

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Joseph J. Simons, Chairman  
Noah Joshua Phillips  
Rohit Chopra  
Rebecca Kelly Slaughter  
Christine S. Wilson

\_\_\_\_\_  
In the Matter of )  
)  
IDmission LLC, ) DOCKET NO.  
a corporation. )  
)  
\_\_\_\_\_)

**COMPLAINT**

The Federal Trade Commission (“FTC”), having reason to believe that IDmission LLC, a corporation, has violated provisions of the Federal Trade Commission Act (“FTC Act”), and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent IDmission LLC is a Delaware corporation with its principal office or place of business at 8445 Baseline Road, Boulder, CO 80303.
2. Respondent offers a cloud-based technology platform to help business clients engage with their customers.
3. The acts and practices of Respondent 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.idmission.com>, 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.

**Privacy Shield**

5. 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 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.

6. 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.
7. 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.
8. 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.
9. Through at least June 2018, Respondent has disseminated or caused to be disseminated privacy policies and statements on the <http://www.idmission.com/company/privacy-policy/> website, including, but not limited to, the following statements:

**IDmission, LLC** complies with the EU-U.S. Privacy Shield Framework as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of personal information transferred from the European Union to the United States. IDmission has certified to the Department of Commerce that it adheres to the Privacy Shield Principles. If there is any conflict between the terms in this privacy policy and the Privacy Shield Principles, the Privacy Shield Principles shall govern. To learn more about the Privacy Shield program, and to view our certification, please visit <https://www.privacyshield.gov/>

10. Although Respondent initiated an application to Commerce in October of 2017 for Privacy Shield certification, Respondent did not complete the steps necessary to participate in the EU-U.S. Privacy Shield framework and continued to make the statements described in

Paragraph 9 in its privacy policy. After working with Respondent to address deficiencies in its application, Commerce warned the company to take down its claims that it participated in Privacy Shield unless and until such time as it completed the certification process. Respondent did not do so.

### **Count 1-Privacy Misrepresentation**

11. As described in Paragraph 9, Respondent represents, directly or indirectly, expressly or by implication, that it is a participant in the EU-U.S. Privacy Shield framework.
12. In fact, as described in Paragraph 10, 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 11 is false or misleading.

### **Violations of Section 5 of the FTC Act**

13. 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 \_\_\_\_ 2018, has issued this complaint against Respondent.

By the Commission.

Donald S. Clark  
Secretary

SEAL: