

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Maureen K. Ohlhausen, Acting Chairman
Terrell McSweeney

<i>In the Matter of</i> Md7, LLC, a limited liability company.))))))	DOCKET NO. C-4629
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COMPLAINT

The Federal Trade Commission (“FTC”), having reason to believe that Md7, LLC, a limited liability company, 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 Md7, LLC is a Delaware limited liability company with its principal office or place of business at 10590 West Ocean Air Drive, Suite 300, San Diego 92130.
2. Respondent assists wireless operators in managing real estate-related issues.
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.md7.com/privacy-policy/>, privacy policies and statements about its practices, including statements related to its participation in the EU-U.S. Privacy Shield framework agreed upon by the U.S. government and the European Commission.
5. In fact, Respondent has not been certified to participate in the EU-U.S. Privacy Shield framework.

Privacy Shield

6. The EU-U.S. Privacy Shield framework (“Privacy Shield”) was designed by the U.S. Department of Commerce (“Commerce”) and the European Commission to provide companies on both sides of the Atlantic with a mechanism to comply with European Union (“EU”) data protection requirements when transferring personal data from the EU to the United States in support of transatlantic commerce.

7. Privacy Shield provides a mechanism for U.S. companies to transfer personal data outside of the EU that is consistent with the requirements of the European Union Directive on Data Protection. Enacted in 1995, the Directive sets forth 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 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.
8. To satisfy the EU adequacy standard for certain commercial transfers, Commerce and the European Commission negotiated the EU-U.S. Privacy Shield framework, which went into effect in July 2016. The EU-U.S. Privacy Shield framework allows companies to transfer personal data lawfully from the EU to the United States. To join the EU-U.S. Privacy Shield framework, a company must self-certify to Commerce that it complies with the Privacy Shield Principles and related requirements that have been deemed to meet the EU's adequacy standard.
9. Companies under the jurisdiction of the FTC, as well as the U.S. Department of Transportation, are eligible to join the EU-U.S. Privacy Shield framework. A company under the FTC's jurisdiction that claims it has self-certified to the Privacy Shield 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.
10. Commerce maintains a public website, <https://www.privacyshield.gov/welcome>, where it posts the names of companies that have self-certified to the EU-U.S. Privacy Shield framework. The listing of companies, <https://www.privacyshield.gov/list>, indicates whether the company's self-certification is current.

Violations of Section 5 of the FTC Act

11. Respondent has disseminated or caused to be disseminated privacy policies and statements on the <http://www.md7.com/privacy-policy/> website, including, but not limited to, the following statements:

Md7, LLC is committed to protecting and respecting the privacy of our customers and employees. This Privacy Policy (the "Policy") sets forth the privacy principles that Md7, LLC follows with respect to transfers of Personal Data from the European Economic Area ("EEA") and Switzerland to the United States as well as our practices with respect to our services available under the domain and sub-domains of Md7, LLC. Visitors to our website are bound by the terms and conditions of this Policy in effect at the time of their visit; those who do not agree to this Policy should not use or access our website or our services.

Privacy Shield and Safe Harbor

Md7, LLC complies with the US-EU Privacy Shield Framework as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of personal information from Individual Customers in the European Union member countries. Md7, LLC has certified that it adheres to the Privacy Shield principles of notice, choice, accountability for onward transfer, security, data integrity and purpose limitation, access, recourse, enforcement and liability. If there is any conflict between the policies in this privacy policy and the Privacy Shield Privacy Principles, regarding the collection, use and retention of personal information from Individual Customers in the European Union member countries, the Privacy Shield Privacy Principles shall govern. To learn more about the Privacy Shield program, and to view our certification page, please visit <https://www.privacyshield.gov> . . .

12. Through the means described in Paragraph 11, Respondent represents, expressly or by implication, that it is a participant in the EU-U.S Privacy Shield framework.
13. In truth and in fact, although Respondent initiated an application to Commerce for Privacy Shield certification, it did not complete the steps necessary to participate in the EU-U.S Privacy Shield framework. Therefore, the representation set forth in Paragraph 12 is false and misleading.
14. 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 twentieth day of November, 2017, has issued this complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL: