

GX 248

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

**H&R BLOCK EASTERN)
ENTERPRISES, INC.)
HRB ROYALTY, INC.,)
H&R BLOCK ENTERPRISES, INC.)
AND H&R BLOCK AND ASSOC., L.P.)**

Plaintiffs,

Case No. 06-0039-CV-W-SOW

v.

**INTUIT, INC.)
Defendant.)**

COMPLAINT

Plaintiffs H&R Block Eastern Enterprises, Inc., HRB Royalty, Inc., H&R Block Enterprises, Inc. and H&R Block and Associates, L.P (“Plaintiffs”) bring this cause of action against defendant Intuit, Inc. (“Defendant”) based on its false and misleading advertising, unfair competition and infringement of Plaintiffs’ legally-protected trademark. Plaintiffs seek injunctive, compensatory and punitive relief.

THE PARTIES

1. Plaintiff H&R Block Eastern Enterprises, Inc. (“Block Eastern”) is a Missouri corporation. Block Eastern’s principal office is located at 4400 Main Street, Kansas City, MO 64111. Block Eastern is a subsidiary of H&R Block, Inc. and is part of a family of companies that collectively make up the largest provider of individual income tax preparation services in the United States.

2. Plaintiff HRB Royalty, Inc. (“HRB”) is a Delaware corporation. Its principal office is located at Suite 101, TK House, Bayside Executive Park, West Bay Street and Blake Road, P.

O. Box N-8220, Nassau, Bahamas. HRB is a wholly-owned indirect subsidiary of H&R Block, Inc. and is part of a family of companies (“H&R Block”) that collectively make up the largest provider of individual income tax preparation services in the United States.

3. Plaintiff H&R Block Enterprises, Inc. (“Block Enterprises”) is a Missouri corporation. Block Enterprises is a subsidiary of H&R Block, Inc. and is part of a family of companies that collectively make up the largest provider of individual income tax preparation services in the United States.

4. Plaintiff H&R Block and Associates, L.P. (“Block and Associates”) is a Delaware corporation. Block and Associates is a subsidiary of H&R Block, Inc. and is part of a family of companies that collectively make up the largest provider of individual income tax preparation services in the United States.

5. Defendant Intuit, Inc. (“Defendant”) is a corporation organized under the laws of the State of Delaware. Defendant’s principal office is located at 2632 Marine Way, Mountain View, California 94043. Defendant is registered to do business as a foreign corporation in Missouri, with its registered agent listed as CSC-Lawyers Incorporating Service Company, 221 Bolivar Street, Jefferson City, MO 65101. Defendant is therefore a resident defendant within this District, and, in addition to conducting its advertising campaign described herein in Missouri, Defendant, on information and belief, transacts substantial business, enters into contracts in the state of Missouri, and sells its TurboTax product (which is the subject of the marketing campaign here at issue) in Missouri and to Missouri consumers.

INTRODUCTION

6. The H&R Block, Inc. family of companies has been the market leader in tax preparation services for decades. Through the tireless efforts of H&R Block and its employees and through the development of extensive marketing plans, the “H&R Block” name (the “Mark”) has become a strong, widely-known and highly-regarded trademark that symbolizes the H&R Block companies, their goods, services, excellent reputation and substantial goodwill.

7. H&R Block has spent more than 50 years developing goodwill associated with its Mark. To protect those interests, H&R Block has federally registered the Mark and variations upon the Mark with the U.S. Patent and Trademark Office. *See, e.g.*, U.S. Patent and Trademark Office (“PTO”) Registration No. 2533014. (Attached as Exhibit A are true and correct copies of printouts from the PTO’s Trademark Electronic Search System reflecting (1) 11 live federally-registered marks owned by H&R Block that include the Mark or variations thereon and (2) detailed information regarding Registration No. 2533014).

8. H&R Block offers a variety of goods and services in connection with its Mark, including, without limitation, in-store and online tax preparation services, as well as tax preparation software.

9. Defendant Intuit, a competitor in the tax return preparation industry, is currently using the Mark in a national advertising campaign to promote its TurboTax tax preparation software product (the “Campaign”). Defendant is strategically running this Campaign as the tax season kicks off, which also happens to be the busiest time of the year for tax preparers.

10. Defendant is presently broadcasting its Campaign in Missouri among other states. Defendant sells their TurboTax software in Missouri among other states. *See* Affidavit of Wade A. Thomas, attached hereto as Exhibit B.

11. Defendant's Campaign is deceptive, false and/or misleading and its use of the Mark in the Campaign is unauthorized, false and is likely to confuse, deceive and/or mislead consumers.

12. Defendant's actions constitute violations of the Lanham Act and Missouri common law. Plaintiffs come to this Court for appropriate legal and equitable relief prohibiting Defendant from using and benefiting from its false, misleading and deceptive marketing Campaign and its unauthorized and improper use of Plaintiffs' legally protected trademark.

JURISDICTION AND VENUE

13. This is an action for violation of rights granted under the Federal Trademark Act of 1946, 15 U.S.C. §§ 1051 et seq. Specifically, this action is based on Sections 32(1) and 43(a) of the Lanham Act, 15 U.S.C. §§ 1114(1)(a) and 1125(a), and the common law of Missouri. This Court has jurisdiction over the subject matter of this action pursuant to Section 39 of the Lanham Act, 15 U.S.C. §§ 1116 and 1121, and 28 U.S.C. §§ 1331 and 1338, for the claims arising under the Lanham Act. Supplemental jurisdiction over the state law claims exists under 28 USC § 1367.

14. Venue is proper in this district under 28 USC § 1391.

ALLEGATIONS COMMON TO ALL COUNTS

A. H&R Block Has Built Goodwill and Name Recognition During the Past 50 Years

15. H&R Block was founded in the 1950's and, since then, has successfully grown to become the world's largest tax services company.

16. Through the hard work of its employees and its franchisees, H&R Block has established a strong reputation for itself in the industry. These efforts have resulted in the accumulation of valuable goodwill and name recognition.

17. H&R Block's extensive marketing plans have built on its employees' and franchisees' efforts to further increase the consuming public's awareness of and respect for H&R Block and its services. H&R Block has invested significant assets in developing its brand identification, including through national advertising campaigns, community outreach programs and other means.

18. H&R Block uses the Mark in interstate commerce to identify its products and services and to distinguish them from those offered by others. H&R Block's advertisements, which prominently display the mark, appear in print media, on radio, on television, and on the internet. H&R Block also uses the mark on other public materials, such as letterhead and forms. For example, one of the many protected variations on the Mark is the famous green square logo that appears on thousands of store- and office-fronts nationwide:



19. H&R Block's Mark is arbitrary and fanciful in that it does not describe or suggest anything about the product, and has widespread marketplace recognition as a designation of the H&R Block company and services.

20. The Mark is a strong, distinctive and famous trademark.

21. Furthermore, the Mark is valid, protectable and incontestable, and has been in continuous use for more than five consecutive years subsequent to its registration.

A. Defendant's Misleading Campaign and Misuse of H&R Block's Mark.

22. Defendant is using the H&R Block Mark in interstate commerce in its nationwide Campaign to market its TurboTax products.

23. Defendant's use of the Mark is not authorized and Defendant does not have the consent of Plaintiffs to use the Mark.

24. Defendant is misusing Block's protected Mark in a nationwide campaign that misleads the consuming public regarding the nature and qualities of the parties' products and services. A true and correct copy of a storyboard depiction of Defendant's offending television advertisements is attached hereto as Exhibit 1 to the Declaration of Stephen Kolozsvary (which is attached as Exhibit C hereto). This television advertisement has been shown on national television, including on KSHB in Kansas City, Missouri, on NBC on January 9, 2006 during the "Today" show. *See* Declaration of Stephen Kolozsvary, attached hereto as Exhibit C, at ¶ 7.

25. As shown below, Defendant's nationwide television advertisement states in part that: "more returns were prepared with Turbo Tax last year than at all the H&R Block stores combined."



Besides more returns were prepared with TurboTax last year than all the H & R Blocks stores.

26. On information and belief this statement and other similar statements are literally false, deceptive and misleading and Defendant has no reasonable basis for making these claims. Defendant's misleading Campaign implies, *inter alia*, that more returns were prepared with its

products than at the H&R Block stores because it offers a product whose services are superior to and chosen more frequently than H&R Block's services. The facts do not support such a claim.

27. For example, Defendant's "First-Quarter Fiscal 2006 Conference Call Remarks," posted on its website states, "last year, Turbo Tax, with 21 million returns prepared, completed more tax returns than all of H&R Block's stores." (A true and correct copy of the printout from Defendant's website is attached hereto as Exhibit D).

28. At the same time, H&R Block stores prepared and filed over 24.9 million returns at its stores. An additional 1.2 million returns were prepared by H&R Block stores and paper filed. When combined, these numbers demonstrate that H&R Block prepared more than 26 million returns. Moreover, these 26 million returns do not include the millions of additional returns prepared by H&R Block through means other than its stores (such as online services). On information and belief, the number of returns prepared by H&R Block far surpasses the number of returns prepared with TurboTax in 2005.

29. In addition, as shown below, Defendant's nationwide Campaign further misleads consumers and misstates the truth by advertising that: "Turbo Tax asks me questions just like H&R Block does."



MAN: TurboTax ask me questions just like H & R Block does.

30. This language is false, deceptive and misleading to consumers as it implies that pre-programmed prompts from the TurboTax computer program are “just like” the interaction with an H&R Block tax professional, each of whom have more than sixty hours of tax preparation training and who can interact with and respond to fact specific questions from each consumer. The personalized customer attention that H&R Block customers enjoy is simply not duplicated by TurboTax’s software.

31. Defendant is also running misleading radio advertisements that perpetuate and reinforce the misrepresentations from the television advertisement regarding the number of returns prepared by each company. A true and correct transcript of Defendant’s offending radio advertisement is attached hereto as Exhibit 2 to the Declaration of Stephen Kolozsvary (Exhibit C hereto); *see also* Exhibit C at ¶ 13.

32. From January 9-12, 2006, Defendant’s offending radio advertisements ran approximately 42 times in the Kansas City and St. Louis markets alone. Exhibit C, ¶ 12. This radio advertisement was part of Defendant’s national radio advertising campaign that ran in more than twenty-five other markets across the country. Exhibit C, ¶ 12.

33. Defendant has no need to use the Mark to describe their services and no right to make the unauthorized and deceptive uses of the Mark contained in their Campaign.

34. In an effort to resolve this matter prior to the filing of this complaint, H&R Block sent Defendant a cease and desist letter, to no avail. A true and correct copy of this letter is attached hereto as Exhibit E.

35. Accordingly, the present lawsuit followed.

COUNT I Violation of Section of 43(a) of the Lanham Act
[By All Plaintiffs]

36. Plaintiffs incorporate herein by reference the above allegations of this verified complaint as if set forth fully herein.

37. Defendant is engaging in unfair competition by promoting their TurboTax product using the H&R Block Mark, as well as by making false, misleading and deceptive representations of fact in their advertising Campaign.

38. Defendant is using the Mark and running the Campaign in commerce in commercial advertising to promote their TurboTax product.

39. Defendant's Campaign misrepresents the nature, characteristics and qualities of Defendant's and Plaintiffs' goods, services, and/or commercial activities

40. The above described acts and practices constitute violations of Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)).

41. Plaintiffs have been or are likely to be injured as result of Defendant's conduct, either by direct diversion of sales from itself to Defendant or by loss of goodwill associated with its Mark and services.

42. Unless Defendant is enjoined by this Court from continuing to misappropriate Plaintiffs' Mark and to make false, misleading and deceptive representations of fact in their advertising Campaign, the consuming public will continue to be confused and Plaintiffs will suffer a loss of consumer confidence, sales, revenue and goodwill, to the irreparable injury of Plaintiffs.

43. Plaintiffs have no adequate remedy at law that would fully compensate them for injuries caused and continuing to be caused by Defendant's conduct as described herein.

COUNT II Violation of Section 32(1) of the Lanham Act
[Bv Plaintiff HRB]

44. Plaintiffs incorporate herein by reference the above allegations of this verified complaint as if set forth fully herein.

45. The Mark is a federally-registered mark of HRB.

46. Defendant is presently using the Mark in commerce in connection with the sale, offering for sale, distribution, or advertising of tax preparation software.

47. Plaintiffs have not consented to Defendant's use of the Mark

48. Defendant's use of the Mark is likely to cause confusion, or to cause mistake, or to deceive.

49. The above described acts and practices constitute violations of Section 32(1)(a) of the Lanham Act (15 U.S.C. § 1114).

50. Plaintiff has been or is likely to be injured as result of the infringement of its protected Mark, either by direct diversion of sales from itself to Defendant or by loss of goodwill associated with its Mark.

51. Unless Defendant is enjoined by this Court from continuing to misappropriate Plaintiff's trademark and to make false, misleading and deceptive representations of fact in their advertising Campaign, the consuming public will continue to be confused and Plaintiff will suffer a loss of consumer confidence, sales, revenue and goodwill, to the irreparable injury of Plaintiff.

52. Plaintiff has no adequate remedy at law that would fully compensate it for injuries caused and continuing to be caused by Defendant's conduct as described herein.

COUNT III -Violations of Missouri Common Law
[By All Plaintiffs]

53. Plaintiffs incorporate herein by reference the above allegations of this verified complaint as if set forth fully herein.

54. The above described acts and practices constitute actionable unfair competition under Missouri common law.

WHEREFORE, Plaintiffs respectfully request that the Court:

(a) issue a preliminary and permanent injunction ordering that Defendant, its agents, servants, employees, representatives, subsidiaries, franchisees and affiliates refrain from directly or indirectly using in commerce or causing to be published or otherwise disseminated any promotional or advertising materials containing any use of “H&R Block” in a manner that is likely to cause confusion, or to cause mistake, or to deceive;

(b) issue a preliminary and permanent injunction ordering that Defendant cease and desist, and cause others to cease and desist, from publishing, broadcasting or otherwise disseminating Defendant’s Campaign or any portion thereof that is false, misleading, deceptive or otherwise makes unauthorized use of H&R Block’s intellectual property;

(c) issue a preliminary and permanent injunction ordering Defendant to issue and pay for appropriate corrective advertisements retracting the misleading marketing or promotional materials identified and to be identified, reasonably designed to reach all people to whom its false and misleading Campaign was disseminated;

(d) award Plaintiff:

- (i) Defendant's profits, gains and advantages derived from Defendant's unlawful conduct;
- (ii) all damages sustained by Plaintiffs by reason of Defendant's unlawful conduct, including all expenditures required to correct the false, misleading, deceptive and unfair statements in Defendant's Campaign and misappropriation of Plaintiff's trademark;
- (iii) additional compensation in such sum as the court shall find to be just pursuant to 15 U.S.C. § 1117;
- (iv) trebled damages pursuant to 15 U.S.C. § 1117
- (v) exemplary and punitive damages as the Court finds appropriate to punish Defendant's misconduct and deter any future willful conduct; and
- (vi) interest on the foregoing sums;
- (e) award Plaintiffs' attorneys' fees and costs and disbursements of this action; and
- (f) grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

BERKOWITZ OLIVER WILLIAMS
SHAW & EISENBRANDT LLP

By: /s/ Anthony J. Durone

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Anthony J. Durone MO Bar #43872
Stacey R. Gilman MO Bar #55690
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ATTORNEYS FOR PLAINTIFFS

EXHIBIT A



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Refine Search Submit

Current Search: S1: (live)[LD] AND (h&r block)[COMB] docs: 11 occ: 71

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	78700464		H&R BLOCK BANK	TARR	LIVE
2	78583887		H&R BLOCK TAXCUT	TARR	LIVE
3	78370112	2939961	H&R BLOCK ADVANTAGE	TARR	LIVE
4	78189586	2833326	H&R BLOCK DEDUCTIONPRO	TARR	LIVE
5	76448480	2981398	H&R BLOCK SMALL BUSINESS RESOURCES	TARR	LIVE
6	76241205	2637032	H&R BLOCK RAPID REFUND	TARR	LIVE
7	76097971	2533035	H&R BLOCK	TARR	LIVE
8	76097970	2533034	H&R BLOCK	TARR	LIVE
9	76071271	2533014	H&R BLOCK	TARR	LIVE
10	75054695	2024035	H&R BLOCK PREMIUM	TARR	LIVE
11	73579662	1502530	RAPID REFUND H&R BLOCK	TARR	LIVE

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H&R BLOCK

Word Mark H&R BLOCK
Goods and Services IC 035, US 100 101 102. G & S: preparation of tax returns for others. FIRST USE: 20001106. FIRST USE IN COMMERCE: 20001106
Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code 26.09.02-- Plain single line squares; Squares, plain single line
Serial Number 76071271
Filing Date June 15, 2000
Current Filing Basis 1A
Original Filing Basis 1B
Published for

Opposition April 17, 2001
Registration Number 2533014
Registration Date January 22, 2002
Owner (REGISTRANT) HRB Royalty, Inc. CORPORATION DELAWARE Suite 201, TK House, Bayside Executive Park West Bay Street and Blake Road, P.O. Box N-8220 Nassau BAHAMAS
Attorney of Record Michael Elbein
Prior Registrations 0773839;1270198;1502530;2024035;AND OTHERS
Description of Mark The mark consists in part of a green square.
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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Case 4:06-cv-00039-SOW Document 1-1 Filed 01/13/06 Page 5 of 5

EXHIBIT B

AFFIDAVIT OF WADE THOMAS

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

I, Wade A. Thomas, after being duly sworn and deposed, declare as follows:

1. My name is Wade A. Thomas. I am over eighteen years of age and am competent to give this affidavit.

2. I declare that the following facts are based on my personal knowledge, are true and accurate, and I could testify thereto if called upon to do so.

3. I am making this affidavit in support of plaintiffs' Complaint.

4. I am currently employed at Clarence M. Kelly & Associates as an investigator.

5. On January 12, 2006, I visited the OfficeMax store located on 3732 Main St., Kansas City, Missouri, 64111. On my visit to that store, I witnessed a display that offered for sale four different versions of the Turbo Tax program that is developed and sold by Intuit, Inc.

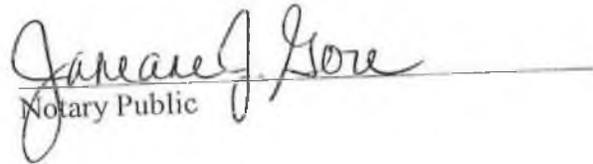
6. I purchased a copy of the Turbo Tax Deluxe software program (SKU # 296824) from the above-reference store at the pre-tax price of \$ 39.99.

7. I delivered a copy of the Turbo Tax program that I purchased to the law firm of Berkowitz Oliver Williams Shaw & Eisenbrandt LLP located at Two Emanuel Cleaver Blvd, Suite 500, Kansas City, Missouri.

Dated this 12th day of January, 2006

A handwritten signature in cursive script, appearing to be "Janeane J. Gore", written over a horizontal line.

Subscribed and sworn to before me this 12th day of January, 2006.

A handwritten signature in cursive script, "Janeane J. Gore", written over a horizontal line. Below the signature, the words "Notary Public" are printed in a serif font.

My Commission Expires:

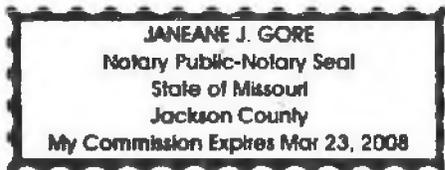


EXHIBIT C

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI

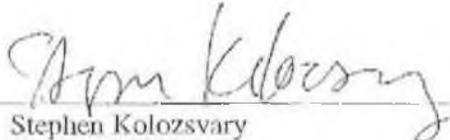
H&R BLOCK EASTERN)	
ENTERPRISES, INC.,)	
HRB ROYALTY, INC.,)	
H&R BLOCK ENTERPRISES, INC.)	
AND H&R BLOCK AND ASSOC., L.P.)	
)	
Plaintiffs,)	Case No. _____
)	
v.)	
)	
INTUIT, INC.)	
Defendant.)	

STEPHEN KOLOZSVARY declares as follows:

- 1) My name is Stephen Kolozsvary. I am over 18 years of age and am competent to give this declaration. The facts stated herein are of my own knowledge.
- 2) I submit this declaration in support of plaintiffs' Complaint.
- 3) I am currently employed at VMS as Vice President of Operations at the corporate headquarters located at 330 West 42nd Street, New York, NY 10036. I have been employed in this capacity for the last five years.
- 4) VMS provides competitive advertising retrieval via our Web-based solutions and advertising services - with coverage across broadcast, newspaper, print, radio, Internet and out-of-home media.
- 5) In the ordinary course of business, VMS maintains a current, up to date, national advertising archive from which we provide competitive advertising retrieval.
- 6) VMS' national advertising archive relies on, collects and incorporates television advertising information from Nielsen Media Research, and radio advertising information from Media Monitors, Inc., the leading providers of advertising information in the industry.

- 7) Our information reflects that on January 9, 2006 at 8:16 a.m. E.S.T., Intuit, Inc. ran a national TV advertisement on the NBC network during the Today show for its TurboTax software.
- 8) A true and accurate storyboard capturing the content and language of the national TurboTax TV advertisement is attached hereto as Exhibit 1.
- 9) This national TV advertisement on the NBC network appeared in TV markets throughout the United States, including television markets in Missouri that carry an NBC affiliate.
- 10) Our research indicates that this TurboTax software ad was run at or around 7:15 a.m. C.S.T., on Kansas City, Missouri's NBC affiliate KSHB.
- 11) In addition, from January 9-12, 2006, Intuit, Inc. ran approximately 78 radio advertisements for its TurboTax software in the Kansas City market on stations such as KSRC-FM, KCMO-AM and KMJK-FM.
- 12) The particular advertisement at issue ran approximately 42 times from January 9-12, 2006 in the Kansas City and St. Louis, Missouri markets alone. This was part of Intuit, Inc.'s national radio advertising campaign that ran in more than twenty-five other markets across the country.
- 13) The radio advertisements were recorded by VMS and a true and accurate transcript of the advertisement is attached hereto as Exhibit 2.

I declare pursuant to 28 U.S.C. § 1746 under penalty of perjury that the foregoing is true and correct. Executed on January 12, 2005.


Stephen Kolozsvary



PRODUCT TurboTax
 MARKET Network
 PROGRAM Today
 CODE # 060101960
 TITLE Man Prepares Taxes On Computer

LENGTH 30
 STATION NBC
 DATE 1/09/2006
 TIME 8.16 AM



(MUSIC IN) MAN: Our taxes are done.



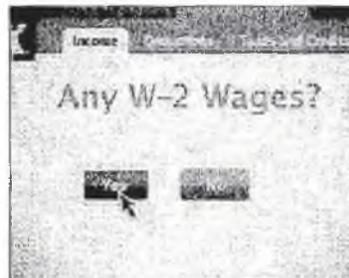
Our taxes are done.



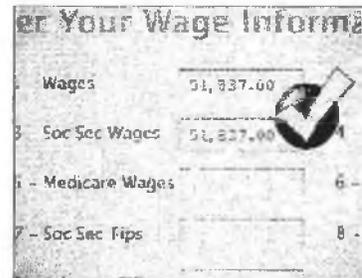
WOMAN: What?



Shouldn't we have gone to one of those tax stores?



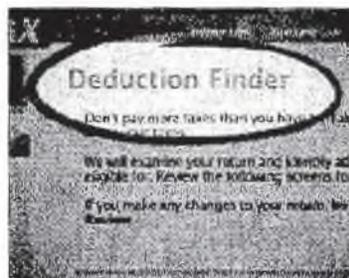
MAN: TurboTax ask me questions just like H & R Block does.



Then it puts the answers on all the right forms



WOMAN: But the tax guy checks it.



MAN: TurboTax checks for errors and missed deductions.



WOMAN: How do we know its right?
 MAN: All calculations are guaranteed accurate



Besides more returns were prepared with TurboTax last year than all the H & R Blocks stores



WOMAN: Well, if its so good, then how much are we getting back? Oh. wow



MALE ANNCR: TurboTax Taxes made easy Taxes done right. (MUSIC OUT)

VIDEO ALSO AVAILABLE IN ANALOG & DIGITAL FORMATS

Material supplied by VMS may be used for internal review, analysis or research only. Any editing, reproduction, publication, re-broadcasting, public showing or display for profit is forbidden and may violate copyright law.

330 West 42nd Street, New York, NY 10036 T 212 736 2010

Exhibit C - 1



VMS

TRANSCRIPT

DATE: JANUARY 9, 2006
TIME: 4:06AM
STATION: WMGK-FM
LOCATION: PHILADELPHIA
PRODUCT: **TURBO TAX**
LENGTH: :30
CODE: 060101730

TITLE: JUST FINISHED WITH TAXES

MAN: Hey, I just finished our taxes with Turbo Tax.

WOMAN: Shouldn't we have gone to one of those tax stores?

MAN: Well, Turbo Tax asked me questions just like H&R Block does and then it puts the answers in all the right forms.

WOMAN: But the tax guy checks it.

MAN: Turbo Tax checks for errors and missed deductions too.

WOMAN: How do we know it's right?

MAN: Calculations are guaranteed accurate. Besides, more returns were prepared with Turbo Tax last year than at all the H&R Block stores combined.

WOMAN: Hah. If it's so good, how much are we getting back?

MAN: Take a look. (SFX: KEYSTROKE IN & OUT)

WOMAN: Wow.

(MUSIC IN)

MALE ANNCR: Turbo Tax. Taxes made easy; taxes done right. Learn more at TurboTax.com or visit a retailer near you.

(MUSIC OUT)

###

EXHIBIT D

**Intuit Inc.
First-Quarter Fiscal 2006
Conference Call Remarks**

November 16, 2005

Introduction

Good afternoon and welcome to the Intuit first quarter 2006 conference call. I'm here with Steve Bennett, Intuit's president and CEO, Kiran Patel, our CFO, and Brad Henske, general manager of consumer tax.

Before we get started, I'd like to remind everyone that our remarks will include forward-looking statements. There are a number of factors that could cause Intuit's results to differ materially from our expectations. You can learn more about these risks in the press release we issued earlier this afternoon, our Form 10-K for fiscal 2005 and our SEC filings. All of those documents are available on the Investor Relations page of Intuit's website at intuit.com. We assume no obligation to update any forward-looking statement.

Some of the numbers in this presentation will be presented on a non-GAAP basis. The most directly comparable GAAP financial measures and the reconciliation of the non-GAAP financial measures to GAAP are provided in today's press release.

After this call concludes, a copy of our prepared remarks will be available on our website.

With that, I'll turn the call over to Steve Bennett, Intuit's president and CEO.

First-Quarter Overview

Thanks, Bob ... and thanks to everyone for joining us.

As you've read in our press release, Intuit just delivered a terrific quarter, with revenue up 20% year-over-year, driven by great performance in our QuickBooks business. Non-GAAP diluted EPS was a loss of 26 cents per share. As you know, Intuit typically reports a seasonal loss in our first quarter when revenue from the tax business is low and expenses are relatively fixed across our quarters.

I'm pleased with our position as we enter our two busiest quarters. We're seeing positive early results and like the QuickBooks' growth trajectory. Despite a new competitor, the early QuickBooks retail share results are encouraging.

QuickBooks share of retail units fiscal year-to-date through September was up 2 points year-over-year to 88%, according to NPD Group Retail Software reports.

We're also feeling good about the upcoming tax season. Although we'd planned to hold an investor briefing on consumer tax later this month, one of the news services published an article about our plans before it was supposed to. As a result, we've cancelled the briefing and will have Brad Henske cover some highlights of the season later on this call.

First, Kiran will walk us through the quarter. As you know, Kiran joined us as CFO in September and we're delighted to have him on board. Kiran...

First-Quarter 2006 Financial Highlights

Thanks, Steve. Let me start with a summary of the first quarter's results. Revenue of \$304 million was up 20 percent year-over-year. Non-GAAP loss of 26 cents per share was 1 cent greater than last year's first quarter loss of 25 cents per share.

	Non-GAAP			GAAP		
	Q1 05	Q1 06	Change	Q1 05	Q1 06	Change
Revenue	\$252.8	\$304.1	+20%	\$252.8	\$304.1	+20%
Operating Loss	(\$75.2)	(\$76.8)	N/A	(\$82.2)	(\$102.6)	N/A
Diluted EPS	(\$0.25)	(\$0.26)	N/A	(\$0.24)	(\$0.26)	N/A

On a GAAP basis, we had a loss of 26 cents per share, 2 cents greater than last year. The first quarter 2006 loss includes approximately 7 cents per share from expenses associated with employee stock options and 2 cents per share from lower share count versus first-quarter 2005. This is the first time Intuit's GAAP results have included options expense.

Business Segment Results

Turning to business segment results, QuickBooks had an outstanding quarter, with revenue of \$178 million up 22 percent over first quarter of last year.

As you recall, our QuickBooks growth strategy has two key elements:

- First, we attract new users to the QuickBooks franchise.

- Second, we sell customers upgrades and add-on solutions, such as payroll and payment services.

We achieved great QuickBooks unit growth this quarter, with total units up 35% year-over-year, driven by a 23% increase in core QuickBooks Basic, Pro and Premier units. We also had very strong growth in our newer QuickBooks offerings:

- QuickBooks Enterprise Edition units were up 82%.
- QuickBooks Online Edition had a 116% increase in subscribers.
- QuickBooks Simple Start has also had excellent growth. We've sold more than 114,000 units since we launched the product in late first quarter 2005.

We also had strong year-over-year growth in QuickBooks add-on solutions:

- Revenue from our payments business was up 55% year-over-year, driven by a 22% increase in the customer base and a 44% increase in transaction volumes.
- Revenue from QuickBooks Standard and Enhanced Payroll increased 28%.

Although QuickBooks was the principal driver of first quarter growth, two other segments contributed to first-quarter results:

- Intuit-Branded Small Business had revenue of \$58 million, up 9% year-over-year.
- The Other Businesses segment had revenue of \$51 million, up 24%.

Balance Sheet and Stock Repurchase Program

Moving to the balance sheet, Intuit had \$697 million in cash and short-term investments at the end of the first quarter. As is typical in the first quarter, we spent more cash than we generated, with a negative operating cash flow of \$84 million. We used \$195 million to repurchase 4.3 million shares.

Today we're announcing another \$500 million stock repurchase program. With the balance remaining in the current program, we have nearly \$600 million authorized for share repurchase.

Fiscal 2006 Guidance

With the strong first-quarter QuickBooks results, we are raising revenue and earnings guidance for fiscal 2006. We now expect:

- Revenue of \$2.20-\$2.26 billion, which is annual growth of 8-11%. Our previous guidance was annual growth of 7-10%.
- With this higher revenue outlook, we are raising our non-GAAP diluted EPS guidance to a range of \$2.23-\$2.31. This is year-over-year growth of 12-16%. Our previous guidance was a range of \$2.19-\$2.29.
- We expect GAAP diluted EPS to be in the range of \$1.99-\$2.07.

At the segment level, we're raising QuickBooks revenue guidance to 7-12 percent annual growth, up from 5-10%. We are reaffirming the revenue growth guidance for the other four segments. You will find that information in the fact sheet that accompanies today's press release.

Second-Quarter 2006 Guidance

Another important guidance note: Later in the call, Brad will talk about some product and pricing changes we are making in TurboTax. One of the outcomes of these changes is a change in the seasonal pattern of TurboTax revenue this year – a move-up of approximately \$40 million in revenue and 13 cents in EPS from the third quarter to the second quarter. We have updated our guidance accordingly.

Consequently, our guidance for the second quarter, which ends January 31, 2006, is:

- Revenue of \$710-\$750 million, or year-over-year growth of 10%-16%.
- Non-GAAP operating income of \$250 million-\$265 million, or year-over-year growth of 11%-18%.
- GAAP operating income of \$226 million-\$241 million.
- Non-GAAP diluted EPS of \$0.88-\$0.98, or year-over-year growth of 11%-24%.
- GAAP diluted EPS of \$0.80 to \$0.90.

You can find guidance for our third and fourth quarters on our fact sheet.

With that, I'll turn the call over to Brad Henske.

Consumer Tax

Thanks, Kiran. I'm quite excited to talk today about some new things we're doing to make this upcoming tax season our best ever.

Let's start with why we believe TurboTax will be a double digit growth business this year and into the future:

- First, the self prep software and service category continues to grow and take share from substitute tax prep methods, like pencil and paper and tax franchises, as more taxpayers learn there's an easier and better way to do their taxes.
- Second, the recent 4-year extension of the Free File program reduces uncertainty about the IRS role, and that's a positive for our long-term growth opportunity.

Tax preparation is a great market for Intuit. It's large, under-penetrated and its customers are well served by the simplicity and ease of use that Intuit brings to our offerings.

Last season, about 132 million consumer tax returns were filed. Software was used to prepare 32 million – or only about 24% – of those returns. Another 19 million tax payers were non-consumers, doing their taxes with paper and pencil forms or using telefile. 81 million tax payers used a higher-cost alternative such as a storefront franchise or a professional.

That's a look at returns. When you look at the market from a dollar perspective, you see an even bigger opportunity. Because consumer tax software is relatively inexpensive, it represents only about 3% of the \$20 billion spent on taxes each year.

Intuit is in a great position to capture a greater share of that \$20 billion. Last year, TurboTax, with 21 million returns prepared, completed more tax returns than all of H&R Block's stores. We have a very strong brand that's recognized by 82% of the population, among the most recognized brands in the U.S.

These market fundamentals, combined with our continuous focus on delivering better customer experiences that creates positive word of mouth, are driving category growth. Last year the software category grew 13% while the number of paper and pencil and professionally prepared returns actually shrunk. TurboTax drove 93% of that category growth.

We also have some good news on the role of the IRS and the Free File Alliance. A few weeks ago a new 4-year Free File agreement was signed which contains a number of important provisions.

- First, it continues to prohibit the IRS from entering the tax preparation business.
- Second, it limits the program to taxpayers with less than \$50,000 in Adjusted Gross Income. This is a significant improvement from the free-for-all of the past few years. And it limits any individual company to offerings that target no more than 70% of the eligible group.

We are pleased with the agreement and the return of the FFA program to its philanthropic roots. Like we did last year, we expect to win new customers through the Free File channel. And we expect to have meaningful success in up-selling last year's FFA customers into fully paid products. At the same time, we've made additional changes to further differentiate our free offering to limit cannibalization.

Looking ahead to this coming tax season, we see some very specific opportunities for Intuit as we look at this \$20B plus annual market.

- First, retention. We improved retention by 5 points last year to 74% and expect continued improvements this year based on last year's progress.
- Second, we have made several new and innovative changes to the offering that we believe will better monetize our large customer base.
- Third, we see a big opportunity to acquire more higher-value customers by converting them from high-cost alternatives like franchise stores.

Retention continues to be a big area of opportunity, so we've continued to improve the customer experience and remove reasons people leave. We've done things like improving the interview and replacing tax jargon with plain English ... making our customer service agents and help more available ... reducing update times ... and releasing in-season updates to fix issues customers encounter. It's a lot of little things, but they all add up.

Our second opportunity to drive growth is to find new ways to better monetize our customer base. An important step we're taking this season is to dramatically simplify pricing. We've learned that customers would much rather buy one bundle than make separate purchases for federal and state software. As a result, we're going to sell both federal and state tax prep in one box this year.

We also learned that offering a rebated vs. net price has little impact on purchase behavior and revenue. Last year, TurboTax Deluxe at retail was priced at \$40 with \$10 mail in rebate. The state product was \$30 with a \$30 rebate. Federal e-filing was \$15 with a \$15 rebate and state e-filing was \$15 with no rebate. A pretty complex formula to get to \$45 for federal and state preparation and e-filing. And a time-consuming process for customers to claim three rebates. In fact, rebates were our #1 customer pain point.

So this year, for the 1st time in recent history, we've eliminated rebates. This year's retail pricing will be \$40 for Federal and State software plus \$15 for each

e-file. It will be much simpler for customers and result in about the same revenue for Intuit.

Next, in another effort to deliver more value to TurboTax customers and better monetize our large customer base, we've added a significant new enhancement. First some context: Last year TurboTax processed approximately \$44 billion of consumer tax refunds. There's a magic moment in preparing a tax return when the customer finds out they are going to get a refund. The average TurboTax customer receives a \$2,400 refund, and they don't start thinking about how they're going to spend it until they know what they're getting. And we are a part of that magic moment.

This year we're launching a new offering... TurboTax Refund Bonus. It's a program that allows customers to take a portion of their federal refund and increase its value by 10% or more with gift cards for many of their favorite everyday merchants.

Customers are eager to get extra value from merchants like Lowe's, Gap, Starbucks, Disney, Blockbuster and Sharper Image. Refund Bonus is viewed as a nice enhancement to our TurboTax offering. We'll charge \$29.95 for participation, a relatively small part of the savings customers can achieve by participating.

This is another example of applying Intuit's secret sauce of customer-driven innovation to deliver additional value to customers and investors.

Our third big growth lever is to attract new customers by disrupting higher price franchise alternatives. We've already been doing this, with about 48% of our new fully paid customers in 2005 coming from higher-priced alternatives. Why did they switch to TurboTax? They learned through word of mouth that they can do it themselves, often in less time and hassle than going to a store or office. In many cases, they found the franchise experience simply wasn't worth the cost.

Small business tax is another important market where we can disrupt higher-cost alternatives – and we're pursuing this opportunity aggressively. We have significantly improved TurboTax for Business this year. For the first time ever, it will launch with the rest of the products at the end of November. Our retailers are excited about this new product, as are we. We are also launching TurboTax Estimated Taxes this fall, an online solution for the 10 million taxpayers who pay estimated taxes each quarter, as well as a version of TurboTax specifically tailored for the needs of the small business who sell on eBay. All in, we think that there is a tremendous opportunity in Small Business Tax in both the near and long term.

To sum up, we are quite excited about the season and our prospects for double-digit growth this year and for years to come. Our desktop products went gold last

Thursday and the engineers and Beta testers, some of whom have been working on these products for the nearly 20 years, told me that this year's products are by far the best ever. For the first time in my life, I'm looking forward to tax season.

Thanks for your time. Now I'll turn the call over to Steve.

Business Perspective

Thanks, Brad.

Before we get to your questions, I'd like to provide some quick color on why we're confident about our future growth prospects.

As we discussed at our recent Investor Day, Intuit has a proven growth strategy that powers our strong performance. The strategy starts with being in good businesses and attractive new markets that have large unmet or under-served needs that we can solve well.

We then apply the Intuit secret sauce ... customer-driven innovation, or CDI, that solves important customer problems simply. We apply CDI in two ways. One, we continually improve our existing solutions to delight customers and create positive word of mouth. And, two, we create new offerings that either convert non-consumers into Intuit customers or disrupt higher-priced alternatives.

I'm pleased with how well our team is executing our strategy. We're off to a great start with QuickBooks. We've got our strongest line-up ever with QuickBooks 2006, which hit retail shelves on Monday ... our biggest leap forward in the area that matters most to small business owners – simplicity that drives ease of use. And we're equally excited about the upcoming tax season, with continued improvements in our core offerings and some promising new initiatives, all designed to expand the category and drive new growth for Intuit.

So to sum up, we're delighted with the results of our first quarter and like what we see for the year. We've made real progress executing Right for Me growth strategies across all our businesses. And we see a lot of headroom for strong growth over the long term.

Thanks to all the Intuit employees who delivered a great quarter and to our shareholders for your support. With that, let's get to your questions.

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About Non-GAAP Financial Measures

This presentation includes non-GAAP financial measures. These measures should not be considered as a substitute for, or superior to, measures of financial performance prepared in accordance with generally accepted accounting principles ("GAAP"). These non-GAAP financial measures do not reflect a comprehensive system of accounting, differ from GAAP measures with

the same names and may differ from non-GAAP financial measures with the same or similar names that are used by other companies. Intuit's management believes that these non-GAAP financial measures provide meaningful supplemental information regarding Intuit's operating results because they exclude amounts that are not necessarily related to Intuit's core operating results. In addition, non-GAAP operating income and diluted earnings per share for fiscal 2006 exclude estimated expenses for stock-based compensation and associated taxes that Intuit began recording under SFAS 123(R) in the first quarter of fiscal 2006. These estimated stock-based compensation expenses and associated taxes are excluded from non-GAAP financial measures in order to facilitate the comparison of results for current periods and guidance for future periods with results for past periods, which did not include such stock-based compensation expenses and associated taxes. Intuit's management refers to these non-GAAP financial measures in assessing the performance of Intuit's ongoing operations and for planning and forecasting in future periods. These non-GAAP financial measures also facilitate management's internal comparisons to Intuit's historical operating results. Intuit has historically reported similar non-GAAP financial measures and believes that the inclusion of comparative numbers provides consistency in its financial reporting. Intuit computes non-GAAP financial measures using the same consistent method from quarter to quarter and year to year.

Non-GAAP operating income excludes estimated expenses for stock-based compensation and associated taxes under SFAS 123(R), amortization of purchased intangible assets and acquisition-related charges. Non-GAAP diluted earnings per share also excludes gains and losses on marketable securities and other investments and the tax effects of these items as well as net income or loss from discontinued operations. The tables and sheet entitled "Intuit Facts" that accompany the press release filed by Intuit on November 16, 2005, provide more details on Intuit's historical performance and financial projections, the GAAP financial measures that are most directly comparable to Intuit's non-GAAP financial measures, and the reconciliation of non-GAAP financial measures to the most directly comparable GAAP financial measures. A copy of the press release can be found on the investor relations page of Intuit's web site at www.intuit.com.

Cautions About Forward-Looking Statements

These remarks contain forward-looking statements, including forecasts of our expected financial results. Other statements relating to the future are also forward-looking, including: our expectations regarding future market opportunities; our prospects for the business in fiscal 2006 and beyond; our expectations regarding future stock repurchases; all of the statements under the headings "Fiscal 2006 Guidance" and "Second Quarter 2006 Guidance;" our objectives regarding future revenue growth and EPS growth; our assessment of potential growth opportunities; and our expectations regarding the launch of new or improved products and services.

Because these forward-looking statements involve risks and uncertainties, there are important factors that could cause our actual results to differ materially from the expectations expressed in the forward-looking statements. These factors include, without limitation, the following: product introductions and price competition from our competitors, including competition from Microsoft, which has released accounting software and associated services for small business customers, can have unpredictable negative effects on our revenue, profitability and market position; governmental encroachment in our tax businesses or other governmental activities regulating the filing of tax returns could negatively effect our operating results and market position; current and future products and services, including the 2006 edition of QuickBooks, may not adequately address customer needs and may not achieve broad market acceptance, which could harm our operating results and financial condition; our participation in the Free File Alliance may result in lost revenue due to potential customers filing free federal returns and electing not to pay for state filing or other services and cannibalization of our traditional paid franchise; our revenue and earnings are highly seasonal and the timing of our revenue between quarters is difficult to predict, which may cause significant quarterly fluctuations in our financial results; predicting tax-related revenues is challenging due to the heavy concentration of activity in a short time period; we may not be able to successfully introduce new products and services to meet our growth and

profitability objectives; our new product or service offerings may not attract customers or they may negatively impact our profitability if the business models for new offerings are not successful or if customers elect to purchase lower-priced alternatives; we have implemented, and are continuing to upgrade, new information systems and any problems with these new systems could interfere with our ability to ship and deliver products and gather information to effectively manage our business; our financial position may not make repurchasing shares advisable or we may issue additional shares in an acquisition causing our number of outstanding shares to grow; litigation involving intellectual property, antitrust, shareholder and other matters may increase our costs; and our failure to maintain reliable and responsive service levels for our offerings could cause us to lose customers and negatively impact our revenues and profitability. More details about these and other risks that may impact our business are included in our Form 10-K for fiscal 2005 and in other SEC filings. You can locate these reports through our website at http://www.intuit.com/about_intuit/investors. Forward-looking statements are based on information as of November 16, 2005, and we do not undertake any duty to update any forward-looking statement or other information in this press release.

EXHIBIT E

BERKOWITZ OLIVER WILLIAMS SHAW & EISENBRANDT LLP

ATTORNEYS AT LAW

Anthony J. Durone
adurone@bowse-law.com
DD: (816) 627-0217

January 11, 2006

Via Certified Mail – Return Receipt Requested
and Via Facsimile (650) 944-5656

Ms. Laura A. Fennell, Esq.
Vice President, General Counsel and Corporate Secretary
Intuit, Inc.
2632 Marine Way
Mountain View, CA 94043

Re: Turbo Tax Advertising Campaign

Dear Ms. Fennell:

We represent H&R Block Inc. and related entities (collectively “H&R Block”). As you are undoubtedly aware, H&R Block uses the trademark “H&R Block” (the “Mark”) in connection with tax preparation services and other goods and services offered by H&R Block through various company-owned and franchise offices across the United States and internationally. Indeed, H&R Block has federally registered the Mark and variations upon the Mark with the U.S. Patent and Trademark Office. *See, e.g.*, U.S. Patent and Trademark Office Registration No. 2533014. The Mark is indisputably well-known and entitled to strong protection, including those afforded under trademark laws. We have reviewed several of your recent TV and radio advertising campaigns and have concluded that they make unauthorized use of H&R Block’s intellectual property. Your unauthorized use of H&R Block’s intellectual property violates the trademark laws, including 15 U.S.C. § 1114(1) for infringement and 15 U.S.C. § 1125(a) for false advertising and unfair competition.

Specifically, it has come to our attention that your recent advertising campaign for the Turbo Tax product (your “Campaign”) states in part: “more returns were prepared with Turbo Tax last year than at all the H&R Block stores combined.” We believe this statement and other similar statements are false and that Intuit, further, has no reasonable basis for making these claims. As such, it is an improper and unauthorized use of H&R Block’s Mark, unfair competition and false advertising, and is actionable, *inter alia*, under the Federal Lanham Act,

ON THE COUNTRY CLUB PLAZA AT 47TH AND MAIN

BERKOWITZ OLIVER WILLIAMS SHAW & EISENBRANDT LLP
ATTORNEYS AT LAW

Ms. Laura A. Fennell, Esq.
January 11, 2006
Page 2

including 15 U.S.C. §§ 1114 and 1125. In fact, H&R Block stores prepared in excess of 26 million returns last year, which we believe far surpasses the number of returns prepared with Turbo Tax in 2005. If you dispute our understanding, please immediately provide any and all evidence to substantiate your claim that Turbo Tax prepared more returns than all H&R Block stores.

In addition, your Campaign is misleading to consumers, including because it states: "Turbo Tax asks me questions just like H&R Block does and then puts the answers in all the right forms." This language is misleading to consumers as it implies that prompts from a computer program are "just like" the interaction with an H&R Block tax professional, each of whom have more than sixty hours of tax preparation training and provide personalized customer attention that is not duplicated by Turbo Tax. Such deceptive marketing is unlawful and violates State, Federal and common law, including the provisions of the Lanham Act cited above.

On behalf of H&R Block, we therefore demand that, **on or before 5:00 p.m. CST, January 12, 2006**, you provide us with prompt written assurance that you will (1) immediately cease and desist your Campaign and your unauthorized uses of the Mark and (2) take all steps necessary to recover, remove and destroy all materials (whether in electronic, recording, hard copy or other form) containing your infringing uses of this Mark and/or any and all false and misleading statements in your Campaign, including those referenced above. We further demand that you promptly provide us with information concerning the extent of your dissemination of the Campaign and your uses of any elements of H&R Block's intellectual property to enable us to assess more precisely the extent of the damage done.

Please be advised that this letter does not purport to be a complete statement of the facts or the law and is without prejudice to H&R Block's legal and equitable rights, all of which are expressly reserved. Please be further advised that if your response to this letter is not satisfactory to H&R Block, H&R Block fully intends to enforce its rights to the maximum extent afforded by law, including without limitation to pursue immediate injunctive relief, damages, penalties, interest and attorney fees against you.

Very truly yours,



Anthony J. Durone

AJD:ljs

CIVIL COVER SHEET

JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

(a)	PLAINTIFFS H&R Block Eastern Enterprises, Inc., HRB Royalty, Inc., H&R Block Enterprises, Inc., and H&R Block and Assoc., L.P.	DEFENDANTS Intuit, Inc.
(b)	County of Residence of First Listed Plaintiff: Jackson, MO	County of Residence of First Listed Defendant: Santa Clara, CA
(c)	Attorney's (Firm Name, Address, and Telephone Number) Berkowitz Oliver Williams Shaw & Eisenbrandt LLP Two Emanuel Cleaver II Boulevard, Suite 500 Kansas City, MO 64112	Attorneys (If Known) N/A

06-0039-CV-W-SOW

d) Does this case seek a declaration judgment that a Missouri statute, rule or regulation is unconstitutional on its face or seek to enjoin the enforcement of a rule or regulation as to all persons because it is unconstitutional on its face?
OTE: Do not include cases that only allege that the State of Missouri or any of its agencies have acted unconstitutionally or petitions or complaints filed by persons confined in federal, state, county or municipal penal institutions, jail or mental institutions.

IV. BASIS OF JURISDICTION (Place an "X" in One Box Only)		III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)					
<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	(For Diversity Cases Only)		PTF	DEF	PTF	DEF
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
		Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
		Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

V. NATURE OF SUIT (Place an "X" in One Box Only)				
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Arbitration
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 440 Commerce	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	LABOR	<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 862 Black Lung (923)
REAL PROPERTY	CIVIL RIGHTS	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations		FEDERAL TAX SUITS	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare		<input type="checkbox"/> 871 IRS-- Third Party 26 USC 7609	<input type="checkbox"/> 871 IRS-- Third Party 26 USC 7609
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment			<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other			<input type="checkbox"/> 891 Agricultural Acts
	<input type="checkbox"/> 440 Other Civil Rights			<input type="checkbox"/> 892 Economic Stabilization Act
				<input type="checkbox"/> 893 Environmental Matters
				<input type="checkbox"/> 894 Energy Allocation Act
				<input type="checkbox"/> 895 Freedom of Information Act
				<input type="checkbox"/> 900 Appeal of Fee Under Equal Access to Justice
				<input type="checkbox"/> 950 Constitutionality of State Statutes

VI. ORIGIN (Place an "X" in One Box Only)

<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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If this is a removal from state court list the county _____ and the case number _____

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 15 U.S.C. §§ 1501 et seq.

Brief description of cause: Lanham Act and Unfair Competition claims for false advertising and trademark infringement

VIII. REQUESTED IN COMPLAINT:

<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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IX. RELATED CASE(S) IF ANY (See instructions): **JUDGE** _____ **DOCKET NUMBER** _____

DATE 1/13/06 **SIGNATURE OF ATTORNEY OF RECORD** *Anthony Duane*

IMPORTANT - The submission of this Civil Cover Sheet does not constitute the filing of your complaint. You MUST electronically file your complaint upon notification from the Clerk's Office.