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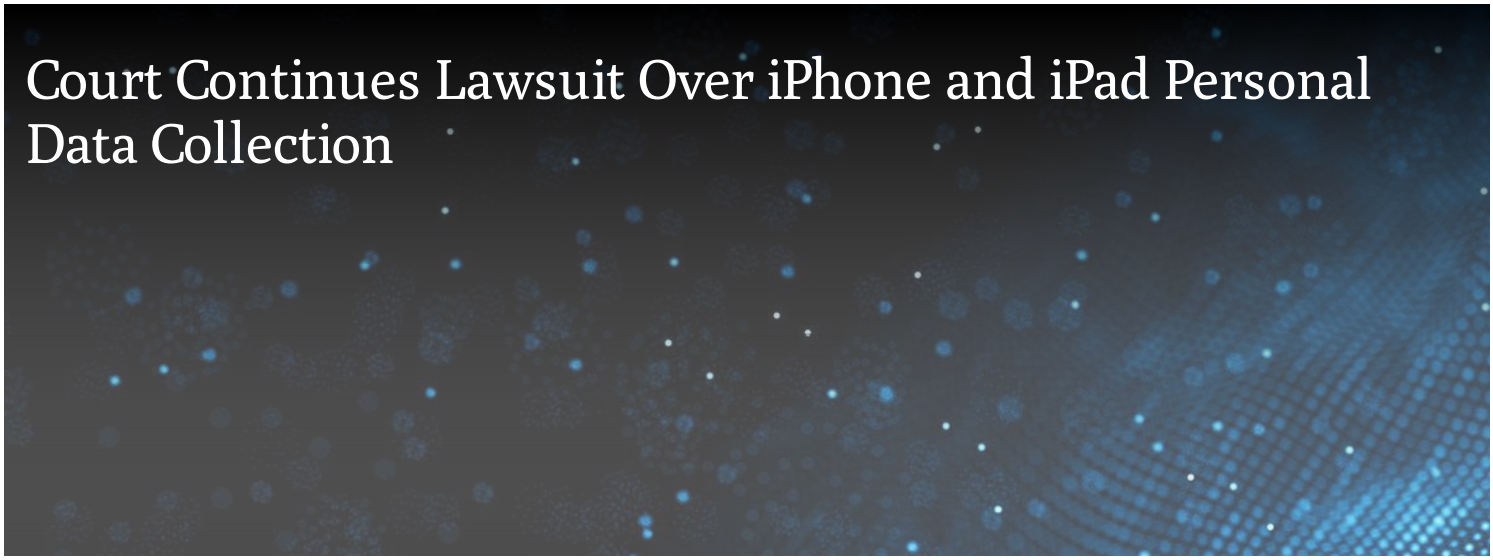
BLOG

Court Continues Lawsuit Over iPhone and iPad Personal Data Collection



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Apple continues to face a putative class action lawsuit over its collection of personal data from iPhone and iPad users after a federal judge in California denied its motion to dismiss on May 3. Plaintiffs allege the apps' retention of Unique Device Identifiers and Apple's transmission of this data to third party developers violated federal and California privacy and computer laws, including the Stored Communications Act, the Electronic Communications Privacy Act, the California Constitution, the Computer Fraud and Abuse Act, and California unfair competition laws. The court had previously dismissed the action with leave to amend in September 2011, finding that plaintiffs' vague and generalized allegations that iPhone and iPad apps collected and tracked user information were insufficient to allege an injury. This time, the court allowed some of plaintiffs' claims against Apple to proceed to pre-trial fact-finding. The amended complaint alleged that Apple failed to disclose its "free" apps included third-party spyware that collected plaintiffs' information without detection and sent it to third parties in an unreasonably insecure manner, and plaintiffs would not have purchased iPhones or paid the price they did for the devices that they argue are substantially devalued by such undesirable practices. Plaintiffs included quotes from other named defendants that assisted in data collection, in which the defendants described the value of the types of data collected. The amended complaint also listed specific items of information defendants allegedly collected from plaintiffs via the iPhone apps.

TIP: This case serves as a reminder that creators of an app should adequately disclose their privacy practices, and companies hiring vendors to create apps should ensure they understand if the apps will collect UDID information.

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