UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
NEWARK DIVISION

PANKAJ SHAH and VIPUL AGGARWAL, individually and on behalf of all others similarly situated, Plaintiffs, v. ASIA TV USA LIMITED and ZEE ENTERTAINMENT ENTERPRISES LIMITED, Defendants.	Case No. **CLASS ACTION COMPLAINT** **JURY TRIAL DEMANDED**

Dated: October 31, 2023

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Plaintiffs Pankaj Shah and Vipul Aggarwal ("Plaintiffs"), individually and on behalf of all other persons similarly situated, by and through their attorneys, make the following allegations pursuant to the investigation of their counsel and based upon information and belief, except as to allegations specifically pertaining to themselves and their counsel, which are based on personal knowledge.

NATURE OF THE ACTION

1. This is a class action suit against Defendants Asia TV USA Limited ("Asia TV") and Zee Entertainment Enterprises Limited ("Zee Entertainment") (collectively, "Zee" or "Defendants") for violations of the Video Privacy Protection Act, 18 U.S.C. § 2710 ("VPPA").

2. Defendant Zee Entertainment develops, owns, and operates a mobile application, "Zee5" ("Zee5 App" or the "App"), and a website, Zee5.com ("Zee5.com" or "Website") (the App and Website collectively, the "Zee5 Video Service"). As Defendants describe it, the Zee5 Video Service is "the world's largest streaming platform for South Asian stories" with "over 4000+ movies, 316+ originals, 2300+ TV shows, & more," as well as a "vast content library of Hindi movies, Tamil movies, Telugu movies, and more."[1]

[1] ZEE5: MOVIES, TV SHOWS, SERIES, GOOGLE PLAY STORE https://play.google.com/store/apps/details?id=com.graymatrix.did&hl=en_US&gl=US.

3. Zee's US-based operations—including management of the Zee5 Video Service in the US—are conducted by Defendant Asia TV, which "produces and distributes over 35 television channels and related media properties in North America and South America."[2]

4. Unbeknownst to Plaintiffs and members of the Class, however, Zee knowingly and intentionally discloses Zee5 Video Service users' personally identifiable information—including a record of every video viewed by the user—to unrelated third parties.

5. The United States Congress passed the VPPA in 1988, seeking to confer onto consumers the power to "maintain control over personal information divulged and generated in exchange for receiving services from video tape service providers." S. Rep. No. 100-599, at 8. "The Act reflects the central principle of the Privacy Act of 1974: that information collected for one purpose may not be used for a different purpose without the individual's consent." *Id.*

6. The VPPA prohibits "[a] video tape service provider" from "knowingly disclos[ing], to any person, personally identifiable information concerning any consumer of such provider." 18 U.S.C. § 2710(b)(1). "Personally identifiable information" ("PII") is defined as "information which identifies a person as having

[2] ZEE ENTERTAINMENT ENTERPRISES LIMITED – AMERICA, LINKEDIN, https://www.linkedin.com/company/asia-tv-usa/ (last accessed Oct. 20, 2023).

requested or obtained specific video materials or services from a video tape service provider." 18 U.S.C. § 2710(a)(3). As the allegations below detail, Defendants are a "video tape service provider" who "knowingly disclosed" the PII of subscribers to the Zee5 Video Service.

7. Plaintiffs bring this action for damages and other legal and equitable remedies resulting from Defendants' violations of the VPPA.

FACTUAL BACKGROUND

I. HISTORY AND OVERVIEW OF THE VPPA

8. The impetus for the VPPA begins with President Ronald Reagan's nomination of Judge Robert Bork to the United States Supreme Court. During the confirmation process, a movie rental store disclosed the nominee's rental history to the Washington City Paper which then published that history. Congress responded by passing the VPPA, with an eye toward the digital future. As Senator Patrick Leahy, who introduced the Act, explained:

> It is nobody's business what Oliver North or Pratik Bork or Griffin Bell or Pat Leahy watch on television or read or think about when they are home. In an area of interactive television cables, the growth of computer checking and check-out counters, of security systems and telephones, all lodged together in computers, it would be relatively easy at some point to give a profile of a person and tell what they buy in a store, what kind of food they like, what sort of television programs they watch, who are some of the people they telephone. I think that is wrong.

S. Rep. 100-599, at 5-6 (cleaned up).

9. In 2012, Congress amended the VPPA, and in so doing, reiterated the Act's applicability to "so-called 'on-demand' cable services and Internet streaming services [that] allow consumers to watch movies or TV shows on televisions, laptop computers, and cell phones." S. Rep. 112-258, at 2.

10. The VPPA prohibits "[a] video tape service provider" from "knowingly disclos[ing], to any person, personally identifiable information concerning any consumer of such provider." 18 U.S.C. § 2710(b)(1).

11. The VPPA defines personally identifiable information as "information which identifies a person as having requested or obtained specific video materials or services from a video service provider." 18 U.S.C. § 2710(a)(3).

12. A video tape service provider is "any person, engaged in the business, in or affecting interstate or foreign commerce, of rental, sale, or delivery of prerecorded video cassette tapes or similar audio visual materials." 18 U.S.C. § 2710(a)(4).

II. DEFENDANTS ARE VIDEO TAPE SERVICE PROVIDERS

13. Defendant Zee Entertainment develops, owns, and operates the Zee5 App and the Zee5.com website. The US-based operations of the Zee5 Video Service are managed by Defendant Asia TV, which is a subsidiary of Defendant Zee Entertainment.

14. Consumers can download the Zee5 App through the Google Play Store on Android devices or the Apple App Store on iOS devices. Consumers can access Zee5.com through any web browser.

15. Defendants provide two options for consumers in terms of accessing video content. *First*, a consumer can create a free account, which allows access to some video content, but not all video content that the App and Website have to offer.

16. *Second*, a consumer can sign up for a Zee5 Premium (paid) subscription, which "includes ZEE5 Originals & Exclusives, All ALT Balaji Shows, Live TV, Zindagi TV Shows, Kids and Worldwide-renowned Hollywood flicks, Blockbuster Hindi cinemas, Super hit regional movies across 11 different languages, American TV shows, documentaries, dubbed movies in regional language and much more."[3]

17. Especially for paying subscribers, Defendants provide users with "an exhaustive array of content; with 90+ live TV channels … [and an] exhaustive selection of Bollywood and language movies," which Zee claims "make[s] us the preferred destination for an avid cinema connoisseur."[4]

18. Indeed, Defendants extol the fact that the Zee5 Video Service provides extensive video content to consumers, boasting on its website that "[o]ur digital

[3] WHAT IS ZEE5?, https://helpcenter.zee5.com/portal/en/kb/articles/what-is-zee5.

[4] *See* ABOUT US, https://www.zee5.com/global/aboutus.

entertainment destinations extend a comprehensive library of on-demand and live content to the new-age consumer across connected devices," with "150+ exclusive originals," "4,500+ movie titles," and "125,000+ hours of on demand content."[5] As Zee puts it, "[o]urs is a business of entertainment."[6]

19. Defendants also reap massive financial benefits from the video content they deliver through the Zee5 Video Service. For instance, Zee notes the App has 119.5 million monthly active users, including 48.11 million paying subscribers,[7] and has over 100 million downloads on Android alone.[8]

20. At no point do Defendants receive permission from users to share their personally identifiable information or video viewing information with third parties.

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[5] OTT, https://www.zee.com/products-platforms-digital-media-domestic/. An "OTT platform"—which is short for "over the top platform"—refers to "any type of video or streaming media that provides a viewer access to movies or TV shows by sending the media directly through the internet." 5 Things You Need to Know About Over The Top Services, MDTC, https://www.mdtc.net/5-things-to-know-about-over-the-top-services/. In other words, an OTT platform is a streaming service like "Netflix, Amazon Prime Video, and Hulu." *Id*.

[6] ZEE, https://www.zee.com/.

[7] EARNINGS UPDATE FOR Q3 FY23, ZEE5, at 7, 14 (Feb. 13, 2023), https://assets.zee.com/wp-content/uploads/2023/02/13180730/Q3FY23-Earnings-Release.pdf; *see also* ZEE5, WIKIPEDIA, https://en.wikipedia.org/wiki/ZEE5 (citing same).

[8] ZEE5: MOVIES, TV SHOWS, SERIES, GOOGLE PLAY STORE, https://play.google.com/store/apps/details?id=com.graymatrix.did&hl=en_US&gUS.

III. DEFENDANTS VIOLATE THE VPPA BY KNOWINGLY DISCLOSING APP USERS' PERSONALLY IDENTIFIABLE INFORMATION TO SEVERAL THIRD PARTIES

21. In the Summer and Fall of 2023, Plaintiffs' counsel retained a private research company to conduct a dynamic analysis of the Zee5 App and Website. A "dynamic analysis" records the transmissions that occur from a user's device.

22. The researchers analyzed what information was disclosed to third parties when a premium (paid) Zee account user watched an episode of a TV show on either the Zee5 App or Zee5 Website. This analysis revealed that Defendants transmit to several third parties information sufficient to identify specific Class Members and the specific videos they watch.

23. ***Zee5 App.*** The analysis first established that Defendants incorporate multiple "application programming interfaces" ("APIs") in its App, either directly or through "software development kits" ("SDKs").

24. When developers build a mobile application, they typically outsource certain functions, like marketing, advertising, and analytics, to third party providers. APIs "enable[] companies to open up their applications' data and functionality to external third-party developers, business partners, and internal departments within their companies."[9]

[9] APPLICATION PROGRAMMING INTERFACE (API), IBM CLOUD EDUCATION, https://www.ibm.com/cloud/learn/api (last accessed Oct. 19, 2023).

25. Defendants integrate at least the following APIs into the App, either directly or embedded into the company's SDK of the same name: AppsFlyer, CleverTap, Conviva, and Mixpanel. The dynamic analysis found that when a user creates a paid App account (*i.e.*, signs up for an "Zee5 Premium" subscription) and watches a movie or TV show, Defendants disclose the following personally identifying information to these third parties:

THIRD PARTY	VIDEO INFO	PERSONAL INFO	OTHER INFO
AppsFlyer	Video ID + Video Name + Genre + Show ID, Season ID, Series name	Email + First/Last Name + Gender + Age + User ID	AAID, Appsflyer ID
CleverTap	Video ID + Video Name + Genre + Season ID, Show ID	Email + First/Last Name + Gender + Age + User ID	AAID, Appsflyer ID
Conviva	Video ID + Video Name + Series name + Genre	Email + Gender + Age	AAID
Mixpanel	Video ID + Video Name + Genre	Email + First/Last Name + Gender + Age + User ID	AAID, Appsflyer ID

26. ***Zee5 Website.*** Further research by Plaintiffs' counsel uncovered evidence that when a user signs up for a premium Zee5 account and watches a video on the Website, Defendants disclose personally identifying information to Mixpanel and Meta (collectively with AppsFlyer, CleverTap, and Conviva, the "Third Parties"), via the Mixpanel API and the Meta Tracking Pixel. The information that Defendants disclose to Mixpanel and Meta allow even an ordinary person to identify which specific Class members watched which specific videos, such as a user's e-

mail address, Meta ID, last name, phone number, a watched video's title, and a watched video's unique video ID, title, and Universal Resource Locator ("URL").

A. Overview Of The AppsFlyer API

27. AppsFlyer labels itself as "[t]he global leader in marketing measurement, analytics, and engagement."[10] AppsFlyer develops, owns, and operates the AppsFlyer SDK, which contains the encoded API of the same name.

28. AppsFlyer initially sought to allow marketers, developers, and product managers to "accurately measure the success of their work or create relationships with their customers based on trust."[11]

29. But "[g]etting trusted data is just the beginning. [AppsFlyer's] range of analytics tools, including incrementality and predictive analytics, help you dig deep into your data to understand what it means today, and what you can do to optimize your campaigns moving forward."[12]

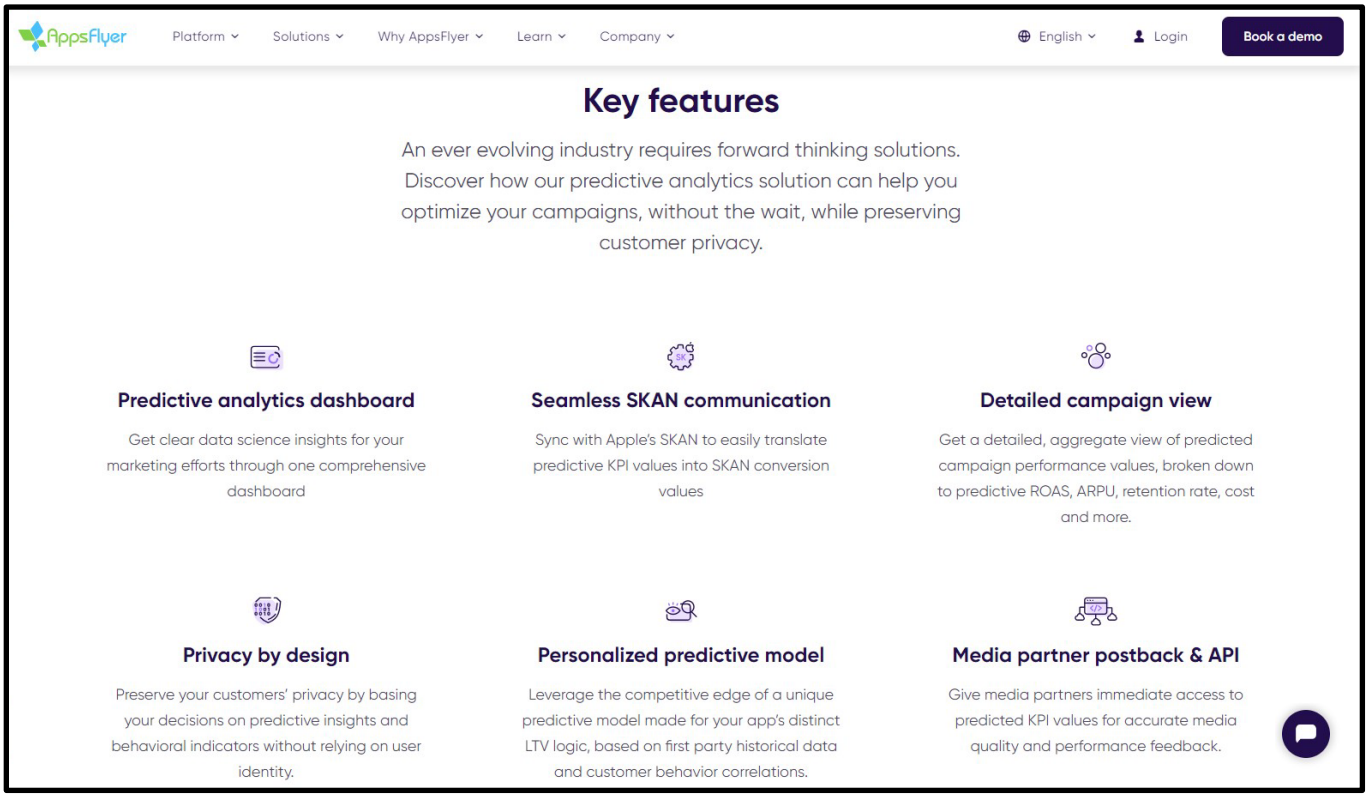
30. AppsFlyer offers its clients many tools to measure and analyze their raw data, including a wider view of customer journey touchpoints, measurement

[10] THIS IS APPSFLYER, APPSFLYER, https://www.appsflyer.com/company/about/.

[11] ABOUT, APPSFLYER, https://www.appsflyer.com/company/about/ (last accessed Sept. 26, 2023).

[12] MEASUREMENT, APPSFLYER, https://www.appsflyer.com/products/measurement/ (last accessed Sept. 26, 2023).

features identifying app opens and in-app events, and "the most connected SDK and server-to-server APIs."[13]



31. In addition to a suite of tools that allow clients to measure user data, AppsFlyer also provides clients like Defendant with forward thinking predictive marketing and analytics solutions.[14] These predictive marketing solutions "use machine learning to identify and map correlations between early user engagement

[13] *Id.*

[14] Predictive Analytics, APPSFLYER, https://www.appsflyer.com/products/predictive-analytics/ (last accessed Sept. 26, 2023).

indicators and expected user value to give you accurate predictive insights early in a campaign's lifetime."[15]

32. Once integrated into a mobile application, the AppsFlyer API allows an app developer to, among other features, measure and analyze mobile application user data,[16] use analytics data to create and inform marketing campaigns,[17] analyze app data in real time,[18] and "create personalized, contextual [customer] experiences that significantly increase conversions and revenue."[19]

33. Defendants utilize each and every one of these features of the AppsFlyer API and send App users' PII to AppsFlyer through the AppsFlyer API in order to assist with Defendants' marketing, data analytics, and revenue generation.

34. Specifically, Defendants disclose to AppsFlyer via the AppsFlyer API a user's: (i) full name; (ii) e-mail address; (iii) gender; (iv) age; (v) AAID; (vi) the name of the pre-recorded video watched by the user—either as the name of the TV series and TV show episode watched by the user, or the name of the movie watched

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[15] *Id.*

[16] MEASUREMENT SUITE, https://www.appsflyer.com/products/measurement/.

[17] MARKETING ANALYTICS, https://www.appsflyer.com/products/marketing-analytics/.

[18] CUSTOMER EXPERIENCE AND DEEP LINKING, https://www.appsflyer.com/products/customer-experience-deep-linking/.

[19] LIVE SEGMENTATION, https://webengage.com/customer-segmentation/live/.

by the user; and (vii) the video ID of the pre-recorded video watched by the user, in addition to other information.

35. The following excerpt from the Android dynamic analysis shows the network traffic of Defendants disclosing this information to AppsFlyer:

We observed **AppsFlyer** obtaining:

Video Information in the form of:
- Video Name, Video ID, Genre, Show ID, Season ID, Series (name)

Personal Information in the form of:
- Email, First/Last Name, Gender, Age, User ID

Other Information such as:
- AAID, Appsflyer ID


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    "App Campaign\":\"N\\\/A\"
    "Country\":\"UNITED STATES\"
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    "Genre\":\"Drama, Suspense\"
    "Phone Number\":\"N\\\/A\"
    "Email\":\"<email -> h.garciapez@gmail.com>\"
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Rathnam:Vamsi Krishna, Hebah Patel:Yamini, Kamna Jetmalani:Gayatri,
Sukrutha Wagle:Kalpika, Shivani:Samyuktha, Sujith Kumar Reddy:Teja,
Raja Ashok:Smaran, Gururaj:Appa Rao\"
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    "Pack Duration\":\"30\"
    "season_id\":\"0-2-5z5347412\"
    "City\":\"N\\\/A\"
    "State\":\"CALIFORNIA\"
    "Region\":\"AMERICAS\"
    "Content Specification\":\"episode\"
    "Content Name\":\"<videoName2 -> nobody messes with me>\"
    "Content Duration\":\"1824\"
    "Content ID\":\"<videoId2 -> 0-1-6z5347413>\"
    "Episode No\":\"1\"
    "Age\":50
    "Series\":\"Vyavastha\"
    "Unique ID\":\"<userId ->
375def5b-e190-4de7-8710-7d6236cd3aa3>\"
}
```


B. Overview Of The CleverTap API

36. CleverTap brands itself as an "All-In-One engagement platform."[20] CleverTap develops, owns, and operates the API of the same name.

[20] CLEVERTAP, https://clevertap.com/ (last accessed Oct. 16, 2023).

37. Once integrated into a mobile application, the CleverTap API allows an app developer to, among other features, "[h]arness big-data to drive targeted customer engagement through automated segments, advanced analytics and actionable intelligence," and "[t]ailor customer interactions based on demographics, prior behavioral patterns, real-time actions and recommend next best experiences."[21]

38. CleverTap's technology gives clients the capabilities they need to "[i]ngest, analyze and segment customer data" and engages users through various channels.

39. As part of CleverTap's suite of data capabilities, a client can "[h]arness granular data over an extended" period "with [the] TesseractDB" function before using CleverTap's rich data analytics kit to measure campaign impact.[22] This, in turn, allows customers like Defendants to "[u]tilize analytics tools … [to] [g]ain insights into user behavior and measure campaign impact for informed decision making."[23]

40. In addition to data tracking, analytics, and personalized marketing and advertising services, CleverTap also offers its clients user engagement services in

[21] CRAFTING CUSTOMER LIFETIME EXPERIENCES, CLEVERTAP, https://clevertap.com/product-overview/ (last accessed Oct. 16, 2023).

[22] CUSTOMER DATA ANALYTICS, CLEVERTAP, https://clevertap.com/customer-data-and-analytics/ (last accessed Sept. 28, 2023).

[23] *Id.*

various channels, such as Whatsapp, SMS, and in-app messaging.[24] These channel-based services seek to retain users through personalized content offerings.

41. As alleged in greater detail below, Defendants utilize each and every one of these features and sends App users' PII to CleverTap through the CleverTap API in order to assist with Defendants' marketing, data analytics, and revenue generation.

42. Specifically, Defendants disclose to CleverTap via the CleverTap API a user's: (i) full name; (ii) e-mail address; (iii) gender; (iv) age; (v) AAID; (vi) the name of the pre-recorded video watched by the user—either as the name of the TV series and TV show episode watched by the user, or the name of the movie watched by the user; and (vii) the video ID of the pre-recorded video watched by the user, in addition to other information.

43. The following excerpts from the Android dynamic analysis show the network traffic of Defendants disclosing this information to CleverTap:

[24] CLEVERTAP, https://clevertap.com/ (last accessed Sept. 28, 2023).

We observed **CleverTap** obtaining:

Video Information in the form of:
- Video ID, Video Name, Genre, Season ID, Show ID

Personal Information in the form of:
- Email, First/Last Name, Gender, Age, User ID

Other Information such as:
- AAID, Appsflyer ID


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      "Appsflyer ID": "1685664849648-22889984059232232",
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Rathnam:Vamsi Krishna, Hebah Patel:Yamini, Kamna Jetmalani:Gayatri,
Sukrutha Wagle:Kalpika, Shivani:Samyuktha, Sujith Kumar Reddy:Teja,
Raja Ashok:Smaran, Gururaj:Appa Rao",
      "City": "N\/A",
      "Content Billing Type": "N\/A",
      "Content Duration": "1824",
      "Content ID": "0-1-6z5347413",
      "Content Language": "hi,mr,te,ta,bn",
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      "Content Original Language": "te, ta",
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      "Content Specification": "episode",
      "Content Type": "free_downloadable",
      "Country": "UNITED STATES",
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      "Display Language": "en",
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      "Episode No": "1",
      "Gender": "Male",
      "Genre": "Drama, Suspense",
      "IP": "104.13.213.195",
      "Latitude": "N\/A",
      "Longitude": "N\/A",
      "Name": "Harry Garciapez",
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      "Registering Country": "US",
      "Series": "Vyavastha",
      "State": "CALIFORNIA",
      "Unique ID": "375def5b-e190-4de7-8710-7d6236cd3aa3",
      "season_id": "0-2-5z5347412",
      "show_id": "0-6-4z5347411"
```


C. Overview Of The Conviva API

44. Conviva develops, owns, and operates the SDK of the same name, which incorporates the Conviva API.

45. Conviva is a real-time analytics platform "built for streaming big data."[25] Conviva allows app developers, such as Defendants, to gain actionable

[25] TECHNOLOGY, CONVIVA, https://www.conviva.com/technology/ (last accessed Oct. 25, 2023).

insights that "optimiz[e] [] issues impacting streaming minutes, engagement, and subscriber and ad revenue."[26]

46. As "the first customer-centric operational analytics solution on the market that delivers a true real-time lens into everything impacting your users' experience," Conviva allows clients to conduct "monitoring and analytics together, in real-time."[27]

47. Conviva's technological tools offer clients two main categories of solutions: app-centered solutions and video-centered" solutions. Both are offered through the Conviva Operational Data Platform, which Conviva boasts allows clients like Defendants to "move to actionable insights that drive revenue and subscriptions and reduce costs."[28]

48. The Conviva Operational Platform uses real-time behavior modelling analytics to get "actionable insights from … analytics technology built for streaming big data."[29] This advanced model allows "the world's largest streaming publishers"

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[26] PLATFORM, CONVIVA, https://www.conviva.com/platform/ (last accessed Oct. 25, 2023).

[27] *Id*.

[28] *Id.*

[29] TIME-STATE ANALYTICS, CONVIVA, https://www.conviva.com/technology/?gclid=CjwKCAjwyNSoBhA9EiwA5aYlb98E97ehQ5fIIQJkKXkUKUFJDpVD5L8qQeLsRVHHyvMXLJIOv9gp4hoCIY4QAvD_BwE (last accessed Sept. 28, 2023).

to "put [clients'] complex, always-in-motion big data in context, making it easy for [clients] to understand and act on the real-world experiences [] users are having, as they're having them."[30]

49. Conviva's app solutions allow clients to "get real-time and comprehensive ingestion" of user data, "convert raw events into useful contextual sessions," easily "build metrics," receive "real-time actionable insights," and receive "AI alerts" to locate anomalous events."[31] All this can be done "without waiting on a data scientist to code new queries."[32]

50. Conviva's video solutions offer clients like Defendants a "Business-level streaming performance index" directly correlated to engagement, "[b]enchmarks" to measure a client's performance against the industry, "automatic[] highlights" on how a client could "improve [their] service quality to "maximize engineering ROI (return on investment)," and "[a]utomate[d] monitoring and analytics workflows" through AI technology.[33]

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[30] *Id.*

[31] CONVIVA FOR APP, CONVIVA, https://www.conviva.com/conviva-for-app/ (last accessed Sept. 27, 2023).

[32] *Id.*

[33] CONVIVA FOR VIDEO, CONVIVA, https://www.conviva.com/conviva-for-video/ (last accessed Sept. 27, 2023).

51. Once integrated into a mobile application, the Conviva API gives app developers like Defendants "a much deeper understanding of what, where, when, and how [] viewers are streaming."[34] Specifically, the Conviva API allows an app developer to, among other features, "automat[e] the monitoring and optimization of streaming services across every viewer, device, and platform around the world so you can increase engagement, retention, and revenue," and gather advanced video viewing analytics data.[35]

52. As alleged in greater detail below, Defendants utilize each and every one of these features of the Conviva API and sends App users' PII to Conviva

[34] MEET EXPERIENCE INSIGHTS, https://www.conviva.com/experience-insights/.
[35] *Id.*

through the Conviva API in order to assist with Defendants' marketing, data analytics, and revenue generation.

53. Specifically, Defendants disclose to Conviva via the Conviva API a user's: (i) e-mail address; (ii) gender; (iii) age; (iv) AAID; (v) the name of the pre-recorded video watched by the user—either as the name of the TV series and TV show episode watched by the user, or the name of the movie watched by the user; and (vi) the video ID of the pre-recorded video watched by the user, in addition to other information. .

54. The following excerpt from the Android dynamic analysis shows the network traffic of Defendants disclosing this information to Conviva:

We observed **Conviva** obtaining:

Video Information in the form of:
- Video ID, Video Name, Series (name), Genre

Personal Information in the form of:
- Email, gender, age

Other Information such as:
- AAID


```
"an": "0-1-6z5347413 - Nobody Messes With Me ",
"tags": {
  "Characters": "Sampath Raj:Avinash Chakraborty, Karthik
Rathnam:Vamsi Krishna, Hebah Patel:Yamini, Kamna Jetmalani:Gayatri,
Sukrutha Wagle:Kalpika, Shivani:Samyuktha, Sujith Kumar Reddy:Teja,
Raja Ashok:Smaran, Gururaj:Appa Rao",
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  "Genre": "Drama, Suspense",
  "Series": "Vyavastha",
  "accessType": "Premium",
  "adId": "7a4712df-f199-4694-9f6d-7391f11ed5be",
  "c3.cm.id": "0-1-6z5347413",
  "contentID": "0-1-6z5347413",
  "episodeName": "Nobody Messes With Me",
  "episodeNumber": "1",
  "genre": "Drama, Suspense",
  "season": "1",
  "show": "Vyavastha-S1",
  "userCountry": "US",
  "userEmail": "h.garciapez@gmail.com",
  "userIP": "104.13.213.195",
  "viewerAge": "50",
  "viewerGender": "Male"
```

D. Overview Of The Mixpanel API

55. Mixpanel is an advanced analytics platform that allows app developers to "see every moment of the customer experience clearly," "[s]et up … metrics to measure growth and retention," "[s]lice and dice data to uncover trends and see live updates on how people are using your app."[36] Defendants integrate the Mixpanel SDK ("Mixpanel" or "Mixpanel SDK") into the App. Mixpanel (the company) develops, owns, and operates the API of the same name.

56. Once integrated into a mobile application, the Mixpanel API allows an app developer to, among other features, "[h]arness big-data to drive targeted customer engagement through automated segments, advanced analytics and actionable intelligence," and "[t]ailor customer interactions based on demographics, prior behavioral patterns, real-time actions and recommend next best experiences."[37]

32. Mixpanel's data model captures three main categories of information: events, users, and properties.[38] While "[a]n event is a data point that represents an interaction between a user and your product," users are the specific individual "[o]n the other side of an event."[39]

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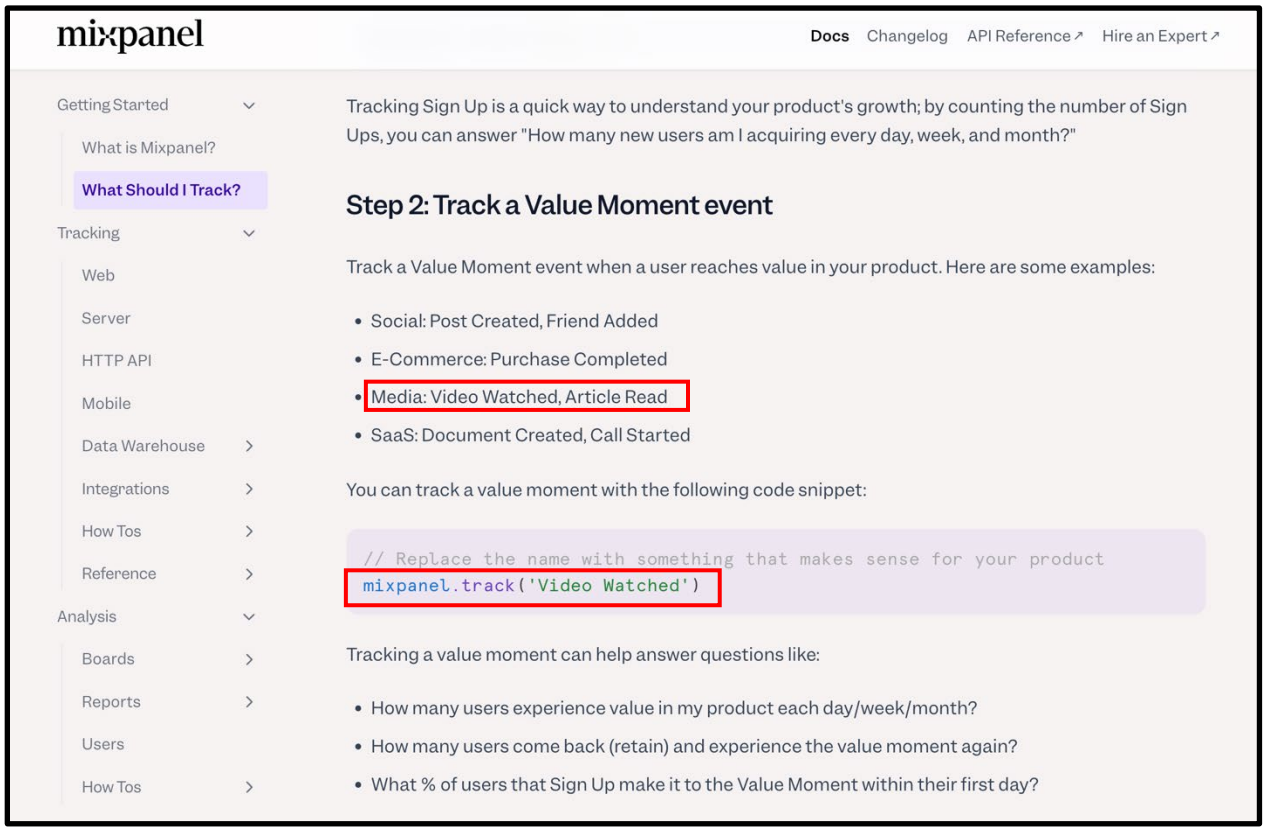
[36] MIXPANEL, https://mixpanel.com/home (last accessed Oct. 19, 2023).

[37] CRAFTING CUSTOMER LIFETIME EXPERIENCES, CLEVERTAP, https://clevertap.com/product-overview/ (last accessed Sept. 20, 2023).

[38] *See* DATA MODEL, MIXPANEL, https://docs.mixpanel.com/docs/getting-started/what-is-mixpanel#introduction-to-the-data-model (last accessed Sept. 20, 2023).

[39] *Id.*

33. Notably, Mixpanel allows clients like Defendant to track information such as what videos users watch[40]:



57. "It takes less than 5 minutes to track events to Mixpanel."[41] The Mixpanel SDK then analyzes user behavior from user "events."[42]

58. Mixpanel offers Defendants a sophisticated user analysis:[43]

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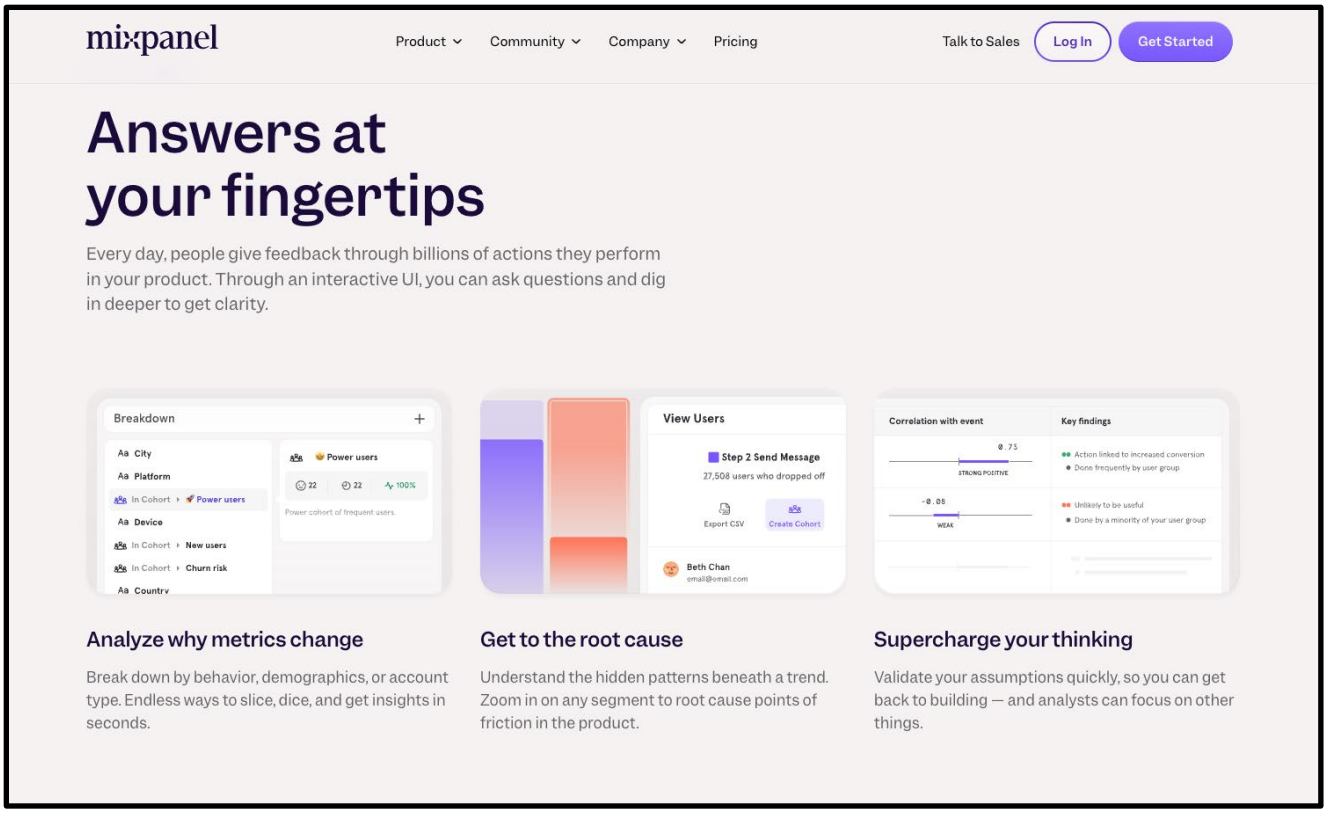
[40] WHAT SHOULD I TRACK?, MIXPANEL, https://docs.mixpanel.com/docs/getting-started/what-should-I-track (last accessed Sept. 20, 2023).

[41] *Id.*

[42] ABOUT, MIXPANEL, https://mixpanel.com/about (last accessed Sept. 20, 2023).

[43] *See generally* USERS, MIXPANEL, https://docs.mixpanel.com/docs/analysis/users (last accessed Sept. 20, 2023); Analysis, MIXPANEL, https://mixpanel.com/analysis (last accessed Sept. 22, 2023).



59. Mixpanel's user analysis tools offer Defendants the ability to aggregate and organize user information into "user profiles."[44] "Mixpanel's Users page aggregates and organizes a collection of user profiles. This facilitates a granular view into the behavior of individual users or groups of users. The Users page can be used to: [c]ount users based on behavior, [e]xplore their unique history, [u]pdate user profiles, [and] [c]reate cohorts of groups of users."[45] "Because each user is

[44] *Id.*

[45] USERS, MIXPANEL, https://docs.mixpanel.com/docs/analysis/users (last accessed Sept. 20, 2023).

unique, Mixpanel tracks which users completed what events and marries the two distinct data points by joining them."[46]

60. The third category of information that Mixpanel catches and collects, the "properties" of events and users, "are attributes that help [clients] define the specifics.[47] Mixpanel collects identifying factors of a user as properties. "This could be [a user's] name, email, or age."[48]

61. As alleged in greater detail below, Defendants utilize each and every one of these features of the Mixpanel API and sends App users' PII to Mixpanel through the Mixpanel API in order to assist with Defendants' marketing, data analytics, and revenue generation.

62. Specifically, Defendants disclose to Mixpanel via the Mixpanel API an App user's: (i) full name; (ii) e-mail address; (iii) gender; (iv) age; (v) AAID; (vi) the name of the pre-recorded video watched by the user—either as the name of the TV series and TV show episode watched by the user, or the name of the movie watched by the user; and (vii) the video ID of the pre-recorded video watched by the user, in addition to other information.

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[46] *Id.*

[47] *Id*

[48] *Id.*

63. The following excerpt from the Android dynamic analysis shows the network traffic of Defendants disclosing this information to Mixpanel:

We observed **Mixpanel** obtaining:

Video Information in the form of:
- Video ID, Video Name, Genre

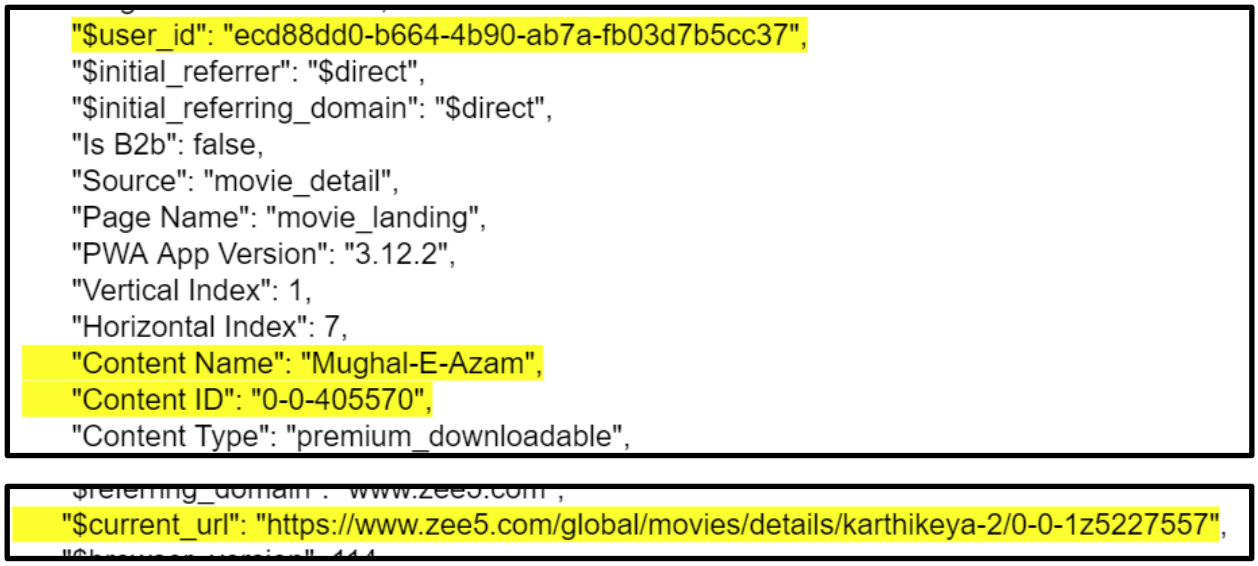
Personal Information in the form of:
- Email, First/Last Name, Gender, Age, User ID

Other Information such as:
- AAID, Appsflyer ID


```
"an": "0-1-6z5347413 - Nobody Messes With Me ",
"tags": {
  "Characters": "Sampath Raj:Avinash Chakraborty, Karthik
Rathnam:Vamsi Krishna, Hebah Patel:Yamini, Kamna Jetmalani:Gayatri,
Sukrutha Wagle:Kalpika, Shivani:Samyuktha, Sujith Kumar Reddy:Teja,
Raja Ashok:Smaran, Gururaj:Appa Rao",
  "Content ID": "0-1-6z5347413",
  "Content Name": "Nobody Messes With Me",
  "Content Specification": "episode",
  "Content Type": "free_downloadable",
  "Genre": "Drama, Suspense",
  "Series": "Vyavastha",
  "accessType": "Premium",
  "adId": "7a4712df-f199-4694-9f6d-7391f11ed5be",
  "c3.cm.id": "0-1-6z5347413",
  "contentID": "0-1-6z5347413",
  "episodeName": "Nobody Messes With Me",
  "episodeNumber": "1",
  "genre": "Drama, Suspense",
  "season": "1",
  "show": "Vyavastha-S1",
  "userCountry": "US",
  "userEmail": "h.garciapez@gmail.com",
  "userIP": "104.13.213.195",
  "viewerAge": "58",
  "viewerGender": "Male"
```


64. Further, Plaintiffs' counsel's research also captured Defendants disclosing Website user's PII to Mixpanel. The following excerpts from the Website dynamic analysis show network traffic of Defendants disclosing a user's e-mail address, Zee5 user ID, watched video title, video ID, and watched video URL to Mixpanel.


```
"Variant name": "variant B",
"Email": "thommy5431@yahoo.com",
"Aggregator Partner Name": "N/A"
```



E. Overview Of The Meta Tracking Pixel

65. Meta (formerly known as Facebook) describes itself as a "real identity platform,"[49] and is the largest social networking site on the planet, touting 2.9 billion monthly active users.[50] Meta users are allowed only one account and must share "the name they go by in everyday life."[51] To that end, when creating an account, users must provide their first and last name, along with their birthday and gender.[52]

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[49] Sam Schechner and Jeff Horwitz, *How Many Users Does Facebook Have? The Company Struggles to Figure It Out*, WALL. ST. J. (Oct. 21, 2021), https://www.wsj.com/articles/how-many-users-does-facebook-have-the-company-struggles-to-figure-it-out-11634846701.

[50] Sean Burch, *Facebook Climbs to 2.9 Billion Users, Report 29.1 Billion in Q2 Sales*, YAHOO (July 28, 2021), https://www.yahoo.com/now/facebook-climbs-2-9-billion-202044267.html.

[51] COMMUNITY STANDARDS, PART IV INTEGRITY AND AUTHENTICITY, META, https://www.facebook.com/communitystandards/integrity_authenticity.

[52] SIGN UP, META, https://www.facebook.com/

66. Meta generates revenue by selling advertising space on its website.[53] In 2022, Meta generated over $116 billion in revenue.[54] Roughly $113.6 billion of that, or 97.9%, came from selling advertising space.[55]

67. Meta sells advertising space by highlighting its ability to target users.[56] Meta can target users so effectively because it surveils user activity both on and off its site.[57] This allows Meta to make inferences about users beyond what they explicitly disclose, like their "interests," "behavior," and "connections."[58] Meta compiles this information into a generalized dataset called "Core Audiences," which

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[53] Mike Isaac, *Facebook's profit surges 101 percent on strong ad sales.*, N.Y. TIMES (July 28, 2021), https://www.nytimes.com/2021/07/28/business/facebook-q2-earnings.html.

[54] META REPORTS FOURTH QUARTER AND FULL YEAR 2022 RESULTS, META, https://investor.fb.com/investor-news/press-release-details/2023/Meta-Reports-Fourth-Quarter-and-Full-Year-2022-Results/default.aspx (last accessed Oct. 23, 2023).

[55] Derek Lewis, *Meta and Alphabet Earnings: Ad Revenue in Focus*, YAHOO FINANCE (Oct. 20, 2023), https://finance.yahoo.com/news/meta-alphabet-earnings-ad-revenue-231700102.html?guccounter=2 (last accessed Oct. 24, 2023).

[56] WHY ADVERTISE ON META, META, https://www.facebook.com/business/help/205029060038706 (last accessed Oct. 20, 2023).

[57] ABOUT META PIXEL, META, https://www.facebook.com/business/help/742478679120153?id=1205376682832142 (last accessed Oct. 20, 2023).

[58] AD TARGETING: HELP YOUR ADS FIND THE PEOPLE WHO WILL LOVE YOUR BUSINESS, META, https://www.facebook.com/business/ads/ad-targeting (last accessed Oct. 20, 2023).

advertisers use to apply highly specific filters and parameters for their targeted advertisements.[59]

68. Advertisers, such as Defendants, can also build "Custom Audiences."[60] Custom Audiences enable advertisers to reach "people who have already shown interest in [their] business, whether they're loyal customers or people who have used [their] app or visited [their] website." With Custom Audiences, advertisers can target existing customers directly, and can also build "Lookalike Audiences," which "leverages information such as demographics, interests, and behavior from your source audience to find new people who share similar qualities."[61]

69. Unlike Core Audiences, Custom Audiences require an advertiser to supply the underlying data to Meta. Advertisers can do this through two mechanisms: (i) by manually uploading contact information for customers, or (ii) by

[59] EASIER, MORE EFFECTIVE WAYS TO REACH THE RIGHT PEOPLE ON FACEBOOK, META, https://www.facebook.com/business/news/Core-Audiences (last accessed Oct. 20, 2023).

[60] ABOUT CUSTOM AUDIENCES, META, https://www.facebook.com/business/help/744354708981227?id=2469097953376494 (last accessed Oct. 20, 2023).

[61] ABOUT LOOKALIKE AUDIENCES, META, https://www.facebook.com/business/help/164749007013531?id=401668390442328 (last accessed Oct. 20, 2023).

utilizing Meta's "Business Tools," which collect and transmit the data automatically.[62] One such Business Tool is the Meta Tracking Pixel.

70. The Meta Tracking Pixel is a piece of code that advertisers, like Defendants, can integrate into their website. Once activated, the Meta Tracking Pixel "tracks the people and type of actions they take."[63]

71. When the Meta Tracking Pixel captures an action, it sends a record to Meta. Once this record is received, Meta processes it, analyzes it, and assimilates it into datasets like Custom Audiences and Core Audiences.

72. Defendants can control what actions—or, as Meta calls it, "events"—the Meta Tracking Pixel will collect. The Meta Tracking Pixel can capture the website's metadata, along with what pages a visitor views and what buttons a visitor clicks.[64] Defendants can also configure the Meta Tracking Pixel to track other events. Meta offers a menu of "standard events" from which advertisers like

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[62] CREATE A CUSTOMER LIST CUSTOM AUDIENCE, META, https://www.facebook.com/business/help/170456843145568?id=2469097953376494 (last accessed Oct. 20, 2023).

[63] RETARGETING, META, https://www.facebook.com/business/goals/retargeting (last accessed Oct. 20, 2023).

[64] *See* Meta Pixel, Accurate Event Tracking, Advanced, META, https://developers.facebook.com/docs/facebook-pixel/advanced/ (last accessed Oct. 20, 2023); *see also* Best Practices for Meta Pixel Setup, META, https://www.facebook.com/business/help/218844828315224?id=1205376682832142 (last accessed Oct. 20, 2023).

Defendants can choose, including what content a visitor views or purchases.[65] Zee can also create its own tracking parameters by building a "custom event."[66]

73. Website developers like Defendants control how the Meta Tracking Pixel identifies Website visitors. The Meta Tracking Pixel is configured to automatically collect "HTTP Headers" and "Pixel-specific Data."[67] HTTP Headers collect "IP addresses, information about the web browser, page location, document, referrer and persons using the website."[68] Pixel-specific Data includes "the Pixel ID and cookie."[69]

[65] SPECIFICATIONS FOR FACEBOOK PIXEL STANDARD EVENTS, META, https://www.facebook.com/business/help/402791146561655?id=1205376682832142 (last accessed Oct. 20, 2023).

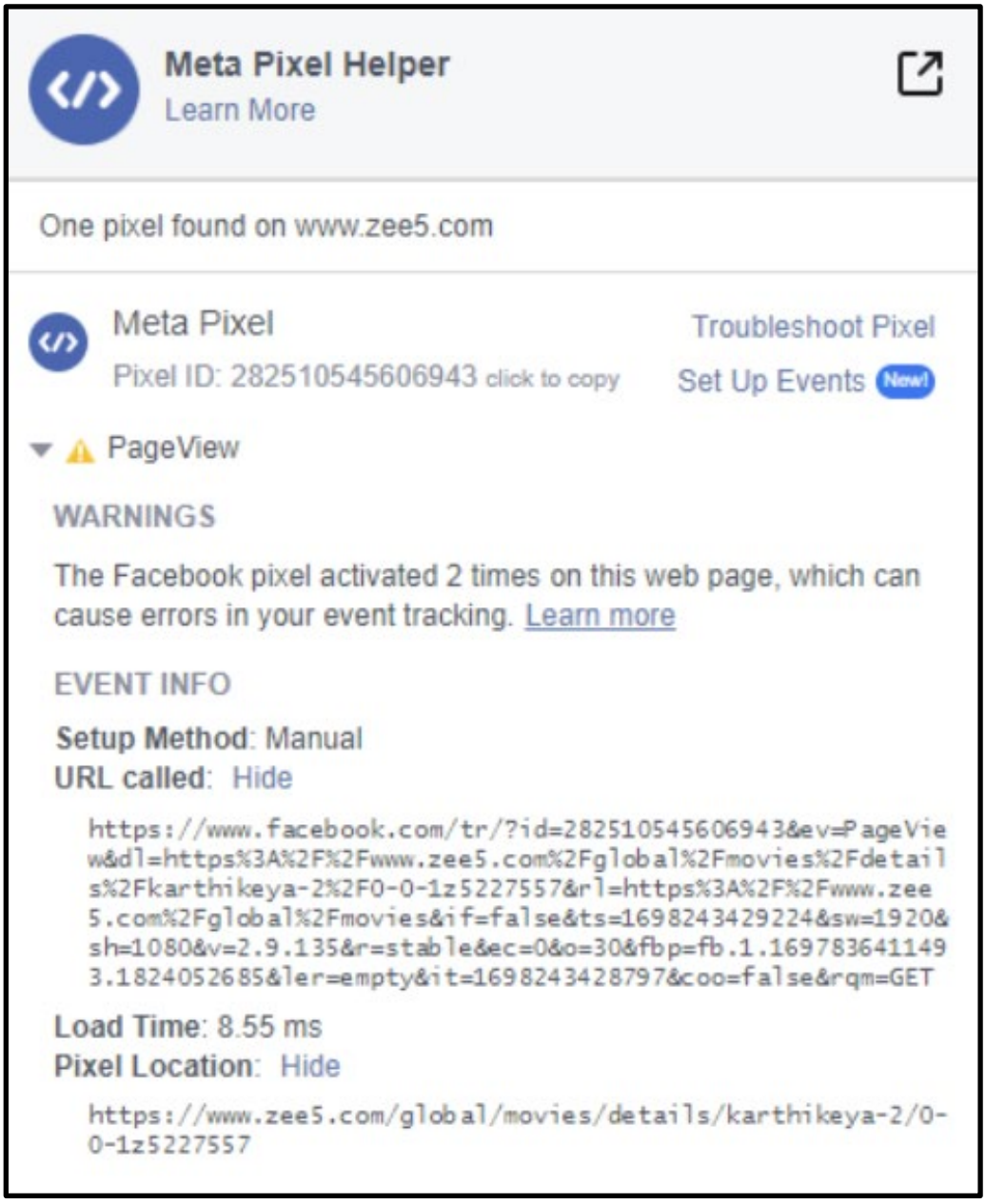
[66] ABOUT STANDARD AND CUSTOM WEBSITE EVENTS, META https://www.facebook.com/business/help/964258670337005?id=1205376682832142 (last accessed Oct. 20, 2023).

[67] Meta Pixel, META, https://developers.facebook.com/docs/facebook-pixel/ (last accessed Oct. 20, 2023).

[68] *Id.*

[69] *Id.*

74. Zee hosts the Meta Tracking Pixel on its website and transmits distinct events to Meta.



75. Through the Meta Tracking Pixel, Zee discloses Website users' e-mail addresses, Meta IDs, last names, phone numbers, and video-viewing information in the form of video title and website URL.

F. Testing Reveals That Defendants Disclose App Users' PII To AppsFlyer, CleverTap, Conviva, and Mixpanel

76. The VPPA prohibits the disclosure of a consumer's "personally identifiable information" ("PII") to a third party. 18 U.S.C. § 2710(b)(1). The VPPA defines "personally identifiable information" as "information which identifies a [specific] person as having requested or obtained specific video materials or services from a video tape service provider." 18 U.S.C. § 2710(a)(3).

77. In addition, the Third Circuit has held that PII "means the kind of information that would readily permit an ordinary person to identify a specific individual's video-watching behavior." *In re Nickelodeon Consumer Priv. Litig.*, 827 F.3d 262, 290 (3d Cir. 2016).

78. The information Defendants disclose to the Third Parties satisfies this definition.

1. Defendants Disclose App Users' First And Last Names To AppsFlyer, CleverTap, And Mixpanel

79. A person's first and last names undoubtedly constitute personally identifiable information. Indeed, such information is identical to the information disclosed by the video clerk regarding Judge Bork, which served as the impetus for the VPPA's enactment.

80. The disclosure of first and last names maximizes Defendants' and the Third Parties' ability to distinguish specific users and subsequently use that

comprehensive user data in Defendants' marketing, advertising, and analytics processes.

81. ***AppsFlyer.*** The Android dynamic analysis discovered Defendants were disclosing a user's first and last name to AppsFlyer:

82. ***CleverTap.*** The following dynamic analysis excerpt from the Android App shows Defendants disclosing a user's first and last name to CleverTap:

83. ***Mixpanel.*** The Android dynamic analysis also caught Defendants disclosing a user's first and last name to Mixpanel:

2. Defendants Disclose Zee5 App Users' E-Mail Address, Gender, And Age To AppsFlyer, CleverTap, Conviva, And Mixpanel

84. An e-mail address is a unique string of characters which designate an electronic mailbox.

85. As industry leaders,[70] trade groups,[71] and courts[72] agree, an ordinary person can use an email address to uniquely identify another individual. Indeed, there exists multiple services that enable anyone with internet access and a credit card to look up who owns a particular email address.

86. A person's gender and age are unique traits. Unlike an e-mail address or name, gender and age cannot be changed at whim. When combined with other personally identifying information, such as an e-mail address (let alone a person's full name), gender and age enable even an ordinary person to further pinpoint a specific user based on a cohort of distinguishing characteristics.

87. ***AppsFlyer.*** Defendants disclose to AppsFlyer a user's e-mail address, gender, and age when a user watches a pre-recorded video on the Android App. The following excerpts from the dynamic analysis demonstrate this:

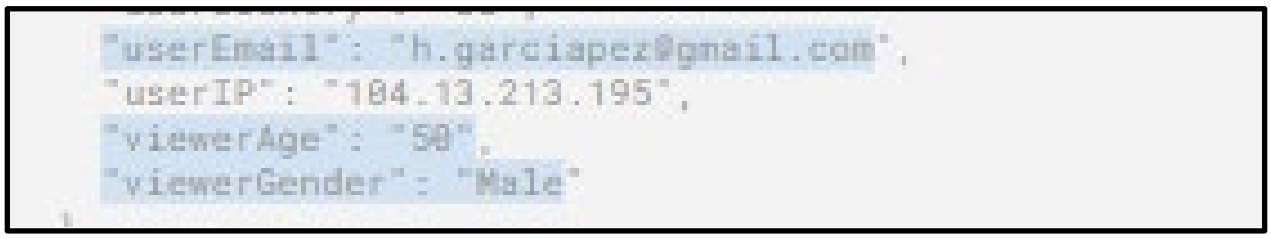
[70] Allison Schiff, *Can Email Be The Next Big Online Identifier?*, AD EXCHANGER (Aug. 25, 2020), https://www.adexchanger.com/data-exchanges/can-email-be-the-next-big-online-identifier/ (quoting Tom Kershaw, CTO of Magnite, who said "[a]n email address is universally considered to be PII, so as such it can never be a valid identifier for online advertising").

[71] Network Advertising Initiative, NAI CODE OF CONDUCT 19 (2020), https://thenai.org/wp-content/uploads/2021/07/nai_code2020.pdf (identifying email as PII).

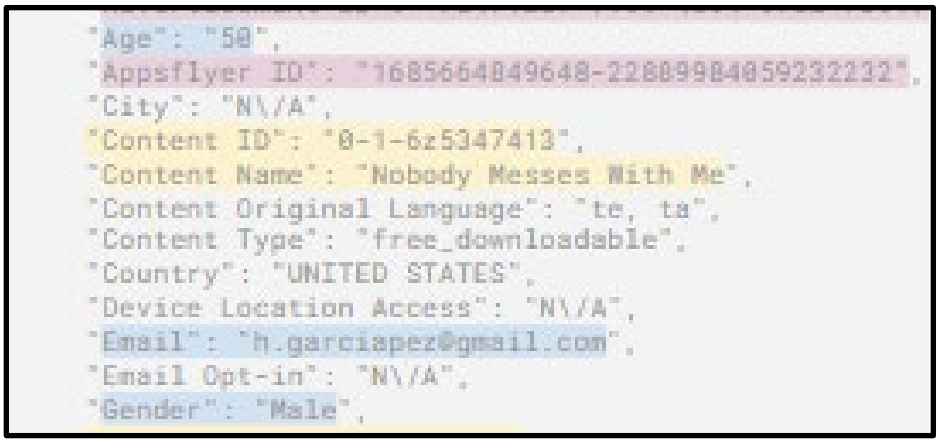
[72] *See United States v. Hastie*, 854 F.3d 1298, 1303 (11th Cir. 2017) ("Email addresses fall within the ordinary meaning of information that identifies an individual. They can prove or establish the identity of an individual.").

CleverTap. The following excepts from the Android dynamic analysis show Defendants disclosing a user's e-mail address, gender, and age to CleverTap:

88. ***Conviva.*** The following excepts from the Android dynamic analysis captures Defendants disclosing a user's e-mail address, gender, and age to Conviva:



89. ***Mixpanel.*** The following excepts from the Android dynamic analysis captures Defendants disclosing a user's e-mail address, gender, and age to Mixpanel:



3. Defendants Disclose Android App Users' Advertising ID To AppsFlyer, CleverTap, Conviva, And Mixpanel

90. An AAID is a unique string of numbers that attaches to an Android device. As the name implies, an AAID is sent to advertisers and other third parties so they can track user activity across multiple mobile applications.[73] For example, if a third party collects AAIDs from two separate mobile applications, it can track, cross-correlate, and aggregate a user's activity on both apps.

91. Although technically resettable, an AAID is a persistent identifier because virtually no one knows about AAIDs. Correspondingly, virtually no one resets that identifier. The fact that the use and disclosure of AAIDs is so ubiquitous evinces an understanding on the part of Defendants and others in the field that they are almost never manually reset by users (otherwise an AAID would be of no use to advertisers). *See Louth v. NFL Enterprises LLC*, 2022 WL 4130866, at *3 (D.R.I. Sept. 12, 2022) ("While AAID are resettable by users, the plaintiff plausibly alleges that AAID is a persistent identifier because virtually no one knows about AAIDs and, correspondingly, virtually no one resets their AAID.") (cleaned up).

[73] ADVERTISING ID, GOOGLE, https://support.google.com/googleplay/android-developer/answer/6048248?hl=en (last accessed Sept. 29, 2023).

92. Using publicly available resources, an ordinary person can use an AAID to track a user's movements, habits, and activity on mobile applications.[74] Put together, the AAID serves as "the passport for aggregating all of the data about a user in one place."[75]

93. Because an AAID creates a record of user activity, this data can create inferences about an individual, like a person's political or religious affiliations, sexuality, or general reading and viewing preferences. These inferences, combined with publicly available tools, make AAIDs an identifier that sufficiently permits an ordinary person to identify a specific individual.

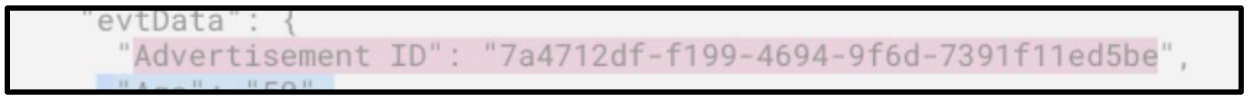
94. By disclosing users' AAIDs to the Third Parties, Defendants disclose information that an ordinary person could use to identify its users.

95. ***AppsFlyer.*** The following excerpt from the Android dynamic analysis captures Defendants disclosing an Android user's AAID to AppsFlyer:

[74] Thomas Tamblyn, *You Can Effectively Track Anyone, Anywhere Just By The Adverts They Receive*, HUFFPOST (Oct 19, 2017), https://www.huffington post.co.uk/entry/using-just-1000-worth-of-mobile-adverts-you-can-effectively-track-anyone_uk_59e87ccbe4b0d0e4fe6d6be5.

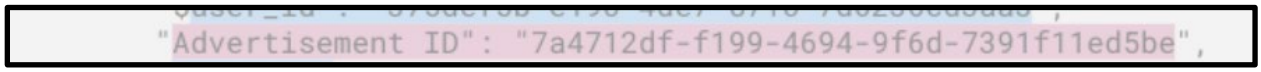
[75] Willie Boag, *Trend Report: Apps Oversharing Your Advertising ID*, IDAC, https://digitalwatchdog.org/trend-report-apps-oversharing-your-advertising-id/ (last accessed Sept. 26, 2023).

96. ***CleverTap.*** The following excerpt from the Android dynamic analysis captures Defendants disclosing an Android user's AAID to CleverTap:



97. ***Conviva.*** The following excerpt from the Android dynamic analysis captures Defendants disclosing an Android user's AAID to Conviva:

98. ***Mixpanel.*** The following excerpt from the Android dynamic analysis captures Defendants disclosing an Android user's AAID to Mixpanel:



4. Defendants Disclose Apple App Users' Apple ID To Mixpanel

99. An Apple ID is "the key to everything [users] do with Apple products and services."[76] With the Apple ID, an Apple user can "access all Apple services and make all of [their] devices work together seamlessly."[77]

100. The Apple ID is unique to every iOS user and resembles an e-mail address.[78] In fact, "Apple recommends that [users] do not share [their] Apple ID,"

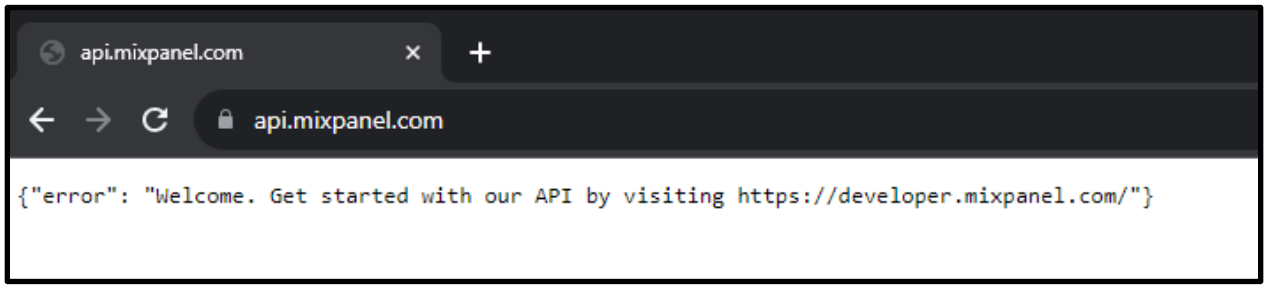
[76] APPLE ID, APPLE, https://support.apple.com/apple-id (last accessed Oct. 24, 2023).

[77] APPLE ID, APPLE, https://support.apple.com/apple-id (last accessed Oct. 24, 2023).

[78] SUPPORT, APPLE, https://support.apple.com/en-us/HT204976 (last accessed Oct. 24, 2023).

even with family members.[79] Because a unique Apple ID distinguishes an individual user, Apple IDs constitute PII, in the same way that e-mail addresses do. By disclosing users' Apple IDs to Mixpanel, Defendants disclose information that ordinary people can use to identify individual App users.

101. Testing revealed that Defendants transmit an Apple user's Apple ID to an endpoint called "api.mixpanel.com." This endpoint is Mixpanel's API:[80]

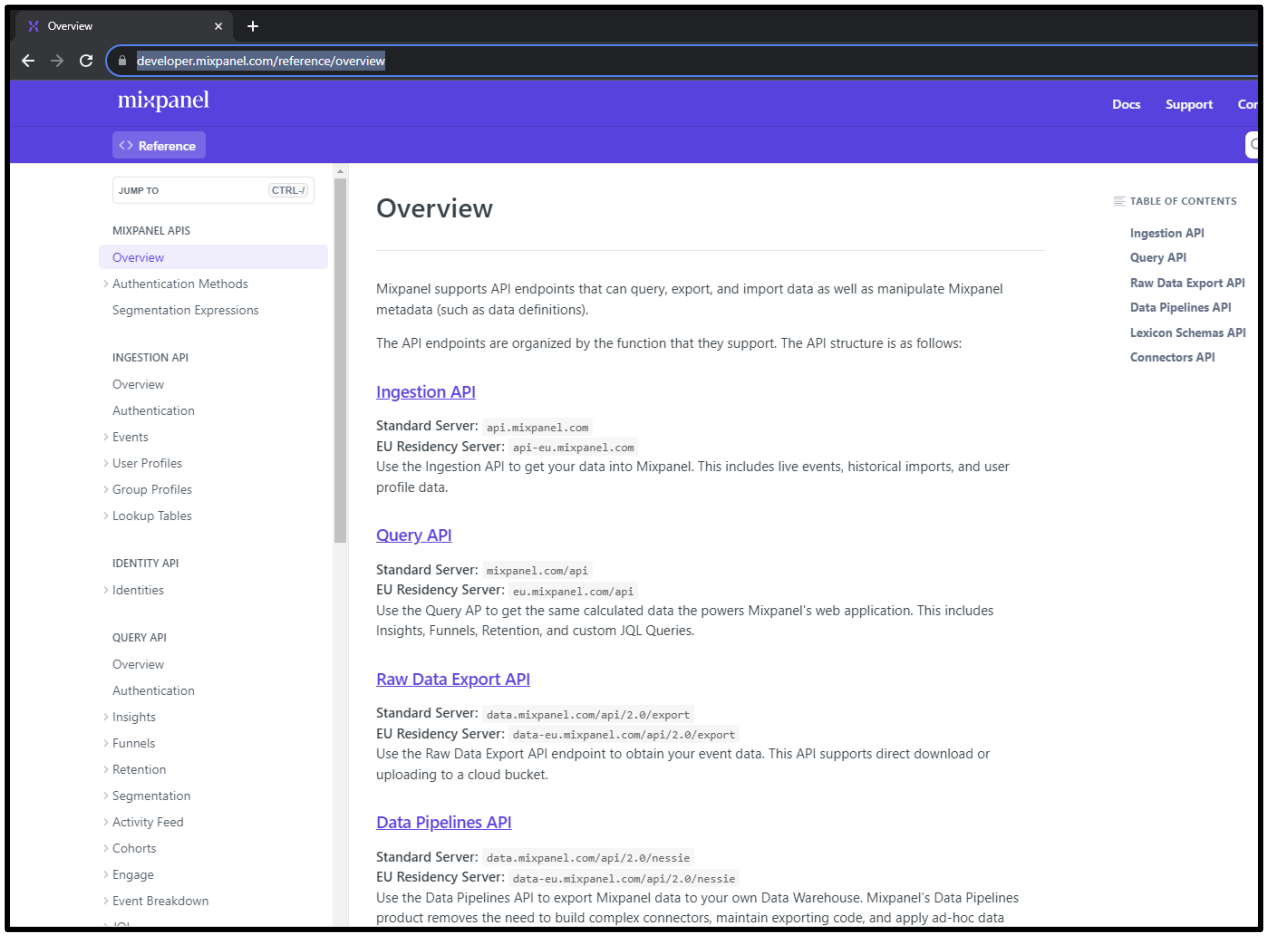


102. For those who do not have the Mixpanel API installed, this endpoint redirects visitors to "https://developer.mixpanel.com," Mixpanel's Developer webpage:[81]

[79] *Id.*

[80] *See* api.mixpanel.com.

[81] DEVELOPER, MIXPANEL, https://developer.mixpanel.com/reference/overview (last accessed Oct. 24, 2023).

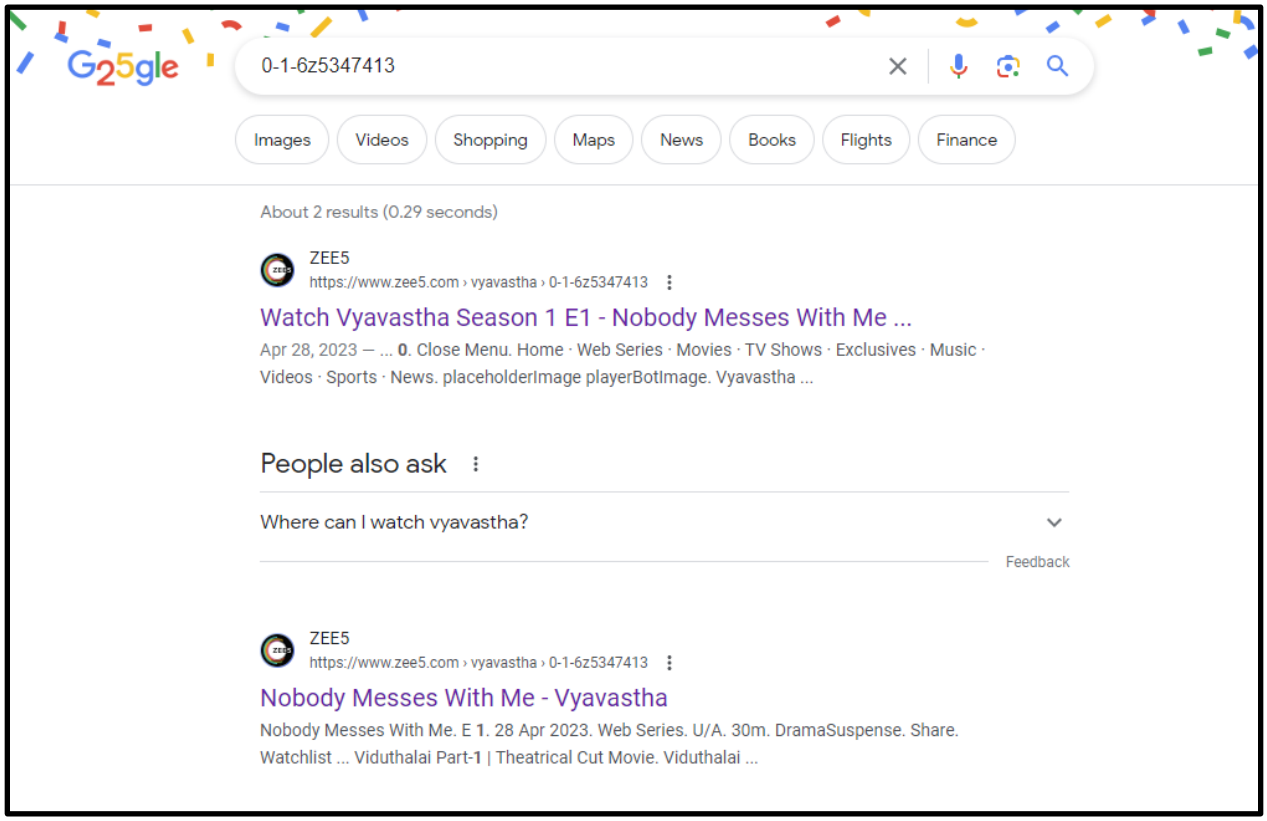


5. Defendants Disclose Information Identifying Which Specific App Users Watched Which Specific Videos To AppsFlyer, CleverTap, Conviva, And Mixpanel

103. The App dynamic analysis captured Defendants disclosing the name of the pre-recorded videos watched by App users—either as the name of the TV series and TV show episode watched by the user, or the name of the movie watched by the user—and the video ID of the pre-recorded video watched by the user, in addition to other information, including video name and video ID of the pre-recorded videos watched by App users to the Third Parties.

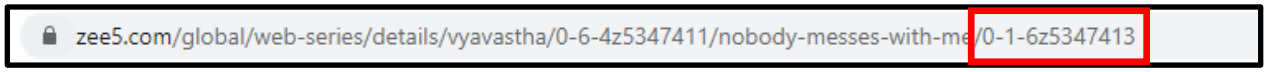
104. The name of a video—whether it is the name of a movie or the name of a TV series and TV show episode—naturally permits an ordinary person to identify the specific video watched by a specific user. Again, this is the same information disclosed by the video clerk in the Judge Bork example.

105. In addition, an ordinary person can link a video ID to a corresponding video title. That person need only open a browser, type the video ID alongside "video" or "zee5," and the search will return results showing the corresponding title. Many times, a Google search of the video ID alone will also return the corresponding Zee5 video.



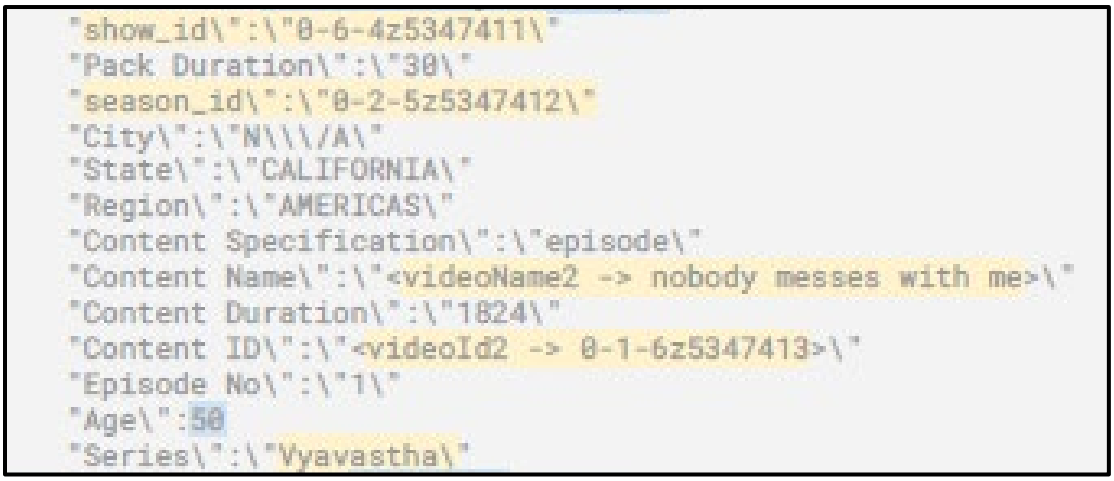
106. Thus, even aside from the video name, a video ID alone will render a disclosed user's video-watching behavior effectively unmistakable to even an ordinary person.

107. Further, the video ID is included in a video's URL for Zee's website:

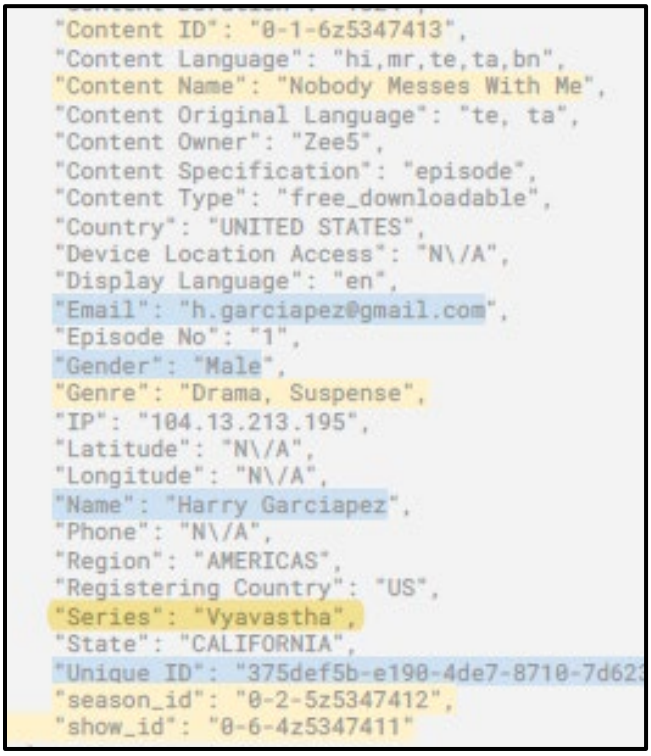


108. Based on the foregoing, Defendants' disclosed video viewing information readily permits an ordinary person to identify a specific user's video watching behavior.

109. ***AppsFlyer.*** The dynamic analysis captured Defendants disclosing a user's video-viewing information in the form of video name and unique video ID to AppsFlyer. As alleged above, while the disclosed video ID *alone* would have sufficiently allowed an ordinary person to discover the exact video a user watches, Defendants' additional disclosure of a video's name allows anyone with this information to confirm the video a user watches.



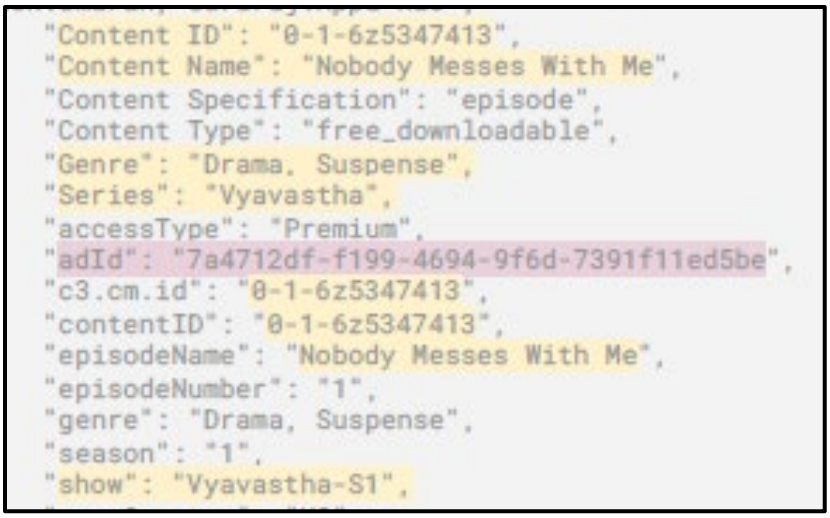
110. ***CleverTap.*** The dynamic analysis captured Defendants disclosing a user's video-viewing information in the form of video name, unique video ID, and video genre to CleverTap. As alleged above, while the disclosed video ID *alone* would have sufficiently allowed an ordinary person to discover the exact video a user watches, Defendants' additional disclosure of a video's name allows anyone with this information to confirm the video a user watches.



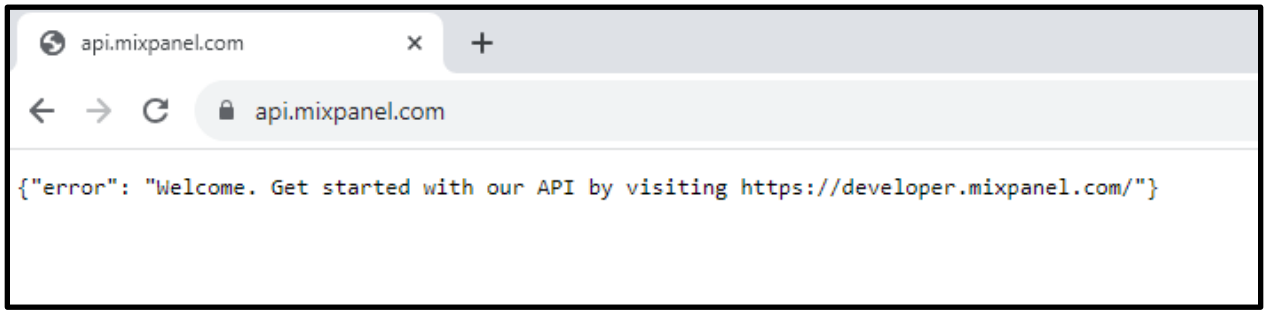
111. ***Conviva.*** The dynamic analysis captured Defendants disclosing a user's video-viewing information in the form of video name, unique video ID, and video genre to Conviva. As alleged above, while the disclosed video ID *alone* would have sufficiently allowed an ordinary person to discover the exact video a user

watches, Defendants' additional disclosure of a video's name allows anyone with this information to confirm the video a user watches.

112. ***Mixpanel.*** The dynamic analysis captured Defendants disclosing an Android user's video-viewing information in the form of video name, unique video ID, and video genre to Mixpanel. As alleged above, while the disclosed video ID *alone* would have sufficiently allowed an ordinary person to discover the exact video a user watches, Defendants' additional disclosure of a video's name allows anyone with this information to confirm the video a user watches.



113. Testing also revealed that Defendants disclose an iOS App user's video-viewing information to Mixpanel in the form of the full video title of a watched video. Defendants transmit this information to the same endpoint, "api.mixpanel.com," that they disclose a user's Apple ID to. This endpoint is likely the Mixpanel API that Defendants purchased and installed where Defendants transmit users' PII. As mentioned above, if a visitor who has not installed the Mixpanel API attempts to visit api.mixpanel.com, the website redirects the visitor to Mixpanel's Developers page to "[g]et started with [Mixpanel's] API."[82]



[82] *See* § III.F.4, *supra*.

G. Testing Reveals That Defendants Disclose Website Users' PII To Mixpanel And Facebook

114. Plaintiffs' counsel also tested Defendants' disclosure of users' PII via Defendants' website ("Zee5.com" or "Website"). Plaintiffs' counsel's research discovered that Defendants disclose Website users' PII to Mixpanel and Facebook. Specifically, Defendant disclose users' e-mail addresses and video titles to Mixpanel and Meta, as well as additionally disclosing Website users' last names and phone numbers to Meta.

1. Defendants Disclose Website Users' E-mail Addresses To Mixpanel, And Users' E-mail Addresses, Last Names, and Phone Numbers To Meta

115. As alleged above, an e-mail address is a unique identifier that pinpoints individuals. Thus, an e-mail address constitutes personally identifiable information.

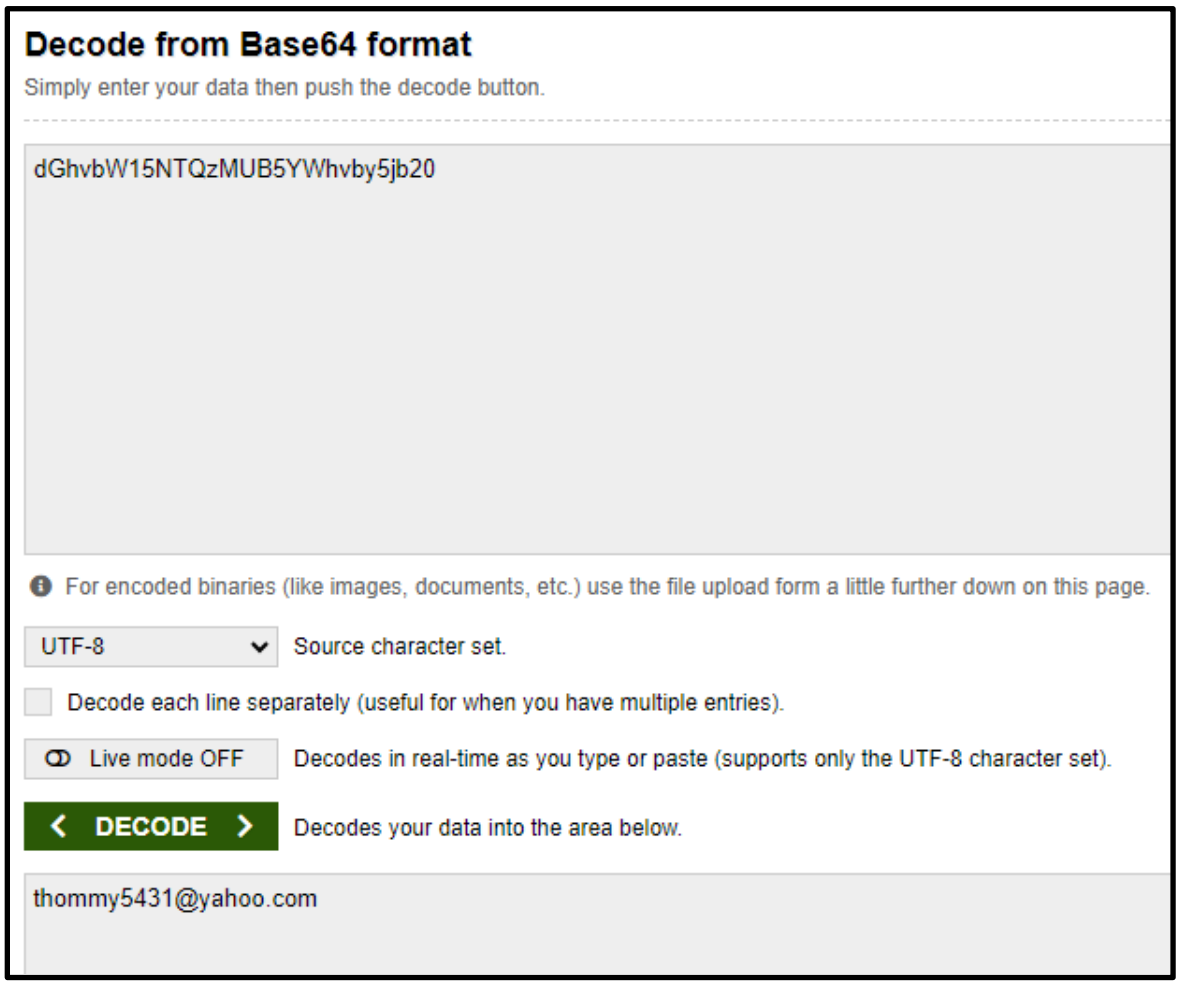
116. ***Mixpanel.*** Testing revealed that Defendants disclosed Website users' PII in the form of e-mail addresses to Mixpanel via the Mixpanel API. Specifically, Defendants disclose an encoded version of a Website user's e-mail address with a simple Base64 encryption.

117. A Base64 encryption can be decoded by even an ordinary person. All that is required is a simple Google search for a "base64 decoder" or similar online tool. Multiple free websites are located on the Internet and can be easily located and used to decode text encrypted in Base64.

118. The Website dynamic analysis captured Defendants disclosing a Website user's e-mail address to Mixpanel, encoded in Base64 as "dGhvbW15NTQzMUB5YWhvby5jb20."

eHBlcmltZW50IG5hbWUiOiAiQUIgVGVzdGluZyBCdWNrZXRpbmciLCJWYXJpYW50IG5hbWUi
OiAidmFyaWFudCBCIiwiRW1haWwiOiAidGhvbW15NTQzMUB5YWhvby5jb20iLCJBZ2dyZWdh
dG9yIFBhcnRuZXIgTmFtZSI6ICJOL0EiLCJBZ2dyZWdhdG9yIFBhcnRuZXIgSUQiOiAiTi9BIiwiQ
WdncmVnYXRvciBVc2VyIFR5cGUiOiAiTm90IFN1YnNjcmliZWQiLCJBY3RpdmUgUGFydG5lci
BTdWJzY3JpcHRpb25zIjogIk4vQSIsIkNvbnRlbnQgT3duZXIiOiAiWmVlNSIsInRva2VuIjogImY0
M2M2NmVkOTc1NWRhYzJmYTQ0OGRhMmU5ZWRkNDBiIn19

119. However, using a free Base64 decoder available to any ordinary person, a user's e-mail address can be easily discovered:



120. Zee only discloses a Website user's e-mail address the first time a Website user logs in to their Zee5 account. The other PII that Defendants transmit to Mixpanel, such as video-viewing information, is disclosed in a separate transmission.

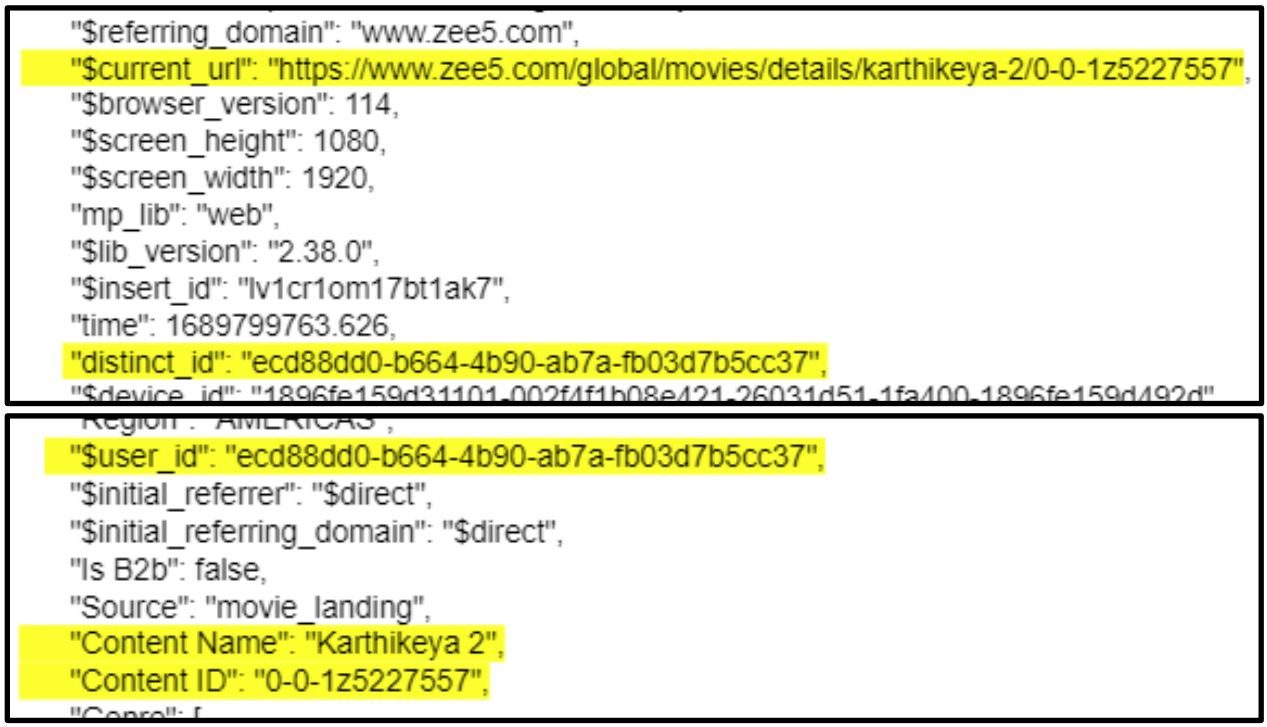
121. Although Defendants separate the disclosure into two separate transmissions, a Website user is still easily identifiable. With each transmission of a Website user's data to Mixpanel, Defendants include an individual Website user's unique Zee5 ID. This Zee5 ID is a string of numbers and letters that is generated when an individual first signs up for a Zee5 account. The Zee5 ID remains unique to every Website user.

122. Because a user's Zee5 ID remains the same and is disclosed with each of Defendants' data transmissions to Mixpanel, even an ordinary person can identify an individual Website user and which specific videos they watched by associating the Zee5 ID with a user's e-mail address and video-viewing information—filtering by a user's Zee5 ID as the common denominator in Defendants' transmissions.

123. The following user's Zee5 ID was disclosed with a Website user's e-mail address:

"Region": "AMERICAS",
"$user_id": "ecd88dd0-b664-4b90-ab7a-fb03d7b5cc37",
"$initial_referrer": "$direct",

124. Defendants disclosed the same unique Zee5 ID[83] in subsequent data transmissions to Mixpanel with the Website user's watched video title, video ID, and video URL:



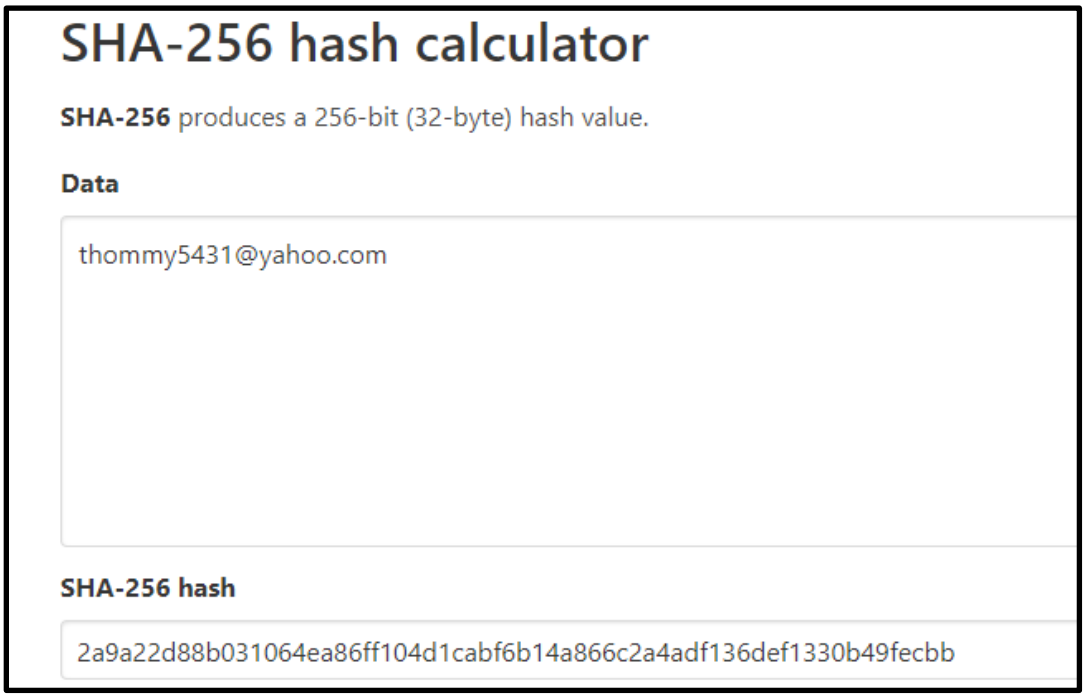
125. Throughout each disclosure, the unique Zee5 ID remains the same as the Zee5 ID that Defendants first disclosed to Mixpanel in the transmission containing the Website user's e-mail address.

126. ***Meta.*** Plaintiffs' counsel's research discovered that Defendants disclose a Website user's PII—including e-mail address, last name, and phone number—to Meta via the Meta Tracking Pixel. Although Defendants disclose

[83] A user's Zee5 ID itself remains the same in each network transmission from Zee to Mixpanel. But in the transmissions, Defendants give the Zee5 ID various different labels, including but not limited to "distinct_id" and "$user_id."

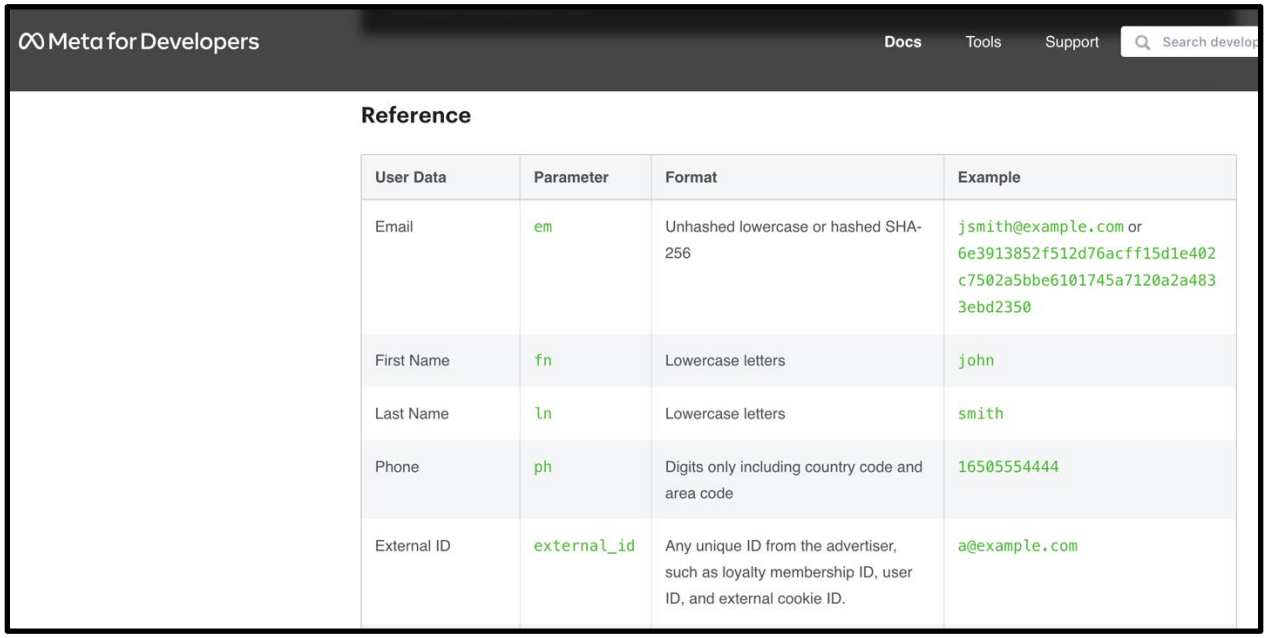
Website users' PII in an encrypted format called "SHA 256," technological advances, including "the newest hardware (CPU and GPU) improvements" allow ordinary individuals to "decrypt SHA256."[84]

127. However, even without access to the newest hardware technology, an ordinary person can reverse-engineer a SHA 256-encrypted code. The following screenshot depicts a free online resource that allows individuals to encode any text into SHA 256. The e-mail input into the "Data" field of the encryption tool below matches the disclosed Website user's e-mail address, and the resulting encoded SHA 256 hash code matches the data in the network traffic that Plaintiffs' counsel caught in the Website dynamic analysis.

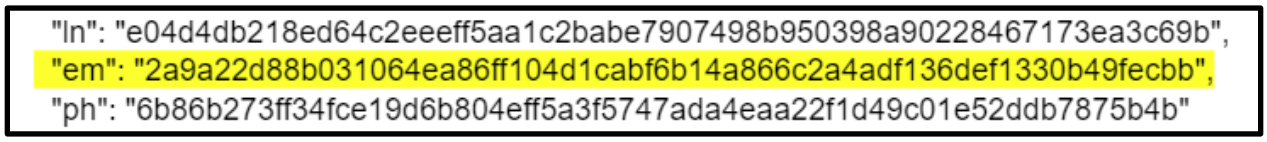


[84] SHA 256 CALCULATOR, https://xorbin.com/tools/sha256-hash-calculator (last accessed Oct. 20, 2023); *see also id.* (explaining that SHA 256 is historically a one-way cryptographic hash function, which is akin to a signature for a set of data).

128. Meta acknowledges that advertisers such as Defendants transmit users' PII including, but not limited to, e-mail addresses and last names, on its Developers website. Specifically, Meta's Reference sheet states that "em" stands for "e-mail," and "ln" refers to a user's last name.[85]



129. The following excerpt is taken from the Website dynamic analysis and captures Defendants disclosing a Website user's hashed (meaning SHA 256-encrypted) e-mail address, last name, and phone number to Meta via the Meta Tracking Pixel. Again, this information can be easily decrypted using publicly available tools:



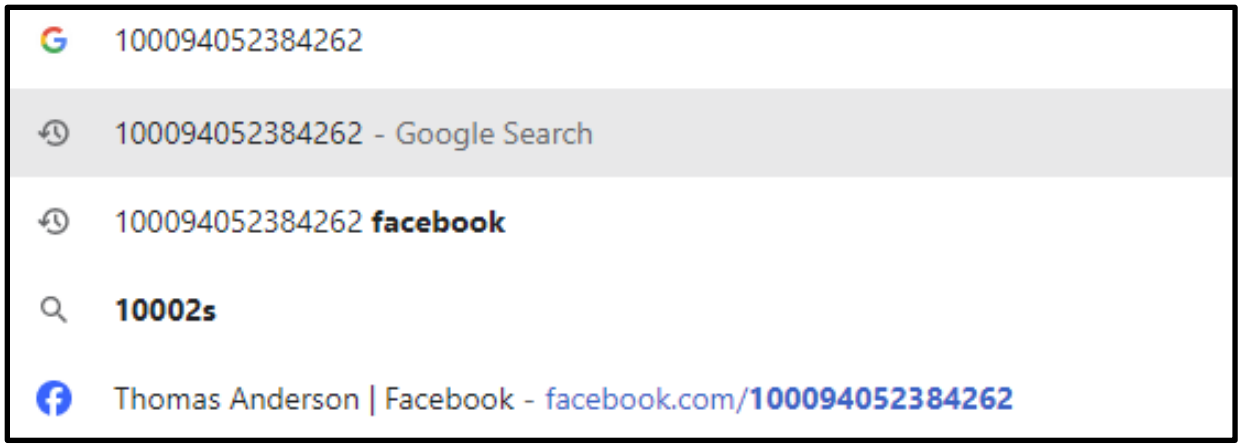
[85] *See* Reference, META, https://developers.facebook.com/docs/meta-pixel/advanced/advanced-matching (last accessed Oct. 22, 2023).

2. Defendants Disclose Website Users' Meta User ID To Meta

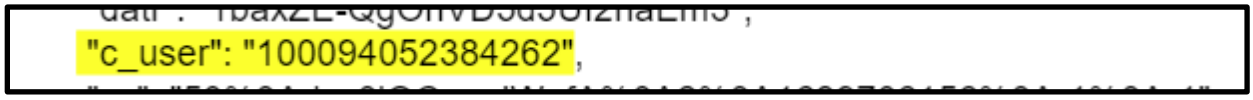
130. Plaintiffs' counsel's research revealed that Defendants disclose a Website user's unique Meta ID ("MID") to Meta. A MID is a unique and persistent identifier that Meta assigns to each user. A user who accesses Defendant's Website while logged into Meta transmits what is known as the "c_user cookie" to Meta, which contains that user's unencrypted MID.

131. With the c_user cookie, any ordinary person can look up the user's Meta profile and name. Notably, while Meta can easily identify any individual on its own Facebook platform with only their unique MID, so too can any ordinary person who comes into possession of an MID. Meta admits as much on its website.[86] Indeed, to find a corresponding profile, a person need only attach the MID to the end of the URL for Meta, typing in Facebook.com/[MID]. Sometimes, simply the MID searched alone is sufficient:

[86] *See*, *e.g.*, HELP CENTER, FACEBOOK, https://www.facebook.com/help/277898572230446 (last accessed Oct. 20, 2023).



132. The following excerpted network traffic shows Defendants disclosing a Website user's Meta ID to Meta:

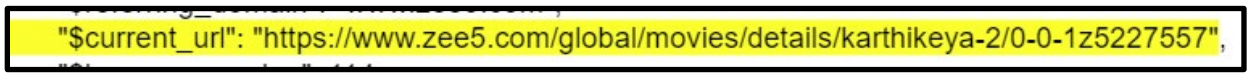


3. Defendants Disclose Information Identifying Which Specific Website Users Viewed Which Specific Videos To Mixpanel And Meta

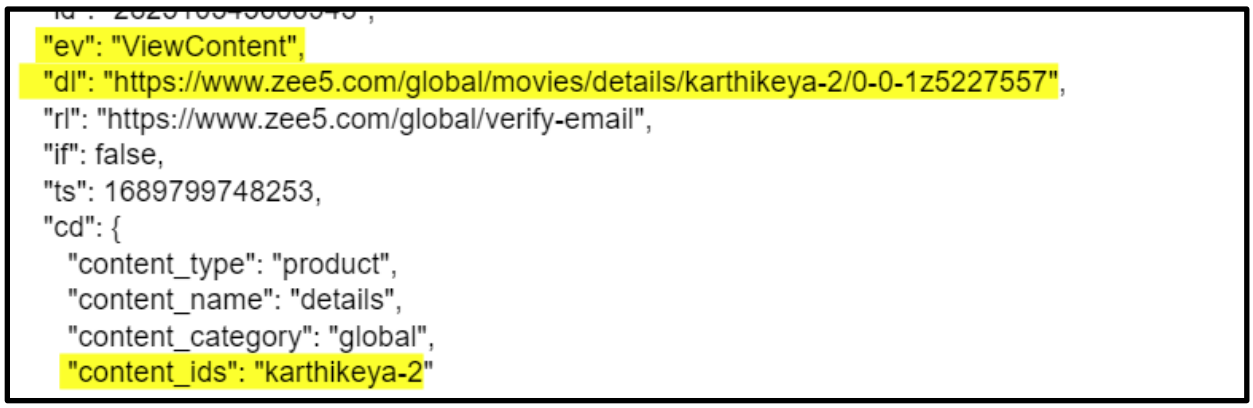
133. ***Mixpanel.*** Plaintiffs' counsel's testing revealed that Defendants disclose to Mixpanel a Website user's video-viewing information in the form of the watched video's title, the unique video ID, and website URL.

134. As mentioned above, a video's unique video ID is sufficient on its own to allow even an ordinary person to discover the specific video a user watched. And the watched video's full title similarly allows even an ordinary person to determine which specific video a user watched. Defendants disclose both, as demonstrated in the excerpt below:

135. In addition, Defendants also disclose a watched video's URL. When the video's URL is entered into a web browser and searched, the disclosed URL leads directly to the Website user's watched video. Further, the disclosed URL comprises of both the video title and its unique video ID, which, as alleged above, are each independently sufficient to identify to an ordinary person the exact video a Website user watched.



136. ***Meta.*** Plaintiffs' counsel uncovered evidence that Defendants disclose to Meta via the Meta Tracking Pixel a Website user's video-viewing information in the form of video title and website URL:



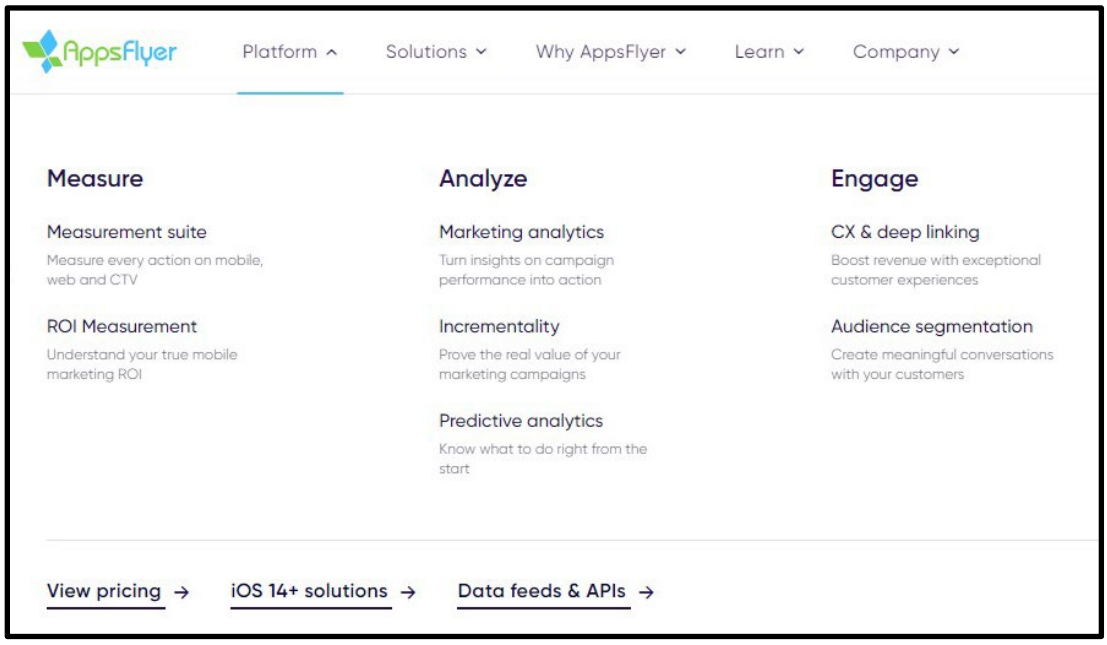
137. This disclosure also demonstrates a user watched a specific video—rather than just visiting a page with multiple videos—as indicated by the "event data," "'ev': 'ViewContent.'"

IV. DEFENDANTS DISCLOSE USERS' PII TO THE THIRD PARTIES FOR THE PURPOSES OF MARKETING, ADVERTISING, AND ANALYTICS

A. Defendants Disclose User's PII To AppsFlyer For The Purposes Of Marketing, Advertising, And Analytics

138. Defendants transmit a user's PII to AppsFlyer via the AppsFlyer API so that AppsFlyer's suite of services can analyze the user data and allow Defendants to create more personalized recommendations, thereby "boost[ing user] subscriptions" and "increas[ing] … [Zee's] revenue stream."[87]

139. AppsFlyer categorizes its services into three main functions, enabling customers such as Defendants to measure, analyze, and engage users. These functions directly correspond with Defendants' use of AppsFlyer to improve its marketing, advertising, and analytics.



[87] SOLUTIONS, APPSFLYER, https://www.appsflyer.com/solutions/entertainment-music (last accessed Oct. 17, 2023).

140. In fact, AppsFlyer's Privacy Policy states: "[w]hen a Customer [such as Zee] uses the [AppsFlyer] Services," AppsFlyer "receive[s] and processe[s]" end user information including "IDFA (identifier for advertisers) … [and] personal data."[88]

141. "Customers [such as Zee] have the technical ability to configure the Services to collect PII. This includes, for example, a Customer using an End User's email address as a Customer issued user ID Technical Identifier. If a Customer has configured the Services to collect PII then we may receive and process such data."[89]

142. User data "may be collected through various methods, including" when "provided voluntarily," when "the Customer integrates AppsFlyer's SDK's, API's, … or similar data collection technologies into their Applications, websites and/or ads," and from "various advertising networks and third parties" that customers such as Zee use "in connection with the measurement and analysis of Customer's marketing campaigns."[90]

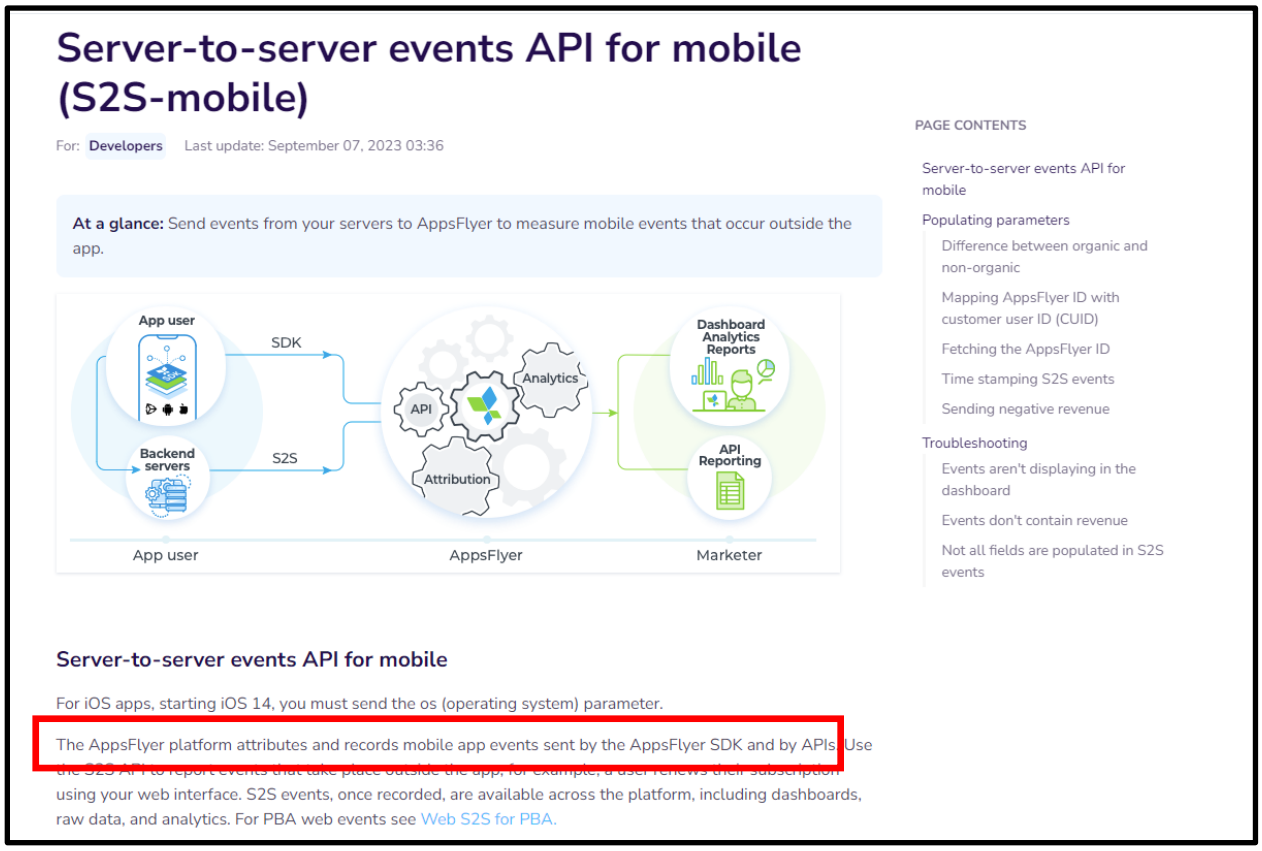
143. Specifically, AppsFlyer states how it uses the personal data of users "to provide [Defendants] with … services [] includ[ing], without limitation, attribution,

[88] Privacy Policy, APPSFLYER, https://www.appsflyer.com/legal/services-privacy-policy/#engagementinformation (last accessed Sept. 28, 2023).

[89] *Id.*

[90] *Id.*

analytics, and ad fraud protection services."[91] AppsFlyer's services include both in-app events and "events that take place outside the app."[92]



144. The AppsFlyer API's capture and analysis of users' mobile events for Defendants enables Defendants to get "real-time insights[] and measurement[s] of

[91] *Id.*

[92] HELP CENTER, APPSFLYER, https://support.appsflyer.com/hc/en-us/articles/207034486-Server-to-server-events-API-for-mobile-S2S-mobile- (last accessed Sept. 28, 2023).

subscriber journeys in both raw and aggregated reports."[93] This aids Defendants' marketing, advertising, and analytics in the App.

B. Defendants Disclose Users' PII To CleverTap For The Purposes Of Marketing, Advertising, And Analytics

145. As noted in a CleverTap case study focusing on Defendants, Defendants saw that there was "a huge opportunity for [their] team to engage with a user across the customer lifecycle to increase the time spent on the app and consequently, increase the number of subscriptions."[94] Because Zee's "previous engagement partner did not come with built-in user analytics," Zee "had no way to understand how [its] campaigns performed, particularly across geographies[] … and [accordingly] were unable to measure the impact of their campaigns on subscription rates."[95]

146. Then CleverTap stepped up. CleverTap's technology allows clients like Defendants to "[t]ailor customer interactions based on demographics, prior behavioral patterns, real-time actions and recommend next best experiences."[96]

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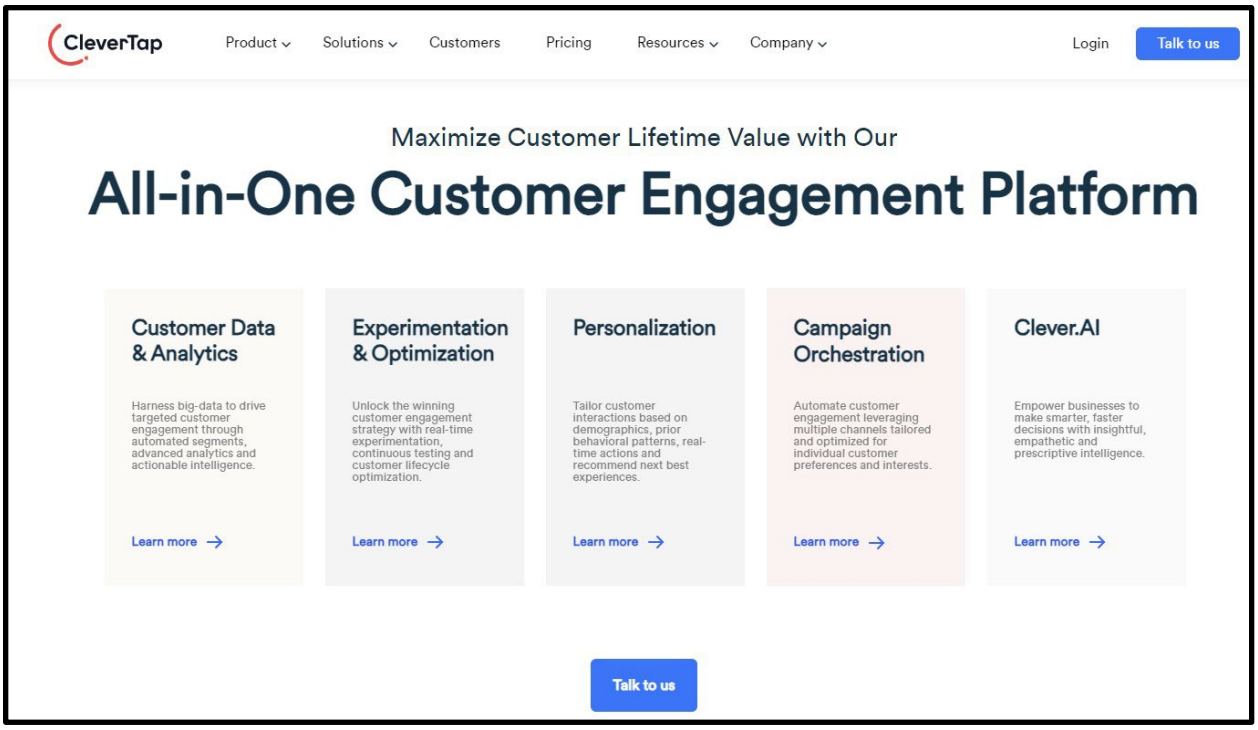
[93] ROI MEASUREMENT, APPSFLYER, https://www.appsflyer.com/products/roi-measurement/ (last accessed Sept. 28, 2023).

[94] CASE STUDIES, CLEVERTAP, https://clevertap.com/case-study/how-using-best-time-to-send-lifted-zee5-global-campaign-ctrs-by-60/ (last accessed Oct. 13, 2023).

[95] *Id.*

[96] Product Overview, CLEVERTAP, https://clevertap.com/product-overview/ (last accessed Sept. 27, 2023).



147. To create personalized content that engages and retains users, Defendants disclose a user's PII to CleverTap.

148. CleverTap allows Zee to collect users' event and session data. Events are "what individual actions users perform in [the Zee5 A]pp or website."[97] Tracking events allows Zee to "better understand what users are doing."[98] "A session is a period of continuous activity by the user."[99] Among other things, "[a]nalyzing session length is a great way to measure [user] engagement."[100] For

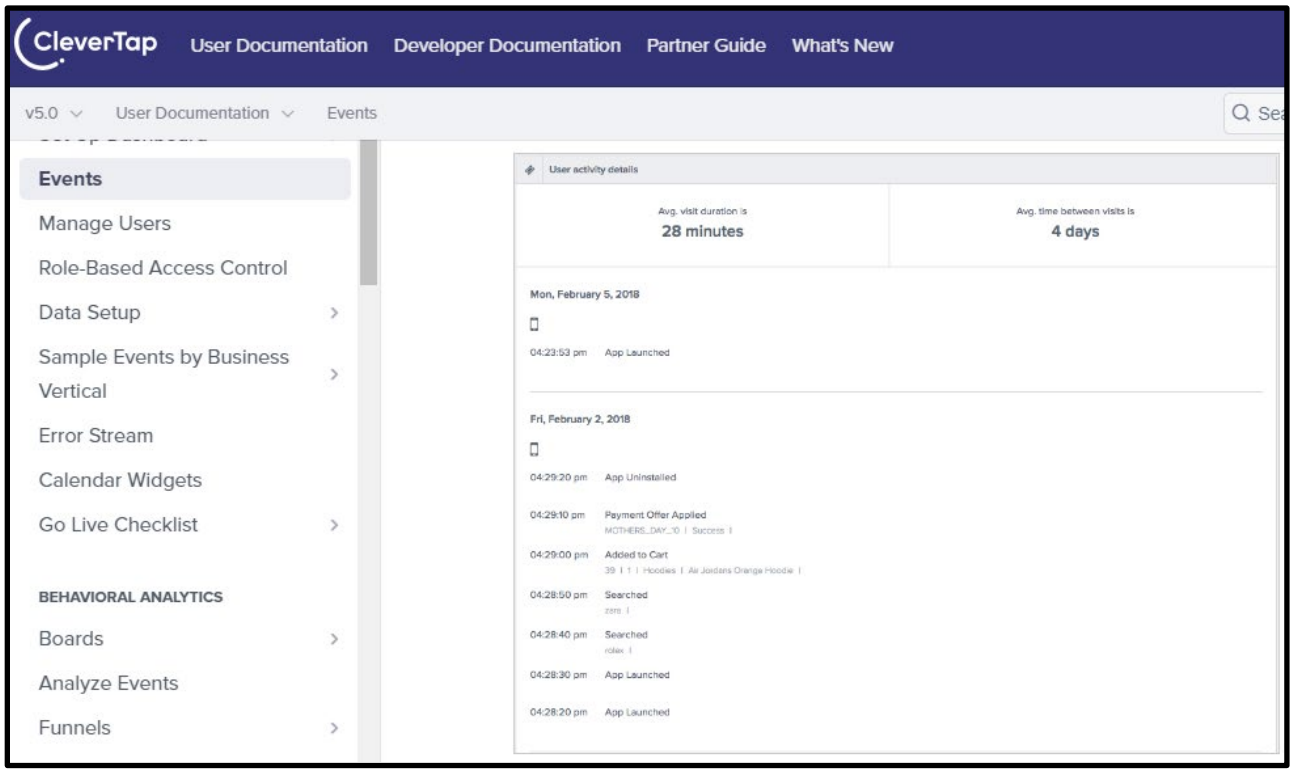
[97] EVENTS, CLEVERTAP, https://docs.clevertap.com/docs/events (last accessed Oct. 16, 2023).

[98] *Id.*

[99] SESSION ANALYTICS, CLEVERTAP, https://docs.clevertap.com/docs/session-analytics (last accessed Oct. 16, 2023).

[100] *Id.*

example, the following screenshot depicts the most basic version of CleverTap's event tracker:[101]



149. CleverTap's technology then allows Zee to analyze the collected event and session data.

150. "Analyzing events provides the capability to understand your audience's behavior on a comprehensive level."[102] Among other capabilities,

[101] EVENTS, CLEVERTAP, https://docs.clevertap.com/docs/events (last accessed Oct. 16, 2023).

[102] ANALYZE EVENTS, CLEVERTAP, https://docs.clevertap.com/docs/events-analytics (last accessed Oct. 16, 2023).

CleverTap's analytics technology allows customers such as Zee to analyze collected user data by various properties and parameters:

- "Quick View," which analyzes data for Zee to show "all the basic details such as the number of events, the number of profiles, demographics, and sample profiles."[103]
- "Trends and Properties," which analyzes data for Zee to show "events and people on a daily, weekly, and monthly duration," as well as "evaluate [a] selected event by its property and also view the frequency histogram chart for the same event." [104]
- "Geography," which analyzes data for Zee to show "event data" organized by "cities, regions, and countries."[105]
- "Technographics," which analyzes data for Zee to show "event[s] based on the browsers, operating systems, and devices … including OS version, app version, make, and model."[106]
- "People," which analyzes data for Zee to show "user profiles that performed the selected event, the percentage of demographics of users (women, men, others, unknown), and user properties."[107]

[103] ANALYZE EVENTS, CLEVERTAP, https://docs.clevertap.com/docs/events-analytics (last accessed Oct. 16, 2023).

[104] *Id*.

[105] *Id*.

[106] *Id*.

[107] *Id*.

151. CleverTap analyzes Session data by "track[ing] the events that users perform within a session."[108] CleverTap also analyzes the real impact of a customer's campaigns, allowing a customer such as Zee to "[v]isualize the boost in performance in … target segments;" "[e]stimate what percentage of users have churned in the target group;" and "[c]alculate the segment-wise impact of essential business metrics and know which segments have been performing better" comparatively.[109]

152. Once Zee analyzes users' raw data, it can then create and run targeted marketing and advertising campaigns. Taking CleverTap's results from these campaigns, Defendants are able to create strategically personalized marketing and advertising campaigns that conform with analytics results from CleverTap's reports.

C. Defendants Disclose Users' PII To Conviva For The Purposes Of Marketing, Advertising, And Analytics

153. Defendants disclose a user's PII to Conviva so that Conviva can "[m]ake [Defendants' data] work for" them.[110] One of Conviva's main technological solutions "automates the monitoring and optimization of streaming

[108] SESSION ANALYTICS, CLEVERTAP, https://docs.clevertap.com/docs/session-analytics (last accessed Oct. 16, 2023).

[109] REAL IMPACT, CLEVERTAP, https://docs.clevertap.com/docs/real-impact (last accessed Oct. 16, 2023).

[110] CONVIVA, https://www.conviva.com/ (last accessed Oct. 13, 2023).

services across … the world so [Zee] can increase engagement, retention, and revenue."[111]

154. Zee uses Conviva to "[b]uild a marketing campaign to drive people to [Defendants'] application," and "[k]eep subscribers engaged."[112] Conviva offers customers like Defendants multiple technological tools to achieve those goals.

155. Conviva's technological toolset allows customers such as Zee to take users' PII and video-viewing information, then "cluster[] viewers by the content they watch, when they watch it, and how they watch it."[113] This lets Zee "identify the kind of content [its] audience wants to see."[114]

156. To aid customers like Zee in achieving their goals, Conviva "built an entirely new technology, computation model, and query language" for customers like Zee to use on the Conviva Operational Platform.[115] Conviva's data analytics tools allow customers like Defendants to connect "performance to real-time customer experience," "continuously model and analyze real-world data," and

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[111] CONVIVA FOR VIDEO, CONVIVA, https://www.conviva.com/conviva-for-video/ (last accessed Oct. 17, 2023).

[112] BLOG, CONVIVA, https://www.conviva.com/blog/why-behavioral-segmentation-is-crucial-for-streaming-platforms/ (last accessed Oct. 13, 2023).

[113] *Id*.

[114] VIEWER BEHAVIOR ANALYSIS, CONVIVA, https://www.conviva.com/viewer-behavior-analysis/ (last accessed Oct. 13, 2023).

[115] CONVIVA, https://www.conviva.com/ (last accessed Oct. 13, 2023).

access "[r]eal-time monitoring [tools] and analytics on fully synchronized live and historical data from any source."[116]

157. Further, Defendants disclose users' gender and age to Conviva to take advantage of Conviva's demographics analytics tools. The Conviva Operational Platform allows Zee to use analyzed user data for "enhanced audience targeting" by building "hyper-targeting audience segments based on demographics, viewing behavior, engagement levels[,] and more."[117]

158. In other words, Conviva's technology allows Defendants to "combine the immense benefits of behavioral segmentation with traditional datapoints like age, gender, and location."[118] This permits Zee to "understand [its] audiences in-depth[] and use that information to create the most engaging and relevant streaming experiences for them."[119]

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[116] CONVIVA, https://www.conviva.com/ (last accessed Oct. 13, 2023).

[117] Improve Campaign Performance, CONVIVA, https://www.conviva.com/improve-campaign-performance/ (last accessed Oct. 17, 2023).

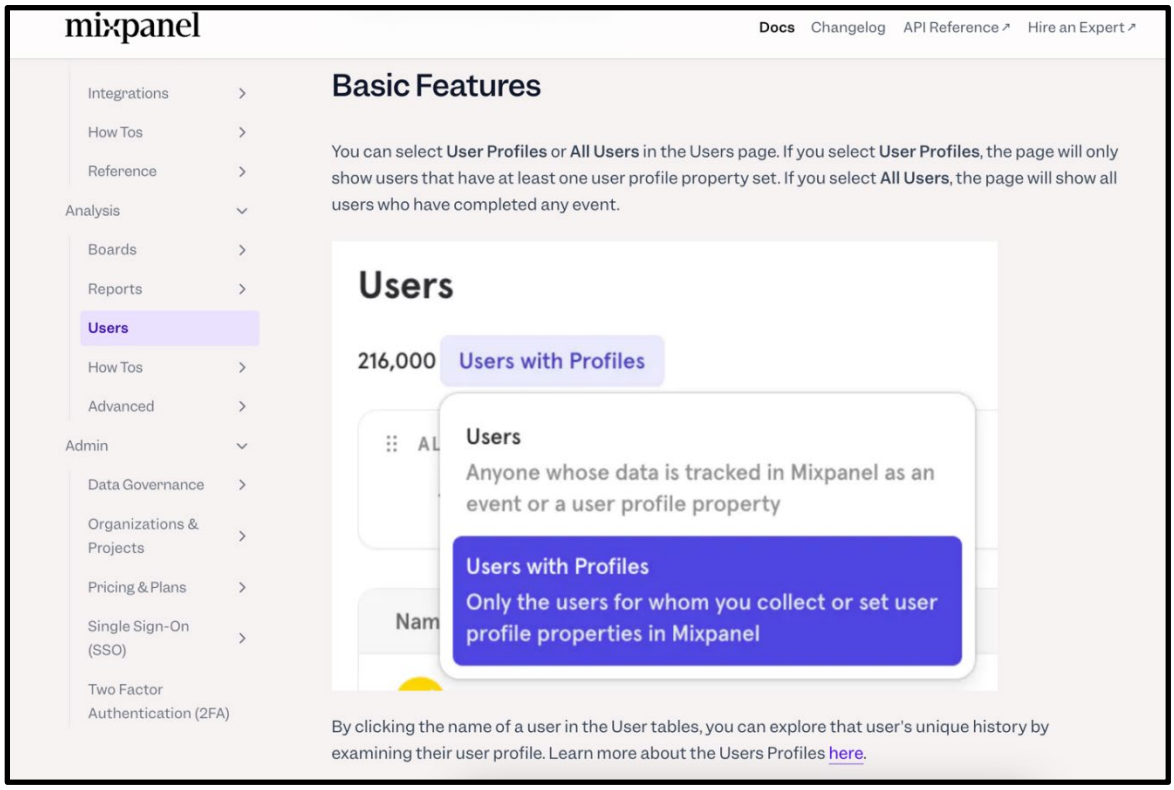
[118] BLOG, CONVIVA, https://www.conviva.com/blog/why-behavioral-segmentation-is-crucial-for-streaming-platforms/ (last accessed Oct. 17, 2023).

[119] BLOG, CONVIVA, https://www.conviva.com/blog/why-behavioral-segmentation-is-crucial-for-streaming-platforms/ (last accessed Oct. 13, 2023).

D. Defendants Disclose Users' PII To Mixpanel For The Purposes Of Marketing, Advertising, And Analytics

159. Defendants transmit a user's PII to Mixpanel so that the Mixpanel API can "analyze" user metrics, "[v]iew how users convert at each step," and "[monitor] growth[,] engagement," and "retention."[120] By doing so, Mixpanel claims it allows clients like Defendant to "make changes that lead to customer loyalty."[121]

160. Mixpanel appears to offer a built-in, basic data tracking service that tracks all of a client's users:[122]



[120] ANALYSIS, MIXPANEL, https://mixpanel.com/analysis (last accessed Sept. 20, 2023).

[121] *Id.*

[122] USERS, MIXPANEL, https://docs.mixpanel.com/docs/analysis/users (last accessed Sept. 22, 2023).

161. Mixpanel's technology then analyzes the captured user data and generates several types of reports. These reports cover "[i]nsights, [f]unnels, [f]lows, [r]etention and other advanced reports, each with their specialized use."[123] Mixpanel's reports aid Defendants in marketing, advertising, and analytics of the App.

E. Defendants Disclose Users' PII To Meta For The Purposes Of Marketing, Advertising, And Analytics

162. Defendants disclose a user's PII including e-mail address and Meta user ID, and video-viewing information in the form of video ID and unique web URL to Meta so that Meta can "personali[ze] content, tailor[] and measur[e] ads, and provid[e] a safer experience."[124]

163. The Meta Pixel allows Defendants "to track [their] website visitors' actions," which Meta calls conversion tracking.[125] "Tracked conversions … can be used to analyze [Defendants'] return on ad investment."[126]

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[123] REPORTS, MIXPANEL, https://docs.mixpanel.com/docs/analysis/reports (last accessed Sept. 19, 2023).

[124] COOKIES POLICY, META, https://www.facebook.com/privacy/policies/cookies/?entry_point=cookie_policy_redirect&entry=0 (last accessed Oct. 20, 2023).

[125] CONVERSION TRACKING, META, https://developers.facebook.com/docs/meta-pixel/implementation/conversion-tracking (last accessed Oct. 22, 2023).

[126] *Id.*

164. Notably, "[e]ach time the Pixel loads, it automatically … track[s]" and records the URL that a Website user viewed.[127] In other words, so long as Defendants have installed the Meta Tracking Pixel onto Zee5.com, anyone who views that webpage—meaning all Website users—"will be tracked using that" automatic URL tracker.[128] And, as mentioned above, the tracked URL discloses to Meta the exact video(s) that a Website user views. Indeed, Meta even warns advertisers such as Defendants to "make sure" the Website URLs are specific enough that Defendants "can define visitor actions exclusively based on unique … website URLs."[129]

165. "Once tracked, custom conversions"—such as the URL tracking tool—"can be used to optimize [Defendants'] ad campaigns"[130] through other Meta tools such as Ads Insights.[131]

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[127] CUSTOM CONVERSIONS, META, https://developers.facebook.com/docs/meta-pixel/implementation/conversion-tracking#custom-conversions (last accessed Oct. 22, 2023).

[128] *Id.*

[129] *Id.*

[130] *Id.*

[131] CUSTOM CONVERSIONS INSIGHTS, META, https://developers.facebook.com/docs/meta-pixel/implementation/conversion-tracking#custom-conversions (last accessed Oct. 22, 2023).

166. Defendants utilize Meta's comprehensive array of tracking and analytics tools to optimize its marketing, advertising, and analytics—ultimately increasing its viewer base and subscription revenue.

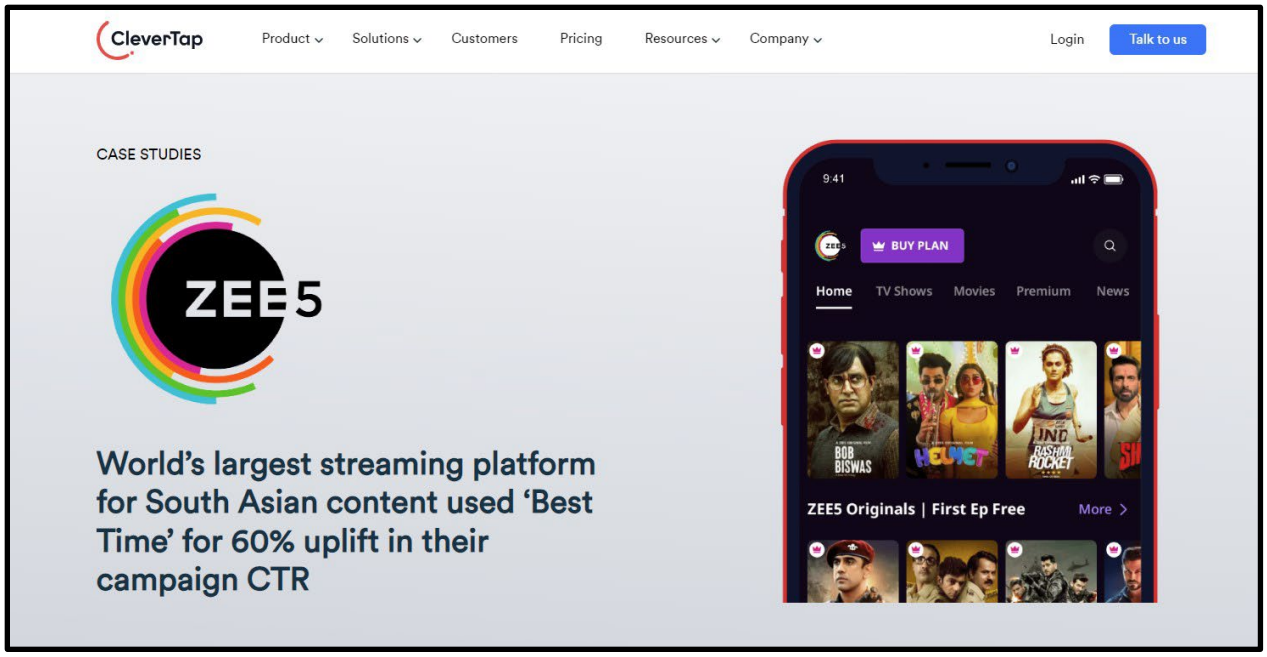
V. DEFENDANTS INTENTIONALLY AND KNOWINGLY DISCLOSE THEIR USERS' PII TO THE THIRD PARTIES

167. Based on the above, it is abundantly clear that Defendants *intentionally* and *knowingly* disclose to the Third Parties, through the Third Parties' respective APIs and the Meta Tracking Pixel, Zee users' personally identifiable information and personalized video-viewing information.

168. Defendants dispel any doubt that they *intentionally* and *knowingly* disclose users' PII and video-viewing information to the Third Parties by appearing prominently in several of the Third Parties' websites.

169. For example, Defendants appear on CleverTap's website as one of CleverTap's success story case studies.[132]

[132] CASE STUDIES, CLEVERTAP, https://clevertap.com/case-study/how-using-best-time-to-send-lifted-zee5-global-campaign-ctrs-by-60/ (last accessed Sept. 26, 2023).



170. CleverTap's case study on Defendants states that Zee turned to CleverTap to, among other things, "easily build campaigns for users across time zones, and gain an in-depth understanding of user behavior."[133] Zee "chose CleverTap as their all-in-one engagement solution."[134]

171. Specifically, Zee Entertainment's Chief Business Officer, Archana Anand, noted that "[m]aking the viewing experience more personalized for our audiences is key to drove [sic] greater engagement, and that's where we look to work

[133] CASE STUDIES, CLEVERTAP, https://clevertap.com/case-study/how-using-best-time-to-send-lifted-zee5-global-campaign-ctrs-by-60/ (last accessed Oct. 13, 2023).

[134] *Id.*

further with a unified platform like CleverTap to continually drive greater value across the lifecycle."[135]

172. By using CleverTap's technological capabilities, Defendants were able to increase their click through rate (CTR) by 60%[136] and in-app conversion rate by 20%.[137] This proves that Defendants intentionally and knowingly disclosed user's PII and video-viewing information so that CleverTap's technology could assist in Defendants' marketing, analytics, and advertising in the App.

173. In addition, Defendants appear prominently on Conviva's website as a success story—Conviva boasts about providing "[i]nnovative [t]echnology" to "[s]treamlin[e] Zee5's OTT Experience."[138]

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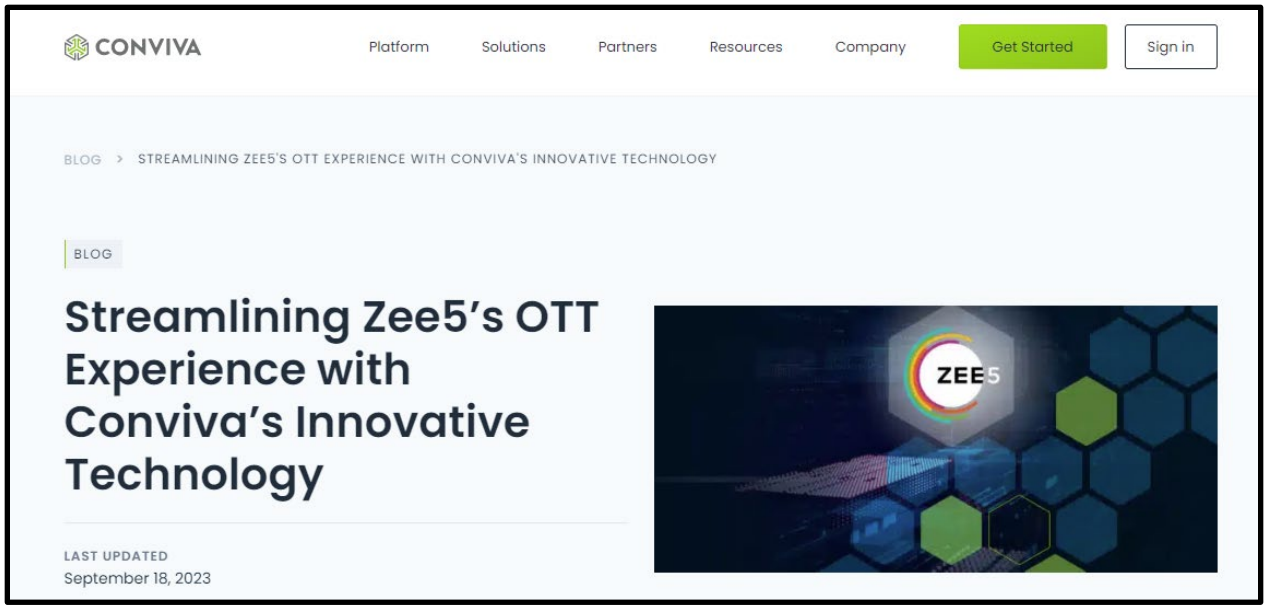
[135] CASE STUDIES, CLEVERTAP, https://clevertap.com/case-study/how-using-best-time-to-send-lifted-zee5-global-campaign-ctrs-by-60/ (last accessed Oct. 16, 2023).

[136] CTR is a "ratio showing how often people who see your ad or free product listing end [sic] up clicking it." GOOGLE ADS, GOOGLE, https://support.google.com/google-ads/answer/2615875?hl=en (last accessed Oct. 16, 2023).

[137] *See* CASE STUDIES, CLEVERTAP, https://clevertap.com/case-study/how-using-best-time-to-send-lifted-zee5-global-campaign-ctrs-by-60/ (last accessed Oct. 16, 2023).

[138] STREAMLINING ZEE5'S OTT EXPERIENCE WITH CONVIVA'S INNOVATIVE TECHNOLOGY, CONVIVA BLOG, https://www.conviva.com/blog/streamlining-zee5s-ott-experience-with-convivas-innovative-technology/ (last accessed Oct. 16, 2023).



174. Defendants' success story on the Conviva Blog states that Zee turned to Conviva to improve "critical areas for enhancing [its] live OTT user experience." Conviva's partnership with Defendants allowed Zee to achieve its goals.

175. As Defendants' Chief Technology Officer, Kishore Krishnamurthy, stated, "Conviva's [technology] enabled us to measure the positive impact of our modifications … directly benefiting end users."[139] Further, Conviva's "advanced tools" provided "deep insights into user behavior, enabling streaming providers [such as Defendants] to optimize their performance, and deliver an exceptional streaming experience."[140]

[139] *Id.*

[140] *Id.*

176. "Collectively, these changes have resulted in a dramatic enhancement of Zee5's live" user experience.[141] Zee's disclosure of users' PII to Conviva is no coincidence. Accordingly, Zee *intentionally* and *knowingly* discloses its users' PII to Conviva to leverage Conviva's technology and consequently drive Zee's revenue through marketing, analytics, and advertising.

177. Further, common sense dictates that "the world's largest streaming platform for South Asian content,"[142] which incorporates multiple APIs in its App and the Meta Tracking Pixel into its Website—all of which are focused on marketing, advertising, and analytics—is fully aware of the scope of the data the Third Parties are collecting and are choosing to intentionally provide that data to the Third Parties.

178. Indeed, as alleged above, Defendants must specifically configure many options for the Third Parties on the App and Website (*e.g.*, configure Mixpanel to collect video-viewing data as an "event") because the Third Parties do not by default collect this information.

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[141] *Id*.

[142] CASE STUDY, ZEE5, https://clevertap.com/case-study/how-using-best-time-to-send-lifted-zee5-global-campaign-ctrs-by-60/ (last accessed Sept 27, 2023).

VI. EXPERIENCES OF PLAINTIFFS

A. Experience Of Plaintiff Pankaj Shah

179. In or about June 2021, Plaintiff Pankaj Shah downloaded the Zee5 App on his Android phone. When Plaintiff Shah downloaded the Zee5 App, he initially created a free App account. Approximately one week later, Plaintiff Shah signed up for a premium (paid) App account.

180. Plaintiff Shah used his premium subscription to the App to watch pre-recorded video content on the App between June 2021 and 2022. In addition, Plaintiff Shah used the same premium account to watch various pre-recorded videos on the Website during this same timeframe.

181. Plaintiff Shah took full advantage of the paid benefits that come with his premium account subscription. By signing up and paying for a premium Zee5 account, Plaintiff Shah obtained access to exclusive pre-recorded video content that non-subscribers could not access.

182. At all times relevant, Plaintiff Shah never consented, agreed, nor otherwise permitted the Zee5 App to disclose his PII to third parties.

183. Likewise, Defendants never gave Plaintiff Shah the opportunity to prevent the Zee5 App from disclosing his PII to third parties.

184. Nevertheless, each time Plaintiff Shah viewed a video using the Zee5 Android App, Defendants disclosed Plaintiff Shah's PII to Appsflyer via the

AppsFlyer API. Specifically, Defendants disclosed Plaintiff Shah's full name, e-mail address, gender, age, AAID, and video-viewing information, including the full names of videos watched by Plaintiff Shah and the unique video IDs for those videos. Using this information, Appsflyer was able to identify Plaintiff Shah and attribute his video-viewing records to an individualized profile of Plaintiff Shah in its database. Indeed, even an ordinary person could identify Plaintiff Shah using the data Defendants disclosed to AppsFlyer. Plaintiff Shah's PII was also used to create a user profile that included Plaintiff Shah's activity on the App, which Defendants used for marketing, advertising, and analytics purposes.

185. Moreover, each time Plaintiff Shah viewed a video using the Zee5 Android App, Defendants disclosed Plaintiff Shah's PII to CleverTap via the CleverTap API. Specifically, Defendants disclosed Plaintiff Shah's full name, e-mail address, gender, age, AAID, and video-viewing information, including the full names of videos watched by Plaintiff Shah and the unique video IDs for those videos. Using this information, CleverTap was able to identify Plaintiff Shah and attribute his video-viewing records to an individualized profile of Plaintiff Shah in its database. Indeed, even an ordinary person could identify Plaintiff Shah using the data Defendants disclosed to CleverTap. Plaintiff Shah's PII was also used to create a user profile that included Plaintiff Shah's activity on the App, which Defendants used for marketing, advertising, and analytics purposes.

186. In addition, each time Plaintiff Shah viewed a video using the Zee5 Android App, Defendants disclosed Plaintiff Shah's PII to Conviva via the Conviva API. Specifically, Defendants disclosed Plaintiff Shah's e-mail address, gender, age, AAID, and video-viewing information, including the full names of videos watched by Plaintiff Shah and the unique video IDs for those videos. Using this information, Conviva was able to identify Plaintiff Shah and attribute his video-viewing records to an individualized profile of Plaintiff Shah in its database. Indeed, even an ordinary person could identify Plaintiff Shah using the data Defendants disclosed to Conviva. Plaintiff Shah's PII was also used to create a user profile that included Plaintiff Shah's activity on the App, which Defendants used for marketing, advertising, and analytics purposes.

187. Further, each time Plaintiff Shah viewed a video using the Zee5 Android App, Defendants disclosed Plaintiff Shah's PII to Mixpanel via the Mixpanel API. Specifically, Defendants disclosed Plaintiff Shah's full name, e-mail address, gender, age, AAID, and video-viewing information including the full names of the videos watched by Plaintiff Shah and the unique video IDs of each video. Using this information, Mixpanel was able to identify Plaintiff Shah and attribute his video-viewing records to an individualized profile of Plaintiff Shah in its database. Indeed, even an ordinary person could identify Plaintiff Shah using the data Defendants disclosed to Mixpanel. Plaintiff Shah's PII was also used to create

a user profile that included Plaintiff Shah's activity on the App, which Defendants used for marketing, advertising, and analytics purposes.

188. Finally, each time Plaintiff Shah viewed a video using the Zee5 Website, Defendants disclosed Plaintiff Shah's e-mail address, Zee5 user ID, and video-viewing information, including video ID, URL, and title to Mixpanel. Defendants also disclosed Plaintiff Shah's hashed e-mail address and unhashed Meta user ID, as well as video-viewing information including the video URL and video title to Meta via the Meta Tracking Pixel. Using this information, Mixpanel and Meta were able to identify Plaintiff Shah and attribute his video-viewing records to an individualized profile of Plaintiff Shah in its database. Indeed, with the information that Defendants disclosed to Mixpanel and Meta, even an ordinary person could identify Plaintiff Shah and his video-viewing activity. Plaintiff Shah's PII was also used to create a user profile that includes Plaintiff Shah's activity on the Website, which Defendants used for marketing, advertising, and analytics purposes.

B. Experience Of Plaintiff Vipul Aggarwal

189. In or about January 2023, Plaintiff Vipul Aggarwal downloaded the Zee5 App on his Apple iPhone. When Plaintiff Aggarwal downloaded the iOS Zee5 App, he created and paid for a premium App account, becoming a subscriber to Defendants' exclusive pre-recorded video service.

190. Most recently, Plaintiff Aggarwal viewed pre-recorded videos on the App through his premium account in January 2023. Throughout the month of January 2023, Plaintiff Aggarwal used the same premium account on the App to watch various pre-recorded videos.

191. Plaintiff Aggarwal took full advantage of the paid benefits that came with his premium account subscription. By signing up and paying for a premium Zee5 account, Plaintiff Aggarwal obtained access to exclusive pre-recorded video content that non-subscribers could not access.

192. At all times relevant, Plaintiff Aggarwal never consented, agreed, nor otherwise permitted the Zee5 App to disclose his PII to third parties.

193. Likewise, Defendants never gave Plaintiff Aggarwal the opportunity to prevent the Zee5 App from disclosing his PII to third parties.

194. However, each time Plaintiff Aggarwal viewed a video using the Zee5 iOS App, Defendants disclosed Plaintiff Aggarwal's PII to Mixpanel via the Mixpanel API. Specifically, Defendants disclosed Plaintiff Aggarwal's Apple ID e-mail address and video-viewing information including the full names of the videos watched by Plaintiff Aggarwal. Using this information, Mixpanel was able to identify Plaintiff Aggarwal and attribute his video viewing records to an individualized profile of Plaintiff Aggarwal in its database. Indeed, even an ordinary person could identify Plaintiff Aggarwal using the data Defendants disclosed to

Mixpanel. Plaintiff Aggarwal's PII was also used to create a user profile that included Plaintiff Aggarwal's activity on the App, which Defendants used for marketing, advertising, and analytics purposes.

PARTIES

195. Plaintiff Pankaj Shah is, and has been at all relevant times, a resident of Massachusetts and has an intent to remain there, and he is therefore a citizen of Massachusetts.

196. Plaintiff Vipul Aggarwal is, and has been at all relevant times, a resident of Illinois and has an intent to remain there, and he is therefore a citizen of Illinois.

197. Defendant Zee Entertainment is a corporate entity incorporated in and with its principal place of business in a foreign state—Mumbai, India. Defendant Zee Entertainment is therefore a foreign company. Defendant Zee Entertainment develops, owns, and operates the Zee5 App, which is used throughout the United States.

198. Defendant Asia TV USA, Limited is incorporated under the laws of Delaware and has its principal place of business at 200 Middlesex Essex Turnpike, Ste 202, Iselin, New Jersey, 08830. Defendant Asia TV is therefore a citizen of both Delaware and New Jersey.

JURISDICTION AND VENUE

199. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because it arises under a law of the United States (the VPPA).

200. This Court also has subject matter jurisdiction over this civil action pursuant to 28 U.S.C. § 1332(d) because there are more than 100 class members, the aggregate amount in controversy exceeds $5,000,000, exclusive of interest, fees, and costs, at least one Class member is a citizen of a state different from Defendants, and at least one defendant is a citizen or subject of a foreign state.

201. This Court has personal jurisdiction over Defendants because Defendant Asia TV's principal place of business is in New Jersey and Defendant Zee Entertainment conducts substantial business in New Jersey such that it has purposefully availed itself of the privilege of doing business in this state.

202. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1) and (c)(3) because Defendant Asia TV's principal place of business is in this District and Defendant Zee Entertainment, as a foreign corporation, may be sued in any judicial district.

CLASS ALLEGATIONS

203. **Class Definitions:** Plaintiffs seek to represent a class of similarly situated individuals defined as all persons in the United States who created a

premium (paid) account and watched videos on the App during the applicable statute of limitations period (the "App Class").

204. Plaintiff Shah also seeks to represent a class of similarly situated individuals defined as all persons in the United States who created a premium (paid) account and watched pre-recorded videos on the Website during the applicable statute of limitations period (the "Website Class") (collectively with the App Class, the "Classes").

205. Subject to additional information obtained through further investigation and discovery, Plaintiffs have a clear intention to amend the above-described Classes and the following Claims through modification or narrowing as may be appropriate, including through the use of multi-state subclasses.

206. **Numerosity (Fed. R. Civ. P. 23(a)(1))**: At this time, Plaintiffs do not know the exact number of members of the aforementioned Class. However, given the popularity of the Zee5 Video Service, the number of persons within the Classes is believed to be so numerous that joinder of all members is impractical.

207. **Commonality and Predominance (Fed. R. Civ. P. 23(a)(2), 23(b)(3))**: There is a well-defined community of interest in the questions of law and fact involved in this case. Questions of law and fact common to the members of the Classes that predominate over questions that may affect individual members of the Classes include:

(a) whether Defendants unlawfully disclosed and continue to disclose Plaintiffs' and the Classes' PII, including their video viewing records, in violation of the VPPA;

(b) whether Defendants' disclosures were committed knowingly; and

(c) whether Defendants disclosed Plaintiffs' and the Classes' PII without consent.

208. **Typicality (Fed. R. Civ. P. 23(a)(3))**: Plaintiffs' claims are typical of those of the App Class because Plaintiffs, like all members of the App Class, created a paid (premium) account, used the Zee5 App to watch pre-recorded videos, and had their PII disclosed to the Third Parties without consent. Plaintiff Shah's claims are also typical of those of the Website Class because Plaintiff Shah, like all members of the Website Class, created a paid (premium) account, used the Website to watch pre-recorded videos, and had his PII disclosed to the Third Parties without consent.

209. **Adequacy (Fed. R. Civ. P. 23(a)(4))**: Plaintiffs have retained and are represented by qualified and competent counsel who are highly experienced in complex consumer class action litigation, including litigation concerning the VPPA and its analog state laws. Plaintiffs and their counsel are committed to vigorously prosecuting this class action. Moreover, Plaintiffs are able to fairly and adequately represent and protect the interests of the Classes. Neither Plaintiffs nor their counsel have any interest adverse to, or in conflict with, the interests of the absent members of the Classes. Plaintiffs have raised viable statutory claims, or the type reasonably expected to be raised by members of the Classes and will vigorously pursue those

claims. If necessary, Plaintiffs may seek leave of this Court to amend this Class Action Complaint to include additional representatives to represent the Classes, additional claims as may be appropriate, or to amend the definition of the Classes to address any steps that Defendants took.

210. **Superiority (Fed. R. Civ. P. 23(b)(3))**: A class action is superior to other available methods for the fair and efficient adjudication of this controversy because individual litigation of the claims of all members of the Classes is impracticable. Even if every member of the Classes could afford to pursue individual litigation, the court system could not. It would be unduly burdensome to the courts in which individual litigation of numerous cases would proceed. Individualized litigation would also present the potential for varying, inconsistent, or contradictory judgments, and would magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same factual issues. By contrast, the maintenance of this action as a class action, with respect to some or all of the issues presented herein, presents few management difficulties, conserves the resources of the parties and of the court system and protects the rights of each member of the Classes. Plaintiffs anticipate no difficulty in the management of this action as a class action.

CAUSES OF ACTION

COUNT I
Violation Of The VPPA—App Class
18 U.S.C. § 2710

211. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.

212. Plaintiffs Shah and Aggarwal bring this claim individually and on behalf of the members of the proposed App Class against Defendants.

213. Defendants are "video tape service providers" as defined by the VPPA because they "engage in the business, in or affecting interstate or foreign commerce, of rental, sale, or delivery of prerecorded video cassette tapes or similar audio visual materials," 18 U.S.C. § 2710(a)(4), inasmuch as they provide video content (*i.e.*, "similar audio visual materials" under the VPPA's definition) to consumers via their Zee5 App.

214. Plaintiffs and App Class Members are "consumers" as defined by the VPPA because they created paid Zee5 App premium accounts through which they were granted access to watch exclusive video content. Plaintiffs and App Class Members also downloaded, installed, and watched videos using the Zee5 App through their paid accounts. 18 U.S.C. § 2710(a)(1). Therefore, under the VPPA, Plaintiffs and App Class Members are "subscribers" of "goods or services from a video tape service provider." 18 U.S.C. § 2710(a)(1).

215. Plaintiffs and App Class Members viewed pre-recorded videos using the App. During these occasions, Defendants disclosed Plaintiffs' and App Class Members' PII to the Third Parties, including but not limited to Plaintiffs' and App Class Members': (i) full name; (ii) e-mail address; (iii) gender; (iv) age; and (vi) video-viewing information in the form of unique video ID, name of the TV show episode and TV series or movie watched by Plaintiffs App Class Members.

216. The Zee5 App's transmissions of Plaintiff Shah, Plaintiff Aggarwal, and App Class Members' PII to the Third Parties constituted the "knowing[] disclosure[]" of their "personally identifiable information" to a third party as proscribed by the VPPA. 18 U.S.C. § 2710(a)(1).

217. Under the VPPA, the term "personally identifiable information" "includes information which identifies a person as having requested or obtained specific video materials or services from a video tape service provider." 18 U.S.C. § 2710(a)(3). In addition, the Third Circuit has held that "personally identifiable information … means the kind of information that would readily permit an ordinary person to identify a specific individual's video-watching behavior." *In re Nickelodeon Consumer Priv. Litig.*, 827 F.3d at 290.

218. The information disclosed by the Zee5 App constitutes "personally identifiable information" because it allows an ordinary person to identify Plaintiffs and App Class Members, as well as which specific videos were watched by Plaintiffs

and each specific member of the App Class. In fact, much of the information disclosed here—Plaintiffs' and App Class Members' full names and the full title of each movie or TV show series and TV show episode watched—is identical to "[t]he classic example … [of] a video clerk leaking an individual customer's video rental history." *In re Nickelodeon Consumer Priv. Litig*., 827 F.3d at 290.

219. Plaintiffs and App Class Members did not provide Defendants with any form of consent—either written or otherwise—to disclose their PII to third parties.

220. Defendants' disclosures were not made in the "ordinary course of business" as the term is defined by the VPPA. In particular, the Zee5 App's disclosures to the Third Parties were not necessary for "debt collection activities, order fulfillment, request processing, [or] transfer of ownership." 18 U.S.C. § 2710(a)(2).

221. On behalf of themselves and the App Class, Plaintiffs seek: (i) declaratory relief; (ii) injunctive and equitable relief as is necessary to protect the interests of Plaintiffs and the App Class by requiring Defendants to comply with VPPA's requirements for protecting consumers' PII; (iii) statutory damages of $2,500 for each violation of the VPPA pursuant to 18 U.S.C. § 2710(c); and (iv) reasonable attorneys' fees and costs and other litigation expenses.

COUNT II
Violation Of The VPPA—Website Class,
18 U.S.C. § 2710

222. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.

223. Plaintiff Shah brings this claim individually and on behalf of the members of the proposed Website Class against Defendants.

224. Defendants are "video tape service providers" as defined by the VPPA because they "engage in the business, in or affecting interstate or foreign commerce, of rental, sale, or delivery of prerecorded video cassette tapes or similar audio visual materials," 18 U.S.C. § 2710(a)(4), inasmuch as they provide video content (*i.e.*, "similar audio visual materials" under the VPPA's definition) to consumers via the Zee Website.

225. Plaintiff Shah and Website Class Members are "consumers" as defined by the VPPA because they created paid Zee5 accounts through which they were granted access to watch exclusive video content on web browsers. Therefore, under the VPPA, Plaintiff Shah and Website Class Members are "subscribers" of "goods or services from a video tape service provider." 18 U.S.C. § 2710(a)(1).

226. Plaintiff Shah and Website Class Members viewed pre-recorded videos that were exclusive to paying Zee5 account holders using the Website. During these occasions, the Website disclosed Plaintiff Shah's and Website Class Members' PII,

including but not limited to Plaintiff Shah's and Website Class Members': (i) e-mail address; (ii) Meta user ID; (iii) Zee5 user ID; (iv) last name; (v) phone number; and (vi) video-viewing information in the form of unique video ID, name of the TV show episode or movie watched by Plaintiff Shah and Website Class Members, and video URL.

227. The Website's transmissions of Plaintiff Shah's and Website Class Members' PII to Mixpanel and Meta constituted the "knowing[] disclosure[]" of their "personally identifiable information" to a third party as proscribed by the VPPA. 18 U.S.C. § 2710(a)(1).

228. Under the VPPA, the term "personally identifiable information" "includes information which identifies a person as having requested or obtained specific video materials or services from a video tape service provider." 18 U.S.C. § 2710(a)(3). In addition, the Third Circuit has held that "personally identifiable information … means the kind of information that would readily permit an ordinary person to identify a specific individual's video-watching behavior." *In re Nickelodeon Consumer Priv. Litig.*, 827 F.3d at 290.

229. The information disclosed by Defendants constitutes "personally identifiable information" because it allows an ordinary person to identify Plaintiff Shah and Website Class Members, as well as which specific videos were watched by Plaintiff Shah and each specific member of the Website Class.

230. Plaintiff Shah and Website Class Members did not provide Defendants with any form of consent—either written or otherwise—to disclose their PII to third parties.

231. Defendants' disclosures were not made in the "ordinary course of business" as the term is defined by the VPPA. In particular, Defendant's Zee5.com disclosures to the Third Parties were not necessary for "debt collection activities, order fulfillment, request processing, [or] transfer of ownership." 18 U.S.C. § 2710(a)(2).

232. On behalf of himself and the Website Class, Plaintiffs Shah seeks: (i) declaratory relief; (ii) injunctive and equitable relief as is necessary to protect the interests of Plaintiff Shah and the Website Class by requiring Defendants to comply with VPPA's requirements for protecting a consumer's PII; (iii) statutory damages of $2,500 for each violation of the VPPA pursuant to 18 U.S.C. § 2710(c); and (iv) reasonable attorneys' fees and costs and other litigation expenses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs seek a judgment against Defendants, individually and on behalf of all others similarly situated, as follows:

(a) For an order certifying the Classes under Rule 23 of the Federal Rules of Civil Procedure, naming Plaintiffs as representatives of the Classes, and naming Plaintiffs' attorneys as Class Counsel to represent the Classes;

(b) For an order declaring that Defendants' conduct violates the VPPA;

(c) For an order finding in favor of Plaintiffs and the Classes on all counts asserted herein;

(d) An award of statutory damages to the extent available;

(e) For punitive damages, as warranted, in an amount to be determined at trial;

(f) For prejudgment interest on all amounts awarded;

(g) For injunctive relief as pleaded or as the Court may deem proper; and

(h) For an order awarding Plaintiffs and the Classes their reasonable attorneys' fees and expenses and costs of suit.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b)(1), Plaintiffs demand a trial by jury of all issues so triable.

Dated: October 31, 2023

Respectfully submitted,

By: */s/ Yitzchak Kopel*

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