

Best Buy Files a Lawsuit Accusing a Competitor of Falsely Advertising "Lowest Prices"

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Last week, Best Buy filed a lawsuit against Ultimate Electronics over ads that compare Best Buy's prices to Ultimate's prices. According to the complaint filed in a Minnesota federal court, Ultimate's ads make statements such as: "Every day, we shop . . . Best Buy, then adjust our prices to beat theirs, so you know we have the lowest electronics prices." Best Buy alleges that Ultimate's prices are frequently higher than Best Buy's and, therefore, that consumers do need to comparison shop to obtain the lowest prices. Best Buy is seeking a permanent injunction, monetary damages, and that the court order Ultimate to run corrective advertisements.

Earlier this year, Best Buy had filed a complaint against Ultimate at the NAD, but Ultimate failed to respond to the inquiry. As a result, the NAD [announced](#) that it would refer the advertisements to the FTC for review.

Advertisers need to be careful when they make price comparisons against competitors. The NAD and NARB have both opined that generalized claims that an advertiser always offers the lowest prices are "difficult, if not impossible, to substantiate," especially given how quickly prices can change. As this case demonstrates, if a competitor thinks that an advertiser's price comparisons are not substantiated, the advertiser can find itself challenged in court, at the NAD, or by the FTC.