

YES NO

EXHIBITS

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

SHANNON CARPENTER, individually)
and on behalf of similarly situated)
individuals,)
)
 Plaintiff,)
)
 v.)
)
 SOUNDHOUND, INC.,)
 a Delaware Corporation.)
)
 Defendant.)

13979767

No. 2021CH03346

Hon.

Jury Trial Demanded

CLASS ACTION COMPLAINT

Plaintiff Shannon Carpenter (“Plaintiff”), individually and on behalf of other similarly situated individuals, brings this Class Action Complaint against Defendant SoundHound, Inc. (“Defendant” or “SoundHound”) for violations of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* (“BIPA”), and to obtain redress for all persons injured by Defendant’s conduct. Plaintiff alleges as follows based personal on knowledge as to his own acts and experiences, and as to all other matters, upon information and belief, including an investigation conducted by his attorneys.

INTRODUCTION

1. Plaintiff alleges that Defendant violated BIPA by collecting, possessing, redisclosing, and profiting from his voiceprint biometric identifiers without obtaining written consent to collect, store, or disseminate such information. For the reasons discussed in greater detail below, Defendant’s violations of BIPA have caused injury to Plaintiff and members of the putative class.

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2. Plaintiff seeks to represent a class of individuals who used Defendant's automated interactive voice technology, "Houndify," which is integrated into various platforms and applications, such as Pandora Media, Inc.'s "Pandora" music mobile application, and had their unique, biometric voiceprints collected and used without their consent or authorization.

3. Plaintiff and the other members of the putative class have suffered a concrete injury resulting from their biometric data being collected, disseminated, and used for profit without their knowledge or consent, thus materially decreasing the security of this intrinsically inalterable information, and substantially increasing the likelihood that they will suffer as victims of fraud and/or identity theft in the future.

4. On behalf of himself and the proposed Class defined below, Plaintiff seeks an injunction requiring Defendant to comply with BIPA, as well as an award of statutory damages to the Class, together with costs and reasonable attorneys' fees.

PARTIES

5. At all relevant times, Plaintiff Shannon Carpenter has been a resident and a citizen of the state of Illinois.

6. Defendant SoundHound, Inc. is a Delaware company, headquartered in California, that conducts substantial business throughout Illinois, including in Cook County.

JURISDICTION AND VENUE

7. This Court may assert personal jurisdiction over Defendant pursuant to 735 ILCS 5/2-209 in accordance with the Illinois Constitution and the Constitution of the United States, because Defendant is doing business within this State and because Plaintiff's claims arise out of Defendant's unlawful in-state actions, as Defendant captured, collected, stored, used and profited from the collection of Plaintiff's biometric identifiers and/or biometric information in this State.

8. Venue is proper in Cook County pursuant to 735 ILCS 5/2-101, because Defendant is doing business in Cook County and thus resides there under § 2-102.

THE BIOMETRIC INFORMATION PROTECTION ACT

9. “Biometrics” refers to a “biology-based set[s] of measurements.” *Rivera v. Google Inc.*, 238 F. Supp. 3d 1088, 1094 (N.D. Ill. 2017). Specifically, “biometrics” are “a set of measurements of a specified physical component (eye, finger, voice, hand, face).” *Id.* at 1296.

10. BIPA was enacted in 2008 in order to safeguard individuals’ biometrics as the result of 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. BIPA is codified as Act 14 in Chapter 740 of the Illinois Compiled Statutes.

11. As set forth in BIPA, biologically unique identifiers, such as a person’s unique voiceprint, cannot be changed. 740 ILCS 14/5(c). The inalterable nature of biologically unique identifiers presents a heightened risk when an individual’s biometrics are not protected in a secure and transparent fashion. 740 ILCS 14/5(d)–(g).

12. As a result of the need for enhanced protection of biometrics, BIPA imposes various requirements on private entities that collect or maintain individuals’ biometrics, including voiceprints.

13. Among other things, BIPA seeks to regulate “the collection, use, safeguarding, handling, storage, retention, and destruction of biometric identifiers and information.” 740 ILCS 14/5(g). BIPA thus applies to entities that interact with two forms of Biometric Data: biometric “identifiers” and biometric “information.” 740 ILCS 14/15(a)–(e).

14. BIPA defines a “biometric identifier” as any personal feature that is unique to an individual, including fingerprints, voiceprints, and hand geometry. “Biometric identifiers” are

physiological, as opposed to behavioral, characteristics. BIPA’s text provides a non-exclusive list of protected “biometric identifiers,” including “a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry.” 740 ILCS 14/10.

15. “Biometric information” is defined by BIPA as “any information, regardless of how it is captured, converted, stored, or shared, based on an individual's biometric identifier used to identify an individual.” *Id.* This definition helps ensure that information based on a biometric identifier that can be used to identify a person is covered by BIPA. Collectively, biometric identifiers and biometric information are known as “biometrics.”

16. In BIPA, the Illinois General Assembly identified four distinct activities that may subject private entities to liability:

- a. possessing biometrics without a proper publicly available policy, 740 ILCS 14/15(a);
- b. collecting biometrics, 740 ILCS 14/15(b);
- c. profiting from biometrics, 740 ILCS 14/15(c); and
- d. disclosing biometrics, 740 ILCS 14/15(d).

17. As the Illinois Supreme Court has held, BIPA “codified that individuals possess a right to privacy in and control over their biometric identifiers and biometric information.” *Rosenbach v. Six Flags Entm’t Corp.*, 2019 IL 123186, ¶ 33, 129 N.E.3d 1197, 1206 (Ill. 2019). The Illinois Supreme Court further held that when a private entity fails to comply with BIPA “that violation constitutes an invasion, impairment, or denial of the statutory rights of any person or customer whose biometric identifier or biometric information is subject to the breach.” *Id.*

A. Collecting Biometric Data Under Section 15(b) of BIPA.

18. BIPA imposes three requirements that must be satisfied before any private entity may “collect, capture . . . or otherwise obtain” an individual’s biometrics:

- a. First, the private entity must inform the individual in writing that the individual’s biometric information is being collected or stored. 740 ILCS 14/15(b)(1).
- b. Second, the private entity must inform the individual in writing of the purpose and length of time for which their biometric information is being collected, stored, and used. 740 ILCS 14/15(b)(2).
- c. Finally, the private entity must receive a written release executed by the individual or a legally authorized representative. 740 ILCS 14/15(b)(3).

19. BIPA defines a “written release,” outside the employment context, to mean “informed written consent.” 740 ILCS 14/10.

B. BIPA’s Unqualified Prohibition on Profiting from Biometric Data Under Section 15(c).

20. BIPA additionally bars private entities from profiting from individuals’ biometrics.

Section 15(c) provides as follows:

No private entity in possession of a biometric identifier or biometric information may sell, lease, trade, or otherwise profit from a person’s or a customer’s biometric identifier or biometric information.

740 ILCS 14/15(c).

21. Section 15(c) is an unqualified prohibition on profiting from Biometric Data.

C. Disseminating Biometric Data Under Section 15(d).

22. BIPA also prohibits the “disclos[ure], redisclos[ure], or other[] disseminat[ion]” of biometrics without consent, unless the “disclosure or redisclosure completes a financial transaction” that is requested or authorized by the individual, is required by law, or is required in order to comply with a valid warrant or subpoena. 740 ILCS 14/15(d).

FACTUAL BACKGROUND

23. Defendant SoundHound, Inc. is an audio and speech recognition company which develops various software products and services for companies across the country that interact with thousands of Illinois residents daily. Defendant's products and services revolve around the integration of speech and voice recognition technology that utilize and rely on voiceprint biometrics.¹

24. One of SoundHound's software offerings, coined by Defendant as "Powered by 'Houndify'" (hereinafter referenced as "Houndify"), adds intelligent voice assistant technology, a conversational interface, and advanced voice recognition to its customers' services.²

25. Critically, Houndify's voice assistant technology incorporates voice recognition technologies which rely on voiceprint biometrics to identify "distinct individual speakers for customized responses to the same spoken phrases."³

26. For example, Pandora Media, Inc. ("Pandora") utilizes SoundHound's Houndify platform to power the voice assistant on its Pandora mobile music application.⁴

27. Pandora provides one of the largest music streaming services in the world, averaging 53 million monthly active listeners and 6.3 million paid subscribers.⁵

28. To implement a native smart assistant, Pandora, like numerous other SoundHound customers, purchased access to SoundHound's Houndify platform to utilize voice commands in its mobile application.

¹ www.soundhound.com.

² www.houndify.com.

³ www.houndify.com/technology.

⁴ <https://apnews.com/press-release/pr-businesswire/4ce78fe67b9d47efa03f94a9f164993f>.

⁵ www.businessofapps.com/data/pandora-statistics/.

29. When using Pandora’s mobile application, users are prompted to use “Voice Mode” which allows listeners interact with the application “hands-free”⁶ and perform actions such as changing stations, volume control, and deliver personalized music, as well as more open ended and interactive requests such as asking “what song is this?” or “add this song to my playlist.”⁷

30. Pandora’s Voice Mode incorporates Defendant’s “Biometric Speaker ID” “wake word” technology which stores users’ unique voiceprints to enable it to quickly identify when the “wake word” is spoken by a particular person and trigger the application to listen to any further commands.⁸

31. Like thousands of other Illinois residents, Plaintiff interacted with SoundHound’s voice recognition technology and had his voiceprint biometrics collected when he used Voice Mode on Pandora’s mobile application beginning at least as early as April 2021.

32. Plaintiff used Pandora’s mobile application while working and regularly utilized Pandora’s “wake word” in order to trigger the application’s hands-free features so that he would not have to be distracted from his work.

33. Like the other members of the class, the moment that Plaintiff interacted with SoundHound’s “wake word” voice recognition technology, his unique voiceprint was obtained by SoundHound through its Houndify platform so that it could identify him and interpret his request to use Pandora’s Voice Mode.

⁶ <https://apnews.com/press-release/pr-businesswire/4ce78fe67b9d47efa03f94a9f164993f>.

⁷ <https://voices.soundhound.com/pandora-launches-voice-mode-in-mobile-app-powered-by-houndify-7d9091c66817/>.

⁸ www.houndify.com/products/wake-word; <https://apnews.com/press-release/pr-businesswire/4ce78fe67b9d47efa03f94a9f164993f>;

34. However, even though Defendant obtained Plaintiff's and the other Class members' voice biometrics through its Houndify platform, Defendant failed to obtain proper written consent as required by BIPA to collect their voice biometrics.

35. Furthermore, Defendant also failed to make a publicly available policy disclosing Defendant's collection, storage, deletion, retention and security practices regarding the biometric information in its possession.

36. Defendant also unlawfully profited from the biometrics it obtained from users of the Houndify powered voice assistants, including Plaintiff and other Class members, as Defendant was paid by third parties, such as Pandora, for their use of Defendant's Houndify powered voice assistants.

CLASS ALLEGATIONS

37. Plaintiff brings this action on behalf of himself and a class of similarly situated individuals pursuant to 735 ILCS § 5/2-801. Plaintiff seeks to represent a Class (unless otherwise noted, "Class") defined as follows:

Class: All individuals whose voiceprint biometric identifiers or biometric information were collected, captured, stored, transmitted, disseminated, or otherwise used by Defendant within the state of Illinois any time within the applicable limitations period and for whom Defendant does not have any written record of consent to do so.

38. Excluded from the Class are any members of the judiciary assigned to preside over this matter; any officer or director of Defendant; and any immediate family of such officer or director.

39. There are thousands of members of the Class, making the members of the Class so numerous that joinder of all members is impracticable. Although the exact number of members of the Class is currently unknown to Plaintiff, the members can be easily identified through Defendant's records, and records maintained by Defendant's customers.

40. Plaintiff's claims are typical of the claims of the Class he seeks to represent, because the basis of Defendant's liability to Plaintiff and the Class is substantially the same, and because Defendant's conduct has resulted in similar injuries to Plaintiff and to the Class.

41. There are many questions of law and fact common to the claims of Plaintiff and the Class, and those questions predominate over any questions that may affect individual members of the Class. Common questions for the Class include, but are not limited to, the following:

- a. Whether Defendant collects, captures, or otherwise obtains voiceprint biometric identifiers or biometric information from Illinois residents who interact with its Houndify platform;
- b. Whether Defendant disseminated voiceprint biometric information of the Class members;
- c. Whether Defendant obtained a written release from the Class members before capturing, collecting, or otherwise obtaining their voiceprint biometric identifiers or biometric information;
- d. Whether Defendant's conduct violates BIPA;
- e. Whether Defendant's BIPA violations are willful or reckless; and
- f. Whether Plaintiff and the Class are entitled to damages and injunctive relief.

42. Absent a class action, most members of the Class would find the cost of litigating their claims to be prohibitively expensive and would thus have no effective remedy. The class treatment of common questions of law and fact is superior to multiple individual actions or piecemeal litigation in that it conserves the resources of the courts and the litigants and promotes consistency and efficiency of adjudication.

43. Plaintiff will fairly and adequately represent and protect the interests of the other members of the Class he seeks to represent. Plaintiff has retained counsel with substantial experience in prosecuting complex litigation and class actions. Plaintiff and his counsel are committed to vigorously prosecuting this action on behalf of the other members of the Class and have the financial resources to do so. Neither Plaintiff nor his counsel has any interest adverse to those of the other members of the Class.

44. Defendant has acted and failed to act on grounds generally applicable to the Plaintiff and the other members of the Class, requiring the Court's imposition of uniform relief to ensure compatible standards of conduct toward the members of the Class and making injunctive or corresponding declaratory relief appropriate for the Class as a whole.

COUNT I
Violations of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, et seq.
(On behalf of Plaintiff and the Class)

45. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

46. Defendant SoundHound is a private entity under BIPA.

47. BIPA requires a private entity, such as Defendant, to obtain informed written consent from individuals before acquiring their biometric information. Specifically, BIPA makes it unlawful to “collect, capture, purchase, receive through trade, or otherwise obtain a person’s or customer’s biometric identifiers or biometric information unless [the entity] 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 for which a biometric identifier or biometric information is being captured, 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).

48. Plaintiff and the other Class members have had their “biometric identifiers,” namely their voiceprints, collected, captured, or otherwise obtained by Defendant when they interacted with its Houndify “wake word” voiceprint biometric technology. 740 ILCS 14/10.

49. Each instance when Plaintiff and the other Class members interacted with Defendant’s Houndify “wake word” voiceprint recognition technology, Defendant captured, collected, stored, and/or used Plaintiff’s and the other Class members’ voiceprint biometric identifiers without valid consent and without complying with and, thus, in violation of BIPA.

50. Defendant’s practice with respect to capturing, collecting, storing, and using biometrics fails to comply with applicable BIPA requirements:

- a. Defendant failed to inform Plaintiff and the members of the Class in writing that their biometrics were being collected and stored, prior to such collection or storage, as required by 740 ILCS 14/15(b)(1);
- b. Defendant failed to inform Plaintiff and the Class in writing of the specific purpose for which their biometrics were being captured, collected, stored, and used, as required by 740 ILCS 14/15(b)(2);
- c. Defendant failed to inform Plaintiff and the Class in writing the specific length of term their biometrics were being captured, collected, stored, and used, as required by 740 ILCS 14/15(b)(2);
- d. Defendant failed to obtain a written release, as required by 740 ILCS 14/15(b)(3);
and
- e. Defendant failed to obtain informed consent to disclose or disseminate the Class’ biometrics to its customers such as Pandora, as required by 740 ILCS 14/15(d)(1).

51. By providing paying customers its Houndify “wake word” voiceprint biometric technology without any of the privacy protections required by BIPA, Defendant profited from Plaintiff’s and the other Class members’ voiceprint biometric identifiers in violation of 740 ILCS 14/15(c). Defendant knew, or was reckless in not knowing, that its “wake word” voiceprint recognition technology which thousands of Illinois residents interacted with would be subject to the provisions of BIPA, yet failed to comply with the statute.

52. By capturing, collecting, storing, using, and disseminating Plaintiff’s and the Class’ voiceprint biometrics as described herein, Defendant denied Plaintiff and the Class their right to statutorily required information and violated their respective rights to biometric information privacy, as set forth in BIPA.

53. BIPA provides for statutory damages of \$5,000 for each willful and/or reckless violation of BIPA and, alternatively, damages of \$1,000 for each negligent violation of BIPA. 740 ILCS 14/20(1)-(2).

54. Defendant’s violations of BIPA, a statute that has been in effect since 2008, were knowing and willful, or were at least in reckless disregard of the statutory requirements. Alternatively, Defendant negligently failed to comply with BIPA.

55. Accordingly, with respect to Count I, Plaintiff, individually and on behalf of the proposed Class, prays for the relief set forth below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the proposed Class, respectfully requests that this Court enter an Order:

- a. Certifying the Class as defined above, appointing Plaintiff as class representative and the undersigned as class counsel;

- b. Declaring that Defendant's actions, as set forth herein, violate BIPA;
- c. Awarding injunctive and equitable relief as necessary to protect the interests of Plaintiff and the Class by requiring Defendant to comply with BIPA;
- d. Awarding statutory damages of \$5,000 for each willful and/or reckless violation of the BIPA, pursuant to 740 ILCS 14/20(2);
- e. Awarding statutory damages of \$1,000 for each negligent violation of the BIPA, pursuant to 740 ILCS 14/20(1);
- f. Awarding reasonable attorneys' fees, costs, and other litigation expenses, pursuant to 740 ILCS 14/20(3);
- g. Awarding pre- and post-judgment interest, as allowable by law; and
- h. Awarding such further and other relief as the Court deems just and equitable.

JURY DEMAND

Plaintiff requests trial by jury of all claims that can be so tried.

Dated: July 9, 2021,

Respectfully Submitted,

SHANNON CARPENTER, individually and on behalf of a class of similarly situated individuals

By: /s/ Eugene Y. Turin
One of Plaintiff's Attorneys

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Soundhound Hit with Class Action Over Collection, Storage of Ill. Residents' Voiceprints](#)
