

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Terrell McSweeney

In the Matter of

NOMI TECHNOLOGIES, INC.,
a corporation.

13. In order to opt out of the Listen service on Nomi's website, consumers were required to provide Nomi with all of their mobile devices' MAC addresses, without knowing whether they would ever shop at a retail location using the Listen service. Consumers who did not opt out on Nomi's website and instead wanted to make an opt out decision at retail locations were unable to do so, despite the explicit promise in Nomi's privacy policies. Consumers were not provided any means to opt out at retail locations and were unaware that the service was even being used.

VIOLATIONS OF THE FTC ACT

Count I

14. As described in Paragraph 12, Nomi represented, directly or indirectly, expressly or by implication, that consumers could opt out of Nomi's Listen service at retail locations using this service.

15. In fact, Nomi did not provide an opt out mechanism at its clients' retail locations. Therefore, the representation set forth in Paragraph 14 is false or misleading.

Count II

16. As described in Paragraph 12, Nomi represented, directly or indirectly, expressly or by implication, that consumers would be given notice when a retail location was utilizing Nomi's Listen service.

17. In fact, neither Nomi nor its clients disclosed to consumers that Nomi's Listen service was being used at a retail location. Therefore, the representation set forth in Paragraph 16 is false or misleading.

18. The acts and practices of respondent alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this twenty-ninth day of August, 2015, has issued this complaint against respondent.

By the Commission, Commissioner Ohlhausen dissenting

Donald S. Clark
Secretary

SEAL: