IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

SHELBY ZELONIS ROBERSON, *individually and on behalf of all others* *similarly situated*, Plaintiff, v. CLEARVIEW AI, INC., Defendant.	))))))) Civil Action No. _____)))))

CLASS ACTION COMPLAINT

Plaintiff Shelby Zelonis Roberson, by counsel, for her Class Action Complaint against

Defendant Clearview AI, Inc., states as follows:

NATURE OF THE CASE

1.   This is a class action brought under state law to redress the unauthorized use of

class members' photographs for purposes of trade in violation of Virginia Code § 8.01-40 and for

violations of the Virginia Computer Crimes Act.

2.   Specifically, Defendant Clearview AI, Inc., unlawfully has obtained the

photographs of class members without their consent and used them for a facial recognition

program for purposes of trade, i.e., to make a profit.

JURISDICTION AND VENUE

3.   Jurisdiction is proper under 28 U.S.C. § 1332(a) as the matter in controversy

exceeds the sum or value of $75,000, exclusive of interest and costs, and is between citizens of

different states.

4.   Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(2), as a substantial part of the events or omissions giving rise to the claims occurred in this judicial district. All members of the proposed class, including Plaintiff, resided in Virginia during the relevant time period, maintained their internet and social media accounts from Virginia, and uploaded many of the images at issue from Virginia.

<div align="center">PARTIES</div>

5.   Plaintiff is an adult individual and a resident of Fairfax County, Virginia, within this judicial district.

6.   Defendant Clearview AI, Inc. ("Clearview") is a Delaware corporation with its principal place of business in New York (although it does not appear to have filed the required Application for Authority with the New York Department of State, Division of Corporations).

<div align="center">FACTS</div>

7.   Clearview is a for-profit company that has "scraped" billions of photographs of individuals without their consent from the internet and loaded them into a database in order to use facial recognition technology to compare photographs of unknown individuals against its database of stolen photographs of known individuals. "Scraping" is the process of extracting large amounts of information from a website. This may be accomplished by downloading individual web pages or an entire site. The downloaded content may include the text from the pages, the full Hypertext Markup Language (commonly referred to as "HTML," which is a standardized system for coding text files to achieve font, color, graphic, and/or hyperlink effects), or both the HTML and images from each web page.

8.   The acquisition of the photographs violated the terms of service of the targeted internet sites.

9.   Clearview licenses its technology to public and private entities in exchange for a

fee.

10.   For the reasons stated below, these actions violated the rights of Virginia

residents, including Plaintiff and proposed class members, who uploaded their photographs to

these websites from Virginia.

<div align="center">PERTINENT PROVISIONS OF THE VIRGINIA CODE</div>

11.   Virginia Code § 8.01-40 provides:

> **Unauthorized use of name or picture of any person; punitive damages;**
> **statute of limitations.**
> A. Any person whose name, portrait, or picture is used without having first
> obtained the written consent of such person . . . *for the purposes of trade* . . . may
> maintain a suit in equity against the person, firm, or corporation so using such
> person's name, portrait, or picture to prevent and restrain the use thereof; and may
> also sue and recover damages for any injuries sustained by reason of such use.
> And if the defendant shall have knowingly used such person's name, portrait or
> picture in such manner as is forbidden or declared to be unlawful by this chapter,
> the jury, in its discretion, may award punitive damages.

Va. Code § 8.01-40(A) (emphasis added).

12.   Clearview has violated this provision by knowingly using the pictures of class

members without their written consent for the purposes of trade.

13.   The Virginia Computer Crimes Act, Va. Code § 18.2-152.1 *et seq.*, also prohibits

the actions taken by Clearview to steal the images of individuals in violation of the terms of

service of the internet websites from which it acquired those images and thereafter to use those

images for their for-profit facial recognition business.

14.   For each of the actions described below, the Virginia Computer Crimes Act

provides a private right of action as follows:

> A. Any person whose property or person is injured by reason of a violation of
> any provision of this article or by any act of computer trespass set forth in
> subdivisions A1 through A8 of § 18.2-152.4 regardless of whether such act is

committed with malicious intent may sue therefor and recover for any damages sustained and the costs of suit. Without limiting the generality of the term, "damages" shall include loss of profits.

* * *

E. The provisions of this article shall not be construed to limit any person's right to pursue any additional civil remedy otherwise allowed by law.

Va. Code § 152.12(A).

15. Clearview has committed multiple violations of the Virginia Computer Crimes Act.

16. ***First***, Virginia Code § 18.2-152.3 provides:

Computer fraud; penalty.
Any person who uses a computer or computer network, without authority and:

1. Obtains property or services by false pretenses;

2. Embezzles or commits larceny; or

3. Converts the property of another;

is guilty of the crime of computer fraud.

Va. Code § 18.2-152.3. Under the Virginia Computer Crimes Act, property is defined broadly to include the following:

"Property" shall include:

1. Real property;

2. Computers and computer networks;

3. Financial instruments, ***computer data***, computer programs, computer software ***and all other personal property*** regardless of whether they are:

a. Tangible or intangible;

b. In a format readable by humans or by a computer;

c. In transit between computers or within a computer network or between any devices which comprise a computer; or

d. Located on any paper or in any device on which it is stored by a computer or by a human; and

4. Computer services.

Va. Code § 18.2-152.2 (emphasis added).

17.   By "scraping" the images of class members in violation of the terms of service of

the websites and without the consent of class members, Clearview obtained property, as defined,

by false pretenses and also converted that property.

18.   *Second*, Virginia Code § 18.2-152.4 provides:

Computer trespass, penalty.
A. It shall be unlawful for any person . . . to:
                               *   *   *
6. Use a computer or computer network to make or cause to be made an unauthorized copy, in any form, including, but not limited to, any printed or electronic form of computer data, computer programs or computer software residing in, communicated by, or produced by a computer or computer network.

Va. Code § 18.2-152.4(A).

19.   By "scraping" the images of class members in violation of the terms of service of

the websites and without the consent of class members, Clearview used a computer or computer

network to make an unauthorized copy of computer data, namely the class members' images,

residing in a computer or computer network.

20.   *Third*, Virginia Code § 18.2-152.5 provides:

Computer invasion of privacy; penalties.
A. A person is guilty of the crime of computer invasion of privacy when he uses a computer or computer network and intentionally examines without authority any employment, salary, credit or any other financial *or identifying information, as defined in clauses (iii) through (xiii) of subsection C of § 18.2-186.3*, relating to any other person. "Examination" under this section requires the offender to review the information relating to any other person after the time at which the offender knows or should know that he is without authority to view the information displayed.

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