

Case 10: Photo Shop

Shortly after Michelle posted a darling picture of her baby Annabelle in cozy Fluffybug jammies on social media, she started receiving coupons for Fluffybug products. She didn't think there was a connection between the coupons and the photo. She was shocked, however, to see the same photo in a Fluffybug advertisement a few months later. The photo was used without Michelle's consent. In fact, she only found out when her sister showed her the advertisements and asked for the name of Annabelle's agent. Fluffybug claims it was not required to get express consent because by tagging the picture as "Annabelle in her adorable Fluffybug jammies" Michelle had given implicit consent.

Like many other retailers, Fluffybug mines social media sites for images of their products, and uses this information in research and marketing. Technology enables nuanced consumer data mining, capturing swathes of images from social media sites, and using image recognition software to pull out photos with brand logos. Software analyzes facial expressions, background information, and geocoding locations, which marketing companies exploit to create profiles on individuals and suggestions for how to target them. Retailers justify their use of social media photos as standard social marketing practice. They claim that this is a creative way to target customers as well as those who block online ads and skip over commercials.

Some social media encourage widespread data mining from their websites by specifying in their agreements how content may be used. By using the website, users agree to whatever terms are set therein.

The lack of oversight raises concern among privacy advocates. Although Michelle was horrified to see her daughter's picture in an ad, many "models" are thrilled to find their selfies in ads, even though they receive no compensation. Beyond being concerned about privacy, Michelle is worried for her daughter's safety, now that Annabelle's image and who knows what other information is out there.

Case from the 2017 International Ethics Bowl on February 26, 2017 in Dallas Texas



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