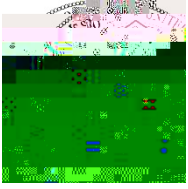


UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580



Office of the Secretary

September 22, 2008

Robert H. Lande
Venable Professor of Law
University of Baltimore
School of Law
1415 Maryland Avenue
Baltimore, MD 21201-5779

Re: *In*

Through the public comment process, the Commission encourages open and free discussion of views by interested persons to assist it in the development of law and policy for future cases. In this instance, the Commission has considered your suggestion, and has concluded that such a change is not necessary. As the Commission Statement and the Analysis to Aid Public Comment make clear, the Complaint in this matter alleges stand-alone violations of Section 5 of the Federal Trade Commission Act. The analysis set out in those documents provides an adequate legal basis to support the Commission's action. Moreover, the Complaint and Analysis to Aid Public Comment in this matter provide guidance as to the factors that the Commission will consider on a case-by-case basis in determining whether to challenge opportunistic conduct in the standard setting context. Such factors include (among other things) standards-development organization rules concerning intellectual property; the timing and content of any assurances provided the holder of intellectual property rights; the nature, timing and offered justification for any changes in those assurances; and the effects of the conduct on standard setting generally or on competition in particular markets affecting g