals who themselves or anyone in their family or household works for an advertising agency or a market research company. Respondents also could not have been interviewed recently in the mall, and if needed, had to have their reading glasses with them.

Interviews were conducted in Redondo Beach, CA and in the San Diego area. The ads in question ran in the San Diego area and in the Redondo Beach area. Interviews were conducted at the following locations:

Interviewing Locations

Market Area	Sample Size	Mall Location
Los Angeles, CA	50	Redondo Beach, CA
San Diego, CA	50	Chula Vista, CA
San Diego, CA	50	San Diego, CA
Total Sample Size	150	

Interviewing Dates and Procedures

The survey interviews were conducted February 13 - 22, 2001. The survey was pre-tested to be certain that the instructions for administering the survey were clear to the survey supervisors and interviewers, and that the questions asked were clear to the respondents and their answers were responsive. The results of the pre-test showed that several changes needed to be made to the questionnaire in order to more clearly ask the questions. The pre-test interviews are included in the sample. Interviewing supervisors at the mall interviewing facilities were trained by an experienced market research field director. All interviews were completed by trained, professional interviewers who were trained on site.

Follow-up interview verification telephone calls will be completed with survey respondents to confirm that, in fact, they had been interviewed. Copies of the survey screener, questionnaire, and instructions are in the Questionnaires and Instructions Section of this report.

Summary of the Survey Findings

All of the information secured from the survey of 150 qualified survey respondents in the relevant market has been tabulated and reported in the Summary Tables Section. For simplicity, the survey questionnaire wording shown below is from the "revised" questionnaire.

Fry's Electronics' Banner Advertising

All 150 survey respondents were shown first Display "A," which included three Fry's Electronics' banner ads. A photocopy of the top of each banner ad shown to respondents is included in the Display Section of this report.

Display A: Three Fry's Electronics banner ads

Ad #1 = "Fry's Electronics Loves Graduates"

Ad #2 = "Fry's Electronics Summer Sale"

Ad #3 = "Fry's Electronics Fall Event"

Respondents were instructed by the interviewer:

"Today I will be showing you some advertising for Fry's Electronics and I will ask you some questions about your opinions. Please look at each ad's title and picture on the first page in the upper right hand corner."

"Now, please look at these ads the way you would if you were interested in purchasing some of these products. Let me know when

you are finished."

Respondents were then asked Question #1b: "From looking at these ads, which of the following describes your opinion about the prices of the products in the ads. Do you think that all of the prices shown here are lower than Fry's regular store prices, or do you think that some of the prices shown here in the ads are Fry's regular store prices, or don't you know or do you have no opinion on this? "

A total of 83 or 55.3% of the 150 total survey respondents said "Some prices are lower prices than Fry's regular prices," 50 or 33.3% said "All prices are lower prices than Fry's regular prices," and 17 or 11.3% said "Don't know, or no opinion, or not sure." See Summary Table A. All of the survey respondents were asked for the reasons for their answers which appear in the Verbatim Responses Section of this report. Respondents' reasons for their answers suggest a wide variety of reasons for their answers to this question.

Internet Mail-In Rebate Advertising – Ad #4

All of the 150 survey respondents were next shown Ad #4, "Compaq Presario @ \$1999 minus Compuserve \$400 mail-in rebate" and asked Question # 2c, "Do you think you have to sign up for Internet service with Compuserve in order to receive the rebate?" A total of 137 or 91.3% of the 150 respondents said "yes," 7 or 4.7% said "No," and 6 or 4% said they didn't know or weren't sure. See Summary Table B.

The 137 respondents who said they thought they would have to sign up with Compuserve to receive the rebate were asked Question #2d, "How much per month do you think you would have to pay for the Internet service from CompuServe?" One hundred twenty-two or 89% of the 137 correctly said \$21.95 per month. An additional 7 or 5.1% thought they would have to pay \$20 or \$22 per month.

A total of 127 or 92.7% of the 137 thought they would have to sign up for 36 months or 3 years of service with CompuServe in order to receive the rebate. A total of 110 or 73.3% of the total sample of 150 thought they would have to pay back the \$400 rebate to CompuServe, if they cancelled the Internet service. Thirty-two or 21.3% thought they would not have pay back the \$400 rebate and 8 or 5.3% didn't know or weren't sure.

A total of 143 or 95.3% of the total sample of 150 thought they would have to pay a \$50 cancellation fee if they cancelled the Internet service.

10 Pack recordable CD – 99¢ per CD – Ad #5

All of the 150 survey respondents were next shown Ad #5, "10 Pack recordable CD – 99¢ per CD" and asked Question #3a, "What do you think is the price of an individual CD advertised here?" A total of 141 or 94% of the 150 survey respondents said "99¢." A total of 145 or 96.7% thought they would have to purchase these CD's in packs of 10. See Summary Table C.

Free Computer! emachines @ \$449 minus emachines \$50 mail-in rebate and CompuServe \$400 mail-in rebate – Ad #6

All of the 150 survey respondents were next shown Ad #6, "Free Computer! emachines @ \$449 minus emachines \$50 mail-in rebate and CompuServe \$400 mail-in rebate" and asked Question #4b, "When you purchase the computer in this ad, do you think that you will have to pay any California sales tax?" A total of 140 or 93.3% of the 150 survey respondents said, "yes." Of those 140 respondents, 106 or 75.7% thought they would have to pay sales tax on between \$400 and \$550. One appeared to have added in the cost of the color monitor @ \$99 which would raise the in-store price to \$548. Seven respondents or 5% said numbers between

\$30 and \$50 reflecting the amount of sales tax they would have to pay. Six respondents or 4.3% gave percentage numbers between 7.5% and 8.25% reflecting sales tax rates. See Summary Table D.

Characteristics of Survey Respondents

A little less than half (47%) had ever installed software on a computer. Twenty-three percent had opened up a computer case and installed hardware. A total of 9.5% had built a computer.

Conclusions

The survey results show that in the relevant market of consumers who have read Fry's advertising and have shopped or plan to shop at Fry's Electronics that there is minimal confusion about the prices and terms regarding the products and services which are being offered in the advertisements in question.

**Total Sample
Summary Tables**

SUMMARY TABLE A

AD SURVEY #1391			
		Number	Percent
	Total sample	150	100.00%
Respondent shown Display "A" - 3 four-page newspaper ads from Fry's			
Q.1b	From looking at these ads, which of the following describes your opinion about the prices of the products in the ads. Do you think that all of the prices shown here are lower than Fry's regular store prices, or do you think that some of the prices shown here in the ads are Fry's regular store prices, or don't you know or do you have no opinion on this?		
	All prices are lower prices than Fry's regular prices	50	33.33%
	Some prices are Fry's regular prices	83	55.33%
	Don't know, no opinion, not sure	17	11.33%

SUMMARY TABLE B

AD SURVEY #1391			
		Number	Percent
	Total sample	150	100.00%
Respondent shown Ad #4 - "Compaq Presario 1688"			
Q.2c	Do you think you have to sign up for Internet service with Compuserve in order to receive the rebate?		
	Yes	137	91.33%
	No	7	4.67%
	Don't know/not sure	6	4.00%
Q.2d + Q.2e	Base = Respondents who answered "Yes" to Q.2c	137	100.00%
Q.2d	(Asked of respondents who answered "Yes" to Q.2c) How much per month do you think you would have to pay for the Internet service from CompuServe?		
	\$21.95	122	89.05%
	\$20	4	2.92%
	\$22	3	2.19%
	\$50 for 3 years	1	0.73%
	\$50	1	0.73%
	\$30	1	0.73%
	\$29.95	1	0.73%
	\$19.95	1	0.73%
	\$400	1	0.73%
	Depends on the kind of Internet service	1	0.73%
	Don't know	1	0.73%
Q.2e	(Asked of respondents who answered "Yes" to Q.2c) In order to receive the full \$400 rebate, how many months of Internet service from CompuServe do you think you would have to sign up for?		
	36 months/3 years	127	92.70%
	24 months/2 years	3	2.19%
	1 year	5	3.65%
	2 or 3 months	1	0.73%
	Don't know	1	0.73%
Q.2f + Q.2g	Base = Total sample	150	100.00%
Q.2f	If you purchased this computer and received the \$400 rebate and then cancelled the Internet service from CompuServe, do you think you would have to pay the \$400 rebate amount back to CompuServe?		
	Yes	110	73.33%
	No	32	21.33%
	Don't know/not sure	8	5.33%
Q.2g	If you cancelled the Internet service from CompuServe, do you think you would also have to pay a \$50 cancellation fee?		
	Yes	143	95.33%
	No	5	3.33%
	Don't know/not sure	2	1.33%

SUMMARY TABLE C

AD SURVEY #1391			
		Number	Percent
	Total sample	150	100.00%
Respondent shown Ad #5 - "CD" Ad			
Q.3a	What do you think is the price of an individual CD advertised here?		
	99 cents	141	94.00%
	under 10 cents	1	0.67%
	10 cents	2	1.33%
	\$6.99	1	0.67%
	\$1.99	1	0.67%
	\$1.07	1	0.67%
	\$13 or \$14	1	0.67%
	They don't sell individually	1	0.67%
Q.3b	Based on this ad, do you think you have to purchase these CD's in packs of 10 or do you think that you can purchase one CD individually for 99 cents?		
	Packs of 10	145	96.67%
	Individually for 99 cents	5	3.33%
	Don't know/not sure	0	0.00%

SUMMARY TABLE D

AD SURVEY #1391			
		Number	Percent
	Total sample	150	100.00%
Respondent shown Ad #6 - "Free Computer"			
Q.4b	When you purchase the computer in this ad, do you think that you will have to pay any California sales tax?		
	Yes	140	93.33%
	No	6	4.00%
	Don't know/not sure	4	2.67%
	Base = Respondents who answered "Yes" to Q. 4b	140	100.00%
Q.4c	(Asked of respondents who answered "Yes" to Q.4b) What price do you think you would have to pay California sales tax on?		
	\$400 to \$550 - Subtotal	106	75.71%
	\$550	1	0.71%
	\$500	2	1.43%
	\$449	100	71.43%
	\$450	1	0.71%
	\$400	1	0.71%
	Full price of the computer	1	0.71%
	\$30 to \$50 - Subtotal	7	5.00%
	\$50	2	1.43%
	\$40	1	0.71%
	\$35	1	0.71%
	\$32.52	1	0.71%
	\$32	1	0.71%
	\$30	1	0.71%
	Percent - Subtotal	6	4.29%
	7.5%	2	1.43%
	7.75%	1	0.71%
	8%	1	0.71%
	8.25%	2	1.43%
	\$1500	1	0.71%
	\$100	1	0.71%
	\$99	4	2.86%
	\$5	1	0.71%
	Don't know	14	10.00%

SUMMARY TABLE E

AD SURVEY #1391		
		Number Percent
	Base = Respondents who answered "Yes" to Q.4b on revised questionnaire	92 100.00%
Q.4e	Approximately how much do you think the sales tax would be?	
	\$30 to \$50 - Subtotal	54 58.70%
	\$50	9 9.78%
	\$45 or \$50	1 1.09%
	\$40 to \$50	1 1.09%
	\$40	14 15.22%
	\$45	2 2.17%
	\$37	1 1.09%
	\$36	2 2.17%
	\$34	1 1.09%
	\$32 to \$35	1 1.09%
	\$32.52	1 1.09%
	\$32	2 2.17%
	\$30	5 5.43%
	\$35	14 15.22%
	\$428	1 1.09%
	\$250	1 1.09%
	\$200	1 1.09%
	\$120	1 1.09%
	\$100	2 2.17%
	\$80	2 2.17%
	\$75	2 2.17%
	\$59.86	1 1.09%
	\$20 to \$30	1 1.09%
	\$25	2 2.17%
	\$20	2 2.17%
	\$15	1 1.09%
	\$10	1 1.09%
	\$8	1 1.09%
	\$0, it's free	1 1.09%
	36%	1 1.09%
	30%	1 1.09%
	1/4 of the price	1 1.09%
	8.25%	4 4.35%
	8%	2 2.17%
	7.5%	2 2.17%
	7%	2 2.17%
	Blank	2 2.17%
	Don't know	6 6.52%

SUMMARY TABLE F

AD SURVEY #1391			
		Number	Percent
	Base = Respondents who answered revised questionnaire	95	100.00%
Q.5a	Have you ever installed software on a computer?		
	Yes	45	47.37%
	No	50	52.63%
	Don't know/not sure	0	0.00%
Q.5b	Have you ever opened up a computer case and upgraded the hardware by installing equipment such as: memory, a videocard, a hard drive, a CD or DVD drive, a Zip drive, a modem or some other piece of hardware?		
	Yes	22	23.16%
	No	73	76.84%
	Don't know/not sure	0	0.00%
Q.5c	Have you ever built a computer?		
	Yes	9	9.47%
	No	86	90.53%
	Don't know/not sure	0	0.00%

SUMMARY TABLE G

AD SURVEY #1391			
		Number	Percent
	Total sample	150	100.00%
	Location		
	Redondo Beach, CA	50	33.33%
	Chula Vista, CA	50	33.33%
	San Diego, CA	50	33.33%
	Age of respondent		
	18 - 34 years	51	34.00%
	35 - 44 years	50	33.33%
	45 - 64 years	49	32.67%
	Gender of respondent		
	Male	101	67.33%
	Female	49	32.67%
Q.D-2	Shopped at Fry's Electronics in past 3 years	115	76.67%
Q.D-3	Might shop at Fry's Electronics in the next year	143	95.33%

**Pilot Survey
Summary Tables**

PILOT SURVEY QUESTIONNAIRE

AD SURVEY #1391			
		Number	Percent
	Total sample	55	100.00%
Respondent shown Display "A" - 3 four-page newspaper ads from Fry's			
Q.1b	From looking at these ads, which of the following describes your opinion about the prices of the products in the ads. Do you think that some of the prices of the products shown in the ads are the same prices that the products normally sell for at Fry's or do you think that all of the prices for the products shown in the ads are lower prices than the products normally sell for at Fry's?		
	Some prices are normal prices at Fry's	29	52.73%
	All prices are lower prices than normal prices at Fry's	22	40.00%
	Don't know, no opinion, not sure	4	7.27%
Respondent shown Ad #4 - "Compaq Presario 1688"			
Q.2c	Based upon this ad, do you think you have to sign up for Internet service with Compuserve in order to receive the rebate?		
	Yes	49	89.09%
	No	4	7.27%
	Don't know/not sure	2	3.64%
Q.2d +			
Q.2e	Base = Respondents who answered "Yes" to Q.2c	49	100.00%
Q.2d	(Asked of respondents who answered "Yes" to Q.2c) How much per month do you think you would have to pay for the Internet service from CompuServe?		
	\$21.95	43	87.76%
	\$20.00	2	4.08%
	\$22.00	1	2.04%
	\$19.95	1	2.04%
	\$400	1	2.04%
	Depends on the kind of Internet service	1	2.04%
Q.2e	(Asked of respondents who answered "Yes" to Q.2c) In order to receive the full \$400 rebate, how many months of Internet service from CompuServe do you think you would have to sign up for?		
	36 months/3 years	46	93.88%
	24 months/2 years	3	6.12%
Q.2f	If you purchased this computer and received the \$400 rebate and then cancelled the Internet service from CompuServe, do you think you would have to pay the \$400 rebate amount back to CompuServe?		
	Yes	38	69.09%
	No	13	23.64%
	Don't know/not sure	4	7.27%
Q.2g	If you cancelled the Internet service from CompuServe, do you think you would also have to pay a \$50 cancellation fee?		
	Yes	51	92.73%
	No	3	5.45%
	Don't know/not sure	1	1.82%

PILOT SURVEY QUESTIONNAIRE

AD SURVEY #1391			
		Number	Percent
Total sample		55	100.00%
Respondent shown Ad #5 - "CD" Ad			
Q.3a	What do you think is the price of an individual CD advertised here?		
	99 cents	50	90.91%
	\$1.99	1	1.82%
	15 cents	1	1.82%
	\$1.07	1	1.82%
	\$13 or \$14	1	1.82%
	They don't sell individually	1	1.82%
Q.3b	Based on this ad, do you think you have to purchase these CD's in packs of 10 or do you think that you can purchase one CD individually for 99 cents?		
	Packs of 10	53	96.36%
	Individually for 99 cents	2	3.64%
	Don't know/not sure		0.00%
Respondent shown Ad #6 - "Free Computer"			
Q.4b	When you purchase the computer in this ad, do you think that you will have to pay any California sales tax?		
	Yes	48	87.27%
	No	4	7.27%
	Don't know/not sure	3	5.45%
	Base = respondents who answered "Yes" to Q.4b	48	100.00%
Q.4c	(Asked of respondents who answered "Yes" to Q.4b) On what dollar amount do you think you would have to pay California sales tax?		
	\$449	31	64.58%
	\$50	2	4.17%
	\$99	1	2.08%
	\$400	1	2.08%
	\$30	1	2.08%
	\$5.00	1	2.08%
	\$32	1	2.08%
	\$35	1	2.08%
	\$100	1	2.08%
	8.25 percent	1	2.08%
	Don't know	7	14.58%

PILOT SURVEY QUESTIONNAIRE

AD SURVEY #1391			
		Number	Percent
	Total sample	55	100.00%
	Location		
	Redondo Beach, CA	31	56.36%
	Chula Vista, CA	8	14.55%
	San Diego, CA	16	29.09%
	Age of respondent		
	18 - 34 years	33	60.00%
	35 - 44 years	13	23.64%
	45 - 64 years	9	16.36%
	Gender of respondent		
	Male	35	63.64%
	Female	20	36.36%
Q.D-2	Shopped at Fry's Electronics in past 3 years	44	80.00%
Q.D-3	Might shop at Fry's Electronics in the next year	52	94.55%

**Revised Questionnaire
Summary Tables**

REVISED QUESTIONNAIRE

AD SURVEY #1391		Number	Percent
Total sample		95	100.00%
Respondent shown Display "A" - 3 four-page newspaper ads from Fry's			
Q.1b	From looking at these ads, which of the following describes your opinion about the prices of the products in the ads. Do you think that all of the prices shown here are lower than Fry's regular store prices, or do you think that some of the prices shown here in the ads are Fry's regular store prices, or don't you know or do you have no opinion on this?		
	All prices are lower prices than Fry's regular prices	28	29.47%
	Some prices are Fry's regular prices	54	56.84%
	Don't know, no opinion, not sure	13	13.68%
Respondent shown Ad #4 - "Compaq Presario 1688"			
Q.2c	Do you think you have to sign up for Internet service with Compuserve in order to receive the rebate?		
	Yes	88	92.63%
	No	3	3.16%
	Don't know/not sure	4	4.21%
Q.2d + Q.2e	Base = Respondents who answered "Yes" to Q.2c	88	100.00%
Q.2d	(Asked of respondents who answered "Yes" to Q.2c) How much per month do you think you would have to pay for the Internet service from CompuServe?		
	\$21.95	79	89.77%
	\$20	2	2.27%
	\$22	2	2.27%
	\$50 for 3 years	1	1.14%
	\$30	1	1.14%
	\$29.95	1	1.14%
	Don't know	1	1.14%
Q.2e	(Asked of respondents who answered "Yes" to Q.2c) In order to receive the full \$400 rebate, how many months of Internet service from CompuServe do you think you would have to sign up for?		
	36 months/3 years	81	92.05%
	1 year	5	5.68%
	2 or 3 months	1	1.14%
	Don't know	1	1.14%
Q.2f	If you purchased this computer and received the \$400 rebate and then cancelled the Internet service from CompuServe, do you think you would have to pay the \$400 rebate amount back to CompuServe?		
	Yes	72	75.79%
	No	19	20.00%
	Don't know/not sure	4	4.21%
Q.2g	If you cancelled the Internet service from CompuServe, do you think you would also have to pay a \$50 cancellation fee?		
	Yes	92	96.84%
	No	2	2.11%
	Don't know/not sure	1	1.05%

REVISED QUESTIONNAIRE

AD SURVEY #1391			
		Number	Percent
	Total sample	95	100.00%
Respondent shown Ad #5 - "CD" Ad			
Q.3a	What do you think is the price of an individual CD advertised here?		
	99 cents	91	95.79%
	under 10 cents	1	1.05%
	10 cents	2	2.11%
	\$6.99	1	1.05%
Q.3b	Based on this ad, do you think you have to purchase these CD's in packs of 10 or do you think that you can purchase one CD individually for 99 cents?		
	Packs of 10	92	96.84%
	Individually for 99 cents	3	3.16%
	Don't know/not sure	0	0.00%

REVISED QUESTIONNAIRE

AD SURVEY #1391			
		Number	Percent
	Total sample	95	100.00%
Respondent shown Ad #6 - "Free Computer"			
Q.4b	When you purchase the computer in this ad, do you think that you will have to pay any California sales tax?		
	Yes	92	96.84%
	No	2	2.11%
	Don't know/not sure	1	1.05%
	Base = Respondents who answered "Yes" to Q. 4b	92	100.00%
Q.4c	(Asked of respondents who answered "Yes" to Q.4b) What price do you think you would have to pay California sales tax on?		
	\$449	69	75.00%
	\$450	1	1.09%
	\$99	3	3.26%
	\$32.52	1	1.09%
	\$35	1	1.09%
	\$500	1	1.09%
	\$40	1	1.09%
	\$550	1	1.09%
	\$1500	1	1.09%
	7.5%	2	2.17%
	7.75%	1	1.09%
	8%	1	1.09%
	8.25%	1	1.09%
	Full price of the computer	1	1.09%
	Don't know	7	7.61%

REVISED QUESTIONNAIRE

AD SURVEY #1391		
		Number Percent
	Total sample	95 100.00%
	Base = Respondents who answered "Yes" to Q. 4b	92 100.00%
Q.4e	Approximately how much do you think the sales tax would be?	
	\$50	9 9.78%
	\$40	14 15.22%
	\$32.52	1 1.09%
	\$30	5 5.43%
	\$32 to \$35	1 1.09%
	\$35	14 15.22%
	\$100	2 2.17%
	\$75	2 2.17%
	\$45	2 2.17%
	\$15	1 1.09%
	\$25	2 2.17%
	\$32	2 2.17%
	\$80	2 2.17%
	8.25%	4 4.35%
	\$20	2 2.17%
	\$120	1 1.09%
	\$36	2 2.17%
	\$250	1 1.09%
	1/4 of the price	1 1.09%
	\$8	1 1.09%
	36%	1 1.09%
	30%	1 1.09%
	7%	2 2.17%
	\$40 or \$50	1 1.09%
	\$45 to \$50	1 1.09%
	8%	2 2.17%
	\$0, it's free	1 1.09%
	\$34	1 1.09%
	7.5%	1 1.09%
	7.50	1 1.09%
	\$428	1 1.09%
	\$20 to \$30	1 1.09%
	\$37	1 1.09%
	\$59.86	1 1.09%
	\$10	1 1.09%
	\$200	1 1.09%
	Blank	2 2.17%
	Don't know	6 6.52%

REVISED QUESTIONNAIRE

AD SURVEY #1391			
		Number	Percent
	Total sample	95	100.00%
Q.5a	Have you ever installed software on a computer?		
	Yes	45	47.37%
	No	50	52.63%
	Don't know/not sure	0	0.00%
Q.5b	Have you ever opened up a computer case and upgraded the hardware by installing equipment such as: memory, a videocard, a hard drive, a CD or DVD drive, a Zip drive, a modem or some other piece of hardware?		
	Yes	22	23.16%
	No	73	76.84%
	Don't know/not sure	0	0.00%
Q.5c	Have you ever built a computer?		
	Yes	9	9.47%
	No	86	90.53%
	Don't know/not sure	0	0.00%

REVISED QUESTIONNAIRE

AD SURVEY #1391			
		Number	Percent
Total sample		95	100.00%
Location			
Redondo Beach, CA		19	20.00%
Chula Vista, CA		42	44.21%
San Diego, CA		34	35.79%
Age of respondent			
18 - 34 years		18	18.95%
35 - 44 years		37	38.95%
45 - 64 years		40	42.11%
Gender of respondent			
Male		66	69.47%
Female		29	30.53%
Q.D-2	Shopped at Fry's Electronics in past 3 years	71	74.74%
Q.D-3	Might shop at Fry's Electronics in the next year	91	95.79%

Verbatim Responses

AD SURVEY #1391 (PILOT SURVEY QUESTIONNAIRE)
VERBATIM RESPONSES

Respondent shown Display "A" - 3 four-page newspaper ads

Q.1b From looking at these ads, which of the following describes your opinion about the prices of the products in the ads. Do you think that some of the prices of the products shown in the ads are the same prices that the products normally sell for at Fry's or do you think that all of the prices for the products shown in the ads are lower prices than the products normally sell for at Fry's? (Respondent answered "Some prices are normal prices at Fry's")

Q.1c Why do you say that?

- #101 "Because it just seems like some are lower than normal to me, and some are the same normal prices."
- #102 "Because I've been to Fry's before and I've seen their prices."
- #105 "Because ads try to fool you; sometimes they will show you something for \$5.00 less than what it is, but the prices all look in range of what they sell for."
- #106 "It's an electronic store and they don't charge as much as regular stores."
- #108 "Nothing really caught my attention."
- #109 "I shopped there once and they look like the same prices."
- #110 "Because they look like reasonable prices."
- #113 "Well, I wasn't looking at every price, but some of the things I've seen in past Fry's ads look the same as these do."
- #114 "Because they have the same prices at the store."
- #116 "I can compare prices on a daily basis."
- #117 "Because I've personally purchased some of these products at Fry's, so I'm familiar with their prices, basically."
- #122 "The cordless phone is \$49 and that is the normal price of phones, unless they went up."
- #123 "Because they have to sell about the same in the store as in the paper."
- #124 "Because the last time I was there, the speakers and other stuff was the same price."
- #126 "Because I bought a phone at Fry's and it's the same price."

- #128 "When you look at the computers, they are about the same prices."
- #129 "It looks about the same, you get some good deals."
- #130 "Just because consumer beliefs, that when you see it in the ad, you assume it's true."
- #201 "Because when I saw the specials, I noticed the same prices."
- #202 "Because they are normal prices or regular prices."
- #204 "Because I look at Fry's insert all the time."
- #208 "Because some of the products are cheaper and others are normal price, same as other store."
- #301 "I have been there. (P) Usually they are pretty accurate. (P) Nothing else."
- #302 "The price range. [C] I don't think that many items could be on sale at the same time. (P) Nothing else."
- #304 "I have been there a couple of times, and the prices are still the same. (P) Nothing else."
- #306 "I remember a couple of the prices and they seem the same. (P) Nothing else."
- #308 "The few times I've been in there, the prices seem the same. (P) Nothing else."
- #309 "Because I shop there a lot, and I know what regular prices are running."
- #316 "Because that's just the way it looks to me. (P) Nothing else."

Respondent shown Display "A" - 3 four-page newspaper ads

Q.1b From looking at these ads, which of the following describes your opinion about the prices of the products in the ads. Do you think that some of the prices of the products shown in the ads are the same prices that the products normally sell for at Fry's or do you think that all of the prices for the products shown in the ads are lower prices than the products normally sell for at Fry's? (Respondent answered "All prices are lower prices than normal prices at Fry's")

Q.1c Why do you say that?

#103 "Because I've seen them higher."

#104 "Because they are probably looking for more business, so they lowered prices and you wouldn't find an AT&T answering machine for \$28 unless you're at Kmart."

#107 "The ads I've seen before are \$499 and these say \$299, so these prices are a lot lower."

#111 "They're on sale, so they are lower. That's what it looks like to me, they're all lower sale prices."

#115 "Because I have a lot of these things and paid about the same prices for them. I see this one thing, or item, is marked \$0; that can't be right."

#118 "Because Fry's prices are normally higher."

#119 "They are probably sale items since it says sale."

#120 "I noticed some items I have seen higher at other places."

#121 "The prices don't seem like, well, a laptop isn't normally \$1,499. They're more like \$3,000."

#131 "The last time I was there, the prices were higher when I went than what they have in these ads. There's not much difference, just a little."

#203 "Because I've seen other ads; they are not cheap like this one."

#205 "Because they seem lower to me, very reasonable."

#206 "Because they are lower prices than I thought."

#207 "Because we were looking for a computer part and when we went, they were out, and we had to buy something else that was a higher price."

#303 "I have shopped at Fry's a long time and they always have lower prices. (P) Nothing else."

- #305 "Regular on-going sales at Fry's. (P) An excellent price. (P) Nothing else."
- #307 "Because I don't see anything that says sale. (P) There's a low price guarantee, so they don't have sales. (P) Nothing else."
- #310 "I look in the paper every day, and the prices look average."
- #311 "Because they just look like it. (P) Nothing else."
- #312 "Because I've been to other stores and they expect more. (P) Things are more expensive. (P) Nothing else."
- #313 "Because the prices look different from the ones we've seen. (P) Nothing else."
- #314 "Because the VCR from my experience is very cheap. (P) A lot of things for very cheap. (P) Nothing else."

Respondent shown Display "A" - 3 four-page newspaper ads

Q.1b From looking at these ads, which of the following describes your opinion about the prices of the products in the ads. Do you think that some of the prices of the products shown in the ads are the same prices that the products normally sell for at Fry's or do you think that all of the prices for the products shown in the ads are lower prices than the products normally sell for at Fry's? (Respondent answered "Don't know, no opinion, not sure")

Q.1c Why do you say that?

#112 "Because I don't usually shop at Fry's stores."

#125 "I don't pay that much attention."

#127 "It's just that it's been a long time since I've looked at Fry's, so I'm not really sure."

#315 "Because sometimes you can get things cheaper. (P) Nothing else."

AD SURVEY #1391 (REVISED QUESTIONNAIRE)
VERBATIM RESPONSES

Respondent shown Display "A" - 3 four-page newspaper ads

Q.1b From looking at these ads, which of the following describes your opinion about the prices of the products in the ads. Do you think that all of the prices shown here are lower than Fry's regular store prices or do you think that some of the prices shown here in the ads are Fry's regular store prices? (Respondent answered "All prices are lower than Fry's regular prices")

Q.1c Why do you say that?

#137 "There's a couple of items that just look a little cheaper than what I've seen before."

#138 "The prices are the same as in the store because I have bought the same products in the store."

#145 "Because some of the computers are \$700 and they normally go for about \$900."

#149 "Because I have seen some ads recently and they weren't as cheap as these."

#210 "Because they are lower, that's why it's in the advertising."

#211 "Because I have been in the store a few times and usually are a little bit higher than this."

#214 "Because I've been there and they are lower."

#215 "Because I know it catches your attention."

#217 "Because it's lower prices."

#218 "Because some are regular and some lower."

#219 "Because I've seen the video recorder and the price is lower here on this ad."

#223 "Well, I purchase some of these things, I know what they cost."

#224 "Because I've been to Fry's store and have an idea of their prices."

#237 "The ad says so. It's also lower than other companies like Costco and Sears. The home theater receiver is a very low price."

#239 "They all say they have a deduction in there. Some have a rebate and others, well, I'm familiar with their prices, mostly. These prices are lower."

#241 "I've seen their ads many times and am familiar with their prices."

- #244 "I just got out of Fry's and I read their ads."
- #250 "Because they are sale products."
- #319 "Has an idea how much items are sold for."
- #322 "Some of the prices, like the mouse for 89¢. Some of them look like a regular price, but the majority is not. (P) Nothing else."
- #325 "Software is cheaper."
- #332 "My dad just got some speakers and they were more expensive. (P) No."
- #334 "Because I've seen their ads and most of the prices are higher. (P) No."
- #335 "They are pretty low compared to other prices I've seen in their ads."
- #338 "Because it's a sale paper and it says low rates. (P) No."
- #340 "I do comparison shopping and read other ads to compare, some are the same but others are lower."
- #341 "Because they seem like they are lower than normal."
- #345 "Because on Wednesday and Friday they have sale prices that are compared to regular prices. (P) Nothing else."

AD SURVEY #1391 (REVISED QUESTIONNAIRE)
VERBATIM RESPONSES

Respondent shown Display "A" - 3 four-page newspaper ads

Q.1b From looking at these ads, which of the following describes your opinion about the prices of the products in the ads. Do you think that all of the prices shown here are lower than Fry's regular store prices or do you think that some of the prices shown here in the ads are Fry's regular store prices? (Respondent answered "Some prices are Fry's regular prices")

Q.1c Why do you say that?

#132 "Because they look like regular prices."

#133 "Sometimes their regular prices are on sale, sometimes they're not."

#134 "It just appears to be lower than the regular price."

#135 "Most of the things I'm not familiar with the prices of, but some of these prices look about the regular for Fry's."

#139 "Because I can't tell the difference."

#140 "Sometimes in the ad they have lower prices, but sometimes they're prices are higher."

#141 "From the ads I've seen over the years from Fry's and from the times I've been there, the ad and prices are the same with a couple of exceptions."

#142 "Because I am familiar with some of the products and the prices are very close."

#143 "Because on a lot of the ads they say fifty percent off, so I think they are cheaper."

#147 "Well, they show the same price for which I bought my computer for, so I think they are average prices."

#148 "Because they are very similar to prices I see on the market."

#150 "Some of the items are at average price, so I wouldn't say the prices are higher or lower."

#209 "Because they say they will beat any competitor's price."

#213 "Because I've been there and most of the prices are the same."

#216 "Because I've been there and I know that they are cheaper than Dow and Two Guys."

#220 "From my knowledge, the prices look the same from other stores that I've seen."

- #221 "Because I've seen the ads before, and the prices look similar."
- #225 "Because I always look for these ads, so I know."
- #226 "Well, like the stereo. Maybe you could get it cheaper here in a better price range. They're all good quality."
- #227 "Because some things, CD stereo prices are lower. I've been looking for one. On a lot of stuff, like the Panasonic, it's cheaper than I paid at Sears. It looks like the same thing for less."
- #228 "I've seen these prices before at several stores."
- #229 "I was specifically looking at the CD boom box and, no brand. Sony digital camera looks regular priced, but I'm not sure."
- #230 "Because I've seen higher and lower prices at other places. The ads seem appealing. I like the CD ROM."
- #231 "Because they're, some of them anyway, the same price. The other electronics I've seen them selling. The stuff is the same name brands I've seen."
- #232 "Because I shop around and know my prices."
- #233 "I've been in their store a lot, so I know."
- #234 "Because I know their prices and I read the ads every week."
- #235 "I usually look at Fry's ads."
- #236 "Because I buy computer equipment and know."
- #238 "I saw their Sunday ad and some prices were the same, and some higher, others lower. The answering machine is listed cheaper here and the VCR here is cheaper, but not the other stuff."
- #240 "I know their prices because I know electronics. I keep updated with the prices."
- #242 "Because I've seen many of their ads."
- #243 "I see their ads in the paper and I've been in their store."
- #245 "I've seen their ads so many times and been in the store many times."
- #246 "Some are Fry's because I've been in their store."
- #247 "I read the ads and know."

- #249 "I read these prices, they're good but I think they're the same as any others. The refrigerator and car amplifier are certainly sale prices and the lamp, but not others."
- #317 "Just because I don't think everything on here is on sale. (P) Nothing else."
- #320 "In the different ads I have seen, they don't seem to change too much."
- #321 "The computers are cheaper than other stores on the market. (P) Nothing else."
- #323 "Because I've been looking around for some of these items and I'm sure they're much more now. (P) Nothing else."
- #324 "A lot were cheap and a lot were costly."
- #326 "I priced things at Fry's and these prices aren't lower than I've seen."
- #327 "Been there, had a look, and in their store some prices are lower than other stores, but some prices are higher."
- #328 "I've seen what they charge for most stuff. (P) Nothing else."
- #329 "Just from being there. (P) I usually don't go for bargains, I just get what I want. (P) Nothing else."
- #330 "I've seen some of the same things for cheaper in the Fry's ads. (P) Nothing else."
- #331 "Um, I shop around a lot, I've gone to Best Buy, Fry's, Circuit City, and they're about the same. (P) No."
- #336 "It just seems that this is what they normally charge. (P) No."
- #339 "I've been in the past and the prices in the paper are regular price at the store, while other products are on sale."
- #342 "There are some prices that look lower than normal."
- #344 "Different makes of products, different prices."
- #349 "I look at Fry's two or three times a week"
- #350 "Because the times I've been in Fry's, the prices still look the same. (P) Nothing else."

AD SURVEY #1391 (REVISED QUESTIONNAIRE)
VERBATIM RESPONSES

Respondent shown Display "A" - 3 four-page newspaper ads

Q.1b From looking at these ads, which of the following describes your opinion about the prices of the products in the ads. Do you think that all of the prices shown here are lower than Fry's regular store prices or do you think that some of the prices shown here in the ads are Fry's regular store prices? (Respondent answered "Don't know, no opinion, not sure")

Q.1c Why do you say that?

#136 "I'm not really sure, so I can't say for sure."

#144 "Because I am not very familiar with this store or its prices."

#146 "The prices look the same as other store prices."

#212 "Because some of them look higher and some other prices look lower."

#222 "Because I don't really pay close attention to this type of ad, I like clothing ads."

#248 "I get their ads and read them."

#318 "Because I think when I go to Fry's, everything varies. They have different price ranges, but I don't go often enough to know them. (P) No."

#333 "Because I think I am a relatively modest consumer of electronics and it's not something I really know prices about."

#337 "I don't know their usual prices. (P) No."

#343 "It's hard to keep prices in my mind."

#346 "Because I've never priced these items before. (P) Nothing else."

#347 "Because I don't do computer stuff. (P) Nothing else."

#348 "I just don't. (P) It sure looks like their ads, though. (P) No."

Questionnaires and Instructions

Cogan Research Group
Suite 219
3528 Torrance Blvd.
Torrance, CA 90503
(310) 316-4289
Fax (310) 316-4939

#1391
2/14/01

ID#: _____ (for office use only)
1:3

Supervisor Use Only:	
___ 18 - 34	___ Male
___ 35 - 44	___ Female
___ 45 - 64	

Location:	4-
Redondo Beach, CA	---- 1
Chula Vista, CA	----- 2
San Diego, CA	----- 3
-----	----- 4

AD SURVEY
SCREENER

Interviewer
Date: _____ Print Name: _____

APPROACH MEN AND WOMEN WHO APPEAR TO BE AT LEAST 18 YEARS OF AGE
Hello, my name is _____. I'm helping with a brief survey and would appreciate talking with you for just a few minutes.

A. How far do you live from the shopping center?

- Less than 100 miles-----1 CONTINUE
- 100 miles or more-----2 THANK, TERMINATE & TALLY

TALLY:

(SHOW AGE CARD AND ASK:)

B. Which grouping on this card includes your age?

A) Under 18 years-----THANK RESPONDENT, TERMINATE & TALLY BELOW:

5-

- B) 18 - 34 years-----1
- C) 35 - 44 years-----2
- D) 45 - 64 years-----3

CHECK QUOTAS

E) 65 years or older---THANK RESPONDENT, TERMINATE & TALLY BELOW:

Refused-----THANK RESPONDENT, TERMINATE & TALLY BELOW:

TALLY:

(RETRIEVE AGE CARD)

C. RECORD:

Male-----1 CHECK QUOTAS
 Female-----2 CHECK QUOTAS

IF RESPONDENT HAS DIFFICULTY IN UNDERSTANDING OR SPEAKING ENGLISH, OR HAS A HEARING PROBLEM, THANK, END INTERVIEW & TALLY:

TALLY:

D-1. Have you read any advertisements for Fry's Electronics Stores in the past 3 years?

Yes-----1 CONTINUE
 No-----2 THANK, TERMINATE, TALLY.

TALLY:

D-2. Have you shopped at Fry's Electronics Stores in the past 3 years?
 (CIRCLE ANSWER BELOW)

D-3. Do you think you might shop at Fry's Electronics Stores in the next year?
 (CIRCLE ANSWER BELOW)

	Yes	No
Q.D-2 Has shopped	8- 1	2
Q.D-3 Might shop	9- 1	2

(IF "YES" IN Q.D-2 AND/OR Q.D-3, CONTINUE, IF NOT, THANK, TERMINATE AND TALLY.)

TALLY:

E. Do you or does anyone in your family or household own or work for an advertising agency or a marketing research firm?

Yes-----1 THANK, TERMINATE, TALLY.
 No-----2 CONTINUE

TALLY:

F. When was the last time you were interviewed in this shopping center?

Less than three months---1 THANK, TERMINATE, TALLY.
 3 months or more-----2
 Never-----3
 Don't Remember-----4

CONTINUE WITH INTERVIEW

TALLY:

G. Do you usually wear contact lenses or glasses when you are shopping or reading?

Yes-----1 CONTINUE
 No-----2 SKIP TO Q.I

H. Do you have them with you today?

Yes-----1 CONTINUE
 No-----2 THANK, TERMINATE, TALLY.

TALLY:

I. I'd like to show you some advertisements and then ask you a few questions. The survey takes about 10 minutes, would you like to help us out?

Yes-----1 ESCORT RESPONDENT TO INTERVIEWING AREA
 No-----2 THANK, TERMINATE, TALLY.

TALLY:

#1391
2/14/01

Location:
Redondo Beach, CA-----1
Chula Vista, CA-----2
San Diego, CA-----3

Cogan Research Group
3528 Torrance Blvd., #219
Torrance, CA 90503
(310) 316-4289
Fax (310) 316-4939

AD SURVEY
Main Questionnaire

RECORD TIME STARTED: _____ AM / PM

(ASK RESPONDENT TO BE SEATED IN THE INTERVIEWING AREA. IF RESPONDENT WEARS GLASSES FOR READING OR SHOPPING, PLEASE HAVE RESPONDENT PUT THEM ON.)

- 1a. Today I will be showing you some advertising for Fry's Electronics. Please look at the ads carefully and I will ask you some questions about your opinions.
- 1b. (SHOW DISPLAY "A": [3 - "4 PAGE ADS #1, 2, 3"]) Please look at these ads the way you would if you were interested in purchasing some of these products. Let me know when you are finished.

(WHEN RESPONDENT HAS FINISHED, ASK:) From looking at these ads, which of the following describes your opinion about the prices of the products in the ads. Do you think that some of the prices of the products shown in the ads are the same prices that the products normally sell for at Fry's or do you think that all of the prices for the products shown in the ads are lower prices than the products normally sell for at Fry's?

Some prices are normal prices at Fry's -----1

All prices are lower prices than normal prices at Fry's-----2

(DON'T READ) Don't know, no opinion, not sure-----3

- 1c. Why do you say that? (RECORD VERBATIM)

(REMOVE THE ADS FROM VIEW)

2a. **(SHOW AD #4- Compaq Presario 1688)** Please read this ad and the information on the \$400 Internet Mail-In Rebate and let me know when you are finished.

(WHEN RESPONDENT HAS FINISHED, ASK) Please describe what the ad is offering and what you have to do to obtain the computer at this sale price. **(RECORD VERBATIM, PROBE, CLARIFY)**

2b. This ad offers a rebate for this computer. Based upon this ad, what do you think you have to do in order to receive the \$400 rebate? **(RECORD VERBATIM, PROBE, CLARIFY)**

2c. Based upon this ad, do you think you have to sign up for Internet service with CompuServe in order to receive the rebate?

- Yes-----1----**ASK Q. 2d**
- No-----2----**SKIP TO Q. 2f**
- DK/not sure-----3----**SKIP TO Q. 2f**

2d. How much per month do you think you would have to pay for the Internet service from CompuServe?

\$21.95-----1
 Other (write in) _____

2e. In order to receive the full \$400 rebate, how many months of Internet service from CompuServe do you think you would have to sign up for?

36 months-----1

Other (write in) _____

2f. If you purchased this computer and received the \$400 rebate and then cancelled the Internet service from CompuServe, do you think you would have to pay the \$400 rebate amount back to CompuServe?

Yes-----1

No-----2

DK/Not sure-----3

2g. If you cancelled the Internet service from CompuServe, do you think you would also have to pay a \$50 cancellation fee?

Yes-----1

No-----2

DK/Not sure-----3

(REMOVE THE AD FROM VIEW)

3a. **(SHOW Ad #5 "CD" AD)** Please read this ad and let me know when you are finished.

(WHEN RESPONDENT HAS FINISHED, ASK) What do you think is the price of an individual CD advertised here?

99¢ -----1

Other (write in) _____

3b. Based upon this ad, do you think you have to purchase these CD's in packs of 10 or do you think that you can purchase one CD individually for 99¢?

Packs of 10-----1

Individually for 99 ¢-----2

DK/not sure-----3

(REMOVE THE AD FROM VIEW)

4a. (SHOW AD #6, "FREE COMPUTER") Please read this ad and let me know when you are finished. (WHEN RESPONDENT HAS FINISHED, ASK) Please describe what the ad is offering and what you have to do to obtain the computer at this sale price. (RECORD VERBATIM, PROBE, CLARIFY)

4b. When you purchase the computer in this ad, do you think that you will have to pay any California sales tax?

- Yes-----1-----ASK Q. 4c
No-----2-----SKIP TO Q. 4d
DK/Not sure-----3-----SKIP TO Q. 4d

4c. On what dollar amount do you think you would have to pay California sales tax?

- \$449-----1
Other \$ amount(write in) _____
Don't know-----2

4d. Why do you say that? (RECORD VERBATIM)

(REMOVE AD FROM VIEW)

- 5. Thank you for your time. I just need you to sign here to affirm that you understand that your name and opinions will remain confidential and that you have participated in this survey. And may I have your telephone number, so that my supervisor can verify I did this interview?

RESPONDENT INFORMATION

My signature below affirms that I have participated in this interview and that my name and responses will remain confidential.

Respondent Signature: _____

Print Respondent Name: _____

Date: _____

Respondent Telephone Number: _____ (_____) _____

Thank you very much for participating in our survey.

Supervisor Verification, if telephone # refused: _____

- 6. **INTERVIEWER CERTIFICATION:** My signature below affirms that I have personally interviewed the above named respondent to the best of my ability in accord with the interviewer briefing instructions and that I have recorded, as fully as possible, the respondent's complete answers to the above questions. I also affirm that this interview was completed on the date I have written below.

SIGNATURE OF INTERVIEWER: _____

DATE: _____

RECORD TIME ENDED: _____ **AM / PM**

#1391
2/16/01

Location:
Redondo Beach, CA-----1
Chula Vista, CA-----2
San Diego, CA-----3

Cogan Research Group
3528 Torrance Blvd., #219
Torrance, CA 90503
(310) 316-4289
Fax (310) 316-4939

AD SURVEY
Main Questionnaire

RECORD TIME STARTED: _____ AM / PM

(ASK RESPONDENT TO BE SEATED IN INTERVIEWING AREA. IF RESPONDENT WEARS GLASSES FOR READING/SHOPPING, PLEASE HAVE RESPONDENT PUT THEM ON.)

- 1a. Today I will be showing you some advertising for Fry's Electronics and asking you some questions about your opinions.
- 1b. (SHOW DISPLAY "A": [3 - "4 PAGE ADS #1, 2, 3"]) Please look at each ad's title and picture on the first page in the upper right hand corner. (INTERVIEWER POINT TO - AD #1 "Fry's Loves Graduates; AD #2 "Fry's Summer Sale!"; AD #3 "Fry's Fall Event.")

Now, please look at these ads the way you would if you were interested in purchasing some of these products. Let me know when you are finished.

(WHEN RESPONDENT HAS FINISHED, ASK:) From looking at these ads, which of the following describes your opinion about the prices of the products in the ads. Do you think that all of the prices shown here are lower than Fry's regular store prices, or do you think that some of the prices shown here in the ads are Fry's regular store prices, or don't you know or do you have no opinion on this?

All prices are lower prices than Fry's regular prices-----1

Some prices are Fry's regular prices -----2

Don't know, no opinion, not sure-----3

- 1c. Why do you say that? (RECORD VERBATIM)

(REMOVE THE ADS FROM VIEW)

2a. **(SHOW AD #4- Compaq Presario 1688)** Please read this ad and let me know when you are finished.

(WHEN RESPONDENT HAS FINISHED, ASK) Please describe what the ad is offering and what you have to do to obtain the computer at this sale price.

(RECORD VERBATIM, PROBE, CLARIFY)

2b. This ad offers a rebate for this computer. Please read the information on the \$400 Internet Mail-In Rebate. Let me know when you are finished. **(WHEN RESPONDENT HAS FINISHED, ASK)** What do you think you have to do in order to receive the \$400 rebate? **(RECORD VERBATIM, PROBE, CLARIFY)**

2c. Do you think you have sign up for Internet service with Compuserve in order to receive the rebate?

- Yes-----1----**ASK Q. 2d**
- No-----2----**SKIP TO Q. 2f**
- DK/not sure-----3----**SKIP TO Q. 2f**

2d. How much per month do you think you would have to pay for the Internet service from CompuServe?

\$21.95-----1
Other (write in) _____

2e. In order to receive the full \$400 rebate, how many months of Internet service from CompuServe do you think you would have to sign up for?

3 years / 36 months-----1

Other (write in) _____

2f. If you purchased this computer and received the \$400 rebate and then cancelled the Internet service from CompuServe, do you think you would have to pay the \$400 rebate amount back to CompuServe?

Yes-----1

No-----2

DK/Not sure-----3

2g. If you cancelled the Internet service from CompuServe, do you think you would also have to pay a \$50 cancellation fee?

Yes-----1

No-----2

DK/Not sure-----3

(REMOVE THE AD FROM VIEW)

3a. **(SHOW Ad #5 "CD" AD)** Please read this ad and let me know when you are finished.

(WHEN RESPONDENT HAS FINISHED, ASK) What do you think is the price of an individual CD advertised here?

99¢ -----1

Other (write in) _____

3b. Based upon this ad, do you think you have to purchase these CD's in packs of 10 or do you think that you can purchase one CD individually for 99¢?

Packs of 10-----1

Individually for 99 ¢-----2

DK/not sure-----3

(REMOVE THE AD FROM VIEW)

4a. **(SHOW AD #6, "FREE COMPUTER")** Please read this ad and let me know when you are finished. **(WHEN RESPONDENT HAS FINISHED, ASK)** Please describe what the ad is offering and what you have to do to obtain the computer at this sale price. **(RECORD VERBATIM, PROBE, CLARIFY)**

4b. When you purchase the computer in this ad, do you think that you will have to pay any California sales tax?

- Yes-----1-----**ASK Q. 4c**
- No-----2-----**SKIP TO Q. 4d**
- DK/Not sure-----3-----**SKIP TO Q. 4d**

4c. What price do you think you would have to pay California sales tax on?

\$449-----1

Other \$ amount(write in) _____

Don't know-----2

4d. Why do you say that? **(RECORD VERBATIM)**

4e. Approximately how much do you think the sales tax would be?

(REMOVE AD FROM VIEW)

5a. Have you ever installed software on a computer?

Yes-----1

No-----2

DK/not sure-----3

5b. Have you ever opened up a computer case and upgraded the hardware by installing equipment such as: memory, a videocard, a hard drive, a CD or DVD drive, a Zip drive, a modem or some other piece of hardware?

Yes-----1

No-----2

DK/not sure-----3

5c. Have you ever built a computer?

Yes-----1

No-----2

DK/not sure-----3

- 6. Thank you for your time. I just need you to sign here to affirm that you understand that your name and opinions will remain confidential and that you have participated in this survey. And may I have your telephone number, so that my supervisor can verify I did this interview?

RESPONDENT INFORMATION

My signature below affirms that I have participated in this interview and that my name and responses will remain confidential.

Respondent Signature: _____

Print Respondent Name: _____

Date: _____

Respondent Telephone Number: _____ () _____

Supervisor Verification, if telephone # refused: _____

- 7. **INTERVIEWER CERTIFICATION:** My signature below affirms that I have personally interviewed the above named respondent to the best of my ability in accord with the interviewer briefing instructions and that I have recorded, as fully as possible, the respondent's complete answers to the above questions. I also affirm that this interview was completed on the date I have written below.

SIGNATURE OF INTERVIEWER: _____

DATE: _____

RECORD TIME ENDED: _____ AM / PM

Cogan Research Group
3528 Torrance Blvd.
Suite 219
Torrance, CA 90503
(310) 316-4289
FAX (310) 316-4939

#1391
2/13/01

AD SURVEY

SUPERVISOR'S INSTRUCTIONS

Contact: Sandy or Midge, Cogan Research Group
Phone: (310)316-4289 FAX (310) 316-4939

Send Billing to: Sandra Cogan
Cogan Research Group
3528 Torrance Blvd., Suite 219
Torrance, CA 90503
Tel: (310) 316-4289 Fax: (310) 316-4939

MATERIALS

- 60 Screeners (White)
- 10 Practice Questionnaires (White attached to Green)
- 60 Questionnaires (Green)
 - 2 Supervisor's Instructions (Pink)
- 10 Interviewer's Instructions (Blue)
 - 2 Quota sheets (White)
 - 2 Briefing Confirmation Forms (Purple)
 - 2 Incidence Reports (White)
 - 8 Shipment Sheets (Yellow)
- 10 Verification Forms (Ivory)
- 6 Age cards (Green)
- 8 Preprinted FedEx Airbill Forms
- 1 Co-op Check (If requested)
 - Display A: Ad #1 ("Fry's Loves Graduates"); Ad #2 ("Fry's Summer Sale"); Ad #3 ("Fry's Fall Event")
 - Ad #4 ("Compaq Presario 1688")
 - Ad #5 ("CD")
 - Ad #6 ("Free Computer")

SCHEDULE**CHECK DATES FOR YOUR MALL**

<u>Mall Location</u>	<u>Start Dates</u>	<u>End Dates</u>
Redondo Beach, CA	2/13/01	2/19/01
Chula Vista, CA	2/15/01	2/21/01
San Diego, CA	2/15/01	2/21/01

Faxed Daily Incidence Report

All screener tally marks and questionnaires will be tallied on the incidence report. Keep separate tallies for each day. The incidence report must be faxed by 10:00 AM (PST) every weekday to Midge at Cogan Research: FAX #(310) 316-4939.

QUOTATotal quota is **50** completed interviews.**For AGE QUOTAS, SEE QUOTA SHEET AND BELOW**

Age Group	Men	Women	Total
18 - 34	11	5	16
35 - 44	11	5	16
45 - 64	12	6	18
Total	34	16	50

DISPLAY SET UP AND INTERVIEWING PROCEDURE**DISPLAY SET UP**

Six advertisements. Keep the ads face down until instructed to give them to respondent.

INTERVIEWING PROCEDURE

Interviewer Instructions: Interviewer instructions for each question are in **BOLD ALL CAPS** next to each question.

Survey Screener--Follow the instructions on the screener. **Circle** your mail location. Men and women age 18 to 64 years old must answer "yes" to Questions D-1 and D-2 and/or D-3 to qualify. Qualified survey respondents must pass the other survey screening requirements.

Questionnaire

There is one version of the questionnaire.

Follow the interviewing instructions on the questionnaire. On the last page, if the respondent refuses to give his or her telephone number, the supervisor must initial the *Supr./Intr. Verification line* to verify the interview was conducted.

SHIPPING

Ship survey screeners and questionnaires every day Monday through Saturday via Federal Express P1 for weekday delivery. Use our yellow shipping form for each shipment. Follow the instructions on the form so you know what to send with each shipment. Do not send verification forms until the final shipment of completes. Charge shipments to this FedEx account number: 1777-8165-7

Daily shipments go to: Sandy or Midge (310) 316-4289
Cogan Research Group
3528 Torrance Blvd., Suite 219
Torrance, CA 90503

Final Shipments

To Cogan Research Group with last shipment of completed interviews send the same day:

- * Clean copy of complete Incidence Report
- * Original Verification Forms
- * Briefing Confirmation Forms
- * Practice Interviews
(Bundle briefing confirmation forms with practice interviews)
- * Quota Sheet

After the survey is completed including any interviews which have to be replaced, send all other material including: product displays, table cloths, extra screeners, extra questionnaires, instructions, etc. Fed Ex Priority next day delivery.

EDITING THE SCREENER AND QUESTIONNAIRE

DO NOT MAKE EDITING MARKS ON THE COMPLETED QUESTIONNAIRES

If you need to make any mark on a completed questionnaire, use a post-it note. If you like to initial the interviews you have edited, please initial in the

upper right hand corner. Supervisors may not clarify an interviewer's writing with blue pencil or any other marks. You may use a post-it to write clarification notes.

Editing should only consist of checking that:

- the interview was done correctly;
- the skip patterns were followed correctly; (asking the wrong questions makes the interview invalid)
- there are no erasures on the questionnaire;
- the writing is legible. If not, clarify with a post-it note.

If the completed questionnaire does not meet the above mentioned requirements, then the interview is invalid. You will be asked to replace any invalid interviews.

PROCEDURES / REQUIREMENTS

Briefing of Interviewers

Each interviewer who works on this survey must be briefed by the supervisor who was briefed by the client and complete one practice interview. For the briefing, the "Interviewer's Instructions" should be read to the interviewers. These instructions must be read verbatim to each interviewer to assure the consistency of instructions to all interviewers at all locations. Then, go over the screener and questionnaire.

Each supervisor and interviewer must print their name and sign the Briefing Confirmation Form on the date their briefing takes place. When shipping the practice interviews back, keep the practice interviews in the order the interviewers signed the briefing confirmation form, then place the briefing confirmation form on top, and place a rubber band around them.

Practice Interviews

Have each interviewer do a practice interview *exactly as they would a real interview*, with a supervisor as the respondent. Other interviewers present should listen to each practice interview. For each practice interview, give different responses so the interviewers can observe examples of the different skip patterns.

Number of Interviewers Per Version --Report any problems with this IMMEDIATELY

Minimum # of Interviewers who can work on this survey: 3

Maximum # of interviewers who can work on this survey: 7

Minimum # of Completes per Interviewer: 4
Maximum # of Completes per Interviewer: 20

The Screener and Completed Questionnaire

Erasing on the screener is permitted. ***No erasing is permitted on the questionnaire.*** Respondent answer changes or mistakes may be crossed out but never erased. Each crossed out mistake must be initialed by the interviewer. Questionnaires with erasures will not be counted toward quota. Interviewers may use **pen** on the questionnaire.

Interviewers must write legibly. Illegible writing or extraneous marks (doodling) make the interview invalid.

Validations--Do not validate any interviews. Cogan Research Group will verify 25% of each interviewer's work.

AD SURVEY
INTERVIEWER'S INSTRUCTIONS

General Instructions

BRIEFING: Each interviewer who works on this survey must be briefed by the supervisor who was briefed by the client and complete one practice interview. Each interviewer must sign the briefing confirmation form at the time he or she is briefed.

ERASING: Erasing on the screener is permitted. NO ERASING ON THE QUESTIONNAIRE. Respondent answer changes or mistakes must be crossed out and initialed by you, the interviewer. Questionnaires with erasures will not be counted toward quota. Interviewers may use **pen** on the questionnaire.

You **must** write legibly. Illegible writing makes the interview invalid. There should be no extra marks on any questionnaire. Extra marks or "doodling" will cause the interview to be invalid.

The respondent should not be able to view the questionnaire during an interview, except when the respondent's signature is requested. Twenty-five percent of each interviewer's interviews will be verified by telephone by Cogan Research Group.

Screening Instructions

- * Circle the location of your mall.
- * Screen on the mall for men and women 18 to 64 years old.
- * Make a tally mark each time the respondent terminates so incidence can be accurately calculated.
- * Never interview more than one person from the same household.
- * Never interview your friends or your relatives.
- * Never answer questions about the survey for the respondent.
- * Do not screen anyone who approaches you and asks if they can do a survey. Do not screen anyone who is hanging around the recruiting area.
- * Terminate any interview where it appears the respondent has difficulty understanding or reading English.

Interviewing Instructions

Follow directions and skip patterns in **BOLD CAPITAL LETTERS** on the questionnaire. Circle your mall location. Record the start and end time as directed on the questionnaire. Read the questionnaire verbatim every time.

Check the **Quota Sheets** before starting an interview.

There is one version of the questionnaire.

Interviewing Procedure:

- * Read Q.1a
- * Show respondent Display A, read Q.1b and Q.1c
- * Remove Display A
- * Show respondent Ad #4, read Q.2b to Q.2g
- * Remove Ad #4
- * Show respondent Ad #5, read Q.3a and Q.3b
- * Remove Ad #5
- * Show respondent Ad #6, read Q.4a to Q.4d
- * Remove Ad #6
- * Complete the interview

Respondent's Name and Telephone Number. The respondent will be asked to sign and print their name to affirm confidentiality, and then will be asked for their phone number. If they refuse to give their phone number, just write "refused" and have your supervisor initial next to the "refused" to verify that you completed the interview and that the respondent refused to give their phone number. Circle number on Quota Sheet corresponding with the respondent's age and gender.

Legibly sign, date, record the time for each questionnaire you complete. Fill out the verification form for each interview you complete.

Probing and Clarifying Instructions

Record answers verbatim. Even "Um", "Uh", "Well" and all those extra words. First **complete probing**, then **clarify** answers. Do not probe a respondent who answers an open-ended question with "I don't know" or "I have no idea", etc. Always probe with "What else..." and not "Anything else?"

Clarify with "What is it about the _____ ?" Clarify anything that is unclear to you.

Display

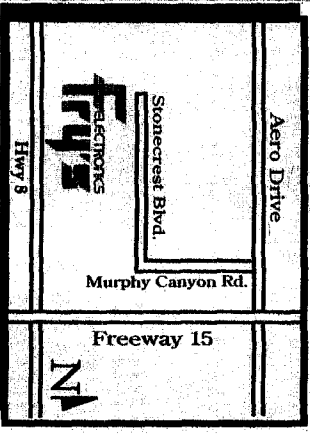
FRY'S ELECTRONICS

HOME OF FAST, FRIENDLY,
COURTEOUS SERVICE®

Prices Good Through
June 15, 1999

Designated trademarks & brands are
property of their respective owners.

Light Rights Reserved.
Not Responsible for Typographical Errors.
No Sales To Dealers or Resellers
1 Limit One Per Customer.
Roboles subject to manufacturer's specifications.



SAN DIEGO
9825 Stonecrest Blvd. (619) 514-6400

STORE HOURS:
MON - FRI
8AM - 9PM
SATURDAY
9AM - 9PM
SUNDAY
9AM - 7PM

GREAT SELECTION AND LOW PRICES!



emachines
Now!

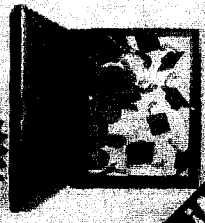


**FUJITSU C352
LIFEBOOK
NOTEBOOK
WITH 333MHz
Intel® Celeron®
processor***



- Bright 12.1" SVGA TFT display
- 32MB SDRAM memory upgradeable to 96MB
- Large capacity 4.3GB Hard Drive
- Built-in 56K V.90 modem
- Built-in floppy disk and 24x max CD-ROM drives
- 16-bit stereo sound and full-motion video support for enhanced Multimedia

Apple® Powerbook G3/533



- 14.1" TFT Screen
- 333MHz Power PC G3 Processor
- L2 Cache
- 64MB SDRAM
- 4GB Hard Drive
- 8MB Video Memory
- 24x CD-ROM Drive
- 10/100Base-TX Ethernet
- 56K Internal Modem
- AC Power Adapter

**WITH
USB!**

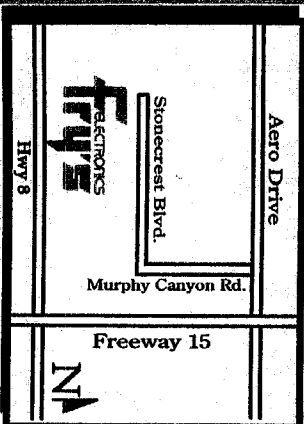
NEW!

FRY'S ELECTRONICS

HOME OF FAST, FRIENDLY,
COURTEOUS SERVICE®

Prices good through
Friday, July 16, through
Tuesday, July 20, 1999

Designated trademarks & brands are
property of their respective owners.

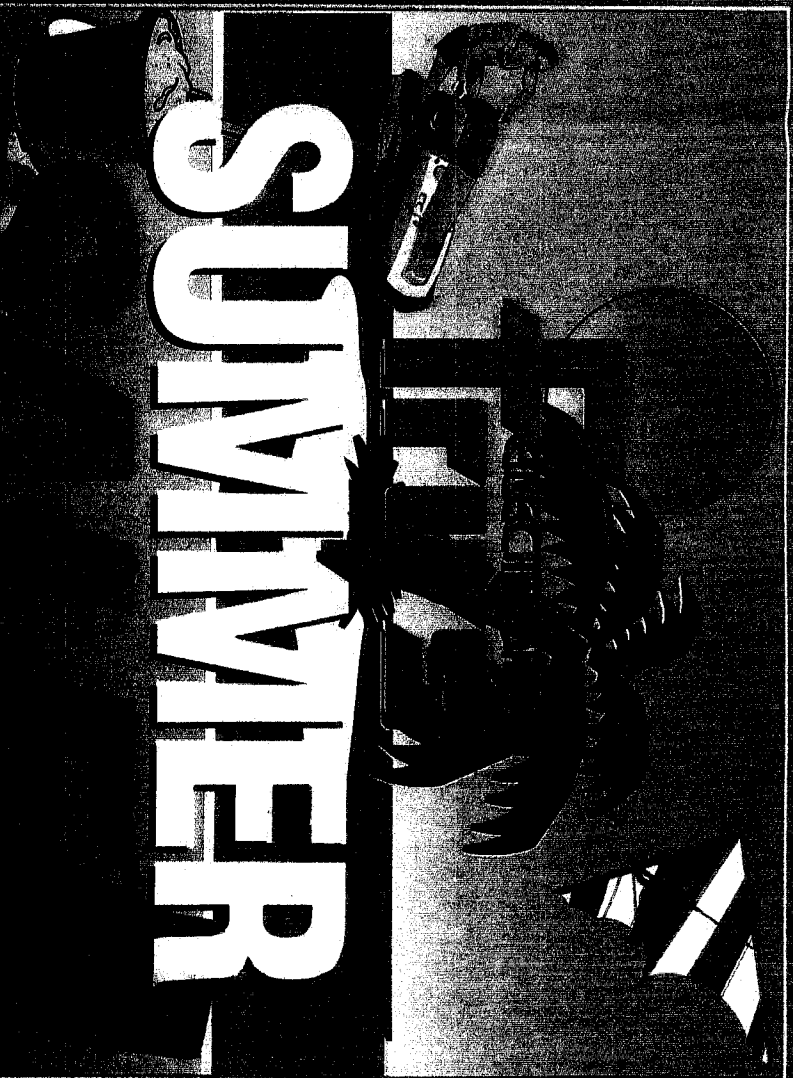


SAN DIEGO
9825 Stonecrest Blvd. (619) 514-6400

Limit Rights Reserved.
Not responsible for typographical errors.
Not valid for cash, gift certificates
1 Limit One Per Customer
Restrictions subject to manufacturer's specifications.

STORE HOURS:
MON - FRI
8AM - 9PM
SATURDAY
9AM - 9PM
SUNDAY
9AM - 7PM

GREAT SELECTION AND LOW PRICES!



SUMMER

FREE COMPUTER!

With subscription to 3-year Internet services plan at \$21.95 a month after \$400 Internet rebate!!!

\$400

Match in rebate on any 3-year Internet services plan. See store for details.

Quantities are limited. While Supplies Last. No substitutions.

Apple® iMac

- 333MHz PowerPC G3 processor
- 15-inch display
- 13.8-inch viewable
- 6MB of video memory
- 6GB IDE Hard drive
- Built-in 56k fax/modem
- 32MB SDRAM

FREE HARDWARE WITH PURCHASE

\$499

Scott Palm III ORGANIZER

- Pocket sized electronic organizer which syncs with your computer at the touch of a button
- Instant access to your Date Book, Address Book, Mail, Memo Pad, To Do List, Expense, Calculator, and Games
- Infrared beaming just point and beam data and applications directly to other Palm III organizer users
- Flash upgradeable memory- upgrade to future operating systems without replacing your memory card
- Holds up to 10,000 records
- Easy-to-read backlit screen with new fonts to let you see your

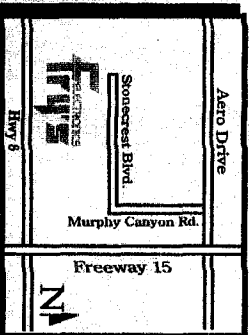
Low Price!

\$499

FRY'S ELECTRONICS

HOME OF FAST, FRIENDLY,
COURTEOUS SERVICE®

SAN DIEGO
9825 Stonecrest Blvd.
(619) 514-6400



STORE HOURS Mon-Fri 8-9, Sat 9-9, Sun 9-7

Prices Good Friday, September 24, 1999
Through Tuesday, September 28, 1999

Limit Rights Reserved.
Not Responsible for Typographical Errors.
In-Store and Manufacturer Rebate Offers
DO NOT REFUND THE SALES TAX PAID
by the Customer.

No Sales to Dealers or Resellers.
Resellers Subject to Manufacturer's Specifications.
† Limit One per Customer

Discover®/Novus® MasterCard and Visa Accepted

Fry's Electronics resells technology products and does not warrant that such products will function correctly for dates after 12/31/99. Fry's Electronics has a list of 2K+ information websites and a list of manufacturers and publishers to contact for additional 2K information, available in our stores.



ON ALL emachines COMPAQ SONY. DESKTOP COMPUTERS AND SONY COMPAQ NOTEBOOKS!

AFTER MAIL-IN REBATE.

SAVE \$400

†† Computer \$400.00 Internet Mail-in Rebate offer is subject to availability, credit approval and your acceptance of Compuserve Terms of Service. Access to Compuserve may be limited, especially during peak times. Toll call may apply. See Compuserve for local access numbers. Offer also requires: (1) purchase of a Compaq/HP/ekaladesh computer; (2) contract commitment to a 3-year/36-month subscription for Compuserve 2000 Internet Service at a monthly rate of \$21.95; (3) completed mail-in rebate form; (4) a valid major credit card; and (5) a purchase receipt. All of the above must be completed and received by Compuserve within 30 days of purchase. Within 45 days of credit approval, the \$400 Compaq/HP/ekaladesh/Compuserve Internet Service rebate will be credited to your designated credit card or funded by check sent to the name and address provided on the credit application. Early termination of the 3-year Compuserve 2000 Internet Service requires repayment of the \$400 rebate plus a \$50 cancellation fee. Offer expires 10/31/99. Age 18 years or older. Limit one per household or business. See store for details. Compuserve provides various pricing plans, some of which may be lower than the \$21.95 monthly rate required for this promotion. Compuserve is a trademark of Compuserve Interactive Services, Inc.

††† \$400 Mail-in Rebate valid only on qualifying SCNV computers purchased between 8/5/99 and 10/31/00 and accompanied by a 3-year commitment in the purchase of an automatic membership on Prodigy Internet. Offer limited to new Prodigy Internet members only. Enrollment in the Prodigy Internet service must be completed with an automatic payment plan on a valid, major credit card. See stores for details.

†††† \$400 Mail-in Rebate valid only on qualifying National Computers purchased between 8/15/99 & 12/31/99, and accompanied by a 3-year, at \$21.95 per month MSN Plus Internet Access Membership on MSN Internet Network. Offer limited to new MSN members only. Enrollment in the MSN Plus Internet Access Service must be completed with an automatic payment on a valid major credit card. Toll charges may apply. See Internet Provider for local access numbers and see store for details.



56K* V.90 ISA DATA/FAX WINMODEM

* Current regulations limit download speed to 56K

NO REBATE HASSLE

Now! \$1299

3-BUTTON MOUSE SERIAL OR PS/2

AMBI-DISTROUS

- Giving enhanced control
- Available in a range of hand sizes

\$1999

WINDOWS 98 KEYBOARD

- PC-AT & PS/2 Compatible
- Membrane type switch keys
- 3 Win 98 Power Management Keys
- Sleep
- Power Off
- Wake-Up

\$299

MULTIMEDIA PC FEATURING THE 433MHz Intel® Celeron™ PROCESSOR

- 64MB SDRAM
- 8.4GB Ultra DMA Hard Drive
- 40x max. CD-ROM
- 56K V.90 Fax/Modem
- 8MB AGP-Shared Memory
- Stereo Sound
- Windows 98
- Corel WordPerfect Suite

MSRP \$499

MSN CONNECTED ORGANIZER

\$599

††† **\$400**

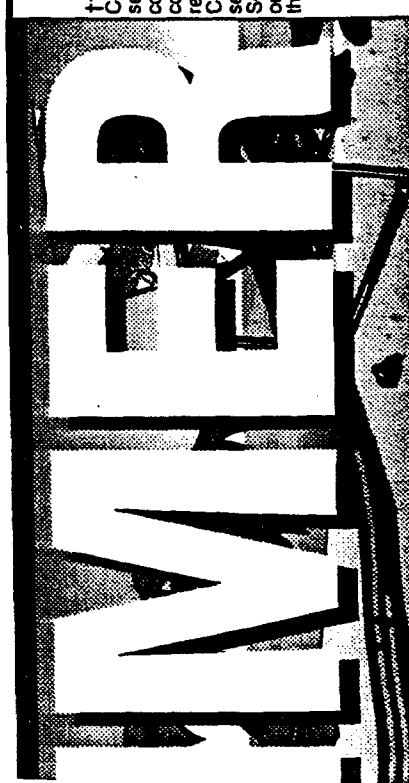
Palm V CONNECTED ORGANIZER ULTRA-SLIM DESIGN

- Screen with razor-sharp clarity, and rechargeable batteries
- Pocket sized electronic organizer which syncs with your computer at the touch of a button.
- Features an ultra-slim, LCD screen technology and backlighting
- Provides razor-sharp clarity. Long life lithium ion.

FRIDAY, SEPTEMBER 17, 1999

\$400 Internet Mail-In Rebate

CompuServe \$400.00 Internet Mail-In Rebate offer is subject to availability, credit approval and your acceptance of CompuServe Terms of Service. Access to CompuServe may be limited, especially during peak times. Toll charges may apply. See CompuServe for local access numbers. Offer also requires: (1) purchase of any Compaq/HP/eMachines computer, (2) contract commitment to a 3-year/36-month subscription for CompuServe 2000 Internet Service at a monthly rate of \$21.95, (3) completed mail-in rebate form, (4) a valid major credit card, and (5) a purchase receipt. All of the above must be completed and received by CompuServe within 30 days of purchase. Within 45 days of credit approval, the \$400 CompuServe/eMachines/CompuServe Internet Service rebate will be credited to your designated credit card or fulfilled by check sent to the name and address provided on the credit application. Early termination of the 3-year CompuServe 2000 Internet Service requires repayment of the \$400 rebate plus a \$50 cancellation fee. Offer expires 10/31/99. Age 18 years or older. Limit one per household or business. See store for details. CompuServe provides various pricing plans, some of which may be lower than the \$21.95 monthly rate required for this promotion. CompuServe is a trademark of CompuServe Interactive Services Inc.



COMPAQ PRESARIO 1688 ALL-IN-ONE NOTEBOOK WITH 400MHZ AMD K6-2 WITH 3NOW!™ TECHNOLOGY



- 13.3" TFT Active Matrix XGA Display
- 64MB Synchronous DRAM, upgradable to 192MB
- 4.8GB UltraDMA Hard Drive
- 24x CD-ROM Drive
- High-Capacity Lilon Battery
- Integrated 56K ITU V.90 PCI Modem

In-store Price

\$1999
-\$400††

**CompuServe
Mail-In Rebate**

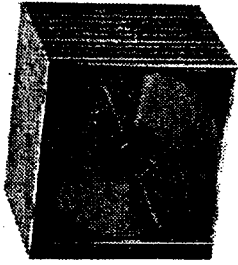
**After
Mail-In
Rebate**

\$1599*

*See store for details.
#2550781

★ ★ LABOR DAY ★ ★ WEEKEND EV

**10 PACK RECORDABLE CD
1x 2x 4x 6x COMPATIBLE**



- 650MB
- 74 Minutes
- Store Data & Record Audio/Music

**NO REBATE
HASSLE**

99¢ * **PER CD**

*Sold Only In Packs of 10.
In-Store Price \$9.90.
Limit three 10-packs per customer
#2546541

FREE COMPUTER!

Quantities are Limited.
While Supplies Last
No Substitutions

\$400
Mail-in Rebate
on Any eMachine/
Compaq/Sony/HP
Computer
See stores for details.

with subscription to 3-year Internet service plan at \$21.95 a month.
after \$50 eMachine mail-in rebate, after \$400 Internet rebate††

emachines eTOWER FEATURING THE 366MHz Intel® Celeron® PROCESSOR

- 32MB RAM
- 4.3GB Hard Drive
- 40x Max CD-ROM Drive
- 56K V.90 Fax Modem
- 4MB 3D Video Memory
- Windows® 98
- Microsoft® works



in-Store Price

\$449

**eMachine
Mail-in rebate**

-\$50

**CompuServe
Mail-in Rebate**

-\$400††



celeron

**After All
Mail-In
Rebates**

FREE*

Monitor Sold Separately
See Store For Details
Limit 1 Per Customer
Model 3000
7280754

EXHIBIT B

SCHEDULE

CHECK DATES FOR YOUR MALL

<u>Mall Location</u>	<u>Start Dates</u>	<u>End Dates</u>
Redondo Beach, CA	2/13/01	2/19/01
Chula Vista, CA	2/15/01	2/21/01
San Diego, CA	2/15/01	2/21/01

Faxed Daily Incidence Report

All screener tally marks and questionnaires will be tallied on the incidence report. Keep separate tallies for each day. The incidence report must be faxed by 10:00 AM (PST) every weekday to Midge at Cogan Research: FAX #(310) 316-4939.

QUOTA

Total quota is 50 completed interviews.

For AGE QUOTAS, SEE QUOTA SHEET AND BELOW

Age Group	Men	Women	Total
18 - 34	11	5	16
35 - 44	11	5	16
45 - 64	12	6	18
Total	34	16	50

DISPLAY SET UP AND INTERVIEWING PROCEDURE**DISPLAY SET UP**

Six advertisements. Keep the ads face down until instructed to give them to respondent.

INTERVIEWING PROCEDURE

Interviewer Instructions: Interviewer instructions for each question are in BOLD ALL CAPS next to each question.

Survey Screener--Follow the instructions on the screener. Circle your mail location. Men and women age 18 to 64 years old must answer "yes" to Questions D-1 and D-2 and/or D-3 to qualify. Qualified survey respondents must pass the other survey screening requirements.

Questionnaire

There is one version of the questionnaire.

Follow the interviewing instructions on the questionnaire. On the last page, if the respondent refuses to give his or her telephone number, the supervisor must initial the *Supr./Intr.* Verification line to verify the interview was conducted.

SHIPPING

Ship survey screeners and questionnaires every day Monday through Saturday via Federal Express P1 for weekday delivery. Use our yellow shipping form for each shipment. Follow the instructions on the form so you know what to send with each shipment. Do not send verification forms until the final shipment of completes. Charge shipments to this FedEx account number: 1777-8165-7

Daily shipments go to: Sandy or Midge (310) 316-4289
Cogan Research Group
3528 Torrance Blvd., Suite 219
Torrance, CA 90503

Final Shipments

To Cogan Research Group with last shipment of completed interviews send the same day:

- * Clean copy of complete Incidence Report
- * Original Verification Forms
- * Briefing Confirmation Forms
- * Practice Interviews
(Bundle briefing confirmation forms with practice interviews)
- * Quota Sheet

After the survey is completed including any interviews which have to be replaced, send all other material including: product displays, table cloths, extra screeners, extra questionnaires, instructions, etc. Fed Ex Priority next day delivery.

EDITING THE SCREENER AND QUESTIONNAIRE

DO NOT MAKE EDITING MARKS ON THE COMPLETED QUESTIONNAIRES

If you need to make any mark on a completed questionnaire, use a post-it note. If you like to initial the interviews you have edited, please initial in the

upper right hand corner. Supervisors may not clarify an interviewer's writing with blue pencil or any other marks. You may use a post-it to write clarification notes.

Editing should only consist of checking that:

- the interview was done correctly;
- the skip patterns were followed correctly; (asking the wrong questions makes the interview invalid)
- there are no erasures on the questionnaire;
- the writing is legible. If not, clarify with a post-it note.

If the completed questionnaire does not meet the above mentioned requirements, then the interview is invalid. You will be asked to replace any invalid interviews.

PROCEDURES / REQUIREMENTS

Briefing of Interviewers

Each interviewer who works on this survey must be briefed by the supervisor who was briefed by the client and complete one practice interview. For the briefing, the "Interviewer's Instructions" should be read to the interviewers. These instructions must be read verbatim to each interviewer to assure the consistency of instructions to all interviewers at all locations. Then, go over the screener and questionnaire.

Each supervisor and interviewer must print their name and sign the Briefing Confirmation Form on the date their briefing takes place. When shipping the practice interviews back, keep the practice interviews in the order the interviewers signed the briefing confirmation form, then place the briefing confirmation form on top, and place a rubber band around them.

Practice Interviews

Have each interviewer do a practice interview *exactly as they would a real interview*, with a supervisor as the respondent. Other interviewers present should listen to each practice interview. For each practice interview, give different responses so the interviewers can observe examples of the different skip patterns.

Number of Interviewers Per Version --Report any problems with this IMMEDIATELY

Minimum # of Interviewers who can work on this survey: 3
Maximum # of interviewers who can work on this survey: 7

Minimum # of Completes per Interviewer: 4
Maximum # of Completes per Interviewer: 20

The Screener and Completed Questionnaire

Erasing on the screener is permitted. *No erasing is permitted on the questionnaire.* Respondent answer changes or mistakes may be crossed out but never erased. Each crossed out mistake must be initialed by the interviewer. Questionnaires with erasures will not be counted toward quota. Interviewers may use pen on the questionnaire.

Interviewers must write legibly. Illegible writing or extraneous marks (doodling) make the interview invalid.

Validations--Do not validate any interviews. Cogan Research Group will verify 25% of each interviewer's work.

AD SURVEY
INTERVIEWER'S INSTRUCTIONS

General Instructions

BRIEFING: Each interviewer who works on this survey must be briefed by the supervisor who was briefed by the client and complete one practice interview. Each interviewer must sign the briefing confirmation form at the time he or she is briefed.

ERASING: Erasing on the screener is permitted. NO ERASING ON THE QUESTIONNAIRE. Respondent answer changes or mistakes must be crossed out and initialed by you, the interviewer. Questionnaires with erasures will not be counted toward quota. Interviewers may use **pen** on the questionnaire.

You **must** write legibly. Illegible writing makes the interview invalid. There should be no extra marks on any questionnaire. Extra marks or "doodling" will cause the interview to be invalid.

The respondent should not be able to view the questionnaire during an interview, except when the respondent's signature is requested. Twenty-five percent of each interviewer's interviews will be verified by telephone by Cogan Research Group.

Screening Instructions

- * Circle the location of your mall.
- * Screen on the mall for men and women 18 to 64 years old.
- * Make a tally mark each time the respondent terminates so incidence can be accurately calculated.
- * Never interview more than one person from the same household.
- * Never interview your friends or your relatives.
- * Never answer questions about the survey for the respondent.
- * Do not screen anyone who approaches you and asks if they can do a survey. Do not screen anyone who is hanging around the recruiting area.
- * Terminate any interview where it appears the respondent has difficulty understanding or reading English.

Interviewing Instructions

Follow directions and skip patterns in **BOLD CAPITAL LETTERS** on the questionnaire. Circle your mall location. Record the start and end time as directed on the questionnaire. Read the questionnaire verbatim every time.

Check the **Quota Sheets** before starting an interview.

There is one version of the questionnaire.

Interviewing Procedure:

- * Read Q.1a
- * Show respondent Display A, read Q.1b and Q.1c
- * Remove Display A
- * Show respondent Ad #4, read Q.2b to Q.2g
- * Remove Ad #4
- * Show respondent Ad #5, read Q.3a and Q.3b
- * Remove Ad #5
- * Show respondent Ad #6, read Q.4a to Q.4d
- * Remove Ad #6
- * Complete the interview

Respondent's Name and Telephone Number. The respondent will be asked to sign and print their name to affirm confidentiality, and then will be asked for their phone number. If they refuse to give their phone number, just write "refused" and have your supervisor initial next to the "refused" to verify that you completed the interview and that the respondent refused to give their phone number. Circle number on Quota Sheet corresponding with the respondent's age and gender.

Legibly sign, date, record the time for each questionnaire you complete. Fill out the verification form for each interview you complete.

Probing and Clarifying Instructions

Record answers verbatim. Even "Um", "Uh", "Well" and all those extra words. First **complete probing**, then **clarify** answers. Do not probe a respondent who answers an open-ended question with "I don't know" or "I have no idea", etc. Always probe with "What else..." and not "Anything else?"

Clarify with "What is it about the _____ ?" Clarify anything that is unclear to you.

Cogan Research Group
Suite 219
3528 Torrance Blvd.
Torrance, CA 90503
(310) 316-4289
Fax (310) 316-4939

#1391
2/14/01

ID#: _____ (for office use only)
1:3

Supervisor Use Only:	
___ 18 - 34	___ Male
___ 35 - 44	___ Female
___ 45 - 64	

Location:	4-
Redondo Beach, CA	---- 1
Chula Vista, CA	----- 2
San Diego, CA	----- 3
-----	----- 4

AD SURVEY
SCREENER

Date: _____	Interviewer _____	Print Name: _____
-------------	-------------------	-------------------

APPROACH MEN AND WOMEN WHO APPEAR TO BE AT LEAST 18 YEARS OF AGE
Hello, my name is _____. I'm helping with a brief survey and would appreciate talking with you for just a few minutes.

A. How far do you live from the shopping center?

- Less than 100 miles-----1 CONTINUE
- 100 miles or more-----2 THANK, TERMINATE & TALLY

TALLY:

(SHOW AGE CARD AND ASK:)

B. Which grouping on this card includes your age?

A) Under 18 years-----THANK RESPONDENT, TERMINATE & TALLY BELOW:

5-

B) 18 - 34 years-----1

C) 35 - 44 years-----2

D) 45 - 64 years-----3

CHECK QUOTAS

E) 65 years or older---THANK RESPONDENT, TERMINATE & TALLY BELOW:

Refused-----THANK RESPONDENT, TERMINATE & TALLY BELOW:

TALLY:

(RETRIEVE AGE CARD)

C. RECORD:

Male-----1 CHECK QUOTAS
Female-----2 CHECK QUOTAS

IF RESPONDENT HAS DIFFICULTY IN UNDERSTANDING OR SPEAKING ENGLISH, OR HAS A HEARING PROBLEM, THANK, END INTERVIEW & TALLY:

TALLY:

D-1. Have you read any advertisements for Fry's Electronics Stores in the past 3 years?

Yes-----1 CONTINUE
No-----2 THANK, TERMINATE, TALLY.

TALLY:

D-2. Have you shopped at Fry's Electronics Stores in the past 3 years? (CIRCLE ANSWER BELOW)

D-3. Do you think you might shop at Fry's Electronics Stores in the next year? (CIRCLE ANSWER BELOW)

	Yes	No
Q.D-2 Has shopped	8- 1	2
Q.D-3 Might shop	9- 1	2

(IF "YES" IN Q.D-2 AND/OR Q.D-3, CONTINUE, IF NOT, THANK, TERMINATE AND TALLY.)

TALLY:

E. Do you or does anyone in your family or household own or work for an advertising agency or a marketing research firm?

Yes-----1 THANK, TERMINATE, TALLY.
No-----2 CONTINUE

TALLY:

F. When was the last time you were interviewed in this shopping center?

- Less than three months---1 THANK, TERMINATE, TALLY.
 - 3 months or more-----2
 - Never-----3
 - Don't Remember-----4
- }---CONTINUE WITH INTERVIEW

TALLY:

G. Do you usually wear contact lenses or glasses when you are shopping or reading?

- Yes-----1 CONTINUE
- No-----2 SKIP TO Q.I

H. Do you have them with you today?

- Yes-----1 CONTINUE
- No-----2 THANK, TERMINATE, TALLY.

TALLY:

I. I'd like to show you some advertisements and then ask you a few questions. The survey takes about 10 minutes, would you like to help us out?

- Yes-----1 ESCORT RESPONDENT TO INTERVIEWING AREA
- No-----2 THANK, TERMINATE, TALLY.

TALLY:

Cogan Research Group
3528 Torrance Blvd.
Suite 219
Torrance, CA 90503
(310) 316-4289
FAX (310) 316-4939

#1391
2/13/01

AD SURVEY

SUPERVISOR'S INSTRUCTIONS

Contact: Sandy or Midge, Cogan Research Group
Phone: (310) 316-4289 FAX (310) 316-4939

Send Billing to: Sandra Cogan
Cogan Research Group
3528 Torrance Blvd., Suite 219
Torrance, CA 90503
Tel: (310) 316-4289 Fax: (310) 316-4939

MATERIALS

- 60 Screeners (White)
 - 10 Practice Questionnaires (White attached to Green)
 - 60 Questionnaires (Green)
 - 2 Supervisor's Instructions (Pink)
 - 10 Interviewer's Instructions (Blue)
 - 2 Quota sheets (White)
 - 2 Briefing Confirmation Forms (Purple)
 - 2 Incidence Reports (White)
 - 8 Shipment Sheets (Yellow)
 - 10 Verification Forms (Ivory)
 - 6 Age cards (Green)
 - 8 Preprinted FedEx Airbill Forms
 - 1 Co-op Check (If requested)
- Display A: Ad #1 ("Fry's Loves Graduates"); Ad #2 ("Fry's Summer Sale"); Ad #3 ("Fry's Fall Event")
- Ad #4 ("Compaq Presario 1688")
 - Ad #5 ("CD")
 - Ad #6 ("Free Computer")

EXHIBIT C

#1391
2/14/01

Location:
Redondo Beach, CA-----1
Chula Vista, CA-----2
San Diego, CA-----3

Cogan Research Group
3528 Torrance Blvd., #219
Torrance, CA 90503
(310) 316-4289
Fax (310) 316-4939

AD SURVEY
Main Questionnaire

RECORD TIME STARTED: _____ AM / PM

(ASK RESPONDENT TO BE SEATED IN THE INTERVIEWING AREA. IF RESPONDENT WEARS GLASSES FOR READING OR SHOPPING, PLEASE HAVE RESPONDENT PUT THEM ON.)

- 1a. Today I will be showing you some advertising for Fry's Electronics. Please look at the ads carefully and I will ask you some questions about your opinions.
- 1b. (SHOW DISPLAY "A": [3 - "4 PAGE ADS #1, 2, 3"]) Please look at these ads the way you would if you were interested in purchasing some of these products. Let me know when you are finished.

(WHEN RESPONDENT HAS FINISHED, ASK:) From looking at these ads, which of the following describes your opinion about the prices of the products in the ads. Do you think that some of the prices of the products shown in the ads are the same prices that the products normally sell for at Fry's or do you think that all of the prices for the products shown in the ads are lower prices than the products normally sell for at Fry's?

Some prices are normal prices at Fry's -----1

All prices are lower prices than normal prices at Fry's-----2

(DON'T READ) Don't know, no opinion, not sure-----3

1c. Why do you say that? (RECORD VERBATIM)

(REMOVE THE ADS FROM VIEW)

1-55

2a. (SHOW AD #4- Compaq Presario 1688) Please read this ad and the information on the \$400 Internet Mail-In Rebate and let me know when you are finished.

(WHEN RESPONDENT HAS FINISHED, ASK) Please describe what the ad is offering and what you have to do to obtain the computer at this sale price. (RECORD VERBATIM, PROBE, CLARIFY)

2b. This ad offers a rebate for this computer. Based upon this ad, what do you think you have to do in order to receive the \$400 rebate? (RECORD VERBATIM, PROBE, CLARIFY)

2c. Based upon this ad, do you think you have to sign up for Internet service with CompuServe in order to receive the rebate?

- Yes-----1----ASK Q. 2d
- No-----2----SKIP TO Q. 2f
- DK/not sure-----3----SKIP TO Q. 2f

2d. How much per month do you think you would have to pay for the Internet service from CompuServe?

- \$21.95-----1
- Other (write in) _____

1-56

2e. In order to receive the full \$400 rebate, how many months of Internet service from CompuServe do you think you would have to sign up for?

36 months-----1

Other (write in) _____

2f. If you purchased this computer and received the \$400 rebate and then cancelled the Internet service from CompuServe, do you think you would have to pay the \$400 rebate amount back to CompuServe?

Yes-----1

No-----2

DK/Not sure-----3

2g. If you cancelled the Internet service from CompuServe, do you think you would also have to pay a \$50 cancellation fee?

Yes-----1

No-----2

DK/Not sure-----3

(REMOVE THE AD FROM VIEW)

3a. **(SHOW Ad #5 "CD" AD)** Please read this ad and let me know when you are finished.

(WHEN RESPONDENT HAS FINISHED, ASK) What do you think is the price of an individual CD advertised here?

99¢ -----1

Other (write in) _____

3b. Based upon this ad, do you think you have to purchase these CD's in packs of 10 or do you think that you can purchase one CD individually for 99¢?

Packs of 10-----1

Individually for 99 ¢-----2

DK/not sure-----3

(REMOVE THE AD FROM VIEW)

4a. (SHOW AD #6, "FREE COMPUTER") Please read this ad and let me know when you are finished. (WHEN RESPONDENT HAS FINISHED, ASK) Please describe what the ad is offering and what you have to do to obtain the computer at this sale price. (RECORD VERBATIM, PROBE, CLARIFY)

4b. When you purchase the computer in this ad, do you think that you will have to pay any California sales tax?

- Yes-----1-----ASK Q. 4c
- No-----2-----SKIP TO Q. 4d
- DK/Not sure-----3-----SKIP TO Q. 4d

4c. On what dollar amount do you think you would have to pay California sales tax?

- \$449-----1
- Other \$ amount(write in) _____
- Don't know-----2

4d. Why do you say that? (RECORD VERBATIM)

(REMOVE AD FROM VIEW)

- 5. Thank you for your time. I just need you to sign here to affirm that you understand that your name and opinions will remain confidential and that you have participated in this survey. And may I have your telephone number, so that my supervisor can verify I did this interview?

RESPONDENT INFORMATION

My signature below affirms that I have participated in this interview and that my name and responses will remain confidential.

Respondent Signature: _____

Print Respondent Name: _____

Date: _____

Respondent Telephone Number: _____ () _____

Thank you very much for participating in our survey.

Supervisor Verification, if telephone # refused: _____

- 6. **INTERVIEWER CERTIFICATION:** My signature below affirms that I have personally interviewed the above named respondent to the best of my ability in accord with the interviewer briefing instructions and that I have recorded, as fully as possible, the respondent's complete answers to the above questions. I also affirm that this interview was completed on the date I have written below.

SIGNATURE OF INTERVIEWER: _____

DATE: _____

RECORD TIME ENDED: _____ **AM / PM**

EXHIBIT D

#1391
2/16/01

Location:
Redondo Beach, CA-----1
Chula Vista, CA-----2
San Diego, CA-----3

Cogan Research Group
3528 Torrance Blvd., #219
Torrance, CA 90503
(310) 316-4289
Fax (310) 316-4939

AD SURVEY
Main Questionnaire

RECORD TIME STARTED: _____ AM / PM

(ASK RESPONDENT TO BE SEATED IN INTERVIEWING AREA. IF RESPONDENT WEARS GLASSES FOR READING/SHOPPING, PLEASE HAVE RESPONDENT PUT THEM ON.)

- 1a. Today I will be showing you some advertising for Fry's Electronics and asking you some questions about your opinions.
- 1b. (SHOW DISPLAY "A": [3 - "4 PAGE ADS #1, 2, 3"]) Please look at each ad's title and picture on the first page in the upper right hand corner. (INTERVIEWER POINT TO - AD #1 "Fry's Loves Graduates; AD #2 "Fry's Summer Sale!"; AD #3 "Fry's Fall Event.")

Now, please look at these ads the way you would if you were interested in purchasing some of these products. Let me know when you are finished.

(WHEN RESPONDENT HAS FINISHED, ASK:) From looking at these ads, which of the following describes your opinion about the prices of the products in the ads. Do you think that all of the prices shown here are lower than Fry's regular store prices, or do you think that some of the prices shown here in the ads are Fry's regular store prices, or don't you know or do you have no opinion on this?

- All prices are lower prices than Fry's regular prices-----1
- Some prices are Fry's regular prices -----2
- Don't know, no opinion, not sure-----3

1c. Why do you say that? (RECORD VERBATIM)

(REMOVE THE ADS FROM VIEW)

1-61

2a. **(SHOW AD #4- Compaq Presario 1688)** Please read this ad and let me know when you are finished.
(WHEN RESPONDENT HAS FINISHED, ASK) Please describe what the ad is offering and what you have to do to obtain the computer at this sale price.
(RECORD VERBATIM, PROBE, CLARIFY)

2b. This ad offers a rebate for this computer. Please read the information on the \$400 Internet Mail-In Rebate. Let me know when you are finished. **(WHEN RESPONDENT HAS FINISHED, ASK)** What do you think you have to do in order to receive the \$400 rebate? **(RECORD VERBATIM, PROBE, CLARIFY)**

2c. Do you think you have sign up for Internet service with Compuserve in order to receive the rebate?

- Yes-----1----ASK Q. 2d
- No-----2----SKIP TO Q. 2f
- DK/not sure-----3----SKIP TO Q. 2f

2d. How much per month do you think you would have to pay for the Internet service from CompuServe?

\$21.95-----1
 Other (write in) _____

1-61

2e. In order to receive the full \$400 rebate, how many months of Internet service from CompuServe do you think you would have to sign up for?

3 years / 36 months-----1

Other (write in) _____

2f. If you purchased this computer and received the \$400 rebate and then cancelled the Internet service from CompuServe, do you think you would have to pay the \$400 rebate amount back to CompuServe?

Yes-----1

No-----2

DK/Not sure-----3

2g. If you cancelled the Internet service from CompuServe, do you think you would also have to pay a \$50 cancellation fee?

Yes-----1

No-----2

DK/Not sure-----3

(REMOVE THE AD FROM VIEW)

3a. **(SHOW Ad #5 "CD" AD)** Please read this ad and let me know when you are finished.

(WHEN RESPONDENT HAS FINISHED, ASK) What do you think is the price of an individual CD advertised here?

99¢ -----1

Other (write in) _____

3b. Based upon this ad, do you think you have to purchase these CD's in packs of 10 or do you think that you can purchase one CD individually for 99¢?

Packs of 10-----1

Individually for 99 ¢-----2

DK/not sure-----3

(REMOVE THE AD FROM VIEW)

4a. (SHOW AD #6, "FREE COMPUTER") Please read this ad and let me know when you are finished. (WHEN RESPONDENT HAS FINISHED, ASK) Please describe what the ad is offering and what you have to do to obtain the computer at this sale price. (RECORD VERBATIM, PROBE, CLARIFY)

4b. When you purchase the computer in this ad, do you think that you will have to pay any California sales tax?

- Yes-----1-----ASK Q. 4c
- No-----2-----SKIP TO Q. 4d
- DK/Not sure-----3-----SKIP TO Q. 4d

4c. What price do you think you would have to pay California sales tax on?

- \$449-----1
- Other \$ amount(write in) _____
- Don't know-----2

4d. Why do you say that? (RECORD VERBATIM)

4e. Approximately how much do you think the sales tax would be?

1-63

(REMOVE AD FROM VIEW)

5a. Have you ever installed software on a computer?

- Yes-----1
- No-----2
- DK/not sure-----3

5b. Have you ever opened up a computer case and upgraded the hardware by installing equipment such as: memory, a videocard, a hard drive, a CD or DVD drive, a Zip drive, a modem or some other piece of hardware?

- Yes-----1
- No-----2
- DK/not sure-----3

5c. Have you ever built a computer?

- Yes-----1
- No-----2
- DK/not sure-----3

6. Thank you for your time. I just need you to sign here to affirm that you understand that your name and opinions will remain confidential and that you have participated in this survey. And may I have your telephone number, so that my supervisor can verify I did this interview?

RESPONDENT INFORMATION

My signature below affirms that I have participated in this interview and that my name and responses will remain confidential.

Respondent Signature: _____

Print Respondent Name: _____

Date: _____

Respondent Telephone Number: _____ () _____

Supervisor Verification, if telephone # refused: _____

7. **INTERVIEWER CERTIFICATION:** My signature below affirms that I have personally interviewed the above named respondent to the best of my ability in accord with the interviewer briefing instructions and that I have recorded, as fully as possible, the respondent's complete answers to the above questions. I also affirm that this interview was completed on the date I have written below.

SIGNATURE OF INTERVIEWER: _____

DATE: _____

RECORD TIME ENDED: _____ AM / PM

1-65

EXHIBIT E

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

APEX WHOLESALE INC., a California
corporation, suing upon its own
interest and on behalf of the
general public,

Plaintiff,

vs.

No. GIC 734991

FRY'S ELECTRONICS INC., a California
corporation; RANDY FRY, an
individual; DAVID BICKNELL, an
individual; DOES 1-100, BLACK
CORPORATIONS, and GREY PARTNERSHIPS

Defendants.

Deposition of SANDRA R. COGAN, DBA

Wednesday, February 28, 2001

4901 Morena Boulevard

San Diego, California

CERTIFIED COPY

Denise Marquez, CSR No. 9626

619 · 238 · 1415
Toll Free
1 · 888 · 238 · 1415
FAX
619 · 238 · 1416

402
West
Broadway
Suite 1850
San Diego
California
92101

1 expert opinion that you intend to render in this
2 litigation?

3 A. Regarding --

4 MR. CURTIS: Objection. The question lacks
5 foundation.

6 BY MR. HAYS:

7 Q. You can still go ahead and answer.

8 A. Well, what's in my report.

9 Q. And, if you would, tell me what is the expert
10 opinion that is contained in your report that you intend
11 to testify to.

12 A. For the advertising tested, there appears to be
13 minimal confusion about the products, services and
14 what's offered there among the relevant market.

15 Q. How much advertising was tested?

16 A. There were three banner ads and three other
17 print ads.

18 Q. I take it these are Fry's advertisements?

19 A. Yes.

20 Q. And who selected the three banner ads?

21 A. I did.

22 Q. How?

23 A. I received banner ads from that period from
24 Fry's and selected representative banner ads.

25 Q. And you said "from that period." What period?

26 A. From somewhere around the period of the
27 complaint. So, 1999, I believe. Let's see. One of the
28 ads is June 11th, '99, one is June 16th, '99, and one is

1 BY MR. HAYS:

2 Q. So this one was all done from scratch?

3 A. Yes.

4 Q. How about the survey questionnaire; is it all
5 done from scratch?

6 A. Yes.

7 Q. Do you have a computer program to format this?

8 A. No.

9 Q. Do you do the formatting yourself?

10 A. Yes.

11 Q. So you type it and format it yourself?

12 A. Yes.

13 Q. Do you choose where you're going to place the
14 questions in your survey and everything?

15 A. Yes.

16 Q. And is that what takes the two days to prepare?

17 A. That and looking -- looking at the ads back and
18 forth, playing with the wording.

19 Q. So you choose every word that goes into the
20 survey?

21 A. Yes.

22 Q. And as far as the ads -- I'm going to take you
23 back to these ads again on the back, ad no. 4 on the
24 back of Exhibit 1. This is the one that is actually
25 marked if you'd like to look at it. It appears to be
26 enlarged. Did you enlarge that ad when you copied it?

27 A. Yes.

28 Q. And why?

1 A. I was also showing the Internet mail-in rebate
2 and I wanted that to show up on the xerox copy well.

3 Q. And you needed to enlarge it to make sure it
4 would show up well?

5 MR. CURTIS: Objection. The question lacks
6 foundation.

7 THE WITNESS: Well, it's newsprint and so I had
8 to -- in order to get it to be clear, I had to blow it
9 up and lighten it.

10 BY MR. HAYS:

11 Q. So it also had to be lightened so that the
12 words wouldn't blend together when you copied it?

13 A. Well, no, that's not the reason.

14 Q. Why did you lighten it?

15 A. Because it's printed on both sides and you get
16 the print from the other side, which in the original it
17 doesn't look like it bleeds through, but when you copy
18 it, it does. So it can look fine on the original, but
19 when you copy it, it ends up being all black. And so if
20 you lighten it, then it's readable.

21 Q. Now, on ad no. 5 -- flip the page one -- that
22 also appears to have been enlarged. Did you enlarge
23 that one?

24 A. I'm not sure. I may have a little bit. I'm
25 not sure.

26 Q. The people who were surveyed were shown the ads
27 in this size, correct?

28 A. Yes.

1 Q. Exactly as they are in Exhibit 1?

2 A. Yes.

3 Q. Do you know whether you enlarged ad no. 6?

4 A. I'm not sure.

5 Q. You might have but you don't know for sure?

6 A. Yeah, I'm not sure.

7 MR. HAYS: Bill, I'm going to take a break now
8 and look over the survey.

9 MR. CURTIS: Okay.

10 We're off the record.

11 (Recess taken.)

12 MR. HAYS: Back on the record.

13 Q. Dr. Cogan, I have now had an opportunity to
14 skim through at least the report that's provided this
15 morning. And you did receive a "Notice of Issuance of
16 Deposition Subpena for Production of Business Records"
17 for this case, correct?

18 A. Yes.

19 MR. HAYS: Go ahead and mark a copy of this as
20 Exhibit 3.

21 (Plaintiff's Exhibit No. 3 marked for identification.)

22 BY MR. HAYS:

23 Q. And other than the ads that you were provided
24 by Fry's, are there any other documents that you have
25 that you have not brought with you here today with
26 regard to this case?

27 A. The questionnaires, the completed.

28 Q. And that's the nine times 150 pages we talked

1 MR. CURTIS: We can deal with that later. We
2 have arranged for the copying of the documents and so
3 that's all we needed to do today.

4 MR. HAYS: All right.

5 You need to get a trial subpoena.

6 THE WITNESS: Now, part of this -- I don't know
7 if you want this. I have a fax of your complaint and I
8 have a original copy of it.

9 BY MR. HAYS:

10 Q. Yes, I want it. So, now, Dr. Cogan --

11 A. It's your money.

12 Q. Dr. Cogan --

13 A. This is what I want copies of. And let's see
14 if I have my contract in here.

15 MR. CURTIS: Are we off the record?

16 MR. HAYS: No. We're still on.

17 Q. Very well. You can put those on top of the
18 file and that's what we'll make copies of.

19 J.I. McMILLAN: Let me check and make sure that
20 thing is working at all.

21 BY MR. HAYS:

22 Q. Dr. Cogan, there was a demographic chosen to
23 use in this survey. Can you tell me what it was?

24 A. Yeah. I think I had a -- hmm. I had some sort
25 of information from a secondary source on -- I can't
26 remember if it was computer purchasers or shoppers at
27 certain kinds of store or something. I don't remember.
28 But I had some kind of a demographic source. And I just

can't remember what it was.

Q. Did you document that anywhere?

A. No.

Q. And what demographic did you end up choosing for the survey?

A. It's in the supervisor's instructions, questionnaires and instructions.

Q. Before you review it, do you remember what the demographic was?

A. No.

Q. So by reviewing the report or a part of the report, would you be able to determine what demographic you selected?

A. Yes. It's on page 2 of the supervisor's instructions.

Q. That's included in your report somewhere, Exhibit 1, correct?

A. Yes.

Q. Why did you choose this demographic?

A. I had some sort of secondary data that indicated this was an appropriate demographic.

Q. And the source of that data?

A. I can't remember.

Q. And what made it appropriate?

A. Well, it was something to do with Fry's business, and I just can't remember at the moment what it was. I don't remember if it was computer kinds of buyers or certain kinds of retail shoppers, something.

1 I can't remember exactly what it was.

2 Q. Or where the source was?

3 A. No.

4 Q. And based upon that, you selected a demographic
5 to use for the survey, correct?

6 A. Yes.

7 Q. And you have the material there in front of
8 you. What is the demographic you selected?

9 A. Well, it's approximately 30 percent women and
10 approximately 70 percent men.

11 Q. Was that your target as far as gender goes?

12 A. Yes. I think we ended up with a little bit
13 different from that. I can't quite recall.

14 Q. And you're reviewing somewhere in your report
15 again to refresh your recollection?

16 MR. CURTIS: Excuse me. Objection. Dr. Cogan
17 is an expert and is entitled to review her report in
18 order to answer questions.

19 MR. HAYS: And I'm entitled to say when she is
20 reviewing her report.

21 Q. You are reviewing your report?

22 A. Yes.

23 Q. Where is it in the report?

24 A. It's the last page of the Summary Tables.

25 Q. What was the demographic you ended up with,
26 then?

27 A. We ended up with approximately 30 percent
28 female and 70 percent male.

1 A. Yes.

2 Q. And those questionnaires were found to be
3 inappropriate based on the pre-test?

4 A. They were found to -- they are included in the
5 data, and some of the questions, I thought, could be
6 improved. So I changed some of the questions. And you
7 have a copy of both the questionnaires here.

8 Q. The pre-test did not include any of the final
9 150 results, though?

10 A. They're all included here.

11 Q. So the pre-test is included in the 150?

12 A. Yes.

13 Q. So, actually, two different questionnaires were
14 provided to a total of 150 people?

15 A. Yes.

16 Q. How many were provided the first questionnaire?

17 A. Fifty-five.

18 Q. At which locations?

19 A. Redondo Beach and -- let's see. I have to
20 look. The pilot survey questionnaire on page 3 shows
21 Redondo Beach, 31; Chula Vista, eight; San Diego, 16.

22 Q. And were the interviewers then re-trained
23 before they did the second questionnaire?

24 A. I don't believe so.

25 Q. And how was the questionnaire switched?

26 MR. CURTIS: Wait, wait.

27 Objection. The question lacks foundation, is
28 argumentative, assumes facts not in evidence.

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Filed 4/20/01

8 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**
9

10 APEX WHOLESALE INC., a California
corporation, suing upon its own interest and
11 on behalf of the general public,

12 Plaintiff,

13 v.

14 FRY'S ELECTRONICS INC., a California
corporation; RANDY FRY, an individual;
15 DAVID BICKNELL, an individual; DOES
1-100, BLACK CORPORATIONS, and
GREY PARTNERSHIPS,

16 Defendants.
17

Case No. GIC 734991

I/C Judge: Kevin Enright, Dept. 62

PLAINTIFF'S NOTICE OF LODGMENT IN
SUPPORT OF MOTION IN LIMINE TO
EXCLUDE SURVEY EVIDENCE BY
DEFENDANT'S EXPERT SANDRA
COGAN AND REQUEST FOR HEARING
UNDER EVIDENCE CODE SECTION 402

MOTION IN LIMINE NO. 3 OF __

18
19
20 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:

21 Plaintiff Apex Wholesale Inc. ("Apex") lodges herewith the following authorities in
22 support of its motion in limine to exclude from trial the survey prepared by defendants' expert,

23 Sandra Cogan:

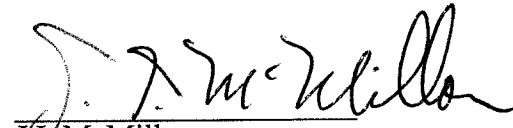
- 24 A. *Southland Sod Farms, et al. v. Stover Seed Co., et. al* (9th Cir. 1996) 108 F.3d 1134
25 B. McCarthy, J. Thomas, McCarthy on Trademarks and Unfair Competition (4th ed., 1997)
26 §32:159, p. 32-248.; AND §32:159, p. 32-248, fn 2.
27 C. *Brooks Shoe Manufacturing Co. v. Suave Shoe Corp.*, 221 USPQ 536 (1983)
28 D. *American Basketball Ass 'n v. AMF Voit, Inc.* 358 F.Supp 981 (S.D.N.Y 1973)

- 1 E. *Universal City Studios, Inc. v. Nintendo Co.*, 746 F.2d 112 (2d Cir. 1984)
2 F. *Conopco, Inc. v. Cosmair, Inc.* 49 F. Supp. 2d 242, 253 (S.D.N.Y. 1999).
3 G. *Johnson & Johnson - Merck v. Rhone - Poulenc River* (3d Cir. 1994) 19 F.3d 125.
4 H. *American Home Products Corp. v. Procter & Gamble Co.*, 871 F. Supp. 739, 747 (D. N.J.
5 1994)

6
7 Respectfully submitted,

8 Dated: April 19, 2001

Law Office of J.I. McMillan

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10 

11 J.I. McMillan
Attorney for Plaintiff
Apex Wholesale Inc.

12 APEX-101cogan.lodgment.63146.1

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