

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

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

In the Matter of)
)
One Industries Corp.,)
a corporation.)
)
_____)

DOCKET NO.

COMPLAINT

The Federal Trade Commission, having reason to believe that One Industries Corp., 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 One Industries Corp. is a Delaware corporation with its principal office or place of business at 12270 World Trade Drive, Suite 103, San Diego, California 92128.
2. Respondent is a worldwide seller of motocross-related gear, graphic kits, and clothing.
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, <http://oneindustries.com/privacy>, privacy policies and statements about its practices, including statements related to its participation in the Safe Harbor privacy framework agreed upon by the U.S. and the European Union (“U.S.-EU Safe Harbor Framework”).

The 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, 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. 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 Frameworks.

Violations of Section 5 of the FTC Act

9. Since at least January 2015, respondent has disseminated or caused to be disseminated privacy policies and statements on the <http://oneindustries.com/privacy> website, including, but not limited to, the following statements:

We adhere to the US-EU Safe Harbor Privacy Principles (“EU Safe Harbor”) with respect to certain personally identifiable information that we receive from customers and employees in the European Union. One Industries has various other business units, service offerings and data collections which are not covered by this Privacy Policy, nor by **One Industries’ participation in the EU Safe Harbor**, and One Industries makes no EU Safe Harbor representations with respect to any data collected or used in these business units, service offerings or data collections. For further background about the EU Safe Harbor, please refer to the U.S. Department of Commerce’s Website at <http://www.export.gov/safeharbor>. (emphasis added)

10. Through the means described in Paragraph 9, respondent has represented, expressly or by implication, that it is a “current” participant in the U.S.-EU Safe Harbor.
11. In truth and in fact, respondent is not and never has been a participant in the U.S.-EU Safe Harbor Framework. Therefore, the representation set forth in Paragraph 10 was, and is, false and misleading.
12. 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 ____ 2015, has issued this complaint against respondents.

By the Commission.

Donald S. Clark
Secretary

SEAL: