

YES /  NO  
EXHIBITS

CASE NO. 2020 CH 3291

DATE: 3/18/20

CASE TYPE: CLASS ACTION

PAGE COUNT: 11

CASE NOTE

BLACKHAWKS CASE

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**12-Person Jury**

Return Date: No return date scheduled  
Hearing Date: 7/16/2020 9:30 AM - 9:30 AM  
Courtroom Number: 2301  
Location: District 1 Court  
Cook County, IL

FILED  
3/18/2020 12:05 PM  
DOROTHY BROWN  
CIRCUIT CLERK  
COOK COUNTY, IL  
2020CH03291

**IN THE CIRCUIT COURT OF COOK COUNTY, IL – FIRST DISTRICT,  
COUNTY DEPARTMENT, CHANCERY DIVISION**

Keith Allen, and all other similarly situated individuals

8901924

Plaintiff,

v.

No. **2020CH03291**

The Chicago Blackhawks Hockey Team, Inc., and any and all other affiliated or subsidiary entities

Defendant.

**PLAINTIFF’S CLASS ACTION COMPLAINT**

Keith Allen (hereinafter known as “Mr. Allen”) files this Class Action Complaint against the Chicago Blackhawks Hockey Team, Inc. and any and all other affiliated or subsidiary entities (hereinafter collectively known as the “Defendants”) for violations of the Illinois Biometric Information Privacy Act 740 ILCS/14 and Public Act 095-994 (“BIPA” or the “Act”).

**SUMMARY OF CLAIMS**

1. Defendant Chicago Blackhawks Hockey Team, Inc. owns and operates the Chicago Blackhawks hockey team, a National Hockey League franchise based in Chicago, Illinois.
2. The Defendant uses facial recognition devices, and employs the software associated with them, at its home hockey games, which are played at the United Center located at 1901 W. Madison St., Chicago, IL 60612.

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3. The Defendants' facial recognition devices and associated software scans for, but does not limit itself to, identifiers such as individual's facial geometry, retinas, and then, among other actions, compares that scan to the files it has stored in their internal database.

4. Mr. Allen attended a Blackhawks hockey game in 2018.

5. Mr. Allen learned that biometric software was being used, and his facial geometry, among other things, was scanned via the facial recognition cameras used by the Defendants that employ facial recognition software.

6. Facial geometry is a *unique* and *personal* identifier.

7. In enacting the Biometric Information Privacy Act, the Illinois legislature recognized that biologically unique identifiers, such as facial geometry and other unique identifiers clearly cannot be changed when compromised, and in turn realized, that among other things, that individuals are at a heightened risk to be a victim of identity theft and other related cybercrimes.

8. As a result, the State of Illinois restricted private entities, like the Defendant, from collecting, storing, using, or transferring a person's biometric identifiers and information without adhering to strict informed consent procedures and data retention/destruction policies.

9. Defendant collected, stored and used the unique biometric facial geometry identifiers, or identifying information derived from facial geometry, of Mr. Allen and others similarly situated without following the detailed requirements articulated by the Illinois state legislature in BIPA.

10. As a result, Mr. Allen, and others similarly situated, lost the right to control their biometric identifiers and information.

### **JURISDICTION AND VENUE**

11. This Court has personal jurisdiction over the Defendant pursuant to 735 ILCS 5/2- 209(a)(1) and (c) because, during the relevant period, the Defendant conducted business in Illinois, and was registered to do business in Illinois, and committed the statutory violations alleged in this Complaint in Illinois.

12. Cook County, Illinois is an appropriate venue for this litigation because Defendant engages in business operations and is headquartered in Cook County, Illinois, and committed the statutory violations alleged in this Complaint in Cook County, Illinois.

### **THE PARTIES**

13. Mr. Allen is an individual who is a citizen of Illinois.

14. The Defendant conducts business in Illinois and benefits from that relationship through its derivation of profits and by virtue of its being headquartered in Illinois the benefit(s) offered by that unique relationship with the state.

### **REQUIREMENTS OF THE BIOMETRIC INFORMATION PRIVACY ACT**

15. In enacting BIPA, the Illinois legislature recognized that the full ramifications of biometric technology are not yet fully known and so the public would benefit from “regulations on the collection, use, safeguarding, handling, storage retention, and description of biometric identifiers and information.” 740 ILCS 14/5(f)-(g).

16. BIPA prohibits a “private entity” from capturing or collecting biometric identifiers or information from an individual unless that private entity first obtains the individual’s written release authorizing the private entity to capture or collect an individual’s biometric identifiers and/or biometric information. 740 ILCS 14/15(b)(3).

17. Relatedly, BIPA prohibits a private entity from capturing or collecting biometric identifiers or information from an individual unless that private entity first informs the individual in writing of the following: (a) that the private entity is collecting biometric identifier or information, (b) the purpose of such collection, and (c) the length of time the private entity will retain the biometric identifiers or information. 740 ILCS 14/15(b)(1) - (2).

18. Further, BIPA prohibits a private entity from possessing biometric identifiers or information unless it creates and follows a written policy, made available to the public, establishing a retention schedule and destruction guidelines for its possession of biometric identifiers and information. 740 ILCS 14/15(a).

### **BACKGROUND FACTS**

19. Mr. Allen attended a Chicago Blackhawks hockey game on December 18, 2018.

20. The Defendant's facial recognition technology scanned Mr. Allen's facial geometry from security camera footage<sup>1</sup> and stored a facial geometry template for Mr. Allen.

21. The Defendant failed to inform Mr. Allen in writing that it was collecting his biometric identifiers or information, the purpose and length of term for such collection, and failed to obtain their written consent *before* Defendant collected his facial geometry scan.

22. The Defendant never established or followed a publicly available written policy establishing a retention schedule and guidelines for permanently destroying scans of Mr. Allen's facial geometry.

### **CLASS ACTION ALLEGATIONS**

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<sup>1</sup> These are cameras that employ facial recognition technology and its associated software to identify individuals' facial geometry.

23. Mr. Allen seeks to represent the following class: all individuals who had their facial geometry scans collected or possessed by the Defendant in Illinois between October 15, 2014 and the present (the “Class”).

24. The members of the class are so numerous that joinder of all members is impractical. Based on the investigation by his counsel, Mr. Allen reasonably believes that the class comprises tens, if not hundreds, of thousands of members. The exact number of persons the class can be determined from records maintained by the Defendant.

25. Common questions of law and fact exist as to the class, including, but not limited to: whether Defendant used facial recognition technology at its hockey games; whether Defendant collected and/or possessed the Class’s “biometric identifiers” or “biometric information” through the use of facial recognition technology at Chicago Blackhawks hockey games; and whether Defendant complied with the procedures in the Act. These common questions of law and fact predominate over variations that may exist between members of the Class, if any.

26. Mr. Allen, the members of the Class, and the Defendant have a commonality of interest in the subject matter of the lawsuit and remedies sought.

27. Mr. Allen will fairly and adequately protect the interests of the members of the class. Mr. Allen has retained competent counsel experienced in class action litigation in state and federal courts nationwide and Mr. Allen has no interest adverse to any member of the Class. Mr. Allen intends to prosecute this case vigorously on behalf of himself and the Class.

28. A class action is an appropriate method for the fair and efficient adjudication of the controversy pursuant to 735 ILCS 5/2-801(4) because it involves a uniform course of conduct equally applicable to the Plaintiff and all members of the Class. A class action can therefore best secure the economies of time, effort and expense or accomplish the other ends of equity and justice that this action seeks to obtain.

**COUNT I**

**Violation of the Biometric Information Privacy Act (740 ILCS 14/15 (b))**

**(Class Action)**

39. Mr. Allen realleges and incorporates the previous allegations of this Complaint.

30. The Defendant is a “private entity” as defined within BIPA.

31. Mr. Allen and the Class’s facial geometry scans qualify as “biometric identifiers” as defined by the Act. The Defendant has “biometric information” from Mr. Allen and the Class through its acquisition and retention of identifying based on Mr. Allen’s and the Class’s facial geometry scans.

32. The Defendant violated the Act by capturing or collecting Mr. Allen’s and the Class’s facial geometry scans and identifying information based on those scans without *first* informing him in



writing of the purpose of the Defendant's doing so and the length of time the Defendant would store and use Mr. Allen's and the Class's biometric identifiers and/or biometric information.

33. Unlike other companies in Illinois, the Defendant failed to take notice and follow the requirements of the Act, even though the law was enacted in 2008 and numerous articles and court filings were published about the law's requirements before the Defendant committed the violations alleged in this Complaint.

34. As a result, Defendant's violations of BIPA were reckless or, in the alternative, negligent.

WHEREFORE, the Mr. Allen and the Class pray for a judgment against the Defendant as follows:

- A. Awarding liquidated or actual monetary damages, whichever is higher, to the Plaintiff and the Class for each violation of BIPA.
- B. Enjoining the Defendant from committing further violations of BIPA.
- C. Awarding the Plaintiffs reasonable attorneys' fees and costs incurred in filing and prosecuting this action as provided by BIPA; and
- D. Awarding such other and further relief as this Court deems appropriate and just as provided under BIPA.

**COUNT II**

**Violation of the Biometric Information Privacy Act (740 ILCS 14/15(a))**

**(Class Action)**

35. Mr. Allen realleges and incorporates the previous allegations of the Complaint.

36. The Defendant is a “private entity” under the Act.

37. Mr. Allen’s and the Class’s facial geometry scans qualify as “biometric identifier(s) as defined within BIPA.

38. The Defendant has “biometric information” from Mr. Allen and the Class through its acquisition and retention of identifying based on Mr. Allen’s and the Class’s facial geometry scans.

39. The Defendant violated BIPA by possessing Mr. Allen’s and the Class’s facial geometry scans and identifying information based on those scans without creating and following a written policy, made available to the public establishing and following a retention schedule and destruction guidelines for their possession of biometric identifiers and information.

40. Unlike other companies in Illinois, the Defendant failed to take notice and follow the requirements of the Act, even though the law was enacted in 2008 and numerous articles and

court filings were published about the law's requirements before the Defendant committed the violations alleged in this Complaint.

41. As a result, the Defendant's violations of BIPA were reckless or, in the alternative, negligent.

WHEREFORE, the Plaintiff and the Class pray for a judgment against the Defendant as follows:

- A. Awarding liquidated or actual monetary damages, whichever is higher, to the Plaintiff and the Class for each violation of BIPA.
- B. Enjoining the Defendant from committing further violations of BIPA.
- C. Awarding the Plaintiff reasonable attorneys' fees and costs incurred in filing and prosecuting this action as provided by BIPA; and
- D. Awarding such other and further relief as this Court deems appropriate and just as provided under BIPA.

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**JURY DEMAND**

Plaintiff hereby demands a trial by jury on all issues that may be tried and decided by jury.

Dated: 3/18/2020

Respectfully Submitted,

/s/ Nathaniel A. Frenkel

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