

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

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In the Matter of)	
)	
MICROSOFT CORPORATION,)	DOCKET NO. C-4069
a corporation.)	
)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Microsoft, a corporation (“respondent”) 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 Microsoft is a Washington corporation with its principal office or place of business at One Microsoft Way, Redmond, Washington 98052. Respondent, a software and technology company, has advertised and promoted its sign-on and online wallet services, Passport and Passport Express Purchase (aka Passport Wallet), through the company’s Web site at www.passport.com and elsewhere on the Internet.
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.

Passport Security

3. Following the launch of Passport in October 1999, respondent disseminated or caused to be disseminated various versions of a “Microsoft .NET Passport Q&A” on Passport.com, including but not necessarily limited to that attached as Exhibit A, containing the following statements:

Security and Privacy

How secure is .NET Passport?

.NET Passport achieves a high level of Web Security by using technologies and systems designed to prevent unauthorized access to your personal information.

Exhibit A, Microsoft .NET Passport Q&A, <http://www.passport.com/Consumer/ConsumerQA.asp?lc>.

4. Respondent also disseminated or caused to be disseminated on the home page of its Web site at Passport.com various advertisements, including but not necessarily limited to that shown in Exhibit B, containing the following statements:

Security

Use .NET Passport from any computer on the Internet. Your .NET Passport is protected by powerful online security technology and a strict privacy policy.

Exhibit B, Passport Home Page, <http://www.passport.com/Consumer/Default.asp?lc=1033>.

5. Respondent also disseminated or caused to be disseminated various privacy policies on Passport.com, including but not limited to the attached Exhibit C, containing the following statements:

SECURITY OF YOUR PERSONAL INFORMATION

Your .NET Passport information is stored on secure .NET Passport servers that are protected in controlled facilities.

Exhibit C, Microsoft .NET Passport Privacy Policy, <http://www.passport.com/Consumer/PrivacyPolicy.asp?lc=1033>.

6. Through the means described in Paragraphs 3-5, respondent represented, expressly or by implication, that it maintained a high level of online security by employing sufficient measures reasonable and appropriate under the circumstances to maintain and protect the privacy and confidentiality of personal information obtained from or about consumers in connection with the Passport and Passport Wallet services.

7. In truth and in fact, respondent did not maintain a high level of online security by employing sufficient measures reasonable and appropriate under the circumstances to maintain and protect the privacy and confidentiality of personal information obtained from or about consumers in connection with the Passport and Passport Wallet services. In particular, respondent failed to implement and document procedures that were reasonable and appropriate to: (1) prevent possible unauthorized access to the Passport system; (2) detect possible unauthorized access to the Passport system; (3) monitor the Passport system for potential vulnerabilities; and (4) record and retain system information sufficient to perform security audits and investigations. In light of these deficiencies, taken together, the representation set forth in Paragraph 6 was false or misleading.

Passport Wallet Security

8. Respondent has promoted its Passport Express Purchase service, also referred to as Passport Wallet, as an online service that facilitates consumers' online purchases by transmitting credit card numbers, billing information, and shipping information stored in their Passport wallet to participating Express Purchase sites.

9. Following the launch of Passport Wallet in October 1999, respondent disseminated or caused to be disseminated on the home page of its Web site at Passport.com various advertisements, including but not necessarily limited to that shown in Exhibit B, containing the following statements:

Store information in .NET Passport wallet that will help you make faster safer online purchases at any .NET Passport express purchase site.

Exhibit B, Passport Home Page, <http://www.passport.com/Consumer/Default.asp?lc=1033>.

10. Respondent also disseminated or caused to be disseminated various versions of a "Microsoft .NET Passport Q&A" on Passport.com, including but not necessarily limited to that attached as Exhibit A, containing the following statements:

What is Microsoft .NET Passport and what can I do with it?

* * *

With a .NET Passport, you can:

* * *

Make faster, more secure online purchases with [.NET Passport express purchase](#).

Exhibit A, Microsoft .NET Passport Q&A, <http://www.passport.com/Consumer/ConsumerQA.asp?lc>.

11. Through the means described in paragraphs 9 and 10, respondent represented, expressly or by implication, that purchases made at a Passport Express Purchase site with Passport Wallet are safer or more secure than purchases made at the same Passport Express Purchase site without using the Passport Wallet.

12. In truth and in fact, purchases made at a Passport Express Purchase site with Passport Wallet are not, for most consumers, safer or more secure than purchases made at the same Passport Express Purchase site without using the Passport Wallet. Most consumers making credit card purchases at a Passport Express Purchase site receive identical security whether they use Passport Wallet to complete a transaction or purchase directly from the Passport Express Purchase site without using a Passport Wallet. Therefore, the representations set forth in paragraph 11 were false or misleading.

Passport Privacy - Data Collection

13. Respondent has disseminated or caused to be disseminated various privacy policies on Passport.com, including but not limited to the attached Exhibit C, which contains the following statements:

This Privacy Statement discloses the privacy practices for the .NET Passport Web Site and .NET Passport Services in accordance with the requirements of the TRUSTe Privacy Program. When you visit a web site displaying the TRUSTe trademark, you can expect to be notified of [w]hat personally identifiable information of yours is collected. . . .

Exhibit C, Microsoft .NET Passport Privacy Policy, <http://www.passport.com/Consumer/PrivacyPolicy.asp?lc=1033>.

14. This privacy statement also described in detail the information collected from or about consumers in connection with their use of the Passport, including, but not limited to: what information is collected by Passport when a consumer registers at the Passport.com site; what information is collected by Passport and by a participating site when a consumer registers for Passport through that participating site; what information is collected by participating sites when a consumer signs in with a Passport; "operational" information generated in connection with a Passport account; the association of a unique identification number with every Passport account; and the collection of sign-in and other information in temporary cookies that are deleted when the consumer signs out of Passport.

15. Through the means described in paragraphs 13-14, respondent represented, expressly or by implication, that Passport did not collect any personally identifiable information other than that described in its privacy policy.

16. In truth and in fact, Passport did collect personally identifiable information other than that described in its privacy policy. In particular, Passport collected, and maintained for a limited period of time, a personally

identifiable record of the sites to which a Passport user signed in, along with the dates and times of sign in, which customer service representatives linked to a user's name in order to respond to a user's request for service. Therefore, the representation set forth in paragraph 15 was false or misleading.

Kids Passport

17. Respondent has promoted its Kids Passport service as an online service that assists parents in protecting their children's online privacy.

18. Since the introduction of Kids Passport in April 2000, respondent has disseminated or caused to be disseminated various Kids Passport web pages and privacy policies, including but not necessarily limited to the attached Exhibits D and E, which contain the following statements:

A. **Welcome to Kids Passport**

Helping parents protect their children's privacy online

...

Learn about the Children's Online Privacy Protection Act

Discover how Passport Kids is helping parents to keep their children's identity safe online.

...

Microsoft Kids Passport is a free service that helps you conveniently protect and control your children's online privacy. . . With Kids Passport, you can grant or deny consent to participation (*sic*) web sites (including the Microsoft family of web sites) to collect personal information from your children. In addition, you can make specific choices for each child and for each site, all in one convenient, centralized location.

Exhibit D, Kids Passport web pages, <http://kids.passport.com>.

B. **Microsoft Kids Passport Privacy Statement**

Microsoft is especially concerned about the safety and protection of children's personal information collected and used online. Microsoft Kids Passport ("Kids Passport") allows parents to consent to the collection, use and sharing of their children's information with Passport participating sites and services that have agreed to use Kids Passport as their parental consent process.

...

USE OF CHILDREN'S PERSONAL INFORMATION BY PASSPORT

...

Passport does not share this information contained in your child's Passport profile with third parties, except for Passport participating sites where you have consented to such sharing, or as otherwise disclosed in this statement.

...

CONTROL OF CHILDREN'S PERSONAL INFORMATION

Kids Passport allow you to limit the amount of information shared with the sites and services participating in the Kids Passport program. You can choose to allow Passport to share all of the information in your child's Passport profile with a participating site or service, or you can limit the information shared to just a unique identifier or age range.

...

Exhibit E, Microsoft Kids Passport Privacy Statement, <http://www.passport.com/consumer/privacy/policy.asp/PPIcid=1033>.

19. Through the means described in Paragraph 18, respondent represented, expressly or by implication, that the Kids Passport service provided parents with control over the information their children could provide to participating Passport sites and the use of that information by such sites.

20. In truth and in fact, the Kids Passport service did not provide parents with control over the information their children could provide to participating Passport sites and the use of that information by such sites. For instance, once a parent set up a child's Passport account and provided consent for the collection and/or disclosure of the types of personal information listed in respondent's privacy policy, respondent permitted the child to edit or change certain fields of personal information and change account settings set by the parent. Respondent also failed to clearly inform parents that in some instances information would be disclosed to Passport Web sites that do not participate in the Kids Passport service. Therefore, the representations set forth in paragraph 19 were false or misleading.

21. The acts and practices of respondent as alleged in this complaint constituted unfair or 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 twentieth day of December, 2002, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary