

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SANDRA TRIO, individually and on behalf)	
of all others similarly situated,)	
)	
Plaintiff,)	
)	No. 1:21-cv-4409
v.)	
)	
TURING VIDEO, INC.,)	
)	
Defendant.)	

NOTICE OF REMOVAL

Defendant Turing Video, Inc. (“Turing”) hereby removes this putative class action from the Circuit Court of Cook County, Illinois, to the United States District Court for the Northern District of Illinois, Eastern Division. This Court has jurisdiction under the Class Action Fairness Act (“CAFA”) because minimal diversity exists and, on the face of Plaintiff’s pleadings, the maximum amount in controversy exceeds \$5 million. *See* 28 U.S.C. §§ 1332(d), 1441, 1446, and 1453(b). Removal is timely under 28 U.S.C. § 1446(b)(1).

I. Overview of Claims Asserted and Relief Sought

Turing is a California corporation with its principal place of business in California. Plaintiff Sandra Trio’s Class Action Complaint asserts that she used a COVID-19 screening kiosk, which collected her purported biometric data in violation of the Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.* *See* Compl. ¶¶ 53-59 (attached as part of **Exhibit A**).¹

Plaintiff alleges violations of two separate subparts of BIPA’s Section 15. Compl. ¶¶ 78-96. Plaintiff alleges Turing:

¹ **Exhibit A** is “a copy of all process, pleadings, and orders served” on Turing. *See* 28 U.S.C. § 1446(a).

- 1) Failed to obtain informed written consent and a release before obtaining biometric identifiers, in violation of Section 15(b) (Compl. ¶¶ 84-85); and
- 2) Disclosed biometric identifiers and information before obtaining consent, in violation of Section 15(d). Compl. ¶¶ 94-95.

For each alleged count, Plaintiff also seeks injunctive relief, which includes enjoining Turing from further alleged BIPA non-compliance. Compl. at 20 ¶ E, Prayer for Relief.

Plaintiff defines the putative class as follows: “All individuals in the State of Illinois who had their facial geometry, fingerprints, or other biometric data collected, captured, received, obtained, maintained, stored, disseminated or disclosed by Turing during the applicable statutory period.” *Id.* ¶ 68.

II. Removal is Proper Under CAFA

This Court has jurisdiction under CAFA because this lawsuit is a purported class action (Compl. ¶ 66) in which (A) minimal diversity exists; and (B) the amount in controversy exceeds \$5 million. *See* 28 U.S.C. § 1332(d)(1)(B) (defining “class action” to include state law class actions); 28 U.S.C. § 1332(d)(2) (granting district courts original jurisdiction over purported class actions in which the amount in controversy exceeds \$5 million and “any member of a class of plaintiffs is a citizen of a State different from any defendant”); 28 U.S.C. § 1446 (permitting removal).

A. Minimal Diversity Exists

Minimal diversity exists where “any member of a class of plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C. § 1332(d)(2). Plaintiff is a citizen of Illinois. Compl. ¶ 24. Turing is a citizen of the state of its incorporation and its principal place of business—California. Xing Zhong Decl., ¶ 3 (attached as **Exhibit B**); Compl. ¶ 25. Accordingly, Turing is not a citizen of Illinois, and minimal diversity exists.

B. The Amount in Controversy Exceeds \$5,000,000

Here, the amount in controversy “exceeds the sum or value of \$5,000,000, exclusive of interest and costs.” 28 U.S.C. § 1332(d)(2). The Complaint asserts two types of alleged violations, and seeks statutory damages for “each” violation (e.g., Compl. ¶ 87), and CAFA requires “the claims of the individual [purported class] members [to] be aggregated.” 28 U.S.C. § 1332(d)(6).

Plaintiff alleges she worked at a Jewel-Osco from April 2019 to June 2021 and was required to scan her facial geometry each time she began her workday. Compl. ¶¶ 53-56. Plaintiff seeks to represent a class that “exceeds 100 individuals” in Illinois who had their facial scans collected and disseminated by Turing “during the applicable statutory period.”² Compl. ¶¶ 68, 70. As relief, Plaintiff seeks, among other things, “statutory damages of \$5,000 for *each* intentional and/or reckless violation of BIPA pursuant to 740 ILCS § 14/20(2) or, in the alternative, statutory damages of \$1,000 for each negligent violation of BIPA pursuant to 740 ILCS § 14/20(1).” *Id.* at 20, ¶ C. A total of 100 individuals who each allegedly had their facial geometry scanned by Turing only once a month from April 2019 to June 2021 would yield a maximum amount in controversy that meets the jurisdictional prerequisite for the two BIPA violations alleged ($100 \times 25 \times \$5,000 \times 2 = \$25,000,000$).³ Thus, as alleged and taking into consideration the relevant facts, the amount-in-controversy requirement is satisfied. *See Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014) (“[A] defendant's notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.”).

² Illinois courts have not decided if a five-year, two-year, or one-year statute of limitations applies to BIPA claims.

³ Even if Illinois courts decide a one-year statute of limitations applies to BIPA claims, Plaintiff’s allegations meet the jurisdictional amount in controversy based on each individual allegedly having their facial geometry scanned once a month for a year ($100 \times 12 \times \$5,000 \times 2 = \$12,000,000$).

III. The Procedural Requirements for Removal Have Been Satisfied

This notice is timely. A notice of removal must be filed within 30 days of service. 28 U.S.C. § 1446(b). Turing was served on July 20, 2021. **Ex. B.** Counting forward 30 days comes to August 19, 2021.

Today, Turing timely files this notice with the Circuit Court of Cook County, along with an executed copy of the Notice of Filing Notice of Removal. Turing also serves those filings on all parties. 28 U.S.C. § 1446(d).

Dated: August 18, 2021

Respectfully submitted,

TURING VIDEO, INC.

By: /s/ Erin Bolan Hines

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CERTIFICATE OF SERVICE

I, Erin Bolan Hines, an attorney, hereby certify that on **August 18, 2021**, I caused a true and correct copy of **NOTICE OF REMOVAL** to be served by electronic mail on counsel of record in this matter in the Circuit Court of Cook County, addressed as follows:

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