Privacy Enforcement Actions
June 24, 2014

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Funding for this project was provided in part by the National Science Foundation under its Secure and Trustworthy Computing (SaTC) initiative grant 1330214 for “TWC SBE: Option: Frontier: Collaborative: Towards Effective Web Privacy Notice and Choice: A Multi-Disciplinary Prospective.” Fordham CLIP would like to thank Tom Norton and Amanda Grannis for their valuable research assistance on this study.
I. Research Mission

The goal of this study is to present an objective and comprehensive survey of the online privacy issues litigated in FTC enforcement actions and in private class action lawsuits. This study seeks to classify the FTC and class action privacy claims to create a typology of the most significantly contested online information practices. This data and typology will enable subsequent research to extrapolate the elements of Internet privacy policies that matter most to users.¹

A. Scope of the Project

This study sets forth a survey of 116 FTC complaint and settlement cases and 165 private class action lawsuits during the period February 12, 1999 through November 11, 2013. This study classifies the privacy claims made in these cases, but does not take any position on the body of law concerning website privacy policies.

B. Research Methodology

The research was divided into two segments: FTC enforcement actions and private class action lawsuits. Fordham CLIP developed parallel methodologies for each segment to identify the relevant materials for analysis. Fordham CLIP then reviewed the resulting FTC enforcement actions and class action complaints to determine classification groupings based on the nature of the asserted privacy violation claims. The classifications retained for this study are: (1) unauthorized disclosure of personal information; (2) surreptitious collection of data; (3) inadequate security; and (4) wrongful retention of personal information.

II. FTC Enforcement Actions

For the FTC enforcement actions, Fordham CLIP reviewed FTC complaints which were available via the FTC website as of November 11, 2013 and which the FTC categorizes as relating to privacy issues. The review covered the period from the earliest available complaint on February 12, 1999 through October 22, 2013.

A. Search Approach

The FTC categorizes its enforcement actions and publishes the relevant complaints on the agency’s website. The complaints are available by subgroups and those related to online privacy are: (1) Children’s Privacy, (2) Consumer Privacy, (3) Data Security, or (4) the Gramm-Leach-Bliley Act.² To identify the relevant cases, no keywords or electronic searches were necessary, as the FTC’s website provided a chronological list of cases for each of the sub-groups.

¹ This research is part of a broader project “Towards Effective Web Privacy Notice and Choice: A Multi-Disciplinary Prospective” being conducted jointly among Fordham University, Carnegie Mellon University and Stanford University under grants from the National Science Foundation’s Secure and Trustworthy Computing initiative program.

² The report did not include FTC complaints subcategorized as relating to (1) Credit Reporting, (2) the Red Flags Rule, or (3) the U.S.-EU Safe Harbor, as these are not specifically relevant to online privacy.
These complaints are accessible from the FTC’s homepage (http://www.ftc.gov/) by following the links to “Consumer Protection” → “Business Information” → “Legal Resources” → “Privacy and Security” on the dropdown menu → “select subtopic” on the second dropdown menu. The illustrations below demonstrate this process.

Figure 1
Figure 2

Figure 3 (by way of example)
For some of the cases, the FTC posts multiple versions of the FTC’s complaint. When a case included multiple versions, only the oldest complaint for that case was reviewed.³

B. Search Findings

The four relevant subgroupings of FTC cases reflected the following:

- Children's Privacy - 23 cases
- Consumer Privacy - 46 cases
- Data Security - 50 cases
- Gramm-Leach-Bliley Act - 26 cases

Among these four categories, there were a total of 116 distinct cases, as some cases were listed across multiple categories.⁴

The claims made in these 116 FTC enforcement actions are shown below according to the Fordham CLIP classifications. Additional breakdowns within the Fordham CLIP classifications are shown to provide more information on the nature of actions.

1. Unauthorized Disclosure of Personal Information [51 claims]
   a) Use/Disclosure [44 claims]
      - Identity theft / Used consumer financial information for personal gain [1 claim]
        o FTC v. Hill, FTC File No. 032 3102
      - Used information for purposes other than those disclosed purposes for which it was collected [5 claims]
        o In re GeoCities, FTC File No. 982 3015
        o In re Facebook, Inc., FTC File No. 092 3184
        o In re Google Inc., FTC File No. 102 3136
        o FTC v. Hill, FTC File No. 032 3102
        o FTC v. Rennert, FTC File No. 992 3245
      - Unfair Billing/Collection Practices - Used information in collecting / attempting to collect debts, money, or property, or in charging accounts [9 claims]
        o FTC v. Rennert, FTC File No. 992 3245
        o In re Aaron’s, Inc., FTC File No. 122 3256
        o In re B. Stamper Enters., Inc., FTC File No. 112 3151
        o In re C.A.L.M. Ventures, Inc., FTC File No. 112 3151
        o In re J.A.G. Rents, LLC, FTC File No. 112 3151
        o In re Red Zone Inv. Grp., Inc., FTC File No. 112 3151
        o In re Showplace, Inc., FTC File No. 112 3151

³ There is one exception, where the second, newer complaint was used, because the FTC had a broken link to the oldest complaint for In the Matter of Educational Research Center of America, Inc.; Student Marketing Group, Inc.; Marian Sanjana; and Jan Stumacher, File No. 022 3249, Docket C-4079 (2003).
⁴ For a list of all cases, see the annexed Table of Cases.
o In re Watershed Dev. Corp., FTC File No. 112 3151
o In re Aspen Way Enters., Inc., FTC File No. 112 3151

- Unauthorized use of information [4 claims]
o In re Facebook, Inc., FTC File No. 092 3184
o In re Google, Inc., FTC File No. 102 3136
o FTC v. Hill, FTC File No. 032 3102
o United States v. Google Inc., Civil Action No. 512-cv-04177-HRL

- Failed to protect data obtained from consumers from unauthorized access [9 claims]
o FTC v. Frostwire LLC, FTC File No. 112 3041
o In re Compete, Inc., FTC File No. 102 3155
o In re Upromise, Inc., FTC File No. 102 3116
o United States v. RockYou, Inc., FTC File No. 1023120
o In re Rite Aid Corp., FTC File No. 072 3121
o In re CVS Caremark Corp., FTC File No. 072 3119
o In re Premier Capital Lending, Inc., FTC File No. 072 3004
o In re Goal Fin., LLC, FTC File No. 072-3013
o In re Nations Title Agency, Inc., FTC File No. 052 3117

- Provided third-party with unauthorized access to information [4 claims]
o In re GeoCities, FTC File No. 982 3015
o In re HTC America, Inc., FTC File No. 122 3049
o In re Educ. Research Ctr. of America, Inc., FTC File No. 022 3249
o In re Nat'l Research Ctr. For Coll. and Univ. Admissions, Inc., FTC File No. 022 3005

- Provided third-party applications with unauthorized access to sensitive device functionality [1 claim]
o In re HTC America, Inc., FTC File No. 122 3049

- Disclosed, sold, or offered for sale customer lists and profiles [1 claim]
o FTC v. ToySmart.com, LLC, FTC File No. X000075

- Included order number in URL to order status page [1 claim]
o In re MTS, Inc., FTC File No. 032-3209

- Unintentional disclosure of customer email addresses in email's "To:" line [1 claim]
o In re Eli Lily and Co., FTC File No. 012 3214

- Failed to implement appropriate checks/controls surrounding internal access to / use of information [2 claims]
o In re Eli Lily and Co., FTC File No. 012 3214
o In re Cbr Sys., Inc., FTC File No. 112 3120

- Provided personal information to unaffiliated parties without notifying of or receiving permission for such use [6 claims]
o In re GeoCities, FTC File No. 982 3015
o FTC v. Frostwire LLC, FTC File No. 112 3041
o In re Facebook, Inc., FTC File No. 092 3184
o In re Google Inc., FTC File No. 102 3136
b) **Processing [7 claims]**

- Used data filters that were too narrow or improperly structured [2 claims]
  - In re Compete, Inc., FTC File No. 102 3155
  - In re Upromise, Inc., FTC File No. 102 3116
- Failed to scrub personally identifying information [5 claims]
  - In re Facebook, Inc., FTC File No. 092 3184
  - In re Myspace LLC, FTC File No. 102 3058
  - In re Compete, Inc., FTC File No. 102 3155
  - In re Upromise, Inc., FTC File No. 102 3116
  - In re Liberty Fin. Co., FTC File No. 982 3522

2. **Surreptitious Collection of Personal Information [111 claims]**

a) **Notice [12 claims]**

- Failed to notify consumer of material changes to privacy policy [3 claims]
  - In re Facebook, Inc., FTC File No. 092 3184
  - In re Google Inc., FTC File No. 102 3136
  - In re Gateway Learning Corp., FTC File No. 042 3047
- Failed to ensure customers were provided with an adequate or accurate privacy notice [9 claims]
  - United States v. Path, Inc., FTC File No. 122 3158
  - In re Aspen Way Enters., Inc., FTC File No. 112 3151
  - In re CVS Caremark Corp., FTC File No. 072 3119
  - FTC v. Accusearch, Inc., FTC File No. 052 3126
  - United States v. Industrious Kid, Inc., FTC File No. 072-3082
  - United States v. Xanga.com, Inc., FTC File No. 062-3073
  - In re Vision I Props., LLC, FTC File No. 042 3068
  - In re Petco Animal Supplies, Inc., FTC File No. 032 3221
  - FTC v. 30 Minute Mortg., Inc., FTC File No. 022-3224

b) **Information Collection [80 claims]**

- Collected personal information from online shopping carts and shared it with third parties knowing that such practices were contrary to merchant privacy policies [1 claim]
  - United States v. ChoicePoint Inc., FTC File No. 052-3069
- Failed to comply with voluntarily adopted industry privacy, security, or compliance code [1 claim]
  - In re Epic Marketplace, Inc., FTC File No. 112 3182
- Failed to disclose all categories of information collected [6 claims]
  - In re CVS Caremark Corp., FTC File No. 072 3119
  - United States v. Industrious Kid, Inc., FTC File No. 072-3082
o In re Vision I Props., LLC, FTC File No. 042 3068
o In re J.A.G. Rents, LLC, FTC File No. 112 3151
o FTC v. ControlScan, Inc., FTC File No. 072 3165
o In re Microsoft Corp., FTC File No. 012 3240

- Unnecessarily collected information, such as email address passwords [1 claim]
  o In re Compete, Inc., FTC File No. 102 3155
- Sidestepped users' browsers' default security settings to collect information [1 claim]
  o In re Aaron's, Inc., FTC File No. 122 3256
- Failed to disclose breadth of sources from which data would be collected [3 claims]
  o FTC v. ControlScan, Inc., FTC File No. 072 3165
  o In re Epic Marketplace, Inc., FTC File No. 112 3182
  o FTC v. LifeLock, Inc., FTC File No. 072 3069
- Failed to disclose all means of data collection [4 claims]
  o In re Compete, Inc., FTC File No. 102 3155
  o United States v. Industrious Kid, Inc., FTC File No. 072-3082
  o In re Google Inc., FTC File No. 102 3136
  o In re Rite Aid Corp., FTC File No. 072 3121
- Obtained customer information of a financial institution relating to another person by making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution [12 claims]
  o United States v. Rental Research Servs., Inc., FTC File No. 072 3228
  o FTC v. Action Research Grp., Inc., FTC File No. 072 3021
  o In re Goal Fin., LLC, FTC File No. 072-3013
  o In re Nations Title Agency, Inc., FTC File No. 052 3117
  o In re Bonzi Software, Inc., FTC File No. 042 3016
  o In re Bonzi Software, Inc., FTC File No. 022 3273
  o In re Guess?, Inc., FTC File No. 022 3260
  o In re Educ. Research Ctr. of America, Inc., FTC File No. 022 3249
  o In re Nat'l Research Ctr. For Coll. and Univ. Admissions, Inc., FTC File No. 022 3005
  o FTC v. Corporate Mktg. Solutions, Inc., FTC File No. 022-3001
  o FTC v. Garrett, FTC File No. 012 3067; X010043
  o FTC v. Guzzetta, FTC File No. 012 3066
- Used phishing campaign or pretexting to induce disclosure of information [12 claims]
  o In re Dave & Buster’s, FTC File No. 082 3153
  o In re Onyx Graphics, Inc., FTC File No. 092 3139
  o In re ExpatEdge Partners, LLC, FTC File No. 092 3138
  o In re Life is good, Inc., FTC File No. 072-3046
  o FTC v. CEO Grp., Inc., FTC File No. 062 3100
  o In re Superior Mortg. Corp., FTC File No. 052 3136
  o In re BJ’s Wholesale Club, Inc., FTC File No. 042 3160
  o In re Sunbelt Lending Servs., Inc., FTC File No. 042 3153
- FTC v. C.J. (a minor), FTC File No. 032-3101; 022-3209
- United States v. Mrs. Fields Famous Brands, Inc., Civil Action No. 203 CV205 JTG
- In re Eli Lilly and Co., FTC File No. 012 3214
- United States v. The Ohio Art Co., FTC File No. 022-3028

- Gathered consumer information from vendors through fraudulent or deceptive means for sale to third parties without consumer consent [7 claims]
  - FTC v. Wyndham Worldwide Corp., FTC File No. 102 3142
  - In re Upromise, Inc., FTC File No. 102 3116
  - United States v. Playdom, Inc., FTC File No. 1023036
  - In re Twitter, Inc., FTC File No. 092 3093
  - FTC v. EchoMetrix, Inc., FTC File No. 102 3006
  - FTC v. Navone, FTC File No. 072 3067
  - United States v. Hershey Foods Corp., Civil Action No. 4CV-03-350

- Gathered consumer information through fraudulent or deceptive means for use or sale to third parties without consumer consent [1 claim]
  - In re The TJX Cos., Inc., FTC File No. 072-3055

- Misrepresented collecting entity's source of funding [1 claim]
  - In re DSW, Inc., FTC File No. 052 3096

- Failed to notify/receive consent to installation of software that transmits personal information [9 claims]
  - In re DSW, Inc., FTC File No. 052 3096
  - In re Onyx Graphics, Inc., FTC File No. 092 3139
  - In re ExpatEdge Partners, LLC, FTC File No. 092 3138
  - In re Life is good, Inc., FTC File No. 072-3046
  - FTC v. CEO Grp., Inc., FTC File No. 062 3100
  - In re Superior Mortg. Corp., FTC File No. 052 3136
  - In re BJ’s Wholesale Club, Inc., FTC File No. 042 3160
  - FTC v. C.J. (a minor), FTC File No. 032-3101; 022-3209
  - United States v. Godwin, FTC File No. 1123033

- Represented to consumers that input forms appearing on a computer’s screen are from trusted software providers and must be filled out with the consumer’s information in order to continue to use the provider’s services [2 claims]
  - United States v. Hershey Foods Corp., Civil Action No. 4CV-03-350
  - United States v. Sony BMG Music Entm’t, FTC File No. 082 3071

- Caused a user’s computer to display a fake popup registration windows, purportedly from trusted software providers [8 claims]
  - United States v. Hershey Foods Corp., Civil Action No. 4CV-03-350
  - United States v. Godwin, FTC File No. 1123033
  - In re The TJX Cos., Inc., FTC File No. 072-3055
  - FTC v. Wyndham Worldwide Corp., FTC File No. 102 3142
  - In re Upromise, Inc., FTC File No. 102 3116
• Collected information through surreptitious key logging, screenshots and/or webcam activation
  [8 claims]
    o United States v. Hershey Foods Corp., Civil Action No. 4CV-03-350
    o In re Onyx Graphics, Inc., FTC File No. 092 3139
    o In re ExpatEdge Partners, LLC, FTC File No. 092 3138
    o In re Life is good, Inc., FTC File No. 072-3046
    o FTC v. CEO Grp., Inc., FTC File No. 062 3100
    o In re Superior Mortg. Corp., FTC File No. 052 3136
    o In re BJ’s Wholesale Club, Inc., FTC File No. 042 3160
    o FTC v. EchoMetrix, Inc., FTC File No. 102 3006

• Collected information through geophysical location tracking software on rented computers, tracked locations, and disclosed that information to rent-to-own store licensees without notice to or consent from renters [2 claims]
  o United States v. Hershey Foods Corp., Civil Action No. 4CV-03-350
  o In re DSW, Inc., FTC File No. 052 3096

• Furnished others with software for installation on rented computers allowing remotely activated keystroke logging, screenshot access, webcam control, and geophysical location tracking, and transmission of data [1 claim]
  o United States v. Sony BMG Music Entm’t, FTC File No. 082 3071

  c) Opt In and Opt Out [19 claims]

• Deceptive user manuals [1 claim]
  o In re Onyx Graphics, Inc., FTC File No. 092 3139

• Deceptive user interface [4 claims]
  o In re DSW, Inc., FTC File No. 052 3096
  o In re Bonzi Software, Inc., FTC File No. 022 3273
  o In re Guess?, Inc., FTC File No. 022 3260
  o In re Premier Capital Lending, Inc., FTC File No. 072 3004

• Unfair/deceptive/onerous default settings [2 claims]
  o In re Goal Fin., LLC, FTC File No. 072-3013
  o In re Nations Title Agency, Inc., FTC File No. 052 3117

• Failed to provide consumers mechanism to opt out of information sharing with nonaffiliated third parties [3 claims]
  o In re Twitter, Inc., FTC File No. 092 3093
  o In re Facebook, Inc., FTC File No. 092 3184
  o United States v. Imbee.com, FTC File No. 072-3082

• Continued to collect data after opt out, deactivation, or deletion [2 claims]
  o In re Dave & Buster’s, FTC File No. 082 3153
  o FTC v. Action Research Grp., Inc., FTC File No. 072 3021
• Continued to display information after opt out, deactivation, or deletion [4 claims]
  o FTC v. C.J. (a minor), FTC File No. 032-3101; 022-3209
  o United States v. Mrs. Fields Famous Brands, Inc., Civil Action No. 203 CV205 JTG
  o In re Eli Lily and Co., FTC File No. 012 3214
  o FTC v. Corporate Mktg. Solutions, Inc., FTC File No. 022-3001
• Automatically collected information despite purported opt in activation requirement [2 claims]
  o FTC v. Corporate Mktg. Solutions, Inc., FTC File No. 022-3001
  o In re Dave & Buster’s, FTC File No. 082 3153
• Failed to take reasonable steps to ensure that user’s security settings will be honored [1 claim]
  o In re Dave & Buster’s, FTC File No. 082 3153

3. Inadequate Security for Personal Information [275 claims]

  a) Threat Detection and Prevention [125 claims]
  • Failed to develop, implement, or maintain a comprehensive information security program to protect information [12 claims]
    o In re Franklin’s Budget Car Sales, Inc., FTC File No. 102 3094
    o In re Onyx Graphics, Inc., FTC File No. 092 3139
    o In re Life is good, Inc., FTC File No. 072-3046
    o In re BJ’s Wholesale Club, Inc., FTC File No. 042 3160
    o United States v. Google Inc., Civil Action No. 512-cv-04177-HRL
    o In re James B. Nutter & Co., FTC File No. 072 3108
    o FTC v. Navone, FTC File No. 072 3067
    o FTC v. Accusearch, Inc., FTC File No. 052 3126
    o In re Fajilan and Assocs., Inc., FTC File No. 092 3089
    o In re Watershed Dev. Corp., FTC File No. 112 3151
    o In re Sears Holdings Mgmt. Corp., FTC File No. 082 3099
    o In re Premier Capital Lending, Inc., FTC File No. 072 3004
  • Failed to design or implement reasonable and appropriate measures to protect information, e.g. website not encrypted; failed to use an SSL secure connection; stored/transmitted information in clear readable text [29 claims]
    o In re Onyx Graphics, Inc., FTC File No. 092 3139
    o In re Fajilan and Assocs., Inc., FTC File No. 092 3089
    o United States v. ChoicePoint Inc., FTC File No. 052-3069
    o In re DSW, Inc., FTC File No. 052 3096
    o In re Aaron’s, Inc., FTC File No. 122 3256
    o In re Reed Elsevier Inc., FTC File No. 052-3094
    o United States v. Godwin, FTC File No. 1123033
    o In re Petco Animal Supplies, Inc., FTC File No. 032 3221
    o FTC v. Corporate Mktg. Solutions, Inc., FTC File No. 022-3001
    o In re Myspace LLC, FTC File No. 102 3058
    o In re ScanScout, Inc., FTC File No. 102 3185
• Failed to follow well-known and commonly-accepted secure programming practices, including secure practices that were expressly described in the operating system’s guides for manufacturers and developers, which would have ensured that applications only had access to users’ information with their consent [1 claim]
  o In re DSW, Inc., FTC File No. 052 3096
• Failed to implement appropriate checks and controls on the process of writing and revising web applications [1 claim]
  o In re SettlementOne Credit Corp., FTC File No. 082 3208
• Failed to employ reasonable and appropriate security in the design and testing of software provided to consumers [2 claims]
  o In re DSW, Inc., FTC File No. 052 3096
  o In re ExpatEdge Partners, LLC, FTC File No. 092 3138
• Failed to adopt and implement policies and procedures regarding security tests for its web applications [1 claim]
  o United States v. Playdom, Inc., FTC File No. 1023036
• Failed to conduct assessments, audits, reviews, or tests to identify potential security vulnerabilities in its mobile devices [1 claim]
  o In re SettlementOne Credit Corp., FTC File No. 082 3208
• Failed to implement adequate policies/procedures for the security of sensitive information [1 claim]
  o In re BJ’s Wholesale Club, Inc., FTC File No. 042 3160
• Failed to reasonably measure and enforce compliance with security policies [1 claim]
  o In re Rite Aid Corp., FTC File No. 072 3121
• Failed to employ a reasonable process for discovering and remedying risks to information [2 claims]
  o In re Upromise, Inc., FTC File No. 102 3116
  o In re ACRAnet, Inc., FTC File No. 092 3088
• Failed to implement and document adequate procedures to detect and prevent unauthorized access to information [25 claims]
  o In re ACRAnet, Inc., FTC File No. 092 3088
  o In re Rite Aid Corp., FTC File No. 072 3121
  o United States v. Playdom, Inc., FTC File No. 1023036
  o In re Ceridian Corp., FTC File No. 102 3160
  o In re Directors Desk LLC, FTC File No. 092 3140
  o FTC v. 30 Minute Mortg., Inc., FTC File No. 022-3224
  o FTC v. Rennert, FTC File No. 992 3245
  o FTC v. Navone, FTC File No. 072 3067
  o In re Premier Capital Lending, Inc., FTC File No. 072 3004
  o In re Facebook, Inc., FTC File No. 092 3184
  o In re Aspen Way Enters., Inc., FTC File No. 112 3151
  o In re TRENDnet, Inc., FTC File No. 122 3090
  o In re Bonzi Software, Inc., FTC File No. 042 3016
  o In re Compgeeks.com and Genica Corp., FTC File No. 082 3113
  o FTC v. LifeLock, Inc., FTC File No. 072 3069
  o In re Dave & Buster’s, FTC File No. 082 3153
  o In re Chitika, Inc., FTC File No. 102 3087
  o United States v. W3 Innovations, LLC, FTC File No. 102 3251
  o United States v. PLS Fin. Servs., Inc., FTC File No. 102 3172
  o United States v. Path, Inc., FTC File No. 122 3158
  o In re Nations Title Agency, Inc., FTC File No. 052 3117
  o In re LabMD, Inc., FTC File No. 102 3099
  o In re C.A.L.M. Ventures, Inc., FTC File No. 112 3151
  o FTC v. Sun Spectrum Commc’ns Org., FTC File No. 032 3032
  o United States v. Hershey Foods Corp., Civil Action No. 4CV-03-350
• Failed to implement and document adequate procedures to assess or monitor system for potential vulnerabilities [27 claims]
  o In re Rite Aid Corp., FTC File No. 072 3121
  o United States v. Playdom, Inc., FTC File No. 1023036
  o FTC v. 30 Minute Mortg., Inc., FTC File No. 022-3224
  o United States v. Path, Inc., FTC File No. 122 3158
  o In re Nations Title Agency, Inc., FTC File No. 052 3117
  o In re LabMD, Inc., FTC File No. 102 3099
  o United States v. ChoicePoint Inc., FTC File No. 052-3069
  o In re Aaron’s, Inc., FTC File No. 122 3256
• Failed to monitor or identify unauthorized activity by information purchasers [1 claim]
  o FTC v. Wyndham Worldwide Corp., FTC File No. 102 3142
• Failed to identify reasonably foreseeable internal and external risks to security, confidentiality, and integrity of information [9 claims]
  o FTC v. Integrity Sec. & Investigation Servs., Inc., FTC File No. 062 3099
  o United States v. Godwin, FTC File No. 1123033
  o In re HTC America, Inc., FTC File No. 122 3049
  o In re CVS Caremark Corp., FTC File No. 072 3119
  o In re Life is good, Inc., FTC File No. 072-3046
  o In re Collectify LLC, FTC File No. 092 3142
  o In re Vision I Props., LLC, FTC File No. 042 3068
  o In re EPN, Inc., FTC File No. 112 3143
  o United States v. Imbee.com, FTC File No. 072-3082
• Failed to secure paper documents containing sensitive information received by facsimile in an open and easily accessible area [1 claim]
  o In re Facebook, Inc., FTC File No. 092 3184
• Failed to implement adequate policies/procedures regarding physical security of information [3 claims]
  o In re Vision I Props., LLC, FTC File No. 042 3068
  o In re Bonzi Software, Inc., FTC File No. 042 3016
  o FTC v. ControlScan, Inc., FTC File No. 072 3165
• Transported information on portable media vulnerable to theft or misappropriation [1 claim]
● Failed to take reasonable steps to render backup tapes or other portable media containing information unusable/unreadable/indecipherable in event of unauthorized access [2 claims]
  o FTC v. Integrity Sec. & Investigation Servs., Inc., FTC File No. 062 3099
  o United States v. Hershey Foods Corp., Civil Action No. 4CV-03-350
● Personally maintained sensitive information collected by company in boxes in residential garage [1 claim]
  o In re Premier Capital Lending, Inc., FTC File No. 072 3004
● Failed to implement an adequate program to assess the security of products it shipped to consumers [1 claim]
  o United States v. Godwin, FTC File No. 1123033
● Failed to implement a process for receiving and addressing security vulnerability reports from third-party researchers, academics or other members of the public, thereby delaying its opportunity to correct discovered vulnerabilities or respond to reported incidents [1 claim]
  o United States v. Hershey Foods Corp., Civil Action No. 4CV-03-350
● Failed to use secure communications mechanisms in implementing logging applications on devices [1 claim]
  o FTC v. Integrity Sec. & Investigation Servs., Inc., FTC File No. 062 3099
● Failed to deactivate debug code before shipping devices for sale to consumers [1 claim]
  o In re Premier Capital Lending, Inc., FTC File No. 062 3099

b) Employees and Training [41 claims]
● Granted almost every employee administrative control of company's information system [2 claims]
  o In re Compgeeks.com and Genica Corp., FTC File No. 082 3113
  o In re Superior Mortg. Corp., FTC File No. 052 3136
● Failed to restrict employee access to administrative controls according to needs of employee's job [3 claims]
  o In re Facebook, Inc., FTC File No. 092 3184
  o In re Twitter, Inc., FTC File No. 092 3093
  o In re CardSystems Solutions, Inc., FTC File No. 052 3148
● Failed to adequately restrict employee access to or copying of information [4 claims]
  o In re CardSystems Solutions, Inc., FTC File No. 052 3148
  o In re MTS, Inc., FTC File No. 032-3209
  o In re Myspace LLC, FTC File No. 102 3058
  o In re Chitika, Inc., FTC File No. 102 3087
● Failed to prevent employees from installing unauthorized file sharing programs on work computers [3 claims]
  o In re Myspace LLC, FTC File No. 102 3058
  o United States v. Godwin, FTC File No. 1123033
  o In re Google Inc., FTC File No. 102 3136
● Failed to train employees regarding consumer privacy and information security [16 claims]
• Failed to oversee or guide employees regarding data security [6 claims]
  o In re Google Inc., FTC File No. 102 3136
  o In re Compgeeks.com and Genica Corp., FTC File No. 082 3113
  o In re Life is good, Inc., FTC File No. 072-3046
  o United States v. Industrious Kid, Inc., FTC File No. 072-3082
  o In re Petco Animal Supplies, Inc., FTC File No. 032 3221
  o FTC v. Corporate Mktg. Solutions, Inc., FTC File No. 022-3001
• Failed to alert employees of information's sensitive nature and need for precautions [2 claims]
  o United States v. Godwin, FTC File No. 1123033
  o FTC v. Integrity Sec. & Investigation Servs., Inc., FTC File No. 062 3099
• Failed to designate employee to coordinate information security program [3 claims]
  o In re Bonzi Software, Inc., FTC File No. 042 3016
  o United States v. Rental Research Servs., Inc., FTC File No. 072 3228
  o In re Reed Elsevier Inc., FTC File No. 052-3094
• Failed to ensure parties collecting or transporting information are qualified and have received training/guidance [2 claims]
  o In re Life is good, Inc., FTC File No. 072-3046
  o In re Goal Fin., LLC, FTC File No. 072-3013

  c) Access Credentials and Authorization [46 claims]
• Failed to adequately verify/authenticate identities and qualifications of prospective information purchasers [2 claims]
  o In re Directors Desk LLC, FTC File No. 092 3140
  o United States v. Xanga.com, Inc., FTC File No. 062-3073
• Failed to address risks by evaluating security of user's networks, requiring appropriate information security measures, and training user clients [4 claims]
• Failed to oversee or supervise service providers and to require them by contract to implement safeguards to protect information [6 claims]
  o United States v. Xanga.com, Inc., FTC File No. 062-3073
  o In re Facebook, Inc., FTC File No. 092 3184
  o FTC v. LifeLock, Inc., FTC File No. 072 3069
  o In re Compgeeks.com and Genica Corp., FTC File No. 082 3113
  o In re Guidance Software, Inc., FTC File No. 062 3057
  o FTC v. 77 Investigations, Inc., FTC File No. 062 3099
• Failed to conduct or direct third party to conduct an inventory of information stored on third party's computers [1 claim]
  o In re Rite Aid Corp., FTC File No 072 3121
• Failed to assess risks of allowing users with unverified or inadequate security to access information [4 claims]
  o In re HTC America, Inc., FTC File No. 122 3049
  o United States v. Path, Inc., FTC File No. 122 3158
  o In re Cbr Sys., Inc., FTC File No. 112 3120
  o FTC v. EchoMetrix, Inc., FTC File No. 102 3006
• Failed to provide administrators a login page separate from that provided to other users [1 claim]
  o In re DSW, Inc., FTC File No. 052 3096
• Failed to include appropriate permission check code in applications [1 claim]
  o In re Cbr Sys., Inc., FTC File No. 112 3120
• Allowed users to bypass authentication procedures by typing a specific URL [1 claim]
  o FTC v. CEO Grp., Inc., FTC File No. 062 3100
• Failed to use/require strong passwords/credentials [11 claims]
  o In re Red Zone Inv. Grp., Inc., FTC File No. 112 3151
  o In re Showplace, Inc., FTC File No. 112 3151
  o In re The TJX Cos., Inc., FTC File No. 072-3055
  o United States v. PLS Fin. Servs., Inc., FTC File No. 102 3172
  o FTC v. Navone, FTC File No. 072 3067
  o In re Collectify LLC, FTC File No. 092 3142
  o In re Goal Fin., LLC, FTC File No. 072-3013
  o United States v. Imbee.com, FTC File No. 072-3082
  o FTC v. Info. Search, Inc., FTC File No. 062 3102; X010041
  o FTC v. Integrity Sec. & Investigation Servs., Inc., FTC File No. 062 3099
  o United States v. ChoicePoint Inc., FTC File No. 052-3069
• Failed to establish or implement reasonable policies and procedures governing the creation and authentication of user credentials for authorized customers accessing sensitive information database [1 claim]
  o In re Google Inc., FTC File No. 102 3136
• Permitted sharing of user access credentials among multiple users [1 claim]
  o United States v. Godwin, FTC File No. 1123033
• Allowed customer to store credentials in vulnerable format or failed to require customers to encrypt or otherwise protect credentials, search queries, and/or search results [1 claim]
  o In re ScanScout, Inc., FTC File No. 102 3185
• Failed to require periodic changes of user credentials for those with access to sensitive information [4 claims]
  o FTC v. Frostwire LLC, FTC File No. 112 3041
  o In re World Innovators, Inc., FTC File No. 092 3137
  o United States v. W3 Innovations, LLC, FTC File No. 102 3251
  o In re Upromise, Inc., FTC File No. 102 3116
• Failed to suspend user credentials after a certain number of unsuccessful login attempts [4 claims]
  o In re Franklin’s Budget Car Sales, Inc., FTC File No. 102 3094
  o In re Directors Desk LLC, FTC File No. 092 3140
  o In re Nationwide Mortg. Grp., Inc., FTC File No. 042-3104
  o United States v. RockYou, Inc., FTC File No. 1023120
• Failed to develop and disseminate information security practices within company and to end user clients [3 claims]
  o In re EPN, Inc., FTC File No. 112 3143
  o In re Onyx Graphics, Inc., FTC File No. 092 3139
  o In re Ceridian Corp., FTC File No. 102 3160
• Failed to include authentication code to ensure consumer viewing purchase history was the consumer to whom such information related [1 claim]
  o In re MTS, Inc., FTC File No. 032-3209
  
  d) Network Security [21 claims]
• Failed to use readily available security measures to limit access to computer networks through wireless access points on the networks [4 claims]
  o In re Dave & Buster’s, FTC File No. 082 3153
  o In re The TJX Cos., Inc., FTC File No. 072-3055
  o In re DSW, Inc., FTC File No. 052 3096
  o In re BJ’s Wholesale Club, Inc., FTC File No. 042 3160
• Failed to adopt information security plan appropriate for networks and information stored on them [1 claim]
  o In re Aspen Way Enters., Inc., FTC File No. 112 3151
• Failed to ensure that adequate security policies/procedures existed before connecting local networks to umbrella network [2 claims]
• Failed to adequately inventory computers connected to network [1 claim]
  o In re J.A.G. Rents, LLC, FTC File No. 112 3151
• Failed to monitor/filter outbound network traffic to identify and block unauthorized export of sensitive information [1 claim]
  o In re ACRAnet, Inc., FTC File No. 092 3088
• Failed to restrict third party access to information by restricting access by IP address or by granting only temporary limited access [3 claims]
  o In re B. Stamper Enters., Inc., FTC File No. 112 3151
  o United States v. W3 Innovations, LLC, FTC File No. 102 3251
  o In re Fajilan and Assocs., Inc., FTC File No. 092 3089
• Failed to segment servers or adequately limit access among different management systems, corporate networks, or the Internet, such as through firewalls or by isolating payment card system from rest of corporate network [9 claims]
  o In re Red Zone Inv. Grp., Inc., FTC File No. 112 3151
  o FTC v. Frostwire LLC, FTC File No. 112 3041
  o In re Ceridian Corp., FTC File No. 102 3160
  o In re Twitter, Inc., FTC File No. 092 3093
  o In re World Innovators, Inc., FTC File No. 092 3137
  o FTC v. Accusearch, Inc., FTC File No. 052 3126
  o United States v. Sony BMG Music Entm’t, FTC File No. 082 3071
  o In re Nations Title Agency, Inc., FTC File No. 052 3117
  o In re Nationwide Mortg. Grp., Inc., FTC File No. 042-3104ss

  e) Breach Response [17 claims]
• Failed to develop/follow proper incident response procedures [3 claims]
  o In re Nations Title Agency, Inc., FTC File No. 052 3117
  o In re LabMD, Inc., FTC File No. 102 3099
  o United States v. ChoicePoint Inc., FTC File No. 052-3069
• Failed to implement and document adequate procedures to record/retain system information sufficient for security audits/investigations [2 claims]
  o United States v. Hershey Foods Corp., Civil Action No. 4CV-03-350
  o FTC v. Assail, Inc., FTC File No. 022-3147
• Failed to evaluate/adjust information security program in light of known or identified risks [5 claims]
  o In re World Innovators, Inc., FTC File No. 092 3137
  o In re Guidance Software, Inc., FTC File No. 062 3057
  o In re Sunbelt Lending Servs., Inc., FTC File No. 042 3153
  o In re C.A.L.M. Ventures, Inc., FTC File No. 112 3151
  o In re Sears Holdings Mgmt. Corp., FTC File No. 082 3099
• Failed to employ reasonable responses to unauthorized access to personal information or to conduct security investigations where unauthorized access occurred [2 claims]
  o In re Collectify LLC, FTC File No. 092 3142
  o In re EPN, Inc., FTC File No. 112 3143

• Failed to remedy existing or known security vulnerabilities, such as outdated operating systems that could not receive updates/patches [5 claims]
  o In re HTC America, Inc., FTC File No. 122 3049
  o In re Red Zone Inv. Grp., Inc., FTC File No. 112 3151
  o United States v. RockYou, Inc., FTC File No. 1023120
  o United States v. ValueClick, Inc., FTC File No. 072-3111; 072-3158
  o In re ExpatEdge Partners, LLC, FTC File No. 092 3138

  j) Information Disposal [22 claims]

• Failed to implement adequate policies/procedures regarding proper collection, handling, or disposal of information [6 claims]
  o In re Google Inc., FTC File No. 102 3136
  o In re Red Zone Inv. Grp., Inc., FTC File No. 112 3151
  o In re Collectify LLC, FTC File No. 092 3142
  o FTC v. EchoMetrix, Inc., FTC File No. 102 3006
  o In re ACRAnet, Inc., FTC File No. 092 3088
  o In re TRENDnet, Inc., FTC File No. 122 3090

• Failed to implement/monitor policies/procedures requiring information to be disposed of so that it cannot be practicably read or reconstructed [5 claims]
  o In re Goal Fin., LLC, FTC File No. 072-3013
  o United States v. RockYou, Inc., FTC File No. 1023120
  o In re Upromise, Inc., FTC File No. 102 3116
  o In re DSW, Inc., FTC File No. 052 3096
  o In re Aaron’s, Inc., FTC File No. 122 3256

• Failed to assess third party’s procedures to handle, store, or dispose of information [1 claim]
  o United States v. Xanga.com, Inc., FTC File No. 062-3073

• Failed to oversee collection and transport of information for disposal, assess compliance during disposal, or confirm disposal [4 claims]
  o In re Red Zone Inv. Grp., Inc., FTC File No. 112 3151
  o In re Onyx Graphics, Inc., FTC File No. 092 3139
  o In re Nationwide Mortg. Grp., Inc., FTC File No. 042-3104
  o United States v. ChoicePoint Inc., FTC File No. 052-3069

• Information found in dumpster [6 claims]
  o In re Upromise, Inc., FTC File No. 102 3116
  o In re Facebook, Inc., FTC File No. 092 3184
  o In re Franklin’s Budget Car Sales, Inc., FTC File No. 102 3094
  o FTC v. Info. Search, Inc., FTC File No. 062 3102; X010041
  o In re Aspen Way Enters., Inc., FTC File No. 112 3151
o In re Kelly, FTC File No. 112 3151

\textit{g) Security Products [3 claims]}

\begin{itemize}
  \item Marketed security software that fails to significantly reduce the risk of unauthorized access to data stored in computers [1 claim]
    \begin{itemize}
      \item In re Cbr Sys., Inc., FTC File No. 112 3120
    \end{itemize}
  \item Granted privacy/security seal but took inadequate steps to verify security practices of third-party grantees [2 claims]
    \begin{itemize}
      \item In re Life is good, Inc., FTC File No. 072-3046
      \item In re Eli Lily and Co., FTC File No. 012 3214
    \end{itemize}
\end{itemize}

4. Wrongful Retention of Personal Information [6 claims]

\begin{itemize}
  \item Stored sensitive information longer than necessary or after company no longer had a business need for it [6 claims]
    \begin{itemize}
      \item In re Cbr Sys., Inc., FTC File No. 112 3120
      \item In re Ceridian Corp., FTC File No. 102 3160
      \item In re Life is good, FTC File No. 072 3046
      \item In re CardSystems Solutions, Inc., FTC File No. 052 3148
      \item In re DSW, Inc., FTC File No. 052 3096
      \item In re BJ’s Wholesale Club, Inc., FTC File No. 042 3160
    \end{itemize}
\end{itemize}

5. Children’s Privacy [78 claims]

\begin{itemize}
  \item Conditioning children's participation in an activity upon disclosure of more personal information than reasonable necessary to participate [4 claims]
    \begin{itemize}
      \item United States v. Looksmart, Ltd., FTC File No. 002 3379
      \item United States v. American Pop Corn Co., FTC File No. 012 3026
      \item United States v. Monarch Servs., Inc., FTC File No. 002 3375
      \item United States v. Bigmailbox.com, Inc., FTC File No. 002 3378
    \end{itemize}
  \item Failed to adequately disclose that information revealed by children would be shared with third parties [2 claims]
    \begin{itemize}
      \item FTC v. EchoMetrix, Inc., FTC File No. 102 3006
      \item In re GeoCities, FTC File No. 982 3015
    \end{itemize}
  \item Failed to provide sufficient notice on website of what information is collected from children, how it is used, and/or how it is disclosed [19 claims]
    \begin{itemize}
      \item United States v. RockYou, Inc., FTC File No. 1023120
      \item United States v. Looksmart, Ltd., FTC File No. 002 3379
      \item United States v. American Pop Corn Co., FTC File No. 012 3026
      \item United States v. Monarch Servs., Inc., FTC File No. 002 3375
      \item United States v. Bigmailbox.com, Inc., FTC File No. 002 3378
      \item United States v. Sony BMG Music Entm’t, FTC File No. 082 3071
      \item United States v. Xanga.com, Inc., FTC File No. 062-3073
      \item In re Bonzi Software, Inc., FTC File No. 022 3273
      \item United States v. UMG Recordings, Inc., Civil Action No. CV-04-1050 JFW (Ex)
    \end{itemize}
\end{itemize}
- United States v. Mrs. Fields Famous Brands, Inc., Civil Action No. 203 CV205 JTG
- United States v. Hershey Foods Corp., Civil Action No. 4CV-03-350
- United States v. Godwin, FTC File No. 1123033
- United States v. W3 Innovations, LLC, FTC File No. 102 3251
- United States v. Playdom, Inc., FTC File No. 1023036
- United States v. Iconix Brand Group, FTC File No. 923032
- United States v. Imbe.com, FTC File No. 072-3082
- United States v. Industrious Kid, Inc., FTC File No. 072-3082
- United States v. Lisa Frank, Inc., FTC File No. 012-3050
- In re Aaron’s, Inc., FTC File No. 122 3256

- Failed to provide direct notice to parents of what information is collected from children, how it is used, and/or how it is disclosed [19 claims]
  - United States v. RockYou, Inc., FTC File No. 1023120
  - United States v. Looksmart, Ltd., FTC File No. 002 3379
  - United States v. American Pop Corn Co., FTC File No. 012 3026
  - United States v. Monarch Servs., Inc., FTC File No. 002 3375
  - United States v. Sony BMG Music Entm’t, FTC File No. 082 3071
  - United States v. Xanga.com, Inc., FTC File No. 062-3073
  - In re Bonzi Software, Inc., FTC File No. 022 3273
  - United States v. UMG Recordings, Inc., Civil Action No. CV-04-1050 JFW (Ex)
  - United States v. Mrs. Fields Famous Brands, Inc., Civil Action No. 203 CV205 JTG
  - United States v. Hershey Foods Corp., Civil Action No. 4CV-03-350
  - United States v. Godwin, FTC File No. 1123033
  - United States v. W3 Innovations, LLC, FTC File No. 102 3251
  - United States v. Playdom, Inc., FTC File No. 1023036
  - United States v. Iconix Brand Group, FTC File No. 923032
  - United States v. Bigmailbox.com, Inc., FTC File No. 072-3082
  - United States v. Industrious Kid, Inc., FTC File No. 072-3082
  - United States v. Lisa Frank, Inc., FTC File No. 012-3050
  - United States v. Artist Arena LLC, FTC File No. 112 3167

- Failed to obtain verifiable parental consent before collecting, using, or disclosing children’s information [19 claims]
  - United States v. RockYou, Inc., FTC File No. 1023120
  - United States v. Looksmart, Ltd., FTC File No. 002 3379
  - United States v. American Pop Corn Co., FTC File No. 012 3026
  - United States v. Monarch Servs., Inc., FTC File No. 002 3375
  - United States v. Sony BMG Music Entm’t, FTC File No. 082 3071
  - United States v. Xanga.com, Inc., FTC File No. 062-3073
  - In re Bonzi Software, Inc., FTC File No. 022 3273
  - United States v. UMG Recordings, Inc., Civil Action No. CV-04-1050 JFW (Ex)
o United States v. Mrs. Fields Famous Brands, Inc., Civil Action No. 203 CV205 JTG
o United States v. Hershey Foods Corp., Civil Action No. 4CV-03-350
o United States v. Godwin, FTC File No. 1123033
o United States v. W3 Innovations, LLC, FTC File No. 102 3251
o United States v. Playdom, Inc., FTC File No. 1023036
o United States v. Iconix Brand Group, FTC File No. 923032
o United States v. Imbee.com, FTC File No. 072-3082
o United States v. Industrious Kid, Inc., FTC File No. 072-3082
o United States v. Lisa Frank, Inc., FTC File No. 012-3050
o United States v. Artist Arena LLC, FTC File No. 112 3167

• Failed to provide reasonable means for parents to review information collected from children or to refuse to permit its further use or maintenance [10 claims]
  o United States v. Looksmart, Ltd., FTC File No. 002 3379
  o United States v. American Pop Corn Co., FTC File No. 012 3026
  o United States v. Monarch Servs., Inc., FTC File No. 002 3375
  o United States v. Bigmailbox.com, Inc., FTC File No. 002 3378
  o United States v. Sony BMG Music Entm’t, FTC File No. 082 3071
  o United States v. Xanga.com, Inc., FTC File No. 062-3073
  o In re Bonzi Software, Inc., FTC File No. 022 3273
  o United States v. UMG Recordings, Inc., Civil Action No. CV-04-1050 JFW (Ex)
  o United States v. Mrs. Fields Famous Brands, Inc., Civil Action No. 203 CV205 JTG
  o United States v. Hershey Foods Corp., Civil Action No. 4CV-03-350

• Failed to provide parents with control over children's information by allowing children to edit account settings [1 claim]
  o In re Microsoft Corp., FTC File No. 012 3240

• Failed to establish/maintain reasonable security procedures to protect information collected from children [1 claim]
  o United States v. RockYou, Inc., FTC File No. 1023120

• Required children to receive advertising from third parties [1 claim]
  o United States v. Looksmart, Ltd., FTC File No. 002 3379

• Automatically disclosed children's personal information to third parties [1 claim]
  o United States v. Looksmart, Ltd., FTC File No. 002 3379

• Failed to delete information knowingly gathered from children [1 claim]
  o United States v. RockYou, Inc., FTC File No. 1023120

III. Private Class Action Lawsuits

For the private class action lawsuits, Fordham CLIP reviewed civil complaints filed in or removed to federal court, which it identified through keyword searches relating to online privacy issues in the relevant WestlawNext electronic legal database. Specifically, Fordham CLIP looked at the WestlawNext
database – “Trial Court Documents – Pleadings.” This database offers full-text search for complaints, answers, petitions, and other pleadings.\(^5\)

**A. Search Approach**

Fordham CLIP selected multiple search terms to generate the list of relevant cases for review. In order to cast the broadest possible net of relevant terms, Fordham CLIP selected search terms that would necessarily be included in any substantial class action litigation concerning online privacy policies. The search was structured to include the following Boolean terms: “personal information” & “data” & “privacy” & “online” & “class action.” In addition, Fordham CLIP applied a date filter to generate results for the period February 12, 1999 to November 11, 2013. This period was chosen to match the period for the FTC cases and to have meaningful results capturing current trends.

While some false positives appeared in the results, this approach ensured that all sufficiently relevant cases were likely to be identified. This approach also reduced the risk that a relevant case might be omitted from the final report. This approach also assures that the results can be reproduced using the same search terms and databases described, and that they can be updated as needed in the future.

**B. Search Findings**

The search parameters generated 661 state and federal cases. These results were narrowed to consider only federal court cases. This resulted in a list of 620 cases.

These 620 results were reviewed to verify document type and determine the complaints’ content. From these results, Fordham CLIP excluded any non-complaint pleadings (i.e. petitions), non-privacy cases (i.e. securities-related cases or those involving deceptive trade practices), and cases involving mobile privacy. Many complaints appeared multiple times, and when an amended complaint surfaced, only the most recent complaint was included in the final dataset.

Finally, many cases arose from a single “discrete event.” For example, there were 98 complaints filed against Sony Computer Entertainment America, 24 filed against Countrywide Financial Corporation, and 8 filed as a result of Google’s Street View activities. Fordham CLIP identified whether cases arose from a “discrete event” based on the named defendant, the date the action was filed, the allegations contained in the complaint, and the causes of action asserted therein.

Of the original list of search results, Fordham CLIP determined that there were actually 165 relevant class action cases arising from approximately 89 “discrete events.” Each of the complaints in these relevant cases was sorted based on the complained-of conduct. Where complaints contained more than one accusation of wrongdoing, the complaint was filed under multiple categories.

The claims made in these 165 cases are shown below according to the Fordham CLIP classifications. In addition, because these claims arise under a multitude of statutes and common law theories, an additional breakdown of the statutes and common law causes of action are also shown below.

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\(^5\) In using this database, Fordham CLIP restricted the research to the document type “Civil Complaints.”
1. Unauthorized Disclosure of Personal Information [29 events; 61 cases]
   
   • Unauthorized disclosure of customer information in violation of stated privacy policy (airline cases) [3 events; 7 cases]
     
     o AMR
       ▪ Rosenberg v. AMR Corp., Case No. 04-cv-02564 (E.D.N.Y.)
       ▪ Baldwin v. AMR Corp., Case No. 04-cv-00750 (N.D. Tex.)
       ▪ Kimmell v. AMR Corp., Case No. 04-cv-00750 (N.D. Tex.)
       ▪ Rosenberg v. Ascent Tech. Inc., Case No. 05-cv-01040 (D. Mass.)
     
     o Northwest Airlines
       ▪ Povitz v. Northwest Airlines, Case No. 04-cv-00136 (D. Minn.)
     
     o Unger v. Jetblue Airways Corp., Case No. 03-cv-228-4 (S.D. Fla.)
   
   • Undisclosed transmission or sale of user information to third parties [12 events; 23 cases]
     
     o In re Zynga Privacy Litig., Case No. CV 10-04680. (N.D. Cal.)
       ▪ Gudac v. Zynga Games, Case No. 10-cv-04793 (N.D. Cal.)
       ▪ Schreiber v. Zynga Game Network, Case No. Cv-10-4794 (N.D. Cal.)
       ▪ Albini v. Zynga, Case No. 10-cv-4723 (N.D. Cal.)
       ▪ Graf v. Zynga Game Network, Inc., Case No. 10-cv-04680-JW (N.D. Cal.)
     
     o In re Facebook Consumer Privacy Litig., Case No. 10-cv-00429-JF (N.D. Cal.)
       ▪ Gould v. Facebook, Inc., Case No. 10-cv-02389-PVT (N.D. Cal.)
       ▪ Robertson v. Facebook, Inc., Case No. 10-cv-02408 (N.D. Cal.)
       ▪ Markowitz v. Facebook, Inc., Case No. c10-00430 (N.D. Cal.)
       ▪ Silverstri v. Facebook, Inc., Case No. c10-00429 (N.D. Cal.)
       ▪ Bryant v. Facebook, Case No. Cv 10 5192 (N.D. Cal.)
       ▪ Carmel-Jessup v. Facebook, Inc., Case No. Cv 10 4930 MEJ (N.D. Cal.)
     
     o Crouse v. Webloyalty.com, Inc., Case No. 06-cv-11834-JLT (D. Mass.)
     
     o Elvey v. TD AmeriTrade, Inc., Case No. 07-Civ-02852 (N.D. Cal.)
     
     o Deacon v. Pandora Media, Inc., Case No. 11-cv-04674-LB (N.D. Cal.)
     
     o Yunker v. Pandora Media, Case No. 11-cv-3113 (N.D. Cal.)
     
     o Myspace
       ▪ Leong v. Myspace, Case No. CV-10-8366 (C.D. Cal.)
       ▪ Virtue v. Myspace, Inc., Case No. 11-cv-01800-RRM –RML (E.D.N.Y.)
     
     o Mendoza v. Microsoft, Inc., Case No. 13-cv-00378-DAE (W.D. Tex.)
     
     o Boorstein v. Men's Health Journal LLC, Case No. CV12-00771 (C.D. Cal.)
     
     o Low v. LinkedIn Corp., Case No. 11-CV-01468-LHK (C.D. Cal.)
     
     o Lendingtree
       ▪ Carson v. Lendingtree LLC, Case No. 08-cv-00247 (W.D.N.C.)
       ▪ Spinozzi v. Lendingtree LLC, Case No. 08-cv-0029 (W.D.N.C).
     
     o Google
       ▪ Svenson v. Google, Inc., Case No. 13-cv-04080 (N.D. Cal.)
       ▪ Gaos v. Google, Inc., Case No. 10-cv-04809 (N.D. Cal.)
   
   • Unauthorized sharing of identifiable information and video viewing history [3 events; 5 cases]
     
     o Garvey v. Kissmetrics, Case No. CV 11-3764 (N.D. Cal.)
     
     o Garvey v. Metacafe, Inc., Case No. CV 11-5588 (E.D.N.Y.)
     
     o Netflix
       ▪ Bernal v. Netflix, Case No. 11-cv-00820 (N.D. Cal.)
       ▪ Doe v. Netflix, Inc., Case No. 6:09-cv-05903-JW (N.D. Cal.)
       ▪ Rura v. Netflix, Inc., Case No. 11-cv-01075 (N.D. Cal.)
Disclosed customer information on public website without authorization [2 events; 3 cases]
  o Doe v. AOL LLC, Case No. 06-cv-05866 (N.D. Cal.)
  o Spokeo
    ▪ Purcell v. Spokeo, Inc., Case No. 10-cv-03978-HRL (N.D. Cal.)
    ▪ Robins v. Spokeo, Inc., Case No. 20-cv-05306-ODW-AGR (C.D. Cal.)
Disclosed information collected through spyware to third parties [3 events; 3 cases]
  o Deering v. Centurytel Inc., Case No. 10-cv-00012 (D. Mont.)
  o Green v. Cable One, Inc., Case No. 10-cv-00259 (N.D. Ala.)
  o Valentine v. Wideopen W. Fin., Case No. 09-cv-07653 (N.D. Ill.)
Used names and photographs of users without permission [2 events; 4 cases]
  o Facebook
    ▪ E.K.D. v. Facebook, Inc., Case No. 12-cv-01216-LHK (S.D. Ill.)
    ▪ Cohen v. Facebook, Inc., Case No. 10-cv-05282-RS (N.D. Cal.)
    ▪ Fraley v. Facebook, Inc., Case No. 11-cv-01726 (N.D. Cal.)
  o Perkins v. LinkedIn, Case No. 13-cv-04303-HRL (N.D. Cal.)
Disseminated information about users’ browsing history [1 event; 13 cases]
  o Facebook
    ▪ Beatty v. Facebook, Case No. 11-cv-01964 (D. Ariz.)
    ▪ Lane v. Facebook, Case No. 08-Civ-03845 (N.D. Cal.)
    ▪ Stravato v. Facebook, Case No. 12-cv-00800 (D.R.I.)
    ▪ Vickery v. Facebook, Case No. 12-cv-00801 (W.D. Wash.)
    ▪ Maloney v. Facebook, Case No. 12-cv-00824 (S.D. Ohio)
    ▪ Campbell v. Facebook, Inc., Case No. 12-cv-00796 (W.D. Ark.)
    ▪ Quinn v. Facebook, Case No. 12-cv-00797 (D. Haw.)
    ▪ Walker v. Facebook, Case No. 12-cv-00798 (D. Mont.)
    ▪ Brkic v. Facebook, Inc., Case No. 11-cv-04935 (N.D. Cal.)
    ▪ Singley v. Facebook, Inc., Case No. 11-cv-00874 (W.D. Tex.)
    ▪ Parrish v. Facebook, Case No. 12-cv-00667 (N.D. Ala.)
    ▪ Davis v. Facebook, Inc., Case No. 11-cv-04834-PSG (N.D. Cal.)
    ▪ Maguire v. Facebook, Inc., Case No. 12-cv-0807 (N.D. Cal.)
Unlawful disclosure of users’ motor vehicle records [1 event; 1 case]
  o Young v. W. Pub. Co., Case No. 09-cv-22426 (S.D. Fla.)
Using and selling customers’ prescription information for commercial gain without removing personal information and disregarding privacy policies [1 event; 1 case]
  o London v. New Albertson, Case No. 08-cv-01173 (S.D. Cal.)
Unilateral change to Terms of Use that would transfer property rights to defendant and allow them to exploit customer's information without liability [1 event; 1 case]
  o Funes v. Instagram, Inc., Case No. 12-civ-6482 (N.D. Cal.)

2. **Surreptitious Collection of Personal Information [47 events; 85 cases]**

General: Surreptitiously collected information [12 events; 19 cases]
  o Doe v. AOL LLC, Case No. 06-cv-05866 (N.D. Cal.)
  o Harris v. Comscore, Inc., Case No. 11-cv-05807 (N.D. Ill.)
  o Interzekostas v. Fox Entm’t. Grp., Case No. 10-cv-06586 (C.D. Cal.)
  o Johnson v. Microsoft, Inc., Case No. 06-cv-00900-RSM (W.D. Wash.)
  o In re Zynga Privacy Litig., Case No. CV 10-04680. (N.D. Cal.)
    ▪ Schreiber v. Zynga Game Network, Case No. Cv-10-4794 (N.D. Cal.)
    ▪ Gudac v. Zynga Games, Case No. 10-cv-04793 (N.D. Cal.)
- Graf v. Zynga Game Network, Inc., Case No. 10-cv-04680-JW (N.D. Cal.)
- Albini v. Zynga, Case No. 10-cv-4723 (N.D. Cal.)
  - Slater v. Tagged, Inc., Case No. 09-cv-3697 (N.D. Cal.)
  - Kaufman v. SpecificMedia Inc., Case No. 10-cv-01891 (C.D. Cal.)
  - Starrett v. Realnetworks, Inc., 1999 WL 33756882 (E.D.Pa.)
  - Valentine v. Nebuad, Case No. 08-cv-05113-TEH (N.D. Cal.)
  - Google
    - Weber v. Google, Case No. 10-cv-5035 (N.D. Cal.)
    - Nobles v. Google, Inc., Case No. 12-cv-03589-LB (N.D. Cal.)
    - Villegas v. Google, Inc., Case No. 12-cv-00915-PSG (N.D. Cal.)
  - Google Plus Monitoring Cases
    - Movitz v. Google, Inc., Case No. 12-cv-00743 (N.D. Miss.)
    - Martorana v. Google, Inc., Case No. 12-cv-00744-SLR (W.D. Mo.)
    - Rischar v. Google, Inc., Case No. 12-cv-00742-SLR (D. Kan.)
- Installed spyware to gather information [7 events; 7 cases]
  - Valentine v. Wideopen W. Fin., Case No. 09-cv-07653 (N.D. Ill.)
  - Green v. Cable One, Inc., Case No. 10-cv-00259 (N.D. Ala.)
  - Mortensen v. Bresnan Commc’n, Case No. 10-cv-00013 (D. Mont.)
  - Simios v. 180Solutions, Inc., Case No. 05-cv-05235 (N.D. Ill.)
  - Deering v. CenturyTel Inc., Case No. 10-cv-00012 (D. Mont.)
  - Michaeli v. Exact Adver., Case No. 05-cv-8331 (S.D.N.Y.)
- Circumvented browser privacy settings to collect information [6 events; 7 cases]
  - Burns v. AOL Inc., Case No. 11-cv-11145 (D. Mass.)
  - Mazzone v. Vibrant Media Inc., Case No. 12-cv-02672-NGG-JO (E.D.N.Y.)
  - Frohberg v. Media Innovative Grp. LLC, Case No. 12-cv-02674-WFK-JO (E.D.N.Y.)
  - Bose v. McDonald's Corp., Case No. 10-cv-09183-DAB (S.D.N.Y.)
  - Google
    - Kreisman v. Google, Inc., Case No. 12-cv-01470 (N.D. Ill.)
    - Franchise Dynamics, LLC v. Google, Inc., Case No. 12-cv-00793 (D. Del.)
- Hacked computer to circumvent privacy controls and collect personal information [2 events; 2 cases]
  - Aguirre v. Quantcast Corp., Case No. 10-cv-5716 (C.D. Cal.)
  - Gutierrez v. Instagram, Inc., Case No. C 12-6550 (N.D. Cal.)
- Unauthorized installation of tracking cookies [3 events; 7 cases]
  - Reaves v. Cable One, Inc., Case No. 11-cv-00469-JAT (D. Ariz.)
  - In re Google Inc. Cookie Placement Consumer Privacy Litig., Case No. 12-md-02358-SLR (D. Del.)
    - Heretick v. Google, Inc., Case No. 12-cv-20888-KMW (S.D. Fla.)
    - Kreisman v. Google, Inc., Case No. 12-cv-01470 (N.D. Ill.)
    - Landrum v. Google, Inc., Case No. 12-cv-02389-HGD (N.D. Ala.)
    - Glaser v. Google, Inc., Case No. 12-cv-00667 (D. Del.)
- Unauthorized Installation of (Adobe LSO) Flash Cookies [8 events; 11 cases]
  - Del Vecchio v. Amazon.com, Case No. 2:11-cv-00366-RSL (W.D. Wash.)
• Failed to disable cookies when user signed off of website and continued to gather information about users’ browsing history and communications [1 event; 15 cases]
  o Facebook
    ▪ Beatty v. Facebook, Case No. 11-cv-01964 (D. Ariz.)
    ▪ Burdick v. Facebook, Inc., Case No. 12-cv-00799-EJD (W.D. Okla.)
    ▪ Carroll v. Facebook, Inc., Case No. 12-cv-00370 (N.D. Cal.)
    ▪ Lane v. Facebook, Case No. 08-Civ-03845 (N.D. Cal.)
    ▪ Stravato v. Facebook, Case No. 12-cv-00800 (D.R.I.)
    ▪ Vickery v. Facebook, Case No. 12-cv-00801 (W.D. Wash.)
    ▪ Maloney v. Facebook, Case No. 12-cv-00824 (S.D. Ohio)
    ▪ Campbell v. Facebook, Inc., Case No. 12-cv-00796 (W.D. Ark.)
    ▪ Quinn v. Facebook, Case No. 12-cv-00797 (D. Haw.)
    ▪ Walker v. Facebook, Case No. 12-cv-00798 (D. Mont.)
    ▪ Brkic v. Facebook, Inc., Case No. 11-cv-04935 (N.D. Cal.)
    ▪ Singley v. Facebook, Inc., Case No. 11-cv-00874 (W.D. Tex.)
    ▪ Parrish v. Facebook, Case No. 12-cv-00667 (N.D. Ala.)
    ▪ Davis v. Facebook, Inc., Case No. 11-cv-04834-PSG (N.D. Cal.)
    ▪ Maguire v. Facebook, Inc., Case No. 12-cv-0807 (N.D. Cal.)
  • Commingled users’ personal information from different sources resulting in greater data collection than users expected to be collected [1 event; 4 cases]
    o Google
      ▪ Nisenbaum v. Google, Inc., Case No. 12-cv-02059 (S.D.N.Y.)
      ▪ De Mars v. Google, Case No. 12-cv-01382 (N.D. Cal.)
      ▪ Hoey v. Google, Inc., Case No. 12-cv-01448 (E.D. Pa.)
      ▪ Anderson v. Google, Inc., Case No. 12-cv-01565-PSG (N.D. Cal.)
  • Gathered information transmitted on WiFi connections while recording images for Google Street View [1 event; 3 cases]
    o In re Google Inc. Street View Elec. Comm'n Litig., Case No. 10-md-02184 (N.D. Cal.)
      ▪ Stokes v. Google, Inc., Case No. 10-cv-02306 (N.D. Cal.)
      ▪ Keyes v. Google, Inc., Case No. 10-cv-03638 (D.D.C.)
      ▪ Joffe v. Google, Inc., Case No. 10-cv-4007-HRL (N.D. Cal.)
  • Unauthorized tracking or interception of Internet communications [4 events; 7 cases]
    o Reaves v. Cable One, Inc., Case No. 11-cv-00469-JAT (D. Ariz.)
    o Google
      ▪ Myhre v. Google, Inc., Case No. 10-cv-01444-TSZ (W.D. Wash.)
· Dunbar v. Google, Inc., Case No. 12-cv-03305 (E.D. Tex.)
· Scott v. Google, Inc., Case No. 12-cv-03413 PSG (N.D. Cal.)
· Glaser v. Google, Inc., Case No. 12-cv-00667 (D. Del.)
  o LG v. Google, Inc., Case No. C-12-6555 (N.D. Cal.)
  o Fread v. Google, Inc., Case No. 13-cv-01961-HRL (N.D. Cal.)
· Unauthorized tracking of minors’ Internet communications and video viewing habits [1 event; 2 cases]
  o Viacom
    ▪ TM v. Viacom, Inc., Case No. 12-cv-01295 (S.D. Ill.)
    ▪ Fryar v. Viacom, Inc., Case No. 12-cv-03713 (S.D. Tex.)
· Undisclosed and unauthorized monitoring, interception and manipulation of users’ search histories [1 event; 1 case]
  o Feist v. RNC Corp., Case No. 11-cv-05436 (S.D.N.Y.)
3. **Inadequate Data Security [17 events; 96 cases]**
· Failed to adequately secure customer information leading to data breach [17 events; 96 cases]
  o In re LinkedIn User Privacy Litig., Case No. 12-cv-03088 (N.D. Cal.)
    ▪ Paraguga v. LinkedIn, Case No. 12-cv-3430 (N.D. Cal.)
    ▪ Szpyrka v. LinkedIn, Case No. 12-cv-03088 (N.D. Cal.)
    ▪ Veith v. LinkedIn, Corp., Case No. 12-cv-03557-PSG (N.D. Cal.)
  o In re Zappos Security Breach Litig., Case No. 12-cv-00182-RCI-VCF (D. Nev.)
    ▪ Penson v. Amazon, Case No. 12-cv-00340 (W.D. Ky.)
    ▪ Relethford v. Amazon, Case No. 12-cv-00864 (D. Nev.)
    ▪ Stevens v. Amazon, Case No. 12-cv-00339 (W.D. Ky.)
    ▪ Elliot v. Amazon, Case No. 12-cv-00341 (W.D. Ky.)
    ▪ Habashy v. Amazon, Case No. 12-cv-10145 (D. Mass.)
  o Sony Computer Entertainment America [1 event; 6 cases representing 49 consolidated cases]6
    ▪ Peterson v. Sony Computer Entm’t Am. LLC, Case No. 11-cv-2242 RS (N.D. Cal.) [Nationwide Complaint]
    ▪ Nardi v. Sony Computer Entm’t. Am. LLC, Case No. 11-cv-00962-PAG (N.D. Ohio)
    ▪ Howe v. Sony Computer Entm’t Am. LLC, Case No. 11-cv-01001-AJB –NLS (S.D. Cal.)
    ▪ Johnson v. Sony Computer Entm’t Am. LLC, Case No. 11-cv-1268 BTM WMc (S.D. Cal.)
    ▪ Laos v. Sony Computer Entm’t. Am. LLC, Case No. 11-cv-01575-JM (S.D. Cal.)
    ▪ Thompson v. Sony Online Entm’t. LLC, Case No. 11-cv-2340 (N.D. Cal.)
  o Countrywide Financial Corporation [1 event; 5 cases representing 24 consolidated cases]7
    ▪ Wilkinson v. Countrywide Fin. Corp., Case No. 08-cv-00356 (D. Me.)
    ▪ Martin v. Countrywide Fin. Corp., Case No. 08-cv-06042 (C.D. Cal.)

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6 Numerous cases were consolidated with respect to the Sony Computer Entertainment America event. Therefore, these cases are individually reflected in the total number of cases, but are not each listed individually for sake of brevity.

7 Numerous cases were consolidated with respect to the Countrywide Financial Corporation event. Therefore, these cases are individually reflected in the total number of cases, but are not each listed individually for sake of brevity.
- Elkhettab v. Countrywide Fin. Corp., Case No. 08-cv-00638 (C.D. Cal.)
- Hemphill v. Countrywide Fin. Corp., Case No. 08-cv-00863 (E.D. Wis.)
- Moses v. Countrywide Fin. Corp., Case No. 08-cv-05416 (C.D. Cal.)
  - Bell v. Blizzard Entm’t., Case No. 12-cv-09475 (C.D. Cal.)
  - Hammond v. BNY Mellon Corp., Case No. 08-cv-06060 (S.D.N.Y.)
  - Amburgy v. Express Scripts, Inc., Case No. 09-cv-00705 (E.D. Mo.)
  - Zigler v. TDAmeriTrade, Inc., Case No. 07-cv-04903 (N.D. Cal.)
  - In re TJX Cos. Security Breach Litig., Case No. 07-cv-10162 (D. Mass.)
- Lendingtree
  - Spinozzi v. Lendingtree LLC, Case No. 08-cv-00229 (W.D.N.C.)
  - Carson v. Lendingtree LLC, Case No. 08-cv-00247 (W.D.N.C.)
- RBS Worldpay
  - Irwin v. RBS Worldpay, Inc., Case No. 09-cv-00033 (N.D. Ga.)
  - Lewis-Griffin v. RBS Worldpay, Case No. 09-cv-01601 (N.D. Ohio)
  - Claridge v. Rockyou, Inc., Case No. 09-cv-06032-PJH (N.D. Cal.)
  - Kairoff v. Dropbox, Inc., Case No. 11-cv-02508 (N.D. Cal.)
  - Grisby v. Valve Corp., Case No. 11-cv-09905 (C.D. Cal.)
  - Vasquez v. Classmates Online, Inc., Case No. 09-cv-00104 (W.D. Wash.)
  - Allan v. Yahoo!, Inc., Case No. CV 12 4034 (N.D. Cal.)

4. **Wrongful Retention of Personal Information** [7 events; 11 cases]
   - Company retained personal information after client terminated relationship [7 events; 11 cases]
     - Missaghi v. Blockbuster, Inc., Case No. 11-cv-02559 (D. Minn.)
     - Hodsdon v. Bright House Networks LLC, Case No. 2-cv-01580-AWI-JLT (D. Cal.)
     - Hodsdon v. DirectTV, Case No. 12-cv-02827 (N.D. Cal.)
     - Mendoza v. Microsoft, Inc., Case No. 13-cv-00378-DAE (W.D. Tex.)
     - Burton v. Time Warner Cable Inc., Case No. 2:12-cv-06764-JGB-AJW (C.D. Cal.)
     - Netflix
       - Comstock v. Netflix, Inc., Case No. 11-cv-01218-HRL (N.D. Cal.)
       - Doe v. Netflix, Inc., Case No. 6:09-cv-05903-JW (N.D. Cal.)
       - Milans v. Netflix, Inc., Case No. CV 11 0379. (N.D. Cal.)
       - Rura v. Netflix, Inc., Case No. 11-cv-01075 (N.D. Cal.)
       - Bernal v. Netflix, Case No. 11-cv-00820 (N.D. Cal.)
     - Priyev v. Google, Inc., Case No. 13-cv-00093-PSG (N.D. Ill.)

5. **Causes of Action**

In addition to sorting the class action complaints by the perceived harms, Fordham CLIP tabulated the asserted causes of action. Claims were brought under federal statutes, state statues, and common law actions. The most common federal claims asserted were under: the Stored Communications Act, Electronic Communications Privacy Act, and the Computer Fraud and Abuse Act. The greatest frequency of state claims was under California’s Unfair Competition Law and the California Consumers Legal Remedies Act. In other states, actions were oftentimes asserted under deceptive or unfair trade practice statutes. The common law cause of action that was most frequently asserted was for unjust enrichment, followed by contractual and quasi-contractual claims, privacy torts, and trespass to property. A breakdown of asserted causes of action in class action litigation involving online privacy is as follows:
a) Federal Statutes

- Stored Communications Act, 18 U.S.C. § 2701 et seq. [59 cases]
- Electronic Communications Privacy Act, 18 U.S.C. § 2510 et seq. [82 cases]
- Computer Fraud and Abuse Act, 18 U.S.C. § 1030 [51 cases]
- Fair Credit Reporting Act, 15 U.S.C. § 1681 [14 cases]
- Drivers Privacy Protection Act, 18 U.S.C. § 2725 [1 case]
- CAN SPAM Act, 15 U.S.C. § 7704(a) [1 case]
- Cable Communications Policy Act, 47 U.S.C. § 551 et seq. [2 cases]

b) State Statutes

- California
  - Cal. Const. Art. 1 Sec. 1 [6 cases]
  - CAL. CIV. CODE §§ 1572-1573 [5 cases]
  - California Customer Records Act, CAL. CIV. CODE § 1798.80 [17 cases]
  - Statutory Right of Publicity, CAL. CIV. CODE § 3344 [8 cases]
  - Unfair Competition Law, CAL. BUS. & PROF. CODE § 17200 et seq. [76 cases]
  - False Advertising Law, CAL. BUS. & PROF. CODE § 17500 [13 cases]
  - Consumers Legal Remedies Act, CAL. CIV. CODE § 1750 [47 cases]
  - Security Requirements for Consumer Records, CAL. CIV. CODE §§ 1798.29 and 1798.80 [3 cases]
  - California Internet Privacy Requirements Act, CAL. BUS. & PROF. CODE § 22575 [1 cases]
  - California Uniform Trade Secrets Act, CAL. CIV. CODE § 3426 [1 case]
  - California Invasion of Privacy Act, CAL. PENAL CODE § 630 et seq. [22 cases]
  - California Computer Criminal Law, CAL. PENAL CODE § 502 [36 cases]
- Colorado
  - COLO. REV. STAT. § 6-1-101 et seq. [1 case]
- Connecticut
  - Connecticut Unfair Trade Practices Act, CONN. GEN. STAT. § 42-110a et seq. [2 cases]
  - Civil Theft, CONN. GEN. STAT. § 52-564 [1 case]
- Delaware
  - Delaware Consumer Fraud Act, DEL. CODE § 2511 et seq. [1 case]
- Florida
  - Florida Communications Fraud Act, FLA. STAT. § 817.034 [1 case]
  - Florida Deceptive and Unfair Trade Practices Act, FLA. STAT. § 501.201-.213 [4 cases]
- Illinois
  - Illinoi Deceptive Trade Practice Act, 815 ILL. COMP. STAT. ANN. § 510/1 [4 cases]
  - Computer Tampering: 720 ILL. COMP. STAT. ANN. § 5/16D-3 [2 cases]
  - Illinois Eavesdropping Statute, 720 ILL. COMP. STAT. ANN. § 5/14-1 [2 cases]
- Kansas
  - KAN. STAT. ANN. § 50-623 et seq. [1 case]
- Maine
- Massachusetts
  - Massachusetts Consumer Protection Act, MASS GEN. LAWS ch. 93A, §2 [4 cases]
  - Massachusetts Data Privacy Law, 201 MASS. CODE REGS. 17.00 [1 case]
• Michigan
  o Michigan's Video Rental Privacy Act, MICH. COMP. LAWS § 445.1712 [1 case]
  o Michigan's Consumer Protection Act, MICH. COMP. LAWS § 445.903 [4 cases]
• Minnesota
  o Minnesota Deceptive Trade Practices Act, MINN. STAT. § 325D.44 [1 case]
• Nebraska
  o Nebraska Consumer Protection Act, NEB. REV. STAT. § 59-1602 [1 case]
  o Nebraska Deceptive Trade Practices Act, NEB. REV. STAT. § 87-302 [1 case]
• New Jersey
  o New Jersey Consumer Fraud Act, N.J. STAT. ANN. § 56:8-1 [1 case]
• New York
  o N.Y. GEN. BUS. LAW Art. 22A, §§ 349(a) & 350 [13 cases]
• North Carolina
  o Unfair and Deceptive Trade Practices Act, N.C. GEN. STAT. § 75-1.1 [2 cases]
• Ohio
  o OHIO REV. CODE ANN. § 1345.10 [1 case]
• Pennsylvania
  o Pennsylvania Wiretapping and Electronic Surveillance Act, PA. CONS. STAT. ANN. §§ 5701 & 5741 et seq. [1 case]
  o 73 PA. CONS. STAT. § 201-1 et seq. [1 case]
• Rhode Island
  o R.I. GEN. LAWS § 9-1-2 [1 case]
  o Rhode Island Deceptive Trade Practices Act, R.I. GEN. LAWS § 6-13.1 [1 case]
• Texas
  o Texas Deceptive Trade Practices Act, TEX. BUS. & COM. CODE § 17.45 [4 cases]
• Virginia
  o Virginia Consumer Protection Statute, VA. CODE ANN. § 59.1 et seq. [1 case]
• Washington
  o WASH. REV. CODE § 9.73.030 [2 cases]
  o WASH. REV. CODE § 19.86.010 [2 cases]

c) Common Law
• Unjust Enrichment [87 cases]
• Breach of Express Warranty [4 cases]
• Breach of Implied Warranty [3 cases]
• Breach of Contract [52 cases]
• Breach of Implied Contract [29 cases]
• Breach of the Implied Covenant of Good Faith and Fair Dealing [19 cases]
• Tortious Interference with Contract [3 cases]
• Tortious Interference with Business Relationship [3 cases]
• Breach of Fiduciary Duty [7 cases]
• Intentional Misrepresentation [2 cases]
• Negligent Misrepresentation [5 cases]
• Conversion [17 cases]
• Fraud [2 cases]
• Bailment [7 cases]
• Privacy Torts [65 cases]
- Invasion of Privacy
- Public Disclosure of Private Facts
- Invasion of Seclusion
- Misappropriation [3 cases]
- Promissory Estoppel [3 cases]
- Negligence [36 cases]
- Accounting [2 cases]
- Civil Conspiracy [2 cases]
- Trespass to Property [55 cases]
- Civil Theft [1 case]

IV. Summary
The following charts present the aggregate frequency distribution by category of the claims (FTC) and events (litigation). This shows that the most frequent privacy violation claimed for FTC actions is inadequate security, while the most frequent event from the perspective of class action litigation is the surreptitious collection of data.

**Most Frequently Claimed Violations of Online Privacy Rights (FTC)**

- Unauthorized Disclosure of Personal Information - 10% (51 claims)
- Surreptitious Collection of Personal Information - 21% (111 claims)
- Inadequate Security - 53% (275 claims)
- Wrongful Retention of Personal Information - 1% (6 claims)
- Children's Privacy - 15% (78 claims)
Most Frequently Asserted Online Privacy Harms (Class Action Litigation)

- Unauthorized Disclosure of Personal Information - 29% (29 events)
- Surreptitious Collection of Personal Information - 47% (47 events)
- Inadequate Security - 17% (17 events)
- Wrongful Retention of Personal Information - 7% (7 events)
TABLE OF CASES

Aguirre v. Quantcast Corp., Case No. 10-cv-5716 (C.D. Cal.)
Albini v. Zynga, Case No. 10-cv-4723 (N.D. Cal.)
Allan v. Yahoo!, Inc., Case No. CV 12 4034 (N.D. Cal.)
Amburgy v. Express Scripts, Inc., Case No. 09-cv-00705 (E.D. Mo.)
Anderson v. Google, Inc., Case No. 12-cv-01565-PSG (N.D. Cal.)
Baldwin v. AMR Corp., Case No. 04-cv-00750 (N.D. Tex.)
Beatty v. Facebook, Case No. 11-cv-01964 (D. Ariz.)
Bell v. Blizzard Entm’t., Case No. 12-cv-09475 (C.D. Cal.)
Bernal v. Netflix, Case No. 11-cv-00820 (N.D. Cal.)
Boorstein v. Men's Health Journal LLC, Case No. CV12-00771 (C.D. Cal.)
Bose v. Interclick, Inc., Case No. 10-cv-9183 (S.D.N.Y.)
Bose v. McDonald's Corp., Case No. 10-cv-09183-DAB (S.D.N.Y.)
Brkic v. Facebook, Inc., Case No. 11-cv-04935 (N.D. Cal.)
Bryant v. Facebook, Case No. Cv 10 5192 (N.D. Cal.)
Burdick v. Facebook, Inc., Case No. 12-cv-00799-EJD (W.D. Okla.)
Burns v. AOL Inc., Case No. 11-cv-11145 (D. Mass.)
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Campbell v. Facebook, Inc., Case No. 12-cv-00796 (W.D. Ark.)
Carmel-Jessup v. Facebook, Inc., Case No. Cv 10 4930 MEJ (N.D. Cal.)
Carroll v. Facebook, Inc., Case No. 12-cv-00370 (N.D. Cal.)
Carson v. Lendingtree LLC, Case No. 08-cv-00247 (W.D.N.C.)
Claridge v. Rockyou, Inc., Case No. 09-cv-06032-PJH (N.D. Cal.)
Cohen v. Facebook, Inc., Case No. 10-cv-05282-RS (N.D. Cal.)

Comstock v. Netflix, Inc., Case No. 11-cv-01218-HRL (N.D. Cal.)

Couch v. Space Pencil, Case No. 11-cv-05606-LB (C.D. Cal.)

Crouse v. Webloyalty.com, Inc., Case No. 06-cv-11834-JLT (D. Mass.)

Davis v. Facebook, Inc., Case No. 11-cv-04834-PSG (N.D. Cal.)

Davis v. Videoegg, Inc., Case No. CV 10-7112(CBM) (C.D. Cal.)

De Mars v. Google, Case No. 12-cv-01382 (N.D. Cal.)

Deacon v. Pandora Media, Inc., Case No. 11-cv-04674-LB (N.D. Cal.)

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E.K.D. v. Facebook, Inc., Case No. 12-cv-01216-LHK (S.D. Ill.)

Elkhettab v. Countrywide Fin. Corp., Case No. 08-cv-00638 (C.D. Cal.)

Elliot v. Amazon, Case No. 12-cv-00341 (W.D. Ky.)

Elvey v. TD AmeriTrade, Inc., Case No. 07-Civ-02852 (N.D. Cal.)

Feist v. RNC Corp., Case No. 11-cv-05436 (S.D.N.Y.)

Fraley v. Facebook, Inc., Case No. 11-cv-01726 (N.D. Cal.)

Franchise Dynamics, LLC v. Google, Inc., Case No. 12-cv-00793 (D. Del.)

Fread v. Google, Inc., Case No. 13-cv-01961-HRL (N.D. Cal.)

Frohberg v. Media Innovative Grp. LLC, Case No. 12-cv-02674-WFK-JO (E.D.N.Y.)

Fryar v. Viacom, Inc., Case No. 12-cv-03713 (S.D. Tex.)
FTC v. 30 Minute Mortg., Inc., FTC File No. 022-3224
FTC v. 77 Investigations, Inc., FTC File No. 062 3099
FTC v. Accusearch, Inc., FTC File No. 052 3126
FTC v. Action Research Grp., Inc., FTC File No. 072 3021
FTC v. Assail, Inc., FTC File No. 022-3147
FTC v. C.J. (a minor), FTC File No. 032-3101; 022-3209
FTC v. CEO Grp., Inc., FTC File No. 062 3100
FTC v. ControlScan, Inc., FTC File No. 072 3165
FTC v. Corporate Mktg. Solutions, Inc., FTC File No. 022-3001
FTC v. EchoMetrix, Inc., FTC File No. 102 3006
FTC v. Frostwire LLC, FTC File No. 112 3041
FTC v. Garrett, FTC File No. 012 3067; X010043
FTC v. Guzzetta, FTC File No. 012 3066
FTC v. Hill, FTC File No. 032 3102
FTC v. Info. Search, Inc., FTC File No. 062 3102; X010041
FTC v. Integrity Sec. & Investigation Servs., Inc., FTC File No. 062 3099
FTC v. LifeLock, Inc., FTC File No. 072 3069
FTC v. Navone, FTC File No. 072 3067
FTC v. Rennert, FTC File No. 992 3245
FTC v. Sun Spectrum Commc’ns Org., FTC File No. 032 3032
FTC v. ToySmart.com, LLC, FTC File No. X000075
FTC v. Wyndham Worldwide Corp., FTC File No. 102 3142
Funes v. Instagram, Inc., Case No. 12-civ-6482 (N.D. Cal.)
Gaos v. Google, Inc., Case No. 10-cv-04809 (N.D. Cal.)
Garvey v. Kissmetrics, Inc., Case No. CV 11-3764 (N.D. Cal.)
Garvey v. Metacafe, Inc., Case No. CV 11-5588 (E.D.N.Y.)
Glaser v. Google, Inc., Case No. 12-cv-00667 (D. Del.)
Godoy v. Quantcast Corp., Case No. 10-cv-07662 (C.D. Cal.)
Gould v. Facebook, Inc., Case No. 10-cv-02389-PVT (N.D. Cal.)
Graf v. Zynga Game Network, Inc., Case No. 10-cv-04680-JW (N.D. Cal.)
Green v. Cable One, Inc., Case No. 10-cv-00259 (N.D. Ala.)
Grisby v. Valve Corp., Case No. 11-cv-09905 (C.D. Cal.)
Gudac v. Zynga Games, Case No. 10-cv-04793 (N.D. Cal.)
Gutierrez v. Instagram, Inc., Case No. C 12-6550 (N.D. Cal.)
Habashy v. Amazon, Case No. 12-cv-10145 (D. Mass.)
Hammond v. BNY Mellon Corp., Case No. 08-cv-06060 (S.D.N.Y.)
Harris v. Comscore, Inc., Case No. 11-cv-05807 (N.D. Ill.)
Hemphill v. Countrywide Fin. Corp., Case No. 08-cv-00863 (E.D. Wis.)
Heretick v. Google, Inc., Case No. 12-cv-20888-KMW (S.D. Fla.)
Hodsdon v. Bright House Networks LLC, Case No. 2-cv-01580-AWI-JLT (D. Cal.)
Hodsdon v. DirecTV, Case No. 12-cv-02827 (N.D. Cal.)
Hoey v. Google, Inc., Case No. 12-cv-01448 (E.D. Pa.)
Howe v. Sony Computer Entm’t Am. LLC, Case No. 11-cv-01001-AJB –NLS (S.D. Cal.)
In re Aaron’s, Inc., FTC File No. 122 3256
In re ACRAnet, Inc., FTC File No. 092 3088
In re Aspen Way Enters., Inc., FTC File No. 112 3151
In re B. Stamper Enters., Inc., FTC File No. 112 3151
In re BJ’s Wholesale Club, Inc., FTC File No. 042 3160
In re Bonzi Software, Inc., FTC File No. 042 3016
In re Bonzi Software, Inc., FTC File No. 022 3273
In re C.A.L.M. Ventures, Inc., FTC File No. 112 3151
In re CardSystems Solutions, Inc., FTC File No. 052 3148
In re Cbr Sys., Inc., FTC File No. 112 3120
In re Ceridian Corp., FTC File No. 102 3160
In re Chitika, Inc., FTC File No. 102 3087
In re Collectify LLC, FTC File No. 092 3142
In re Compete, Inc., FTC File No. 102 3155
In re Compgeeks.com and Genica Corp., FTC File No. 082 3113
In re CVS Caremark Corp., FTC File No. 072 3119
In re Dave & Buster’s, FTC File No. 082 3153
In re Directors Desk LLC, FTC File No. 092 3140
In re DSW, Inc., FTC File No. 052 3096
In re Educ. Research Ctr. of America, Inc., FTC File No. 022 3249
In re Eli Lily and Co., FTC File No. 012 3214
In re Epic Marketplace, Inc., FTC File No. 112 3182
In re EPN, Inc., FTC File No. 112 3143
In re ExpatEdge Partners, LLC, FTC File No. 092 3138
In re Facebook Consumer Privacy Litig., Case No. 10-cv-00429-JF (N.D. Cal.)
In re Facebook, Inc., FTC File No. 092 3184
In re Fajilan and Assocs., Inc., FTC File No. 092 3089
In re Franklin’s Budget Car Sales, Inc., FTC File No. 102 3094
In re Gateway Learning Corp., FTC File No. 042 3047
In re GeoCities, FTC File No. 982 3015
In re Goal Fin., LLC, FTC File No. 072-3013
In re Google Inc. Cookie Placement Consumer Privacy Litig., Case No. 12-md-02358-SLR (D. Del.)
In re Google Inc. Street View Elec. Commc’n Litig., Case No. 10-md-02184 (N.D. Cal.)
In re Google Inc., FTC File No. 102 3136
In re Guess?, Inc., FTC File No. 022 3260
In re Guidance Software, Inc., FTC File No. 062 3057
In re HTC America, Inc., FTC File No. 122 3049
In re J.A.G. Rents, LLC, FTC File No. 112 3151
In re James B. Nutter & Co., FTC File No. 072 3108
In re Kelly, FTC File No. 112 3151
In re LabMD, Inc., FTC File No. 102 3099
In re Liberty Fin. Co., FTC File No. 982 3522
In re Life is good, Inc., FTC File No. 072-3046
In re LinkedIn User Privacy Litig., Case No. 12-cv-03088 (N.D. Cal.)
In re Lookout Servs., Inc., FTC File No. 102 3076
In re Microsoft Corp., FTC File No. 012 3240
In re MTS, Inc., FTC File No. 032-3209
In re Myspace LLC, FTC File No. 102 3058
In re Nat’l Research Ctr. For Coll. and Univ. Admissions, Inc., FTC File No. 022 3005
In re Nations Title Agency, Inc., FTC File No. 052 3117
In re Nationwide Mortg. Grp., Inc., FTC File No. 042-3104
In re Onyx Graphics, Inc., FTC File No. 092 3139
In re Petco Animal Supplies, Inc., FTC File No. 032 3221
In re Premier Capital Lending, Inc., FTC File No. 062 3099
In re Premier Capital Lending, Inc., FTC File No. 072 3004
In re Red Zone Inv. Grp., Inc., FTC File No. 112 3151
In re Reed Elsevier Inc., FTC File No. 052-3094
In re Rite Aid Corp., FTC File No 072 3121
In re ScanScout, Inc., FTC File No. 102 3185
In re Sears Holdings Mgmt. Corp., FTC File No. 082 3099
In re SettlementOne Credit Corp., FTC File No. 082 3208
In re Showplace, Inc., FTC File No. 112 3151
In re Sony BMG Music Entm't, FTC File No. 062 3019
In re Sunbelt Lending Servs., Inc., FTC File No. 042 3153
In re Superior Mortg. Corp., FTC File No. 052 3136
In re The TJX Cos., Inc., FTC File No. 072-3055
In re TJX Cos. Security Breach Litig., Case No. 07-cv-10162 (D. Mass.)
In re TRENDnet, Inc., FTC File No. 122 3090
In re Twitter, Inc., FTC File No. 092 3093
In re Upromise, Inc., FTC File No. 102 3116
In re US Search, Inc., FTC File No. 102 3131
In re Vision I Props., LLC, FTC File No. 042 3068
In re Watershed Dev. Corp., FTC File No. 112 3151
In re World Innovators, Inc., FTC File No. 092 3137
In re Zappos Security Breach Litig., Case No. 12-cv-00182-RCJ-VCF (D. Nev.)
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Interzekostas v. Fox Entm’t Grp., Case No. 10-cv-06586 (C.D. Cal.)

Irwin v. RBS Worldpay, Inc., Case No. 09-cv-00033 (N.D. Ga.)

Joffe v. Google, Inc., Case No. 10-cv-4007-HRL (N.D. Cal.)

Johnson v. Microsoft, Inc., Case No. 06-cv-00900-RSM (W.D. Wash.)

Johnson v. Sony Computer Entm’t Am. LLC, Case No. 11-cv-1268 BTM WMc (S.D. Cal.)

Kairoff v. Dropbox, Inc., Case No. 11-cv-02508 (N.D. Cal.)

Kaufman v. SpecificMedia Inc., Case No. 10-cv-01891 (C.D. Cal.)

Keyes v. Google, Inc., Case No. 10-cv-03638 (D.D.C.)

Kim v. Space Pencil, Inc., Case No. 11-cv-03796 (N.D. Cal.)

Kimmell v. AMR Corp., Case No. 04-cv-00750 (N.D. Tex.)

Kirch v. Embarq Mgmt. Co., Case No. 10-cv-02047-JAR-GLR (D. Kan.)

Kreisman v. Google, Inc., Case No. 12-cv-01470 (N.D. Ill.)

La Court v. Specific Media, Inc., Case No. 10-cv-01256-JVS –VBK (C.D. Cal.)

Landrum v. Google, Inc., Case No. 12-cv-02389-HGD (N.D. Ala.)

Lane v. Facebook, Case No. 08-Civ-03845 (N.D. Cal.)

Laos v. Sony Computer Entm’t Am. LLC, Case No. 11-cv-01575-JM (S.D. Cal.)

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Lewis-Griffin v. RBS Wordpay, Case No. 09-cv-01601 (N.D. Ohio)

LG v. Google, Inc., Case No. C-12-6555 (N.D. Cal.)

London v. New Albertson, Case No. 08-cv-01173 (S.D. Cal.)

Low v. LinkedIn Corp., Case No. 11-CV-01468-LHK (C.D. Cal.)

Maguire v. Facebook, Inc., Case No. 12-cv-0807 (N.D. Cal.)

Maloney v. Facebook, Case No. 12-cv-00824 (S.D. Ohio)
Markowitz v. Facebook, Inc., Case No. c10-00430 (N.D. Cal.)

Martin v. Countrywide Fin. Corp., Case No. 08-cv-06042 (C.D. Cal.)

Martorana v. Google, Inc., Case No. 12-cv-00744-SLR (W.D. Mo.)

Mazzone v. Vibrant Media Inc., Case No. 12-cv-02672-NGG-JO (E.D.N.Y.)

Mendoza v. Microsoft, Inc., Case No. 13-cv-00378-DAE (W.D. Tex.)

Michaeli v. Exact Adver., Case No. 05-cv-8331 (S.D.N.Y.)

Milans v. Netflix, Inc., Case No. CV 11 0379. (N.D. Cal.)

Missaghi v. Blockbuster, Inc., Case No. 11-cv-02559 (D. Minn.)

Mortensen v. Bresnan Comm’n, Case No. 10-cv-00013 (D. Montana)

Moses v. Countrywide Fin. Corp., Case No. 08-cv-05416 (C.D. Cal.)

Mount v. Pulsepoint, Inc., Case No. 13-cv-6592 NRB (S.D.N.Y.)

Movitz v. Google, Inc., Case No. 12-cv-00743 (N.D. Miss.)

Myhre v. Google, Inc., Case No. 10-cv-01444-TSZ (W.D. Wash.)

Nardi v. Sony Computer Entm’t. Am. LLC, Case No. 11-cv-00962-PAG (N.D. Ohio)

Nisenbaum v. Google, Inc., Case No. 12-cv-02059 (S.D.N.Y.)

Nobles v. Google, Inc., Case No. 12-cv-03589-LB (N.D. Cal.)

Paraggua v. LinkedIn, Case No. 12-cv-3430 (N.D. Cal.)

Parrish v. Facebook, Case No. 12-cv-00667 (N.D. Ala.)

Penson v. Amazon, Case No. 12-cv-00340 (W.D. Ky.)

Perkins v. LinkedIn, Case No. 13-cv-04303-HRL (N.D. Cal.)

Peterson v. Sony Computer Entm’t Am. LLC, Case No. 11-cv-2242 RS (N.D. Cal.)

Povitz v. Northwest Airlines, Case No. 04-cv-00136 (D. Minn.)

Priyev v. Google, Inc., Case No. 13-cv-00093-PSG (N.D. Ill.)

Purcell v. Spokeo, Inc., Case No. 10-cv-03978-HRL (N.D. Cal.)
Quinn v. Facebook, Case No. 12-cv-00797 (D. Haw.)

Reaves v. Cable One, Inc., Case No. 11-cv-00469-JAT (D. Ariz.)

Relethford v. Amazon, Case No. 12-cv-00864 (D. Nev.)

Rischar v. Google, Inc., Case No. 12-cv-00742-SLR (D. Kan.)

Robertson v. Facebook, Inc., Case No. 10-cv-02408 (N.D. Cal.)

Robins v. Spokeo, Inc., Case No. 20-cv-05306-ODW-AGR (C.D. Cal.)

Rona v. Clearspring Techs. Inc., Case No. CV 10-7786 (C.D. Cal.)

Rosenberg v. AMR Corp., Case No. 04-cv-02564 (E.D.N.Y.)

Rosenberg v. Ascent Tech. Inc., Case No. 05-cv-01040 (D. Mass.)

Rura v. Netflix, Inc., Case No. 11-cv-01075 (N.D. Cal.)

Schreiber v. Zynga Game Network, Case No. Cv-10-4794 (N.D. Cal.)

Scott v. Google, Inc., Case No. 12-cv-03413 PSG (N.D. Cal.)

Silverstri v. Facebook, Inc., Case No. c10-00429 (N.D. Cal.)

Simios v. 180Solutions, Inc., Case No. 05-cv-05235 (N.D. Ill.)

Singley v. Facebook, Inc., Case No. 11-cv-00874 (W.D. Tex.)

Slater v. Tagged, Inc., Case No. 09-cv-3697 (N.D. Cal.)

Spinozzi v. Lendingtree LLC, Case No. 08-cv-00229 (W.D.N.C).*n

Starrett v. Realnetworks, Inc., 1999 WL 33756882 (E.D. Pa.)

Stevens v. Amazon, Case No. 12-cv-00339 (W.D. Ky.)

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Stravato v. Facebook, Case No. 12-cv-00800 (D.R.I.)

Svenson v. Google, Inc., Case No. 13-cv-04080 (N.D. Cal.)

Szpyrka v. LinkedIn, Case No. 12-cv-03088 (N.D. Cal.)

Thompson v. Sony Online Entm’t. LLC, Case No. 11-cv-2340 (N.D. Cal.)
TM v. Viacom, Inc., Case No. 12-cv-01295 (S.D. Ill.)
Unger v. Jetblue Airways Corp., Case No. 03-cv-228-4 (S.D. Fla.)
United States v. American Pop Corn Co., FTC File No. 012 3026
United States v. Artist Arena LLC, FTC File No. 112 3167
United States v. ChoicePoint Inc., FTC File No. 052-3069
United States v. Godwin, FTC File No. 1123033
United States v. Google Inc., Civil Action No. 512-cv-04177-HRL
United States v. Hershey Foods Corp., Civil Action No. 4CV-03-350
United States v. Iconix Brand Group, FTC File No. 923032
United States v. Imbee.com, FTC File No. 072-3082
United States v. Industrious Kid, Inc., FTC File No. 072-3082
United States v. Lisa Frank, Inc., FTC File No. 012-3050
United States v. Looksmart, Ltd., FTC File No. 002 3379
United States v. Monarch Servs., Inc., FTC File No. 002 3375
United States v. Mrs. Fields Famous Brands, Inc., Civil Action No. 203 CV205 JTG
United States v. Path, Inc., FTC File No. 122 3158
United States v. Playdom, Inc., FTC File No. 1023036
United States v. PLS Fin. Servs., Inc., FTC File No. 102 3172
United States v. Rental Research Servs., Inc., FTC File No. 072 3228
United States v. RockYou, Inc., FTC File No. 1023120
United States v. Sony BMG Music Entm’t, FTC File No. 082 3071
United States v. The Ohio Art Co., FTC File No. 022-3028
United States v. UMG Recordings, Inc., Civil Action No. CV-04-1050 JFW (Ex)
United States v. ValueClick, Inc., FTC File No. 072-3111; 072-3158
United States v. W3 Innovations, LLC, FTC File No. 102 3251
United States v. Xanga.com, Inc., FTC File No. 062-3073
Valdez v. Quantcast, Case No. 10-cv-05484 (C.D. Cal.)
Valentine v. Nebuad, Case No. 08-cv-05113-TEH (N.D. Cal.)
Valentine v. Wideopen W. Fin., Case No. 09-cv-07653 (N.D. Ill.)
Vasquez v. Classmates Online, Inc., Case No. 09-cv-00104 (W.D. Wash.)
Veith v. LinkedIn, Corp., Case No. 12-cv-03557-PSG (N.D. Cal.)
Vickery v. Facebook, Case No. 12-cv-00801 (W.D. Wash.)
Villegas v. Google, Inc., Case No. 12-cv-00915-PSG (N.D. Cal.)
Virtue v. Myspace, Inc., Case No. 11-cv-01800-RRM –RML (E.D.N.Y.)
Walker v. Facebook, Case No. 12-cv-00798 (D. Mont.)
Weber v. Google, Case No. 10-cv-5035 (N.D. Cal.)
White v. Clearspring Tech., Case No. 10-cv-5948 (C.D. Cal.)
Wilkinson v. Countrywide Fin. Corp., Case No. 08-cv-00356 (D. Me.)
Yngelmo v. Google, Inc., Case No. 12-cv-00745 (D.N.J.)
Young v. W. Pub. Co., Case No. 09-cv-22426 (S.D. Fla.)
Yunker v. Pandora Media, Case No. 11-cv-3113 (N.D. Cal.)
Zigler v. TDAmeriTrade, Inc., Case No. 07-cv-04903 (N.D. Cal.)