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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
UNLIMITED JURISDICTION**

MIGUEL ESPARZA, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

GLASSES USA, INC., a Delaware entity d/b/a
WWW.GLASSESUSA.COM,

Defendant.

Case No. **24STCV30648**

**CLASS ACTION COMPLAINT FOR
VIOLATION OF CALIFORNIA INVASION
OF PRIVACY ACT**

(Amount to Exceed \$35,000)

1 **INTRODUCTION**

2 1. Californians increasingly conduct their lives and activities over the Internet, sharing
3 often sensitive personal information with companies by using company websites rather than landline
4 telephones.

5 2. Defendant created its own online presence at *glassesusa.com* (the “Website”) to
6 communicate with potential customers, encouraging engagement with this electronic medium –
7 Defendant’s Website -- as an alternative to the telephonic or in-person interaction. Defendant did this
8 to enable potential customers to obtain information from and about Defendant’s goods and services, and
9 to enable Defendant to elicit information from potential customers about their specific needs and desires.

10 3. Defendant well understands that its Website is a means to communicate privately with
11 potential customers – a consumer expectation that is not only reasonable, but actively nurtured by
12 Defendant. Indeed, Defendant assures visitors to its website that *“We are committed to protecting your*
13 *rights to privacy...”* and *“We safeguard your information...”* See
14 <https://www.glassesusa.com/privacy-policy> (last accessed November 2024).

15 4. Defendant’s promise is false. In reality, Defendant aids a third party (ByteDance, a
16 Beijing-based company that owns and controls TikTok and which is under investigation by the United
17 States Department of Justice for spying on American citizens) to surveil its interactions with visitors to
18 its Website, thereby allowing TikTok to create detailed portraits of Website visitors’ interests, needs,
19 and desires.¹

20 5. In short, Defendant falsely promised Website visitors that it would protect their privacy,
21 but then secretly monetized their personal information by enabling TikTok to spy on those visitors,
22 surveil their journey across the web, track their location and lifestyle habits, and bombard them with
23 targeted advertising. Rather than candidly disclose this arrangement, Defendant explicitly and
24 implicitly assured Website visitors that their identities and privacy would be protected. In short,
25 Defendant lied.

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28 ¹ While the allegations in this Complaint focus on ByteDance and TikTok, the website plays host to a cornucopia of other invasive tracking and surveillance products, details of which will be explored in discovery.

1 14. The TikTok Software acts via a process known as “fingerprinting.” Put simply, the
2 TikTok Software collects as much data as it can about an otherwise anonymous visitor to the Website
3 and matches it with existing data TikTok has acquired and accumulated about hundreds of millions of
4 Americans.

5 15. The TikTok Software gathers device and browser information, geographic information,
6 referral tracking, and url tracking by running code or “scripts” on the Website to send user details to
7 TikTok.

8 16. The TikTok Software begins to collect information the moment a user lands on the
9 Website before any pop-up or cookie banner advises users of the invasion or seeks their consent.

10 17. The TikTok Software also requests, validates, and transmits other identifying
11 information, including a website visitor’s phone numbers and email addresses.

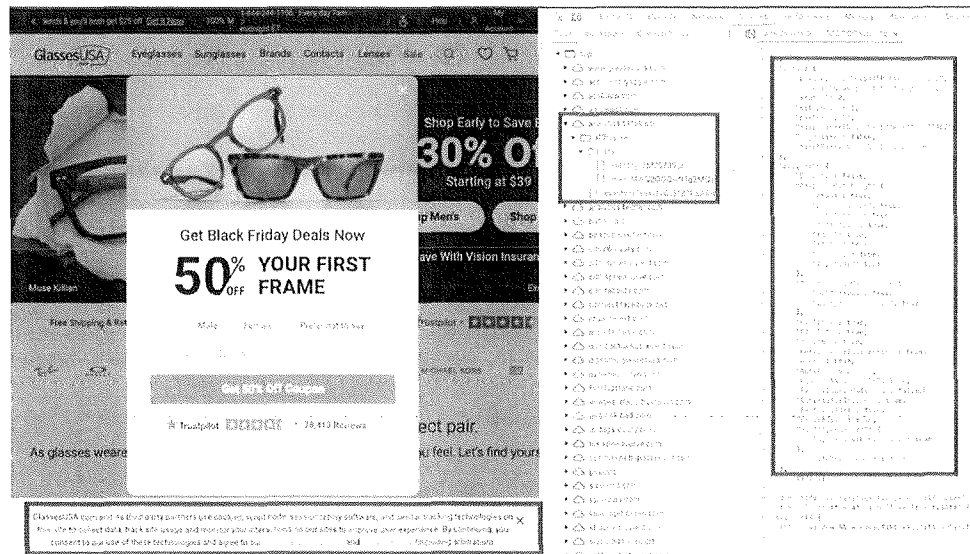
12 18. According to a leading data security firm, the TikTok tracking pixel secretly installed on
13 Defendant’s website is particularly invasive. The pixel “immediately links to data harvesting platforms
14 that pick off usernames and passwords, credit card and banking information and details about users’
15 personal health.” The pixel also collects “names, passwords and authentication codes” and “transfer the
16 data to locations around the globe, including China and Russia”, and does so “before users have a chance
17 to accept cookies or otherwise grant consent.” *See Aaron Katersky, TikTok Has Your Data Even If*
18 **You’ve Never Used The App: Report**, ABC News (last accessed October 2024),
19 <https://abcnews.go.com/Business/tiktok-data-app-report/story?id=97913249>.

20 19. By sharing plaintiff’s and class members’ personal and de-anonymized data with
21 TikTok, Defendant effectively “doxed” them to America’s most formidable geopolitical adversary. *See*
22 <https://www.cnn.com/2023/06/08/tech/tiktok-data-china/index.html>, *Analysis: There is now some*
23 **public evidence that China viewed TikTok data** (quoting sworn testimony from former employee But
24 Yu that Chinese Communist Party officials “used a so-called ‘god credential’ to bypass any privacy
25 protections to spy on civil rights activists’ ‘unique user data, locations, and communications.’”) (last
26 accessed October 2024).

27 20. Plaintiff is both (1) genuinely interested in the goods, services, and information available
28 on Defendant’s Website, and (2) a consumer privacy advocate who works as a “tester” to ensure that

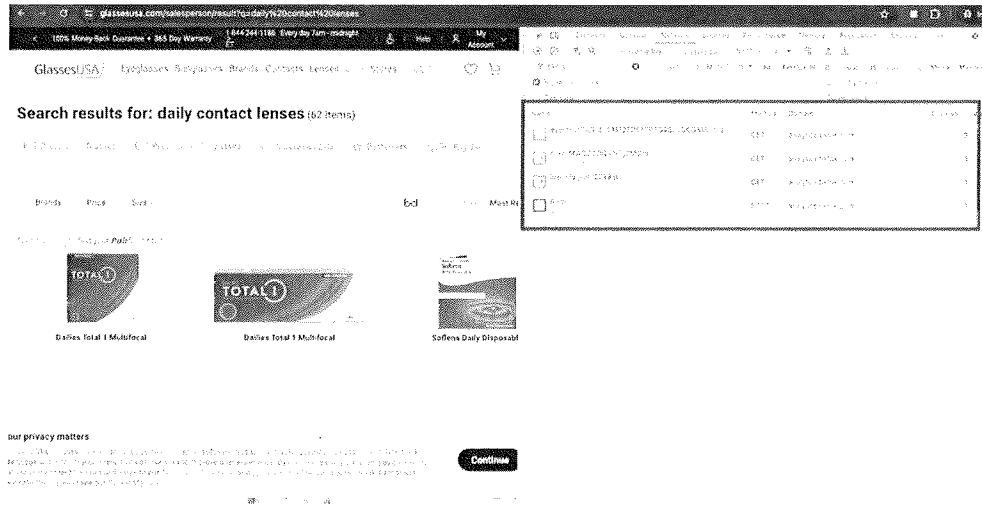
1 companies abide by the privacy obligations imposed by California law. As the Ninth Circuit recently
2 made exceptionally clear that it is “necessary and desirable for committed individuals to bring serial
3 litigation” to enforce and advance consumer protection statutes, and that Courts must not make any
4 impermissible credibility or standing inferences against them. *Langer v. Kiser*, 57 F.4th 1085, 1095
5 (9th Cir. 2023). In other words, Plaintiff is exactly the type of person who the Chinese Communist
6 Party has used TikTok to spy upon in the past.

7 21. An image of the invasive TikTok code secretly embedded on Defendant’s Website and
8 which is automatically deployed on the browser, without consent provided by the user, can be see can
9 here:



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20 22. The Website instantly sends communications to TikTok when a user views the page and
21 tracks page interactions. In the example below, the right side of the image shows the various TikTok
22 scripts being run by Defendant, and the electronic impulses being sent to TikTok to add to their
23 collection of user behavior:

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The TikTok Software is a Trap and Trace Device.

23. California law defines a “trap and trace device” as “a device or process that captures the incoming electronic or other impulses that identify the originating number or other dialing, routing, addressing, or signaling information reasonably likely to identify the source of a wire or electronic communication, but not the contents of a communication.” California Penal Code § 638.50(c).

24. The TikTok Software is a process to identify the source of electronic communication by capturing incoming electronic impulses and identifying dialing, routing, addressing, and signaling information generated by users, who are never informed that the website is collaborating with the Chinese government to obtain their phone number and other identifying information.

25. The TikTok Software is “reasonably likely” to identify the source of incoming electronic impulses. In fact, it is designed solely to meet this objective.

26. Defendant did not obtain Plaintiff’s express or implied consent to be subjected to data sharing with TikTok for the purposes of fingerprinting and de-anonymization.

27. CIPA imposes civil liability and statutory penalties for the installation of trap and trace software without a court order. California Penal Code § 637.2; *see also Greenley v. Kochava*, 684 F. Supp. 3d 1024, 1050 (S.D. Cal. 2023). No court order to install a trap and trace device via the TikTok Software was obtained by Defendant.

1 28. Defendant did not obtain Plaintiff’s or class members’ express or implied consent to be
2 subjected to data sharing with TikTok for the purposes of fingerprinting and de-anonymization.

3 **CLASS ALLEGATIONS**

4 29. Plaintiff brings this action individually and on behalf of all others similarly situated (the
5 “Class”) defined as follows:

6 **All California citizens whose personal information was shared with TikTok**
7 **or other third parties by Defendant without their effective and informed**
8 **prior consent.**

9 30. NUMEROSITY: Plaintiff does not know the number of Class Members but believes the
10 number to be in the tens of thousands. The exact identities of Class Members may be ascertained by
11 the records maintained by Defendant.

12 31. COMMONALITY: Common questions of fact and law exist as to all Class Members,
13 and predominate over any questions affecting only individual members of the Class. Such common
14 legal and factual questions, which do not vary between Class members, and which may be determined
15 without reference to the individual circumstances of any Class Member, include but are not limited to
16 the following:

- 17 a. Whether Defendant shared class members’ personal information with
- 18 TikTok or other third parties;
- 19 b. Whether Defendant obtain effective and informed consent to do so;
- 20 c. Whether Plaintiff and Class Members are entitled to statutory penalties;
- 21 and
- 22 d. Whether Class Members are entitled to injunctive relief.

23 32. TYPICALITY: As a person who visited Defendant’s Website and whose personal
24 information was shared by Defendant, Plaintiff is asserting claims that are typical of the Class.

25 33. ADEQUACY: Plaintiff will fairly and adequately protect the interests of the members
26 of the Class. Plaintiff has retained attorneys experienced in the class action litigation. All individuals
27 with interests that are actually or potentially adverse to or in conflict with the class or whose inclusion
28 would otherwise be improper are excluded.

1 43. Therefore, Plaintiff and class members are entitled to the relief set forth below.

2 **PRAYER**

3 WHEREFORE, Plaintiff prays for the following relief against Defendant:

- 4 1. An order certifying the class and making all appropriate class management orders;
- 5 2. Statutory damages pursuant to CIPA;
- 6 3. Reasonable attorneys' fees and costs; and
- 7 4. All other relief that would be just and proper as a matter of law or equity, as determined
- 8 by the Court.

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10 Dated: November 20, 2024

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

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12 By: Todd M. Friedman

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14 Todd M. Friedman, Esq.
Attorneys for Plaintiff

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