

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

XAVIER BECERRA
Attorney General of California
NICKLAS A. AKERS
Senior Assistant Attorney General
STACEY D. SCHESSER
Supervising Deputy Attorney General
JESSICA WANG (SBN 278300)
Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3542
Fax: (415) 703-5480
E-mail: Jessica.Wang@doj.ca.gov

Attorneys for Plaintiff
THE PEOPLE OF THE STATE OF CALIFORNIA

[EXEMPT FROM FILING FEES PURSUANT TO
GOVERNMENT CODE SECTION 6103]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO
UNLIMITED JURISDICTION

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

HOME DEPOT U.S.A., INC. AND THE HOME DEPOT, INC., corporations,

Defendants.

Case No. 20-CIV-05220

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

(BUS. & PROF. CODE, § 17200 et seq.)

THE PEOPLE OF THE STATE OF CALIFORNIA (hereinafter "Plaintiff"), by and through Xavier Becerra, Attorney General of the State of California, brings this action against Home Depot U.S.A., Inc. and The Home Depot, Inc., corporations (hereinafter referred to as "The Home Depot" or "Defendant") for violating the California Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.), and alleges the following on information and belief:

Electronically
FILED
by Superior Court of California, County of San Mateo
ON 11/24/2020
By /s/ Anthony Berini
Deputy Clerk

1 **PARTIES**

2 1. Plaintiff is the People of the State of California. Plaintiff brings this action by and
3 through Xavier Becerra, Attorney General. The Attorney General is authorized by Business and
4 Professions Code sections 17204, 17206, and 17207 to bring actions to enforce the Unfair
5 Competition Law.

6 2. Defendants Home Depot U.S.A., Inc. and The Home Depot, Inc. are two
7 corporations with their principal place of business at 2455 Paces Ferry Road, Atlanta, GA 30339.

8 **JURISDICTION AND VENUE**

9 3. The Court has jurisdiction over the subject matter of this action, jurisdiction over
10 the parties to this action, and venue is proper in this Court.

11 4. The Home Depot has transacted business within the State of California, including
12 the County of San Mateo, at all times relevant to this complaint. The violations of law described
13 herein occurred in the County of San Mateo and elsewhere in the State of California.

14 **FACTS**

15 6. On September 8, 2014, The Home Depot publicly announced a data breach that
16 impacted the payment card information of approximately forty (40) million consumers. It
17 reported that it had discovered unauthorized access to, and theft of, payment card information at
18 its stores in the United States, including stores in California. In addition to payment card
19 information, it found that intruders obtained a file containing the email addresses of
20 approximately fifty-three (53) million consumers.

21 7. Upon further investigation, The Home Depot learned that on or about April 10,
22 2014, an intruder (or intruders) gained access to The Home Depot's corporate network and
23 deployed malware to The Home Depot's point-of-sale systems. The malware was designed to
24 capture real-time payment card data from the magnetic strip of consumer credit and debit cards.
25 The attacker was then able to exfiltrate this data out of The Home Depot's internal network.

26 8. The theft of the payment card information affected consumers who shopped at The
27 Home Depot stores in the United States from April 10, 2014, through September 13, 2014. This
28

1 included consumers who initiated a purchase of goods, completed a purchase of goods, or
2 returned goods.

3 9. Some consumers who shopped at The Home Depot stores in the United States
4 from April 10, 2014, through September 13, 2014, reported fraudulent charges to their payment
5 cards.

6 10. The Home Depot's data breach occurred even though in December 2013, Target
7 Corporation publicly announced a near-identical data breach in which intruders gained access to
8 Target's internal computer system and deployed malware to Target's in-store point-of-sale
9 systems.

10 11. California law requires a business that owns or maintains personal information
11 about a California resident to implement and maintain reasonable security procedures and
12 practices appropriate to the nature of the information, and to protect the personal information
13 from unauthorized access, destruction, use, modification, or disclosure. (Cal. Civ. Code §
14 1798.81.5, subd. (b).) The statute defines "personal information" to include "an individual's first
15 name or first initial and the individual's last name in combination with ... [unencrypted] Account
16 number or credit or debit card number, in combination with any required security code, access
17 code, or password that would permit access to an individual's financial account." (*Id.* at subd.
18 (d)(1).)

19 **FIRST CAUSE OF ACTION**

20 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

21 **(UNFAIR COMPETITION)**

22 12. The People reallege and incorporate each and every allegation contained in the
23 preceding paragraphs 1 through 11.

24 13. The Home Depot engaged in unlawful, unfair, or fraudulent acts or practices,
25 which constitutes unfair competition within the meaning of section 17200 of the Business and
26 Professions Code. The Home Depot's acts or practices include failing to implement and maintain
27 reasonable security procedures and practices to protect personal information from unauthorized
28

1 access, destruction, use, modification, or disclosure in violation of Civil Code section 1798.81.5,
2 subdivision (b).

3 **PRAYER FOR RELIEF**

4 WHEREFORE, the People of the State of California prays for judgment as follows:

5 1. Pursuant to Business and Professions Code section 17203, that the Court enter all
6 orders necessary to prevent The Home Depot U.S.A., Inc. and The Home Depot, Inc., their
7 successors, agents, representatives, employees, and all persons who act in concert with The Home
8 Depot U.S.A., Inc. or The Home Depot, Inc. from engaging in any act or practice that constitutes
9 unfair competition in violation of Business and Professions Code section 17200, including as
10 alleged in this Complaint.

11 2. Pursuant to Business and Professions Code section 17206, that the Court assess a
12 civil penalty of \$2,500 for each violation of Business and Professions Code section 17200, as
13 proved at trial.

14 3. That the People of the State of California recover its costs of suit, including costs
15 of its investigation.

16 4. For such other and further relief that the Court deems just and proper.

17
18 Dated: November 24, 2020

Respectfully submitted,

19 XAVIER BECERRA
20 Attorney General of California
21 NICKLAS A. AKERS
22 Senior Assistant Attorney General
23 STACEY D. SCHESSER
24 Supervising Deputy Attorney General



25 JESSICA WANG
26 Deputy Attorney General
27 *Attorneys for The People of the State of*
28 *California*