

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re: Clearview AI, Inc. Consumer
Privacy Litigation

)
)
) Civil Action No. 1:21-cv-00135
)
)
)

**AMICUS CURIAE BRIEF OF CENTER ON PRIVACY & TECHNOLOGY IN
SUPPORT OF PLAINTIFFS' OPPOSITION TO CLEARVIEW DEFENDANTS'
MOTION TO DISMISS**

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Cases	Page(s)
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<i>Bates v. City of Little Rock</i> , 361 U.S. 516 (1960)	7
<i>Brown v. Socialist Workers '74 Campaign Comm.</i> , 459 U.S. 87 (1982)	7
<i>Bryant v. Compass Group USA, Inc.</i> , 958 F.3d 617 (7th Cir. 2020)	15
<i>Buckley v. Am. Constitutional Law Found., Inc.</i> , 525 U.S. 182 (1999)	8
<i>Buckley v. Valeo</i> , 424 U.S. 1 (1976)	8
<i>McIntyre v. Ohio Elections Commission</i> , 514 U.S. 334 (1995)	7, 8
<i>NAACP v. Alabama</i> , 357 U.S. 449 (1958)	6, 7
<i>Patel v. Facebook, Inc.</i> , 932 F.3d 1264 (9th Cir. 2019)	2, 4
<i>Sorrell v. IMS Health Inc.</i> , 564 U.S. 552 (2011)	3
<i>Talley v. California</i> , 362 U.S. 60 (1960)	7
<i>Turner Broad. Sys., Inc. v. F.C.C.</i> , 512 U.S. 622 (1994)	3
<i>United States v. Jones</i> , 565 U.S. 400 (2012)	4
<i>United States v. O'Brien</i> , 391 U.S. 367 (1968)	2, 3

Watchtower Bible and Tract Society of New York v. Stratton,
536 U.S. 150 (2002) 8

Williams-Yulee v. Fla. Bar,
575 U.S. 433 (2015) 3

Statutes

740 ILCS 14/5(c) 14

740 ILCS 14/5(g) 2, 15

740 ILCS 14/15(b), (d) 1, 3

Other Authorities

Richard Adhikari, *ACLU Blasts Clearview AI's Facial Recognition Accuracy Claims*, ECT News Network, Feb. 14, 2020,
<https://www.technewsworld.com/story/86512.html> 11

Levi Boxell et al., Abstract, *Cross-Country Trends in Affective Polarization*,
Working Paper 26669, National Bureau of Economic Research, rev. June
2020, <https://www.nber.org/papers/w26669> 7

Sarah Lewis, *The Racial Bias Built Into Photography*, N.Y. Times, Apr. 25, 2019,
<https://www.nytimes.com/2019/04/25/lens/sarah-lewis-racial-bias-photography.html> 12

Philip Chertoff, *Facial Recognition Has Its Eye on the U.K.*, Lawfare, Feb. 7,
2020, <https://www.lawfareblog.com/facial-recognition-has-its-eye-uk> 5

Simon Denyer, *Beijing Bets on Facial Recognition in a Big Dive for Total Surveillance*, Washington Post, Jan. 7, 2018,
<https://www.washingtonpost.com/news/world/wp/2018/01/07/feature/in-china-facial-recognition-is-sharp-end-of-a-drive-for-total-surveillance> 5

Clare Garvie, *Garbage In, Garbage Out: Face Recognition on Flawed Data*,
Center on Privacy & Technology, Mar. 16, 2019,
<https://www.flawedfacedata.com/> 12, 13

Clare Garvie & Laura M. Moy, *America Under Watch: Face Surveillance in the United States*, Center on Privacy & Technology, May 16, 2019,
<https://www.americaunderwatch.com> 5

Dave Gershgorn, *Glasses Equipped With Facial Recognition Are Coming*,
OneZero, May 22, 2020, <https://onezero.medium.com/glasses-equipped-with-facial-recognition-are-coming-ac2ccfe2795a> 5

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