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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

FEDERAL TRADE COMMISSION,

       Plaintiff,

       v.

KOCHAVA INC., corporation,

       Defendant.

**Case No. 2:22-cv-377**

**COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF**

Plaintiff, the Federal Trade Commission ("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), which authorizes the FTC to seek, and the Court to order, permanent injunctive relief and other relief for Defendant's acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).   Defendant's violations are in connection with acquiring consumers' precise geolocation data and selling the data in a format that allows entities to track the consumers' movements to and from sensitive locations, including, among others, locations associated with medical care, reproductive health, religious worship, mental health,

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temporary shelters, such as shelters for the homeless, domestic violence survivors, or other at-risk populations, and addiction recovery.

## JURISDICTION AND VENUE

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

3.      Venue is proper in this District under 28 U.S.C. § 1391 (b)(1), (b)(2), and (c)(2) and 15 U.S.C. § 53(b).

## PLAINTIFF

4.      The FTC is an independent agency of the United States Government created by the FTC Act, which authorizes the FTC to commence this district court civil action by its own attorneys.   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.

## DEFENDANT

5.      Defendant Kochava Inc. ("Kochava") is a Delaware corporation with its principal place of business at 201 Church Street, Sandpoint, Idaho 83864.   Kochava transacts or has transacted business in this District and throughout the United States.

## COMMERCE

6.      At all times relevant to this Complaint, Defendant has 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.

## DEFENDANT'S BUSINESS ACTIVITIES

### Kochava Sells Precise Location Information for Hundreds of Millions of Mobile Devices

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7.      Kochava is, among other things, a location data broker that provides its customers massive amounts of precise geolocation data collected from consumers' mobile devices. Through Kochava's services, customers can "[l]icense premium data" including the "precision location" of a consumer's mobile device.

8.      Kochava collects a wealth of information about consumers and their mobile devices by, among other means, purchasing data from other data brokers to sell to its own customers.

9.      Kochava then sells customized data feeds to its clients to, among other purposes, assist in advertising and analyzing foot traffic at stores or other locations.   Among other categories, Kochava sells timestamped latitude and longitude coordinates showing the location of mobile devices.   For example, in the Amazon Web Services ("AWS") Marketplace, a website through which customers could subscribe to Kochava's data feed until approximately June 2022, Kochava displayed the following table explaining the data it sells:

| Field name | Description | Example | Data type |
|---|---|---|---|
| device_id_value | Unique device ID associated with the device | - | string |
| device_id_type | Device type associated with the device ( IDFA and ADID only ) | - | string |
| activity_timestamp | Timestamp of when the device hits the location | - | timestamp |
| latitude | Precise latitude of the device | - | string |
| longitude | Precise longitude of the device | - | string |
| horizontal_accuracy | Horizontal accuracy of the precision of the lat and lon ( in meters) | - | string |
| ip_address | IP Address of the device | - | string |

10.      As noted in Kochava's explanation, each pair of timestamped latitude and longitude coordinates is associated with a "device_id_value," which is also known as a Mobile Advertising ID ("MAID").   A MAID is a unique identifier assigned to a consumer's mobile

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device to assist marketers in advertising to the consumer.   Although a MAID may be changed

by a consumer, doing so requires the consumer to proactively reset the MAID on the consumer's

mobile device.

11.      In describing its product in the online marketplace, Kochava has asserted that it

offers "rich geo data spanning billions of devices globally."   It has further claimed that its

location data feed "delivers raw latitude/longitude data with volumes around 94B+ geo

transactions per month, 125 million monthly active users, and 35 million daily active users, on

average observing more than 90 daily transactions per device."

### Kochava Provides Public Access to Consumers' Location Data

12.      Kochava has sold access to its data feeds on online data marketplaces that are

publicly accessible.   Kochava typically charges a monthly subscription fee of thousands of

dollars to access its location data feed but has also offered a free sample (the "Kochava Data

Sample").   Kochava has made the Kochava Data Sample publicly available with only minimal

steps and no restrictions on usage.

13.      For example, the Kochava Data Sample was available on the AWS Marketplace

until approximately June 2022.   In order to access the Kochava Data Sample on the AWS

Marketplace, a purchaser needed a free AWS account.   A purchaser would then search the AWS

marketplace for "Kochava," which resulted in two available datasets appearing – a $25,000

location data feed subscription and the Kochava Data Sample.

14.      The Kochava Data Sample consisted of a subset of the paid data feed, covering a

rolling seven-day period.   It was formatted as a text file, which could be converted into a

spreadsheet.   Put into a spreadsheet, one day of the Kochava Data Sample contained over

327,480,000 rows and 11 columns of data, corresponding to over 61,803,400 unique mobile

devices.

15.     When an AWS purchaser clicked on the "subscribe" button for the Kochava Data

Sample feed, the purchaser was directed to a screen that included a "Subscription terms"

notification that stated that the Kochava Data Sample "has been marked by the provider [*i.e.,*

Kochava] as containing sensitive categories of information:"

**2a. Subscription terms**

ⓘ This product has been published as part of the Extended Provider Program and has been marked by the provider as containing sensitive categories of information. The Extended Provider Program is in Preview and subject to Section 2 of the AWS Service Terms ☑ ("Betas and Previews").

By submitting this subscription request, you agree that your use of this product is subject to the provider's offer terms including pricing information and Data Subscription Agreement ☑.

You also agree and acknowledge that AWS may share information about this transaction (including your payment terms and product usage metrics) with the respective seller, reseller or underlying provider, as applicable, in accordance with the AWS Privacy Notice ☑. AWS will issue invoices and collect payments from you on behalf of the provider through your AWS account. Your use of AWS services remains subject to the AWS Customer Agreement ☑ or other agreement with AWS governing your use of such services.

16.     Below this notice, a form was displayed, requesting the purchaser's company

name, name of the purchaser, email address, and intended use case:

**Company name**
The legal entity that will use the product.

| AnyCompany |

0 out of 40 characters maximum.

**Name**
The name of the company's contact person.

| Jane Doe |

0 out of 40 characters maximum.

**Email address**
The email address of the company's contact person.

| janedoe@example.com |

0 out of 100 characters maximum.

**Intended use case**
Your intended use case for the data product, including any comments that the provider might find relevant to approving your subscription request.

| We will be using this data product for an academic research project supervised by Jane Doe. |

0 out of 500 characters maximum.

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