

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

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

In the Matter of

**HEALTH DISCOVERY CORPORATION,
a corporation.**

DOCKET NO. C-4516

COMPLAINT

The Federal Trade Commission, having reason to believe that Health Discovery Corporation, a corporation, 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 Health Discovery Corporation (“Respondent”) is a Georgia corporation with its principal office or place of business at 4243 Dunwoody Club Drive, Atlanta, Georgia 30350.
2. Respondent has advertised, labeled, offered for sale, sold, and distributed products to consumers, including MelApp. MelApp is a consumer-directed software application that can be installed on mobile devices using the iOS or Android operating systems. MelApp purportedly can assess melanoma risk early by using mathematical algorithms and image-based pattern recognition technology to analyze specific characteristics (asymmetry, border, color, diameter, and evolution) of digital images of skin lesions captured by the device’s camera.
3. The acts and practices of Respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
4. MelApp is a “device” within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

5. First sold in 2011, MelApp is available for purchase and download over the Internet through the Apple App Store and the Google Play Store. The retail cost of MelApp is \$1.99. U.S. sales of MelApp from January 2011 through July 2013 totaled more than \$17,000.

6. Respondent has disseminated or has caused to be disseminated advertisements and promotional materials for MelApp, including but not necessarily limited to the attached Exhibits A through C. These materials contain the following statements and depictions, among others:

- A. Screen excerpts from Apple App Store (Nov. 26, 2012)
(Exhibit A, pp. 1-2)

Whether sunning on the beach, cheering at the kids' outdoor sporting events or hitting the slopes, chances are you're being affected by damaging UV rays. MelApp for iPhone is an image-based risk assessment mobile app that assists in the early detection of melanoma. Melanoma is the fastest growing cancer worldwide, and the most deadly of all skin cancers, if not caught early.

However, melanoma can be successfully removed and monitored by regular skin screenings in its early stages. The disease is deadly in its most advanced stages as few treatment options exist. The median lifespan for patients with advanced melanoma is less than one year. Performing regular self-exams could save your life or that of a loved one.

Checking a mole or freckle is quick and easy:

(1) Use MelApp to take a picture of the skin lesions of concern with an iPhone's camera, enlarging it with the zoom feature to fit into the green box, then

(2) Pin point the mole size and its evolution by sliding the corresponding indicator bar and tap on "Check Risk." Within seconds MelApp will provide a risk analysis of the uploaded picture being a melanoma.

MelApp uses highly sophisticated patent protected state-of-the-art mathematical algorithms and image-based pattern recognition technology to analyze the uploaded image. The app was validated using an image database licensed from Johns Hopkins University Medical Center.

- B. Screen excerpts from the Google Play Store (Jan. 31, 2014)
(Exhibit B, p. 1, bracketed punctuation supplied)

Whether sunning on the beach, cheering at the kids' outdoor sporting events or hitting the slopes, chances are you're being affected by damaging UV rays. MelApp for the Droid is an image-based risk assessment mobile app that assists in the early detection of melanoma.

Melanoma is the fastest growing cancer worldwide, and the most deadly of all skin cancers, if not caught early. However, melanoma can be successfully removed and monitored by regular skin screenings in its early stages. The disease is deadly in its most advanced stages as few treatment options exist. The median lifespan for patients with advanced melanoma is less than one year. Performing regular self-exams could save your life or that of a loved one.

Checking a mole or freckle is quick and easy:

- (1) Use MelApp to take a picture of the skin lesions of concern with the phone's camera, fit the mole in the green circle and square by enlarging it with the zoom feature and/or resizing the green circle[;]
- (2) Pin point the mole size and its evolution by sliding the corresponding indicator bar and tap on "Check Risk." Within seconds MelApp will provide a risk analysis of the uploaded picture being a melanoma.

MelApp uses highly sophisticated patent protected state-of-the-art mathematical algorithms and image-based pattern recognition technology to analyze the uploaded image. The app was validated using DermAtlas, an open access, physician-edited database of over 10,000 high quality histological and clinical images of skin conditions.

- C. Screen excerpts from Respondent's website, www.melapp.net
(Aug. 5, 2013) (Exhibit C, pp. 1-2)

Whether sunning on the beach, cheering at the kids' outdoor sporting events or hitting the slopes, chances are you're being affected by damaging UV rays. MelApp is an image-based risk assessment mobile app that assists in the early detection of melanoma.

Melanoma is the fastest growing cancer worldwide, and the most deadly of all skin cancers, if not caught early. Performing regular self-exams could save your life or that of a loved one.

Checking a mole or freckle is quick and easy:

1. Use MelApp to take a picture of the skin lesions of concern with a smartphone's camera, enlarging it with the zoom feature to fit into the green box, then
2. Pin point the mole size and its evolution by sliding the corresponding indicator bar and tap on "Check Risk." Within seconds MelApp will provide a risk analysis of the uploaded picture being a melanoma.

MelApp uses highly sophisticated patent protected state-of-the-art mathematical algorithms and image-based pattern recognition technology to analyze the uploaded image. The app was validated using DermAtlas, an open access, physician-edited database of over 10,000 high quality histological and clinical images of skin conditions.

Count I False or Unsubstantiated Melanoma Detection Claim

7. In connection with the advertising, promotion, offering for sale, or sale of MelApp, Respondent has represented, directly or indirectly, expressly or by implication, that:

- A. MelApp accurately analyzes moles and other skin lesions for melanoma or risk of melanoma; and
- B. MelApp increases consumers' chances of detecting melanoma in early stages.

8. The representations set forth in Paragraph 7 are false or misleading, or were not substantiated at the time the representations were made.

Count II False Establishment Claim

9. In connection with the advertising, promotion, offering for sale, or sale of MelApp, Respondent has represented, directly or indirectly, expressly or by implication, that scientific testing proves that MelApp accurately detects melanoma or risk of melanoma.

10. In fact, scientific testing does not prove that MelApp accurately detects melanoma or risk of melanoma. Therefore, the representation set forth in Paragraph 9 is false or misleading.

Violations of Sections 5 and 12

11. The acts and practices of Respondent as alleged in this complaint constitute deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this thirtieth day of March, 2015, has issued this Complaint against Respondent.

By the Commission, Commissioner Ohlhausen dissenting.

Donald S. Clark
Secretary

SEAL: