

**CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

LINDABETH RIVERA, JOSEPH WEISS,
MICHAEL AZZANO, BRANDON
MOLANDER, and NICHOLAS MARQUEZ,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

GOOGLE LLC, a Delaware limited liability
company,

Serve Registered Agent:
2400 Bayshore Pkwy
Mountain View, California 94043

Defendant.

Case No. 2019-CH-00990

Hon. Anna M. Loftus

(JURY TRIAL DEMANDED)

CONSOLIDATED CLASS ACTION COMPLAINT

Plaintiffs Lindabeth Rivera, Joseph Weiss, Michael Azzano, Brandon Molander, and Nicholas Marquez (collectively, “Plaintiffs”), individually and on behalf of all others similarly situated, by and through their attorneys, bring this class action complaint pursuant to 735 ILCS 5/2-801, *et seq.*, against Google LLC (“Google”), for violations of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* (“BIPA”), and allege as follows:

NATURE OF ACTION

1. Plaintiffs bring this action for damages and other legal and equitable remedies resulting from the illegal actions of Google in collecting, storing and using Plaintiffs’ and other

similarly situated individuals' biometric identifiers¹ and biometric information² (collectively, "biometrics") without informed written consent, in direct violation of the BIPA.

2. The Illinois Legislature has found that "[b]iometrics are unlike other unique identifiers that are used to access finances or other sensitive information." 740 ILCS 14/5(c). "For example, social security numbers, when compromised, can be changed. Biometrics, however, are biologically unique to the individual; therefore, once compromised, the individual has no recourse, is at heightened risk for identity theft, and is likely to withdraw from biometric-facilitated transactions." *Id.*

3. In recognition of these concerns over the security of individuals' biometrics – particularly in the City of Chicago, which was selected by major national corporations as a "pilot testing site[]" for new applications of biometric-facilitated financial transactions, including finger-scan technologies at grocery stores, gas stations, and school cafeterias" (740 ILCS 14/5(b)) – the Illinois Legislature enacted the BIPA, which provides, *inter alia*, that a private entity like Google may not obtain and/or possess an individual's biometrics unless it: (1) informs that person in writing that biometric identifiers or information will be collected or stored, *see id.*; (2) informs that person in writing of the specific purpose and length of term for which such biometric identifiers or biometric information is being collected, stored and used, *see id.*; (3) receives a written release from the person for the collection of his or her biometric identifiers or information, *see id.*; and (4) publishes publicly available written retention schedules and guidelines for permanently destroying biometric identifiers and biometric information. 740 ILCS 14/15(a).

¹ "Biometric identifiers" include fingerprints, iris scans, DNA and scans of "face geometry," among others.

² "Biometric information" is any information captured, converted, stored, or shared based on a person's biometric identifier used to identify an individual.

4. In direct violation of each of the foregoing provisions of § 15(a) and § 15(b) of the BIPA, Google is actively collecting, storing, and using — without providing notice, obtaining informed written consent or publishing data retention policies — the biometrics of millions of unwitting individuals whose faces appear in photographs uploaded to Google Photos in Illinois.

5. Specifically, Google has created, collected and stored, in conjunction with its cloud-based “Google Photos” service, millions of “face templates” (or “face models”) — highly detailed geometric maps of the face — from millions of Google Photos users. Google creates these templates using sophisticated facial recognition technology that extracts and analyzes data from the points and contours of faces that appear in photos taken on Google “Droid” devices and uploaded to the cloud-based Google Photos service. Each face template that Google extracts is unique to a particular individual, in the same way that a fingerprint or voiceprint is unique to one and only one person.

6. Plaintiffs bring this action individually and on behalf of all others similarly situated to prevent Google from further violating the statutory rights of Google Photos users as well as those whose faces appear in photographs uploaded by users to Google Photos in Illinois, and to recover statutory damages for Google’s unauthorized collection, storage, and use of these individuals’ biometrics in violation of the BIPA.

PARTIES

7. Plaintiff Rivera is, and has been at all relevant times, a resident and citizen of Chicago, Illinois.

8. Plaintiff Weiss was a resident of Chicago, Illinois at all relevant times until in or around August 2016. Since August 2016, Plaintiff Weiss has been a resident of Banner Elk, North Carolina.

9. Plaintiff Azzano is, and has been at all relevant times, a resident and citizen of Illinois.

10. Plaintiff Molander is, and has been at all relevant times, a resident and citizen of Illinois.

11. Plaintiff Marquez is, and has been at all relevant times, a resident and citizen of Illinois.

12. Google is a Delaware limited liability company with its headquarters at 1600 Amphitheatre Parkway, Mountain View, California 94043. Accordingly, Google is a citizen of the states of Delaware and California.

JURISDICTION AND VENUE

13. This is a class action complaint for violations of BIPA, seeking statutory and actual damages.

14. No federal question is presented by this complaint. Plaintiffs bring this complaint solely under state law and not under federal law, and specifically not under the United States Constitution, nor any of its amendments, nor under 42 U.S.C. § 1981 or 1982, nor any other federal statute, law, rule, or regulation. Plaintiffs believe and allege that a cause of action exists under state law for the conduct complained of herein.

15. This class action is brought on behalf of all individuals in Illinois who had their biometric identifiers, including scans of face geometry, collected, captured, received, or otherwise obtained by Google from photographs in Google Photos.

16. Venue is proper under 735 ILCS 5/1-108 and 2-101 of the Illinois Code of Civil Procedure, as a substantial portion of the transactions giving rise to the causes of action pleaded

herein occurred in Cook County. Specifically, upon information and belief, the activities giving rise to the causes of action occurred within the city of Chicago, Illinois.

FACTUAL BACKGROUND

I. Biometric Technology Implicates Consumer Privacy Concerns

17. “Biometrics” refers to an individual’s unique physical characteristics. One of the most prevalent uses of biometrics is in facial recognition technology, which works by scanning a human face or an image thereof, extracting facial feature data based on specific “biometric identifiers” (*i.e.*, details about the face’s geometry as determined by facial points and contours), and comparing the resulting “face template” (or “faceprint”) against the face templates stored in a “face template database.” If a database match is found, an individual may be identified.

18. The use of facial recognition technology in the commercial context presents numerous consumer privacy concerns. During a 2012 hearing before the United States Senate Subcommittee on Privacy, Technology, and the Law, U.S. Senator Al Franken stated that “there is nothing inherently right or wrong with [facial recognition technology, but] if we do not stop and carefully consider the way we use [it], it may also be abused in ways that could threaten basic aspects of our privacy and civil liberties.”³ Senator Franken noted, for example, that facial recognition technology could be “abused to not only identify protesters at political events and rallies, but to target them for selective jailing and prosecution.”⁴

³ *What Facial Recognition Technology Means for Privacy and Civil Liberties: Hearing Before the Subcomm. on Privacy, Tech. & the Law of the S. Comm. on the Judiciary*, 112th Cong. 1 (2012), available at https://www.eff.org/files/filenode/jenniferlynch_eff-senate-testimony-face_recognition.pdf (last visited Mar. 1, 2016).

⁴ *Id.*

19. The Federal Trade Commission (“FTC”) has raised similar concerns, and released a “Best Practices” guide for companies using facial recognition technology.⁵ In the guide, the Commission underscores the importance of companies’ obtaining affirmative consent from consumers before extracting and collecting their biometric identifiers and biometric information from digital photographs.

20. In the wake of the May 2018 enactment of the European Union’s General Data Protection Regulation (“GDPR”), the French government fined Google approximately \$57 million for allegedly failing to clearly explain how it uses consumers’ personal information. France alleged Google violated the GDPR by failing to (1) concisely present consumers with essential information regarding how it processed their data, with consumers needing to navigate five to six steps to discover data collection and retention details, and (2) obtain informed consent from consumers to process their data, with consumers lacking requisite understanding of the exact nature of their consent and were not required to provide consent for each specified use of their data.⁶

21. As explained below, Google failed to obtain consent from anyone when it introduced its facial recognition technology. Not only do the actions of Google fly in the face of FTC guidelines, they also violate the privacy rights of individuals appearing in photos uploaded to Google Photos in Illinois.

⁵ *Facing Facts: Best Practices for Common Uses of Facial Recognition Technologies*, Federal Trade Commission (Oct. 2012), available at <http://www.ftc.gov/sites/default/files/documents/reports/facing-facts-best-practices-common-uses-facial-recognition-technologies/121022facialtechrpt.pdf> (last visited Mar. 1, 2016).

⁶ *Google Fined \$57 Million in First Major Enforcement of GDPR Against a US-based Company*, National Law Review (Jan. 23, 2019), available at <https://www.natlawreview.com/article/google-fined-57-million-first-major-enforcement-gdpr-against-us-based-company> (last visited Jan. 23, 2019).

II. Illinois' Biometric Information Privacy Act

22. In 2008, Illinois enacted the BIPA due to the “very serious need [for] protections for the citizens of Illinois when it [comes to their] biometric information.” Illinois House Transcript, 2008 Reg. Sess. No. 276. The BIPA makes it unlawful for a company to, *inter alia*, “collect, capture, purchase, receive through trade, or otherwise obtain a person’s or a customer’s biometric identifiers⁷ or biometric information, unless it first:

(1) informs the subject . . . in writing that a biometric identifier or biometric information is being collected or stored;

(2) informs the subject . . . in writing of the specific purpose and length of term for which a biometric identifier or biometric information is being collected, stored, and used; and

(3) receives a written release executed by the subject of the biometric identifier or biometric information or the subject’s legally authorized representative.”

740 ILCS 14/15 (b).

23. Section 15(a) of the BIPA also provides:

A private entity in possession of biometric identifiers or biometric information must develop a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within 3 years of the individual’s last interaction with the private entity, whichever occurs first.

740 ILCS 14/15(a).

24. As alleged below, Google’s practices of collecting, storing, and using Illinois residents’ biometric identifiers and information derived from photographs in Google Photos

⁷ BIPA’s definition of “biometric identifier” expressly includes information collected about the geometry of the face (i.e., facial data obtained through facial recognition technology). *See* 740 ILCS 14/10.

without informed written consent violate all three prongs of § 15(b) of the BIPA. Google's failure to provide a publicly available written policy regarding their schedule and guidelines for the retention and permanent destruction of individuals' biometric information also violates § 15(a) of the BIPA.

III. Google Violates Illinois' Biometric Information Privacy Act

25. In May 2015, Google announced the release of its photo sharing and storage service called Google Photos. Users of Google Photos upload millions of photos per day, making photographs a vital part of the Google experience.

26. The Google Photos app, which comes pre-installed on all Google Droid devices, is set by default to automatically upload all photos taken by the Droid device user to the cloud-based Google Photos service. Users can also connect other devices to Google Photos to upload and access photos on the cloud-based service.

27. Unbeknownst to the average consumer, and in direct violation of § 15(b)(1) of the BIPA, Google's proprietary facial recognition technology scans each and every photo uploaded to the cloud-based Google Photos for faces, extracts geometric data relating to the unique points and contours (*i.e.*, biometric identifiers) of each face, and then uses that data to create and store a template of each face — all without ever informing anyone of this practice.⁸

28. The cloud-based Google Photos service uses these face templates to organize and group together photos based upon the particular individuals appearing in the photos. This technology works by comparing the face templates of individuals who appear in newly uploaded photos with the facial templates already saved in Google's face database. Specifically, when a

⁸ Google holds several patents covering its facial recognition technology that detail its illegal process of scanning photos for biometric identifiers and storing face templates in its database without obtaining informed written consent.

Google Photos user uploads a new photo, Google's sophisticated facial recognition technology creates a template for each face detected therein, without consideration for whether a particular face belongs to a Google Photos user or unwitting non-user, and then compares each template against Google's face template database. If there is a match, then Google groups the photo from which the newly uploaded face template was derived with the previously uploaded photos depicting that individual.

29. These unique face templates are not only collected and used by Google Photos to identify individuals, but also to recognize their gender, age, and location. Accordingly, Google also collects "biometric information" from users and non-users. *See* 740 ILCS 14/10.

30. In direct violation of §§ 15(b)(2) and 15(b)(3) of the BIPA, Google never informed Illinois residents who had their face templates collected of the specific purpose and length of term for which their biometric identifiers or information would be collected, stored, and used, nor did Google obtain a written release from any of these individuals.

31. In direct violation of § 15(a) of the BIPA, Google does not have written, publicly available policies identifying their retention schedules, or guidelines for permanently destroying any of these biometric identifiers or information.

IV. Plaintiff Rivera's Experience

32. Plaintiff Rivera does not have, and has never had, a Google Droid device or a Google Photos account. Plaintiff Rivera does not use, and has never used, a Google Droid device or a Google Photos account.

33. Between 2015 and 2016, a Google Photos user who resides in Illinois took several photos of Plaintiff Rivera in the state of Illinois using a Google Droid device that Google shipped into, and was purchased in, the state of Illinois. The Google Droid device on which these photos

of Plaintiff Rivera were captured automatically uploaded the photos to the cloud-based Google Photos service.

34. Upon upload to the cloud-based Google Photos storage service, Google analyzed these photos by automatically locating and scanning Plaintiff Rivera's face, and by extracting geometric data relating to the contours of her face and the distances between her eyes, nose, and ears — data which Google then used to create a unique template of Plaintiff Rivera's face.

35. The resulting unique face template was used by Google to locate and group together all photos depicting Plaintiff Rivera for organizational purposes.

36. Google also used Plaintiff Rivera's face template to recognize her gender, age, race and location.

37. Plaintiff Rivera never consented, agreed or gave permission — written or otherwise — to Google for the collection or storage of her unique biometric identifiers or biometric information.

38. Further, Google never provided Plaintiff Rivera with, nor did she ever sign, a written release allowing Google to collect or store her unique biometric identifiers or biometric information.

39. Likewise, Google never provided Plaintiff Rivera with an opportunity to prohibit or prevent the collection, storage, or use of her unique biometric identifiers or biometric information.

40. Nevertheless, when a Google Photos user took and uploaded photos of Plaintiff Rivera, Google located Plaintiff Rivera's face in the photos, scanned Plaintiff Rivera's facial geometry, and created a unique face template corresponding to Plaintiff Rivera, all in direct violation of BIPA.

V. Plaintiff Weiss's Experience

41. In approximately November 2013, Plaintiff Weiss purchased a Google Droid device from a retail location in Illinois. In approximately July 2015, Plaintiff Weiss purchased another Google Droid device from a retail location in Illinois.

42. Since purchasing his Google Droid devices, Plaintiff Weiss used those Droid devices to take and upload numerous photos in the state of Illinois to his cloud-based Google Photos account.

43. Plaintiff Weiss's Google Photos account contains dozens of photos depicting Plaintiff Weiss that were taken with his Droid devices and automatically uploaded in Illinois to Google Photos by his Droid devices. These photos were all uploaded to the cloud-based Google Photos service while the Google Droid device was located in the state of Illinois and assigned an Illinois-based IP address.

44. Immediately upon upload to the cloud-based Google Photos storage service, Google analyzed these photos by automatically locating and scanning Plaintiff Weiss's face, and by extracting geometric data relating to the contours of his face and the distances between his eyes, nose, and ears — data which Google then used to create a unique template of Plaintiff Weiss's face.

45. The resulting unique face template was used by Google to locate and group together all photos depicting Plaintiff Weiss for organizational purposes.

46. Google also used Plaintiff Weiss's face template to recognize his gender, age, race, and location.

47. Plaintiff Weiss never consented, agreed, or gave permission — written or otherwise — to Google for the collection or storage of his unique biometric identifiers or biometric information.

48. Further, Google never provided Plaintiff Weiss with, nor did he ever sign, a written release allowing Google to collect or store his unique biometric identifiers or biometric information.

49. Likewise, Google never provided Plaintiff Weiss with an opportunity to prohibit or prevent the collection, storage, or use of his unique biometric identifiers or biometric information.

50. Nevertheless, when photos of Plaintiff Weiss were automatically uploaded to Google Photos from within the state of Illinois, Google located Plaintiff Weiss's face in the photos, scanned Plaintiff Weiss's facial geometry, and created a unique face template corresponding to Plaintiff Weiss, all in direct violation of the BIPA.

VI. Plaintiff Azzano's Experience

51. Plaintiff Azzano first signed up for a Google Photos more than five years ago.

52. Since first signing up, Plaintiff Azzano has used his smart phone devices to take and upload numerous photos in the state of Illinois to his cloud-based Google Photos account.

53. Plaintiff Azzano's Google Photos account contains dozens of photos depicting Plaintiff Azzano that were taken with his smart phone and automatically uploaded in Illinois to Google Photos. These photos were all uploaded to the cloud-based Google Photos service while his smart phone was located in the state of Illinois and assigned an Illinois-based IP address.

54. Immediately upon upload to the cloud-based Google Photos storage service, Google analyzed these photos by automatically locating and scanning Plaintiff Azzano's face, and

by extracting geometric data relating to the contours of his face and the distances between his eyes, nose, and ears — data which Google then used to create a unique template of Plaintiff Azzano’s face.

55. The resulting unique face template was used by Google to locate and group together all photos depicting Plaintiff Azzano.

56. Google also used Plaintiff Azzano’s face template to recognize his gender, age, race, and location.

57. Plaintiff Azzano never consented, agreed or gave permission — written or otherwise — to Google for the collection or storage of his unique biometric identifiers or biometric information.

58. Further, Google never provided Plaintiff Azzano with, nor did he ever sign, a written release allowing Google to collect or store his unique biometric identifiers or biometric information.

59. Likewise, Google never provided Plaintiff Azzano with an opportunity to prohibit or prevent the collection, storage, or use of his unique biometric identifiers or biometric information.

60. Nevertheless, when photos of Plaintiff Azzano were automatically uploaded to Google Photos from within the state of Illinois, Google located Plaintiff Azzano's face in the photos, scanned Plaintiff Azzano’s facial geometry, and created a unique face template corresponding to Plaintiff Azzano, all in direct violation of the BIPA.

VII. Plaintiff Molander’s Experience

61. Plaintiff Molander first signed up for a Google Photos account more than five years ago.

62. Since first signing up, Plaintiff Molander has used his smart phone devices to take and upload numerous photos in the State of Illinois to his cloud-based Google Photos account.

63. Plaintiff Molander's Google Photos account contains dozens of photos depicting Plaintiff Molander that were taken with his smart phone and automatically uploaded in Illinois to Google Photos. These photos were all uploaded to the cloud-based Google Photos service while his smart phone was located in the state of Illinois and assigned an Illinois-based IP address.

64. Immediately upon upload to the cloud-based Google Photos storage service, Google analyzed these photos by automatically locating and scanning Plaintiff Molander's face, and by extracting geometric data relating to the contours of his face and the distances between his eyes, nose, and ears — data which Google then used to create a unique template of Plaintiff Molander's face.

65. The resulting unique face template was used by Google to locate and group together all photos depicting Plaintiff Molander.

66. Plaintiff Molander's face template was also used by Google to recognize Plaintiff Molander's gender, age, race, and location.

67. Plaintiff Molander never consented, agreed or gave permission — written or otherwise — to Google for the collection or storage of his unique biometric identifiers or biometric information.

68. Further, Google never provided Plaintiff Molander with, nor did he ever sign, a written release allowing Google to collect or store his unique biometric identifiers or biometric information.

69. Likewise, Google never provided Plaintiff Molander with an opportunity to prohibit or prevent the collection, storage, or use of his unique biometric identifiers or biometric information.

70. Nevertheless, when photos of Plaintiff Molander were automatically uploaded to Google Photos from within the state of Illinois, Google located Plaintiff Molander's face in the photos, scanned Plaintiff Molander's facial geometry, and created a unique face template corresponding to Plaintiff Molander all in direct violation of BIPA.

VIII. Plaintiff Marquez's Experience

71. During the time period relevant to this action, Plaintiff Marquez purchased a Google Android device from a retail location in Illinois and, using that device, enrolled his preexisting Google account in the Google Photos service, which then became automatically linked to his Android device.

72. While residing in Peotone, Illinois, Plaintiff Marquez has used his Google Android device to take numerous photos of himself, depicting his face, in the state of Illinois. Upon taking these photos, his Android device automatically uploaded the photos to his cloud-based Google Photos account. These photos were all uploaded to the cloud-based Google Photos service while the Google Android device was located in the State of Illinois from an Illinois-based IP address.

73. Immediately upon upload to the cloud-based Google Photos storage service, Google analyzed these photos, automatically located and scanned Plaintiff Marquez's face, extracted geometric data relating to the contours of his face and the distances between his eyes, nose, and ears, and then used that data pertaining to his facial geometry to create a unique template of his face.

74. The resulting unique face template was used by Google to locate and group together all photos depicting Plaintiff Marquez.

75. Google also used Plaintiff Marquez's face template to recognize his gender, age, race, and location.

76. Plaintiff Marquez never consented, agreed or gave permission — written or otherwise — to Google for the collection or storage of his unique biometric identifiers or biometric information.

77. Further, Google never provided Plaintiff Marquez with, nor did he ever sign, a written release allowing Google to collect or store his unique biometric identifiers or biometric information.

78. Likewise, Google never provided Plaintiff Marquez with an opportunity to prohibit or prevent the collection, storage, or use of his unique biometric identifiers or biometric information.

CLASS ALLEGATIONS

79. **Class Definition:** Plaintiffs bring this action pursuant to 735 ILCS 5/2-801, individually and on behalf of a class of similarly situated individuals, defined as follows (the "Class"):

All Illinois residents who appeared in a photograph in Google Photos at any time between May 1, 2015 and the present date.

The following are excluded from the Class: (1) any Judge presiding over this action and members of her or his family; (2) Google, Google's subsidiaries, parents, successors, predecessors, and any entity in which Google or its parent has a controlling interest (as well as current or former employees, officers and directors); (3) persons who properly execute and file a timely request for exclusion from the Class; (4) persons whose claims in this matter have been

finally adjudicated on the merits or otherwise released; (5) Plaintiffs' counsel and Google's counsel; and (6) the legal representatives, successors, and assigns of any such excluded persons.

80. **Numerosity:** The number of persons within the Class is substantial, believed to amount to millions of persons. It is, therefore, impractical to join each member of the Class as named plaintiffs. Further, the size and relatively modest value of the claims of the individual members of the Class renders joinder impractical. Accordingly, utilization of the class action mechanism is the most economically feasible means of determining and adjudicating the merits of this litigation.

81. **Commonality and Predominance:** There are well-defined common questions of fact and law that exist as to all members of the Class and that predominate over any questions affecting only individual members of the Class. These common legal and factual questions, which do not vary from Class member to Class member, and which may be determined without reference to the individual circumstances of any class member include, but are not limited to, the following:

- (a) whether Google collected or otherwise obtained Plaintiffs' and the Class's biometric identifiers or biometric information;
- (b) whether Google properly informed Plaintiffs and the Class that it collected, used, and stored their biometric identifiers or biometric information;
- (c) whether Google obtained a written release (as defined in 740 ILCS 14/10) to collect, use, and store Plaintiffs' and the Class's biometric identifiers or biometric information;
- (d) whether Google developed a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within 3 years of their last interaction, whichever occurs first;
- (e) whether Google used Plaintiffs' and the Class's biometric identifiers or biometric information to identify them; and
- (f) whether Google's violations of the BIPA were committed intentionally, recklessly, or negligently.

82. **Adequate Representation:** Plaintiffs have retained and are represented by qualified and competent counsel who are highly experienced in complex consumer class action litigation. Plaintiffs and their counsel are committed to vigorously prosecuting this class action. Neither Plaintiffs nor their counsel have any interest adverse to, or in conflict with, the interests of the absent members of the Class. Plaintiffs are able to fairly and adequately represent and protect the interests of such a Class. Plaintiffs have raised viable statutory claims of the type reasonably expected to be raised by members of the Class, and will vigorously pursue those claims. If necessary, Plaintiffs may seek leave of this Court to amend this Class Action Complaint to include additional Class representatives to represent the Class or additional claims as may be appropriate.

83. **Superiority:** A class action is superior to other available methods for the fair and efficient adjudication of this controversy because individual litigation of the claims of all Class members is impracticable. Even if every member of the Class could afford to pursue individual litigation, the Court system could not. It would be unduly burdensome to the courts in which individual litigation of numerous cases would proceed. Individualized litigation would also present the potential for varying, inconsistent, or contradictory judgments, and would magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same factual issues. By contrast, the maintenance of this action as a class action, with respect to some or all of the issues presented herein, presents few management difficulties, conserves the resources of the parties and of the court system and protects the rights of each member of the Class. Plaintiffs anticipate no difficulty in the management of this action as a class action. Class-wide relief is essential to compel compliance with the BIPA.

FIRST CAUSE OF ACTION
Violation of 740 ILCS 14/1, *et seq.*
(On Behalf of Plaintiffs and the Class)

84. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.

85. The BIPA makes it unlawful for any private entity to, among other things, “collect, capture, purchase, receive through trade, or otherwise obtain a person’s or a customer’s biometric identifiers or biometric information, unless it first: (1) informs the subject . . . in writing that a biometric identifier or biometric information is being collected or stored; (2) informs the subject . . . in writing of the specific purpose and length of term for which a biometric identifier or biometric information is being collected, stored, and used; and (3) receives a written release executed by the subject of the biometric identifier or biometric information” 740 ILCS 14/15(b) (emphasis added).

86. Google is a Delaware limited liability company and thus qualifies as a “private entity” under the BIPA. *See* 740 ILCS 14/10.

87. Plaintiffs and Class members are individuals who had their “biometric identifiers,” including scans of face geometry, collected, captured, received, or otherwise obtained by Google from photographs that were uploaded to Google Photos from within the state of Illinois. *See* 740 ILCS 14/10.

88. Plaintiffs and Class members are individuals who had their “biometric information” collected by Google (in the form of their gender, age and location) through Google’s collection and use of their “biometric identifiers.”

89. Google systematically and automatically collected, used, and stored Plaintiffs’ and Class members’ biometric identifiers and/or biometric information without first obtaining the written release required by 740 ILCS 14/15(b)(3).

90. Google failed to properly inform Plaintiffs or the Class in writing that their biometric identifiers and/or biometric information were being “collected or stored” on Google Photos, nor did Google inform Plaintiffs or Class members in writing of the specific purpose and length of term for which their biometric identifiers and/or biometric information were being “collected, stored and used” as required by 740 ILCS 14/15(b)(1)-(2).

91. In addition, Google is in possession of biometric identifiers and biometric information but failed to publicly provide a retention schedule or guidelines for permanently destroying the biometric identifiers and/or biometric information of Plaintiffs or Class members, as required by the BIPA. *See* 740 ILCS 14/15(a).

92. By collecting, storing, and using Plaintiffs’ and the Class’s biometric identifiers and biometric information as described herein, Google violated the rights of Plaintiffs and each Class member to keep private these biometric identifiers and biometric information, as set forth in the BIPA.

93. Individually and on behalf of the proposed Class, Plaintiffs seek: (1) injunctive and equitable relief as is necessary to protect the interests of Plaintiffs and the Class by requiring Google to comply with the BIPA’s requirements for the collection, storage, and use of biometric identifiers and biometric information as described herein; (2) statutory damages of \$5,000.00 for the intentional and reckless violation of the BIPA pursuant to 740 ILCS 14/20 (2), or alternatively, statutory damages of \$1,000.00 pursuant to 740 ILCS 14/20(1) if the Court finds that Google’s violations were negligent; and (3) reasonable attorneys’ fees and costs and other litigation expenses pursuant to 740 ILCS 14/20(3).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of the proposed Class, respectfully request that this Court enter an Order:

A. Certifying this case as a class action on behalf of the Class defined above, appointing Plaintiffs as representatives of the Class, and appointing their counsel as Class Counsel;

B. Declaring that Google's actions, as set out above, violate the BIPA, 740 ILCS 14/1, *et seq.*;

C. Awarding statutory damages of \$5,000.00 for each and every intentional and reckless violation of the BIPA pursuant to 740 ILCS 14/20(2), or alternatively, statutory damages of \$1,000.00 pursuant to 740 ILCS 14/20(1) if the Court finds that Google's violations were negligent;

D. Awarding injunctive and other equitable relief as is necessary to protect the interests of the Class, including, *inter alia*, an order requiring Google to collect, store, possess, and use biometric identifiers or biometric information in compliance with the BIPA;

E. Awarding Plaintiffs and the Class their reasonable litigation expenses and attorneys' fees;

F. Awarding Plaintiffs and the Class pre- and post-judgment interest, to the extent allowable; and

G. Awarding such other and further relief as equity and justice may require.

JURY TRIAL DEMAND

Plaintiffs demand a trial by jury for all issues so triable.

Dated: April 14, 2022

Respectfully submitted,

By: /s/ Robert Ahdoot
Robert Ahdoot

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