

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* )  
)  
Medable, Inc. ) DOCKET NO. C-4697  
a corporation )  
)  
\_\_\_\_\_)

**COMPLAINT**

The Federal Trade Commission (“FTC”), having reason to believe that Medable, Inc., a corporation 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 Medable, Inc. is a Delaware corporation with its principal office or place of business at 525 University Ave., Suite A70 Palo Alto, CA 94301.
2. Respondent provides technology solutions to business customers operating in pharmaceutical, biotechnology, and research industries.
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 in its privacy policy, <https://www.medable.com/privacy/>, statements related to its participation in the EU-U.S. Privacy Shield framework agreed upon by the U.S. government and the European Commission.
5. In fact, Respondent has not been certified to participate in the EU-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 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.
7. 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.
8. 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.
9. 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.
10. Respondent has disseminated or caused to be disseminated privacy policies and statements on the <https://www.medable.com/privacy/> website, including, but not limited to, the following statements:

### **Information for Persons Outside of the United States**

As we are a US headquartered company, your personal information will be transferred to the US for further processing in accordance with the purposes set out above. Accordingly, Medable is EU/US Privacy Shield certified which means that we treat your personal information received from the European Economic Area (EEA) in accordance with EU data privacy principles. Please see our Privacy Shield Privacy Policy below for more details. . . .

### **Privacy Shield Privacy Policy**

Medable 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/>

11. Although Respondent initiated an application to Commerce for Privacy Shield certification in December 2017, it 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 10 in its privacy policy until October 2018.

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

12. As described in Paragraph 10, from December 2017 to October 2018, Respondent represented, directly or indirectly, expressly or by implication, that it was a participant in the EU-U.S Privacy Shield framework.
13. In fact, as described in Paragraph 11, Respondent was never certified to participate in the EU-U.S. Privacy Shield framework. Therefore, the representation set forth in Paragraph 12 is false or misleading.

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

14. 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 sixth day of January 2020, has issued this complaint against Respondent.

By the Commission.

April J. Tabor  
Acting Secretary

SEAL  
ISSUED: January 6, 2020