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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

UNITED STATES OF AMERICA, <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>LOOKSMART LTD., a corporation,</p> <p style="text-align: right;">Defendant.</p>	Civil Action No. 01-606-A COMPLAINT FOR CIVIL PENALTIES, INJUNCTIVE, AND OTHER RELIEF
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Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission (“FTC” or “Commission”), for its Complaint alleges that:

1. Plaintiff brings this action under Sections 1303(c) and 1306(d) of the Children’s Online Privacy Protection Act of 1998 (“COPPA”), 15 U.S.C. §§ 6501-6506, 6502(c), 6505(d), and Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 41-58, 45(a)(1), 45(m)(1)(A), 53(b), and 56(a), to obtain monetary civil penalties, a permanent injunction, and other equitable relief for defendant’s violations of the Commission’s Children’s Online Privacy Protection Rule (the “Rule”), 16 C.F.R. Part 312.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b) and 56(a). This action arises under 15 U.S.C. §§ 45(a)(1) and 6502(c).

3. Venue in this District is proper under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b)-(c) and 1395(a).

DEFINITIONS

4. For purposes of this Complaint, the terms “child,” “collects,” “collection,” “Commission,” “delete,” “disclosure,” “Internet,” “online contact information,” “operator,” “parent,” “person,” “personal information,” “third party,” “verifiable consent,” and “website or online service directed to children,” are defined as those terms are defined in Section 312.2 of the Rule, 16 C.F.R. § 312.2.

THE CHILDREN’S ONLINE PRIVACY PROTECTION RULE

5. Congress enacted the Children’s Online Privacy Protection Act (“COPPA”), 15 U.S.C. §§ 6501-6506, in 1998 to protect the safety and privacy of children online by prohibiting the unauthorized or unnecessary collection of children’s personal information by Internet website operators. The Act directed the Federal Trade Commission to promulgate a rule implementing COPPA. The Commission promulgated the Children’s Online Privacy Protection Rule (“Rule”), 16 C.F.R. Part 312, on November 3, 1999 under Section 1303(b) of COPPA, 15 U.S.C. § 6502(b), and Section 553 of the Administrative Procedures Act, 5 U.S.C. § 553. The Rule went into effect on April 21, 2000.

6. The Rule applies to any operator of a commercial website or online service directed to children that collects, uses, and/or discloses personal information from children, or any operator that has actual knowledge that it is collecting or maintaining a child's personal information.

7. The Rule requires a subject website operator to meet specific requirements prior to collecting online, using, or disclosing personal information from children, including but not limited to:

- a. Posting a privacy policy on its website providing clear, understandable, and complete notice of its information practices, including what information the website operator collects from children online, how it uses such information, its disclosure practices for such information, and other specifically required disclosures;
- b. Providing clear, understandable, and complete notice of its information practices directly to parents when required by the Rule;
- c. Obtaining verifiable parental consent prior to collecting, using, and/or disclosing personal information from children;
- d. Giving parents the option to consent to the collection and internal use of their children's personal information without consenting to the disclosure of that information to third parties;

- e. Providing a reasonable means for parents to review the personal information collected from their children and to refuse to permit its further use or maintenance;
- f. Not conditioning children's participation in an activity upon children disclosing more personal information than is reasonably necessary to participate in that activity; and
- g. Establishing and maintaining reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

8. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice, in violation of Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1). *See also* COPPA, 15 U.S.C. § 6502(c).

DEFENDANT

9. Defendant Looksmart Ltd. is a publicly-traded Delaware corporation with its principal office or place of business located at 625 Second Street, San Francisco, CA 94107.

10. From at least April 21, 2000 through approximately the end of February, 2001, defendant operated a free online message board service through its website, www.insidetheweb.com ("the website"). Defendant's website enabled visitors to post and reply to messages through the website's online message boards and/or create their own online message boards. Defendant also provided its free message board service to numerous other websites, including certain websites directed to children. Defendant used its message board

service to direct advertising to participants. Defendant marketed its website and services throughout the United States through the Internet.

11. The acts and practices of defendant alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANT’S COURSE OF CONDUCT

12. Defendant’s website, www.insidetheweb.com, was a general audience website that, at times relevant to this complaint, contained areas directed to children, such as its “kids” message board area. In addition, defendant collected birth date information when participants registered to create new message boards on www.insidetheweb.com. (See Exhibit A.) From April 2000 and continuing through August 2000, defendant knowingly permitted children under thirteen years old to register to create new message boards.

13. Defendant also provided free message board services on www.insidetheweb.com to one or more children’s websites. For example, the children’s website www.girlslife.com created six message boards on www.insidetheweb.com that used the Girls’ Life name in their titles (e.g., “Girls’ Life Magazine Body Message Board” and “Girls’ Life Beauty Message Board,” see Exhibits B and C). Visitors to www.girlslife.com were able to directly post, and reply to, messages on the Girls’ Life message boards through a seamless portal from the Girls’ Life website to defendant’s website (see portal from www.girlslife.com, Exhibit C- 4).

14. Defendant collected and/or maintained personal information from children through the operation of its www.insidetheweb.com website and thus is an “operator” as defined in the Rule.

Defendant's Information Collection, Use, and Disclosure Practices

15. At times relevant to this complaint, defendant has collected the following personal information from children online:

- a. From April 2000 through August 2000, defendant enabled children to create their own message boards within the "kids" area and elsewhere on its www.insidetheweb.com website. Children who registered for this service were asked to submit their full name, email address, username, password, gender, year of birth, country, profiling information about their message board's intended audience (including but not limited to the age and gender of the target audience), their system software, their browser, and their homepage URL.
- b. Defendant asked all persons who posted messages to the message boards on its website to submit their full name and email address along with the messages. (Exhibit D.) Defendant posted children's full names and email addresses on its website when they were submitted along with the children's messages.

The personal information that was collected was more than what was reasonably necessary to provide children access to defendant's message boards.

Defendant's Privacy Policy

16. Defendant posted a privacy policy, but the policy did not clearly, understandably, or completely disclose its information collection, use, and disclosure practices and other

disclosures required by the Rule. (Exhibit E.)

Other Relevant Conduct

17. Defendant did not provide direct notice to parents of their practices regarding the collection, use, and/or disclosure of children's personal information and other disclosures required by the Rule.

18. Defendant failed to obtain verifiable parental consent for collecting, using, or disclosing the personal information of children.

19. Defendant provided no means for parents to review or delete the information collected from their children.

DEFENDANT'S VIOLATIONS OF THE CHILDREN'S ONLINE PRIVACY PROTECTION RULE

20. From at least April 21, 2000 through approximately the end of February, 2001, defendant was an operator of a website or online service with areas directed to children, and/or had actual knowledge that it was collecting or maintaining personal information from children.

21. In numerous instances, including the acts and practices described above, defendant collected, used, or disclosed personal information from children in violation of the Rule, 16 C.F.R. Part 312, including:

- a. Failing to provide sufficient notice on the website of what information it collects online from children, how it uses such information, its disclosure practices, and all other required content, in violation of Section 312.4(b) of the Rule, 16 C.F.R. § 312.4(b);

- b. Failing to provide notice to parents of what information it collects online from children, how it uses such information, its disclosure practices, and all other required content, in violation of Section 312.4(c) of the Rule, 16 C.F.R. § 312.4(c);
- c. Failing to obtain verifiable parental consent before any collection, use, and/or disclosure of personal information from children, in violation of Section 312.5 of the Rule, 16 C.F.R. § 312.5;
- d. Failing to provide a reasonable means for parents to review the personal information collected from their children and to refuse to permit its further use or maintenance, in violation of Section 312.6 of the Rule, 16 C.F.R. § 312.6; and
- e. Conditioning children’s participation in an activity on their disclosing more personal information than is reasonably necessary to participate in such activity, in violation of Section 312.7 of the Rule, 16 C.F.R. § 312.7.

**DEFENDANT’S UNFAIR OR DECEPTIVE ACTS OR PRACTICES
IN VIOLATION OF THE FTC ACT**

22. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), provides that “unfair or deceptive acts or practices in or affecting commerce are hereby declared unlawful.”

23. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice violation of Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1). *See* COPPA, 15 U.S.C. § 6502(c).

24. By and through the acts and practices described in Paragraph 21 above, defendant has violated Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1).

CIVIL PENALTIES, INJUNCTION AND OTHER RELIEF

25. Defendant has violated the Rule as described above with knowledge as set forth in Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

26. Each collection, use, and/or disclosure of a child's personal information, from April 21, 2000 through the filing of this Complaint, in which defendant has violated the Rule, 16 C.F.R. § 312, in one or more of the ways described above constitutes a separate violation for which plaintiff seeks monetary civil penalties.

27. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, and Section 1.98(d) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(d), authorizes this Court to award monetary civil penalties of not more than \$11,000 for each such violation of the Rule, 16 C.F.R. Part 312.

28. Under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), this Court is authorized to issue a permanent injunction against defendant's violation of the FTC Act, as well as such ancillary relief as may be just and proper.

PRAYER

WHEREFORE, plaintiff requests this Court, pursuant to 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b) and 57b, and the Court's own equitable powers to:

- (1) Enter judgment against defendant and in favor of plaintiff for each violation alleged in this Complaint;
- (2) Award plaintiff monetary civil penalties from defendant for each violation of the Rule, 16 C.F.R. Part 312;
- (3) Permanently enjoin defendant from violating the Rule, 16 C.F.R. Part 312;
- (4) Award plaintiff such additional relief as the Court may deem just, proper, or necessary to redress injury to consumers resulting from defendant's violations of the Rule, 16 C.F.R. Part 312.

DATED:

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