

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Justin Bradshaw and Gustavo Lopez, individually and on behalf of
all others similarly situated v. Lowe’s Companies, Inc., a North
Carolina corporation, and Lowes Home Centers, LLC, a North
Carolina limited liability company

Bradshaw · No. 25cv0742 DMS (MMP) · Decided November 12, 2025

SUMMARY

The United States District Court for the Southern District of California partially grants and partially denies Lowe’s Companies, Inc. and Lowe’s Home Centers, LLC’s motion to dismiss claims arising from the use of TikTok Pixel and Microsoft Bing trackers on the Lowe’s website. The court dismisses Lowe’s Companies, Inc. for lack of personal jurisdiction and dismisses the claims for lack of Article III standing, but rejects arguments that the trackers cannot qualify as pen registers under the California Invasion of Privacy Act and declines to dismiss on several other pleading grounds.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Dana M. Sabraw
JURISDICTION	United States District Court for the Southern District of California
DECIDED	November 12, 2025
DOCKET	25cv0742 DMS (MMP)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs brought a putative class action alleging that defendants violated the California Invasion of Privacy Act by using TikTok Pixel and Microsoft Bing tracking tools to collect IP addresses and related information without consent or a court order. Defendants moved to dismiss for lack of personal jurisdiction, lack of Article III standing, and failure to state a claim.
STANDARD OF REVIEW	On a motion to dismiss for lack of personal jurisdiction without an evidentiary hearing, plaintiffs need only make a prima facie showing; factual conflicts are resolved in plaintiffs’ favor. For Article III standing, plaintiffs must allege an injury in fact that is concrete,

	particularized, and actual or imminent, fairly traceable to the challenged conduct, and likely redressable by judicial relief. A Rule 12(b)(6) motion tests whether the complaint adequately states a claim, accepting well-pleaded allegations as true.
PRECEDENTIAL VALUE	unpublished
PARTIES	Justin Bradshaw, Gustavo Lopez v. Lowe’s Companies, Inc., Lowes Home Centers, LLC

TOPICS

personal jurisdiction standing motions to dismiss pleadings civil procedure

PRACTICE AREAS

civil procedure constitutional law privacy and data tracking consumer protection

QUESTIONS PRESENTED

1. Whether the court had specific personal jurisdiction over Lowe’s Companies, Inc. when plaintiffs alleged that the Lowe’s website was owned and operated by Lowe’s Home Centers, LLC.
2. Whether plaintiffs adequately alleged a concrete injury sufficient to establish Article III standing for their California Invasion of Privacy Act claim.
3. Whether the tracking tools alleged in the First Amended Complaint constituted pen registers or trap-and-trace devices under California Penal Code section 638.50.
4. Whether defendants’ alleged consent to the installation of the trackers required dismissal under California Penal Code section 638.51(b)(5).
5. Whether plaintiffs adequately pleaded scienter, statutory standing, and defendants’ involvement despite pleading against defendants collectively.

HOLDINGS

1. Plaintiffs failed to make a prima facie showing that their claim arose out of or related to Lowe’s Companies, Inc.’s forum-related activities because they alleged that Lowe’s Home Centers, LLC owned and operated the website. The court therefore dismissed Lowe’s Companies, Inc. for lack of personal jurisdiction.
2. Plaintiffs failed to allege a concrete injury sufficient to establish Article III standing for their CIPA section 638.51 claim. The court therefore dismissed the case for lack of standing.
3. At the pleading stage, plaintiffs adequately alleged that the TikTok Pixel and Microsoft Bing tracker constituted a pen register or trap-and-trace device under California Penal Code section 638.50, and the court rejected defendants’ argument that section 638.51 applies only to telephone surveillance.
4. Defendants’ argument that they consented to installation of the trackers under California Penal Code section 638.51(b)(5) did not warrant dismissal.

5. The complaint adequately pleaded scienter, statutory standing, and defendants' involvement through collective allegations, so those grounds did not warrant dismissal.

KEY QUOTATIONS

"For a court to exercise personal jurisdiction over a nonresident defendant, that defendant must have at least 'minimum contacts' with the relevant forum such that the exercise of jurisdiction 'does not offend traditional notions of fair play and substantial justice.'" (at 3)

"To establish Article III standing, "a plaintiff must show (i) that he suffered an injury in fact that is concrete, particularized, and actual or imminent; (ii) that the injury was likely caused by the defendant; and (iii) that the injury would likely be redressed by judicial relief.'" (at 6)

"Ninth Circuit "precedent does not prohibit collective pleading so long as the complaint gives defendants fair notice of the claims against them.'" (at 12)

FACTUAL BACKGROUND

Plaintiffs alleged that Lowe's website used TikTok Pixel and Microsoft Bing tracking tools to collect IP addresses, unique identifiers, browsing information, timestamps, device information, browser information, and Microsoft identifiers. They alleged that the information was shared with TikTok and Microsoft and used for analytics, advertising, and user identification. The asserted claim was based principally on the alleged capture of IP addresses as pen-register information under California Penal Code sections 638.50 and 638.51.

PROCEDURAL HISTORY

After plaintiffs filed a First Amended Complaint, defendants moved to dismiss. The parties submitted briefing and multiple notices of supplemental authority. The court dismissed Lowe's Companies, Inc. for lack of personal jurisdiction, dismissed the case for lack of Article III standing, rejected the remaining failure-to-state-a-claim arguments, and granted plaintiffs leave to file a Second Amended Complaint by November 19, 2025.

DISPOSITION

other

CASES CITED

- Harris Rutsky & Co. Ins. Servs., Inc. v. Bell & Clements Ltd., 328 F.3d 1122, 1128-29 (9th Cir. 2003)
- Doe I v. Unocal Corp., 248 F.3d 915, 922 (9th Cir. 2001)
- Schwarzenegger v. Fred Martin Motor Co., 374 F.3d 797, 801-02 (9th Cir. 2004)
- International Shoe Co. v. State of Washington, International Shoe Co. v. Washington, 326 U.S. 310, 316 (1945)
- Lake v. Lake, 817 F.2d 1416, 1421 (9th Cir. 1987)
- Picot v. Weston, 780 F.3d 1206, 1211-12 (9th Cir. 2015)
- CollegeSource, Inc. v. AcademyOne, Inc., 653 F.3d 1066, 1076 (9th Cir. 2011)

- Mikulsky v. Bloomingdale's, LLC, Nos. 24-3564, 24-3837, 2025 WL 1718225, at *1 (9th Cir. June 20, 2025)
- Autobidmaster, LLC v. Alpine Auto Gallery, LLC, No. 3:14-cv-1083-AC, 2015 WL 2381611 (D. Or. May 19, 2015)
- Cetacean Cmty. v. Bush, 386 F.3d 1169, 1174 (9th Cir. 2004)
- TransUnion LLC v. Ramirez, 594 U.S. 413, 423-24 (2021)
- Popa v. Microsoft Corp., 153 F.4th 784, 788, 791-94 (9th Cir. 2025)
- Spokeo v. Robins, 578 U.S. 330, 338 (2016)
- In re Facebook, Inc. Internet Tracking Litig., 956 F.3d 589, 598-601 (9th Cir. 2020)
- United States v. Forrester, 512 F.3d 500, 510 (9th Cir. 2008)
- United States v. Morel, 922 F.3d 1, 9 (1st Cir. 2019)
- United States v. Caira, 833 F.3d 803, 809 (7th Cir. 2016)
- United States v. Wheelock, 772 F.3d 825, 828-29 (8th Cir. 2014)
- United States v. Christie, 624 F.3d 558, 574 (3d Cir. 2010)
- Khamooshi v. Politico LLC, 786 F. Supp. 3d 1174, 1179, 1182 n.5 (N.D. Cal. 2025)
- Heeger v. Facebook, Inc., 509 F. Supp. 3d 1182, 1190 (N.D. Cal. 2020)
- Thomas v. Papa Johns Int'l, Inc., No. 22cv2012 DMS (MSB), 2024 WL 2060140 (S.D. Cal. May 8, 2024), aff'd, 2025 WL 1704437 (9th Cir. June 18, 2025)
- Greenley v. Kochava, Inc., 684 F. Supp. 3d 1024 (S.D. Cal. 2023)
- Garon v. Keleops USA, Inc., No. 25-cv-02124-DMR, 2025 WL 2522374, at *3 (N.D. Cal. Sept. 2, 2025)
- Gabrielli v. Haleon US Inc., 2025 WL 2494368, at *11
- Gabrielli v. Motorola Mobility LLC, No. 24-cv-09533-JST, 2025 WL 1939957, at *12 (N.D. Cal. July 14, 2025)
- Conohan v. Rad Power Bikes Inc., No. CV 25-0106 PVC, 2025 WL 1111246, at *6-7 (C.D. Cal. Apr. 3, 2025)
- Mirmalek v. Los Angeles Times Communications LLC, No. 24-cv-01797-CRB, 2024 WL 5102709, at *3 (N.D. Cal. Dec. 12, 2024)
- Shah v. Fandom, Inc., 754 F. Supp. 3d 924, 930 (N.D. Cal. 2024)
- Moody v. C2 Educational Systems Inc., 742 F. Supp. 3d 1072, 1077 (C.D. Cal. 2024)
- In re Capacitors Antitrust Litig., 154 F. Supp. 3d 918, 925 (N.D. Cal. 2015)
- Briskin v. Shopify, Inc., 135 F.4th 739, 762 (9th Cir. 2025)
- Rodriguez v. Culligan Int'l Co., No. 25cv0225-AJB-KSC, 2025 WL 3064113 (S.D. Cal. Nov. 3, 2025)
- Wooten v. BioLife Plasma Services L.P., No. 1:25-CV-00099-KES-SKO, 2025 WL 2979619, at *4 (E.D. Cal. Oct. 22, 2025)