

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

CANDICE WILHELM, individually and on
behalf of all others similarly situated,

Plaintiff,
v.

PLAID INC.,

Defendant.

Case No.: 1:24-cv-1242

District Judge LaShonda A. Hunt

Magistrate Judge Keri L. Holleb Hotaling

**DEFENDANT PLAID INC.’S
MOTION TO DISMISS PLAINTIFF’S COMPLAINT**

Defendant Plaid Inc. (“Plaid”) respectfully moves to dismiss Plaintiff Candice Wilhelm’s Complaint pursuant to Rules 12(b)(1), 12(b)(6), and 12(b)(2) of the Federal Rules of Civil Procedure. In support of its Motion, Plaid states as follows:

1. Plaintiff has sued Plaid for allegedly violating the Illinois Biometric Privacy Act (“BIPA”), 740 ILCS 14/5, *et seq.*, based on conclusory allegations that when she opened her accounts with cryptocurrency companies Banxa, Binance, Coinbase, Gemini, and Kraken, “Plaid collected and retained her biometric information.” Compl. ¶¶ 1, 4, 6, 8, 10, 12, 28, 30, 32, 34, 36. Plaintiff asserts claims against Plaid under BIPA Section 15(a) for failure to develop and publish a publicly-available biometric information retention policy (Count I), BIPA Section 15(b) for collecting or otherwise obtaining biometric information without first obtaining informed consent (Count II), and BIPA Section 15(c) for disclosing or otherwise disseminating biometric information without authorization (Count III).

2. All of Plaintiff’s BIPA claims should be dismissed under Fed. R. Civ. P. 12(b)(1) because she fails to allege facts plausibly showing that Plaid collected her biometrics, which is the predicate for an injury under BIPA. Further, Plaintiff could not in fact have suffered any such injury, because none of the cryptocurrency companies identified in the Complaint had even used

Plaid's identity verification services as of the filing of this lawsuit. *See Silha v. ACT, Inc.*, 807 F.3d 169, 173–74 (7th Cir. 2015).

3. Plaintiff's BIPA claims should also be dismissed under Fed. R. Civ. P. 12(b)(6) because Plaid is a “financial institution” that “is subject to Title V of the federal Gramm-Leach-Bliley Act of 1999 and the rules promulgated thereunder,” which exempts it from BIPA’s application. *See* 740 ILCS 14/25(c). *See McGoveran v. Amazon Web Servs., Inc.*, No. 1:20-cv-1399, 2023 WL 2683553, at *5 (D. Del. Mar. 29, 2023).

4. Plaintiff's claims should also be dismissed under Fed. R. Civ. P. 12(b)(2) because Plaid is subject neither to general nor specific personal jurisdiction in this state. Plaid is a Delaware company headquartered in California, which is not alleged to have a single suit-related contact with Illinois. *See Walden v. Fiore*, 571 U.S. 277, 284 (2014).

5. In support of this Motion, Defendants respectfully submit the accompanying Memorandum, the Declaration of Plaid’s Head of Identity Alain Meier, and the Declaration of Plaid’s counsel Blake Kolesa. The Declaration of Blake Kolesa attaches a Declaration by Plaintiff in another case (Exhibit A), Plaid’s Restated Certificate of Incorporation (Exhibit B), and an order by Judge Wood in another case (Exhibit C), which Exhibits are referenced in the Memorandum.

WHEREFORE, for the foregoing reasons and those stated in the accompanying Memorandum, Defendant Plaid Inc. respectfully requests that the Court grant this Motion and dismiss Plaintiff's Complaint with prejudice.

Dated: March 25, 2024

Respectfully submitted,

By: /s/ Nick Kahlon

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