

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

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

)	
In the Matter of)	
)	DOCKET NO. C-4538
NOMI TECHNOLOGIES, INC.,)	
a corporation.)	DECISION AND ORDER
)	
)	

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 the 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 violations 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 Nomi Technologies, Inc. is a Delaware corporation with its principal office or place of business at 26 West 17th Street, 2nd Floor, New York, NY 10011.
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. Unless otherwise specified, “respondent” shall mean Nomi Technologies, Inc., and its successors and assigns.
2. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15. U.S.C. § 44.

I.

IT IS ORDERED that respondent and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, website, other device, or an affiliate owned or controlled by respondent, in connection with the advertising, promotion, offering for sale, sale, or dissemination of any product or service, in or affecting commerce, shall not misrepresent in any manner, expressly or by implication: (A) the options through which, or the extent to which, consumers can exercise control over the collection, use, disclosure, or sharing of information collected from or about them or their computers or devices, or (B) the extent to which consumers will be provided notice about how data from or about a particular consumer, computer, or device is collected, used, disclosed, or shared.

II.

IT IS FURTHER ORDERED that respondent shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. for a period of five (5) years from the date of preparation, any documents, whether prepared by or on behalf of respondent that contradict, qualify, or call into question respondent’s compliance with this order;
- B. for a period of five (5) years from the date of preparation or dissemination, whichever is later, all publicly disseminated statements containing any representation covered by this order, as well as all materials used or relied upon in making or disseminating the representation; and
- C. for a period of five (5) years from the date received, all consumer complaints directed at respondent, or forwarded to respondent by a third party, that relate to the conduct prohibited by this order and any responses to such complaints.

III.

IT IS FURTHER ORDERED that, for ten (10) years after the date of service of this order, respondent shall deliver a copy of this order to all current and future subsidiaries, current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to current personnel and subsidiaries within thirty (30) days after the date of service of this order, and to future personnel and subsidiaries within thirty (30) days after the person or subsidiary assumes such position or responsibilities.

IV.

IT IS FURTHER ORDERED that respondent 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: a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; 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 fewer 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 in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: *In the Matter of Nomi Technologies, Inc.*, File No.132-3251/C-4538.

V.

IT IS FURTHER ORDERED that respondent 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 their own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, it shall submit an additional true and accurate written report.

VI.

This order will terminate on August 28, 2035, 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 of this order that terminated 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 the 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, Commissioner Ohlhausen dissenting.

Donald S. Clark
Secretary

SEAL:
ISSUED: August 28, 2015