

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

**COMMISSIONERS:**       **Edith Ramirez, Chairwoman  
Julie Brill  
Maureen K. Ohlhausen  
Joshua D. Wright**

	)	
<b>In the Matter of</b>	)	
	)	<b>DOCKET NO. C-4392</b>
<b>ASPEN WAY ENTERPRISES, INC.,</b>	)	
<b>a corporation.</b>	)	
	)	

**COMPLAINT**

The Federal Trade Commission, having reason to believe that Aspen Way Enterprises, Inc., has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Aspen Way Enterprises, Inc. (“Aspen Way” or “respondent”), is a Montana corporation with its principal office or place of business at 2702 Montana Ave., Suite 202, Billings, Montana 59101. Aspen Way is a franchisee of Aaron’s, Inc. It operates 17 rent-to-own stores in six states. Rent-to-own stores allow consumers to rent, with an option to purchase, goods such as furniture, household appliances, and consumer electronics including computers.

2. 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 Federal Trade Commission Act.

**RESPONDENT’S BUSINESS PRACTICES**

3. Since at least April 2007, Aspen Way has licensed a software product known as PC Rental Agent from DesignerWare, LLC (“DesignerWare”) and installed it on computers it rents to consumers. PC Rental Agent, when installed on a rented computer, enables Aspen Way to disable the computer remotely. Aspen Way disables the computer when it is reported lost or stolen, or when a consumer is late making payments, has stopped communicating with Aspen Way, or has otherwise violated the rental contract. PC Rental Agent also enables Aspen Way to

remotely install and activate an add-on program called Detective Mode. Using Detective Mode, Aspen Way can surreptitiously monitor the activities of the computer's user, including by using the computer's webcam. Through Detective Mode, Aspen Way can also secretly gather consumers' personal information using fake software registration windows.

4. Aspen Way installs PC Rental Agent on computers it rents to consumers prior to the consumer taking possession of the computer. The presence of PC Rental Agent is not detectible to a computer's user and the computer's renter cannot uninstall it.

5. Aspen Way can remotely install and activate Detective Mode on any computer with PC Rental Agent. Once activated, Detective Mode can log the keystrokes of the computer user, take screen shots of the computer user's activities on the computer, and photograph anyone within view of the computer's webcam. Detective Mode gathers this information and transmits it to Aspen Way, unbeknownst to the individual using the computer. Aspen Way does not tell the computer user about the activation of Detective Mode.

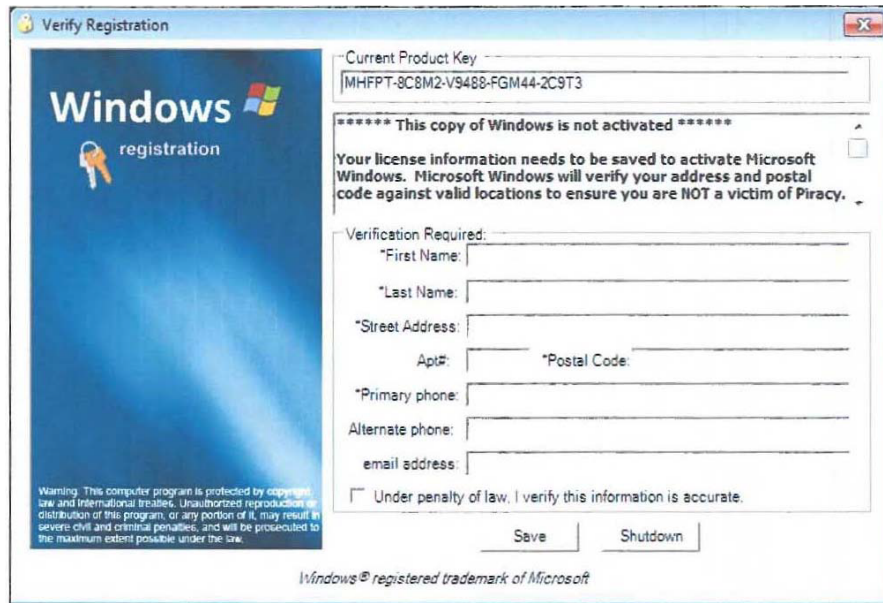
6. Using Detective Mode, Aspen Way gathers data about whoever is using the computer, whether the user is the computer's renter or another individual. At one level of activation, Detective Mode will gather data every two minutes while the computer is connected to the Internet for a period of 60 minutes. If Aspen Way wants more information, it can instruct Detective Mode to record data every two minutes until directed to stop doing so. In numerous instances, Aspen Way has obtained data via Detective Mode that has revealed private, confidential, and personal details about the computer user. Keystroke logs have displayed usernames and passwords for access to email accounts, social media websites, and financial institutions. Screenshots have captured additional confidential details, including medical records, private emails to doctors, employment applications containing Social Security numbers, bank and credit card statements, and discussions of defense strategies in a pending lawsuit. Webcam pictures have photographed not only the computer's user, but also anyone else within view of the camera. In numerous instances, Aspen Way has obtained pictures taken secretly inside the computer user's home. These have included images of minor children and individuals not fully clothed.

7. Aspen Way uses the information improperly obtained via Detective Mode in connection with collecting or attempting to collect debts, money, or property pursuant to consumer rental contracts.

8. Aspen Way's gathering of private and confidential information about individuals causes or is likely to cause substantial harm to consumers. Because of Aspen Way's intrusion, consumers are at risk of harm from exposure of their personal, financial account access, and medical information. Consumers are actually harmed by Aspen Way's unwarranted invasion into their homes and lives, and its capture of the private details of individual and family life, including, for example, images of visitors, minor children, family interactions, and partially undressed individuals. Secretly collecting such data can cause consumers financial and physical injury and impair their peaceful enjoyment of their homes. Consumers cannot reasonably avoid these injuries because Detective Mode is invisible to them. The harm caused by Aspen Way's

unauthorized gathering of confidential consumer information is not outweighed by countervailing benefits to consumers or to competition; indeed, in this context, where rent-to-own stores have alternate effective methods of collection, e.g., using PC Rental Agent to remotely disable the computer, there are no legitimate benefits to respondent or to the public.

9. Aspen Way has also used another feature of Detective Mode that allows it to cause a user's computer to display a fake registration window, purportedly for Microsoft Windows or other software. The fake registration window prompts the computer user to enter a name, address, email address, and phone number. The computer user must enter the requested information to close the window. A screenshot of one such fake software registration window appears below.



10. No actual software is registered as a result of a consumer providing the requested information; instead, Detective Mode captures the information entered in the prompt boxes and sends the data to Aspen Way. In numerous instances, Aspen Way has used this information to find, require payment for, or repossess a computer.

11. Consumers who respond to the fake prompt screen and provide the requested contact information are deprived of the ability to control who has access to their contact information and how they are contacted.

## **VIOLATIONS OF THE FTC ACT**

### **COUNT I**

#### **Unfair Gathering of Consumers' Personal Information**

12. Through the means described in Paragraphs 3 through 11, respondent has installed monitoring software on rented computers and gathered, or caused to be gathered, sensitive personal, financial, and medical information about consumers from those computers.

13. Respondent's actions cause or are likely to cause substantial injury to consumers that cannot be reasonably avoided and is not outweighed by countervailing benefits to consumers or competition.

14. Therefore, respondent's practices, as described in Paragraph 12, constitute unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45(a).

### **COUNT II**

#### **Unfair Collection Practices**

15. Through the means described in Paragraphs 3 through 11, respondent has used information improperly gathered from consumers to collect or attempt to collect a debt, money, or property pursuant to a consumer rental contract.

16. Respondent's actions cause or are likely to cause substantial injury to consumers that cannot be reasonably avoided and is not outweighed by countervailing benefits to consumers or competition.

17. Therefore, respondent's practices, as described in Paragraph 15, constitute unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45(a).

### **COUNT III**

#### **Deceptive Gathering of Consumers' Personal Information**

18. Through the means described in Paragraphs 3 through 11, respondent has represented or caused to be represented to consumers, expressly or by implication, that certain pop-up notices that appear on computer screens are notices from trusted software providers that contain software registration forms that must be filled out with the consumers' contact information in order to continue to use the providers' software.

19. In truth and in fact, these pop-up notices are not from trusted software providers and do not contain software registration forms that must be filled out with the consumers' contact information in order to continue to use the providers' software, but instead serve only to cause the consumer to provide the requested contact information so that respondent can use this information in connection with collecting or attempting to collect debts, money, or property pursuant to consumer rental contracts.

20. Therefore, respondent's practices, as described in Paragraph 18, constitute deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45(a).

**THEREFORE**, the Federal Trade Commission this eleventh day of April, 2013, has issued this complaint against respondent.

By the Commission, Commissioner Wright not participating.

Donald S. Clark  
Secretary