California Activists Challenge Clearview AI on Biometric Surveillance

Mijente, NorCal Resist, and local activists sued the facial recognition company Clearview AI today over its unlawful surveillance activities. The lawsuit alleges that the company’s surveillance technology violates privacy rights and facilitates government monitoring of protesters, immigrants, and communities of color. Clearview’s facial recognition tool—which allows instantaneous identification and tracking of people targeted by law enforcement—chills political speech and other protected activities, the suit argued.

The lawsuit was filed in the Alameda County Superior Court on behalf of Mijente, NorCal Resist, and four individual plaintiffs, including a DACA recipient, who allege that Clearview AI violated their rights under the California constitution, California’s consumer protection and privacy laws, and California common law.

“Privacy is enshrined in the California constitution, ensuring all Californians can lead their lives without the fear of surveillance and monitoring,” said Sejal Zota, a lead attorney in the case and the legal director of Just Futures Law, a law project working to support grassroots organizations. “Clearview AI upends this dynamic, making it impossible to walk down the street without fear your likeness can be captured, stored indefinitely by the company, and used against you any time in the future. There can be no meaningful privacy in a society with Clearview AI.”

Clearview AI has amassed a database of over three billion facial scans by scraping photos from websites like Facebook, Twitter, and Venmo, violating these companies’ terms of service and storing user images without permission. This database is then sold to law enforcement departments, government agencies, and private companies across the world: More than 2,400 law enforcement agencies in the United States have contracts with Clearview AI, including Immigration and Customs Enforcement (ICE), and it has been used by the FBI, Customs and Border Protection (CBP), and companies like Walmart, Kohl’s, and Wells Fargo.
“The scope of Clearview’s reach alone should terrify,” said Jacinta Gonzalez, a senior campaign organizer at Mijente, a Latinx and Chicano organizing hub and leader of the #NoTechforICE campaign. “Thousands of local police officers and federal agents, including ICE agents, can pull up Clearview on their phones, take your photo, and know everything about you—whether you’re at a protest, on the subway, or on the side of the road. This is going to be used to surveil us, arrest us, and in some cases deport us.”

The individuals filing the lawsuit are all activists who have participated in various political movements critical of the police and ICE. They have supported Black Lives Matter, criticized ICE and the police on online platforms, and organized fundraisers for immigrants confined in detention facilities. All of these constitutionally protected activities open them up to retaliation by ICE and the police.

“I was an early adopter of social media because I saw its potential in connecting me with friends and families across borders and offered me, and countless others, a platform to make our voices heard when traditional media gatekeepers ignored us. Having my image scraped and sold to police, is not something I signed up for. The danger to me, my family, and to the communities I care about is not abstract, this powerful tool in the hands of police is harmful,” said Steven Renderos, an individual plaintiff and resident of Alameda County. Renderos is also the executive director of the Oakland-based Center for Media Justice.

“Allowing Clearview to continue building its illicit surveillance database would be the end of privacy as we know it,” said Ellen Leonida, partner at BraunHagey & Borden, LLP, who is also representing the plaintiffs. “Clearview's technology gives governments and corporations unprecedented abilities to spy on us wherever we go—protests, houses of worship, medical appointments, etc.”

The suit is seeking an immediate injunction to Clearview AI's operations in California, stopping the company from collecting any biometric data in the state. The suit also seeks the immediate deletion of any facial scans and other personal data of Californians already held by Clearview in its databases.

“Clearview AI is a danger to our community,” said Autumn Gonzalez, an organizer with NorCal Resist. "We have the constitutional right to speak out against injustice, but rights become hollow when folks are too frightened of the possibility of surveillance and retaliation to exercise them. Regardless of whether surveillance of activists is being conducted by the police, by ICE, or a private corporation, it's wrong and needs to end."

In January, Canada banned Clearview AI altogether, ordering the company to cease operation in the country and delete all Canadians’ data. The European Union also recently said that Clearview’s practices violate European privacy laws. Governments from Australia to Sweden to the United Kingdom have launched their own investigations into the company.

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