



Office of the Secretary

United States of America
FEDERAL TRADE COMMISSION
Washington, D.C. 20580

April 11, 2013

*In the Matter of DesignerWare, LLC; Timothy Kelly and Ronald P. Koller; Aspen Way Enterprises, Inc.; B. Stamper Enterprises, Inc.; C.A.L.M. Ventures, Inc.; J.A.G. Rents, LLC; Red Zone, Inc.; Showplace, Inc.; and Watershed Development Corp.
File No. 112 3151, Docket No. C-4390 Through Docket No. C-4398*

Thank you for your comment regarding the Federal Trade Commission's consent agreements in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

Your comment asserts that one or more of the proposed consent orders in this matter will lead rent-to-to-own ("RTO") stores to charge higher prices for renting computers or require consumers to purchase monitoring software for their rented computers. The Commission concludes that, based on the facts uncovered during our investigation, the proposed orders are necessary to protect consumer privacy and help deter future violations of law. The complaints against DesignerWare, its owners, and the RTO stores allege that respondents licensed, activated, and surreptitiously used software installed on rented computers to monitor consumers using rented computers, including by capturing keystrokes, screenshots of computer activities, and pictures taken by computer webcams. These practices, the complaints charge, caused or were likely to cause substantial consumer injury. The complaints also allege that the respondents deceived consumers into providing personal information on fake pop-up software registration notices. In addition, the DesignerWare complaint alleges that DesignerWare and its owners harmed consumers by installing geophysical location tracking software on rented computers without consent from computer renters and contemporaneous notice to computer users.

There is also no reason to believe that the proposed orders will lead RTO stores to raise rental costs, given that the orders allow stores to locate and retrieve rented computers. Although the proposed orders ban the respondents from using monitoring technology in connection with any covered RTO transaction,¹ they allow them to use geophysical location tracking technology

¹ The proposed orders define "covered rent-to-own transaction" as "any transaction where a consumer enters into an agreement for the purchase or rental of a computer and the consumer's contract or rental agreement provides for payments over time and an option to purchase the computer." The prohibition on monitoring does not include consumers' rental of laptops outside the RTO context, or any business's use or rental of laptops, and also does not cover the use of monitoring technology for non-commercial purposes by private persons (e.g., parents monitoring their children's computer use).

to help stores recover computers. Consumer renters must receive notice of and give their consent to the installation and use of location tracking technology at the time the computer is rented, and in most instances computer users must receive notice immediately prior to its activation. The notice requirement may be suspended, however, where the consumer reports the computer stolen – or there is otherwise a reasonable basis to believe that the computer has been stolen – and a police report is filed. These provisions provide these RTO stores effective means to locate and retrieve the computers.

The proposed orders also bar the use of deceptive tactics (including fake software registration screens) to collect personal information from consumers and prohibit other misrepresentations about consumer privacy. Similarly, the orders prohibit the use of information gathered from consumers using deceptive means to collect on consumer rental contracts.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decisions and Orders in this matter in final form without any modifications. The final Decisions and Orders and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work. The Commission thanks you again for your comment.

By direction of the Commission, Commissioner Wright not participating.

Donald S. Clark
Secretary