

**ELECTRONIC PRIVACY INFORMATION CENTER**

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Before the  
Federal Trade Commission  
Washington, DC

**In the Matter of Intelligent e-Commerce, Inc.****Complaint and Request for Injunction, Investigation and for Other Relief**INTRODUCTION

1. This complaint concerns the sale of consumer information by Intelligent e-Commerce, Inc. ("IEI"). As set forth in detail below, IEI is engaged in unfair or deceptive acts or practices as defined by Section 5(a) of the FTC Act. Moreover, IEI is violating or causing violations of the Telecommunications Act of 1996 ("Telecommunications Act") and 39 CFR § 265.6 ("Postal Regulations").

2. IEI is an e-Commerce consulting service that operates bestpeoplesearch.com, an Internet investigative service. IEI advertises and provides online ordering forms for its customers to obtain a variety of information about consumers in the U.S. and Canada.<sup>[1]</sup> Such information includes detailed phone call records as well as the addresses on file for post office box and private mailbox holders. These categories of personal information are protected by regulation or statute, and cannot be obtained without legal justification, but are nevertheless offered for sale on bestpeoplesearch.com. We urge the Federal Trade Commission to take immediate action to investigate IEI's information brokerage activities and to enjoin IEI from selling information collected in violation of federal law.

3. Bestpeoplesearch.com is one of many investigation "portal" sites that offer for sale personal information that is protected by statutes. Like bestpeoplesearch.com, these other sites contain language suggesting that the information is obtained by illegitimate means (investigators rely upon "confidential sources" and information provided is "confidential" and not "admissible in court"). These sites demonstrate a pattern of questionable personal information sales online. We therefore urge the Commission to initiate an industry-wide investigation into online investigation sites.

PARTIES

4. The Electronic Privacy Information Center ("EPIC") is a non-profit research organization based in Washington, D.C. EPIC's activities include the review of government and private sector policies and practices to determine their possible impact on the privacy interests of the American public. Among its other activities, EPIC has prepared reports and presented testimony before Congress and administrative agencies on the Internet and privacy issues. EPIC opposes unscrupulous practices in the information brokerage industry, and recently filed an amicus brief<sup>[2]</sup> in *Remsburg v. Docusearch, Inc.*, 816 A.2d 1001 (N.H., 2003), a case in which the New Hampshire Supreme Court held that an information broker is potentially liable for the harms caused by selling personal information.

5. IEI is an e-Commerce consulting service based in Encinitas, California. ([Exhibit](#)

A.) IEI maintains bestpeoplesearch.com, a portal for obtaining personal information.  
(Exhibit B.)

### THE IMPORTANCE OF PRIVACY PROTECTION

6. The right of privacy is a fundamental right in the United States. The privacy of an individual is directly implicated by the collection, use, and dissemination of personal information. Disclosure of private information to third parties is protected through a number of statutes and regulations, including certain provisions of the Telecommunications Act and Postal Regulations. One purpose of these statutes is to protect consumers from the harms that can arise from others obtaining their private information for improper purposes. The release of such information without a consumer's knowledge can lead to devastating results, including identity theft and fraud.

7. Individuals are likely to suffer injury as a result of IEI's ongoing practice of selling personal information. The Drivers Privacy Protection Act, which protects personal information in motor vehicle records, was passed in reaction to the 1989 death of actress Rebecca Schaeffer.<sup>[3]</sup> A private investigator, hired by an obsessed fan, was able to obtain her address through California motor vehicle records.<sup>[4]</sup> The fan used her address information to stalk and to kill her.<sup>[5]</sup> The Postal Regulations were adopted in response to similar concerns, in particular concerns raised by advocates for battered women who otherwise could not safely receive mail.<sup>[6]</sup>

8. The potential harm caused by unscrupulous information brokerages is further addressed in *Remsburg v. Docusearch, Inc.*, in which the New Hampshire Supreme Court held that information brokers and private investigators could be liable for the harms caused by selling personal information.<sup>[7]</sup> In that case, a stalker obtained a young woman's personal information, including her Social Security number and employment information, from an internet-based private investigation, pretexting, and information service, and then used this information to locate and murder the woman.

9. IEI is aware of the potential harm that can result from providing this information, as it attempts to disclaim a wide variety of harms in its Terms and Conditions ("Terms"). The Terms require that the requestor take the following pledge: "I also do hereby faithfully pledge, that my desire to locate the data or individual described above in no way involves any intention on my part to harm, to cause harm, to harass, to stalk (as described by applicable laws), or to otherwise take any illegal or proscribed action against any person or entity." (Exhibit C.) IEI also requires information requestors to indemnify the company from harms flowing from the use of personal data. (Exhibit C.)

### BASIS FOR ACTION

10. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), renders unfair or deceptive acts or practices in or affecting commerce unlawful. Misrepresentations of material facts constitute deceptive acts or practices and are unlawful pursuant to Section 5(a) of the FTC Act. Under Section 5(n) of the FTC Act, an act or practice is unfair if it causes or is likely to cause substantial injury to consumers that is not reasonably avoidable by consumers themselves and that is not outweighed by countervailing benefits to consumers or to competition.<sup>[8]</sup>

11. Several categories of information offered for sale by IEI are not available except by misrepresentation or fraud in the violation of a federal statute. These misrepresentations are similar to the misrepresentations made by the defendant information brokers in *FTC v. Information Search, Inc.*,<sup>[9]</sup> as well as the misrepresentations in numerous cross-border lottery ticket sales cases pursued by the FTC, e.g. *FTC v. World Media Brokers, Inc.*<sup>[10]</sup>

12. Although IEI claims to use private investigators to obtain this information, in no way does this make its actions legal or constitute any significant barrier to harm. Private investigators are regulated by a wide range of state laws, with licensing requirements ranging from simple payment of a licensing fee<sup>[11]</sup> to extensive occupational training and experience.<sup>[12]</sup> None of these schemes, however, give private investigators special rights to solicit others to violate the law.

13. By obtaining and selling private information about consumers that is not legally available, or is only available for narrowly-defined purposes, IEI has almost certainly caused substantial injury to consumers, and is likely to cause additional injury. Because its entire business consists of surreptitiously obtaining information about consumers, this injury is not avoidable at all by the consumers themselves. The service of unlawfully obtaining and reselling information about consumers does not provide countervailing benefits to consumers or to competition.

### SPECIFIC PRACTICES

#### Obtaining and Selling Information in Violation of the Telecommunications Act

14. Congress enacted the Telecommunications Act of 1996, 47 U.S.C. § 222 *et. seq.*, to stimulate competition in telecommunication services, while protecting the privacy of the consumer. Section 222 of the Act provides that telecommunications carriers must protect the confidentiality of Consumer Proprietary Network Information ("CPNI"). CPNI includes calling history and activity, billing records, and unlisted telephone numbers of service subscribers.<sup>[13]</sup> The Act prohibits carriers from using CPNI even for their own marketing purposes. Furthermore, the Act prohibits carriers from using, disclosing, or permitting access to CPNI without approval of the customer or as otherwise required by law if the use or disclosure is not in connection with the provided service.<sup>[14]</sup>

15. IEI has misrepresented its right to legally obtain, or cause others to obtain, this protected information. It offers for \$187, "Cell Phone Package - includes Name, Address and Call Records" for customers who wish to purchase a copy of a third party's cellular phone record. (Exhibit D.) IEI represents that, "Cell Toll Reports are obtained by private investigators for your personal informational purpose only. These reports are NOT valid in a court of law." (Exhibit D.) This representation suggests that the records were obtained in an illegitimate, illegal, or unverifiable fashion, thus jeopardizing their admissibility in a legal action.

16. IEI also advertises the sale of protected residential telecommunication activity. It offers, for \$87, the "Residential Local/LATA Phone Records" for customers who wish to purchase a copy of a third party's residential long distance bill for the last billing cycle. (Exhibit E.) IEI represents that, "This search is for RESEARCH purposes ONLY. If you find information contained in our reports and need them for legal purposes you must subpoena the records from the telephone carrier to use them in a court of law. This is a

confidential report between Best People Search and you (our client)." ([Exhibit E.](#)) Again, this representation suggests that the records were obtained in an illegitimate, illegal, or unverifiable fashion, thus jeopardizing their admissibility in a legal action.

17. IEI does not represent how private investigators actually obtain this information, but it does not appear possible for them to reliably obtain this information without making misrepresentations (pretexting) to telecommunications carriers or soliciting the carriers to violate the Telecommunications Act.

#### Obtaining and Selling Information in Violation of 39 CFR § 265.6

18. The federal regulations governing release of information about owners of private mailboxes and post office boxes tightly regulate the release of this information, which may only be provided: (1) to a federal, state or local government agency upon prior written certification that the information is required for the performance of its duties, (2) to a person who certifies, in detail, that the information is necessary to serve process in an ongoing lawsuit, (3) in response to a subpoena or court order. In the event that the box owner files with the postmaster a protective court order, the information may only be provided in response to a court order.[\[15\]](#)

19. IEI has misrepresented its right to legally obtain, or cause others to obtain, this information. It offers, for \$77, "PO Box Search (Reverse P.O. Box Lookup)." ([Exhibit F.](#)) IEI claims that this information is obtained by working with a Postal Inspector: "Investigators work with postmasters all over the USA. It is up to the individual Postmaster whether they want work with the investigator..." ([Exhibit F.](#)) This representation suggests that the method of obtaining the information is illegitimate. If a legal, legitimate course of action can yield these records, whether a Postmaster was willing to "work" with investigators would be irrelevant.

20. IEI also offers, for \$97, "Reverse Private Mail Box Lookup." ([Exhibit G.](#)) Again, IEI represents that investigators "work" with companies to obtain this information: "Investigators work with personal mail box companies to obtain your requested information. It is up to the individual mail box retail center whether they want work with the investigator." ([Exhibit G.](#)) It does not appear possible for investigators to reliably obtain this information without making misrepresentations to PMB business owners or soliciting them to violate 39 CFR § 265.6.

#### OTHER SITES PROVIDING ONLINE INVESTIGATION SERVICES

21. A search in the Google search engine returns many sites, both as sponsored links, and as normal search results, of online investigator sites similar to bestpeoplesearch.com. Many of these sites offer sales to the general public.

22. Abika.com offers call detail[\[16\]](#) and the actual identity of people who use screen names on AOL, Match.com, Kiss.com, Lavalife, and Friendfinder.com.[\[17\]](#)

23. Peoplesearchamerica.com offers call detail[\[18\]](#) and P.O. Box records.[\[19\]](#)

24. Onlinepi.com offers cell phone location information.[\[20\]](#)

25. Discreetresearch.com offers call detail.<sup>[21]</sup>
26. Datatraceusa.com offers call detail.<sup>[22]</sup>

### REQUEST FOR RELIEF

Wherefore, the Complainants request that the Commission:

- A. Initiate an investigation into the information collection practices of IEI;
- B. Order IEI to immediately stop the advertisement for sale of legally protected personal information on their website bestpeoplesearch.com and any other of their similar websites;
- C. Order IEI to fully comply with the Telecommunications Act regulations and 39 CFR § 265.6;
- D. Order IEI to destroy all records collected for customers about third parties which they have obtained through illegal means;
- E. Seek legislation giving consumers protections against pretexting outside the financial services sector.
- F. Provide such other relief as the Commission finds necessary to redress injury to consumers and third parties resulting from IEI's practices as described herein.
- G. Conduct additional investigations into the many other web-based businesses offering similar services.

Submitted July 7, 2005

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[1] See e.g. Bestpeoplesearch.com, *Ontario, Canada Residential Long Distance Phone Records*, available at <https://secure.bestpeoplesearch.com/ontario-canada-residential-long-distance-phone-records/c-RDPB,s-CAON,Service.aspx> (last visited June 15, 2005) (offering for sale long distance calling records of individuals in Ontario). A complete archive of the bestpeoplesearch.com website is attached to this complaint as bestpeoplesearch.zip.

[2] Brief of Amicus Curiae Electronic Privacy Information Center, *Remsburg v. Docusearch, Inc.*, 816 A.2d 1001, (N.H. 2003), available at <http://www.epic.org/privacy/boyer/brief.html>.

[3] Brad Bonhall, *Modem Operandi*, Los Angeles Times, April 24, 1994, at E1.

[4] Aurora Mackey Armstrong, *Private Eyes, Private Lives*, Los Angeles Times, July 19, 1990. at J10.

[5] *Id.*

[6] James Bovard, *Postal Service Bites Private Mailbox Users*, USA Today, July 8, 1999, at A13.

[7] *Remsburg v. Docusearch, Inc.*, 816 A.2d 1001 (N.H. 2003).

[8] 15 U.S.C. § 45(n).

[9] Stipulated Final Judgment, *FTC v. Information Search, Inc.* (No. AMD01-1121), available at <http://www.ftc.gov/os/2002/03/infosearchstip.pdf>.

[10] Complaint, *FTC v. World Media Brokers Inc.* (No. O2C-6985), available at <http://www.ftc.gov/os/2002/12/emscmp.pdf>.

[11] Ala. Code § 40-12-93.

[12] Cal. Bus. & Prof. Code § 7541.

[13] 47 U.S.C. §222(h)(1)

[14] 47 U.S.C. §222(c)

[15] 39 CFR 265.6(d)(4) and (d)(8).

[16] See <http://www.abika.com/Reports/TracePhoneCalls.htm> (last visited June 22, 2005).

[17] See <http://www.abika.com/Reports/tracepeople.htm#Search%20Address/Phone%20Number%20associated%20with%20email%20Address%20or%20Instant%20Messenger%20Name>. (last visited June 22, 2005).

[18] See <http://www.peoplesearchamerica.com/Cell%20Tolls.htm> (last visited June 22, 2005).

[19] See <http://www.peoplesearchamerica.com/Address-Search.htm> (last visited June 22, 2005).

[20] See <http://www.onlinepi.com/searches/PS/ps15.htm> (last visited June 22, 2005).

[21] See <http://www.discreetresearch.com/restolls.htm> (last visited June 22, 2005).

[22] See <http://www.datatraceusa.com/products.asp> (last visited June 22, 2005).

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