

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

AVROM BORIS LASAROW, individually and as an officer of L HEALTH LTD., formerly known as LASAROW HEALTHCARE TECHNOLOGIES LTD.;

L HEALTH LTD., formerly known as LASAROW HEALTHCARE TECHNOLOGIES LTD., a private company limited by shares;

KRISTI ZUHLKE KIMBALL, individually and as an officer of NEW CONSUMER SOLUTIONS LLC; and

NEW CONSUMER SOLUTIONS LLC, a limited liability company,

Defendants.

Case Number:

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), for its Complaint alleges:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Sections 5(a)

and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, in connection with the labeling, advertising, marketing, distribution, and sale of mobile device software applications called Mole Detective, Mole Detective 2, Mole Detect and Mole Detect Pro (collectively, “the Mole Detective Apps”).

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

3. Venue is proper in this district under 28 U.S.C. § 1391(b), (c), and (d), and 15 U.S.C. § 53(b).

PLAINTIFF

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces Section 12 of the FTC Act, 15 U.S.C. § 52, which prohibits false advertisements for food, drugs, devices, services, or cosmetics in or affecting commerce.

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act, and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b) and 56(a)(2)(A).

DEFENDANTS

6. Defendant Avrom Boris Lasarow is the Chairman and primary shareholder of L Health Ltd., formerly known as Lasarow Healthcare Technologies Ltd. At times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the

authority to control, or participated in the acts and practices set forth in this Complaint.

Defendant Lasarow, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

7. Defendant L Health Ltd., formerly known as Lasarow Healthcare Technologies Ltd., (“LHL”) is a United Kingdom private company limited by shares with its principal place of business at 1st Floor West, Davidson House, Forbury Square, Reading, RG1 3EU, United Kingdom and its U.S. office at 150 N. Michigan Ave., 28th Floor, Chicago, IL 60601. LHL transacts or has transacted business in this district and throughout the United States. At times material to this Complaint, acting alone or in concert with others, LHL has advertised, marketed, distributed, or sold the Mole Detective Apps to consumers throughout the United States.

8. Defendant Kristi Zuhlke Kimball is the Chief Executive Officer and owner of New Consumer Solutions LLC, and a minority shareholder of LHL. At times material to this Complaint, acting alone or in concert with others, she has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint. Defendant Kimball, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

9. Defendant New Consumer Solutions LLC (“NCS”) is a Wisconsin limited liability company with its principal place of business at 161 N. Clark Street, Suite 4700, Chicago, IL 60601. NCS transacts or has transacted business in this district and throughout the United States. At times material to this Complaint, acting alone or in concert with others, NCS has advertised, marketed, distributed, or sold the Mole Detective Apps to consumers throughout the United States.

COMMERCE

10. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS’ BUSINESS ACTIVITIES

11. The Mole Detective Apps are consumer-directed computer software applications that use camera-enabled mobile communication devices for purposes of melanoma risk assessment. Using one or more mathematical algorithms, the Mole Detective Apps purport to measure specific mole characteristics (asymmetry, border, color, diameter, and evolution) from digital images captured by a consumer’s mobile device.

12. The Mole Detective Apps are available for purchase and download over the Internet through mobile software distribution platforms. Since at least January 2012, Defendants, working individually or collectively, have advertised and sold the Mole Detective Apps to consumers through the iPhone App Store and the Android Google Play marketplace for \$4.99.

13. U.S. sales of the Mole Detective Apps between January 2012 and December 2013 totaled over \$50,000.

14. From at least January 2012 to mid-August 2012, Defendants NCS and Kimball advertised and sold one or more of the Mole Detective Apps to consumers through the iPhone App Store and the Android Google Play marketplace.

15. On or about August 20, 2012, Defendants NCS and Kimball sold the rights, title, and interest to their Mole Detective Apps to Defendant LHL, but agreed to continue providing LHL consulting services regarding the apps for one year. Since August 20, 2012, Defendants

NCS and Kimball have continued to appear in advertising for the Mole Detective Apps. *See*, e.g., Compl. Exh. C (identifying Defendant NCS as the seller of Mole Detective 2); Compl. Exh. E (identifying Defendant Kimball as the contact for American and Latin American sales of Mole Detect).

16. Since at least August 2012, Defendants LHL and Lasarow have advertised and sold one or more of the Mole Detective Apps to consumers through the iPhone App Store and the Android Google Play marketplace.

17. Defendants Lasarow, LHL, Kimball, and NCS, have advertised the Mole Detective Apps through the Internet, social media, print, and other advertising and promotional materials. Defendants have represented, among other things, that the Mole Detective Apps detect melanoma early by accurately analyzing mole characteristics of Asymmetry, Border, Color, Diameter, and Evolution (“ABCDE”) for symptoms of melanoma, thereby increasing consumers’ chances of survival.

18. These advertisements contain the following statements and depictions, among others:

A. **Mole Detective website** (June 12, 2013) (Exhibit A)

Mole Detective™ is the first and only app to calculate symptoms of melanoma right on the phone!

- Analyze potentially cancerous skin moles
- Record and catalog moles to track evolution

...

Analysis Made Easy

Mole Detective™ does the work for you, automatically identifying and measuring symptoms of melanoma. Using a dermatologist-

created program, Mole Detective™ measures:

- Asymmetry
- Border
- Color
- Diameter
- Evolution

for signs of cancer.

Detect, Record, Connect

Mole Detective™ offers a powerful system that allows you to analyze a mole and track its progress over time.

**B. Mole Detective, Description on Google Play Store (June 12, 2013)
(Exhibit B)**

Mole Detective
Lasarow Healthcare Technologies Limited

Description

Mole Detective™ takes pictures of moles on your skin and analyzes their symptoms of melanoma to increase the chance of detecting skin cancer in early stages. The survival rate of melanoma is a dismal 15% at stage four. However, when caught early, the survival rate is 95%. Early detection is critical. Mole Detective™ helps you to detect skin cancer earlier by helping you track the top five symptoms of the cancer right at home.

...

The app analyzes your mole using the dermatologist ABCDE method and gives you a risk factor based on the symptoms your mole may or may not be showing.

...

**C. Mole Detective 2, Description on iTunes Store (June 12, 2013)
(Exhibit C)**

Mole Detective 2
By New Consumer Solutions LLC

...

Description

Mole Detective™ takes pictures of moles on your skin and analyzes their

symptoms of melanoma to increase the chance of detecting skin cancer in early stages. The survival rate of melanoma is a dismal 15% at stage four. However, when caught early, the survival rate is 95%. Early detection is critical. Mole Detective™ helps you to detect skin cancer earlier by helping you track the top five symptoms of the cancer right at home.

...

The app analyzes your mole using the dermatologist ABCDE method and gives you a risk factor based on the symptoms your mole may or may not be showing.

D. **Mole Detect Pro, Description on iTunes Store (July 1, 2013)**
(Exhibit D)

Mole Detect Pro
Lasarow Healthcare Technologies Limited

...

Description

Mole Detect™ saves lives through the early detection of potentially fatal melanoma.

Melanoma is a serious and sometimes life-threatening cancer. If the skin receives too much UV light (from the sun and sunbeds), ordinary skin cells called melanocytes may begin to grow abnormally and become cancerous.

Everyone is at risk of getting skin cancer. It is very important to always examine your skin for new moles or changes in your moles.

...

ABCDE METHOD – This methodology is the recognized international dermatological standard to help you identify some of the usual signs of melanoma. With Mole Detect the ABCDE method is completely programmed into our app to help make self-examination accurate and easy. Protect yourself and your loved ones by examining and getting to know your skin on a regular basis with Mole Detect.

...

E. **Mole Detect Website (January 9, 2014) (Exhibit E)**

**Mole Detect™ saves lives through the early
detection of potentially fatal melanoma**

by helping you check and track your moles

Check moles on your phone
Check moles based on the dermatologist approved ABCDE risk
assessment method.

* * *

Instant results
Get instant results on your phone thanks to our built-in image analysis
algorithm.

* * *

Interactive diagnosis
Review educational ABCDE symptoms with interactive animations.

* * *

How it works

Mole Detect™ uses the dermatologist approved ABCDE assessment
method to help you check your moles for signs of melanoma from the
comfort of your home.

What is melanoma?

Melanoma is the most dangerous of all skin cancer. It accounts for the
majority of skin cancer related deaths (75%) and is most often caused by
occasional intensive exposure to ultraviolet light from the sun or sunbeds
that may result in skin cells growing abnormally and becoming cancerous.
Dermatologists recommend that everyone perform a monthly self
examination of their skin looking for new and suspicious moles.

* * *

Meet the team

Mole Detect is made by a team of talented and experienced people

Avi Lasarow
Chairman

...

Kristi Zuhlke Kimball
America & LATAM

VIOLATIONS OF THE FTC ACT

19. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or deceptive acts or practices in or affecting commerce.

20. Misrepresentations or omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

21. Section 12 of the FTC Act, 15 U.S.C. § 52, prohibits the dissemination of any false advertisement in or affecting commerce for the purpose of inducing, or which is likely to induce, the purchase of food, drugs, devices, services, or cosmetics.

22. For the purposes of Section 12 of the FTC Act, the Mole Detective Apps are “devices” as defined in Section 15(c) of the FTC Act, 15 U.S.C. § 55(c).

COUNT I

FALSE OR UNSUBSTANTIATED MELANOMA DETECTION CLAIM

23. Through the means described in Paragraph 18, Defendants have represented, directly or indirectly, expressly or by implication, that the Mole Detective Apps:

- A. accurately analyze moles for the ABCDE symptoms of melanoma; and/or
- B. increase consumers’ chances of detecting skin cancer in early stages.

24. The representations set forth in Paragraph 22 are false or misleading or were not substantiated at the time the representations were made.

25. Therefore, the making of the representations set forth in Paragraph 22 constitutes a deceptive act or practice and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, §§ 45(a) and 52.

CONSUMER INJURY

26. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

27. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

- A. Enter a permanent injunction to prevent future violations of the FTC Act by Defendants;
- B. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act, including but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and

C. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.


Respectfully submitted,

JONATHAN E. NUECHTERLEIN
General Counsel



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