



#### About Jay Landrum

Jay Landrum is a member of Silicon Valley Law Group's Corporate & Securities and Intellectual Property Groups. As former General Counsel for a NYSE company and as a former CEO of a health products company, he has extensive experience representing companies in all stages of operation, including organizational matters, licensing, strategic relationship agreements, fund-raising, and merger transactions.

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## Look who's talking...about your personal data.

Ever wonder what happens after a customer provides personal information to a company over the web?

Websites typically post a "privacy policy" online, indicating what will and will not be done with personal data.

However, as a customer, you should know that it's not unusual for websites (and traditional businesses as well) to sell your information to other companies, who will in turn use it for direct marketing purposes -- meaning soliciting you to buy other goods and services. Customer data is like gold to direct marketers, helping them better target you as a buyer.

Personal information can include a wide range of data. Sometimes, it's data you really don't care about others knowing, such as your height, age, or even the types of products you have purchased before. Other times, personal information could include much more private things, such as medications you are taking, your birth date, credit card information, or other sensitive information.

Since January 1, 2005, California Civil Code Section 1798.83 has permitted customers who are California residents to request information from businesses regarding the disclosure of the customer's personal information to third parties for direct marketing purposes.

What if, at the time the customer provides the information, the business gets the customer to waive their right to later learn the third parties who have received their personal information? Under this statute, those waivers are unenforceable as a matter of public policy -- the customer still has the right to the information.

Upon a customer's request by phone or fax, the business must provide (free of charge) all of the names and addresses of all third parties that have received the customer's personal information. Companies selling information need to be able to provide this information; otherwise, they will be in violation of the statute.

Any customer injured by a violation of this statute may file a civil action to recover damages; in addition, if there was a willful, intentional, or reckless violation, the customer may also recover a civil penalty up to \$3,000 per violation. To top it off, they can also recover their attorney's fees and costs.

As a customer, you need to be diligent in protecting your personal information. Check websites for toll-free numbers, fax numbers and email contacts to request this information.

As a company, make sure you track any transfer of customer information -- failing to do so may result in significant financial penalties.

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