

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
DAVENPORT DIVISION

BRITTNEY STOUDEMIRE, AMANDA VOSE,
LUCINDA JACKSON, DANA FOLEY,
DOUGLAS CASTLE and BARBARA
GRAZIOLI on Behalf of Themselves and All
Others Similarly Situated,

Plaintiffs,

v.

LEE ENTERPRISES, INC.

Defendant.

Civil Action No. _____

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiffs Brittney Stoudemire, Amanda Vose, Lucinda Jackson, Dana Foley, Douglas Castle, and Barbara Grazioli (“Plaintiffs”), individually and on behalf of all others similarly situated, by and through their undersigned counsel, bring this class action complaint against Defendant Lee Enterprises, Inc. (“Lee” or “Defendant”). Plaintiffs allege the following upon information and belief based on the investigation of counsel, except as to those allegations that specifically pertain to Plaintiffs, which are alleged upon personal knowledge.

NATURE OF THE ACTION

1. This is a class action brought on behalf of all persons who subscribed to a news website owned and operated by Defendant.¹

2. The Lee Sites provide users with access to articles and pre-recorded video content.

¹ Upon information and belief, the Lee news media websites (the “Lee Sites”) at issue include the 90 websites owned by Lee, as listed at <https://lee.net/markets/>.

3. On the Lee Sites, Defendant offers the option for users to subscribe to newsletters or subscribe to paid and unpaid accounts (collectively the “Subscribers”), all of which provide access to articles and video content, and, in exchange, require subscribers to provide personal information, including names and mailing addresses.

4. Defendant does not adequately disclose on the Lee Sites, however, that subscribers’ personal identifying information is captured by tracking methods utilized by Defendant (referred to as the “Tracking Methods,” discussed and defined herein), and then transferred to Facebook.

5. Data sharing policies for a service or subscription is an important factor for individuals deciding whether to provide personal information to that service.

6. Congress recognized the potential harm caused by associating a person’s personally identifiable information in conjunction with their video watching. Congress, therefore, passed the Video Privacy Protection Act (“VPPA”), prohibiting video tape service providers,² such as Defendant, from sharing personally identifiable information (“PII”) tied to the title, description, or subject matter of prerecorded audio video material³ (the “Video Watching Data”) without valid consent.⁴

7. Defendant has implemented and utilized the Tracking Methods which track user activity on the Lee Sites and disclose that information to Facebook. In other words, the Defendant causes users’ PII and Video Watching Data to be shared with Facebook, in violation of the VPPA

8. Defendant does not seek and has not obtained consent from Subscribers to utilize the Tracking Methods.

² 18 USC 2710(a)(4).

³ 18 USC 2710(b)(2)(D)(II).

⁴ 18 USC 2710.

9. Defendant does not seek and has not obtained consent from Subscribers to track, share, and exchange their PII and Video Watching Data with Facebook.

10. Defendant knew that the Tracking Methods were in place on the Lee Websites and that its Tracking Methods operated by sharing Subscribers' PII and Video Watching Data with third parties.

11. Finally, Defendant failed to obtain Subscribers' consent to allow their Tracking Methods to operate in a way that shares users' information with Facebook.

12. Subscribers of the Lee Sites have been harmed as a result of Defendant's violations of the VPPA. In addition to statutory damages, Plaintiffs seek injunctive relief requiring Defendant to immediately (i) remove the Tracking Methods from the Lee Sites or (ii) add and obtain the appropriate consent from Subscribers.

13. Plaintiffs' claims are brought as a class action, pursuant to Federal Rule of Civil Procedure 23, on behalf of themselves and all other similarly situated persons. Plaintiffs seek relief in this action individually and on behalf of subscribers of the Lee Sites for violations of the VPPA, 18 U.S.C. 2710.

PARTIES

14. Plaintiff Brittney Stoudemire is a resident of Alabama. In or about 2021, Ms. Stoudemire subscribed to Lee's Buffalo News newsletters. During the sign-up process, Ms. Stoudemire was not provided an opportunity to consent to share her information, or consent to the use of the Tracking Methods. Ms. Stoudemire subsequently watched prerecorded video content on the Buffalo News website using a browser on a device that was signed into Facebook, as recently as November 2022, resulting in Ms. Stoudemire's PII and Video Watching Data being shared with Facebook. Ms. Stoudemire's Facebook profile included personally identifiable

information. On October 21, 2022, Ms. Stoudemire served Lee, as well as The Buffalo News, with pre-suit notice of the VPPA violations alleged herein.

15. Plaintiff Amanda Vose is a resident of Massachusetts. In or about October 2022, Ms. Vose subscribed to Lee's Buffalo News' newsletters. During the sign-up process, Ms. Vose was not provided an opportunity to consent to share her information as a result of Defendant's Tracking Methods. Ms. Vose subsequently watched prerecorded video content on the Buffalo News website using a device that was signed into Facebook, resulting in Ms. Vose's PII and Video Watching Data being shared with Facebook. Ms. Vose's Facebook profile included personally identifiable information. On October 21, 2022, Ms. Vose served Lee, as well as Buffalo News, with pre-suit notice of the VPPA violations alleged herein.

16. Plaintiff Lucinda Jackson is a resident of Ohio. In or about June 2022, Ms. Jackson subscribed to Lee's Greensboro News & Record's newsletters. During the sign-up process, Ms. Jackson was not provided an opportunity to consent to share her information as a result of Defendant's Tracking Methods. Ms. Jackson subsequently watched prerecorded video content on the Buffalo News website using a device that was signed into Facebook, resulting in Ms. Jackson's PII and Video Watching Data being shared with Facebook. Ms. Jackson's Facebook profile included personally identifiable information. On October 21, 2022, Ms. Jackson served Lee, as well as Greensboro News & Record, with pre-suit notice of the VPPA violations alleged herein.

17. Plaintiff Barbara Grazioli is a resident of New Jersey. In or about the year of 2015, Ms. Grazioli subscribed to Lee's Atlantic City Weekly and Press of Atlantic City. During the sign-up process, Ms. Grazioli was not provided an opportunity, consistent with the VPPA, to consent to share her information as a result of Defendant's Tracking Methods. Ms. Grazioli

subsequently watched prerecorded video content on both Atlantic City Weekly's and Press of Atlantic City's websites using a device that was signed into Facebook, resulting in Ms. Grazioli's PII and Video Watching Data being shared with Facebook. Ms. Grazioli's Facebook profile included personally identifiable information. On December 7, 2022, Ms. Grazioli served Lee, as well as Atlantic City Weekly and Press of Atlantic City, with pre-suit notice of the VPPA violations alleged herein.

18. Plaintiff Dana Foley is a resident of Illinois. In or about May of 2017, Ms. Foley subscribed to Lee's St. Louis Post-Dispatch. During the sign-up process, Ms. Foley was not provided an opportunity to consent to share her information as a result of Defendant's Tracking Methods. Ms. Foley subsequently watched prerecorded video content on St. Louis Post-Dispatch's website using a device that was signed into Facebook, resulting in Ms. Foley's PII and Video Watching Data being shared with Facebook. Ms. Foley's Facebook profile included personally identifiable information. On December 7, 2022, Ms. Foley served Lee, as well as St. Louis Post-Dispatch, with pre-suit notice of the VPPA violations alleged herein.

19. Plaintiff Douglas Castle is a resident of Indiana. In or about October of 2021, Mr. Castle subscribed to Lee's St. Times of Northwest Indiana. During the sign-up process, Mr. Castle was not provided an opportunity to consent to share his information as a result of Defendant's Tracking Methods. Mr. Castle subsequently watched prerecorded video content on Times of Northwest Indiana's website using a device that was signed into Facebook, resulting in Mr. Castle's PII and Video Watching Data being shared with Facebook. Mr. Castle's Facebook profile included personally identifiable information.

20. Defendant Lee Enterprises, Inc. is incorporated in Delaware and maintains its headquarters in Davenport, Iowa. Defendant Lee provides advertising and local news media in

77 markets across 26 states.⁵ Lee along with its Lee Sites offers guests the option to sign-up for a newsletter or otherwise create an account or purchase a subscription. The Lee Sites also offer a selection of viewable media, including pre-recorded videos. The Lee Sites have utilized and continue to utilize the Tracking Methods that allows the Lee Sites to transmit Subscribers' identifiable information, without the consent of subscriber-users, from the Lee Sites to Facebook.

21. Non-party The Buffalo News is headquartered in Buffalo, New York, and provides daily news across multiple counties within New York. As a part of providing news media, The Buffalo News has a Lee Site (www.buffalonews.com) which, in addition to offering visitors the option to subscribe to a newsletter, offers streaming prerecorded audio-visual media and articles. The coding for the Lee Site's website stems from Lee and, in fact, Lee's ownership of the advertising and its copyright appear across the webpages on the Lee Site.

22. Non-party the Greensboro News & Record is headquartered in Greensboro, North Carolina, and is a "leading multimedia news, information, advertising and entertainment source for the cities of Greensboro and High Point, Guildford County and Rockingham and Randolph counties in North-Central North Carolina."⁶ As a part of providing news media, the Greensboro News & Record has a Lee Site (www.greensboro.com) which, in addition to offering visitors the option to subscribe to a newsletter, offers streaming prerecorded audio-visual media, articles, and links to other Lee Sites. The coding for the Lee Site's website stems from Lee and, in fact, Lee's ownership of the advertising and its copyright appear across the webpages on the Lee Site.

23. Non-Party Atlantic City Weekly is headquartered in Pleasantville, New Jersey, and provides dining, entertainment, nightlife, and community news for the Atlantic City region.⁷

⁵ *About Us*, LEE ENTERPRISES, <https://lee.net/about/> (last visited Nov. 21, 2022).

⁶ *About Us*, GREENSBORO NEWS & RECORD, <https://greensboro.com/site/about.html> (last visited Nov. 21, 2022).

⁷ *About Us*, ATLANTIC CITY WEEKLY, <https://atlanticcityweekly.com/site/about.html> (last visited Dec. 13, 2022).

As a part of providing news media to its community, the Atlantic City Weekly has a Lee Site (www.atlanticcityweekly.com) which, in addition to offering visitors the option to subscribe to a newsletter, offers streaming prerecorded audio-visual media, articles, and links to other Lee Sites. The coding for the Lee Site's website stems from Lee and, in fact, Lee's ownership of the advertising and its copyright appear across the webpages on the Lee Site.

24. Non-Party Press of Atlantic City is headquartered in Pleasantville, New Jersey, and provides news and information about South Jersey in multiple media formats.⁸ As a part of providing news media to its community, the Press of Atlantic City has a Lee Site (www.pressofatlanticcity.com) which, in addition to offering visitors the option to subscribe to a newsletter, offers streaming prerecorded audio-visual media, articles, and links to other Lee Sites. The coding for the Lee Site's website stems from Lee and, in fact, Lee's ownership of the advertising and its copyright appear across the webpages on the Lee Site.

25. Non-Party St. Louis Post-Dispatch is headquartered in St. Louis, Missouri, and provides local news, ideas for weekend entertainment, sports analysis, etc., reported from many sources.⁹ As a part of providing news media to its community, the St. Louis Post-Dispatch has a Lee Site (www.stltoday.com) which, in addition to offering visitors the option to subscribe to a newsletter, offers streaming prerecorded audio-visual media, articles, and links to other Lee Sites. The coding for the Lee Site's website stems from Lee and, in fact, Lee's ownership of the advertising and its copyright appear across the webpages on the Lee Site.

⁸ *About*, PRESS OF ATLANTIC CITY, <https://www.linkedin.com/company/the-press-of-atlantic-city-media-group> (last visited Dec. 13, 2022).

⁹ *About*, PRESS OF ATLANTIC CITY, <https://www.linkedin.com/company/the-press-of-atlantic-city-media-group> (last visited Dec. 13, 2022).

26. Non-Party Times of Northwest Indiana is headquartered in Munster, Indiana, and provides news and sports media, including local news for Lake, Porter, and LaPorte counties.¹⁰ As a part of providing news media to its community, the Times of Northwest Indiana has a Lee Site (www.nwitimes.com) which, in addition to offering visitors the option to subscribe to a newsletter, offers streaming prerecorded audio-visual media, articles, and links to other Lee Sites. The coding for the Lee Site's website stems from Lee and, in fact, Lee's ownership of the advertising and its copyright appear across the webpages on the Lee Site.

JURISDICTION AND VENUE

27. This Court has subject matter jurisdiction for Plaintiffs' claims under 28 U.S.C. § 1331 because they arise under the Video Privacy Protection Act, 18 U.S.C. § 2710.

28. This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d) because there are more than 100 Class members; the aggregate amount in controversy exceeds \$5,000,000.00, exclusive of interest, fees, and costs; and at least one Class member is a citizen of a state different from Defendant.

29. This Court has personal jurisdiction over Defendant because Defendant's principal place of business is in the state of Iowa.

30. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Defendant's principal place of business is located in this District and Defendant conducts substantial business operations in this District. In connection with the Lee Sites, the video content, hosting of media accessible to subscribers, and associated coding, all originate and arise out of the Defendant's business operations in this District.

¹⁰ *About*, TIMES OF NORTHWEST INDIANA, <https://www.nwitimes.com/about/> (last visited Dec. 13, 2022).

COMMON FACTUAL ALLEGATIONS

A. Background of the Video Privacy Protection Act

31. The VPPA regulates the disclosure of information about consumers' consumption of video content, imposing specific requirements to obtain consumers' consent to such disclosure. Under the statute, for each violation of the statute, a court may award actual damages (but not less than liquidated damages of \$2,500.00 per person), punitive damages, equitable relief, and attorney's fees.

32. The VPPA prohibits "[a] video tape service provider who knowingly discloses, to any person, personally identifiable information concerning any consumer of such provider." 18 U.S.C. § 2710(b)(1). The VPPA defines personally identifiable information as "information which identifies a person as having requested or obtained specific video materials or services from a video service provider." 18 U.S.C. § 2710(a)(3). A video tape service provider is "any person, engaged in the business, in or affecting interstate or foreign commerce, of rental, sale, or delivery of prerecorded video cassette tapes or similar audio visual materials." 18 U.S.C. § 2710(a)(4). The VPPA was initially passed in 1988 for the purpose of protecting the privacy of individuals' video rental, purchase and viewing data.

33. In 1988, Senators were particularly troubled by disclosures of records that reveal consumers' purchases and rentals of videos and other audiovisual materials. As Senator Patrick Leahy and the late Senator Paul Simon recognized, records of this nature offer "a window into our loves, likes, and dislikes," such that "the trail of information generated by every transaction that is now recorded and stored in sophisticated record-keeping systems is a new, more subtle and pervasive form of surveillance." S. Rep. No. 100-599 at 7-8 (1988) (statements of Sens. Simon and Leahy, respectively).

34. In 2012, Congress amended the VPPA, and in so doing, reiterated the Act's applicability to "so-called 'on-demand' cable services and Internet streaming services [that] allow consumers to watch movies or TV shows on televisions, laptop computers, and cell phones." S. Rep. 112-258, at 2.

35. Seeing the same potential harms as Congress, the Iowa Legislature also passed its own version of the VPPA in 1988, which categorized the activity contemplated in the VPPA as a misdemeanor.¹¹

36. During a recent Senate Judiciary Committee meeting, "The Video Privacy Protection Act: Protecting Viewer Privacy in the 21st Century," Senator Leahy stated that "[w]hile it is true that technology has changed over the years, we must stay faithful to our fundamental right to privacy and freedom. Today, social networking, video streaming, the 'cloud,' mobile apps and other new technologies have revolutionized the availability of Americans' information."¹²

37. Defendant here is a video service provider in that it provides pre-recorded audio visual materials to Plaintiffs and Class members on the Lee Sites.

38. The relationship between Plaintiffs and Defendant is precisely the type of relationship contemplated by the VPPA.

39. In this case, Defendant knowingly and systematically disclosed Plaintiffs' personal viewing information to Facebook, without obtaining their consent.

¹¹ See Iowa Code Section 727.11.

¹² See *The Video Privacy Protection Act: Protecting Viewer Privacy In The 21st Century*, Hearing Before the Subcomm. On Privacy, Technology and the Law of the Comm. On The Judiciary, United States Senate, 112th Cong., January 31, 2012, COMMITTEE ON THE JUDICIARY, <https://www.judiciary.senate.gov/download/hearing-transcript-the-video-privacy-protection-act-protecting-viewer-privacy-in-the-21st-century> (last visited December 15, 2022).

B. Lee Utilizes Facebook Tracking Methods to Gather and Transmit PII and Video Watching Data

40. Facebook provides tools for web developers to utilize to monitor user interactions on their websites, which can then be shared with Facebook (e.g., the Tracking Methods).¹³

41. The purpose of the Tracking Methods, regardless of which, is the same: to gather, collect and then share user information with Facebook for further analysis. The Tracking Methods include, for example, event monitoring tools provided or facilitated by the Facebook Pixel, which are available to web developers for the purposes sharing user activity with third-parties.

42. Anyone with a developer's console tool, built directly into commonly available internet browsers, can monitor the transmissions made from Lee's websites via the Tracking Methods and sent to Facebook.

43. The Tracking Methods are used to share both user activity and user identity with Facebook.

44. When a Facebook user logs into Facebook, a "c_user" cookie – which contains a user's non-encrypted Facebook User ID number ("UID") – is automatically created and stored on the user's device for up to a year.¹⁴

45. A Facebook UID can be used by any ordinary person, not just Facebook employees or computer scientists, to easily identify a Facebook user.¹⁵ Once the routine exchange of information is completed through the Tracking the Methods, the UID that becomes available can

¹³ *Meta Pixel*, META FOR DEVELOPERS, <https://developers.facebook.com/docs/meta-pixel/> (last visited December 12, 2022).

¹⁴ *Privacy Center: Cookies Policy*, FACEBOOK, <https://www.facebook.com/policy/cookies/> (last visited December 12, 2022).

¹⁵ *Help Center: How usernames and user IDs are used on Facebook Profiles*, FACEBOOK, <https://www.facebook.com/help/211813265517027> (last visited December 15, 2022).

be accessed and used by any individual to easily identify a Facebook user, by simply appending the Facebook UID to www.facebook.com (e.g., [www.facebook.com/\[UID_here\]](http://www.facebook.com/[UID_here])). That step, readily available through any internet browser, directs the browser to the profile page, and reveals all the publicly available information contained in or associated with the profile page, for the user associated with the particular UID.

a. The Facebook Pixel as a Tracking Method

46. The Facebook Pixel (the “Pixel”) tracks user-activity on web pages by monitoring events which,¹⁶ when triggered, causes the Pixel to automatically send data directly to Facebook through “requests.”¹⁷

47. Examples of events utilized by websites, including the Lee Sites, include a user loading a page with (i) “microdata” tags (the “Microdata event”),¹⁸ or (ii) with a “Domain” Pixel event being active (the “Domain event”).¹⁹

48. The presence of Pixel events, such as the Microdata and the Domain event, can be confirmed by using the Facebook Pixel Helper tool.

49. When a Pixel event is triggered, a “request” is sent to Facebook (through URL www.facebook.com/tr/).²⁰

¹⁶ *Meta Business Help Center: About Meta Pixel*, FACEBOOK, <https://www.facebook.com/business/help/742478679120153?id=1205376682832142> (last visited December 15, 2022).

¹⁷ *See generally Id.*

¹⁸ *Facebook Microdata Installing Schema*, CAT HOWELL, <https://cathowell.com/facebook-microdata-what-it-is-how-to-set-it-up/> (last visited December 15, 2022).

¹⁹ *Meta Business Help Center: Specifications for Meta Pixel standard events*, FACEBOOK, <https://www.facebook.com/business/help/402791146561655?id=1205376682832142> (last visited December 15, 2022).

²⁰ *How We Built a Meta Pixel Inspector*, THE MARKUP, <https://themarkup.org/show-your-work/2022/04/28/how-we-built-a-meta-pixel-inspector> (last visited December 15, 2022).

50. Where a `c_user` cookie is active on a user's device, the website's Tracking Methods will forward the user's UID to Facebook through a "request."²¹

51. The inclusion of a user's UID in the "Request Header" is depicted, for example, in this image derived from a developer's console monitoring the verification "request" made by Lee's Greensboro News & Record Site:



Figure 1 Greensboro News & Record sends `c_user` cookie to Facebook²²

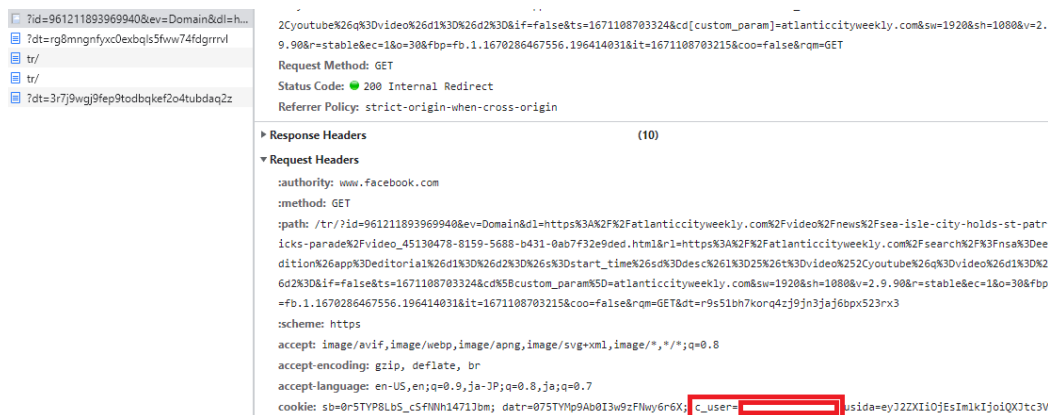
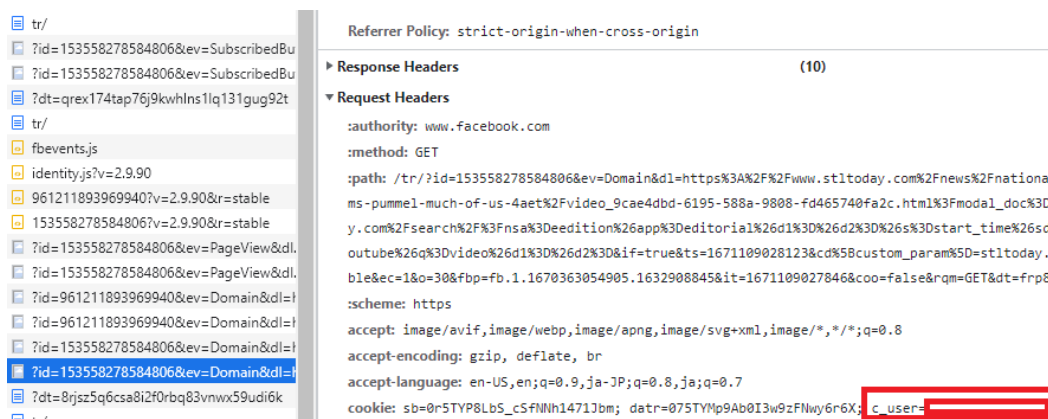
52. In a manner similar to the Greensboro News & Record, a user's `c_user` cookie similarly appears in Lee's other News Sites, as depicted below:

²¹ *HTTP cookies explained*, HUMAN WHO CODES, <https://humanwhocodes.com/blog/2009/05/05/http-cookies-explained/> (last visited December 15, 2022).

²² *Very strong vid: Dangerous storms pummel much of us (4aET)*, GREENSBORO NEWS & RECORD, https://greensboro.com/news/national/very-strong-vid-dangerous-storms-pummel-much-of-us-4aet/video_81aa50e9-8f05-5b83-bb5d-fa6e03efdfd5.html (last visited Dec. 15, 2022)

tr/	Ketereer Policy: Strict-Origin-When-Cross-Origin
fbevents.js	
identity.js?v=2.9.89	
961211893969940?v=2.9.89&r=stable	
?id=961211893969940&ev=Domain&dl=h...	
?id=961211893969940&ev=Domain&dl=h...	
?dt=xvd1tk4ubpiwcbg28o9rohcgso9k514or	
tr/	
?dt=86fdsk4lxe65r8afw7jx718ggiff8e0yu	
tr/	

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Figure 4 Atlantic City Weekly sends *c_user* cookie to Facebook²⁵Figure 5 St. Louis Post-Dispatch sends *c_user* cookie to Facebook²⁶

²⁵ Sea Isle City holds St. Patrick's parade, ATLANTIC CITY WEEKLY, https://atlanticcityweekly.com/video/news/sea-isle-city-holds-st-patricks-parade/video_45130478-8159-5688-b431-0ab7f32e9ded.html (last visited December 15, 2022).

²⁶ Very strong vid: Dangerous storms pummel much of us (4aET), ST. LOUIS POST-DISPATCH, https://www.stltoday.com/news/national/very-strong-vid-dangerous-storms-pummel-much-of-us-4aet/video_9cae4dbd-6195-588a-9808-fd465740fa2c.html (last visited December 15, 2022).

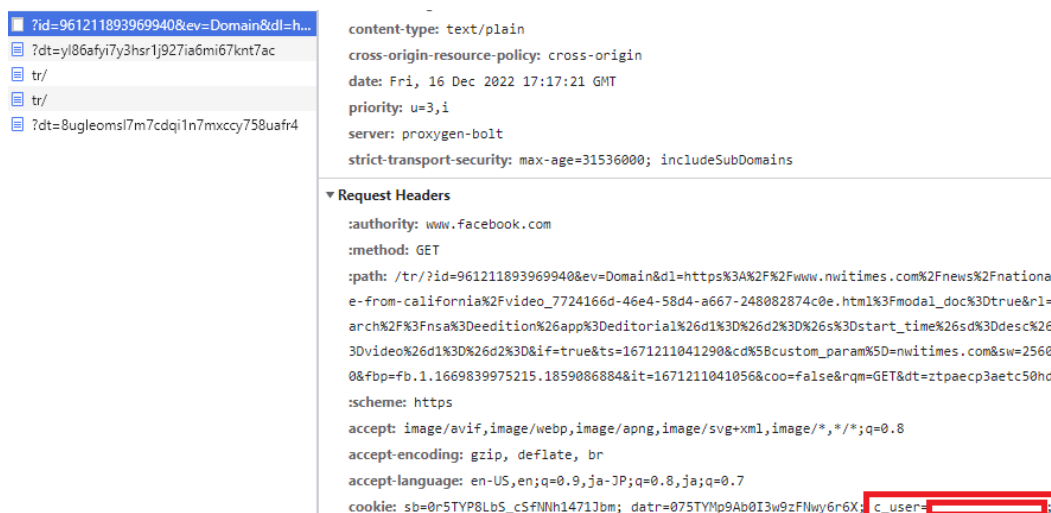


Figure 6 Times of Northwest Indiana sends c_user cookie to Facebook²⁷

53. This method of attaching a user's Facebook UID to Pixel requests is common across all the Tracking Methods implemented by the Lee Sites.

54. In addition to automatically issuing the "request" with a Facebook user's UID, website developers' "requests" to Facebook contain additional parameters embedded in the "request" URLs, which include the addresses of the web pages issuing the "requests" and the titles of video content viewed by the users.

55. A URL, in addition to a domain name and path, will often contain parameters. Parameters are values added to a URL to transmit data and direct a web server to provide additional services, as depicted below:

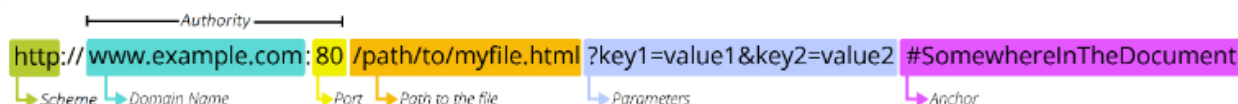


Figure 7 Mozilla's diagram of a URL, including parameters²⁸

²⁷ County decides whether to secede from California, TIMES OF NORTHWEST INDIANA, https://www.nwintimes.com/news/national/county-studies-whether-secede-from-california/video_7724166d-46e4-58d4-a667-248082874c0e.html (last visited Dec. 18, 2022).

²⁸ What is a URL?, MOZILLA, https://developer.mozilla.org/en-US/docs/Learn/Common_questions/What_is_a_URL (last visited December 15, 2022).

56. The inclusion of the web page address and video content information is depicted below on Lee's websites:



Figure 8 Atlantic City Weekly shares the title of videos with Facebook²⁹

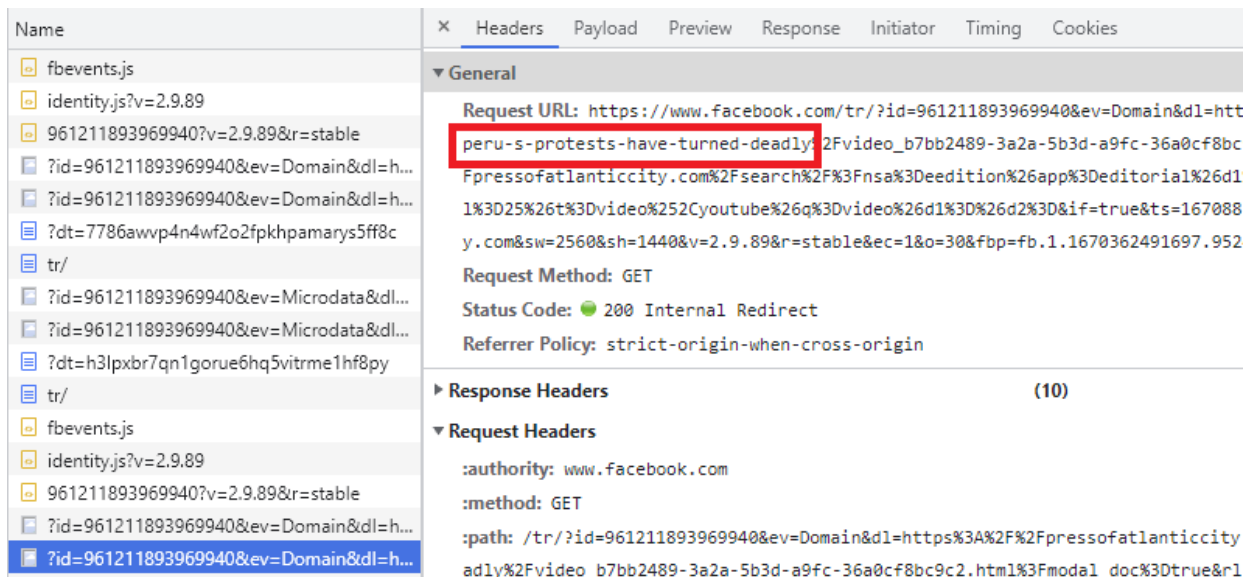


Figure 9 Press of Atlantic City shares video title with Facebook³⁰

²⁹ *Sea Isle City holds St. Patrick's Parade*, ATLANTIC CITY WEEKLY, https://atlanticcityweekly.com/video/news/sea-isle-city-holds-st-patricks-parade/video_45130478-8159-5688-b431-0ab7f32e9ded.html (last visited December 15, 2022).

³⁰ *Search Results*, THE PRESS OF ATLANTIC CITY, https://pressofatlanticcity.com/search/?nsa=eedition&app=editorial&d1=&d2=&s=start_time&sd=desc&l=25&t=video%2Cyoutube&q=video&d1=&d2= (last visited December 15, 2022).

The screenshot shows the 'Headers' tab in a web browser's developer tools. The 'Request URL' is highlighted in red, showing a Facebook URL with a video ID. The 'Request Method' is GET, 'Status Code' is 200 Internal Redirect, and 'Referrer Policy' is strict-origin-when-cross-origin.

³² *Very strong vid: Dangerous storms pummel much of us*(4aET), GREENSBORO NEWS & RECORD, https://greensboro.com/news/national/very-strong-vid-dangerous-storms-pummel-much-of-us-4aet/video_81aa50e9-8f05-5b83-bb5d-fa6e03efdfd5.html (last visited December 15. 2022).

60. Requests sent by the Pixel, for events such as the Domain event, include parameters in the request which provide websites and Facebook with additional information about the event being triggered.³⁵

61. The Lee Sites similarly send video title and URLs of the videos through their Domain requests, as depicted in Figures 8 through 13.

62. Microdata events are triggered whenever a web page containing Microdata tags is loaded.³⁶

63. Microdata tags allow developers to nest metadata within the contents of a web page.³⁷

64. This metadata may include the title of a video – for example, here, “title”: “Some escape historic snowfall just in time for Thanksgiving Week” – on Lee’s Greensboro News and Record’s website, as depicted below:³⁸

³⁵ *Meta for Developers: Conversion Tracking*, FACEBOOK, <https://developers.facebook.com/docs/meta-pixel/implementation/conversion-tracking/> (last visited December 15, 2022).

³⁶ *Facebook Microdata Installing Schema*, CAT HOWELL, <https://cathowell.com/facebook-microdata-what-it-is-how-to-set-it-up/> (last visited December 15, 2022).

³⁷ *Meta for Developers: Microdata Tags*, FACEBOOK, <https://developers.facebook.com/docs/marketing-api/catalog/guides/microdata-tags/> (last visited December 15, 2022).

³⁸ *Some escape historic snowfall just in time for Thanksgiving weekend*, GREENSBORO NEWS & RECORD, https://greensboro.com/news/national/some-escape-historic-snowfall-just-in-time-for-thanksgiving-week/video_e5a28561-4608-5f19-b3ef-536bad32a51e.html (last visited December 15, 2022).

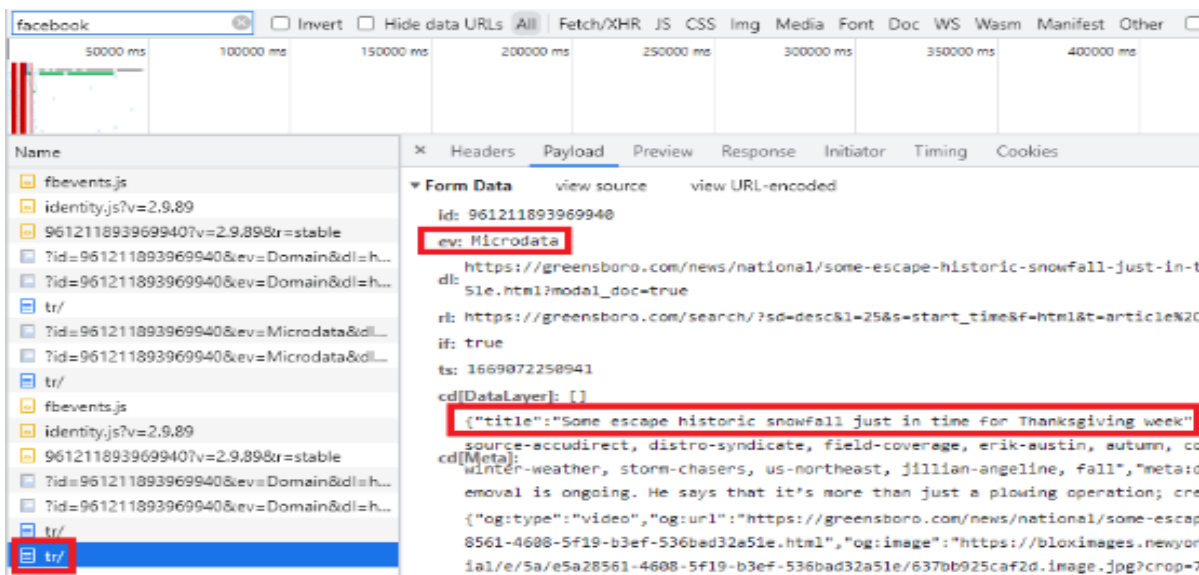


Figure 14 Greensboro uses Microdata Event to send Microdata tags for video data to Facebook.³⁹

65. The other Lee Sites similarly include such microdata tags, as depicted below:



Figure 15 St. Louis Post-Dispatch uses Microdata Event to send Microdata tags for video data to Facebook.⁴⁰

³⁹ Some escape historic snowfall just in time for Thanksgiving weekend, GREENSBORO NEWS & RECORD, https://greensboro.com/news/national/some-escape-historic-snowfall-just-in-time-for-thanksgiving-week/video_e5a28561-4608-5f19-b3ef-536bad32a51e.html (last visited December 15, 2022).

⁴⁰ Very strong vid: Dangerous storms pummel much of us (4aET), ST. LOUIS POST-DISPATCH, https://www.stltoday.com/news/national/very-strong-vid-dangerous-storms-pummel-much-of-us-4aet/video_9cae4dbd-6195-588a-9808-fd465740fa2c.html (last visited December 15, 2022).

Name	× Headers	Payload	Preview	Response	Initiator	Timing	Cookies
fbevents.js							
identity.js?v=2.9.89							
961211893969940?v=2.9.89&r=stable							
?id=961211893969940&ev=Domain&dl=h...							
?id=961211893969940&ev=Domain&dl=h...							
?dt=y5jy4fvo8mp67uhpz50fi3477mxb3gum							
tr/							
?id=961211893969940&ev=Microdata&dl=...							
?id=961211893969940&ev=Microdata&dl=...							
?dt=2fzsq1tfg333xsmsaru3byvqg3hqtg							
tr/							
fbevents.js							
identity.js?v=2.9.89							
961211893969940?v=2.9.89&r=stable							
?id=961211893969940&ev=Domain&dl=h...							
?id=961211893969940&ev=Domain&dl=h...							
?dt=1fgxw9nlhjagay434g3af95bya7crq1							
tr/							
?dt=avpo3do8xp43vlyhsg8xuepd54u7a2m							
tr/							

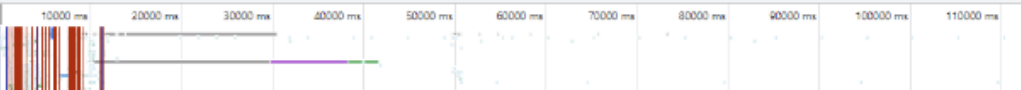
× Headers	Payload	Preview	Response	Initiator	Timing	Cookies
	Form Data	view source	view URL-encoded			
	id: 961211893969940					
	ev: Microdata					
	dl: https://pressofatlanticcity.com/news/peru-s-protests-have-turned-deadly/video_b7bb2489-3a2a-5b3d-a9fc-36a0cf8bc9c2.html?modal_doc=true					
	rl: https://pressofatlanticcity.com/search/?nsa=eedition&app=editorial&d1=&d2=&s=start_time&sd=desc&l=25&t=video%2Cyoutube&q=videos&d1=&d2=					
	if: true					
	ts: 1670886781013					
	cd[DataLayer]: []					
	{ "title": "Peru's protests have turned deadly", "meta:keywords": "dcc, wire, lvs, dccbg, ap-video, peru, deadly, dea", "og:type": "video", "og:url": "https://pressofatlanticcity.com/news/peru-s-protests-have-turned-deadly/video_b7bb2489-3a2a-5b3d-a9fc-36a0cf8bc9c2.html", "og:image": "https://bloximages.chicago2.vip.townnews.com/pressofatlanticcity.com/content/tncms/assets/v3/editorial/b/7b/b7bb2489-3a2a-5b3d-a9fc-36a0cf8bc9c2/6397ab8cd3c9a.image.jpg?crop=1280%2C672%2C0%2C23&resize=1200%2C630&order=crop%2Cresize", "og:image:width": "1200", "og:image:height": "630", "og:title": "Peru's protests have turned deadly", "og:description": "The anger of Peru's residents against their government expands across the South American country, but nowhere is it more visible than in Andahuaylas, a remote rural community in the Andes." "article: name": "Press of Atlantic City", "direction": "Atlantic City News Latest Headline					

Figure 16 Press of Atlantic City uses Microdata Event to send Microdata tags for video data to Facebook.⁴¹

facebook

☐ Invert ☐ Hide data URLs ☒ All Fetch/XHR JS CSS Img Media Font Doc WS Wasm Manifest Other ☐ Has blocked co

☐ 3rd-party requests



Name	× Headers	Payload	Preview	Response	Initiator	Timing	Cookies
fbevents.js							
identity.js?v=2.9.89							
961211893969940?v=2.9.89&r=stable							
?id=961211893969940&ev=Domain&dl=h...							
?id=961211893969940&ev=Domain&dl=h...							
?dt=ors3icjudoq9ewebpi1jtc0518ngbev							
tr/							
?id=961211893969940&ev=Microdata&dl=...							
?id=961211893969940&ev=Microdata&dl=...							
?dt=61tei5ofih5b25aa5ik6pph0o8kfa6ah							
tr/							
fbevents.js							
identity.js?v=2.9.89							
961211893969940?v=2.9.89&r=stable							
tr/							
?id=961211893969940&ev=Domain&dl=h...							
?id=961211893969940&ev=Domain&dl=h...							
tr/							

× Headers

Payload

Preview

Response

Initiator

Timing

Cookies

Form Data

view source

view URL-encoded

id: 961211893969940

ev: Microdata

dl: https://buffalonews.com/news/world/incredible-humpback-whale-makes-3-000-mile-migratory-jouney_94f4a2ed-8dd4-5b15-b315-36e3f03e316d.html?modal_doc=true

rl: https://buffalonews.com/search/?nsa=eedition&app=editorial&d1=&d2=&s=start_time&sd=desc&l=25&t=video%2Cyoutube&q=videos&d1=&d2=

if: true

ts: 1670886551416

cd[DataLayer]: []

{ "title": "Incredible humpback whale makes 3,000-mile migratory journey with broken spine"

e, lvs, nation-world, pets-animals, hawaii, viral-video, marine-life, viral, british-colum

cd[Meta]: al-animal-video, humpback, whale-migration, veuer, marine-mammal, _ready, x38jd0@l,

bc-whales, humpback-whale-with-broken-spine, moon-the-humpback-whale, videoelephant", "meta

redible story that likely won't have a happy ending. Veuer's Tony Spitz has the details."

{ "og:type": "video", "og:url": "https://buffalonews.com/news/world/incredible-humpback-whale-

-journey-with-broken-spine/video_94f4a2ed-8dd4-5b15-b315-36e3f03e316d.html", "og:image": "ht

vip.townnews.com/buffalonews.com/content/tncms/assets/v3/editorial/9/4f/94f4a2ed-8dd4-5b15-

Figure 17 Buffalo News uses Microdata event to send Microdata tags with video data to Facebook.⁴²

⁴¹ Peru's protests have turned deadly, THE PRESS OF ATLANTIC CITY, https://pressofatlanticcity.com/news/peru-s-protests-have-turned-deadly/video_b7bb2489-3a2a-5b3d-a9fc-36a0cf8bc9c2.html (last visited December 15, 2022).

⁴² Incredible humpback whale makes 3,000-mile migratory journey with broken spine, THE BUFFALO NEWS, https://buffalonews.com/search/?nsa=eedition&app=editorial&d1=&d2=&s=start_time&sd=desc&l=25&t=video%2Cyoutube&q=videos&d1=&d2= (last visited Dec. 12, 2022).

The screenshot shows a video player interface with a list of video URLs on the left. The selected video is 'Sea Isle City holds St. Patrick's parade'. The metadata for this video is displayed on the right, including a title, keywords, description, and a Microdata event for Facebook. The Microdata event is highlighted with a red box.

```

{
  "title": "Sea Isle City holds St. Patrick's parade",
  "meta:keywords": "news",
  "meta:description": "Sea Isle City held its annual St. Patrick's parade Saturday despite weather that included rain, snow and falling temperatures. Video by Matthew Strabuk, for The Press."
}

```

Figure 18 Atlantic City Weekly uses Microdata Event to send Microdata tags for video data to Facebook.⁴³

The screenshot shows a video player interface with a list of video URLs on the left. The selected video is 'County studies whether to secede from California'. The metadata for this video is displayed on the right, including a title, keywords, description, and a Microdata event for Facebook. The Microdata event is highlighted with a red box.

```

{
  "title": "County studies whether to secede from California",
  "meta:keywords": "California, secede, studies, vote, voters, symbolic, state, politics, advisory",
  "meta:description": "Voters in one of Southern California's largest counties pointed if largely symbolic message about growing frustration in the nation's most populous state"
}

```

Figure 19 Times of Northwest Indiana uses Microdata Event to send Microdata tags for video data to Facebook.⁴⁴

⁴³ Sea Isle City holds St. Patrick's parade, ATLANTIC CITY WEEKLY, https://atlanticcityweekly.com/video/news/sea-isle-city-holds-st-patricks-parade/video_45130478-8159-5688-b431-0ab7f32e9ded.html (last visited December 15, 2022).

⁴⁴ County decides whether to secede from California, TIMES OF NORTHWEST INDIANA, https://www.nwitimes.com/news/national/county-studies-whether-secede-from-california/video_7724166d-46e4-58d4-a667-248082874c0e.html (last visited Dec. 18, 2022).

66. When a Microdata event triggers, it sends a request to Facebook containing data, including, but not limited to, the Microdata tags, as seen in the “Payload” tab depicted above.

67. In addition, the Microdata event also sends the user’s Facebook UID to Facebook when the event is triggered, as seen in the “Headers” tab as depicted below:

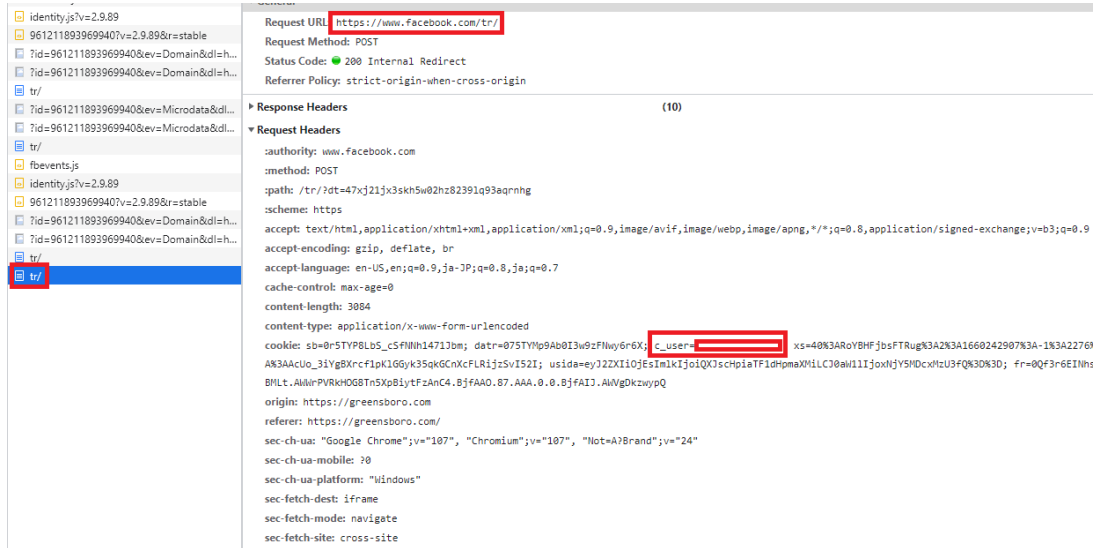


Figure 20 Greensboro's Microdata event sends *c_user* cookie and meta data tags to Facebook.⁴⁵

⁴⁵ Some escape historic snowfall just in time for Thanksgiving weekend, GREENSBORO NEWS & RECORD, https://greensboro.com/news/national/some-escape-historic-snowfall-just-in-time-for-thanksgiving-week/video_e5a28561-4608-5f19-b3ef-536bad32a51e.html (last visited December 15, 2022).

The screenshot displays the 'Headers' tab in a web browser's developer tools. The 'Request Headers' section is expanded, showing various headers for a POST request to `https://www.facebook.com/tr/`. The 'cookie' header is visible at the bottom, containing several cookies, including `c_user=` followed by a redacted value. Other headers include `accept-encoding: gzip, deflate, br`, `accept-language: en-US,en;q=0.9,ja-JP;q=0.8,ja;q=0.7`, and `strict-transport-security: max-age=31536000; includeSubDomains`.

Figure 21 Press of Atlantic City's Microdata event sends `c_user` and meta data tags cookie to Facebook.⁴⁶

⁴⁶ Search Results, THE PRESS OF ATLANTIC CITY, https://pressofatlanticcity.com/search/?nsa=edition&app=editorial&d1=&d2=&s=start_time&sd=desc&l=25&t=video%2Cyoutube&q=video&d1=&d2= (last visited December 15, 2022).

The screenshot displays the 'Headers' tab of a web browser's developer tools. The left pane shows a list of network requests, with the selected request being a POST to `https://www.facebook.com/tr/`. The right pane shows the details of this request. Under the 'General' section, the 'Request URI' is `https://www.facebook.com/tr/` and the 'Request Method' is 'POST'. The 'Status Code' is '200 Internal Redirect'. Under the 'Response Headers' section, several headers are listed, including 'access-control-allow-credentials: true', 'access-control-allow-origin: https://buffalonews.com', 'alt-svc: h3=':443'; ma=86400', 'content-length: 0', 'content-type: text/plain', 'cross-origin-resource-policy: cross-origin', 'date: Mon, 12 Dec 2022 23:21:11 GMT', 'priority: u=0', 'server: proxygen-bolt', and 'strict-transport-security: max-age=31536000; includeSubDomains'. Under the 'Request Headers' section, various headers are listed, including 'authority: www.facebook.com', 'method: POST', 'path: /tr/?dt=ukfq6bfd0lo8x0f9qdk3hy8phw5a4kk', 'scheme: https', 'accept: text/html,application/xhtml+xml,application/xml;q=0.9,image/avif,image/webp,image/aped-exchange;v=b3;q=0.9', 'accept-encoding: gzip, deflate, br', 'accept-language: en-US,en;q=0.9,ja-JP;q=0.8,ja;q=0.7', 'cache-control: max-age=0', 'content-length: 3121', 'content-type: application/x-www-form-urlencoded', and 'cookie: sb=0r5TYP8LbS_cSfNNh1471Jbm; datr=075TYMp9Ab0I3w9zFNwy6r6X; c_user=...'. The 'c_user=' part of the cookie is highlighted with a red box.

Figure 22 Buffalo News' Microdata event sends `c_user` information *and meta data tags* to Facebook⁴⁷

⁴⁷ Some escape historic snowfall just in time for Thanksgiving weekend, GREENSBORO NEWS & RECORD, https://greensboro.com/news/national/some-escape-historic-snowfall-just-in-time-for-thanksgiving-week/video_e5a28561-4608-5f19-b3ef-536bad32a51e.html (last visited December 15, 2022).

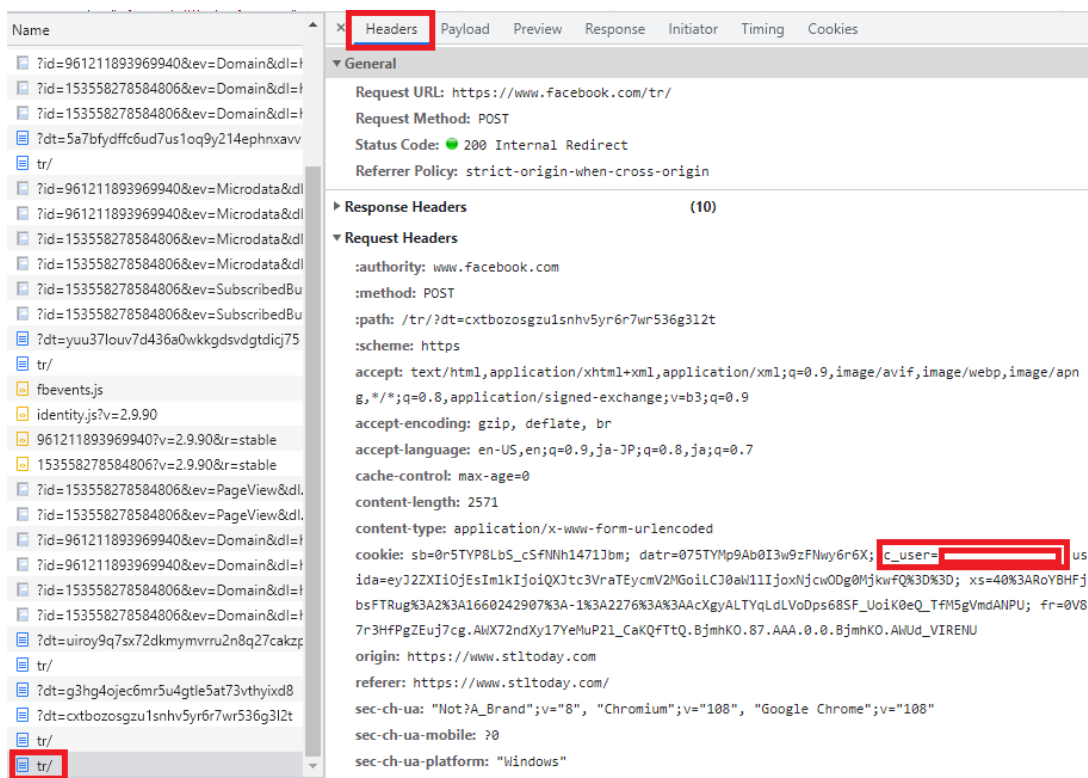


Figure 23 St. Louis Post-Dispatch's Microdata event sends `c_user` information and meta data tags to Facebook⁴⁸

⁴⁸ *Very strong vid: Dangerous storms pummel much of us*, ST. LOUIS POST-DISPATCH, https://www.stltoday.com/news/national/very-strong-vid-dangerous-storms-pummel-much-of-us-4aet/video_9cae4dbd-6195-588a-9808-fd465740fa2c.html (last visited December 15, 2022).

The screenshot displays the 'Headers' tab of a web browser's developer tools. The 'Request URL' is `https://www.facebook.com/tr/`. The 'Request Method' is `POST`. The 'Status Code' is `200 Internal Redirect`. The 'Response Headers' section shows various CORS and security headers. The 'Request Headers' section shows the `c_user` cookie and other meta data tags.

Name	Value
Request URL	<code>https://www.facebook.com/tr/</code>
Request Method	<code>POST</code>
Status Code	<code>200 Internal Redirect</code>
Referrer Policy	<code>strict-origin-when-cross-origin</code>
Response Headers	<code>access-control-allow-credentials: true</code> <code>access-control-allow-origin: https://atlanticcityweekly.com</code> <code>alt-svc: h3=":443"; ma=86400</code> <code>content-length: 0</code> <code>content-type: text/plain</code> <code>cross-origin-resource-policy: cross-origin</code> <code>date: Thu, 15 Dec 2022 17:58:56 GMT</code> <code>priority: u=0</code> <code>server: proxygen-bolt</code> <code>strict-transport-security: max-age=31536000; includeSubDomains</code>
Request Headers	<code>:authority: www.facebook.com</code> <code>:method: POST</code> <code>:path: /tr/?dt=lmb8evpk8yswpt1jx73wzb786gs6jk7i</code> <code>:scheme: https</code> <code>accept: text/html,application/xhtml+xml,application/xml;q=0.9,image/avif,image/webp,image/apng,*/*;q=0.8,application/signed-exchange;v=b3;q=0.9</code> <code>accept-encoding: gzip, deflate, br</code> <code>accept-language: en-US,en;q=0.9,ja-JP;q=0.8,ja;q=0.7</code> <code>cache-control: max-age=0</code> <code>content-length: 3293</code> <code>content-type: application/x-www-form-urlencoded</code> <code>cookie: sb=0r5TYP8LbS_csFmHh1471Jbm; datr=075TYM9Ab0I3w9zFhwy6r6X;c_user=123456789; usida=eyJ2ZXIiOjE5Imk1IjojQKJtc3VraTEycm</code>

Figure 24 Atlantic City Weekly's Microdata event sends `c_user` cookie and meta data tags to Facebook.⁴⁹

⁴⁹ Search Results, THE PRESS OF ATLANTIC CITY, https://pressofatlanticcity.com/search/?nsa=edition&app=editorial&d1=&d2=&s=start_time&sd=desc&l=25&t=video%2Cyoutube&q=video&d1=&d2= (last visited December 15, 2022).

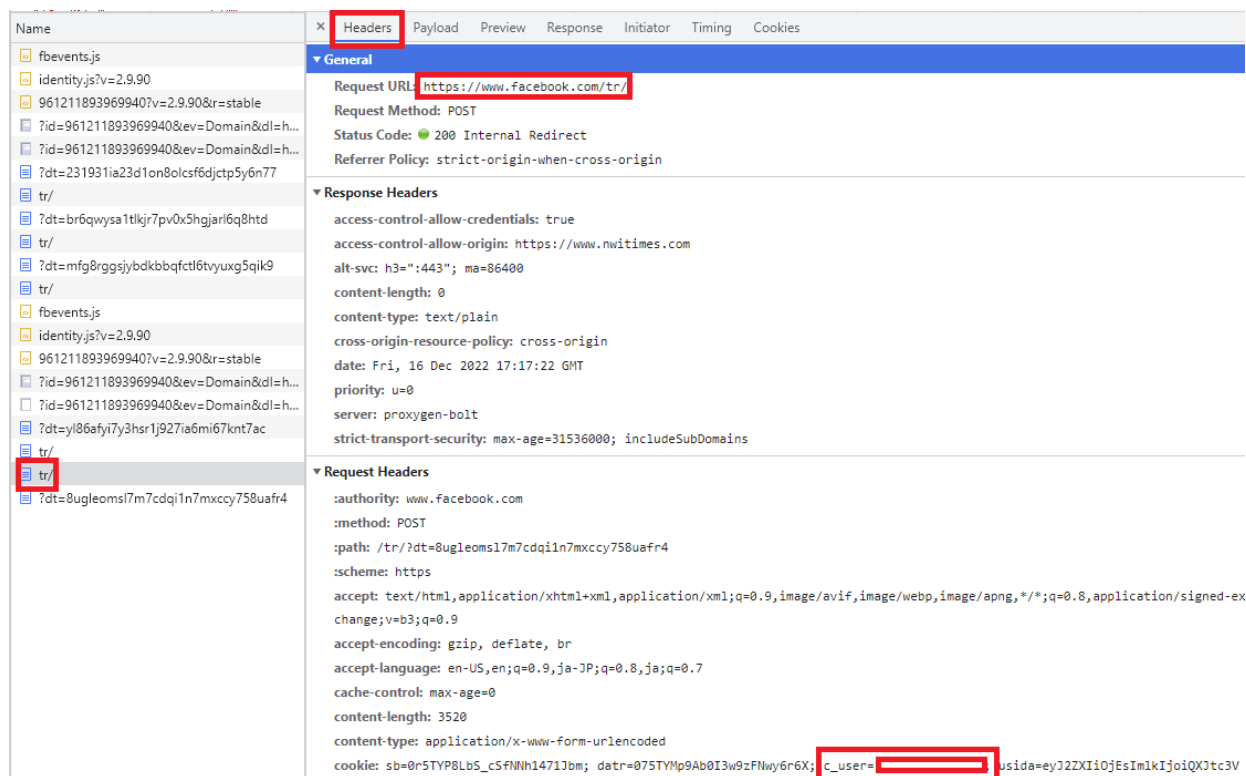


Figure 25 Times of Northwest Indiana's Micradata event sends c_user information and metadata tags to Facebook.⁵⁰

68. As a result of Lee's implementation of the Tracking Methods, the PII and Video Watching Data of subscriber-users, including Plaintiffs and Class Members, have automatically been shared with Facebook in a consistent manner across all Lee Sites.

C. Defendant's Build, Content-Creation, and General Uniformity of the Lee Sites

69. Lee was founded in 1890 by A.W. Lee.⁵¹

70. Lee dedicates its company focus on engaging and connecting with local audiences, through its marketing, content management platforms, and custom content creation on a national scale.⁵²

⁵⁰ *County decides whether to secede from California*, TIMES OF NORTHWEST INDIANA, <https://www.nwitimes.com/news/national/county-studies-whether-secede-from-california/video-7724166d-46e4-58d4-a667-248082874c0e.html> (last visited Dec. 18, 2022).

⁵¹ *About Us*, LEE ENTERPRISES, <https://lee.net/about/> (last visited December 15, 2022).

⁵² *Id.*

71. Lee's news outlets distributed pre-recorded audio visual material, through the use of websites, to persons and entities throughout the United States. This includes the Lee Sites.

72. Lee boasts that its "robust local and national digital media and advertising platforms are the fastest growing in the industry, attracting more than 44 million unique visitors monthly."⁵³

73. However, the centralization process instituted by Lee-owned newspapers often results in a copy desk that "designs and edits pages for multiple newspapers each night, with fewer and fewer eyeballs checking for errors in local articles."⁵⁴

74. With fewer local reporters and editors working on local designs at the Greensboro News & Record, for example, Greensboro Mayor Nancy Vaughan noted that "[t]here are days when you open up the paper and find no original reporting."⁵⁵ Instead, she had to find important local news in publications written by news organizations located 75 miles in Raleigh.⁵⁶

75. To punctuate the lack of local involvement, the Greensboro News & Record lacks an executive editor, who was laid off in February of 2022 and never replaced.⁵⁷ Nor is there a local publisher for the paper.⁵⁸

76. Rather than focusing on local news, the Lee Sites are built using cookie-cutter templates and incorporating news and media from across the country.

77. The Lee Sites are all designed using the BLOX Content Management System (the "BLOX System") developed by TownNews.com, which utilizes the Field59 content delivery and hosting platform. This is uniform across all the Lee Sites.

⁵³ *Id.*

⁵⁴ Margaret Moffett, *Below the Fold*, THE ASSEMBLY (August 9, 2022), <https://www.theassemblync.com/media/the-news-and-record-below-the-fold/>.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

78. Lee is a majority partner of TownNews.com.⁵⁹

a. Lee uniformly utilizes the BLOX System to design the Lee Sites

79. While TownNews.com provides its services to various local media groups,⁶⁰ the Lee Sites each utilize the BLOX system, examples of which are depicted below:

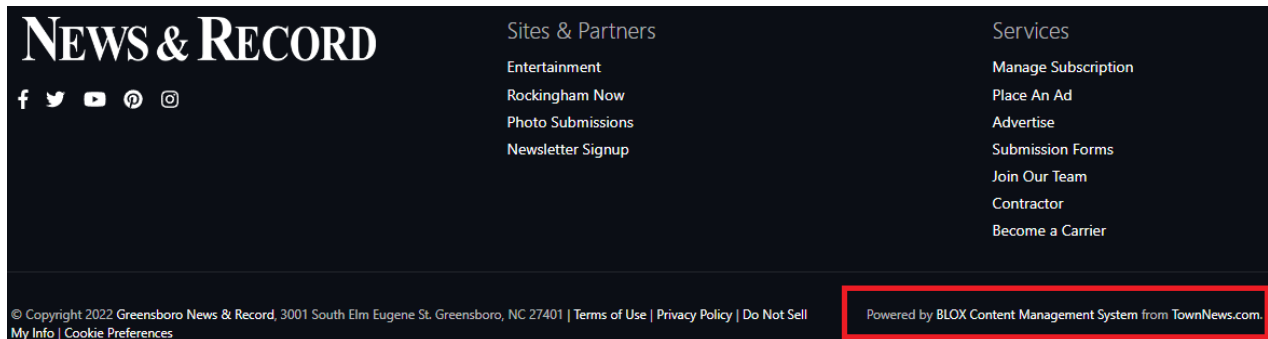


Figure 26 Greensboro News & Record is built on Lee's BLOX system⁶¹

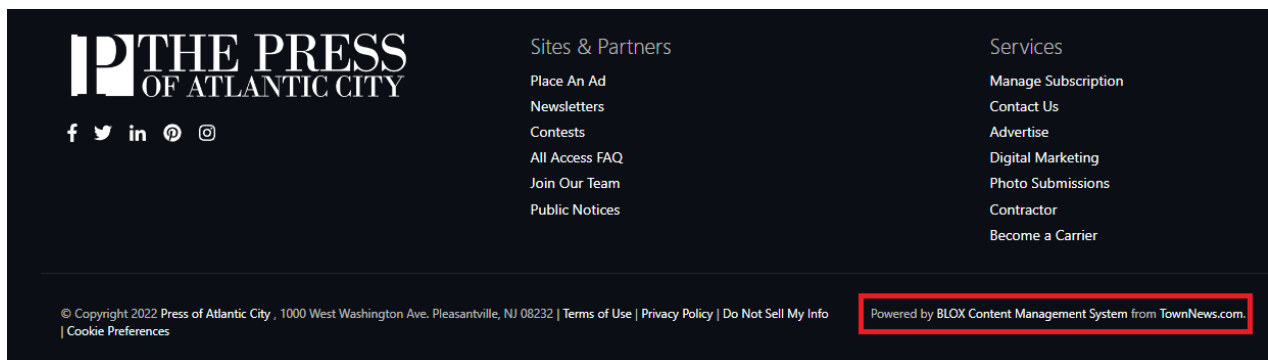


Figure 27 Press of Atlantic City is built on the BLOX system.⁶²

⁵⁹ *About Town News*, TOWNNEWS, <https://townnews.com/about/> (last visited December 15, 2022).

⁶⁰ *Id.*

⁶¹ GREENSBORO NEWS & RECORD, <https://greensboro.com/> (last visited December 15, 2022).

⁶² THE PRESS OF ATLANTIC CITY, <https://pressofatlanticcity.com> (last visited December 15, 2022).

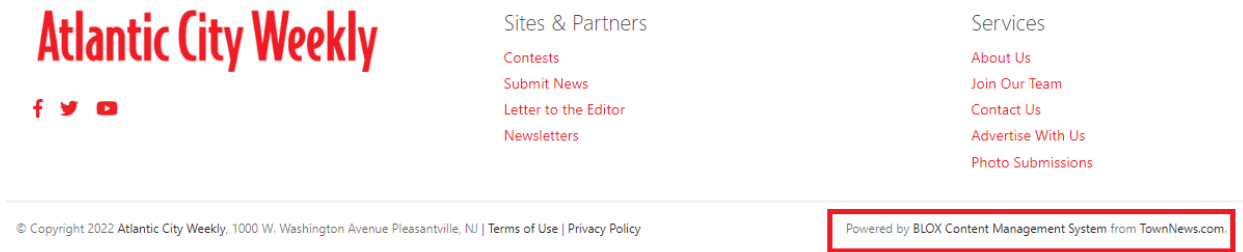


Figure 28 Atlantic City Weekly is built on the BLOX system.⁶³

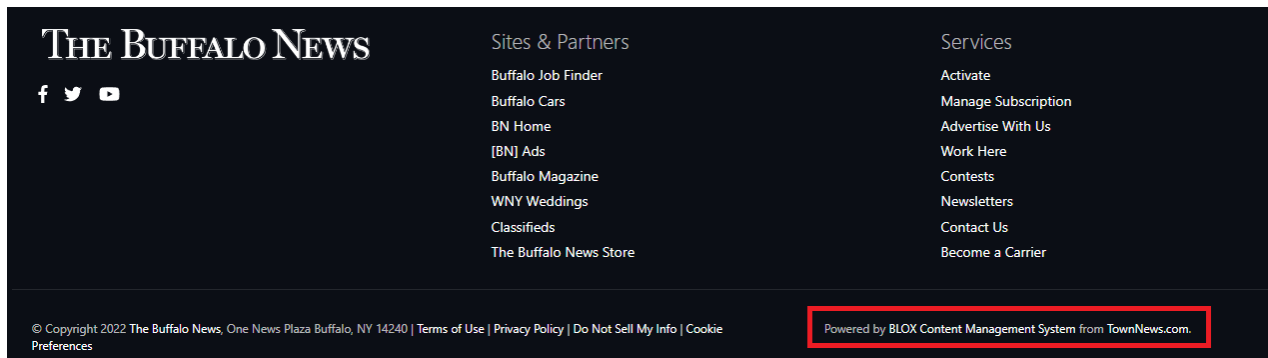


Figure 29 Buffalo News is built on the BLOX system.⁶⁴

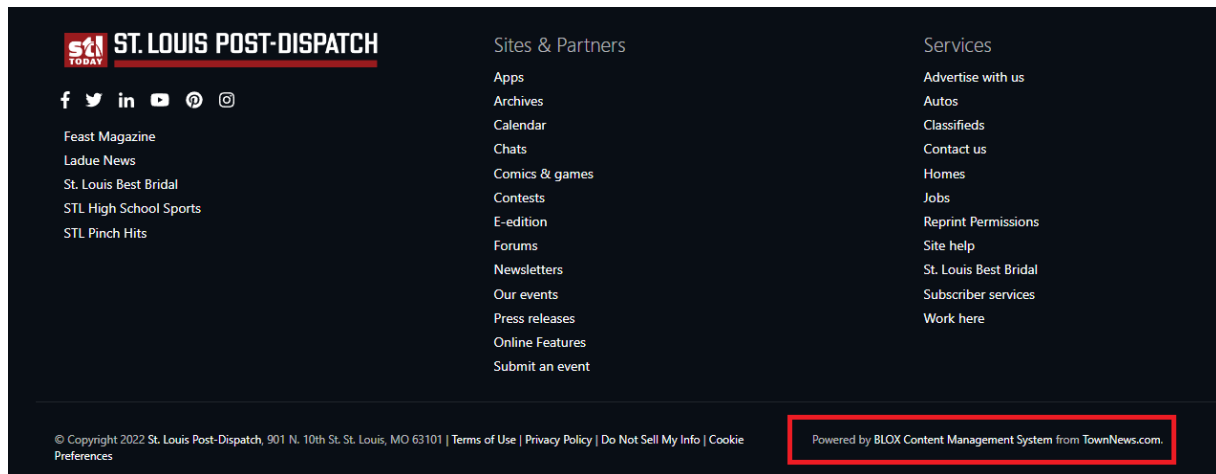


Figure 30 St. Louis Post-Dispatch is built on the BLOX system.⁶⁵

⁶³ ATLANTIC CITY WEEKLY, <https://atlanticcityweekly.com> (last visited December 15, 2022).

⁶⁴ THE BUFFALO NEWS, <https://buffalonews.com> (last visited December 15, 2022).

⁶⁵ ST. LOUIS POST-DISPATCH, <https://stltoday.com> (last visited December 15, 2022).

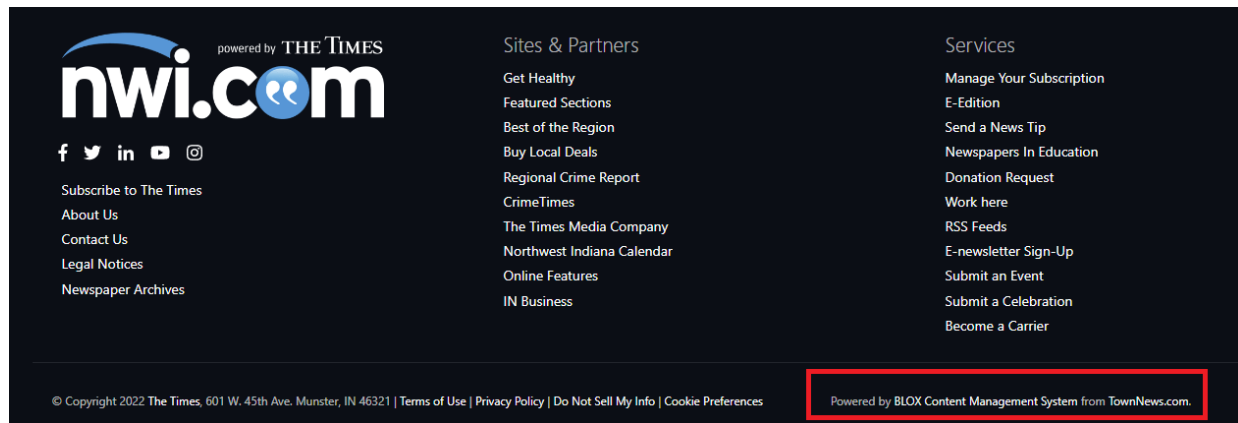


Figure 31 Times of Northwest Indiana is built on the BLOX system.⁶⁶

80. The BLOX System is not only used to design the site; the BLOX System also hosts media for the Lee Sites.

81. BLOX hosts the image content, including video thumbnails, which are accessible through URLs such as: bloximages.newyork1.vip.townnews.com and bloximages.chicago2.vip.townnews.com.

82. The Greensboro News and Record, by way of example, requests its headline image from bloximages.newyork1.vip.townnews.com, as depicted below:⁶⁷

⁶⁶ TIMES OF NORTHWEST INDIANA, <https://www.nwitimes.com> (last visited Dec. 18, 2022).

⁶⁷ *Id.*

⁶⁸ *Flexible, ultra-efficient video management for media organizations*, TOWNNEWS, <https://townnews.com/vms/> (last visited December 15, 2022).

b. Lee uniformly utilizes Field59 to host and stream video content on the Lee Sites

84. Field59 Video Management System (“Field59”) was purchased by TownNews.com in 2018.⁶⁹

85. Field59 is a “cloud-based application for editing, scheduling, and distributing . . . video content.”⁷⁰

86. Field59 offers remote video management, automatic thumbnail image generation, scheduled broadcasting times, and an embedded video player that works with various content management systems.⁷¹

87. Field59 claims that its ability to generate and distribute “video for use among multiple newsrooms” helps its users stay competitive.⁷²

88. Field59 provides live streaming, video management, video delivery to direct-to-consumer platforms, video players and smart playlists, smart advertising placements, and mobile apps to upload and stream content.⁷³

89. The HTML code of videos hosted by Greensboro News and Record, Press of Atlantic City, Buffalo News, St. Louis Post-Dispatch, Atlantic City Weekly, and Times of Northwest Indiana, for example, viewed through a browser’s developer console, reveals that their videos are hosted by field59.com:

⁶⁹ *TownNews strengthens video offerings with Field59 acquisition*, TOWNNEWS, https://townnews.com/news_room/townnews-strengthens-video-offerings-with-field59-acquisition/article_3d3dfe4e-3127-11e8-ac12-932fd6844740.html (last visited December 15, 2022).

⁷⁰ *Flexible, ultra-efficient video management for media organizations*, TOWNNEWS, <https://townnews.com/vms/> (last visited December 15, 2022).

⁷¹ *Id.*

⁷² *Video for Newspapers*, FIELD59, <https://www.field59.com/documents/2017/02/field59-knows-news.png/> (last visited December 15, 2022).

⁷³ *Id.*

```

<video crossorigin="anonymous" preload="none" playsinline="playsinline" poster="https://bloximages.newyork1.vip.townnews.com/greensboro.com/content/tncms/assets/v3/editorial/f/da/fda60d7a-ff4c-5e0a-8f3e-6affd9cb69ad/6380ea1076d82.image.jpg?resize=720%2C406" id="video-player-fda60d7a-ff4c-5e0a-8f3e-6affd9cb69ad_html5_api" class="vjs-tech" data-uuid="fda60d7a-ff4c-5e0a-8f3e-6affd9cb69ad" data-title="Flooding flips over cars in Saudi Arabia" data-provider="field59" data-duration="34" data-visible="false" data-premium="1" data-vast-url="https://pubads.g.doubleclick.net/gampad/ads?env=instream&correlator='+Date.now()+'&description_url=http%3A%2F%2Fgreensboro.com%2Fnews%2Fnational%2Fvideo_fda60d7a-ff4c-5e0a-8f3e-6affd9cb69ad.html&gdfp_req=1&iu=/8438/greensboro.com/news/national&output=vast&sz=640x480%7C640x360%7C400x300&unviewed_position_start=1&url=https%3A%2F%2Fgreensboro.com%2Fnews%2Fnational%2Fvideo_fda60d7a-ff4c-5e0a-8f3e-6affd9cb69ad.html&cust_params=k%3Ddccc%2C%20accunews%2C%20wire%2C%201vs%2C%20nation-world%2C%20weather%2C%20flooding%2C%20max-knott%2C%20video-content%2C%20flood%26v%3Dfield59%26version%3D0823&hl=en&wta=0&is_lat=0&vpos=preroll" tabindex="-1" role="application" src="blob:https://greensboro.com/a0cb1228-0e27-4283-b51a-9e60a647a2e6">
  <source src="https://redirect.field59.com/video/f9e8866...m3u8" type="application/x-mpegURL">
  <source src="https://redirect.field59.com/video/f9e8866...m3u8" type="application/vnd.apple.mpegurl">
  <source src="https://redirect.field59.com/video/f9e886613b08ab50754006e3c3de4d535927a5f2.mp4" type="video/mp4"> == $0
</video>

```

Figure 32 Greensboro News & Record receives streamed video from Lee's Field59 ⁷⁴

```

<video crossorigin="anonymous" preload="none" playsinline="playsinline" poster="https://bloximages.chicago2.vip.townnews.com/pressofatlanticcity.com/content/tncms/assets/v3/editorial/b/7b/b7bb2489-3a2a-5b3d-a9fc-36a0cf8bc9c2/6397ab8cd3c9a.image.jpg?resize=1280%2C720" id="video-player-b7bb2489-3a2a-5b3d-a9fc-36a0cf8bc9c2_html5_api" class="vjs-tech" data-uuid="b7bb2489-3a2a-5b3d-a9fc-36a0cf8bc9c2" data-title="Peru's protests have turned deadly" data-provider="field59" data-duration="101" data-visible="false" data-premium="1" data-vast-url="https://pubads.g.doubleclick.net/gampad/ads?env=instream&correlator='+Date.now()+'&description_url=http%3A%2F%2Fpressofatlanticcity.com%2Fnews%2Fvideo_b7bb2489-3a2a-5b3d-a9fc-36a0cf8bc9c2.html&gdfp_req=1&iu=/8438/pressofatlanticcity.com/news&output=vast&sz=640x480%7C640x360%7C400x300&unviewed_position_start=1&url=https%3A%2F%2Fpressofatlanticcity.com%2Fnews%2Fvideo_b7bb2489-3a2a-5b3d-a9fc-36a0cf8bc9c2.html&cust_params=k%3Ddccc%2C%20wire%2C%201vs%2C%20dccb%2C%20ap-video%2C%20peru%2C%20deadly%2C%20dead%2C%20protest%2C%20government%2C%20south-american%2C%20president-pedro-castillo%2C%20pedro-castillo%2C%20civil-unrest%2C%20death%2C%20injuries%2C%20world-news%26v%3Dfield59%26version%3D0823&hl=en&wta=0&is_lat=0" tabindex="-1" role="application" src="blob:https://pressofatlanticcity.com/37f66bdd-397a-47af-ab87-0d6a3790e30e">
  <source src="https://redirect.field59.com/video/49dcafa...m3u8" type="application/x-mpegURL">
  <source src="https://redirect.field59.com/video/49dcafa...m3u8" type="application/vnd.apple.mpegurl">
  <source src="https://redirect.field59.com/video/49dcafa...mp4" type="video/mp4">
</video>

```

Figure 33 Press of Atlantic City receives streamed video from Lee's Field59 ⁷⁵

⁷⁴ Search Results: Flooding flips over cars in Saudi Arabia, GREENSBORO NEWS & RECORD, https://greensboro.com/search/?nsa=edition&app=editorial&d1=&d2=&s=start_time&sd=desc&l=25&t=video%2Cyoutube&nfl=ap&q=video&d1=&d2= (last visited on December 15, 2022).

⁷⁵ Search Results, THE PRESS OF ATLANTIC CITY, https://pressofatlanticcity.com/search/?nsa=edition&app=editorial&d1=&d2=&s=start_time&sd=desc&l=25&t=video%2Cyoutube&q=video&d1=&d2= (last visited December 15, 2022).

```

<video crossorigin="anonymous" preload="none" playsinline="playsinline" poster="https://bloximages.chicago2.vip.townnews.com/buffalonews.com/content/tncms/assets/v3/editorial/9/4f/94f4a2ed-8dd4-5b15-b315-36e3f03e316d/6397570f6235f.image.jpg?resize=1920%2C1080" id="video-player-94f4a2ed-8dd4-5b15-b315-36e3f03e316d_html5_api" class="vjs-tech" data-uuid="94f4a2ed-8dd4-5b15-b315-36e3f03e316d" data-title="Incredible humpback whale makes 3,000-mile migratory journey with broken spine" data-provider="field59" data-duration="64" data-visible="false" data-premium="1" data-vast-url="https://pubads.g.doubleclick.net/gampad/ads?env=instream&correlator="+Date.now()+"&description_url=https%3A%2F%2Fbuffalonews.com%2Fnews%2Fworld%2Fvideo_94f4a2ed-8dd4-5b15-b315-36e3f03e316d.html&gdfp_req=1&iu=/8438/buffalonews.com/news/world&output=vast&sz=640x480%7C640x360%7C400x300&unviewed_position_start=1&url=https%3A%2F%2Fbuffalonews.com%2Fnews%2Fworld%2Fvideo_94f4a2ed-8dd4-5b15-b315-36e3f03e316d.html&cust_params=k%3Ddccc%2C%20wire%2C%20lvs%2C%20nation-world%2C%20pets-animals%2C%20hawaii%2C%20viral-video%2C%20marine-life%2C%20viral%2C%20british-columbia%2C%20canad%3A%1%2C%20humpback-whale%2C%20viral-animal-video%2C%20humpback%2C%20whale-migration%2C%20veuer%2C%20marine-mammal%2C%20_ready%2C%20x38jd8%401%2C%20humpback-whale-migration%2C%20bc-whales%2C%20humpback-whale-with-broken-spine%2C%20moon-the-humpback-whale%2C%20videoelephant%26v%3Dfield59%26version%3D0823&hl=en&wta=0&is_lat=0" tabindex="-1" role="application" src="blob:https://buffalonews.com/30356786-66b9-40ab-a501-85ded23f61cd">
  <source src="https://redirect.field59.com/video/3d55b12...m3u8" type="application/x-mpegURL">
  <source src="https://redirect.field59.com/video/3d55b12...m3u8" type="application/vnd.apple.mpegurl">
  <source src="https://redirect.field59.com/video/3d55b12...mp4" type="video/mp4">

```

Figure 34 Buffalo News receives streamed video from Lee's Field59⁷⁶

```

<video crossorigin="anonymous" preload="none" playsinline="playsinline" id="video-player-dcf4d11c-fd7d-5f4f-ba82-57b315468ba2_html5_api" class="vjs-tech" data-uuid="dcf4d11c-fd7d-5f4f-ba82-57b315468ba2" data-title="Council to study reparations for Black Bostonians" data-provider="field59" data-duration="52" data-visible="false" data-premium="1" data-vast-url="https://pubads.g.doubleclick.net/gampad/ads?env=instream&correlator="+Date.now()+"&description_url=https%3A%2F%2Fwww.stltoday.com%2Fnews%2Fvideo_dcf4d11c-fd7d-5f4f-ba82-57b315468ba2.html&gdfp_req=1&iu=/8438/stltoday.com/news&output=vast&sz=640x480%7C640x360%7C400x300&unviewed_position_start=1&url=https%3A%2F%2Fwww.stltoday.com%2Fnews%2Fvideo_dcf4d11c-fd7d-5f4f-ba82-57b315468ba2.html&cust_params=k%3Ddccc%2C%20lvs%2C%20dccb%2C%20wire%2C%20ap-video%2C%20council%2C%20city-council%2C%20black%2C%20boston%2C%20bostonians%2C%20city%2C%20vote%2C%20legacy%2C%20inequality%2C%20history%2C%20task-force%2C%20reparations%2C%20study%26v%3Dfield59%26version%3D0823&hl=en&wta=0&is_lat=0" tabindex="-1" role="application" src="blob:https://www.stltoday.com/76924ab7-0fe0-470c-b7c6-476c4a93879a" style>
  <source src="https://redirect.field59.com/video/39dd205...m3u8" type="application/x-mpegURL">
  <source src="https://redirect.field59.com/video/39dd205...m3u8" type="application/vnd.apple.mpegurl">
  <source src="https://redirect.field59.com/video/39dd205...mp4" type="video/mp4">
</video>

```

Figure 35 St. Louis Post-Dispatch receives streamed video from Lee's Field59⁷⁷

⁷⁶ Search Results, THE BUFFALO NEWS, https://buffalonews.com/search/?nsa=edition&app=editorial&d1=&d2=&s=start_time&sd=desc&l=25&t=video%2Cyoutube&q=video&d1=&d2= (last visited December 15, 2022).

⁷⁷ Council to Study reparations for Black Bostonians, ST. LOUIS POST-DISPATCH, https://www.stltoday.com/news/council-to-study-reparations-for-black-bostonians/video_dcf4d11c-fd7d-5f4f-ba82-57b315468ba2.html (last visited Dec. 12, 2022).


```

<video crossorigin="anonymous" preload="none" playsinline="playsinline" id="video-player-a694df68-1eff-5417-af4d-e40808f1d3c0_html5_api" class="vjs-tech" data-uuid="a694df68-1eff-5417-af4d-e40808f1d3c0" data-title="FrontPageBets' Mike Szvetitz looks at Heisman Trophy odds and the 123rd Army-Navy game" data-provider="field59" data-duration="91" data-visible="false" data-premium data-vast-url="https://pubads.g.doubleclick.net/gampad/ads?iu=/8438/atlantcityweekly.com&description_url=http%3A%2F%2Fatlantcityweekly.com%2Fvideo_a694df68-1eff-5417-af4d-e40808f1d3c0.html&tfcid=0&npa=0&sz=400x300%7C640x480&gdfp_req=1&output=vast&unviewed_position_start=1&env=vp&impl=s&correlator=" tabindex="-1" role="application" src="blob:https://atlantcityweekly.com/e880a12d-6052-4818-88d6-2b913d05ae85" style>
  <source src="https://redirect.field59.com/video/617ff3f...m3u8" type="application/x-mpegURL">
  <source src="https://redirect.field59.com/video/617ff3f...m3u8" type="application/vnd.apple.mpegurl">
  <source src="https://redirect.field59.com/video/617ff3f...mp4" type="video/mp4">
</video>

```

Figure 36 Atlantic City Weekly receives streamed video from Lee's Field59⁷⁸

```

<video crossorigin="anonymous" preload="none" playsinline="playsinline" id="video-player-7724166d-46e4-58d4-a667-248082874c0e_html5_api" class="vjs-tech" data-uuid="7724166d-46e4-58d4-a667-248082874c0e" data-title="County studies whether to secede from California" data-provider="field59" data-duration="85" data-visible="false" data-premium="1" data-vast-url="https://pubads.g.doubleclick.net/gampad/ads?env=instream&correlator='+Date.now()+'&description_url=https%3A%2F%2Fwww.nwitiimes.com%2Fnews%2Fnational%2Fvideo_7724166d-46e4-58d4-a667-248082874c0e.html&gdfp_req=1&iu=/8438/nwitiimes.com/news/national&output=vast&sz=640x480%7C640x360%7C400x300%7C1920x1080%7C426x240%7C1290x720&unviewed_position_start=1&url=https%3A%2F%2Fwww.nwitiimes.com%2Fnews%2Fnational%2Fvideo_7724166d-46e4-58d4-a667-248082874c0e.html&cust_params=k%3Dccc%2C%201vs%2C%20dccb%2C%20wire%2C%20ap-video%2C%20county%2C%20california%2C%20secede%2C%20studies%2C%20vote%2C%20voters%2C%20symbolic%2C%20state%2C%20politics%2C%20advisory-ballot%2C%20ballot%2C%20congress%2C%20san-bernardino%2C%20study%26v%3Dfield59%26version%3D0823&hl=en&wta=0&is_lat=0" tabindex="-1" role="application" src="blob:https://www.nwitiimes.com/9affc62d-4d3b-4307-9114-ebe545ecfb73">
  <source src="https://redirect.field59.com/video/debafd0...m3u8" type="application/x-mpegURL">
  <source src="https://redirect.field59.com/video/debafd0...m3u8" type="application/vnd.apple.mpegurl">
  <source src="https://redirect.field59.com/video/debafd0...mp4" type="video/mp4">
</video>

```

Figure 37 Times of Northwest Indiana receives streamed video from Lee's Field59⁷⁹

⁷⁸ *FrontPageBets' Mike Szvetits looks at Heisman Trophy odds and the 123rd Army-Navy game*, ATLANTIC CITY WEEKLY, https://atlantcityweekly.com/frontpagebets-mike-szvetitz-looks-at-heisman-trophy-odds-and-the-123rd-army-navy-game/video_a694df68-1eff-5417-af4d-e40808f1d3c0.html (last visited December 15, 2022).

⁷⁹ *County decides whether to secede from California*, TIMES OF NORTHWEST INDIANA, https://www.nwitiimes.com/news/national/county-studies-whether-secede-from-california/video_7724166d-46e4-58d4-a667-248082874c0e.html (last visited Dec. 18, 2022).

90. The above highlighted content is the video hosted on Lee Sites and can be accessed by simply copying and pasting the Field59 address (ending in .mp4) into a browser. The link would take any user directly to a webpage to watch the video.

D. Defendant Shared Plaintiffs' PII and Video Watching Data in Violation of the VPPA

91. Defendant violates the VPPA through its use of the Tracking Methods – specifically, tracking by and through Facebook – on its Lee Sites.

92. The Tracking Methods allow Defendant to share a user's website usage data with Facebook, in conjunction with the user's Facebook UID, which allows for Facebook to develop better targeted advertising, among other business functions.

93. The Lee Sites implement the Tracking Methods which track video watching history by identifying the name and location (via URL) of specific video content watched by Plaintiffs and Class Members, as well as the Plaintiffs' and Class Members' Facebook UID through their c_user cookies.

94. Below is a sample detailing how Defendant violates the VPPA on the Greensboro News & Record (the "Greensboro Site") website, through its use of the Tracking Methods. Defendant also violates the VPPA on the remaining Lee Sites using the Tracking Methods.

a. The Greensboro News & Record, By Way of Example, Tracks Plaintiffs' Video Watching History and PII on the Greensboro News & Record Website and Transmits the Data to Facebook

95. Akin to each of the Lee Sites, the Greensboro Site implements the Tracking Methods.

96. The Greensboro Site, during the relevant period, utilized the Tracking Methods.

97. The Greensboro Site's use of the Tracking Methods were, and are, in violation of the VPPA.

98. The Greensboro Site's use of the Pixel is depicted by:

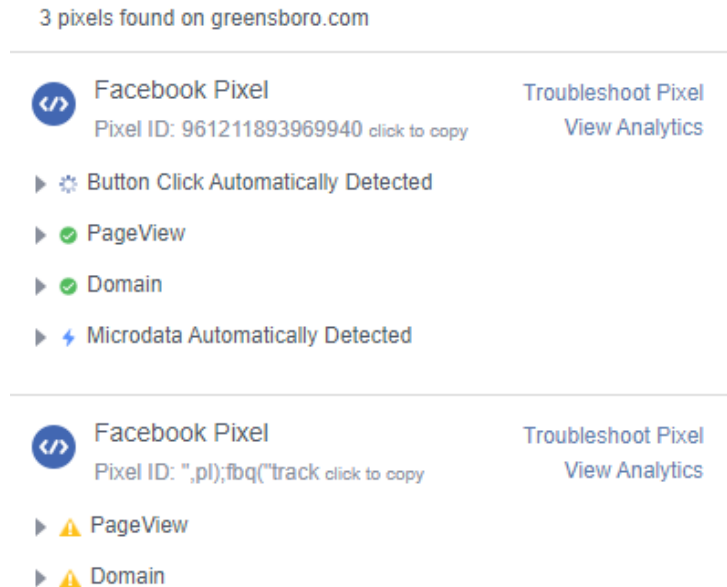


Figure 38 Pixel events are active and confirmed by Facebook Pixel Helper⁸⁰

99. The Greensboro Site uses the Tracking Methods to capture Plaintiffs' and Class Members' Facebook UID in the form of the c_user cookie, as described above in paragraphs 51, 52 and 67.

100. Lee uses the Tracking Methods to share the video watching data in two ways: (i) through the "request" URL parameters described above in paragraphs 54 through 60; and (ii) through the MicroData tags shown to be active in paragraph 62 through 64, Figures 14- through 19, which track, among other data, the title of the video.

101. The Tracking Methods' use of "request" URL parameters to share the video title and URL of the location of the video is confirmed by using the developer's console to monitor the requests made by the Greensboro Site to Facebook, as depicted above in paragraph 56, Figures 8 through 13.

102. Other Pixel "requests" will send the Video Watching Data through Microdata tags embedded in the requests' "payload."

⁸⁰ THE GREENSBORO NEWS & RECORD, <https://www.greensboro.com> (last visited December 15, 2022).

103. The same Tracking Methods, utilizing the same “request” process, was implemented by Lee for the Lee Sites.

104. The Pixel uses these “requests” to pass the Video Watching Data to Facebook.

105. Lee’s sharing of Class Members’ Facebook UID occurs in a consistent manner across the Tracking Methods, resulting when an active c_user cookie exists on user’s device used to load the Greensboro Site, allowing Lee to include user’s Facebook UID in its request header to Facebook. This process is confirmed by using the developer’s console to monitor the Greensboro Site requests to Facebook, as depicted above in paragraphs 51 and 52, Figures 1-6, and paragraph 67, Figures 20 through 25.

106. The Tracking Methods, as implemented by Lee and the Greensboro Site, send the collected PII and Video Watching Data automatically to Facebook when triggered.

107. When the Microdata event triggers on the Greensboro Site, the PII and Video Watching Data are sent to Facebook through a request made to www.facebook.com/tr/, as verified in paragraph 64, Figure 14 and paragraph 67, Figure 20.

108. When the “Domain” event triggers on the Greensboro Site, the video title and PII are sent to Facebook through a request made to www.facebook.com/tr/, as verified in Paragraph 51, Figure 1 and paragraph 56, Figure 11.

109. When either the Tracking Methods trigger (or both), Lee and the Greensboro Site automatically transmit the Facebook UID and title of the video to Facebook.

110. The practice of having the PII and video titles sent to Facebook through an automatic request made or delivered to www.facebook.com/tr/ is consistent among the Lee Sites.

E. The Sign-Up Process Associated With the Lee Sites Lacks Informed, Written Consent

111. The Lee Sites do not seek nor obtain permission from their subscribers, including Plaintiffs and the Class, to share the subscribers' PII or video watching information with third-parties, including Facebook.

112. The newsletters are not guided by a privacy policy or terms and conditions, certainly not as presented to newsletter subscribers at the time of signup or any other time.

113. The sign-up process associated with the Lee Sites does not include a process for seeking or obtaining informed, written consent.

114. To the extent information about any of the Lee Sites' data sharing can be located, the language is not presented to users along with a checkbox, e-signature field, or any form of affirmative consent.

115. The Lee Sites' newsletter signups appear as:

NEWS & RECORD Search Greensboro News & Record

Subscribe \$1 for 6 months

E-Edition News Obituaries Opinion Sports Entertainment Lifestyles Jobs 42° Clear Log In

Email Newsletters

Convenient updates delivered to your inbox.

Make a selection and then enter the email that you'd like to receive your newsletters.

Already receiving our emails? Manage your subscriptions

I'd like updates anytime and by any category.

News Alerts
We'll send breaking news and news alerts to you as they happen!

Daily Headlines
Today's top headlines and galleries delivered every morning.

Afternoon Update
The latest headlines sent at 4:45 p.m. daily.
DAILY NEWS

Enter your information to receive these newsletters

Email First name Last name Sign up

All of our email newsletters are free. By selecting any email newsletter, you will also receive Subscription Offers and promotional emails if left checked. You can opt-out of receiving a category of emails by clicking "unsubscribe" in the email or from this page.

Figure 39 Sign up form for The Greensboro Site's Newsletter Sign-Up⁸¹

⁸¹ Email Newsletters, GREENSBORO NEWS & RECORD, <https://greensboro.com/newsletters/#tracking-source=menu-nav> (last visit December 15, 2022).

The screenshot shows the 'Email Newsletters' sign-up page for nwi.com. The header includes the nwi.com logo, a search bar, and navigation links. A 'Subscribe \$1 for 6 months' button is in the top right. The main heading is 'Email Newsletters' with the subtext 'Convenient updates delivered to your inbox.' Below this is a dark bar with the instruction 'Make a selection and then enter the email that you'd like to receive your newsletters.' and two buttons: 'Already receiving our emails?' and 'Manage your subscriptions'. A form section asks 'I'd like updates anytime and by any category.' with three options: 'News Alerts' (We'll send breaking news and news alerts to you as they happen!), 'Daily Headlines' (Today's top headlines and galleries delivered every morning.), and 'A&E' (Your entertainment weekly update.). Below these is a blue bar with the text 'Enter your information to receive these newsletters' and a form with fields for 'Email', 'First name', and 'Last name', followed by a 'Sign up' button. A small disclaimer at the bottom states: 'All of our email newsletters are free. By selecting any email newsletter, you will also receive Subscription Offers and promotional emails if left checked. You can opt-out of receiving a category of emails by clicking "unsubscribe" in the email or from this page.'

Figure 40 Sign up form for Times of Northwest Indiana's Newsletter Sign-Up⁸²

The screenshot shows the 'Email Newsletters' sign-up page for Buffalo News. The header includes the Buffalo News logo, a search bar, and navigation links. A 'Subscribe for \$1' button is in the top right. The main heading is 'Email Newsletters' with the subtext 'Convenient updates delivered to your inbox.' Below this is a dark bar with the instruction 'Make a selection and then enter the email that you'd like to receive your newsletters.' and two buttons: 'Already receiving our emails?' and 'Manage your subscriptions'. A form section asks 'I'd like updates anytime and by any category.' with six options: 'Buffalo Next' (Must read local business coverage that exposes the trends, connects the dots and contextualizes the impact to Buffalo's economy.), 'Things To Do in WNY' (Get recommendations on what to see and where to be with our weekly newsletter highlighting the best arts, entertainment, dining and family events in the area.), 'Good Morning, Buffalo' (The smart way to start your day. We sift through the news daily to give you a concise, informative look at the top headlines and must-read stories.), '[BN] Hockey' (Get the ultimate assist. Check your inbox the day of and day after every Sabres game for expert analysis and developments from across the NHL.), 'News Alerts' (Sign up for alerts on breaking news and trending stories.), and 'Food & Drink' (Get what you need to know about Western New York's dining and bar scene, including restaurant openings and closings, delivered to your inbox every Wednesday.). Below these is a blue bar with the text 'Enter your information to receive these newsletters' and a form with fields for 'Email', 'First name', and 'Last name', followed by a 'Sign up' button. A small disclaimer at the bottom states: 'All of our email newsletters are free. By selecting any email newsletter, you will also receive Subscription Offers and promotional emails if left checked. You can opt-out of receiving a category of emails by clicking "unsubscribe" in the email or from this page.'

Figure 41 Sign up form for Buffalo News' Newsletter Sign-Up⁸³

⁸² *Email Newsletters*, TIMES OF NORTHWEST INDIANA, <https://nwitimes.com/newsletters> (last visit December 15, 2022).

⁸³ *Email Newsletters*, BUFFALO NEWS, <https://buffalonews.com/newsletters> (last visit December 15, 2022).

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Convenient updates delivered to your inbox.

Make a selection and then enter the email that you'd like to receive your newsletters.

[Already receiving our emails?](#)
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I'd like updates **anytime** and by **any** category.

Breaking News Breaking news as it develops, sent straight to your inbox. <input type="radio"/> AS NEEDED <input checked="" type="radio"/> NEWS	Evening Dispatch Your daily recap of the top stories of the day. <input checked="" type="radio"/> WEEKDAYS <input type="radio"/> NEWS	Ben Fred's Five A deep dive into the STL sports scene from Ben Frederickson. <input type="radio"/> WEEKLY <input type="radio"/> SPORTS
#Trending Trending local and national stories that St. Louis readers are talking about. <input type="radio"/> AS NEEDED <input type="radio"/> NEWS	Ben Hochman's 'TEN Hochman' Sports columnist Benjamin Hochman breaks down the latest in St. Louis sports and pop culture. <input type="radio"/> WEEKDAYS <input type="radio"/> SPORTS	Best Bridal St. Louis Best Bridal is the best place for a bride and groom to get started with wedding planning, offering inspiring photo galleries, wedding and engagement announcements and occasional offers from advertisers. <input type="radio"/> WEEKLY <input type="radio"/> LIFESTYLES

Enter your information to receive these newsletters

All of our email newsletters are free. By selecting any email newsletter, you will also receive Subscriptions Offers and promotional emails from the Press of Atlantic City. You can opt out of receiving a category of emails by clicking "unsubscribe" in the email or from this page.

Figure 42 Sign up form for St. Louis Post-Dispatch's Newsletter Sign-Up⁸⁴

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Convenient updates delivered to your inbox.

Make a selection and then enter the email that you'd like to receive your newsletters.

[Already receiving our emails?](#)
[Manage your subscriptions](#)

I'd like updates **anytime** and by **any** category.

News Alerts We'll send breaking news and news alerts to you as they happen! <input type="radio"/> AS NEEDED <input checked="" type="radio"/> NEWS	Daily Headlines Today's top headlines and galleries delivered every morning. <input checked="" type="radio"/> DAILY <input type="radio"/> NEWS	Archives Dive into hometown history from the comfort of your inbox. <input type="radio"/> WEEKLY <input type="radio"/> NEWS
Business Your weekly digest of the latest local business news. <input type="radio"/> WEEKLY <input type="radio"/> NEWS	Contests & Promotions Don't miss your chance to win contests or to hear about events offered by the Press of Atlantic City. <input type="radio"/> OCCASIONAL <input type="radio"/> OFFERS	Crime & Courts Keep up with the latest public safety news with this email roundup of our local crime and courts coverage. <input type="radio"/> WEEKLY <input type="radio"/> NEWS

Enter your information to receive these newsletters

All of our email newsletters are free. By selecting any email newsletter, you will also receive Subscriptions Offers and promotional emails from the Press of Atlantic City. You can opt out of receiving a category of emails by clicking "unsubscribe" in the email or from this page.

Figure 43 Sign-up form for Press of Atlantic City's Newsletter Sign-Up⁸⁵

⁸⁴ *Email Newsletters*, ST. LOUIS POST-DISPATCH, <https://stltoday.com/newsletters> (last visit December 15, 2022).

⁸⁵ *Email Newsletters*, GREENSBORO NEWS & RECORD, <https://greensboro.com/newsletters/#tracking-source=menu-nav> (last visit December 15, 2022).

The screenshot shows the top of the Atlantic City Weekly website. The navigation bar includes links for Food+Drink, Arts+Entertainment, Nightlife, For fun, Casinos, and Events. The main header features the Atlantic City Weekly logo, the date Thursday, December 15, 2022, and the weather 41° Rain Shower. Below the header is a section titled "Email Newsletters" with the subtext "Convenient updates delivered to your inbox." A dark blue bar contains the text "Make a selection and then enter the email that you'd like to receive your newsletters." Below this bar are two tabs: "Already receiving our emails?" and "Manage your subscriptions." A text prompt says "I'd like updates anytime" with a dropdown arrow and "and by any" with a dropdown arrow and the word "category." Below this are six newsletter options, each with an icon, title, description, and frequency selection:

- News Alerts**: We'll send breaking news and news alerts to you as they happen! Frequency: AS NEEDED.
- Daily Headlines**: Top headlines and galleries delivered every week. Frequency: WEEKLY.
- Contests & Promotions**: Don't miss your chance to win contests or to hear about events offered by the Atlantic City Weekly. Frequency: OCCASIONAL.
- Entertainment**: Your weekly update on the latest in arts & entertainment in the region. Frequency: WEEKLY.
- Food & Drink**: A weekly e-newsletter for all the Foodies. Frequency: WEEKLY.
- FrontPageBets**: Get the latest sports betting news to help you win big on game day. Frequency: WEEKLY.

 At the bottom is a blue box with the text "Enter your information to receive these newsletters" and a form with fields for Email, First name, and Last name, and a "Sign up" button. A small disclaimer at the bottom of the box states: "All our emails are free, and can be cancelled at any time by clicking 'unsubscribe' from the newsletter in from this page."

Figure 44 Sign up form for Atlantic City Weekly Newsletter Sign-Up⁸⁶

This is a zoomed-in view of the sign-up form. It features a blue background with the heading "Enter your information to receive these newsletters" in white. Below the heading is a downward arrow icon. The form consists of three input fields: "Email", "First name", and "Last name", followed by a "Sign up" button. Below the input fields, a paragraph of text reads: "All of our email newsletters are free. By selecting any email newsletter, you will also receive Subscription Offers and promotional emails if left checked. You can opt-out of receiving a category of emails by clicking 'unsubscribe' in the email or from this page."

Figure 45 Zoomed in view of sign-up form as it appears on the Lee Sites⁸⁷

⁸⁶ *Email Newsletters*, THE PRESS OF ATLANTIC CITY, <https://pressofatlanticcity.com.com/newsletters> (last visit December 15, 2022).

⁸⁷ *Email Newsletters*, ATLANTIC CITY WEEKLY, <https://atlanticcityweekly.com/newsletters/> (last visit December 15, 2022).

F. Plaintiffs Did Not Consent to Defendant's sharing of Plaintiffs' PII and Video Watching Data

116. The VPPA sets out narrow guidelines as to the acceptable forms of consent that consumers can give to video tape service providers to share consumers' information.

117. The VPPA limits video tape service providers' ability to share consumers' PII with third-parties, except where consumers provide "informed, written consent (including through an electronic means using the Internet) . . . in a form that is distinct and separate from any form setting forth other legal or financial obligations of the consumers."⁸⁸

118. Such consent must be at the election of consumers, and consumers must be clearly and conspicuously provided with an opportunity to withdraw consent from ongoing disclosures on a case-by-case basis.⁸⁹

119. While limited information regarding consumers can be shared (e.g., name and address) to third parties, this exemption only applies where video tape service providers give the consumer a clear and conspicuous opportunity to prohibit this disclosure and the disclosure does not identify the title, description, or subject matter of the audio-visual material.⁹⁰

120. Plaintiffs and Class Members did not consent to Defendant's Tracking Methods pursuant to the VPPA, as Plaintiffs were not asked to provide informed, written consent in a form a separate from other legal obligations.

121. Additionally, Plaintiffs and Class Members are not given the opportunity to withdraw consent from ongoing disclosures on a case-by-case basis.

122. Finally, Defendant provides titles, descriptions, or subject matter of audio-visual materials when sharing Plaintiffs' and Class Members' PII.

⁸⁸ 18 USC 2710(b)(2)(B); 18 USC 2710(b)(2)(B)(i).

⁸⁹ 18 USC 2710(b)(2)(B)(ii); 18 USC 2710(b)(2)(B)(iii).

⁹⁰ 18 USC 2710(b)(2)(D)

CLASS ACTION ALLEGATIONS

123. Plaintiffs bring this action individually and on behalf of the following Class:

All persons in the United States with a subscription to a Lee Site that had their personal information improperly disclosed to Facebook through the use of the Tracking Methods (the “Class”).

124. Specifically excluded from the Class are Defendant, its officers, directors, agents, trustees, parents, children, corporations, trusts, representatives, employees, principals, servants, partners, joint venturers, or entities controlled by Defendant, and its heirs, successors, assigns, or other persons or entities related to or affiliated with Defendant and/or their officers and/or directors, the judge assigned to this action, and any member of the judge’s immediate family.

125. Plaintiffs reserve the right to amend the Class definition above if further investigation and/or discovery reveals that the Class should be expanded, narrowed, divided into subclasses, or otherwise modified in any way.

126. This action may be certified as a class action under Federal Rule of Civil Procedure 23 because it satisfies the numerosity, commonality, typicality, adequacy, and superiority requirements therein.

127. Numerosity (Rule 23(a)(1)): At this time, Plaintiffs do not know the exact number of members of the aforementioned Class. However, given the popularity of and number of Lee Sites, the number of persons within the Class is believed to be so numerous that joinder of all members is impractical.

128. Typicality of Claims (Rule 23(a)(3)): Plaintiffs’ claims are typical of those of the Class because Plaintiffs, like all members of the Class, subscribed to, and used, a Lee Site to watch videos, and had their PII collected and disclosed by Defendant.

129. Adequacy of Representation (Rule 23(a)(4)): Plaintiffs will fairly and adequately represent and protect the interests of the Class. Plaintiffs have no interests antagonistic to, nor in conflict with, the Class. Plaintiffs have retained competent counsel who are experienced in consumer and commercial class action litigation and who will prosecute this action vigorously.

130. Superiority (Rule 23(b)(3)): A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Because the statutory damages suffered by individual Class members is relatively small, the expense and burden of individual litigation make it impossible for individual Class members to seek redress for the wrongful conduct asserted herein. If Class treatment of these claims is not available, Defendant will likely continue its wrongful conduct, will unjustly retain improperly obtained revenues, or will otherwise escape liability for its wrongdoing as asserted herein.

131. Commonality and Predominance (Rule 23(a)(2), 23(b)(3)): There is a well-defined community of interest in the questions of law and fact involved in this case. Questions of law and fact common to the members of the Class that predominate over questions that may affect individual members of the Class include:

- a. Whether Defendant collected Plaintiffs' and the Class's PII and Video Watching Data;
- b. Whether Defendant unlawfully disclosed and continues to disclose the PII and Video Watching Data of subscribers of the Lee Sites in violation of the VPPA;
- c. Whether Defendant's disclosures were committed knowingly; and
- d. Whether Defendant disclosed Plaintiffs' and the Class's PII and Video Watching Data without consent.

132. Information concerning Defendant's Lee Sites data sharing practices and subscription members are available from Defendant's or third-party records.

133. Plaintiffs know of no difficulty which will be encountered in the management of this litigation which would preclude its maintenance as a class action.

134. The prosecution of separate actions by individual members of the Class would run the risk of inconsistent or varying adjudications, and establish incompatible standards of conduct for Defendant. Prosecution as a class action will eliminate the possibility of repetitious and inefficient litigation.

135. Defendant has acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

136. Given that Defendant's conduct is ongoing, statutory damages are insufficient and there is no complete and adequate remedy at law.

COUNT I

VIOLATION OF THE VIDEO PRIVACY PROTECTION ACT

18 U.S.C. § 2710, *et seq.*

(On Behalf of Plaintiffs and the Class)

137. Plaintiffs incorporate by reference and re-allege each and every allegation set forth above as though fully set forth herein.

138. Plaintiffs bring this count on behalf of themselves and all members of the Class.

139. The VPPA provides that "a video tape service provider who knowingly discloses, to any person, personally identifiable information concerning any consumer shall be liable to the aggrieved person for the relief provided in subsection (d)." 18 U.S.C. § 2710(b)(1).

140. Defendant violated this statute by knowingly disclosing Plaintiffs’ and other Class members’ personally identifiable information to Facebook.

141. Defendant, through the Lee Sites, engage in the business of delivering video content to subscribers, including Plaintiffs and the other Class members, and other users. The Lee Sites deliver videos to subscribers, including Plaintiffs and the other Class members, by making those materials electronically available to Plaintiffs and the other Class members on the Lee Sites.

142. “Personally-identifiable information” is defined to include “information which identifies a person as having requested or obtained specific video materials or services from a video tape service provider.” 18 U.S.C. § 2710(a)(3).

143. A “video tape service provider” is “any person, engaged in the business, in or affecting interstate commerce, of rental, sale, or delivery of prerecorded video cassette tapes or similar audiovisual materials.” 18 U.S.C. § 2710(a)(4).

144. Defendant is a “video tape service providers” because it creates, hosts, and delivers hundreds of videos on its websites, thereby “engag[ing] in the business, in or affecting interstate or foreign commerce, of rental, sale, or delivery of prerecorded video cassette tapes or similar audio visual materials.” 18 U.S.C. § 2710(a)(4).

145. Defendant also solicits individuals to subscribe to the Lee Sites.

146. Plaintiffs and members of the Class are “consumers” because they subscribed to the Lee Sites. 18 U.S.C. § 2710(a)(1).

147. Plaintiffs and the Class members viewed video clips using the Lee Sites.

148. Defendant disclosed to Facebook Plaintiffs’ and the Class members’ personally identifiable information. Defendant utilized the Tracking Methods to force Plaintiffs’ web

browser to transfer Plaintiffs' identifying information, like their Facebook ID, along with Plaintiffs' event data, like the title of the videos they viewed.

149. Defendant knowingly disclosed Plaintiffs' PII, which is triggered automatically through Defendant's use of the Tracking Methods. No additional steps on the part of the Defendant, Facebook or any third-party is required. And, once the Tracking Methods' routine exchange of information is complete, the UID that becomes available can be used by any individual to easily identify a Facebook user, by simply appending the Facebook UID to [www.facebook.com/\[UID here\]](http://www.facebook.com/[UID here])). That step, readily available through any internet browser, will direct the browser to the profile page, and all the information contained in or associated with the profile page, for the user associated with the particular UID.

150. The VPPA provides that a videotape service provider may disclose personally identifiable information concerning a consumer as long as that person has provided "informed written consent . . . in a form distinct and separate from any form setting forth other legal or financial obligations of the consumer." 18 U.S.C. § 2710(b)(2)(A)(i).

151. Plaintiffs and Class members did not provide Defendant with any form of consent—either written or otherwise—to disclose their PII to third parties. Defendant, however, failed to obtain "informed, written consent" from subscribers – including Plaintiffs and Class members – "in a form distinct and separate from any form setting forth other legal or financial obligations of the consumer" and "at the election of the consumer," either "given at the time the disclosure is sought" or "given in advance for a set period of time, not to exceed 2 years or until consent is withdrawn by the consumer, whichever is soon." 18 U.S.C. § 2710(b)(2)(B)(i)-(ii).

152. Defendant's disclosure of Plaintiffs' and Class Members' Video Watching Data and PII was not made in the "ordinary course of business" as the term is defined by the VPPA. In

particular, Defendant's disclosures to Facebook were not necessary for "debt collection activities, order fulfillment, request processing, [or] transfer of ownership." 18 U.S.C. § 2710(a)(2).

153. In addition, the VPPA creates an opt-out right for consumers in 18 U.S.C. § 2710(2)(B)(iii). It requires video tape service providers to also "provide[] an opportunity for the consumer to withdraw on a case-by-case basis or to withdraw from ongoing disclosures, at the consumer's election." Defendant failed to provide an opportunity to opt out as required by the VPPA.

154. On behalf of themselves and the Class, Plaintiffs seeks: (i) declaratory relief; (ii) injunctive and equitable relief as is necessary to protect the interests of Plaintiffs and the Class by requiring Defendant to comply with VPPA's requirements for protecting a consumer's PII; (iii) statutory damages of \$2,500 for each violation of the VPPA pursuant to 18 U.S.C. § 2710(c); and (iv) reasonable attorneys' fees and costs and other litigation expenses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated, seek judgment against Defendant, as follows:

(a) For an order determining that this action is properly brought as a class action and certifying Plaintiffs as the representatives of the Class and their counsel as Class Counsel;

(b) For an order declaring the Defendant's conduct violates the statute referenced herein;

(c) For an order finding in favor of Plaintiffs and the Class on all counts asserted herein;

(d) Entry of an order for injunctive and declaratory relief as described herein, including, but not limited to requiring Defendant to immediately (i) remove the Tracking Methods from the Lee Sites or (ii) add, and obtain, the appropriate consent from subscribers;

- (e) For damages in amounts to be determined by the Court and/or jury;
- (f) An award of statutory damages or penalties to the extent available;
- (g) For Defendant to pay \$2,500.00 to Plaintiffs and each Class member, as provided by the VPPA, 18 U.S.C. § 2710(c)(2)(A);
- (h) For pre-judgment interest on all amounts awarded;
- (i) For an order of restitution and all other forms of monetary relief;
- (j) An award of all reasonable attorneys' fees and costs and
- (k) Such other and further relief as the Court deems necessary and appropriate.

DEMAND FOR TRIAL BY JURY

Plaintiffs demand a trial by jury of all issues so triable.

Dated: December 19, 2022

**SHINDLER, ANDERSON, GOPLERUD
& WEESE, P.C.**

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**pro hac vice* to be filed