



Office of the Secretary

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

April 11, 2013

Martin Emory  
State of Florida

*Re: In the Matter of DesignerWare, LLC, File No. 112 3151, Docket No. C-4390*

Dear Mr. Emory:

Thank you for your comment regarding the Federal Trade Commission's consent agreement 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 expresses concerns about a software product manufactured by a different company than DesignerWare, LLC, which you believe can surreptitiously monitor a consumer's computer use when installed on that device. You recommend that, instead of issuing the proposed order, the Commission investigate the manufacturer of this competing software, which is used by the rent-to-own ("RTO") store from which you are leasing a computer. You also question how a software manufacturer may be held liable for unlawful use of its product by a third party.

The Commission appreciates your comment and your concern about the RTO industry's use of monitoring technology on rented computers. The Commission takes seriously these concerns, as evidenced by the coordinated enforcement actions in this matter against not only DesignerWare and its principals, Timothy Kelly and Ronald P. Koller, but also against seven RTO companies: Aspen Way Enterprises, Inc.; B. Stamper Enterprises, Inc.; C.A.L.M. Ventures, Inc.; J.A.G. Rents, LLC; Red Zone Investment Group, Inc.; Showplace, Inc.; and Watershed Development Corporation. All of these companies, which collectively operate RTO stores throughout the country, have agreed to settle charges similar to those brought against DesignerWare and its principals. We hope these orders have a deterrent effect on other RTO stores as well.

The Commission concludes that, based on the facts uncovered during our investigation, the proposed order with DesignerWare will strongly protect consumers from the unwarranted

disclosure of financial, health, or other confidential information. As the complaint against DesignerWare alleges, the company's role involved more than the development and sale of software. An RTO store that licensed DesignerWare's monitoring software, PC Rental Agent, could activate the program's "Detective Mode" by accessing DesignerWare's website, enabling the program to run on a computer on which it was installed. DesignerWare's servers collected the data captured by Detective Mode and then emailed it to the RTO store. Without DesignerWare providing RTO stores with access to its web portal and providing servers to support both PC Rental Agent and Detective Mode, the collection and disclosure of consumers' private information would not have been possible.

DesignerWare played a similarly active role in the use of the geophysical location tracking technology that it made available to PC Rental Agent licensees in 2011. As alleged in the Commission's complaint against DesignerWare, a computer on which PC Rental Agent is installed reports to DesignerWare's servers the location of WiFi hotspots the computer encounters, along with the computer's IP address. DesignerWare makes this information easily available to RTO store licensees by cross-referencing a list of publicly available WiFi hotspots with the street addresses for the particular hotspots viewed or accessed by rented computers.

With respect to your concern about the competing software product used by RTO stores to surreptitiously monitor consumer activities on rented computers, the settlements with DesignerWare, its principals, and the RTO companies do not preclude the Commission from taking future action against other companies whose practices violate Section 5 of the Federal Trade Commission Act ("FTC Act") or other laws it enforces. To the extent you would like to provide further information about specific industry practices that you believe are unlawful, we encourage you to file a complaint with the Commission's Consumer Response Center. Complaints filed with the Commission are part of the Consumer Sentinel database and provide an important source of information for the Commission and hundreds of other federal and state law enforcement agencies. You may file a complaint at <https://www.ftccomplaintassistant.gov/>.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order against DesignerWare in final form without any modifications. The final Decision and Order 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