

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright

In the Matter of)
)
DDC Laboratories, Inc.,)
(also d/b/a DNA Diagnostics Center),) DOCKET NO.
a corporation.)
)
_____)

COMPLAINT

The Federal Trade Commission, having reason to believe that DDC Laboratories, Inc. (“Respondent” or “DDC”), a corporation, has violated the Federal Trade Commission Act (“FTC Act”), and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent DDC Laboratories, Inc., also doing business as DNA Diagnostics Center, is an Ohio corporation with its principal office or place of business at One DDC Way, Fairfield, OH 45014.
2. Respondent is a leading provider of private DNA testing and focuses primarily on testing to establish paternity and other familial relationships.
3. The acts and practices of Respondent as alleged in this Complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act.
4. Respondent has set forth on its website, www.dnacenter.com, privacy policies and statements about its practices, including a statement related to its adherence to the Safe Harbor privacy framework agreed upon by the U.S. and the European Union (“U.S.-EU Safe Harbor Framework”).

The Safe Harbor Framework

5. The U.S.-EU Safe Harbor Framework provides a method for U.S. companies to transfer personal data outside of Europe that is consistent with the requirements of the European

Union Directive on Data Protection (“Directive”). Enacted in 1995, the Directive sets forth European Union (“EU”) requirements for privacy and the protection of personal data. 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 U.S.-EU Safe Harbor Framework, which went into effect in 2000. The U.S.-EU Safe Harbor Framework allows U.S. companies to transfer personal data lawfully from the EU. To join the U.S.-EU 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 U.S.-EU 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, or subsequently renew its Safe Harbor certification, may be subject to an enforcement action based on the FTC’s deception authority under Section 5 of the FTC Act.
8. Commerce maintains a public website, www.export.gov/safeharbor, where it posts the names of companies that have self-certified to the U.S.-EU 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 re-certify every year in order to retain their status as “current” members of the Safe Harbor Framework.

Violations of Section 5 of the FTC Act

9. In November 2007, Respondent submitted to Commerce a self-certification of compliance to the Safe Harbor Framework. Respondent subsequently renewed its self-certification in November 2008, November 2009, and November 2010.
10. In November 2011, Respondent did not renew its self-certification to the Safe Harbor, and Commerce subsequently updated Respondent’s status to “not current” on its public website. In November 2013, Respondent renewed its self-certification to the Safe Harbor Framework and Respondent’s status was changed to “current” on Commerce’s website.
11. Since at least November 2007, Respondent has disseminated or caused to be disseminated a privacy policy and statement on the www.dnacenter.com website, including the following statement:

DDC and its subsidiaries, branches, divisions, and business units in the United States adhere to the Safe Harbor Principles published by the U.S. Department of Commerce with respect to all such data.

12. Through the means described in Paragraph 11, Respondent represents, expressly or by implication, that it is a “current” participant in the U.S.-EU Safe Harbor Framework.
13. In truth and in fact, from November 2011 until November 2013, Respondent was not a “current” participant in the U.S.-EU Safe Harbor Framework. Therefore, the representation set forth in Paragraph 12 was, false and misleading.
14. 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 __ day of ____ 2014, has issued this Complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL
ISSUED: