

Complaint

IN THE MATTER OF

CRAIG BRITTAINCONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATION OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket No. C-4564; File No. 132 3120**Complaint, December 28, 2015 – Decision, December 28, 2015*

This consent order addresses respondent Craig Brittain's operation of a "revenge porn" website. Mr. Brittain obtained his content by pretending to be a woman on Craigslist's "woman seeking woman" section and exposed this content for commercial gain. The Commission's complaint alleges two violations of the FTC Act. Count I alleges that Respondent unfairly disseminated photographs of individuals with their intimate parts exposed, along with personal information about them, for commercial gain and without the knowledge or consent of those depicted, despite the fact that he knew or should have known that the individuals had a reasonable expectation their image would not be disseminated in that manner. Count II alleges that Respondent deceptively solicited photographs from individuals of themselves with their intimate parts exposed by misrepresenting that he would use such photographs solely for his personal private use. The consent order requires the respondent from disseminating, through a website or online service, a video or photograph of an individual with his or her intimate parts exposed without: disclosing to the individual that he will disseminate the image through a website and for commercial gain; and obtaining affirmative express consent in writing from the individual for such dissemination. It also requires Mr. Brittain from misrepresenting his collection, identity, or the identity of those providing content. He can no longer benefit from the images and personal information obtain in connection with his website.

*Participants**For the Commission: Melinda Claybaugh**For the Respondent: Craig Brittain, pro se***COMPLAINT**

The Federal Trade Commission, having reason to believe that Craig Brittain ("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 Craig Brittain was the owner and operator of the website www.isanybodydown.com ("Website"). Individually

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or in concert with others, Respondent controlled or had authority to control, or participated in the acts and practices alleged in this complaint. His principal office or place of business is in Colorado Springs, CO 80920.

2. The acts and practices of Respondent alleged in this complaint have been in or affecting commerce, as “commerce” as defined in Section 4 of the Federal Trade Commission Act.

3. For purposes of this complaint, the term “intimate parts” shall mean the naked genitals, pubic area, buttocks, or female nipple.

RESPONDENT’S BUSINESS PRACTICES

4. From November 2011 to April 2013, Respondent owned, operated, and conducted all business on behalf of the Website. On the Website, Respondent posted personal information and photographs of individuals with their intimate parts exposed.

5. Respondent used three different methods to obtain photographs for the Website. First, Respondent encouraged and solicited individuals to submit, anonymously, photographs of other individuals with their intimate parts exposed for posting on the Website. Most submitters were men sending photographs of women. Respondent required that all submissions include at least two photographs, one of which had to be a full or partial nude, as well as the subject’s full name, date of birth (or age), town and state, a link to the subject’s Facebook profile, and phone number. Respondent received and compiled the photographs and personal information, posted them on the Website, and in some instances, Respondent posted additional personal information that he independently located about the subjects.

6. Second, Respondent posed as a woman on the Craigslist advertising website and, after sending other women photographs purportedly of himself, solicited photographs of them with their intimate parts exposed in return. If they sent such photographs, Respondent posted them on the Website without their knowledge or permission.

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7. Third, Respondent instituted a “bounty system” on the Website, whereby anyone could request that others find and post photos of a specific person in exchange for a reward of at least \$100. Respondent collected a “standard listing fee” of \$20 for each request and half of all rewards given.

8. After obtaining the photographs, Respondent grouped the photographs on the Website by the State of residence of the photograph’s subject. Visitors to the Website could post comments about the photographs. Such comments often included derogatory and sexually explicit language directed at the subject of the photograph. Indeed, Respondent touted the Website as superior to similar websites because the Website produced a “higher level of hatred” than other websites. During the time the Website operated, Respondent posted personal information and photographs of over 1,000 people with their intimate parts exposed.

9. Women whose photographs appeared on the Website often contacted Respondent to request that he remove the images. They reported that they suffered significant harm from having their photographs and personal information, including location information, posted on the site. Some received unwelcome contacts from strangers, including requests for additional photographs. Many worried about harm to their reputations because their friends, family, and co-workers could easily see the photographs if they conducted a simple Internet search for the subject’s name. Others were concerned that they might be fired from a current job, or not hired for a future job, if the photos were discovered. In many instances, Respondent did not remove the content in response to removal requests.

10. Respondent also advertised content removal services on the Website. In these advertisements, purported third parties identified as “Takedown Hammer” and “Takedown Lawyer” promised to have consumers’ content removed from the Website in exchange for a payment of \$200 to \$500. The advertisements referred interested consumers to the websites, www.takedownhammer.com and www.takedownlawyer.com, for further information. In fact, Respondent himself owned such websites, and posed as a third party to obtain money to remove the same photographs that he had posted on the Website.

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11. Respondent earned approximately \$12,000 from operating www.isanybodydown.com.

12. Respondent has operated an additional website, www.obamanudes.com, which largely displayed the same content as www.isanybodydown.com.

COUNT I**RESPONDENT'S UNFAIR PRACTICES RELATING TO
POSTING OF PHOTOGRAPHS AND PERSONAL
INFORMATION**

13. Through the means described in Paragraphs 4 through 12, Respondent disseminated photographs of individuals with their intimate parts exposed, along with personal information of such individuals, through the Website for commercial gain and without the knowledge or consent of those depicted, when he knew or should have known that the depicted person had a reasonable expectation that the image would not be disseminated through the Website for commercial gain.

14. Respondent's practices, as set forth in Paragraph 13, have caused or were likely to have caused substantial injury to consumers that is not reasonably avoidable by consumers and is not outweighed by countervailing benefits to consumers or competition. These practices were, and are, unfair acts or practices.

COUNT II**RESPONDENT'S FALSE CLAIMS RELATING TO
SOLICITATION OF PHOTOGRAPHS**

15. Through the means described in Paragraph 6, Respondent has solicited photographs from individuals of themselves with their intimate parts exposed while representing, directly or indirectly, expressly or by implication, that he would use such photographs solely for his personal private use.

16. In fact, Respondent did not use such photographs solely for his personal private use, but disseminated them through the

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Website with personal information about the individual and for commercial gain. Therefore, the representation set forth in Paragraph 15 is false or misleading.

VIOLATIONS OF SECTION 5

17. The acts and practices of Respondent as alleged in this complaint constitute 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 twenty-eighth day of December, 2015, has issued this complaint against Respondent.

By the Commission.

DECISION AND ORDER

The Federal Trade Commission (“Commission”), having initiated an investigation of certain acts and practices of the Respondent named in the caption hereof, and the Respondent having been furnished thereafter with a copy of the draft complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondent with violations of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 45 *et seq.*;

The Respondent and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), which includes: a statement by Respondent that he neither admits nor denies any of the allegations in the draft complaint, except as specifically stated in the Consent Agreement, and, only for purposes of this action, admits the facts necessary to establish jurisdiction; and waivers and other provisions as required by the Commission’s Rules; and

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The Commission having thereafter considered the matter and having determined that it had reason to believe that the Respondent has violated the FTC Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered the comments received from interested persons, now in further conformity with the procedure prescribed in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following Order:

1. Respondent Craig Brittain owned and operated the website www.isanybodydown.com and has his principal office or place of business in Colorado Springs, CO 80920.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent, and the proceeding is in the public interest.

ORDER**DEFINITIONS**

For purposes of this Order, the following definitions shall apply:

- A. Unless otherwise specified, “Respondent” shall mean Craig Brittain, individually.
- B. “Commerce” shall mean as it is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
- C. “Covered Websites” shall mean www.isanybodydown.com, www.obamanudes.com, www.takedownlawyer.com, www.takedownhammer.com, www.takedownhammer.net, and www.takedownhammer.org.

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- D. “Intimate parts” shall mean the naked genitals, pubic area, buttocks, or female nipple.
- E. “Personal information” shall mean individually identifiable information from or about an individual, including but not limited to: (1) a first and last name; (2) a home or other physical address, including street name and name of city or town; (3) an email address or other online contact information, such as an instant messaging user identifier or a screen name; (4) a telephone number; (5) date of birth; or (6) a photograph or video containing an individual’s image.

I.**PROHIBITION ON DISSEMINATION OF VIDEOS OR
PHOTOGRAPHS WITHOUT CONSENT**

IT IS ORDERED that Respondent and Respondent’s officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this order, whether acting directly or indirectly, in connection with the marketing, promoting, or offering for sale of any good or service, is permanently restrained and enjoined from disseminating, through a website or online service, a video or photograph of an individual with his or her intimate parts exposed without:

- A. clearly and prominently disclosing directly to that individual, and not as part of a “privacy policy,” “terms of use,” or similar document posted on a website or online service, that Respondent will disseminate the video or photograph for commercial gain and through a website or online service; and
- B. obtaining affirmative express consent in writing from the individual for such dissemination.

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II.**PROHIBITION ON MISREPRESENTATIONS**

IT IS FURTHER ORDERED that Respondent, and Respondent's officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this order, whether acting directly or indirectly, in connection with the marketing, promoting, or offering for sale any good or service, is permanently restrained and enjoined from misrepresenting through a website or online service, expressly or by implication, any material fact, including but not limited to:

- A. Respondent's collection, use, disclosure, or deletion of personal information;
- B. Respondent's identity; and
- C. the identity of those providing content or sponsoring advertising displayed on or through a website or online service.

III.**DISPOSITION OF PERSONAL INFORMATION**

IT IS FURTHER ORDERED that Respondent is permanently restrained and enjoined from directly or indirectly:

- A. disclosing, using, transferring, or benefitting from personal information obtained prior to entry of this Order in connection with or displayed on any of the Covered Websites; and
- B. failing to destroy such personal information in all forms in Respondent's possession, custody, or control within 30 days after entry of this Order.

Provided, however, that such personal information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by law, regulation, or court order.

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IV.

IT IS FURTHER ORDERED that Respondent shall maintain and upon request make available to the Federal Trade Commission for inspection and copying a print or electronic copy of:

- A. affirmative express written consent obtained from each individual whose intimate parts are exposed in a photograph or video shared by Respondent on a website or through an online service;
- B. all representations about Respondent's collection, use, disclosure, or sharing of personal information in connection with marketing, promoting, or offering for sale any good or service that involves the collecting or posting of personal information on a website or online service, including but not limited to the terms of use, frequently-asked questions, and privacy policies of such website or online service, for a period of five (5) years from the date of preparation or dissemination, whichever is later;
- C. all consumer complaints and content removal requests received by or on behalf of Respondent relating to Respondent's collection, use, disclosure, or sharing of personal information, for a period of five (5) years from the date received;
- D. all responses to the complaints and requests set forth in Part IV.C, for a period of five (5) years from the date sent;
- E. copies of all subpoenas and other communications with law enforcement entities or personnel relating to Respondent's collection, use, disclosure, or sharing of personal information in connection with operating a website or online service, for a period of five (5) years from the date received or sent; and
- F. all documents prepared by or on behalf of Respondent that contradict, qualify, or call into question

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Respondent's compliance with this order, for a period of five (5) years from the date received or created.

V.

IT IS FURTHER ORDERED that Respondent shall deliver a copy of this order to all current and future employees, agents, and representatives having responsibilities relating to the subject matter of this order. Respondent shall deliver this order to such current personnel within thirty (30) days after service of this order, and to such future personnel within thirty (30) days after the person assumes such position or responsibilities. Respondent must secure a signed and dated statement acknowledging receipt of this order, within thirty (30) days of delivery, from all persons receiving a copy of the order pursuant to this section.

VI.

IT IS FURTHER ORDERED that Respondent, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of the discontinuance of his current business or employment, or of his affiliation with any new business or employment. The notice shall include Respondent's new business address and telephone number and a description of the nature of the business or employment and his duties and responsibilities. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue N.W., Washington, D.C. 20580. The subject line must begin: *In the Matter of Craig Brittain*, FTC File No. 132 3120.

VII.

IT IS FURTHER ORDERED that Respondent within sixty (60) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of his compliance with this order. Within ten (10) days of receipt of written notice from a

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representative of the Commission, Respondent shall submit an additional true and accurate written report.

VIII.

This order will terminate on December 28, 2035, or twenty (20) years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. any Part in this order that terminates in fewer than twenty (20) years;
- B. this order's application to any Respondent that is not named as a defendant in such complaint; and
- C. this order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that Respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order as to such Respondent will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

Analysis to Aid Public Comment

ANALYSIS OF CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted, subject to final approval, a consent order applicable to respondent Craig Brittain.

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

From November 2011 to April 2013, Respondent owned and operated the website www.isanybodydown.com, on which he posted personal information and photographs of individuals with their intimate parts exposed. Respondent used three different methods to obtain photographs for posting on the Website. First, he requested that submitters send him nude photographs of other people along with personal information about the subject of each photograph, including the subject's first and last name, city, state, phone number, and link to their Facebook profile. Second, Respondent obtained photographs by posing as a woman on the Craigslist advertising website and, after sending women photographs purportedly of himself, solicited photographs of them with their intimate parts exposed in return. When they did provide such photographs, Respondent posted them on his website without their permission. Third, Respondent instituted a "bounty system" on the Website, whereby anyone could request that others find and post photos of a specific person in exchange for a reward of at least \$100. Respondent posted the photographs and personal information he obtained without the permission of the subject of each photograph. In some instances, he added other personal information about the subjects based on his own research. In total, Respondent posted photographs and accompanying personal information of more than 1,000 people, the vast majority of whom were women. Respondent also advertised content removal services called "Takedown Hammer" and "Takedown Lawyer," which promised to remove consumers' content from the website for a substantial sum of money. In fact,

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Respondent himself owned these services, thereby attempting to obtain money to remove the same photographs that he had posted.

The Commission's complaint alleges two violations of the FTC Act. Count I alleges that Respondent unfairly disseminated photographs of individuals with their intimate parts exposed, along with personal information about them, for commercial gain and without the knowledge or consent of those depicted, despite the fact that he knew or should have known that the individuals had a reasonable expectation their image would not be disseminated in that manner. Count II alleges that Respondent deceptively solicited photographs from individuals of themselves with their intimate parts exposed by misrepresenting that he would use such photographs solely for his personal private use.

The proposed order contains provisions designed to prevent Respondent from engaging in the future in practices similar to those alleged in the complaint. Part I prohibits Respondent from disseminating, through a website or online service, a video or photograph of an individual with his or her intimate parts exposed without: (1) disclosing to the individual that he will disseminate the image through a website and for commercial gain; and (2) obtaining affirmative express consent in writing from the individual for such dissemination.

Part II of the proposed order prohibits Respondent from, in connection with offering for sale any good or service, misrepresenting: (1) his collection, use, disclosure, or deletion of personal information; (2) his identity; or (3) the identity of those providing content or sponsoring advertising on a website. Part III of the proposed order prohibits Respondent from disclosing or benefitting from the images and personal information he obtained in connection with his website. Further, it requires him to destroy such images and personal information within 30 days of entry of the order.

Parts IV through VIII of the proposed order are reporting and compliance provisions. Part IV requires Respondent to retain documents relating to his compliance with the order for five years. Part V requires dissemination of the order to all current and future employees, agents, and representatives having responsibilities relating to the subject matter of the order. Part VI ensures

Analysis to Aid Public Comment

notification to the FTC of changes in Respondent's business or employment. Part VII mandates that Respondent submit a compliance report to the FTC within 60 days, and periodically thereafter as requested. Part VIII is a provision "sunsetting" the order after 20 years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed complaint or order or to modify the order's terms in any way.

INTERLOCUTORY, MODIFYING,
VACATING, AND MISCELLANEOUS
ORDERS

IN THE MATTER OF

PANASONIC CORPORATION
AND
SANYO ELECTRIC CO., LTD.

Docket No. C-4274. Order, July 13, 2015

Letter approving the divestiture of certain assets related to the manufacture of NiMH batteries to FDK Corporation.

LETTER ORDER APPROVING DIVESTITURE OF CERTAIN ASSETS

Ann Malester, Esq.
Weil, Gotshal & Manges LLP
Adam C. Hemlock, Esq.
Weil, Gotshal & Manges LLP

*Re: In the Matter of Panasonic Corporation and Sanyo
Electric Co., Ltd., Docket No. C-4274*

Dear Ms. Malester and Mr. Hemlock:

This is in reference to the Petition of Panasonic Corporation and Sanyo Electric Co., Ltd., for Approval of Sale of Assets to FDK Corporation that was filed by Panasonic Corporation (“Panasonic”) on May 14, 2015. Pursuant to the Decision and Order in Docket No. C-4274, Panasonic requests prior Commission approval of its proposal to sell certain assets related to the manufacture of NiMH batteries to FDK Corporation.

After consideration of Panasonic’s Application and other available information, the Commission has determined to approve the proposed sale as set forth in the Petition. In according its approval, the Commission has relied upon information and representations by Panasonic and FDK Corporation in connection