



Court: Lifelock using 'unfair business practice'

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LifeLock Inc. has been ordered to change its identity theft product by a federal judge who ruled that the firm has engaged in an "unfair business practice."

The Arizona-based company -- made famous by ads revealing CEO Todd Davis' Social Security number -- was sued by credit bureau Experian last year. In its lawsuit, Experian said the company was violating the Fair Credit Reporting Act while placing fraud alerts on behalf of LifeLock customers. U.S. District Judge Andrew Guilford of the Central District of California agreed, and granted a motion for summary judgment last week ordering LifeLock to stop.

LifeLock CEO Todd David said his company would use "all available avenues" to fight the ruling, but argued that its impact on customers would be minimal.

Consumers who fear becoming a victim of identity theft can file a fraud alert with each of the nation's three credit bureaus: Experian, Trans Union, and Equifax. The fraud alerts act as a flag to banks and other credit granters that they should use extra precaution when offering credit to anyone using that individual's Social Security number. Generally, credit granters -- such as auto dealerships or retail stores offering credit cards -- are urged to call consumers to verify their identities when a fraud alert is in place.

But the basic alerts last only 90 days unless consumers go to the trouble of reapplying. LifeLock's chief product involved automating the process of renewing the alerts. LifeLock representatives call the credit bureaus on behalf of consumers and reapply for alerts every 90 days.

Experian objected to this practice, claiming that the Fair Credit Reporting Act requires individuals to apply directly for fraud alerts themselves, making only a very narrow exception for other persons acting on behalf of an individual. The credit bureau, which complained that LifeLock was abusing its telephone systems, said Congress never intended for companies to file fraud alerts on behalf of individuals.

Judge Guilford agreed.

"Congress expressly excused Experian and other credit reporting agencies from placing fraud alerts requested by companies like LifeLock," he wrote in his ruling last Tuesday. "The court finds that this is a proper interpretation of the plain meaning of the statute."

The judge also agreed that LifeLock's automated fraud alert filing caused harm to Experian.

"Experian clearly incurs costs each time it must process a fraud alert made by LifeLock. These costs include the costs of allocating Experian's electronic resources and employee time, plus the maintenance costs of Experian's toll-free telephone number and Web page used to accept fraud alert requests," he said. "Experian also incurs postage and printing costs in mailing disclosure letters to each consumer on whose behalf a fraud alert is requested."

Davis said he was surprised by the judge's order, which he said favored credit bureau Experian over consumers.

"I can hire someone to do my taxes," he said. "There's a similar concept here. ...The idea that they are somehow protecting consumers with this ruling by making them do the work doesn't make sense."

Davis said LifeLock would no longer file fraud alerts with Experian, but would continue to file alerts with Trans Union and Equifax. Because credit bureaus are required to share alert information, he speculated that LifeLock-filed alerts would end up on Experian's files anyway.

In a statement, Experian said it was "pleased" with the court's ruling.

"This ruling is not just positive for Experian, but for consumers. Experian will continue to work with consumers to provide education and services to assist them with understanding the credit reporting system," it said.

LifeLock's bold advertisements are nearly ubiquitous. Last January, the company announced it had raised \$25.5 million in funding orchestrated by Goldman Sachs Group. Much of the money has gone to advertising, which apparently has paid off. The firm says it has 1.5 million customers now, each paying about \$10 per month for the service.

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Add a fraud alert at [Experian](#), [Equifax](#), or [Trans Union](#)

The full LifeLock-Experian case is slated to be heard in court during November. Should LifeLock be ordered permanently out of the fraud alert business, Davis said the firm will continue to provide a slate of other valuable services. LifeLock removes customers from junk mail lists and preapproved credit card offer lists and provides them with copies of their credit reports, he noted. But those services also are available free to consumers who seek them out.

LifeLock also says it will assist victims with identity restoration if they ever become victims of fraud, promising to spend up to \$1 million to do so. And it offers a service designed to make life easier for customers who lose their wallets.