

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Maureen K. Ohlhausen, Acting Chairman
Terrell McSweeney

In the Matter of)
)
SpyChatter, Inc.,)
a corporation.)
)
_____)

DOCKET NO. C-

COMPLAINT

The Federal Trade Commission (“Commission” or “FTC”), having reason to believe that SpyChatter, Inc., 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 SpyChatter, Inc. is a California corporation with its principal office or place of business at 601 South Figueroa, Suite 4050, Los Angeles, CA 90017.
2. Respondent markets the SpyChatter app. This app is designed to enable private messaging.
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://www.spychatter.net/privacy-policy/>, privacy policies and statements about its practices, including statements related to its participation in the Asia-Pacific Economic Cooperation (“APEC”) Cross-Border Privacy Rules (“CBPR”) system.
5. In fact, Respondent has not been certified to participate in the APEC CBPR system.

APEC & the Cross-Border Privacy Rules

6. The APEC CBPR system is a self-regulatory initiative designed to facilitate the protection of consumer data transferred across the APEC region. The CBPR system requires participants to abide by the APEC Privacy Framework's nine information privacy principles: preventing harm, notice, collection limitation, use, choice, integrity, security safeguards, access and correction, and accountability. In the United States, the FTC enforces the CBPR system.
7. Companies that seek to participate in the CBPR system must undergo a review by an APEC-recognized accountability agent to establish compliance with the CBPR program requirements. Companies undergo annual reviews to retain their status as certified CBPR participants. The names of certified companies are posted on a website, www.cbprs.org.

Violations of Section 5 of the FTC Act

8. Respondent has disseminated or caused to be disseminated privacy policies and statements on <http://www.spychatter.net/privacy-policy/>, including, but not limited to, the following statements:

All the information you provide may be transferred or accessed by entities around the world as described in this Privacy Policy. . . Please note that personal information, including the information provided regarding individuals who reside in a member state of the European Economic Area (EEA) and Switzerland is controlled by the Asia-Pacific Economic Cooperation (APEC) Cross Border Privacy Rules System. [sic] Learn more at <http://www.export.gov/safeharbor/index.asp>. SpyChatter abides by the APEC CBPR system, which provide [sic] a framework for organizations to ensure protection of personal information transferred among participating APEC economies.

9. Through the means described in Paragraph 8, Respondent represented, directly or indirectly, expressly or by implication, that it is certified to participate in the APEC CBPR system.
10. In fact, Respondent is not and never has been certified to participate in the APEC CBPR system. Therefore, the representation set forth in Paragraph 9 is false or misleading.

11. 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 _____ 2017, has issued this complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL: