Class-action suit pits woman against 'dishonest' ads on Facebook

December 9 2009, By J.M. Brown

A 41-year-old part-time dance instructor and graphic designer from Santa Cruz is the face of a class-action lawsuit designed to force Web sites that offer social gaming to rein in what she calls deceptive ads.

In a filing last month with the U.S. District Court in San Francisco, Rebecca Swift claims she lost $200 in the course of playing games on Zynga, a site that lets Facebook users play against each other and advance to higher levels using virtual currency or points. Though her lawyers believe thousands of others have been hustled, Facebook says the company is working to combat bad advertisers even though it rejects Swift's suit as baseless.

While playing YoVille, a game that allows users to decorate a virtual residence, Swift said she provided her cell phone number in April to a Zynga advertiser to redeem more virtual cash, but ended up with four $10 charges on her phone bill.

The suit claims Swift lost more money two months later when she signed up for what was supposed to be a free trial of green tea to advance in a game, only to receive $165 in charges for green tea pills and tea bags from China. She was unable to obtain refunds, the suit said.

"Rebecca was appalled when she realized that she had been charged without her consent and after she had cancelled the free trial advertised to her, and that a company would do something so blatantly dishonest," John R. Parker Jr., a Sacramento, Calif., lawyer whose firm filed the

case after investigating similar claims, wrote in an e-mail.

Swift, an 11-year resident who also provides in-home health care, declined an interview request, but answered questions through her attorney. The married mom of a 17-year-old son who "enjoys the social aspect of playing games with friends from around the world" said she agreed to be identified on the civil suit after responding to a message on the law firm's Web site.

"Rebecca hopes that companies like Zynga will compensate all the users who have been scammed, and will change their practices to stop allowing fraud," the attorney wrote.

Parker said his firm made no attempt to reach a settlement with either company before filing suit, which seeks more than $5 million in compensation for an untold number of potential plaintiffs. A judge will decide later this year if the case will proceed.

A Facebook spokesperson said the case has no merit. Nonetheless, the Palo Alto, Calif.-based company has taken steps to address suspicious advertisers, including banning four in the past several months.

"The ads in question appeared in third-party applications, were not from Facebook and provided no benefit to Facebook," the spokesperson wrote in an e-mail. "However, we are concerned about any potential threat to our users' experience. As a result, we have, and will continue to, take action against both the ad networks and developers who violate our principles or policies. We do not see any merit in this suit, and we will fight it vigorously."

The San Francisco-based Zynga Game Network did not return an e-mail to its press division.

Customers can play Zynga's games for free from Facebook's platform, but Zynga allows players to purchase virtual cash or products that help them move to higher levels more quickly or to buy virtual products not available by merely playing the game. Zynga also links players to advertisers who make what the suit calls "special offers" that trick users into paying for a service to advance, the suit states.

For example, the suit alleges, games will offer an IQ test as a way to gain points. Results of the IQ test are then sent to the user's cell phone via text message, then a charge for the text service is sent to a user's phone accounts, the suit claims.

"Users who manage to discover the obscure charge on their phone bill are then met with hurdles as they attempt to cancel the service and/or obtain a refund," the suit claims.

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Citation: Class-action suit pits woman against 'dishonest' ads on Facebook (2009, December 9) retrieved 25 April 2024 from https://phys.org/news/2009-12-class-action-pits-woman-dishonest-ads.html

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