

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Joseph J. Simons, Chairman**
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter
 Christine S. Wilson

_____)

unless the European Commission 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, Commerce and the European Commission negotiated the EU-U.S. Privacy Shield framework, which went into effect in July 2016. The EU-U.S. Privacy Shield framework allows companies to transfer personal data lawfully from the EU to the United States. To join the EU-U.S. (E-0.001 Tc 0t)-6

10. Although Respondent obtained Privacy Shield certification in February 2017, that certification lapsed one year later, in 2018.
11. Respondent initiated an application for recertification to Commerce in January 2018 but did not complete the steps necessary to recertify. After working with Respondent to address deficiencies in its recertification application, Commerce warned the company to take down its claims that it participated in Privacy Shield unless and until such time as it completed the recertification process. Respondent did not do so, nor did it withdraw and affirm its commitment to protect any personal information it had acquired while in the program.
12. After allowing its certification to lapse, Respondent continued to claim, as indicated in paragraph 9, that it participated in the EU-U.S. Privacy Shield framework.
13. The Privacy Shield Principles include Supplemental Principle 7, which requires any company that participates in Privacy Shield to verify, at least once a year, through self-assessment or outside compliance review, that the assertions it makes about its Privacy Shield privacy practices are true and that those privacy practices have been implemented. The verification statement must be signed by a corporate officer or the outside reviewer and is required to be made available on request to the FTC or Department of Transportation, whoever has unfair and deceptive practices jurisdiction over the company.
14. Respondent is under the jurisdiction of the FTC. During the 2017-18 period that Respondent was certified to participate in Privacy Shield, Respondent failed to comply with the requirement to obtain, through self-assessment or outside compliance review, an attested verification statement that the assertions it had made about its Privacy Shield privacy practices during the time it participated in the program were true and that those privacy practices had been implemented. Respondent failed to provide its attested verification statement to the FTC.

Count 1-Privacy Misrepresentation

15. As described in Paragraph 9, Respondent represents, directly or indirectly, expressly or by implication, that it is a current participant in the EU-U.S Privacy Shield framework.
16. In fact, as described in Paragraphs 10-12, Respondent is not a current participant in the EU-U.S. Privacy Shield framework. Respondent's certification lapsed in 2018, and it was not renewed. Therefore, the representation set forth in Paragraph 15 is false or misleading.

Count 2-Misrepresentation Regarding Verification

17. As described in Paragraph 9, Respondent represented that it complied with the EU-U.S. Privacy Shield framework principles.

18. In fact, as described in Paragraphs 13-14, Respondent did not comply with the EU-U.S. Privacy Shield framework principles. In particular, it failed to comply with the verification requirement in Privacy Shield Supplemental Principle 7. Therefore, the representation set forth in Paragraph 17 is false or misleading.

Count 3-Misrepresentation Regarding Continuing Obligations

19. As described in Paragraph 9, Respondent represented that it complied with the EU-U.S. Privacy Shield framework principles. These principles include a requirement that if it ceased to participate in the EU-U.S. Privacy Shield framework, it must affirm to Commerce that it will continue to apply the principles to personal information that it received during the time it participated in the program.
20. In fact, as described in Paragraph 11, Respondent has not affirmed to Commerce that it will continue to apply the principles to personal information that it received during the time it participated in the program. Therefore, the representation set forth in Paragraph 19 is false or misleading.

Violations of Section 5 of the FTC Act

21. 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 thirteenth day of January 2020, has issued this complaint against Respondent.

By the Commission.

April J. Tabor
Acting Secretary

SEAL
ISSUED: January 13, 2020