



Video Privacy Protection Act

When facing VPPA claims, choose a defense team with a track record of defending privacy class actions.

VPPA: An Emerging Attack on Online Videos

Privacy attorneys specializing in filing consumer class actions are attempting to employ an old privacy law to apply to videos viewed on the internet or through an App.

Congress passed the Video Privacy Protection Act (VPPA) in 1988 after the Washington *City Paper* published an article called “The Bork Tapes,” which listed Supreme Court nominee Robert Bork’s video rental history. The VPPA restricted video tape service providers from knowingly disclosing video rental records without the customer’s consent. 18 U.S. Code § 2710(b). At the time, this meant brick-and-mortar rental stores such as Blockbuster could not share a customer’s rental history.

However, a recent spate of class action complaints filed across the United States seek to expand liability beyond the conventional context. Plaintiffs seek to represent various classes of people who have watched videos online or through applications. Plaintiffs argue that their watch history is being shared with Facebook or other third parties in violation of the VPPA. The VPPA allows for the recovery of \$2,500 in liquidated damages, punitive damages, and reasonable attorney fees.

Class action lawsuits for alleged violations of VPPA reflects a nationwide trend wherein consumer seek to recover statutory damages on a class-wide basis. The most recent targets are businesses that post any form of video on their websites—not just businesses traditionally known as video service providers or streaming companies.

Defending Privacy Class Actions

Hinshaw is at the forefront of defending privacy-related claims nationally. We have litigated hundreds of privacy class actions in the state and federal courts nationwide, from California to Illinois to Florida.

Drawing on our vast experience defending privacy class actions, we identify and defend against new trends. For instance, efforts to expand VPPA resemble similar efforts to expand liability under other federal laws, including the Telephone Consumer Protection Act (TCPA), Fair Debt Collection Practices Act (FDCPA), and the Fair Credit Reporting Act (FCRA).

Service Area Contact

John P. Ryan
312-704-3464
jryan@hinshawlaw.com

Attorneys

David M. Schultz

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We have also successfully handled thousands of cases involving consumer privacy class actions. Few, if any, firms have defended nearly the same amount of privacy class actions as Hinshaw.

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