

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Lina M. Khan, Chair
Rebecca Kelly Slaughter
Alvaro M. Bedoya
Melissa Holyoak
Andrew Ferguson

In the Matter of

INTELLIVISION TECHNOLOGIES CORP .

DECISION AND ORDER

DOCKET NO. C-

DECISION

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the procedure prescribed in Rule 2.34, the Commission issues its Complaint, makes the following Findings, and issues the following Order:

Findings

1. Respondent is a Delaware corporation with its principal office or place of business at 6203 San Ignacio Avenue, San Jose, California 95119.
2. The Commission has jurisdiction over the subject matter of this proceeding and over Respondent, and the proceeding is in the public interest.

ORDER

Definitions

For the purposes of this Order, the following definitions apply:

1. “Facial Recognition Technology” means (a) the automated or semi-automated process that can be used, singly or in combination with other data, to verify, authenticate, or ascertain a person’s identity based on the characteristics of their face, singly or in combination with other data, including identification of individuals or groups; or (b) the automated or semi-automated process by which characteristics of a person’s face, singly or in combination with other data, are analyzed for inferences about an individual’s sentiment, emotional state, state of mind, personality, character, and other qualities including but not limited to veracity, state of attentiveness, and mood; or (c) any similar process that is a combination of (a) and (b) above.
2. “Liveness” means that a living subject is present at the point of capture.
3. “Respondent” means IntelliVision Technologies Corp., a corporation, and its successors and assigns.

Provisions

I.

Prohibited Misrepresentations

IT IS ORDERED that Respondent, and Respondent’s officers, agents, employees, and attorneys and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with advertising, promotion, offering for sale, sale or distribution of Facial Recognition Technology, must not make any mis

- b. About the comparative performance of its Facial Recognition Technology with respect to individuals of different genders, ethnicities, and skin tones, or reducing or eliminating differential performance based on such factors; or
- c. About the accuracy or efficacy of its Facial Recognition Technology with respect to detecting spoofing or otherwise determining Liveness.

II.

Prohibition on Unsubstantiated Accuracy and Bias Claims

IT IS FURTHER ORDERED that Respondent, and Respondent's officers, agents, employees, and attorneys and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with advertising, promotion, offering for sale, sale or distribution of Facial Recognition Technology, must not make any representation, expressly or by implication, about the effectiveness, accuracy, or lack of bias of such Facial Recognition Technology, or about the effectiveness of such Facial Recognition Technology at detecting spoofing, unless Respondent possesses and relies upon competent and reliable testing that substantiates the representation at the time the representation is made. To satisfy this requirement Respondent must:

- A. Possess and rely upon competent and reliable testing of the Facial Recognition Technology. For the purposes of this Order, competent and reliable testing shall mean testing that is based on the expertise of professionals in the relevant area, and that (1) has been conducted and evaluated in an objective manner by qualified persons and (2) is generally accepted by experts in the profession to yield accurate and reliable results; and
- B. Document all such testing including: the dates and results of all tests; the method and methodology used; the source and number of images used; the source and number of different people in the images; whether such testing includes Liveness tests; any technique(s) used to modify the images to create different angles, different lighting conditions or other modifications; demographic information collected on images used in testing if applicable; information about the skin tone collected on images used in testing if applicable; and any information that supports, explains, qualifies, calls into question or contradicts the results.

III.

Acknowledgements of the Order

IT IS FURTHER ORDERED that Respondent obtain acknowledgments of receipt of this Order:

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this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for conduct related to the subject matter of the Order and all agents and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Provision titled Compliance Reports and Notices. Delivery must occur within 10 days after the effective date of this Order for current personnel. For all others, delivery must occur before they assume

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- A. Any Provision in this Order that terminates in less than 20 years;
- B. This Order's application to any Respondent that is not named as a defendant in such complaint; and
- C. This Order if such complaint is filed after the Order has terminated pursuant to this Provision.

Provided, further, that if such complaint is dismissed or a federal court rules that Respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this Provision as though the complaint had never been filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

April J. Tabor
Secretary

SEAL:
ISSUED: