UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Edith Ramirez, Chairwoman**
Maureen K. Ohlhausen
Terrell McSweeny

FTC Matter No. P165402

ORDER TO FILE A SPECIAL REPORT

Pursuant to a resolution of the Federal Trade Commission ("FTC" or "the Commission") dated May 6, 2016, entitled "Resolution Directing Use of Compulsory Process To Collect Information Regarding Mobile Device Security Updates," a copy of which is enclosed, **[COMPANY NAME]**, hereinafter referred to as the "Company," is ordered to file with the Commission, no later than 45 days after date of service, a Special Report containing the information and documents specified herein.

The Commission is seeking to compile data concerning policies, procedures, and practices for providing security updates to mobile devices offered by unnamed persons, partnerships, corporations, or others in the United States. The Special Report will assist the Commission in conducting a study of such policies, practices, and procedures.

The Special Report must restate each item of this Order with which the corresponding answer is identified. Your report is required to be subscribed and sworn by an official of the Company who has prepared or supervised the preparation of the report from books, records, correspondence, and other data and material in your possession. If any question cannot be answered fully, give the information that is available and explain in what respects and why the answer is incomplete. The Special Report and all accompanying documentary responses must be Bates-stamped.

Confidential or privileged commercial or financial information will be reported by the Commission on an aggregate or anonymous basis, consistent with Sections 6(f) and 21(d) of the FTC Act. Individual submissions responsive to this Order that are marked "confidential" will not be disclosed without first giving the Company ten (10) days notice of the Commission's intention to do so, except as provided in Sections 6(f) and 21 of the FTC Act.

SPECIFICATIONS

Please provide the following information, documents, and items, consistent with the definitions, instructions, and formatting requirements contained in Attachment A:

1. **Identification of Report Author**: Identify the full name, business address, telephone number, and title of the person(s) who has prepared or supervised the preparation of the Company's response to this Order and describe in detail the steps taken by the Company to respond to this Order. For each specification, identify the individual(s) who assisted in preparation of the response. Provide a list of the persons (identified by name and corporate title or job description) whose files were searched and identify the person who conducted the search.

2. **Company Information**:

    a. State the Company's complete legal name and all other names under which it has done business, its corporate mailing address, all addresses from which it does or has done business, and the dates and states of its incorporation.

    b. Describe the Company's corporate structure, and state the names of all parents, subsidiaries (whether wholly or partially owned), divisions (whether incorporated or not), affiliates, branches, joint ventures, franchises, operations under assumed names, websites, and entities over which it exercises supervision or control. For each such entity, describe the nature of its relationship to the Company.

    c. Identify each individual or entity having more than a 5% ownership interest in the Company, as well as their individual ownership stakes and their positions and responsibilities within the Company.

3. **Security Update Processes**:

    a. State whether the Company offers any of its mobile devices to U.S. consumers in each of the following options. Your answer should describe in detail how each option is made available to consumers (*e.g.*, direct sales through the Company's website or retail stores, sales through third-party retailers, or sales through carrier stores):

        i. Carrier-locked device;

        ii. Unlocked device;

        iii. Carrier-certified device; or

        iv. Wi-Fi device.

b. For each option in Specification 3(A) to which you responded affirmatively, please identify each entity that contributes to the device software, describing in detail the software that the entity contributes. Your response should include, but not be limited to, contributions from:

    i. Device manufacturer;

    ii. Operating system vendor;

    iii. Chipset manufacturer; or

    iv. Carrier.

c. For each option in Specification 3(A) to which you responded affirmatively, describe in detail any role each entity you identified in response to Specification 3(B) has in addressing security vulnerabilities in device software, including, but not limited to its role in any processes related to:

    i. Communicating vulnerability information among such entities;

    ii. Developing software updates to address vulnerabilities;

    iii. Testing security updates that have been developed; or

    iv. Deploying security updates to devices.

d. For each option in Specification 3(A) to which you responded affirmatively, describe in detail how the Company determines whether a specific device model will receive a security update to address a vulnerability, including whether and how each of the following criteria informs the decision whether to provide a security update:

    i. The nature and severity of the vulnerability;

    ii. How long the device model has been on the market;

    iii. The number of consumers using the device model;

    iv. The retail cost of the device model (*e.g.*, whether the device is considered a premium or budget device);

    v. The device model's current operating system version;

    vi. Whether the device model will be updated to the next version of the operating system;

vii. Development support (*e.g.*, software code, instructions, or other information or material) necessary from any entity identified in your response to Specification 3(B);

viii. Testing, certification, or other requirements mandated by any entity identified in response to Specification 3(B);

ix. Contractual obligations or other business arrangements with any entity identified in response to Specification 3(B); and

x. Any other criteria not covered above.

e. For each option in Specification 3(A) to which you responded affirmatively, describe in detail how any of the criteria described in your response to Specification 3(D) affect the frequency or timing of security updates that the Company provides for any specific device model.

f. State whether the Company has (or had) any written policies regarding the processes described in response to Specification 3(C)-(E). Provide a copy of each such policy in effect during the applicable time period, indicating for each the date on which it became effective. If the policies changed at any time, please so state and describe the nature of the change and its effective time period.

g. Provide a copy of any documents that define any testing, certification, or other requirements identified in your response to Specification 3(D)(viii).

h. Provide a copy of any legal agreements covering any contractual obligations or other business arrangements described in your response to Specification 3(D)(ix).

i. State whether the Company licenses or otherwise provides device software, such as an operating system, for integration into devices offered for sale by device manufacturers other than the Company. If yes, for each device software, describe in detail the Company's policies and processes regarding security updates for such software, including but not limited to:

i. Licensing terms or other contractual obligations that require the device manufacturer or any other entities to develop, test, or deploy security updates;

ii. Communication of vulnerability information to device manufacturers or other entities involved in the development, testing, or deployment of security updates;

iii. Development support (*e.g.*, software code, instructions, or other information or material) the Company provides for the development, testing, or deployment of security updates; and

iv. Any other assistance the Company provides to address security vulnerabilities in such device software.

4. Consumer Disclosures

a. Describe in detail whether the Company provides notice to consumers regarding each of the following:

i. The period of time that a specific device model will be supported for operating system version or other feature updates that include security updates;

ii. The period of time that a specific device model will be supported for security updates, including the frequency or timing of security updates;

iii. When a specific device model is no longer supported for operating system version or other feature updates that include security updates; and

iv. When a specific device model is no longer supported for security updates.

b. State whether the Company has (or had) any written policies regarding the notices described by Specification 4(A)(i)-(iv). Provide copies of any such policies effective during the applicable time period, indicating for each the date on which it became effective. If the policies changed at any time, please so state and describe the nature of the change and its effective time period.

5. Specific Device Models

a. Identify each specific device model (*e.g.*, "unlocked Model X" or "Carrier Y-locked Model E") that the Company has offered for sale to U.S. consumers.

b. For each specific device model identified in response to Specification 5(A), describe in detail:

i. The period of time that the specific device model was or has been offered for sale in the United States;

ii. The number of units of the specific device model that have been sold;

iii. The average retail price tier of the device (0-$250; $251-$500; $501-$750; over $751);

iv. The period of time that the specific device model was or will be supported for operating system version or other feature updates that include security updates; and

v. The period of time that the specific device model was or will be supported for security updates.

c. For each specific device model identified in response to Specification 5(A), please provide a copy of:

i. Each materially different consumer-facing statement the Company has made regarding support for, frequency, or timing of operating system version or feature updates that include security updates that applies to the specific device model; and

ii. Each materially different consumer-facing statement the Company has made regarding support for, frequency or timing of security updates that applies to the specific device model.

d. For each specific device model identified in response to Specification 5(A), please identify each vulnerability that has affected the specific device model that could result in unauthorized code execution or the compromise of the confidentiality of consumer data. Describe in detail the Company's response to the vulnerability. Your response should include, but not be limited to:

i. A description of the vulnerability, including, if available, the Common Vulnerabilities and Exposure (CVE) identifier;

ii. The date on which the Company learned of the vulnerability;

iii. The date on which any other entity identified in your response to Specification 3(B) provided the Company with any software code, instructions, or other information or material necessary to address the vulnerability;

iv. Whether the Company decided to provide a security update for the vulnerability, and if not, an explanation of the criteria used to make that decision, including the criteria identified in response to Specification 3(D);

v. The Company's process for developing a security update to address the vulnerability, including whether and how any other entity identified in your response to Specification 3(B) was involved in developing or testing the security update;

vi. The date on which the Company had a security update addressing the vulnerability ready for any required testing by any other entity identified in your response to Specification 3(B);

vii. The date or dates on which the Company deployed the security update, either directly to end-user devices, or to a Carrier for deployment to end-user devices. For the latter, please also state, to your knowledge, the date or dates

on which the Carrier deployed the security update to end-user devices on its network;

viii. The percentage of end-user devices that installed the update addressing the vulnerability; and

ix. If a security update for the vulnerability was not deployed to end-user devices, whether the company notified consumers that the specific device model would not receive a security update for the vulnerability.

e. For each vulnerability identified in response to Specification 5(D), please provide documents reflecting communications among the entities you identified in response to Specification 3(B) sufficient to show any necessary coordination among such entities to develop, test, and/or deploy security updates to address the vulnerability.

f. Please provide a copy of any notice described in response to Specification 5(D)(ix).

The Special Report responses called for in this Order are to be filed no later than 45 days from the date of service of this Order.

By direction of the Commission.

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Edith Ramirez, Chairwoman

SEAL:

Date of Order: May 6, 2016

Attachment A

DEFINITIONS & ADDITIONAL INSTRUCTIONS

A. "**Carrier**" shall mean the operator of a cellular network.

B. **"Carrier-certified device**" shall mean a smartphone, tablet, or similar mobile computing device that is not a carrier-locked device but has been certified by a carrier to be sold through that carrier or activated on that carrier's network.

C. "**Carrier-locked device**" shall mean a smartphone, tablet, or similar mobile computing device that can connect to a particular carrier's cellular network and is restricted via software to work only on that carrier's network.

D. "**Chipset manufacturer**" shall mean the entity that provides a mobile computing device's system-on-a-chip, radio chip, or other chipset. A chipset manufacturer may also be an operating system vendor and/or device manufacturer.

E. "**Company**" shall mean **[company name]**, its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, and all directors, officers, members, employees, agents, consultants, and other persons working for or on behalf of the foregoing.

F. "**Device manufacturer**" shall mean the entity that designs and develops a mobile computing device offered for sale to consumers. A device manufacturer may also be an operating system vendor and/or chipset manufacturer.

G. "**Device software**" shall mean any software installed on a mobile computing device before the device is offered for sale to consumers or software installed through an update deployed by the device manufacturer and/or carrier.

H. "**Identify**" shall be construed to require identification of (a) natural persons by name, title, present business affiliation, present business address and telephone number, or if a present business affiliation or present business address is not known, the last known business and home addresses; and (b) businesses or other organizations by name, address, identities of natural persons who are officers, directors or managers of the business or organization, and contact persons, where applicable.

I. "**Order"** shall mean the Order, including the attached Resolution, Specifications, and Attachment.

J. "**Operating system vendor**" shall mean the entity that provides a mobile computing device's operating system. An operating system vendor may also be a device manufacturer and/or chipset manufacturer.

K. "**Specific device model**" shall mean the specific variation of a mobile computing device, such as the unlocked version of a particular model or the carrier-locked version of a particular model that will only work on a particular carrier.

L. "**Unlocked device"** shall mean a smartphone, tablet, or similar mobile computing device that is capable of connecting to cellular networks and is not a carrier-locked device or a carrier-certified device.

M. "**Wi-Fi device**" shall mean a smartphone, tablet, or similar mobile computing device that is not capable of connecting to cellular networks.

N. "**You**" and "**your**" shall mean the person or entity to whom this CID is issued and includes the "Company."

O. **Meet and Confer:** You are encouraged to contact **Nithan Sannappa** at **(202) 326-3185**, **Kristin Cohen** at **(202) 326-2276**, or **Justin Brookman** at **(202) 326-2214** as soon as possible to schedule a meeting (telephonic or in person) in order to confer regarding your response.

P. **Modification of Specifications:** If you believe that the scope of the required search or response for any specification can be narrowed consistent with the Commission's need for documents or information, you are encouraged to discuss such possible modifications, including any modifications of definitions and instructions, with the Commission counsel named above.

Q. **Electronic Submission of Documents:** See the attached "Federal Trade Commission, Bureau of Consumer Protection Production Requirements," which details all requirements for submission of information, generally requiring that files be produced in native form and specifying the metadata to be produced. As noted in the attachment, some items require discussion with the FTC counsel **prior to** production, which can be part of the general "Meet and Confer" described above. If you would like to arrange a separate discussion involving persons specifically familiar with your electronically stored information (ESI) systems and methods of retrieval, make those arrangements with FTC counsel when scheduling the general meet and confer discussion

R. **Applicable Time Period**: Unless otherwise directed in the specifications, the applicable time period for the request shall be from **August 1, 2013 until the date of full and complete compliance with this Order.**

S. **Document Production**: Because postal delivery to the Commission is subject to delay due to heightened security precautions, please use a courier service such as Federal Express or UPS.

T. **Production of Copies**: Copies of marketing materials and advertisements shall be produced in color, and copies of other materials shall be produced in color if necessary to interpret them or render them intelligible.

U. **Sensitive Personally Identifiable Information:** If any material called for by these requests contains sensitive personally identifiable information or sensitive health information of any individual, please contact us before sending those materials to discuss ways to protect such information during production.
For purposes of these requests, sensitive personally identifiable information includes: an individual's Social Security number alone; or an individual's name or address or phone number in combination with one or more of the following: date of birth, Social Security number, driver's license number or other state identification number, or a foreign country equivalent, passport number, financial account number, credit card number, or debit card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.