

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Maureen K. Ohlhausen, Acting Chairman
Terrell McSweeney

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

The Federal Trade Commission (“FTC”), having reason to believe that Decusoft, 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 Decusoft, LLC is a New Jersey limited liability company with its principal office or place of business at 70 Hilltop Road, Suite 1003, Ramsey, New Jersey 07446.
2. Respondent develops software for use in human resources applications.
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.decusoft.com/privacy-policy>, privacy policies and statements about its practices, including statements related to its participation in the Privacy Shield frameworks agreed upon by the U.S. government and the European Commission (“EU-U.S. Privacy Shield”) and the U.S. and Switzerland (“Swiss-U.S. Privacy Shield”).
5. In fact, respondent has not been certified to participate in either the EU-U.S. Privacy Shield framework or the Swiss-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. The Swiss-U.S. Privacy Shield framework is identical to the EU-U.S. Privacy Shield framework and is consistent with the requirements of the Swiss Federal Act on Data Protection. The Swiss-U.S. Privacy Shield framework went into effect in April 2017.
11. 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. and/or Swiss-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

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

Decusoft participates in and has certified its compliance with the EU-U.S. Privacy Shield Framework and the Swiss-U.S. Privacy Shield Framework. We are committed to subjecting all personal

data received from European Union (EU) member countries, in reliance on the Privacy Shield Framework, to the Framework's applicable Principles. To learn more about the Privacy Shield Framework, visit the U.S. Department of Commerce's Privacy Shield List, <https://www.privacyshield.gov/list>.

13. Through the means described in Paragraph 12, respondent represents, expressly or by implication, that it is a participant in both the EU-U.S Privacy Shield framework and the Swiss-U.S Privacy Shield framework.
14. 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 either the EU-U.S or the Swiss-U.S Privacy Shield frameworks. Therefore, the representation set forth in Paragraph 13 is false and misleading.
15. 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

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