

Suit accuses Blockbuster, Facebook of privacy law violations

By [Jacqui Cheng](#) | Last updated April 18, 2008 12:24 PM

A class-action lawsuit is brewing over Facebook's controversial Beacon tool and Blockbuster's involvement with it. Texas native Cathryn Elaine Harris has filed a lawsuit against Blockbuster, alleging that the company is actively and knowingly violating the Video Privacy Protection Act by reporting users' activities back to Facebook. The suit seeks to be certified as a class action, and asks that Blockbuster pay out \$2,500 per incident in which it disclosed personally identifiable information.

The complaint, seen by Ars, points out that users' off-Facebook activities on Blockbuster are being reported back to Facebook, regardless of whether users choose to publish the information for their friends to see. Harris says that Blockbuster's activities violate the Video Privacy Protection Act, which prohibits "video tape service providers" from allowing third parties to access personally identifiable information about someone's renting or buying habits without their express, written consent. (The law was enacted in 1988 after a newspaper published records of 146 videos that Judge Robert Bork had rented during his consideration for a Supreme Court vacancy.) Harris says that Blockbuster knowingly violated the law by sending user information to Beacon when it was first launched, and that the company continues to do so to this day.



Blockbuster will report me adding this embarrassing movie to Facebook, even if I choose not to publish it to my news feed

Facebook first launched Beacon last November, which was meant to act as a new marketing strategy that could benefit both advertisers and Facebook users (more of the former than the latter). A number of companies, Blockbuster included, signed up to be part of the program, which meant that any user activity that took place on their respective web sites would subsequently be reported back to Facebook and published to users' timelines.

The problem was that Beacon was originally set up as a opt-out service instead of opt-in, so many users began finding their off-Facebook activities published on their Facebook profiles for all to see, automatically (and opting out was difficult). Since Beacon was launched close to the holiday shopping season, many users not only complained that their privacy was being grossly violated, but that Beacon had also ruined surprise presents that had been purchased online by publishing them to Facebook.

After the initial backlash, Facebook founder Mark Zuckerberg posted an apology to the Facebook blog in early December. He noted that the company should have handled Beacon differently and said that Facebook had changed its privacy settings so that publishing off-Facebook activities to users' news feeds would now be off by default. Instead, users could now opt in on a per-incident or per-site basis.

These fixes should relieve any concerns in Harris' lawsuit, right? Wrong. There is a difference between reporting the data to Facebook and publishing it to a user's news feed by default, and Blockbuster is still engaged in the former. In fact, Harris' complaint over this issue mirrors the concerns that many privacy advocates, including the Center for Digital Democracy, voiced at the time of the privacy setting changes.

If the suit is approved as a class action and the court grants Harris' \$2,500 per user request, Blockbuster could face some heavy penalties. Harris also asks for attorney's fees, other punitive damages that the court deems appropriate and that Facebook and Blockbuster be ordered to delete all personal information that has been illegally distributed.

Further reading:

- Found via Associated Press: [Blockbuster sued over Facebook ad feature](#)
- If you have [PACER](#) access, search for case number 2:2008cv00155