

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of IntelliVision Technologies Corp., File No. 2323023

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order from IntelliVision Technologies Corp. (“IntelliVision”).

The proposed consent order (“Proposed Order”) has been placed on the public record for 30 days for receipt of public comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement, along with the comments received, and will decide whether it should make final the Proposed Order or withdraw from the agreement and take appropriate action.

Respondent IntelliVision is a Delaware corporation with its principal place of business in San Jose, California. Respondent advertises and sells an artificial intelligence-based facial recognition software product to original equipment manufacturers, large integrators, and large end users. Respondent’s facial recognition software has been incorporated into two consumer products sold by its parent corporation Nice North America, LLC: the 2GIG Edge, a home security system; and the Elan Intelligent Touch Panel, a smart home touch panel. The software allows consumers to register their face and then scan their face to gain access to the 2GIG Edge home security system. Similarly, the software allows consumers to register their face and then scan their face to gain access to the smart home features of the Elan Intelligent Touch Panel.

The Commission’s proposed three-count complaint alleges that Respondent represented that IntelliVision’s facial recognition software has one of the highest accuracy rates on the market and has been trained on millions of faces. The proposed complaint further alleges that Respondent represented that IntelliVision’s facial recognition software can detect faces of all ethnicities without racial bias, was developed with multi-ethnic and gender datasets to ensure no built-in bias and performs with zero gender or racial bias. In addition, the proposed complaint alleges that IntelliVision claimed its anti-spoofing technology ensures the system cannot be fooled by photo or video images. According to the proposed complaint, these claims are false or misleading or were not substantiated at the time the representations were made, in violation of Section 5 of the FTC Act.

The Proposed Order contains injunctive relief designed to prevent Respondent from engaging in the same or similar acts or practices in the future.

Provision I prohibits Respondent from making any misrepresentation (1) about the accuracy or efficacy of its Facial Recognition Technology; (2) about the comparative performance of its Facial Recognition Technology with respect to individuals of different genders, ethnicities, and skin tones, or reducing or eliminating differential performance based on such factors; or (3) about the accuracy or efficacy of its Facial Recognition Technology with respect to detecting spoofing or otherwise determining Liveness. (Facial Recognition Technology and Liveness are defined in the Proposed Order.)

Provision II prohibits Respondent from making any representation about the effectiveness, accuracy, or lack of bias of Facial Recognition Technology, or about the effectiveness of such Facial Recognition Technology at detecting spoofing, unless Respondent

possesses and relies upon competent and reliable testing that substantiates the representation at the time the representation is made.

For the purposes of this Provision, competent and reliable testing means testing that is based on the expertise of professionals in the relevant area, and that (1) has been conducted and evaluated in an objective manner by qualified persons and (2) is generally accepted by experts in the profession to yield accurate and reliable results. Respondent also must document all such testing including: the dates and results of all tests; the method and methodology used; the source and number of images used; the source and number of different people in the images; whether such testing includes Liveness tests; any technique(s) used to modify the images to create different angles, different lighting conditions or other modifications; demographic information collected on images used in testing if applicable; information about the skin tone collected on images used in testing if applicable; and any information that supports, explains, qualifies, calls into question or contradicts the results.

Provision III requires Respondent to obtain and submit acknowledgments of receipt of the Order.

Provisions IV-VI are reporting and compliance provisions, which include recordkeeping requirements and provisions requiring Respondent to provide information or documents necessary for the Commission to monitor compliance.

Provision VII states that the Proposed Order will remain in effect for 20 years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the Proposed Order, and it is not intended to constitute an official interpretation of the complaint or Proposed Order, or to modify the Proposed Order's terms in any way.