

Five Public Interest Groups Underscore Opposition To Settlement In Google Privacy Suit

Written by Australian Business

SANTA MONICA, Calif., Oct. 16, 2013 /PRNewswire-USNewswire/ -- Consumer Watchdog joined the Electronic Privacy Information Center (EPIC) and three other public interest groups today in re-iterating their opposition to a proposed \$8.5 million settlement in a class action suit against Google for privacy violations in the way it handled users' search data because proposed recipients of settlement funds don't represent the interests of the class.

Today's letter to Judge Edward J. Davila said that *cy pres* awards in consumer privacy cases should go to consumer privacy organizations. EPIC, Consumer Watchdog, the Center for Digital Democracy, Patient Privacy Rights, and Privacy Rights Clearinghouse first objected to the settlement in August. Today's letter concluded:

"Counsel constructed a settlement procedure for the resolution of *cy pres* allocation that explicitly ignored the purpose of the litigation and the interests of the class members. While it is typically appropriate in settlements for parties to find mutually agreeable terms, in class action settlements the court must ensure that *cy pres* allocations satisfy the minimal threshold to protect the interests of the class.

"The *cy pres* selection procedure adopted by the parties in this matter does not serve the interests of the class. An open, transparent, and objective process would help ensure that the settlement is fair, reasonable, and accurate and that it provides the 'next best' distribution. In the alternative, the court could modify the proposed settlement, as other courts have done in similar circumstances in the past, to ensure that the *cy pres* funds are allocated to organizations aligned with the interests of class members."

Read the letter here: <http://www.consumerwatchdog.org/resources/epicetal-inregoogle-10-13.pdf>

"Bad settlements seriously undermine the effectiveness of class action suits in protecting

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consumers against corporate wrongdoing," said John M. Simpson, Consumer Watchdog's Privacy Project director. "They do nothing but fatten the pockets of the attorneys. In this case the proposed settlement allows the attorneys to channel the settlement money to drive their personal agendas. *Cy pres* awards in consumer privacy cases should go to consumer privacy organizations. I'm optimistic Judge Davila will do what's right."

Cy pres awards are a "next best" way of distributing settlement funds when it would be difficult to distribute the money to class members, but the recipients should further the interests of the class.

The original settlement proposed giving money to the World Privacy Forum, Carnegie-Mellon, Chicago-Kent College of Law Center for Information, Society, and Policy, Berkman Center for Internet and Society at Harvard University, Stanford Center for Internet and Society, MacArthur Foundation, and AARP, Inc. Of the proposed recipients only the World Privacy Forum is a consumer privacy organization. Since the settlement was first proposed, the MacArthur Foundation withdrew as a potential recipient and asked that the money slated for the organization be "redirected to other nonprofit organizations engaged in the underlying issues."

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