

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

MICHAEL SMART, individually
and on behalf of all others similarly
situated,

Plaintiff,

v.

THE HOME DEPOT, INC.,

Defendant.

Civil Action No. 5:21-cv-00153

**DEFENDANT THE HOME DEPOT, INC.'S
MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant The Home Depot, Inc. ("Home Depot"), hereby moves to dismiss the claims asserted against it in this action.¹ For the reasons set forth below, Home Depot respectfully requests that the Court grant its motion and dismiss Plaintiff's First Amended Class Action Complaint ("FAC"), Dkt. 18, with prejudice.

INTRODUCTION

This case is one of several virtually identical lawsuits Plaintiff's counsel has recently filed throughout Florida against various website operators. *See, e.g.,* Ex. A – List of Related Actions (listing at least 31 cases filed against

¹ Home Depot notes that Plaintiff has identified the incorrect entity. The correct entity is Home Depot U.S.A., Inc. Defendant will address this at the appropriate time.

companies as varied as Banana Republic, Bose, Disney, Costco, T-Mobile, WebMD, Avis, Adidas, Norwegian Cruise Line, and General Motors). In each case, the plaintiff asserts that the routine (and well-known) business practice of monitoring website activity through “session replay” software violates the Florida Security of Communications Act (“FSCA”), Fla. Stat. § 934.03, a fifty-year-old anti-wiretapping statute, which provides that “intentionally intercept[ing]” any “electronic communication” is a third-degree felony. *Id.* § 934.03(4)(a). No court has sanctioned an attack on this broadly accepted technology—in this state or any other state—and neither should this Court.

Session replay is widely used by companies to help improve their websites by allowing them to later reproduce a user’s website experience. Session replay captures certain aspects of a user’s interactions on websites, including things like clicks and scrolling, to help website operators improve users’ experience with their websites. Many well-known retailers collect this kind of information—and have been doing so for a number of years. *See*, Ex. A. Indeed, even this Court collects much of the same information.²

This routine activity is a far cry from the conduct intended to be penalized by the FSCA. Rather, the benign conduct here is no different than collecting information about a customer’s activity in a physical Home Depot

² *See* Middle District of Florida, *Privacy Policy*, <https://www.flmd.uscourts.gov/privacy-policy> (stating that the M.D. Fl. collects, among other things, “the pages you visit”).

store through security cameras—*i.e.*, which store did he visit, what departments did he walk through, which displays did he view, what products did he inspect, etc. Monitoring such activity in a physical store is not a violation of any criminal statute, much less a criminal statute originally designed to prevent wiretapping telephones. The same is true as to Plaintiff's alleged visits to Home Depot's virtual store.

A business monitoring user activity on its own website is not “wiretapping,” and therefore the FSCA does not apply to such conduct. Mouse clicks and page views are not “communications” under the FSCA, and Home Depot did not “intercept” any so-called communications from Plaintiff. Indeed, Home Depot cannot “intercept” a written electronic communication for which it was the intended recipient. Plaintiff's strained interpretation would stretch the FSCA well beyond its breaking point.

But even if the FSCA somehow applied to session replay software (and it does not), Plaintiff's claim would also fail because he consented to the collection of his information through his use of Home Depot's website. By choosing to interact with the public website of a commercial enterprise, Plaintiff impliedly consented to the widespread and well-known collection of user website experiences. Moreover, Home Depot clearly disclosed to Plaintiff that it was collecting this type of information from visitors to its website. This clear disclosure, coupled with the fact that Plaintiff purportedly visited Home

Depot’s website *at least fifteen times*, demonstrates that Plaintiff consented to Home Depot’s use of session replay.

Accordingly, the Court should grant Home Depot’s motion and dismiss Plaintiff’s claim with prejudice.

BACKGROUND

Plaintiff Michael Smart alleges that he visited Home Depot’s website approximately fifteen times over the past year, most recently in January 2021. FAC ¶¶ 23-24. On one or more of those occasions, he alleges that Home Depot—through its use of session replay on the Home Depot website—captured (1) mouse clicks and movements, (2) keystrokes, (3) search terms, (4) “information inputted” by Plaintiff, and (5) pages and content viewed by Plaintiff. *Id.* ¶¶ 26-27. Plaintiff alleges that he did not understand that this information was being captured, despite the fact that Home Depot clearly disclosed on the website that it may collect this information. *Id.* ¶ 50; *see also* Ex. B, Home Depot, *The Home Depot, Inc. Privacy and Security Statement*, https://www.homedepot.com/privacy/Privacy_Security (“Privacy Policy”).³

³ Home Depot requests that the Court take judicial notice of its Privacy Policy as it appeared on the Home Depot website on January 31, 2021, as captured by the Internet Archive. The Court may take judicial notice of documents that are incorporated by reference in the FAC. *Day v. Taylor*, 400 F.3d 1272, 1276 (11th Cir. 2005). Here, Plaintiff expressly references the Home Depot website in the FAC and alleges that he visited it approximately fifteen times over the past year. FAC ¶¶ 23-24. Further, the Court may take judicial notice of public documents on a motion to dismiss “for the purpose of determining what statements the documents contain.” *Bryant v. Avado Brands, Inc.*, 187 F.3d 1271, 1278 (11th Cir. 1999).

This Court recently granted a similar motion in a similar action. *See, e.g., Smart v. Bose Corp.*, Dkt. 16, No. 5:21-cv-00412-JSM-PRL (M.D. Fl. Apr. 16, 2021) (Moody, J.). And courts

Home Depot’s Privacy Policy states that it “applies to the information we collect in association with your interactions with us, including, but not limited to: use of our websites, including mobile websites.” The policy explains what information Home Depot may collect from website visitors, including “identifiers” such as name, email address, username, physical address, device identifier, and IP address, as well as “information about your interaction with our websites, applications, electronic communications.” *Id.* The policy also explains that such information is collected from “you or the devices you use to access [Home Depot’s] digital services, such as websites . . . and applications for connected devices.” *Id.* The Privacy Policy contains a section on the “tracking tools” that Home Depot uses when customers visit its website. That section clearly discloses that these “tools may collect information about your activities over time and on various digital services offered by us or others.” *Id.* Plaintiff does not allege that he did not read these disclosures, that he did not understand them, or that he ever contacted Home Depot to inquire about the information that was being collected.

across the country have routinely held that screenshots from the Internet Archive qualify as public records suitable for judicial notice. *Javier v. Assurance IQ, LLC*, No. 4:20-CV-02860-JSW, 2021 WL 940319, at *2 (N.D. Cal. Mar. 9, 2021) (taking judicial notice of a privacy policy on a motion to dismiss in a session replay case); *see also Parziale v. HP, Inc.*, No. 5:19-CV-05363-EJD, 2020 WL 5798274, at *3 (N.D. Cal. Sept. 29, 2020).

Despite these robust disclosures, Plaintiff filed his Complaint in Florida state court,⁴ alleging that Home Depot's collection of information about his use of its website violates § 934.03 of the FSCA. That section reads, in relevant part, that any person who:

(a) Intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire, oral, or electronic communication; [or] . . .

(4)(a) . . . is guilty of a felony of the third degree.⁵

See also id. § 775.082(3)(e) (providing that third-degree felonies are punishable by up to five years in prison). Specifically, Plaintiff alleges that Home Depot violated subsection (a) by “intercepting” his “electronic communications” without his consent. FAC ¶¶ 78. To remedy these alleged violations, Plaintiff seeks a declaration that the use of session replay violates the FSCA, an injunction prohibiting the use of session replay, actual or statutory damages, punitive damages, and attorney's fees. Plaintiff also seeks to represent an alleged class of “all persons residing within the State of Florida (1) who visited [the Home Depot] website and (2) whose electronic communications were

⁴ Home Depot timely removed the case to this Court on March 12, 2021. *See* Notice of Removal, Dkt. 1. Home Depot moved to dismiss the original complaint on April 7, 2021, and the next day Plaintiff filed the FAC, which is the operative complaint for purposes of this motion. *See* Dkt. 18.

⁵ Note that Plaintiff has since abandoned a claim under § 934.03(d), as he expressly declined to include it in the FAC. *Compare* Compl. ¶ 37 with FAC ¶ 80. Regardless, such a claim must still be dismissed because it is predicated on Plaintiff's claim for violations of subsection (a), which fails for the reasons discussed below.

intercepted by Defendant or on Defendant’s behalf (3) without their prior consent.” *Id.* ¶ 60.

LEGAL STANDARD

Rule 12(b)(6) allows for dismissal of a case when the complaint “fail[s] to state a claim upon which relief may be granted.” Fed. R. Civ. P. 12(b)(6). To survive a Rule 12(b)(6) motion to dismiss, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). This requires more than mere “labels and conclusions, and a formulaic recitation of a cause of action’s elements.” *Twombly*, 550 U.S. at 555.

ARGUMENT

I. THE FSCA DOES NOT APPLY TO HOME DEPOT’S USE OF SESSION REPLAY

A. The FSCA Does Not Apply to Internet Browsing Activity

As an initial matter, Plaintiff’s claim should be dismissed because the FSCA does not protect internet browsing or website interactions like those at issue here. Enacted over fifty years ago, the FSCA embodies “a policy decision by the Florida legislature to allow each party to a *conversation* to have an expectation of privacy from interception by another party to the *conversation*.” *O’Brien v. O’Brien*, 899 So. 2d 1133, 1135 (Fla. 5th DCA 2005) (quoting *Shevin v. Sunbeam Television Corp.*, 351 So. 2d 723, 726-27 (Fla. 1977) (emphasis

added)). Although the FSCA may protect the substance of certain private *conversations* that occur on the internet (*e.g.*, private emails or chats), *id.* at 1134-35, the same protection does not extend to browsing on the open internet because individuals have no reasonable expectation of privacy in such “online ‘movements.’” *See, e.g., United States v. Taylor*, 935 F.3d 1279, 1284 n.4 (11th Cir. 2019) (comparing “browsing the open internet” to “traveling along the equivalent of ‘public highways,’”).

If successful, Plaintiff’s lawsuit—and the 30 others his counsel has filed in Florida—would extend the FSCA far beyond this intended purpose and common sense: the FSCA would effectively criminalize commonplace internet technology and benign monitoring that bears no resemblance to the technology and behavior the FSCA was designed to address. In effect, Plaintiff seeks to transform the FSCA, a statute limited in scope, into the type of all-encompassing data privacy statute enacted by jurisdictions like California and the European Union. *See* California Consumer Privacy Act (“CCPA”), Cal. Civ. Code § 1798.100 *et seq.*; General Data Protection Regulation (“GDPR”), Regulation (EU) 2016/679, 2016 O.J. (L 119) 1 *et seq.* Indeed, some of his allegations seem to directly allude to some of the requirements in those privacy statutes. *Compare, e.g.,* FAC ¶ 47 (Plaintiff was “never given the option to opt out”) *with* CCPA § 1798.120 (providing consumers the right to opt out of data collection). But that is not the law in Florida. Plaintiff has not (and cannot)

assert a claim under Florida data privacy law, which does not broadly regulate the collection of consumer information. *See* Florida Information Security Act, Fla. Stat. 501.171(2).⁶

Plaintiff clearly wants a change in the status quo. But rather than pressing for legislative action on this complex issue, Plaintiff asks this Court to unilaterally usher in sweeping policy changes through a completely inapposite criminal statute. The Court cannot accept Plaintiff's invitation. *See Kelly v. State*, 795 So. 2d 135, 137 (Fla. 5th DCA 2001) ("the [Florida] Legislature has the responsibility to make the laws and the courts must interpret and apply them"); *cf. Minotty v. Baudo*, 42 So. 3d 824, 832 (Fla. 4th DCA 2010) ("If the Legislature wishes to include silent video surveillance within the provisions of the [FSCA], it can do so. It is not up to the courts to rewrite the statute to include it."). Because the FSCA does not confer any privacy rights related to the type of website activity at issue in this case, the Court should dismiss the FAC in its entirety.

⁶ While there is an effort currently underway in the Florida Legislature to enact more comprehensive data privacy legislation, including certain disclosure and "opt-out" requirements, no such requirements currently exist in Florida law. *See* H.B. 969, 123 Reg. Sess. (Fla. 2021); S.B. 1734, 123 Reg. Sess. (Fla. 2021). Indeed, the staff analyses on these bills provide a thorough and sweeping look at the current state of play when it comes to data privacy regulations in Florida, as well as in other states, at the federal level, and internationally. *See* Wright, House of Reps. Staff Analysis for CS/HB 969 (Mar. 11, 2021); Harmsen, Bill Analysis & Fiscal Impact Statement for SB 1734 (Mar. 19, 2021). Yet, notably, neither staff analysis identifies the FSCA (or any other federal or state wiretap statute) as one of the statutes providing consumers with data privacy rights. *See id.*

B. Plaintiff's Website Activity is Not the "Contents" of a Communication

Even if the FSCA applies to certain internet browsing activity on public, commercial websites (and it does not), Plaintiff's claim should still be dismissed because he fails to allege that Home Depot intercepted the *contents* of any alleged communication. The FSCA only protects the "contents" of a communication, which is defined as "any information concerning the substance, purport, or meaning of that communication." Fla. Stat. §§ 934.02-03. In other words, "contents" refers to the intended message conveyed by the communication." *In re Zynga Privacy Litig.*, 750 F.3d 1098, 1106 (9th Cir. 2014) (interpreting the Federal Wiretap Act's identical provision).⁷ By contrast, the FSCA does not protect "record information regarding the characteristics of the message that is generated in the course of the communication." *Id.*; *see also Minotty v. Baudo*, 42 So. 3d 824, 831 (Fla. Dist. Ct. App. 2010) (the FSCA does not apply to conduct "that fails to capture the substance" of electronic communications).

⁷ "[T]he FSCA was modeled after the Federal Wiretap Act, 18 U.S.C. § 2510 *et seq.*, as amended by the Electronic Communications Privacy Act of 1986." *Brevard Extraditions, Inc. v. Fleetmatics, USA, LLC*, No. 8:12-cv-2079-T-17MAP, 2013 WL 5437117, at *3 (M.D. Fla. Sept. 27, 2013). Florida courts "follow federal courts as to the meaning of provisions after which Chapter 934 was modeled." *Id.* (citing *O'Brien*, 899 So. 2d at 1135-36; *Minotty*, 42 So. 3d at 832. Here, the definition of the term "contents" is identical under both the Federal Wiretap Act and the FSCA.

Here, Plaintiff alleges that his computer and/or mobile device “transmitted electronic communications in the form of instructions to Defendants’ computer servers utilized to operate the website. The commands were sent as messages instructing Defendant’s website what content was being viewed, clicked on, requested or inputted by Plaintiff.” FAC ¶ 26. Plaintiff then alleges five different categories of “commands” that he claims Home Depot intercepted through its use of session replay: his movements on the website, including mouse clicks and movements, and pages and content viewed, as well as unspecified “information inputted,” including keystrokes and search terms. *Id.* In other words, Plaintiff alleges that the electronic communication is the “command” (*e.g.*, a mouse click) to Home Depot’s servers, while simultaneously alleging that the “command” is also the contents of that same communication (*e.g.*, a mouse click). These circular allegations only underscore Plaintiff’s tortured attempt to find a violation of the FSCA. Nevertheless, Plaintiff cannot obscure the obvious: movements on a website and unspecified “information inputted” are not content protected by the FSCA.

Movements on a website. A number of courts have held that an individual’s movements on a website (including mouse clicks, movements, and pages and content viewed) does not convey any intended message or meaning, and therefore it does not qualify as “content” that is protected by anti-wiretapping statutes. *Cf. In re Facebook Internet Tracking Litig.*, 140 F. Supp.

3d 922, 935-36 (N.D. Cal. 2015) (browsing history and webpages visited by user are not contents under Federal Wiretap Act); *In re Zynga*, 750 F.3d at 1107-09 (similar). Rather, Plaintiff's movements on the Home Depot website are ultimately no different than his movements through a brick-and-mortar Home Depot store. And there is no question that monitoring that movement, including through security camera footage, does not violate the FSCA because the parties' "physical conduct recorded on silent videotapes does not convey the *substance* of a particular communication." *Minotty*, 42 So. 3d at 832. Home Depot's use of session replay technology should not be treated any differently under the FSCA. *See Nordstrom, Inc. v. NoMoreRack Retail Grp., Inc.*, No. C12-1853-RSM, 2013 WL 1196948, at *3 (W.D. Wash. Mar. 25, 2013) ("today, most brick and mortar retailers operate websites as an extension of their business and there is increasingly less differentiation between customers who purchase at a physical store versus those who purchase online"). Just as the observation of a consumer's path through a physical store does not capture the "contents" of any communications, neither does Home Depot's observation of Plaintiff's digital path through its online store. *See In re Zynga*, 750 F.3d at 1107-09 (the webpage a user views is akin to an address and does not constitute "content").

Inputted information and keystrokes. Plaintiff's allegations that he inputted search terms, keystrokes, and information on Home Depot's website does not salvage his FSCA claim. Inputted information does not automatically

constitute the “contents” of a communication. Indeed, many types of information commonly inputted by users into websites do not qualify as the “contents” of a communication, including telephone numbers, usernames and passwords, email addresses, and names. *See, e.g., Armstrong v. S. Bell Tel. & Tel. Co.*, 366 So. 2d 88, 89 (Fla. 1st DCA 1979) (phone number is not “content” under FSCA); *Brodsky v. Apple Inc.*, 445 F. Supp. 3d 110, 127 (N.D. Cal. 2020) (“user names, passwords, and geographic location information are not contents” under Federal Wiretap Act); *In re Zynga*, 750 F.3d at 1107–09 (username and webpage address do not constitute “content” under Federal Wiretap Statute).

Here, even after amending his complaint, Plaintiff does not allege any facts that even suggest the information he allegedly inputted constitutes the “contents” of a communication. Nowhere in the FAC does Plaintiff allege what information he supposedly input, leaving Home Depot and this Court to merely guess at whether such information is protected “content.”

Consequently, Plaintiff has not alleged a fundamental element of his claim: that Home Depot intercepted the “contents” of his communications.⁸

Plaintiff’s claims should therefore be dismissed for this independent reason.

⁸ *O’Brien v. O’Brien*, cited by Plaintiff in the FAC, does not counsel differently. 899 So. 2d at 1133; *see also* FAC ¶ 6. That case involved a wife who installed spyware on her husband’s computer and captured the substance of messages he was sending to another woman, conduct which the court held was a violation of the FSCA. But in stark contrast to the allegations at issue in this case, the wife’s spyware program in *O’Brien* captured the *contents* of the

C. Session Replay Software is Not a “Device”

Plaintiff’s claim also fails because session replay software does not constitute a “device” under the FSCA. The FSCA defines a “device” as “any device or apparatus which can be used to intercept a wire, electronic, or oral communication.” Fla. Stat. § 934.02(4). As analogous case law suggests, a server used to receive a communication by the recipient is not the “device or apparatus” referred to in this definition. *See, e.g., Ideal Aerosmith, Inc. v. Acutronic USA, Inc.*, Civil Action No. 07-1029, 2007 WL 4394447, at *4 (E.D. Pa. Dec. 13, 2007) (“The drive or server on which an e-mail is received does not constitute a device for purposes of the [Federal] Wiretap Act.”); *Ultimate Outdoor Movies, LLC v. FunFlicks, LLC*, No.: SAG-18-2315, 2019 WL 2233535, at *21 (D. Md. May 23, 2019) (holding that an email server is not a “device” under the Federal Wiretap Act).

The cases cited by Plaintiff do not suggest otherwise; unlike this case, they all involve software installed on the communicating party’s device by a third party who was not the intended recipient of the communication. *See* FAC ¶ 77 (citing cases); *United States v. Barrington*, 648 F.3d 1178, 1203 (11th Cir. 2011) (merely acknowledging that certain keylogger software installed in the *sender’s* computer by a third-party *may* constitute a device but finding no

husband’s substantive messages (*e.g.*, emails, instant *messages*, online chat *messages*). Here, there is no alleged interception of a substantive message with another party.

evidence that it satisfied the definition of a device under the federal wiretap act); *Luis v. Zang*, 833 F.3d 619 (6th Cir. 2016) (husband installed spyware on wife's computer to monitor her communications with others); *In re Carrier IQ, Inc.*, 78 F. Supp. 3d 1051 (N.D. Cal. 2015) (software installed on plaintiffs' mobile devices by third party that monitored communications with other parties); *Klumb v. Goan*, 884 F. Supp. 2d 644 (E.D. Tenn. 2012) (wife installed spyware on husband's computers to spy on his communications with others); *Shefts v. Petrakis*, 2012 WL 4049484, at *8-9 (C.D. Ill. Sept. 13, 2012) (use of spyware on plaintiff's computer to monitor plaintiff's communications and activities with others).

Here, Home Depot was a direct party to any alleged "communication" from Plaintiff, and the "device" which received these alleged communications—and to which Plaintiff directed his alleged communications—was the Home Depot website. Session replay is merely one piece of software that runs on Home Depot's website; it is not a separate "device." As part of the method by which Home Depot *received* the alleged communications from Plaintiff (*i.e.*, the Home Depot website), session replay software cannot be said to "intercept" those same communications. Holding otherwise would be "akin to holding that one who picks up a telephone to receive a call has intercepted a communication and must seek safety in an exemption to the Wiretap Act. Such a result would effectively remove from the definition of intercept the requirement that the

acquisition be through a ‘device.’” *Crowley v. CyberSource Corp.*, 166 F. Supp. 2d 1263, 1270 (N.D. Cal. 2001) (rejecting a wiretap claim effectively alleging that receiving an email violated the federal Wiretap Act). At its core, Plaintiff’s FAC alleges nothing more than that Home Depot was a direct recipient of Plaintiff’s electronic “communications” through its website.⁹ This is not a violation of the FSCA.

II. PLAINTIFF CONSENTED TO HOME DEPOT’S USE OF SESSION REPLAY

Even if the FSCA applies to the use of session replay software, Plaintiff’s claim should also be dismissed because Plaintiff consented to any purported interception of his information by Home Depot. When both parties consent to the interception of information, there is no violation of the FSCA. Fla. Stat. § 934.03(2)(d). And consent may be implied based on the surrounding circumstances. *Cf. Levin v. Red Rock Fin. Servs., LLC*, No. 70006, 133 Nev. 1043, 2017 WL 519414, at *1 (Nev. App. 2017) (interpreting the FSCA); *see also In re Yahoo Mail Litig.*, 7 F. Supp. 3d 1016, 1028 (N.D. Cal. 2014) (same under the Federal Wiretap Act). The “key question” in assessing whether

⁹ The allegation that Home Depot’s session replay vendor received the data first does not change this analysis. As other courts have said, vendors that simply host client data and allow clients to analyze their own data are simply extensions of their clients, absent some other allegation that the vendor used the data for its own purposes. *See Graham v. Noon, Inc.*, No. 20-CV-06903-LB, 2021 WL 1312765, at *5-*6 (N.D. Cal. Apr. 8, 2021). Here, there is no allegation that Home Depot’s session replay vendor did anything other than host data for Home Depot’s own use.

implied consent was given is “whether the parties were given sufficient notice.” *Berry v. Funk*, 146 F.3d 1003, 1011 (D.C. Cir. 1998).

Here, despite Plaintiff’s conclusory allegations to the contrary, FAC ¶¶ 47-51, there is no question that Plaintiff had sufficient notice that his information could be monitored by Home Depot, and his continued use of the Home Depot website demonstrates his implied consent. *First*, internet browsing—particularly on the public website of a commercial entity like Home Depot—inherently demonstrates that a user consents to the collection of information by the intended recipient. *Second*, and relatedly, the complained-of conduct is a well-known, routine activity, and therefore Plaintiff cannot claim that any reasonable person would have been unaware of Home Depot’s alleged activity. *Third*, not only is Home Depot’s conduct consistent with social norms, but Home Depot *explicitly* disclosed that it could monitor Plaintiff’s activity. Any one of these factors alone would be sufficient to dismiss Plaintiff’s FSCA claim, but taken together, they compel this Court to do so.

Visiting a public, commercial website demonstrates consent. As an initial matter, the very nature of internet browsing and electronic communication is to consent to the capture of an individual’s “communications” (e.g., mouse clicks, keyword searches, or messages) by the recipient of the communication—otherwise the internet would serve no purpose and navigation would be impossible. As a Pennsylvania court explained applying

Pennsylvania's version of the Wiretap Act (which, like Florida's, is also modeled after the Federal Wiretap Act):¹⁰

This situation is unlike one in which a party is engaging in a conversation over the telephone. While engaging in a conversation over the telephone, a party would have no reason to believe that the other party was taping the conversation. Any reasonably intelligent person, savvy enough to be using the Internet, however, would be aware of the fact that messages are received in a recorded format, by their very nature, and can be downloaded or printed by the party receiving the message. **By the very act of sending a communication over the Internet, the party expressly consents to the recording of the message.**

Proetto, 771 A. 2d at 829. And other courts have reached similar conclusions. *See, e.g., State v. Townsend*, 57 P.3d 255, 260–62 (Wash. 2002) (finding the same because any sender of an online communication “anticipates that it will be recorded” and understands that “computers are, among other things, a message recording device”); *State v. Lott*, 879 A.2d 1167, 1172 (N.H. 2005) (similar under New Hampshire law); *cf. In re Google Inc.*, No. 13-MD-02430-LHK, 2013 WL 5423918, at *14 (N.D. Cal. Sept. 26, 2013) (stating that the cases above stand for the proposition that “the sender of an email consents to the intended recipients’ recording of the email”).

¹⁰ The relevant statutory sections in the FSCA and Pennsylvania's wiretap statute concerning mutual consent and interception of electronic communications are similar in all material respects. *Cf.* Fla. Stat. §§ 934.03(1)(a), (d) & (2)(d), with 18 Pa.C.S.A. §§ 5702 (definition of “intercept”), 5703(1), (3) & 5704(4).

The reasoning in *Proetto* and these other courts applies with equal force here. Unlike telephone calls or oral communications that disappear as soon as they are uttered, written electronic communications—the only type Plaintiff alleges—are by their very nature intended to be kept. As a result, it cannot be the case that the intended recipient of a written electronic communication can be liable under the FSCA for capturing that communication. Any interpretation to the contrary would undermine the entire concept of email or online form-filling. *State v. Atkinson*, 831 So. 2d 172, 174 (Fla. 2002) (“A basic tenet of statutory construction compels a court to interpret a statute so as to avoid a construction that would result in unreasonable, harsh, or absurd consequences.”).

Session replay is widely accepted. Moreover, the collection of website-based information is virtually ubiquitous and well-known. Even the Middle District of Florida’s website collects much of the same information at issue in this case. See Middle District of Florida, *Privacy Policy*, <https://www.flmd.uscourts.gov/privacy-policy> (stating that the M.D. Fl. collects, among other things, “the pages you visit”). Behavior that is common and widely accepted is not a violation of the FSCA. See *Minotty v. Baudo*, 42 So. 3d 824, 832 (Fla. Dist. Ct. App. 2010) (stating that the “extensive use of

video surveillance” suggests it is not a violation of the FSCA).¹¹ Accordingly, by using the internet to allegedly send “communications” to Home Depot by navigating its website, Plaintiff consented to the collection of information about his movements on, and interactions with, that website.

Home Depot’s Privacy Policy. Further, Home Depot explicitly disclosed the fact that it might collect the information alleged in the FAC. Home Depot’s Privacy Policy, which appears on a link on its homepage (among other places), discloses that it may collect information about consumer behavior and may document their interactions while using the website. *See* Ex. B. Specifically, the Home Depot privacy policy states that it “applies to the information we collect in association with your interactions with us, including, but not limited to: use of our websites.” *Id.* It also includes a chart that clearly lays out the categories of information Home Depot may collect, where it collects it from, why it collects it, and whom that information is shared with. *Id.* Each category of information about which Plaintiff complains is clearly and explicitly listed in Home Depot’s privacy policy:

Category of Information	Where Do We Collect It From?
IDENTIFIERS, such as name, email address, phone number, username, physical address, device	Directly from you or the devices you use to access digital services, such as websites , mobile applications, and

¹¹ Just as the wide adoption and common acceptance of video surveillance has led courts to hold that its use is not a violation of the FSCA, so also should this Court look to the wide use of session replay as a sign that it too is not a violation of the FSCA.

identifier, IP address, government-issued identification number, date of birth/age, license plate number, and social media handle.	applications for connected devices
INTERNET ACTIVITY, such as browsing history, search history, information about your interaction with our websites, applications, electronic communications, or advertisements, and information about your activities when using our in-store WiFi.	Directly from you or the devices you use to access digital services, such as websites , mobile applications, and applications for connected devices
COMMERCIAL INFORMATION, such as products or services purchased, purchasing history, products or services you like, reviews you submit, or where you shop	Directly from you or the devices you use to access digital services, such as websites , mobile applications, and applications for connected devices

Id. (emphasis added).

Thus, while Plaintiff makes the conclusory allegation that he did not consent, the fact—as alleged in the FAC—that he visited the Home Depot website that included these disclosures **at least fifteen times** demonstrates otherwise. By choosing to use Home Depot’s website in light of these and other disclosures, and electing not to take action to avoid the collection of any information, Plaintiff consented to that collection. *Garcia v. Enter. Holdings, Inc.*, 78 F. Supp. 3d 1125, 1137 (N.D. Cal. 2015) (dismissing a privacy claim and holding that, “given the express provisions of the Privacy Policy . . . which ostensibly contradict his bare allegation that he did not consent, Plaintiff must

allege additional facts to support his claim.”); *see also Mortensen v. Bresnan Commc’n, L.L.C.*, No. CV 10-13-BLG-RFC, 2010 WL 5140454, at *5 (D. Mont. Dec. 13, 2010) (dismissing claim and holding that the plaintiff consented to the collection of his information where the privacy policy made it “evident that Plaintiffs’ electronic transmissions would be monitored and would in fact be transferred to third-parties for the purposes of providing content or services.”); *Javier v. Assurance IQ, Inc.*, No. 4:20-CV-02860-JSW, 2021 WL 940319, at *2 (N.D. Cal. Mar. 9, 2021) (dismissing a session replay case where the defendant clearly disclosed its collection practices).¹²

In sum, Plaintiff consented to Home Depot’s use of session replay technology on the Home Depot website, and therefore Plaintiff’s claim must be dismissed.

CONCLUSION

For the reasons stated above, Home Depot respectfully requests that the Court grant its motion and dismiss Plaintiff’s claims in their entirety with prejudice.

¹² Plaintiff cannot overcome this deficiency by alleging that he did not have the opportunity to opt out or consent to Home Depot’s alleged interception of his interactions before he visited the Home Depot website. FAC ¶¶ 47-52. As an initial matter, the statute contains no such “opt out” requirement. *See supra* at 8-9. Regardless, Plaintiff’s conclusory argument is again belied by his visiting Home Depot’s website *at least fifteen times*. *Id.* ¶ 23. The fact that Plaintiff kept returning to the Home Depot website demonstrates that he had ample opportunity to read and review the Privacy Policy. And even if he did not, the social norms and privacy expectations discussed above would foreclose his FSCA claim.

LOCAL RULE 3.01(G) CERTIFICATION

I hereby certify that I conferred via email with counsel for Plaintiff in a good faith effort to resolve the issues raised by this motion. Plaintiff opposes the relief requested.

Respectfully submitted this 29th day of April, 2021.

/s/ S. Stewart Haskins II

J. Theodore Schatt
Florida Bar Number 0195782
**SCHATT MCGRAW RAUBA &
MUTARELLI, P.A.**
P.O. Box 4440
Ocala, FL 34478
Tel: (352) 689-6520
Fax: (352) 689-6570
E: Ted@smrmlaw.com
Alexandra@smrmlaw.com
Service@smrmlaw.com

S. Stewart Haskins II*
KING & SPALDING LLP
1180 Peachtree St. NE
Atlanta, GA 30309
Tel: (404) 572-4600
Fax: (404) 572-5100
E: shaskins@kslaw.com
ebedard@kslaw.com

*Attorneys for Defendant
The Home Depot, Inc.*

**pro hac vice*

CERTIFICATE OF SERVICE

This is to certify that I have this 29th day of April, 2021, electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such to all attorneys of record.

/s/ S. Stewart Haskins II
S. Stewart Haskins II

Exhibit A

EXHIBIT A

List of Related Actions

(in alphabetical order. **M.D. Fla. cases in bold**)

1. *Belanger v. Norwegian Cruise Line Holdings Ltd.*, Case No. 2021 30222 CICI (7th Jud. Ct. Volusia County)
2. *Benstine v. Lumen Technologies, Inc.*, Case No. 2021-CA-001041 (20th Jud. Ct. Lee County)
3. *Goldstein v. Fandango Media, LLC*, Case No. 9:21-cv-80466 (S.D. Fla.)
4. *Goldstein v. Costco Wholesale Corporation*, Case No. 50-2021-CA-001558 (15th Jud. Ct. Palm Beach County)
5. *Goldstein v. T-Mobile USA Inc.*, Case No. 9:21-cv-80545-JIC (S.D. Fla.)
6. *Goldstein v. Luxottica of America, Inc. dba Ray-Ban*, Case No. 9:21-cv80546-AMC (S.D. Fla.)
7. *Goldstein v. Avis Budget Group, Inc.*, Case No. 2021-CA-001597 (15th Jud. Ct. Palm Beach County)
8. *Harris v. Edward D. Jones & Co.*, Case No. 2021-CA-000963 (4th Jud. Ct. Duval County)
9. *Harris v. Euromarket Designs Inc. dba Crate and Barrel*, Case No. 2021- CA-000907 (4th Jud. Ct. Duval County)
10. *Harris v. Six Continents Hotels Inc.*, Case No. 2021-CA-001043 (4th Jud. Ct. Duval County)
11. ***Holden v. Banana Republic, LLC*, Case No. 3:21-cv-00268-BJD-JRK (M.D. Fla.)**
12. ***Holden v. Fossil Group, Inc.*, Case No. 3:21-cv-00300-TJC-JBT (M.D. Fla.)**
13. ***Holden v. NortonLifeLock Inc.*, Case No. 3:21-cv-00279-BJD-JRK (M.D. Fla.)**

14. ***Holden v. Old Navy, LLC*, Case No. 3:21-cv-00270-BJD-PDB (M.D. Fla)**
15. *Jacome v. Spirit Airlines, Inc.*, Case No. 2021-000947-CA-01 (11th Jud. Ct. Miami-Dade County)
16. *Liberto v. The Gap, Inc.*, Case No. 2021-CA-000349 (1st Jud. Ct. Escambia County)
17. *Liberto v. Dillard's Inc.*, Case No. 2021-CA-000350 (1st Jud. Ct. Escambia County)
18. *Londers v. Intel Corporation*, Case No. 2021-CA-000301 (5th Jud. Ct. Lake County)
19. *Leace v. General Motors LLC*, Case No. CACE21004374 (17th Jud. Ct. Broward County)
20. *Makkinje v. AthenaHealth, Inc.*, Case No. 2021-CA-000898 (12th Jud. Ct. Manatee County)
21. *Marshall v. WebMD LLC*, Case No. 2021-CA-000517 (12th Jud. Ct. Manatee County)
22. *Neal v. Container Store Inc.*, Case No. CACE21004409 (17th Jud. Ct. Broward County)
23. *Perez v. Western Union Holdings, Inc.*, Case No. 0:21-cv-60616-RKA (S.D. Fla.)
24. ***Smart v. Bose Corp.*, Case No. 5:21-cv-00142-JSM-PRL (M.D. Fla.)**
25. *Swiggum v. Beall's Inc.*, Case No. 2021-CA-000168 (12th Jud. Ct. Manatee County) (Circuit Court Judge Charles Sniffen)
26. ***Swiggum v. EAN Services, LLC*, Case No. 8:21-cv-00493-TPB-CPT (M.D. Fla.)**
27. *Underhill v. HSN, Inc.*, Case No. 2021-CA-000290 (4th Jud. Ct. Duval County)

28. *Vicario v. Disney Store USA, LLC*, Case No. 2021-CA-003655-CA-01 (11th Jud. Ct. Miami-Dade County)

29. *Vicario v. The Neiman Marcus Group LLC*, Case No. 2021-003529-CA-01 (11th Jud. Ct. Miami-Dade County)

30. *Vicario v. Puma North America, Inc.*, Case No. 2021-003535-CA-01 (11th Jud. Ct. Miami-Dade County)

31. *Zarnesky v. Frontier Airlines, Inc.*, Case No. 2021 30199 CICI (7th Jud. Ct. Volusia County)

32. *Zarnesky v. Adidas America Inc.*, Case No. 2021 30201 CICI (7th Jud. Ct. Volusia County)

Exhibit B

THE HOME DEPOT logo | You're shopping Daily City | CLOSED until 7 am | Delivering to 94015

Store Finder | Truck & Tool Rental | For the Pro | Gift Cards | Credit Services | Track Order | Help

What can we help you find today?

My Account | Lists | Cart | 0 items

All Departments | Home Decor, Furniture & Kitchenware | DIY Projects & Ideas | Project Calculators | Installation & Services | Specials & Offers | Local Ad

Home / Privacy and Security Statement

The Home Depot, Inc. Privacy and Security Statement

MOST VIEWED

- Check Order Status
- Store Finder and Store Hours
- My Account Sign in
- Check Order History
- Order Cancellation
- Shipping and Delivery FAQ
- Pay Credit Card Bill
- About My Order**
- Check Order Status
- Order Cancellation
- Confirm Order Was Placed
- Shipping and Delivery FAQ
- In-Store Pickup

Shipping and Delivery

- Free Shipping
- Shipping Options
- Buy Online and Pickup in Store
- Buy Online and Ship to Store
- Check Order Status
- Shipping and Delivery FAQs

Product and Services

- Product Availability
- Protection Plans
- Installation Services
- Tools and Truck Rental
- Moving Services
- Pro Services
- How To and Project Guides
- Ratings and Reviews
- Seeds Program
- Pricing and Promos**
- Price Match Policy
- Savings Center
- LocalAd
- Special Buy of the Day
- Credit Center



SHOP WITH PRIVACY AND SECURITY

The Home Depot values and respects the privacy of its customers and visitors. In the course of operating our business and interacting with you, we collect, use, and share personal information. We do so to process and fulfill your orders, to improve our in-store and digital offerings, to create consistent in-store and digital experiences for you, to protect the rights and information of our customers and our company, and for the other purposes disclosed in this Privacy and Security Statement.

This Privacy and Security Statement provides you with information about how we collect, use, and share personal information, and describes choices and rights available regarding your personal information. If you have any questions, please contact us via the channels listed below.

About this Statement
 What Do We Collect?
 How Do We Collect Information?
 Information Sharing
 Manage Marketing Preferences

Our Sites and Children
 Your California Privacy Rights
 Security Links
 Contact Us

Our Tracking Tools
 My Account Registration and Use
 The Home Depot Foundation
 Information for Applicants

About This Statement

This Privacy and Security Statement describes the privacy practices of The Home Depot, Inc. and its subsidiaries, divisions, affiliates, brands, and other The Home Depot companies that link to this Privacy and Security Statement, including The Home Depot Foundation (subject to exceptions noted in The Home Depot Foundation section below) (collectively, "The Home Depot," "our," "us," or "we"). It applies to the information we collect in association with your interactions with us, including, but not limited to:

- Use of our websites, including mobile websites
- Visits to our stores or attendance at our events
- Use of our applications for mobile phones, tablets, or other smart devices
- Phone and email communications with us
- Social media interactions on our websites and other third party websites like Facebook, YouTube, Pinterest, Google+, Instagram, and Twitter
- Viewing our online advertisements or emails
- Interactions with our authorized service providers

It also applies to personal information that we receive from business partners and other third parties. You can find out more information about our collection of personal information below.

If you are applying for a job with us, please see the end of this Privacy and Security Statement regarding our practices with respect to the information we collect in association with your application. The remainder of this Privacy and Security Statement does not apply to applicant information.

This Privacy and Security Statement does not apply to the practices of The Home Depot Canada or The Home Depot Mexico. The privacy policy for Canada can be found at [homedepot.ca/privacy](https://www.homedepot.ca/privacy). The privacy policy for Mexico can be found at [homedepot.com.mx/privacy](https://www.homedepot.com.mx/privacy). Also, this policy does not apply to third-party websites accessible through our websites. Other The Home Depot companies may provide different privacy and security statements or policies for their business operations that may differ from this Privacy and Security Statement.

- Credit Offers
- Rebate Center
- Payments**
- Payment Methods
- Gift Cards and Store Credits
- Tax Exemptions
- Credit Card Bill Payments
- My Account**
- Order History
- In-Store eReceipts
- Email/phone Opt-in/out
- Credit Card Payments
- Returns and Recalls**
- Online Purchase Return Policy
- In-Store Purchase Return Policy
- Recalls
- Policies and Legal**
- Terms of Use
- Exercise My Privacy Rights
- Privacy and Security Statement
- Manage My Marketing Preferences
- California Rights and Regulations
- Electronics Recycling Programs
- The Home Depot Reviewer Program
- Corporate Information**
- Careers
- Corporate Information
- Home Depot Foundation
- Government Customers
- Investor Relations
- Suppliers and Providers
- Affiliate Program
- Contact Us**
- Phone Directory

For example, this Privacy and Security Statement does not apply to blincs.com, justblinds.com, americanblinds.com, or thecompanystore.com. You can find the applicable description of privacy practices by clicking on the links available on the web sites operated by the other The Home Depot companies, or by looking in the menus of their mobile applications.

What Do We Collect?

As noted above, we collect personal information when you visit our stores, when you contact us, when you interact with or use our digital offerings, and from business partners and other third parties.

The table below describes the categories of personal information we collect, the sources we collect the information from, our purposes for collecting the information, and the types of recipients that may receive the information from us. And you can find more details in the "What Do We Collect?," "How Do We Collect Information?," and "Information Sharing" sections that follow.

CATEGORY OF PERSONAL INFORMATION	WHERE DO WE COLLECT IT FROM?	WHY DO WE COLLECT IT?	WHO DO WE SHARE IT WITH?
IDENTIFIERS, such as name, email address, phone number, username, physical address, device identifier, IP address, government-issued identification number, date of birth/age, license plate number, and social media handle.	<p>Directly from you or the devices you use to access digital services, such as websites, mobile applications, and applications for connected devices</p> <p>Other customers that may provide us with your information to recommend a product or service, ship products to you, or list you as a recipient of products or services</p> <p>Companies that provide services on our behalf (e.g., installers).</p> <p>Security and fraud prevention services that help us confirm that transactions are valid and otherwise help us protect our assets and you.</p>	<p>Fulfilling orders and processing returns.</p> <p>Customer care.</p> <p>Administering contests and promotions.</p> <p>Registering you for a website or program.</p> <p>Marketing companies that help us learn about our customers and the devices they use to access digital content.</p> <p>Communicating with you.</p> <p>Improving our products and services, including improving store layouts and digital content.</p> <p>Learning about customer trends and interests.</p> <p>Personalizing digital content.</p> <p>Delivering marketing communications and advertising.</p> <p>Identifying the devices you use to access digital content.</p> <p>Fraud prevention, security, and asset protection.</p>	<p>Service providers that process information on our behalf, such as shipping vendors, providers of digital analytics services, and fraud prevention.</p> <p>Manufacturers of products and providers of extended warranty services.</p> <p>Joint marketing partners.</p> <p>Financial services companies, such as for home improvement loans, processing payments, and for managing The Home Depot credit card accounts.</p> <p>Any successor to all or part of our business.</p> <p>Advisors and consultants.</p> <p>Advertising partners.</p> <p>Law enforcement, public and government authorities, and other entities as we deem reasonably necessary to comply with law, support investigations, and protect the rights and property of you, us, and others.</p> <p>Our affiliates and subsidiaries.</p>

CATEGORY OF PERSONAL INFORMATION	WHERE DO WE COLLECT IT FROM?	WHY DO WE COLLECT IT?	WHO DO WE SHARE IT WITH?
INTERNET ACTIVITY, such as browsing history, search history, information about your interaction with our websites, applications, electronic communications, or advertisements, and information about your activities when using our in-store WiFi.	<p>Directly from you or the devices you use to access digital services, such as websites, mobile applications, and applications for connected devices.</p> <p>Marketing companies that help us learn about our customers and the devices they use to access digital content.</p> <p>Companies that supplement our customer records with additional information.</p> <p>Social media platforms.</p>	<p>Fulfilling orders and processing returns.</p> <p>Customer care.</p> <p>Communicating with you.</p> <p>Administering contests and promotions.</p> <p>Improving our products and services, including improving store layouts and digital content.</p> <p>Learning about customer trends and interests.</p>	<p>Service providers that process information on our behalf such as providers of digital analytics services and fraud prevention services.</p> <p>Joint marketing partners.</p> <p>Advertising partners.</p> <p>Any successor to all or part of our business.</p> <p>Advisors and consultants.</p> <p>Our affiliates and subsidiaries.</p>

CATEGORY OF PERSONAL INFORMATION	WHERE DO WE COLLECT IT FROM?	WHY DO WE COLLECT IT?	WHO DO WE SHARE IT WITH?
<p>COMMERCIAL INFORMATION, such as products or services purchased, purchasing history, products or services you like, reviews you submit, or where you shop.</p>	<p>Advertising companies and content publishers that present you with our ads.</p> <p>Directly from you or the devices you use to access digital services, such as websites, mobile applications, and applications for connected devices.</p> <p>Other customers that may provide us with your information to recommend a product or service, ship products to you, or list you as a recipient of products or services.</p> <p>Companies that provide services on our behalf (e.g., installers).</p> <p>Security and fraud prevention services that help us confirm that transactions are valid and otherwise help us protect our assets and you.</p> <p>Marketing companies that help us learn about our customers and the devices they use to access digital content.</p> <p>Companies that supplement our customer records with additional information.</p> <p>Social media platforms.</p> <p>Advertising companies and content publishers that present you with our ads.</p>	<p>Personalizing digital content.</p> <p>Delivering marketing communications and advertising.</p> <p>Identifying the devices you use to access digital content.</p> <p>Fraud prevention, security, and asset protection.</p> <p>Fulfilling orders and processing returns.</p> <p>Customer care.</p> <p>Administering contests and promotions.</p> <p>Registering you for a website or program.</p> <p>Communicating with you.</p> <p>Improving our products and services, including improving store layouts and digital content.</p> <p>Learning about customer trends and interests.</p> <p>Personalizing digital content.</p> <p>Delivering marketing communications and advertising.</p> <p>Identifying the devices you use to access digital content.</p> <p>Fraud prevention, security, and asset protection.</p>	<p>Law enforcement, public and government authorities, and other entities as we deem reasonably necessary to comply with law, support investigations, and protect the rights and property of you, us, and others.</p> <p>Service providers that process information on our behalf, such as shipping vendors, providers of digital analytics services and fraud prevention services.</p> <p>Manufacturers of products and providers of extended warranty services.</p> <p>Financial services companies, such as for home improvement loans, processing payments, and for managing The Home Depot credit card accounts.</p> <p>Joint marketing partners.</p> <p>Any successor to all or part of our business.</p> <p>Advisors and consultants.</p> <p>Advertising partners.</p> <p>Law enforcement, public and government authorities, and other entities as we deem reasonably necessary to comply with law, support investigations, and protect the rights and property of you, us, and others.</p> <p>Our affiliates and subsidiaries.</p>

CATEGORY OF PERSONAL INFORMATION	WHERE DO WE COLLECT IT FROM?	WHY DO WE COLLECT IT?	WHO DO WE SHARE IT WITH?
<p>PAYMENT INFORMATION, such as credit or debit card, check, PayPal account, or gift card, as well as available credit for The Home Depot credit card.</p>	<p>Directly from you.</p> <p>From financial institutions, payment processors, and other providers of financial products and services that we work with to provide you with financial services and offers.</p> <p>Companies that provide services on our behalf.</p>	<p>Fulfilling orders and processing returns.</p> <p>Customer care.</p> <p>Communicating with you regarding payment status.</p> <p>Collecting payments on behalf of our financial services providers.</p> <p>Fraud prevention, security, and asset protection.</p>	<p>Service providers that process information on our behalf, such as data storage providers.</p> <p>Financial services companies, such as for home improvement loans, processing payments, and for managing The Home Depot credit card accounts.</p> <p>Any successor to all or part of our business.</p> <p>Advisors and consultants.</p> <p>Law enforcement, public and government authorities, and other entities as we deem reasonably necessary to comply with law, support investigations, and protect the rights and property of you, us, and others.</p> <p>Our affiliates and subsidiaries.</p>

CATEGORY OF PERSONAL INFORMATION	WHERE DO WE COLLECT IT FROM?	WHY DO WE COLLECT IT?	WHO DO WE SHARE IT WITH?
<p>DEMOGRAPHIC INFORMATION,</p>	<p>Directly from you.</p>	<p>Improving our products and services,</p>	<p>Service providers that process information</p>

<p>such as age and gender.</p>	<p>Companies that provide services on our behalf (e.g., installers).</p> <p>Marketing companies that help us learn about our customers and the devices they use to access digital content.</p> <p>Companies that supplement our customer records with additional information.</p> <p>Social media platforms.</p> <p>Advertising companies and content publishers that present you with our ads.</p> <p>Other customers that may provide us with your information to recommend a product or service, ship products to you, or list you as a recipient of products or services.</p>	<p>including improving store layouts and digital content.</p> <p>Communicating with you.</p> <p>Customer care.</p> <p>Administering contests and promotions.</p> <p>Learning about customer trends and interests.</p> <p>Personalizing digital content.</p> <p>Delivering marketing communications and advertising.</p> <p>Fraud prevention, security, and asset protection.</p>	<p>on our behalf, such as shipping vendors, providers of digital analytics services, and fraud prevention services.</p> <p>Joint marketing partners.</p> <p>Advisors and consultants.</p> <p>Advertising partners.</p> <p>Any successor to all or part of our business.</p> <p>Law enforcement, public and government authorities, and other entities as we deem reasonably necessary to comply with law, support investigations, and protect the rights and property of you, us, and others.</p> <p>Our affiliates and subsidiaries.</p>
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CATEGORY OF PERSONAL INFORMATION	WHERE DO WE COLLECT IT FROM?	WHY DO WE COLLECT IT?	WHO DO WE SHARE IT WITH?
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<p>LOCATION INFORMATION, such as location based on IP address or mobile device location information. (Please see the Our Tracking Tools section for additional information.)</p>	<p>Directly from you, or the devices you use to access digital services, such as websites, mobile applications, and applications for connected devices.</p> <p>Security and fraud prevention services that help us confirm that transactions are valid and otherwise help us protect our assets and you.</p> <p>Marketing companies that help us learn about our customers and the devices they use to access digital content.</p> <p>Companies that supplement our customer records with additional information.</p> <p>Advertising companies and content publishers that present you with our ads.</p> <p>The signals emitted by your mobile devices when you travel through our stores.</p>	<p>Communicating with you.</p> <p>Customer care.</p> <p>Improving our products and services, including improving store layouts and digital content.</p> <p>Administering contests and promotions.</p> <p>Learning about customer trends and interests.</p> <p>Personalizing digital content.</p> <p>Delivering marketing communications and advertising.</p> <p>Identifying the devices you use to access digital content.</p> <p>Fraud prevention, security, and asset protection.</p>	<p>Service providers that process information on our behalf, such as shipping vendors, providers of digital analytics services and fraud prevention services.</p> <p>Advisors and consultants.</p> <p>Advertising partners.</p> <p>Joint marketing partners.</p> <p>Any successor to all or part of our business.</p> <p>Law enforcement, public and government authorities, and other entities as we deem reasonably necessary to comply with law, support investigations, and protect the rights and property of you, us, and others.</p> <p>Our affiliates and subsidiaries.</p>
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CATEGORY OF PERSONAL INFORMATION	WHERE DO WE COLLECT IT FROM?	WHY DO WE COLLECT IT?	WHO DO WE SHARE IT WITH?
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<p>EMPLOYMENT INFORMATION, such as your profession, trade, or line of business.</p>	<p>Directly from you.</p> <p>Other customers that may provide us with your information to recommend a product or service, ship products to you, or list you as a recipient of products or services.</p> <p>Companies that supplement our customer records with additional information.</p>	<p>Fulfilling orders and processing returns.</p> <p>Registering you for a website or program.</p> <p>Communicating with you.</p> <p>Learning about customer trends and interests.</p> <p>Personalizing digital content.</p> <p>Fraud prevention, security, and asset protection.</p>	<p>Service providers that process information on our behalf, such as data storage providers and background check providers.</p> <p>Any successor to all or part of our business.</p> <p>Advisors and consultants.</p> <p>Law enforcement, public and government authorities, and other entities as we deem reasonably necessary to comply with law, support investigations, and protect the rights and property of you, us, and others.</p> <p>Our affiliates and subsidiaries.</p>
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CATEGORY OF PERSONAL INFORMATION	WHERE DO WE COLLECT IT FROM?	WHY DO WE COLLECT IT?	WHO DO WE SHARE IT WITH?
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<p>VIDEO RECORDINGS AND AUDIO RECORDINGS.</p>	<p>Via cameras deployed in our stores, in parking lots, and at our warehouses and other facilities.</p>	<p>Improving our products and services, including improving store layouts and digital content.</p>	<p>Service providers that process information on our behalf, such as security and fraud prevention services.</p>
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such as in-store CCTV and customer care calls.	Via call recordings.	Customer care. Learning about customer trends and interests. Fraud prevention, security, and asset protection. Training.	Any successor to all or part of our business. Advisors and consultants. Law enforcement, public and government authorities, and other entities as we deem reasonably necessary to comply with law, support investigations, and protect the rights and property of you, us, and others. Our affiliates and subsidiaries.
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CATEGORY OF PERSONAL INFORMATION	WHERE DO WE COLLECT IT FROM?	WHY DO WE COLLECT IT?	WHO DO WE SHARE IT WITH?
BIOMETRIC INFORMATION, such as facial recognition.	Via cameras deployed in our stores, in parking lots, and at our warehouses and other facilities as permitted under applicable laws.	Fraud prevention, security, and asset protection.	Service providers that process information on our behalf, such as security and fraud prevention services. Law enforcement, public and government authorities, and other entities as we deem reasonably necessary to comply with law, support investigations, and protect the rights and property of you, us, and others. Any successor to all or part of our business. Advisors and consultants. Our affiliates and subsidiaries.

CATEGORY OF PERSONAL INFORMATION	WHERE DO WE COLLECT IT FROM?	WHY DO WE COLLECT IT?	WHO DO WE SHARE IT WITH?
PROPERTY INFORMATION, such as home and property measurements, square footage, public record information, ownership information, estimated home value, and lot size.	Directly from you. Public records. Suppliers of property information, such as online property databases. Companies that supplement our customer records with additional information. Companies that provide services on our behalf (e.g., installers).	Fulfilling orders and processing returns. Customer care. Administering contests and promotions. Registering you for a website or program. Communicating with you. Improving our products and services, including improving store layouts and digital content. Learning about customer trends and interests. Personalizing digital content. Delivering marketing communications and advertising. Identifying the devices you use to access digital content. Fraud prevention, security, and asset protection.	Service providers that process information on our behalf, such as shipping vendors, providers of digital analytics services and fraud prevention services. Manufacturers of products and providers of extended warranty services. Joint marketing partners. Financial services companies, such as for home improvement loans, processing payments, and for managing The Home Depot credit card accounts. Any successor to all or part of our business. Advisors and consultants. Advertising partners. Law enforcement, public and government authorities, and other entities as we deem reasonably necessary to comply with law, support investigations, and protect the rights and property of you, us, and others. Our affiliates and subsidiaries.

CATEGORY OF PERSONAL INFORMATION	WHERE DO WE COLLECT IT FROM?	WHY DO WE COLLECT IT?	WHO DO WE SHARE IT WITH?
INFERENCES regarding your preferences, interests, and other characteristics.	Directly from you. Companies that provide services on our behalf (e.g., installers and others that communicate with you about projects).	Communicating with you. Customer care. Improving our products and services, including improving store layouts and digital	Service providers that process information on our behalf, such as shipping vendors, providers of digital analytics services and fraud prevention services. Joint marketing partners.

Marketing companies that help us learn about our customers and the devices they use to access digital content.	content.	Any successor to all or part of our business.
Companies that supplement our customer records with additional information.	Learning about customer trends and interests.	Advisors and consultants.
Social media platforms.	Administering contests and promotions.	Advertising partners.
Advertising companies and content publishers that present you with our ads.	Personalizing digital content.	Law enforcement, public and government authorities, and other entities as we deem reasonably necessary to comply with law, support investigations, and protect the rights and property of you, us, and others.
By analyzing the information we collect about you and other customers.	Delivering marketing communications and advertising.	Our affiliates and subsidiaries.
	Identifying the devices you use to access digital content.	
	Fraud prevention, security, and asset protection.	

How Do We Collect Information?

We collect information directly from you.

For example, we collect information when you:

- Visit our stores or other facilities
- Register for an account or complete a survey
- Make an online or in-store purchase
- Use an online forum, submit a question or answer to our Product Q & A, provide us with comments or reviews, or contact our call centers
- Upload or share a photo, submit a request, submit information, or post other digital content through one of our websites, applications or via social media interactions on third party websites like Facebook, Instagram, Pinterest or Twitter
- Register for one of our programs or offers, or apply for a The Home Depot credit card or a home improvement loan
- Participate in a sweepstakes, contest, promotion, program, clinic, or workshop
- Rent equipment or vehicles or request a quote, warranty, or other information
- Return a product or use a rebate
- Request we send you an electronic copy of your in-store receipt
- Apply or inquire about employment
- Submit information via our websites, mobile websites, or applications

We collect information from you passively.

We use tools like browser cookies, flash cookies, pixel tags, and web beacons to collect information when you use our websites and applications or interact with our emails. For more information about these tools and the choices you may have, please read the Our Tracking Tools section. And we use cameras and other technologies in our stores, in parking lots and at other facilities to learn about customer traffic and for fraud prevention, security, and asset protection.

We collect information from Affiliates of The Home Depot.

We may receive information about you from companies that are controlled by or under common control with The Home Depot (our "Affiliates").

We collect information from third parties.

In the course of serving you and operating our business, we collect information from a variety of third parties. For example, we collect information from:

- Shipping companies
- Installers
- Subscription providers
- Your friends and contacts
- Marketing companies that help us learn about consumer interests and trends
- Companies that supplement our customer records with additional information
- Online advertising and analytics providers
- Social media platforms
- Mailing vendors
- Public records resources
- Suppliers of property information
- Companies that help us process payments
- Service providers that operate on our behalf and collect information
- Financial institutions and other companies that help provide or support financial products and offers
- Security and fraud prevention providers
- Manufacturers and other businesses with which we conduct joint offers or programs

How Do We Use Information?

HOW DO WE USE INFORMATION?

Here are some examples of how we use the information we collect:

To respond to you and provide you with goods and services you request.

- Fulfilling orders, ensuring proper delivery, or providing services (such as delivering an electronic copy of your receipt)
- Administering your participation in a contest, sweepstakes, or other promotion or sending you prizes you might have won
- Registering you for a particular website, loyalty program, or extended warranty service, or providing you with information regarding such programs or services
- Processing a return (to learn more about our Returns Policy, [click here](#))
- Responding to a product or service review

To improve our business, products, and services.

- Improving our websites, mobile applications, and applications for other connected devices
- Identifying ways to make our products and services better
- Improving store layouts
- Developing new ways to purchase and browse our products and services
- Personalizing the content on our digital services (e.g., websites, mobile applications, and connected device applications) so you have a consistent experience

To identify and assess website and device application trends and customer interests.

- Recommending products and services that may interest you
- Identifying the devices you use to interact with us so that we can provide you with a consistent experience
- Identifying your interests based on your interactions with us and information we have received from third parties or publicly available sources
- Updating our product inventories to meet projected demand

For security and asset protection purposes.

- In-store, parking lot, and facility cameras track store traffic and stock
- Mitigating credit losses
- Confirming the identity of our customers who rent trucks or certain types of tools or equipment
- Retrieving unreturned tools or other equipment
- Processing and tracking returns
- Detecting and preventing fraud and malicious activities on our digital offerings and in your accounts

For our marketing.

- Sending you communications about special The Home Depot promotions or offers via regular mail, email, phone, or other electronic channels, including ads on social media platforms
- Sending you newsletters and other information you have requested
- Informing you of new in-store or digital products and service offerings
- Passing along information about offers from our Affiliates and other companies we think you might find interesting

You can update certain marketing communications preferences by following the instructions in the Manage Marketing Preferences section below.

To provide you with ads and other communications that align with your interests, we may use information collected across different online services and collected from the various devices you use. For example, if you view a product or our website or mobile application, we may arrange for you to see ads for that product or similar products on our or third party websites and applications.

To communicate with you about your account or our relationship.

- Notifying you about changes to this Privacy and Security Statement, the Terms of Use of our websites or device applications, or changes to any of our programs in which you might be enrolled
- Updating you regarding shipping, product availability, product recalls, warranty information, or rebates
- Sending you other transactional or relationship communications

For employment purposes.

- Processing and responding to your application for or inquiry regarding employment with us.

For social media engagement.

- When you engage with our content on or through social networking websites, plug-ins and applications, you may allow us to have access to certain social media account information (e.g., name, username, email address, gender) as determined by the settings of the social media platforms to deliver the content or as part of the operation of the website, plug-in or application
- Such social media platforms may collect information about your use of our services and may notify other users of the platform about your activities on our websites and device applications
- These social media platforms may also use cookies or other technologies to provide services or track your online activities over time and across multiple websites and device applications. Your interactions with social media features are governed by the respective privacy policies of the social media platforms

For other uses we may disclose to you.

- We may also use information for purposes disclosed to you at the point of collection, as authorized by you, or as otherwise permitted or required by law.

Information Sharing

We may share your information for our business purposes and as legally required or permitted by law. Please see below for examples of circumstances in which we share information.

With third parties who perform services on our behalf.

- Service providers, such as our delivery service providers who ship and deliver your orders
- Providers of security and payment services
- Shipping and mailing vendors
- Providers of digital analytics services
- Third parties that help us communicate with you
- Marketing and advertising companies that help us learn about our customers or deliver advertisements
- We might also share information with the vendors and manufacturers of our products and services to respond to your reviews and questions

In association with financial products

- We work with third parties to offer financial products, such as The Home Depot credit card and home improvement loans
- We share information with these third parties so that they can provide you with tailored information about products and services and special offers
- These third parties also have their own privacy statements that set out the manner in which they will collect, use and disclose personal information
- We encourage you to review each third party's privacy statement at the time you submit your application for such financial products

To provide extended warranty services.

- If you purchase a The Home Depot Extended Warranty Service you will be required to provide information such as your name and address to our warranty service providers
- We limit by contract the ways they may use your information to provide The Home Depot Extended Warranty Services
- We encourage you to review each service provider's privacy statement at the time you submit your personal information for such services

With any successor to all or part of our business.

- In-store, parking lot, and facility cameras track store traffic and stock
- Mitigating credit losses
- Confirming the identity of our customers who rent trucks or certain types of tools or equipment
- Retrieving unreturned tools or other equipment
- Processing and tracking returns
- Detecting and preventing fraud and malicious activities on our digital offerings and in your accounts

For our marketing.

- For example, if all or part of our business is sold or otherwise acquired, we may sell or disclose our customer lists and other personal information we collect in preparation for or as part of that transaction

If we think we have to in order to comply with the law.

- For example, we will disclose information to respond to a court order or subpoena. We may also disclose information if a government agency or investigatory body requests it

With our business partners.

- For example, we might share information with one of our Affiliates or a business partner who is running a joint promotion with us or who provides a product or service in partnership with us
- And we may share information with joint marketing partners

With advertising and marketing partners.

- To manage and deliver advertising, including by placing ads on the websites and applications you access
- To measure the effectiveness of our advertising campaigns
- To identify the ads you have already seen, so that you don't have to see the same ads too many times
- To better understand your preferences and interests

For security and fraud prevention.

- We will disclose information to detect, prevent, and investigate fraud or unlawful activities
- We may also disclose information to collect debts or recover unreturned rental items

At your direction.

- For example, if you ask us to provide your information to a third-party to facilitate the delivery of services or resolution of a dispute

Below, please find information about our disclosures of personal information for our business purposes:

Identifiers, Commercial Information, and Property Information

- Disclosed to: Service providers; Product Manufacturers and Extended Warranty Providers; Joint Marketing Partners; Financial Service Companies; Advisors and Consultants; Law Enforcement, Public and Government Authorities, and Others; Affiliates and Subsidiaries; Advertising Partners and Marketing Companies; and Successors to All or Part of Our Business.

Internet Activity, Demographic Information, Location Information, Employment Information, and Inferences:

Identifiers, Commercial Information, and Property Information

- Disclosed to: Service providers; Joint Marketing Partners; Advisors and Consultants; Law Enforcement, Public and Government Authorities, and Others; Affiliates and Subsidiaries; Authorities, and Others; Affiliates and Subsidiaries; Advertising Partners and Marketing Companies; Advertising Partners and Marketing Companies; and Successors to All or Part of Our Business.

Payment Information

Identifiers, Commercial Information, and Property Information

- Disclosed to: Service Providers; Financial Service Companies; Advisors and Consultants; Law Enforcement, Public and Government Authorities, and Others; Affiliates and Subsidiaries; and Successors to All or Part of Our Business.

and Successors to All or Part of Our Business.

Video/Audio Recordings and Biometric Information
Identifiers, Commercial Information, and Property Information

- Disclosed to: Service Providers; Advisors and Consultants; Law Enforcement Public and Government Authorities, and Others; Affiliates and Subsidiaries; and Successors to All or Part of Our Business.

We do not share your information with third parties in exchange for money. We do share certain personal information in exchange for insights and other valuable services. California law treats such sharing as a "sale" even if no money is exchanged.

- Identifiers, Internet Activity, Commercial Information, Demographic Information, Location Information, and Inferences:
- Disclosed to: Advertising Partners and Marketing Companies.

Manage Marketing Preferences

You can register or change your preferences to receive or not receive marketing communications from us by clicking here. Please allow sufficient time for your preferences to be processed. Even if you opt out of receiving marketing messages, we may still contact you for transactional purposes like confirming or following up on an order or service request, responding to customer service inquiries, asking you to review a product or service you have ordered, or notifying you of product recalls or rebates. And you may continue to see general audience marketing, such as The Home Depot ads on other websites that are placed based on the content available on the sites. If you later opt back into getting marketing communications from us, we will remove your information from our opt-out databases.

Registered website users can update their information at the My Account section of our website. If you are not a registered website user, refer to the Contact Us section below for information about how you can contact us.

Our Sites and Children

Our websites and device applications are not created for children. To our knowledge we neither collect online information from nor sell information regarding children under 18. If you are a parent or guardian and think we have information about your child, please email customer@homedepot.com. To learn more about how to protect your child online, visit the FTC's www.OnGuardOnline.gov. You may also want to read the helpful information about children and privacy that the FTC provides by clicking here.

Your California Privacy Rights

If you live in California and have an established business relationship with us, you can request a list of the personal information we have shared with third parties for their direct marketing purposes. We will also give you a list of the third parties that have received your information. You can make a request one time each year, by emailing or writing to us at the address below. Please mention in your letter that you are making a "California Shine the Light" inquiry. We will respond within 30 days.

The California Consumer Privacy Act ("CCPA") provides California residents with the following privacy rights:

- Right to Know: Consumers have a right to request information about the personal information that we collect, use, disclose, and sell.
- Right to Delete: Consumers have a right to request the deletion of personal information that we have collected from them, though we may be permitted to retain personal information for certain purposes.
- Right to Opt-out of Sales: We do not share your information with third parties in exchange for money. We do share your information with third parties to enhance your experiences with us, to improve our ability to serve you, and to keep you aware of our products, services, and offers. California law may treat some such disclosures as sales, and consumers have a right to direct us not to sell their personal information.
- Right to Opt-out of Financial Incentive Programs that we may offer.
- Non-Discrimination: We may not discriminate against you for exercising your rights under the CCPA. We may, however, provide a different level of service or charge a different rate if the difference is reasonably related to the value of your information.

If you are a California resident, or an authorized agent acting on behalf of a California resident, and would like to exercise one of these rights, please visit our website here or call us at 1-800-394-1326. For help submitting a request in one of our stores, please visit the customer service desk. Please note that we may require additional information from you in order to honor your request, and there may be circumstances where we will not honor your request, as permitted under the CCPA. For example, if you request deletion, we may need to retain certain personal information to comply with our legal obligations.

If you would like to exercise your right to opt out of the sale of your personal information, please click here: [Do Not Sell My Personal Information](#).

Some of the tracking tools used on our websites, mobile applications, and other digital services may involve the sharing of personal information with third parties in exchange for their support in enhancing your experiences with us, improving our ability to serve you, or keeping you aware of our products, services, and offers. To exercise your choices regarding those tools, please read the Our Tracking Tools section below, particularly the section on controlling our tracking tools.

Security

When you place orders on our websites or through our mobile applications, all of your order information, including your credit card number and delivery address, is transmitted through the Internet using Secure Sockets Layer (SSL) technology. SSL technology causes your browser to encrypt your order information before transmitting it to our secure server. SSL technology, an industry standard, is designed to prevent someone other than operators of our websites from capturing and viewing your personal information.

While we use industry standard means to protect our websites and your information, the Internet is not 100% secure. The measures we use are appropriate for the type of information we collect. We cannot promise that your use of our websites or mobile applications will be completely safe. We encourage you to use caution when using the Internet. Online access to your personal information is protected with a password you select. We strongly recommend that you do not share your password and that you use unique passwords for all of your online accounts.

Links

Our websites contain links to third party websites. If you click on one of those links, you will be taken to websites we do not control. This Privacy and Security Statement does not apply to the information practices of those websites. You should read the privacy policies of other websites carefully. We are not responsible for third party websites.

Contact Us

If you have additional questions, concerns, would like information about how customers with disabilities may access this Privacy and Security Statement in an alternative format, or would like to exercise your rights, you can call us at 1-800-466-3337, fax us at 1-877-959-9768, or reach us by email at CustomerCare@homedepot.com. You can write to us at:

The Home Depot
Attention: Privacy Official Customer Care
2455 Paces Ferry Road Atlanta, GA 30339-4024

Changes to this Privacy and Security Statement
Effective Date: July 1, 2020
Last Revision Date: June 25, 2020

From time to time we may change our privacy policies. We will notify you of any material changes to our Privacy and Security Statement by posting an updated copy on our website. Please check our website periodically for updates.

Our Tracking Tools

Tracking Tools We Use

We collect personal and other information using digital tracking tools, such as cookies and web beacons, when you use our websites or mobile applications, interact with our emails or applications provided on connected devices, or otherwise engage with our digital offerings. We also partner with third parties that collect information this way. These third parties may place similar tracking tools on our websites, applications, and advertising to facilitate tracking, advertising, and measurement services.

The tools may collect information about your activities over time and on various digital services offered by us or others.

The tools that we, our vendors, and third parties use include:

- Browser and flash cookies. Cookies are small text files that websites send to your computer or other connected device to identify your browser or to store information or settings. Your browser may provide the ability to be notified when you receive certain types of cookies and how to restrict or disable certain cookies. Flash cookies generally can be disabled only by accessing Adobe Flash settings (information available [here](#))
- Server logs, which record information about the device, browser, operating system, network, and other resources you use to access our digital services
- Web beacons and pixels. These are small electronic images deployed on websites and emails that collect information about how users interact with content
- Application software. Software in our mobile and other connected-device applications collects information about how you interact with the digital services

We, our service providers, and third parties use the information collected via these tools to:

- Identify new visitors and users
- Recognize returning customers
- Learn how you came to access our digital services
- Keep you logged into our digital services
- Personalize your experience on our website, device applications, and third-party social networking websites, plug-ins and applications
- Identify your location as determined by the IP address of your devices
- Optimize and tailor our websites and device applications
- Make product recommendations and provide you with advertising content in which we think you will be interested. As part of this customization, we may observe your behaviors on our device applications, our websites, or on other websites and applications. We may also get information about your browsing history and online activities from our trusted business partners and vendors
- Better understand our audience, our customers, our website visitors and device application users, and their respective interests, including by learning about your online activities across devices
- Provide correct pricing and ads for the local store you select

Online Interest-Based Ads

We work with digital advertising and marketing companies to provide you with ads that meet your interests and that enhance your experience with us. These ads may be displayed on websites or device applications operated by us or third parties, and they may be based on information about your activities or preferences collected by us or third parties. For example, if you visit another website and provide your ZIP code, you may see advertising for products available at The Home Depot Store near you on another website. We work with third parties to monitor and optimize ad delivery so that you don't receive the same ad too many times and to determine whether you were interested in the ads. As noted above, these third parties collect information with their own cookies, pixels, and related tracking technology.

Certain coalitions of advertisers allow consumers to opt out of receiving interest-based advertising from members of the coalitions. Please follow the links below to opt out of receiving interest-based advertising from members of these coalitions. You will need to exercise these opt outs on each browser on each device for which you wish to opt out of interest-based advertising.

- [Digital Advertising Alliance opt out](#)
- [Network Advertising Initiative opt out](#)

Some of the social media platforms we work with may serve you with interest-based advertising on their platforms. In addition to or instead of the opt out mechanism linked above, you may be able to opt out of their interest-based advertising by changing your advertising preferences in the platforms after you log in.

Limit the use of mobile device advertising identifiers: You can adjust your advertising preferences on mobile devices through your device settings:

- iOS Devices: Go to Settings > Privacy > Advertising (at the bottom of the screen) > Turn on Limit Ad Tracking
- Android Devices: Go to Google Settings > Ads > Opt Out of Interest-Based Ads

When you opt out of receiving targeted advertising, you may still see general audience advertising regarding our products and services. We may deliver advertising to a general audience or place advertising on websites and other platforms that relate to our advertisements. For example, if you opt out of targeted advertising and visit a do-it-yourself website, you may see advertising on the website that promotes products and services related to the content.

Controlling Our Tracking Tools

This section provides you with information about the options available to you to control our tracking tools.

Disable browser cookies: Your browser may give you the ability to control cookies, some of which may enable third parties to collect data about your use of our websites. You can adjust your browser settings to block all cookies. Certain browsers also allow you to limit the blocking of cookies to specific websites. Instructions for blocking cookies on commonly used browsers can be found at the links below. You will need to adjust the settings on each browser and on each device for which you wish to block cookies. Please note that disabling cookies may limit the functionality of our websites.

- Internet Explorer
- Microsoft Edge
- Chrome: Instructions for blocking cookies from a specific website
- Firefox: Instructions for blocking cookies from a specific website
- Safari

As described on our Exercise Your Privacy Rights page here, if you disable cookies on your browser, our Opt Out of Sale tool will no longer work.

Disable Flash cookies: Third parties may collect data about your usage of our websites via Flash cookies. To disable Flash cookies, follow these instructions. This setting will need to be adjusted on each device for which you wish to block Flash cookies.

Our "Do Not Track" policy: Some browsers have a "Do Not Track" feature that lets you tell websites that you do not want to have your online activities tracked. These browser features are not uniform. So, we are not currently set up to respond to those signals.

We may update this section from time to time with information about new tools that may be available to you to register your preferences.

Your Choices Regarding Location Information

If you use our mobile websites, mobile applications, or other smart device applications we may collect location data obtained from your device. If you use our websites, we may collect location data obtained from your IP address. We use this location data to find our nearest store to you, provide product pricing and availability at our stores near you, provide you with coupons and other offers based on your location, and provide driving directions to our stores. Certain of our device applications may also use this information to determine if you are shopping in one of our stores. If you are, we present you information relevant to in-store customers. For many devices, you can disable our collection of location information in the settings menu of your device or via device portals.

My Account Registration and Use

My Account registration is an optional service provided by our website. You do not have to register to browse or shop online. When you register, you are asked for personal information such as your name, address, phone number, email address, and a username and password that you select. You may also optionally provide information regarding your interests and home improvement projects or register your credit cards. This information may be used to help make your online shopping quicker and easier, by pre-filling certain parts of your shopping information.

[Click here to read more about the terms and conditions that govern your registration and use of our My Account service.](#)

The Home Depot Foundation

As noted above, this Privacy and Security Statement applies to interactions between The Home Depot Foundation ("Foundation") and the Foundation's donors, volunteers, grantees, and website visitors. The Foundation may collect information about you when you visit the Foundation website, apply for a grant, register for a fundraising event, volunteer for a charitable project or make a donation to the Foundation. The Foundation uses this information to process your request, learn about how people use and interact with the Foundation's website, improve its services and communicate with you about the Foundation, grants, or Foundation-related events. Except as described in this section, the Foundation will not sell, share, or trade your name or other information that reasonably identifies you with any other party. The Foundation may share such information with trusted third parties (e.g., The Home Depot and service providers) that assist the Foundation in operating its website, reviewing grants, conducting its fundraising events or operating its charitable business. The Foundation permits these third parties to use the information only in support of and as directed by the Foundation. The Foundation may also share such information with a legal successor to the Foundation and with other third parties if we believe we have to in order to comply with law and legal process. The Foundation will not send donor mailings on behalf of other organizations.

[Click here to read more about the Foundation and its support of our communities.](#)

Information For Applicants

This section describes how we collect and share information in connection with your application for employment. The above sections of this Privacy and Security Statement do not apply to our processing of applicant information.

We collect the following categories of personal information in association with your application for employment with us:

Identifiers: such as your name, email address, phone numbers, username, online identifier, device identifier, IP address, social media handle, physical address, and government-issued identifiers.

Demographics: such as your date and place of birth; age; gender; nationality; native language; family and marital status; veteran status; details of family members and dependents (name, date of birth, relationship to applicant or candidate); and emergency contact name, address and telephone number.

Information regarding eligibility to work: such as passport or visa information.

Financial information: certain financial or banking information.

Work history: such as position/title; location; work address; start and end-dates of employment; contact information for former employer(s) or other persons or entities for which work was performed; business unit; function; organizational unit; dates and reasons for hire, promotion, transfer, status change and termination; employment status (full-time or part-time); employment type; job performance and related evaluative information; information relating to awards, certifications, and professional associations and volunteer activities; language proficiency; skills.

Education information: such as education level, training, development, professional degrees, and certificates.

Inferences and other characteristics: such as any observations we may make based on your application or interview, and information provided by your references. We use the information we collect for the following purposes:

- Processing your application
- Evaluating your qualifications
- Administering and managing our recruitment processes
- Managing payroll and compensation
- Developing financial and employment metrics
- Budgeting, forecasting, and reporting
- Monitoring and complying with legal requirements
- Responding to internal or external audits and inquiries, law enforcement requests, or requests from administrative or judicial authorities
- Monitoring and promoting compliance with our policies and procedures
- Security

If you provide us with personal information about members of your family and/or other dependents (e.g., for emergency contact), it is your responsibility to provide them with the information contained in this section.

How does get more done™

Need Help? Please call us at: 1-800-HOME-DEPOT (1-800-486-3337)

Customer Service

- Check Order Status
- Pay Your Credit Card
- Order Cancellation
- Returns
- Shipping & Delivery
- Product Recalls
- Help & FAQs

Resources

- Specials & Offers
- DIY Projects & Ideas
- Truck & Tool Rental
- Installation & Services
- Moving Supplies & Rentals
- Real Estate Floor Plan Services
- Protection Plans
- Rebate Center
- Gift Cards
- Catalog
- Subscriptions

About Us

- Careers
- Corporate Information
- Digital Newsroom
- Home Depot Foundation
- Investor Relations
- Government Customers
- Suppliers & Providers
- Affiliate Program
- Eco Options
- Corporate Responsibility
- Home Depot Licensing Information

Special Financing Available everyday*

[Pay & Manage Your Card](#)

[Credit Offers](#)

Get \$5 off when you sign up for emails with savings and tips.



Shop Our Brands



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