

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**        **Jon Leibowitz, Chairman**  
                                  **William E. Kovacic**  
                                  **J. Thomas Rosch**  
                                  **Edith Ramirez**  
                                  **Julie Brill**

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| <b>In the Matter of</b>                      | ) |                   |
|  | ) | <b>DOCKET NO.</b> |
| <b>KOBY BROWN, individually, and doing</b>   | ) |                   |
| <b>business as DERMAPPS,</b>                 | ) |                   |
| <b>and GREGORY W. PEARSON, individually,</b> | ) |                   |
| <b>and doing business as DERMAPPS.</b>       | ) |                   |
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**COMPLAINT**

The Federal Trade Commission, having reason to believe that Koby Brown and Gregory W. Pearson (“respondents”), individually and doing business as DERMAPPS, have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Koby Brown (“Brown”) is the developer, and a seller or marketer, of a mobile software application called “AcneApp.” At all times relevant to this complaint, Brown, individually or in concert with others, formulated, directed, controlled, or participated in the acts or practices alleged in this complaint. His principal office or place of business is located in Houston, Texas.
2. Respondent Gregory W. Pearson (“Pearson”) is a licensed and board-certified dermatologist, and a seller or marketer of a mobile software application called “AcneApp.” At all times relevant to this complaint, Pearson, individually or in concert with others, formulated, directed, controlled, or participated in the acts or practices alleged in this complaint. His principal office or place of business is located in Houston, Texas.
3. Respondents Brown and Pearson have developed, labeled, advertised, promoted, offered for sale, sold, and distributed AcneApp to consumers, including teens, through the iTunes Store, an electronic retail platform operated by Apple, Inc., from at least September 24, 2009 and

continuing thereafter. From September 1, 2009 through March 15, 2011, there were approximately 11,600 downloads of AcneApp.

4. AcneApp is a “device” within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

5. The acts and practices of respondents, as alleged herein, have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

6. Respondents have disseminated or caused to be disseminated advertisements for AcneApp through the iTunes store, including, but not limited to, the advertisement in the attached Exhibit A. This advertisement contains the following statements and depictions:

**Pre-Download Advertisement:** (Exhibit A - website print screen capture)

On screen:

New York Times:

December 30, 2009 “Better Skin to the Touch?”

Camille Sweeney

“... a Houston dermatologist has bypassed the hand-held gadget and tried to harness the power of in-office acne treatments in a more familiar form: the iPhone or iPod Touch.”

FOX News:

January 12, 2009 “Can iPhone Application Treat Your Acne?” Ned Hibberd

“... self esteem emergency? These flashing lights may be their salvation.”

iTunes REVIEWS [*Selected and featured by respondents*]

- “This app is probably the best thing ever to surface. i’ve (sic) had problems with my skin for years. Acne app is easy to use and you can use it any time of the day. My skin started to clear after the first week and it’s noticable (sic). I’ve used pro activ (sic), roaccutane (sic) and every other skin product but this is truly amazing.” (Australia)
- “I will have to say that I was skeptical at first but am amazed by the results of really dedicating time to this.” (US)
- “I was very hesitant to purchase it a (sic) first because I thought it was simply exploiting

peoples' insecurities, but it works! Maybe the best app I've bought!" (US)

- "Hormones go crazy when your (sic) pregnant but you can't use chemicals to dry up your breakouts[.] [T]his app is the solution!" (US)
- This is the best money I have ever spent[.] [I]t works amazing for me[.] [A]lready seeing the difference in 2 days. It stops me from (sic) getting spots and reduces the redness of the present acne. It's a gotta buy for people suffering with acne. 5 stars :D (United Kingdom)

#### IMPORTANT STUFF:

This app was developed by a dermatologist.

A study published by the British Journal of Dermatology showed blue and red light treatments eliminated p-acne bacteria (a major cause of acne) and reduces skin blemishes by 76%. Studies showed that light treatments were almost twice as effective as benzoyl peroxide, the main ingredient in Proactiv and other common over-the-counter blemish treatments.

#### INSTRUCTIONS:

Begin by choosing a light from the tab bar below. Blue & Red alternating light is the recommended option.

Rest the iPhone against your skin's acne-prone areas for 2 minutes daily to improve skin health without prescription drugs.

Blue Light: fights bacteria.

Red Light: helps heal skin.

\* \* \*

This app is for entertainment purposes only and is not intended for treatment of any disease or medical condition.

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**AcneApp.** Acne therapy without risky medications.

\* \* \*

7. Through the means described in Paragraph 6, respondents have represented, expressly or by implication, that AcneApp is an effective treatment for acne.

8. Through the means described in Paragraph 6, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representation set forth in Paragraph 7, at the time the representation was made.

9. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representation set forth in Paragraph 7, at the time the representation was made. Therefore, the representation set forth in Paragraph 8 was, and is, false or misleading.

10. Through the means described in Paragraph 6, respondents have represented, expressly or by implication, that a study published by the British Journal of Dermatology proves that blue and red light therapy such as that provided by AcneApp is an effective treatment for acne.

11. In truth and in fact, the study published by the British Journal of Dermatology does not prove that blue and red light therapy such as that provided by AcneApp is an effective treatment for acne. Therefore, the representation set forth in Paragraph 10 was, and is, false or misleading.

12. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the Federal Trade Commission Act, 15 U.S.C. §§ 45(a) and 52.

THEREFORE, the Federal Trade Commission, this \_\_\_\_\_ day of \_\_\_\_\_, 2011, has issued this complaint against respondents.

By the Commission.

Donald S. Clark  
Secretary

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