

UNITED STATES-6(T)8P-3(T)-a3(T)(A(D SA32 T<.o8Li1/1)-5(A(D SPsaA1

2. Respondent is a clothing manufacturer and retailer with more than 200 stores.
3. The names and activities of respondents are listed in Section 4 of the Complaint.

4. Respondent has set forth on its website, www.amerapparel.net, privacy policies and statements of its practices, including statements related to its participation in U.S. Safe Harbor Framework” and by the U.S. and Switzerland (“U.S.-Swiss Safe Harbor Framework”).

The Frameworks

5. The U.S.-EU Safe Harbor Framework provides a method for U.S. companies to transfer Personal Data (“Data”) from the U.S. to the E.U. in compliance with the principles set forth in the Data Protection Directive (“Directive”) and the principles set forth in the Data Protection Act (“Act”).

Among other things, it requires EU Member States to implement legislation that prohibits the transfer of personal data outside the EU, with exceptions, unless the European Commission (“EC”) has made a determination that the recipient jurisdiction’s laws ensure the protection of such personal data. This determination is referred to commonly as meeting the EU’s “adequacy” standard.

6. To satisfy the EU adequacy standard for certain commercial transfers, the U.S. Department of Commerce (“Commerce”) and the EC negotiated the EU-Swiss Safe Harbor Framework, which went into effect in 2000. The EU-Swiss Safe Harbor Framework allows U.S. companies to transfer personal data lawfully from the EU. To join the EU-Swiss Safe Harbor Framework, a company must self-certify to Commerce that it complies with seven principles and related requirements that have been deemed to meet the EU’s adequacy standard.
7. Companies under the jurisdiction of the U.S. Federal Trade Commission (“FTC”), as well as the U.S. Department of Transportation, are eligible to join the EU-Swiss Safe Harbor Framework. A company under the FTC’s jurisdiction that claims it has self-certified to the Safe Harbor principles but failed to self-certify to Commerce, may be subject to an enforcement action based on the FTC’s deception authority under Section 5 of the FTC Act.
8. The U.S.-Swiss Safe Harbor Framework is identical to the EU-Swiss Safe Harbor Framework and is consistent with the requirements of the Swiss Federal Act on Data Protection.
9. Commerce maintains a public website, www.export.gov/safeharbor, where it posts the names of companies that have self-certified to the EU-Swiss Safe Harbor Framework and the U.S.-Swiss Safe Harbor Framework. The listing of companies indicates whether their self-certification is “current” or “not current” and a date when recertification is due. Companies are required to self-certify to Commerce every two years.

We at American Apparel Corporation ("American Apparel") respect your concerns about privacy and value the relationship we have with you. American Apparel has certified that it abides by the Safe Harbor privacy principles, as set forth by the United States Department of Commerce, regarding the collection, storage, transfer, use and other processing of Personal Information (as defined below) transferred to the United States from the European Economic Area ("EEA") and Switzerland...

13. Through the means described in Paragraph 12, respondent expressly or by implication, that it is a current participant in the U.S.-EU Safe Harbor Framework and the U.S.-Swiss Safe Harbor Framework
14. In truth and in fact, from June 2013 until December 2013, respondent was not a current participant in the U.S.-EU Safe Harbor Framework or U.S. Swiss Safe Harbor Framework. Therefore, the representation set forth in Paragraph 13 was false and misleading.
15. The acts and practices of respondent as alleged in this complaint constitute deceptive acts or practices, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this sixteenth day of June 2014, has issued this complaint against respondent.

By the Commission, Commissioner McSweeney not participating

Donald S. Clark
Secretary

SEAL: