



LEGAL ALERT

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**Court Holds Song-Beverly Act's Prohibition on Collecting ZIP Codes Does Not Apply to On-line and Automated Transactions**

by Timothy J. Toohey

The United States District Court for the Central District of California in two recent cases has limited the applicability of the credit card data collection provisions of California's Song-Beverly Act (the Act) to "brick and mortar" transactions. In orders dismissing with prejudice *Mehrens v. Redbox Automated Retail LLC* and *Salmonson v. Microsoft Corporation et al.*, the court ruled that the collection of ZIP codes with credit card transactions at self-service unattended kiosks and on-line Internet transactions did not fall within Section 1747.08 of the Act which prohibits collection of certain "personal identification information" from credit cardholders.

In reaching this conclusion, the court interpreted the Act's prohibition against collection of "personal identification information," including ZIP codes, as limited only to situations involving "pen and paper transactions" requiring the "cardholder to write

personal identification information on the credit card form, requiring the cardholder to provide personal identification information that merchants then *write* on the credit card form and utilizing forms with *preprinted* spaces for personal identification information." (Emphasis in original.) In *Redbox*, the court dismissed plaintiff's claim that the collection of ZIP codes for credit card transactions at Redbox's self-service DVD rental and purchase kiosks violated the Act. Similarly, the same judge in the separate *Microsoft* case dismissed a claim that Microsoft's collection of ZIP codes for a credit card purchase of downloaded software violated the Act.

The *Redbox* and *Microsoft* decisions will likely be of interest to some of the estimated 200 companies that were sued for collecting ZIP codes from customers after the California Supreme Court in *Pineda v. Williams-Sonoma Stores, Inc.* ruled in 2011 that ZIP codes were "personal identification information" under the Act. Although the court in *Redbox* and *Microsoft* dismissed both complaints at the pleading stage, it remains to be seen whether these holdings will have a significant effect on the numerous pending ZIP code cases.

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