



Illinois Right of Publicity Act

When facing IRPA claims, choose a defense team with a track record of expeditiously resolving privacy class actions.

IRPA: An Emerging Attack on Technology

Consumers are attempting to employ an old privacy tool to available data on the internet.

Illinois supplanted the common law right of publicity by enacting the Illinois Right of Publicity Act (IRPA) back in 1999. IRPA provides an individual the "right to control and to choose whether and how to use an individual's identity for commercial purposes." 765 ILCS 1075/10. However, recent filings in Illinois, and other states with similar right of publicity statutes, seek to expand liability beyond the conventional context by filing class actions against technology companies that compile, obtain, or use consumer data.

IRPA allows for the recovery of \$1000 in fixed statutory damages or, alternatively, actual damages and profits derived from any unauthorized use; attorney's costs and fees; and/or punitive damages.

Many aspects of the law, and defenses to the claims, are unsettled in Illinois, especially in light of these recent filings. Class action lawsuits for alleged violations of IRPA reflects a nationwide trend wherein consumer seek to recover statutory damages on a class-wide basis. The most recent targets are businesses that advertise or conduct business over the internet.

Defending Privacy Class Actions

Hinshaw is at the forefront of defending privacy-related claims nationally, and especially in Illinois. We have litigated hundreds of privacy class actions in the state and federal courts within Illinois and have helped establish favorable case authority in some of the earliest IRPA class actions.

Hinshaw draws on its vast experience defending privacy class actions to defend new trends. For instance, efforts to expand IRPA resemble similar recent efforts to expand the Illinois Biometric Information Privacy Act (BIPA). Hinshaw represents dozens of companies throughout Illinois that face class actions for alleged violations of BIPA.

We have also successfully handled hundreds of cases involving similar privacy-based consumer laws such as the Telephone Consumer Protection Act (TCPA), Fair Debt Collection Practices Act (FDCPA), Fair Credit Reporting Act (FCRA), and the Illinois Collection Agency Act (ICAA).

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Hinshaw's IRPA team employs a well-informed and tactful approach to not only defend clients in litigation but to also assist them in mitigating any risks associated with this new trend. While it remains to be seen whether these new theories under IRPA have merit, Hinshaw is prepared to defend against them and provide a holistic approach to advising clients in this emerging landscape.

Few, if any, firms have defended near the same amount of privacy class actions in Illinois as Hinshaw.

News

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