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

In re Clearview AI, Inc., Consumer Privacy Litigation This Document Relates to: 1:21-cv-3372	Civil Action File No.: 1:21-cv-00135 Judge Sharon Johnson Coleman Magistrate Judge Maria Valdez **JURY TRIAL DEMANDED**

FIRST AMENDED CLASS ACTION COMPLAINT

Plaintiff Andrea Vestrand ("Plaintiff"), individually and on behalf of all others similarly situated ("Plaintiff Class Members"), brings this First Amended Class Action Complaint against the following: (a) Clearview AI, Inc., formerly known as Smartcheckr Corp., Inc. ("Clearview"); (b) Hoan Ton-That; (c) Richard Schwartz; (d) Rocky Mountain Data Analytics LLC ("Rocky Mountain"); (e) Thomas Mulcaire; (f) Macy's, Inc.; (g) Macy's Retail Holdings, Inc., now known as Macy's Retail Holdings, LLC; (h) Macy's Corporate Services, Inc., now known as Macy's Corporate Services, LLC; (i) AT&T Inc. ("AT&T"); (j) Kohl's, Inc. ("Kohl's"); (k) Best Buy Stores, L.P. ("Best Buy"); (l) Albertsons Companies, LLC ("Albertsons"); (m) Walmart Inc. ("Walmart"); and (n) The Home Depot, Inc. ("Home Depot"). Plaintiff brings this First Amended Class Action Complaint against Defendants (f) through (n) (collectively, the "Client Defendants"), individually and as representatives of a defendant class comprised of all other private, non-governmental entities similarly situated to the Client Defendants (hereinafter, "Defendant Class Members"). Plaintiff complains and alleges as follows based on personal knowledge as to herself,

the investigation of her counsel, and information and belief as to all other matters, and demands a trial by jury.

NATURE OF THE ACTION

1.   Without providing any notice and without obtaining any consent, Defendants Clearview, Ton-That and Schwartz (collectively, the "Clearview Defendants") covertly scraped three billion photographs of facial images from the internet – including facial images of millions of American residents and then used artificial intelligence algorithms to scan the face geometry of each individual depicted in the photographs in order to harvest the individuals' unique biometric identifiers[1] and corresponding biometric information[2] (collectively, "Biometrics"). Further, the Clearview Defendants created a searchable biometric database (the "Biometric Database") that contained the above-described Biometrics and allowed users of the Biometric Database to identify unknown individuals merely by uploading a photograph to the database.

2.   The Clearview Defendants did not develop their technology out of a desire for a safer society. Rather, they developed their technology to invade the privacy of the American public for their own profit.

3.   While the Clearview Defendants have touted their actions and the Biometric Database as being helpful to law enforcement and other government agencies, the Clearview Defendants have made their Biometric Database available to public and private entities and persons, alike. What the Clearview Defendants' technology really offers is a massive surveillance state. Anyone utilizing the technology could determine the identities of people as they walk down

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[1] As used herein, "biometric identifier" is any personal feature that is unique to an individual, including fingerprints, iris scans, DNA and "face geometry," among others.

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

the street, attend a political rally or enjoy time in public with their families. One of Clearview's financial backers has conceded that Clearview may be laying the groundwork for a "dystopian future."

4.   Accordingly, Plaintiff, on behalf of herself and similarly situated individuals, brings this action for damages and other legal and equitable remedies resulting from the actions of the Clearview Defendants, the Client Defendants and Defendant Class Members for their unlawful creation and/or use of the Biometric Database consisting of the Biometrics of millions of American residents, including residents of California. As alleged below, Defendants' conduct violated, and continues to violate, a number of state statutory and constitutional rights, as well as common law rights, causing injury to Plaintiff and Plaintiff Class Members.

PARTIES

5.   Plaintiff Andrea Vestrand is, and at relevant times has been, a resident of California, residing in the Central District of California.

6.   Defendant Clearview AI, Inc., formerly known as Smartcheckr Corp., Inc., is a private, for-profit Delaware corporation, headquartered in New York, New York (Defendant and its predecessors, hereinafter "Clearview"). Clearview markets its technology throughout the United States, including in California. Moreover, Clearview obtains the images that underlie its technology from millions of internet-based platforms and websites, including, on information and belief, based on the magnitude of platforms and websites involved, platforms and websites of California companies or companies that operate servers in California. Clearview's business and unlawful practices extend nationwide, and it has disclosed the Biometrics of unsuspecting individuals to its clients around the country. Clearview continues to engage in this conduct to this day.

7.   Defendant Hoan Ton-That is a founder and the Chief Executive Officer of Clearview and an architect of its illegal scheme, as alleged herein. Ton-That's responsibilities at Clearview included, and continue to include, managing technology matters. At relevant times, Ton-That knew of, participated in, consented to, approved, authorized and directed the wrongful acts alleged in this First Amended Class Action Complaint.

8.   Defendant Richard Schwartz is a founder and the President of Clearview and an architect of its illegal scheme. Schwartz's responsibilities at Clearview included, and continue to include, managing sales. Schwartz knew of, participated in, consented to, approved, authorized, and directed the wrongful acts alleged in this First Amended Class Action Complaint.

9.   At relevant times, Defendant Thomas Mulcaire was an attorney licensed in California, Clearview's General Counsel and the Vice President of Defendant Rocky Mountain. Mulcaire provided a Rocky Mountain customer with his personal information in order to be paid directly for work performed by Rocky Mountain.

10.   Defendant Rocky Mountain Data Analytics LLC is a private, for-profit New Mexico limited liability company with its principal place of business in New Mexico. As alleged in more detail below, a unity of interest existed between Rocky Mountain, on the one hand, and Ton-That, Schwartz and Mulcaire on the other that caused the separate personalities of Rocky Mountain and Ton-That, Schwartz and Mulcaire to no longer exist. Further, as alleged in more detail below, Clearview is legally responsible for the actions and conduct of Rocky Mountain.

11.   At relevant times, Defendant Macy's, Inc. was a Delaware corporation, that held itself out to as "one of the nation's premier retailers" with approximately 680 department stores and over 100,00 employees. Among the department stores, several were stores located in California.

12. At relevant times, Defendant Macy's Retail Holdings, Inc., now known as Macy's Retail Holdings, LLC, was a New York corporation and wholly-owned subsidiary of Macy's, Inc. doing business in Illinois.

13. At relevant times, Defendant Macy's Corporate Services, Inc., now known as Macy's Corporate Services, LLC, was a New York Corporation and wholly-owned subsidiary of Macy's Retail Holdings, Inc. doing business in Illinois. Defendants Macy's, Inc.; Macy's Retail Holdings, Inc., now known as Macy's Retail Holdings, LLC; and Macy's Corporate Services, Inc., now known as Macy's Corporate Services, LLC, are hereinafter collectively referred to as "Macy's" or the "Macy's Entities."

14. Defendant AT&T Inc. is a Delaware corporation, headquartered Dallas, Texas, doing business in California.

15. Defendant Kohl's, Inc. is a Delaware corporation, headquartered in Menomonee Falls, Wisconsin, doing business in California.

16. Defendant Best Buy Stores, L.P. is a Minnesota corporation, headquartered in Richfield, Minnesota, doing business in California.

17. Defendant Albertsons Companies, LLC is a Delaware corporation, headquartered in Boise, Idaho, doing business in California.

18. Defendant Walmart Inc. is a Delaware corporation, headquartered in Bentonville, Arkansas, doing business in California.

19. Defendant The Home Depot, Inc. is a Delaware corporation, headquartered in Atlanta, Georgia, doing business in California.

JURISDICTION AND VENUE

20. This Court has original jurisdiction over this controversy pursuant to 28 U.S.C. § 1332(d) because there are more than 100 Plaintiff Class Members and the aggregate amount in

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