

## Nomi Settles with FTC Concerning Tracking of Consumers Inside Retail Stores

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On April 23, 2015, Nomi Technologies (Nomi) entered into an [agreement](#) to settle with the Federal Trade Commission (FTC) regarding allegations that Nomi misled consumers concerning its retail tracking inside stores. The FTC's [complaint](#) against Nomi alleges that the retailer violated the FTC Act in connection with their placement of sensors in its clients' retail locations that detect the media access control (MAC) addresses broadcast by consumers' mobile devices.

The FTC maintained that Nomi collects information from consumers' mobile devices in order to provide analytics reports to its clients on how the consumer physically moves around the store. While Nomi indicated that it does not store the consumers mobile devices' MAC addresses, it does, according to the complaint, assign a persistent unique identifier to each mobile device so that it can remember the device.

According to the FTC, between January 2013 to September 2013, Nomi collected information about 9 million unique mobile devices. The FTC stated that Nomi's privacy policy promised consumers that there would be an opt-out mechanism at these stores and that consumers would be informed whether a store was using a tracking technology upon entering the store. However, the FTC argued that Nomi only allowed an opt out if consumers provided their MAC address on the Nomi website and no opt out was made available at the physical store. In the settlement agreement, while not admitting to any of the FTC allegations, Nomi has agreed not to misrepresent how customers' options are provided in its privacy policies. Further, the agreement provides that Nomi must file a report within 90 days to the FTC with respect to its compliance with the order.

**TIP: This settlement serves as a reminder that FTC is active in its enforcement of statements contained in privacy policies, including in connection with emerging technologies. Retailers should review the FTC's recent guidance for [mobile device tracking](#) as well as [industry guidance](#) on the suggested code of conduct concerning mobile device tracking.**

1 Min Read

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## Related Locations

Chicago

## Related Topics

Consumer Privacy

## Related Capabilities

Privacy & Data Security

## Related Regions

North America

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