

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Edith Ramirez, Chairwoman**
 Julie Brill
 Maureen K. Ohlhausen
 Terrell McSweeney

<p>In the Matter of</p> <p>ORACLE CORPORATION, a corporation.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>DOCKET NO. C-4571</p> <p>DECISION AND ORDER</p>
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The Federal Trade Commission (“Commission” or “FTC”), having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and respondent having been furnished thereafter with a copy of a draft complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with a violation of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 45 *et seq.*;

The respondent, its attorney, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), which includes: a statement by respondent that it neither admits nor denies any of the allegations in the draft complaint, except as specifically stated in the Consent Agreement, and, only for purposes of this action, admits the facts necessary to establish jurisdiction; and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent violated the FTC Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed Consent Agreement and placed such agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered the comments received from interested persons pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34, now in further conformity with the procedure prescribed by Commission Rule 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following Order:

1. Respondent Oracle Corporation (“Oracle”) is a Delaware corporation with its principal office or place of business at 500 Oracle Parkway, Redwood City, California 94065.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. “Affected Consumers” shall mean persons who, prior to the date of issuance of this order, downloaded, installed, or updated Java SE.
2. “Clear(ly) and conspicuous(ly)” means that a required disclosure is difficult to miss (*i.e.*, easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:
 - A. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication, even if the representation requiring the disclosure is made in only one means.
 - B. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
 - C. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
 - D. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
 - E. The disclosure must use diction and syntax understandable to ordinary consumers.
 - F. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.
 - G. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

3. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
4. “Covered Software” shall mean Oracle’s Java SE, and any other software offered by Oracle directly to consumers to run programs on their computers or applications within a browser. Covered Software does not include software offered exclusively for developers or enterprises.
5. “Java SE” shall mean Oracle’s Java Platform, Standard Edition software, the Java Runtime Environment (“JRE”), or the Java plug-in offered by Oracle directly to consumers using Windows-based computers. Java SE does not include software offered exclusively for developers or enterprises.
6. “Iterations” shall mean all releases, other than test releases, that have ever been supported by Oracle.
7. “Iteration(s) Released Within the Last Quarter” shall mean, at any given point in time, the iteration(s) of Java SE released within the preceding three months.
8. Unless otherwise specified, “respondent” shall mean Oracle Corporation, and its successors and assigns.

I.

IT IS ORDERED that respondent and its officers, agents, representatives, and employees, whether acting directly or indirectly, in or affecting commerce, must not misrepresent: (1) the privacy or security of the Covered Software on a consumer’s computer, including but not limited to the effect on privacy or security of any installation or update of the Covered Software; or (2) how to uninstall older Iterations of the Covered Software.

II.

IT IS FURTHER ORDERED that respondent and its officers, agents, representatives, and employees, whether acting directly or indirectly, must ensure that during any installation or update to any Iteration of Java SE released after the date of service of this order, respondent:

- A. Clearly and Conspicuously discloses to the consumer all Iterations of Java SE 1.4.2 or later, other than any Iteration(s) Released Within the Last Quarter, currently installed on the consumer’s computer;
- B. Clearly and Conspicuously explains that there may be risks to the security of the consumer’s computer if the consumer chooses not to remove any Iterations of Java SE older than the Iteration(s) Released Within The Last Quarter currently installed on the consumer’s computer; and

- C. Clearly and Conspicuously discloses which Iterations of Java SE 1.4.2 or later, other than any Iteration(s) Released Within the Last Quarter, that remain installed following installation or update of Java SE, and Clearly and Conspicuously provides instructions describing how consumers can effectively uninstall these Iterations.

III.

IT IS FURTHER ORDERED that respondent and its officers, agents, representatives, and employees, whether acting directly or indirectly, must notify Affected Consumers, Clearly and Conspicuously that in some instances, they may have older, insecure Iterations of Java SE on their computers. Such notification shall include effective, Clear and Conspicuous instructions on how to remove these older Iterations. Notification shall include, but not be limited to, each of the following means:

- A. Posting of a Clear and Conspicuous hyperlink on the home page of respondent's primary, consumer-facing website for Java SE. Such hyperlink must read "IMPORTANT INFORMATION REGARDING THE SECURITY OF JAVA SE." The hyperlink should connect to a sample of the letter shown in Attachment A. This hyperlink and sample letter must be posted no later than ten (10) days after the date of service of the order and for at least two years following posting;
- B. On or before ten (10) days after the date of service of this order, provide Clear and Conspicuous notice to Affected Consumers regarding the contents of Attachment A. Respondent shall inform Affected Consumers by:
 - 1. Contacting Avast Software, AVG Technologies, ESET North America, Avira, Inc., McAfee, Inc., Symantec Corporation, Trend Micro, Inc., and Mozilla Corporation to request that these entities publish this notice in their security bulletins;
 - 2. Sending a Twitter notification via respondent's primary Twitter account for Java SE, the text of which shall read "IMPORTANT INFORMATION REGARDING THE SECURITY OF JAVA SE," and link to a sample of the letter shown in Attachment A; and
 - 3. Sending a Facebook notification via respondent's primary Facebook account for Java SE, the text of which shall read "IMPORTANT INFORMATION REGARDING THE SECURITY OF JAVA SE," and link to a sample of the letter shown in Attachment A; and
- C. On or before ten (10) days after the date of service of this order and for three (3) years thereafter, providing prompt and free help to Affected Consumers through:

1. An uninstall tool that allows Affected Consumers to uninstall Iterations of Java SE, 1.4.2 or later;
2. A page on respondent's primary, consumer-facing website for Java SE that Clearly and Conspicuously explains how to uninstall Iterations of Java SE, and provides a link to the uninstall tool referenced in Part III.C.1; and
3. A Clear and Conspicuous electronic form, specific to update and uninstall issues, available on respondent's primary, consumer-facing website for Java SE. Respondent shall answer within a reasonable time, by email, consumers who fill out such form.

IV.

IT IS FURTHER ORDERED that respondent shall maintain and, upon request, make available to the Federal Trade Commission for inspection and copying, for a period of five (5) years from the date of preparation or dissemination, whichever is later, a print or electronic copy of each document relating to compliance with this order, including but not limited to:

- A. All advertisements, promotional materials, installation and user guides, websites, and installation screens containing any representations covered by this order, as well as all materials used or relied upon in making or disseminating the representation;
- B. All release notes for all Java SE Iterations, including the Iterations' release dates; and
- C. Any documents, whether prepared by or on behalf of respondent, that contradict, qualify, or call into question respondent's compliance with this order.

V.

IT IS FURTHER ORDERED that respondent, and its successors and assigns, must deliver a copy of this order to all current and future subsidiaries, current and future principals, officers, directors, and managers, employees, agents, and representatives having managerial or supervisory responsibilities relating to Parts I - III of this order. Respondent must deliver this order to such current subsidiaries and personnel within thirty (30) days after service of this order, and to such future subsidiaries and personnel within thirty (30) days after the person assumes such position or responsibilities. For any business entity resulting from any change in structure set forth in Part VI, delivery must be at least ten (10) days prior to the change in structure. Respondent must secure a signed and dated statement acknowledging receipt of this order, within thirty (30) days of delivery, from all persons receiving a copy of the order pursuant to this section.

VI.

IT IS FURTHER ORDERED that respondent, and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including, but not limited to, dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor company; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation(s) about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission, all notices required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, D.C. 20580, with the subject line *In the Matter of Oracle Corporation*, FTC File No. 132 3115. Provided, however, that in lieu of overnight courier, notices may be sent by first-class mail, but only if an electronic version of any such notice is contemporaneously sent to the Commission at Debrief@ftc.gov.

VII.

IT IS FURTHER ORDERED that respondent, and its successors and assigns, within ninety (90) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, it shall submit additional true and accurate written reports.

VIII.

This order will terminate on March 28, 2036, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (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 Part.

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 Part 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.

Donald S. Clark
Secretary

SEAL:
ISSUED: March 28, 2016