

GREGORY J. MADDEN (MD Bar)
SUSAN H. POPE (D.C. Bar No. 470345)
HONG PARK (D.C. Bar No. 475930)
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mail Drop CC-9528
Washington, D.C. 20580
Tel: (202) 326-2426, -3302, -2158
Fax: (202) 326-3197
Email: gmadden@ftc.gov, spope@ftc.gov,
hpark@ftc.gov

Attorneys for Plaintiff
Federal Trade Commission

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc., *et al.*,

Defendants.

No. CV-10-00530-PHX-MHM

**PLAINTIFF FEDERAL TRADE
COMMISSION'S MEMORANDUM
IN SUPPORT OF ITS NOTICE OF
LODGING PROPOSED
DOCUMENTS UNDER SEAL**

LODGED UNDER SEAL

I. INTRODUCTION

Today, the Federal Trade Commission (“FTC”) lodged a Motion for Civil Contempt against LifeLock, Inc. (the “contempt motion”). The FTC alleges that from at least October 2012 through March 2014, LifeLock violated the 2010 Order by:

1) failing to establish and maintain a comprehensive information security program to protect its users’ sensitive personal data, including credit card, social security, and bank account numbers; 2) falsely advertising that it protected consumers’ sensitive data with high-level information security safeguards; and 3) failing to meet the 2010 Order’s recordkeeping requirements. The FTC also alleges that from at least January 2012 through December 2014, LifeLock falsely claimed it protected consumers’ identities 24/7/365 by providing alerts “as soon as” it received any indication there was a problem.

The parties agree that LifeLock’s advertising, attached to the FTC’s Contempt Motion, is not confidential.¹ The parties also agree that any documents that delineate LifeLock’s current cyber architecture and vulnerabilities are confidential.² However, the parties disagree about the confidentiality of all other documents.

LifeLock requested that the contempt motion, memorandum in support, and all documents other than ads submitted in support remain confidential. However, it refused to state how any current systems or sensitive information would be revealed even with the FTC’s proposed redactions, refused to differentiate past and present vulnerabilities,

¹ Exs. 4, 6, 7, 9-11, 13.

² The FTC, however, cannot identify these documents because LifeLock has yet to disclose which portion of their architecture or vulnerabilities are current.

and refused to detail how those redacted documents would make it vulnerable unless its counsel saw, in advance of lodging, the FTC's draft contempt motion. The documents, however, obviously speak for themselves – they either contain confidential information or they do not. Thus, LifeLock cannot not meet its legal burden for keeping these documents from the public.

II. Meet and Confer

Pursuant to this Court's Local Rule 5.6, the FTC, starting on June 30, sought to confer with LifeLock's counsel with the hope of reaching agreement on which documents are actually confidential. Certification Re: Conference Requirements Under Civil Local Rule 5.6 ("Certif."), ¶¶ 2-4. To that end, the FTC attached a list of LifeLock's Bates-numbered documents to which the FTC intends to refer or attach to the contempt motion. *Id.*, ¶ 2, Att. A. LifeLock responded with spreadsheets containing broad categories of alleged concern but, for example, refused to differentiate past from current vulnerabilities. *Id.*, ¶¶ 5, 9-11, Atts. B and F.³

Counsel for the parties discussed the parties' positions on July 16. In an effort to understand *how* the disclosure of documents containing LifeLock's *historical*

³ The FTC on July 13 requested a detailed description of the objection to public disclosure of specific Exhibits, and Lifelock categorized each of those in the same categories of alleged concern. Certif., ¶¶ 8-9, Att. F ("flow diagrams detailing network and payment card processes," "location and storage of sensitive customer, employee, and contractor information," "Location and storage of cryptographic keys or the encryption processes used"). Throughout, LifeLock claims that even its email communications and spreadsheets discussing its reasons for its confidentiality claims are, themselves, confidential. Att. B. Lifelock has gone so far as to assert that its documents provided at the same time settlement discussions were occurring are privileged under FRE 408, but without specifying which documents it believes are covered by the privilege. Certif., ¶¶ 5-7, 10, 14.

vulnerability and remediation information might provide “clues” to potential hackers about LifeLock’s current IT system, FTC counsel offered to discuss these issues with LifeLock’s technology personnel. Certif., ¶¶ 15-17. The FTC also offered to apply redactions of any genuinely confidential information contained in the documents to address LifeLock’s concerns. *Id.* For example, the FTC offered to redact any reference to current IP addresses, computer names, and network diagrams. *Id.*, ¶ 18, Att. H.⁴ LifeLock’s counsel stated that the proposed redactions would be insufficient, but refused to engage in a discussion of reasons for their position. *Id.*, ¶ 19. LifeLock’s counsel’s position boils down to its belief that *describing* or disclosing any documents in any way could provide a roadmap to the company’s security ecosystem. *Id.*, Att. B. LifeLock’s counsel also indicated that it could not specifically state how the information in its own documents would make the company vulnerable unless it saw a draft of the FTC’s contempt motion in advance of filing or lodging. *Id.*, ¶ 19, Att. I.

III. ARGUMENT

A. The Legal Standard for Sealing Documents

Federal courts recognize a “strong presumption” in favor of access to judicial records. *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597-98 (1978); *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006).

⁴The FTC has, in fact, lodged Exhibits in redacted form (*see* Exs. 3, 19, 20, 22, 23, 24, 24, 26, 28, 29, 30, 33, 34, 35, 36, 40, 41A, 41B, 42, 46, 48, 50, 51, 57, 71, 73) and lodged excerpts of others (*see* Exs. 16, 17, 44, 45, 47, 62, 63, 64, 66, 67 and Ex. 70 Attachments).

Public interest in judicial records is particularly strong when a case involves important public issues or where the public interest is being represented. *See California ex rel. Lockyer v. Safeway, Inc.*, 355 F. Supp.2d 1111, 1124-26 (C.D. Cal. 2005) (government representation of public interest weighed heavily toward access); *see also In re Coordinated Pretrial Proceedings in Petroleum Products Antitrust Litig.*, 101 F.R.D. 34, 38 (C.D. Cal. 1984) (“access to court proceedings in general may be asserted more forcefully when the litigation involves matters of significant public concern.”). *See also FTC v. Standard Financial Management*, 830 F.2d 404, 410 (1st Cir. 1987) (“the appropriateness of making court files accessible is accentuated in cases where the government is a party; in such circumstances, the public’s right to know what the executive branch is about coalesces with the concomitant right of the citizenry to appraise the judicial branch.”) (citing *Nixon*).

Any party seeking to bar public access bears the burden of overcoming that presumption with specific examples and articulated reasoning for doing so. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1130-31 (9th Cir. 2003); *Kamakana*, 447 F.3d at 1178 (a party must “articulate compelling reasons supported by specific factual findings.”).

When seeking such a seal, one of two tests apply. For dispositive motions, the party seeking to prevent disclosure must establish “compelling reasons” for barring public access. *Kamakana*, 447 F.3d at 1178. For non-dispositive motions, a party must establish “good cause.” *Id.* at 1180; *Pintos v. Pac. Creditors’ Assn.*, 605 F.3d 665, 678

(9th Cir. 2010) (“good cause” standard applies to non-dispositive motions because they are “often unrelated, only tangentially related, to the underlying cause of action.”)

The “compelling reason” standard applies here for two reasons. First, like a motion for summary judgment, a contempt motion is a dispositive motion. See *Thomas, Head & Greisen Empl. Trust v. Buster*, 95 F.3d 1449, 1457 (9th Cir. 1996) (contempt motions only require hearings on issues of material fact in dispute), *cert. denied*, 520 U.S. 1116, 1457 (1997). The resolution of the FTC’s motion can dispose of the civil contempt cause of action entirely. *Kamakana*, 447 F.3d at 1179 (“the resolution of a dispute on the merits, whether by trial or summary judgment, is at the heart of the interest in ensuring the ‘public’s understanding of the judicial process and of significant public events.’” (quoting *Valley Broadcasting Co. v. U.S. Dist. Court for Dist. of Nev.*, 798 F.2d 1289, 1294 (9th Cir.1986)); see *U.S. v. Geary*, Civ. No. 05-00135-DAE-BMK, 2007 WL 1266069, *2 (D. Hawaii, April 30, 2007) (a contempt motion may be dispositive when it involves a determination of the merits of the case being litigated or issues that are critical in shaping the litigation). Second, the FTC’s enforcement of this Court’s Order is in the public interest. See *FTC v. EDebitPay, LLC*, 695 F.3d 938, 945 (9th Cir. 2012).

As detailed below, LifeLock has not satisfied the “compelling reasons” standard. Moreover, LifeLock has refused to specifically state its positions as required by even the good cause standard.⁵

⁵ Even if the good cause standard were applicable, Lifelock cannot meet its burden. In the Ninth Circuit, “good cause” requires that a party establish specific harm or prejudice

B. Defendant's Documents at Issue Do Not Meet the Legal Standard to Be Withheld from the Public.

There is no compelling reason to seal the FTC's Motion for Contempt, Memorandum in Support and certain LifeLock documents attached as Exhibits to the Memorandum. "[C]ompelling reasons . . . exist when such court files might have become a vehicle for improper purposes, such as the use of records to gratify private spite, promote public scandal, circulate libelous statements, or release trade secrets The mere fact that the production of records may lead to a litigant's embarrassment, incrimination, or exposure to further litigation will not, without more, compel the court to seal its records." *Kamakana*, 447 F.3d at 1179 (internal citations and quotations omitted).

Defendant appears to base its argument for withholding the cited documents from the public on their contention that releasing them will lead to the exposure of customers' private information. However, it does not argue, nor could it, that any of these documents contain consumers' information – because they do not. Instead, LifeLock claims that if these documents become public, they will provide a "roadmap" for hackers to gain access to the information. This argument is fundamentally flawed

to it if an order barring public access is not issued. *Phillips v. General Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002). Specificity means that "[a] party asserting good cause bears the burden, for each particular document it seeks to protect, of showing that specific prejudice or harm will result if no protective order is granted." *Foltz*, 331 F.3d at 1130 (emphasis added). LifeLock refused to make such a particularized showing with regard to each document. In its correspondence and discussions with FTC counsel, LifeLock simply asserts broadly that public disclosure of even descriptions that past information security vulnerability existed "could" provide "a roadmap" that potential thieves could use to jeopardize LifeLock's information security system. Att. B.

because Defendants cannot explain how historical vulnerabilities or outdated IP addresses could possibly provide such a roadmap.

Thus, LifeLock is left with the non-specific argument that exposing its past flaws will lead hackers to look for new ones. Such an argument does not meet the specificity requirements the law demands. Specifically, conclusory statements about the content of documents do not provide “compelling reasons” sufficiently specific to bar public access to the documents. *GoDaddy.com, LLC v. RPost Communications, Ltd*, No. CV-14-00126-PHX-JAT, 2014 WL 2117349, *1 (D. Ariz. May 21, 2014) (citing *Kamakana*, 477 F.3d at 1182).

The documents at issue demonstrate this very lack of specificity. For example, internal emails and reports to high-level information security employees and LifeLock management discuss the fact that steps needed to be taken or had not been taken regarding information security, without discussing the specificity of those steps. *See* Exs. 14 (“Enterprise Security” risks were “high” because “controls not consistently followed or are not in place[;]” and Applications-Database risks were next highest risk because “no change management, no patch management, poor data quality or integrity, access management issues”); 69 (“staff need to take vulnerability and patch management more seriously”). These documents state nothing more than overall failures, and any mentions of specific software indicate neither where such vulnerabilities existed nor that they still exist.

Some internal emails and business documents state that LifeLock failed to timely remediate many known critical system vulnerabilities, lost track of them, and

improperly downgraded them, without discussing the specific vulnerabilities or where they resided on the network. *See* Exs. 22 (Jan. 7, 2013 email [with IP address redacted] staff downgrading and masking vulnerabilities); 25 (“Patch classification downgraded without documented justification.”); 26 (July 1, 2013 email [with IP address redacted] announcing a new policy for the time in which to remedy vulnerabilities), 30, 31 (Windows and Linux patching behind by “at least” three months); 36 (July 16, 2013 email: “if these items were not addressed somehow (through a remediation plan or something like this) then what will suffice for the auditor today is a plan to address the findings in the pen test.”); 37, 38 (Oct. 11, 2013 email: “These are vulnerabilities that were identified in assessments that were completed in September and November 2012 and should have been remediated months ago.”); 39, 47 (January 2013 email [with attachment redacted]: “there are 4669 vulnerabilities on the system in the PCI environment. Most of them ranked critical.”); 49 (Jan. 3, 2014 email: “we already have the problem of a number of vulnerabilities in the backlog.”); 50 (Aug. 1, 2014 email [with IP addresses redacted]: over 100 high or critical Vulnerability Remediation Requests more than 150 days old). These general and/or historical discussions of LifeLock’s failings, as lodged, provide no roadmap to current hackers.

Similarly, LifeLock’s documents reveal that LifeLock’s information security employees were not following industry accepted information security policies and procedures, as well as the company’s own internal policies and procedures. *See* Exs. 51 (Nov. 15, 2012 email: “well defined change management plan not in place, people are not following the process.”); 52 (July 25, 2013 email: “InfoSec will need to scan/review

all major changes implemented in the [PCI] environment. While this has not occurred in the past, we are putting steps in place to ensure that the scans are part of the process. Since this is not fully documented and a process vetted (as to what works best in reality) I am asking for a ticket for a scan request at this time.”); 53 (“one thing LL is really lacking is having significant changes scanned after they go into production”); 54 (Feb. 11, 2014 email: approving a change management standard); 55 (July 15, 2013 email: “not all PCI vlans were being scanned.”) These are not a hacker roadmap because they discuss generally *that* policies were not being followed. These documents do not discuss specific software, network locations, or even the content of the policies.

Other LifeLock internal emails show that LifeLock *historically* did not employ enough staff to meet its information security responsibilities. *See* Exs. 58 and 60. LifeLock has not, and cannot, articulate with specificity how any of the general and historical information contained in the FTC’s Contempt Motion and Memorandum Exhibits will jeopardize its current IT system. *See Dunbar v. Google, Inc.*, No. 5:12-cv-003305, 2012 WL 6202719, *4 (N.D. Cal. Dec. 12, 2012) (denying Google’s motion to seal under the laxer “good cause” standard where it failed to show “*how* knowledge of this information will provide either an unfair advantage to competitors or dangerous information regarding Google’s processes to hackers and spammers.” (emphasis added)).

Defendant’s argument for sealing the Memorandum in Support of the FTC’s contempt motion, apart from the documents it cites, is even weaker. Nothing in the Memorandum provides specific or detailed information relating to LifeLock’s

information system architecture or any current system vulnerabilities that could, in and of themselves, expose that system to attack. *See Dugan v. Lloyds TSB Bank, PLC*, No. 12-cv-02549, 2013 WL 1435223, *5 (N.D. Cal. Apr. 9, 2013) (“[E]ven where the court has granted the motion to seal the documents which Plaintiffs summarize or from which they quote, the information in Plaintiff’s brief is neither sufficiently detailed nor extensive to qualify for sealing.”).⁶ The logical conclusion of LifeLock’s position is that the FTC could never publicize that it has taken any enforcement action regarding a defendant’s information security. But, the FTC has so informed the public many times.

Thus, LifeLock cannot even meet its burden of establishing good cause for sealing the FTC Contempt Memorandum or the Exhibits that support it.

C. The FTC Should Have the Opportunity to Respond to any New Arguments Made in a Motion to Seal.

In its correspondence and discussions with FTC counsel, LifeLock simply alleges that almost all of the LifeLock documents identified by the FTC as Exhibits fall within generalized categories whose disclosure or description may provide “clues” that potential thieves could use to jeopardize LifeLock’s information security system. Att. B. LifeLock has not explained with any specificity *how* the disclosure of any identified exhibit could provide a “roadmap” into LifeLock’s information security systems. Thus, the FTC is left to guess what arguments LifeLock will make in its inevitable motion to seal and will have no ability to respond, absent further order from the Court. *See* L.R.

⁶ The *Dugan* court also observed that broad and generalized characterizations about plaintiff’s *historical* pricing considerations would not likely to lead to potential competitive harm today. *Id.* at *4.

5.6(d). Thus, if the Court does not reject LifeLock's arguments given the extant briefing, the FTC respectfully requests the opportunity to respond to any new arguments about *how* the specific documents or even references to them might be used as clues to LifeLock's systems. Otherwise, LifeLock will be allowed to abuse the Local Rule 5.6 meet and confer process.⁷

IV. CONCLUSION

For the foregoing reasons, the FTC seeks leave to file documents in the manner described above and as reflected in the attachments to this Notice, and further seeks leave to respond to any new document-specific arguments that LifeLock does make.

Respectfully submitted,

Dated: July 21, 2015

s/ Gregory J. Madden
GREGORY J. MADDEN
SUSAN H. POPE
HONG PARK
Federal Trade Commission
Division of Enforcement
Mailcode: CC-9528
600 Pennsylvania Ave., NW
Washington, DC 20580
(202) 326-2426, gmadden@ftc.gov
(202) 326-3302, spope@ftc.gov
(202) 326-2158, hpark@ftc.gov
(202) 326-3197 (facsimile)

Attorney for Plaintiff
Federal Trade Commission

⁷ To the extent LifeLock provides specific arguments about specific documents, the FTC will have the opportunity to evaluate those arguments and distinguish between meritorious and non-meritorious confidentiality claims and present its position to the Court.

GREGORY J. MADDEN (MD Bar)
SUSAN H. POPE (D.C. Bar No. 470345)
HONG PARK (D.C. Bar No. 475930)
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mail Drop CC-9528
Washington, D.C. 20580
Tel: (202) 326-2426, -3302, -2158
Fax: (202) 326-3197
email: gmadden@ftc.gov, spope@ftc.gov,
hpark@ftc.gov

Attorneys for Plaintiff
Federal Trade Commission

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc., *et al.*,

Defendants.

No. CV-10-00530-PHX-MHM

**CERTIFICATION OF PLAINTIFF
FEDERAL TRADE COMMISSION
REGARDING CONFERENCE
REQUIREMENTS UNDER CIVIL
LOCAL RULE 5.6**

LODGED UNDER SEAL

1. The Federal Trade Commission (“FTC”), pursuant to Local Rule of Civil Procedure 5.6(d) of the United States District Court or the District of Arizona, certifies that counsel for the Federal Trade Commission conferred in good faith with counsel for Defendant LifeLock, Inc. (“LifeLock”) and was unable to reach agreement about whether the Plaintiff’s Lodged Proposed Documents to be filed in support of its Motion for Contempt Against LifeLock, Inc. (“Contempt Motion”) should be filed under seal.
2. On June 30, 2015, FTC counsel, Susan Pope, sent a letter (the “June 30, 2015 Letter”) to William C. MacLeod and Sharon Kim Schiavetti (Kelley Drye & Warren LLP), counsel for LifeLock, seeking to confer regarding LifeLock’s confidentiality designations and attaching a list of documents to which the FTC was planning to refer or attach to its Contempt Motion and accompanying material. See Att. A. The FTC requested a conference for July 1 or July 2.
3. Six days later, on July 6, 2015, during a meeting relating to other issues in this case with counsel for LifeLock, including Andrew Berg (Greenberg Traurig LLP), William C. MacLeod, and Clarissa Cerda (LifeLock General Counsel), FTC counsel raised the need to discuss in detail what, if any, objections LifeLock would have regarding the documents identified in its June 30, 2015 Letter. At that time, Ms. Cerda stated that LifeLock’s litigation counsel, Kirkland & Ellis, would be in touch with FTC counsel the next day to confer regarding the identified documents.

4. Two days later, Bilal Sayyed and Mark Holscher of Kirkland & Ellis called Susan Pope on July 8, 2015 to inform the FTC that they would be acting as litigation counsel for LifeLock. Counsel for both parties agreed that Mr. Sayyed would review the documents identified by the FTC and provide a written response.
5. On July 10, 2015, LifeLock's litigation counsel responded by email and with an attached spreadsheet providing generalized objections to virtually all of the documents identified in the June 30, 2015 letter. Att. B. LifeLock argued that the documents the FTC identified could find "clues" to thieves and a "roadmap into the company's ecosystem." In addition, LifeLock's litigation counsel asserted certain unidentified documents had been provided as part of LifeLock's settlement efforts and were "protected in accordance with FRE 408." *Id.*
6. On July 12, 2015, Susan Pope, FTC counsel, requested that LifeLock identify by Bates number those documents that LifeLock contends are protected by FRE 408. Att. C. During a telephone conference, LifeLock's litigation counsel said they would need to check with Kelly Drye regarding which documents were purportedly protected by FRE 408. FTC counsel stated that LifeLock would need to specifically identify the documents for which LifeLock was claiming a FRE 408 privilege and explain why facts contained in any such document would be entitled to protection under FRE 408.

7. On July 13, 2015, FTC counsel, Susan Pope again asked LifeLock's litigation counsel to confer with Kelly Drye regarding which documents LifeLock believed were protected by FRE 408. Att. D. In addition, the FTC informed LifeLock's litigation counsel that the FTC did not believe "high level references and quotations" in its pleadings would reveal any information that would compromise LifeLock's information security program or LifeLock members' information. *Id.*
8. On July 13, 2015, FTC counsel also requested that LifeLock provide a detailed description of LifeLock's objection, if any, to the disclosure in the public record of 20 specific documents (identified as FTC Exhibits: 22; 26; 30; 31; 36; 37 (email only; not attachment); 38; 39; 47; 49; 50-56; 58; 60; and 64). *Id.*
9. On July 13, 2015, Greg Madden, FTC counsel, identified additional documents to which the FTC intended to refer and attach to its Contempt Motion. Att. E. On July 15, 2015, LifeLock's litigation counsel responded with an email and an attached spreadsheet providing generalized objections to all of the documents identified in the Greg Madden's July 13, 2015 notification. Att. F.
10. In its July 15, 2015 response, LifeLock's litigation counsel did not: (a) specifically identify by Bates number the documents that LifeLock contended were subject to FRE 408; or (b) provide a response to the FTC's request that it

explain the basis for its objection to disclosure of the 20 documents the FTC specifically identified. *Id.*

11. LifeLock's July 15 response also indicated that LifeLock could not respond to the FTC's questions regarding LifeLock's confidentiality claims absent seeing the references in the FTC's pleadings and it was best that the parties discuss the issues after the FTC lodged its pleadings. *Id.*
12. Later that same day, after reviewing LifeLock's July 15, 2015 response, the FTC emailed LifeLock's litigation counsel requesting clarity on LifeLock's claims rather than postponing the issues until after the FTC lodged its pleadings. Att. G.
13. The FTC further explained that it believed the vast majority of LifeLock's concerns related to "historical vulnerabilities and historical remediation efforts" and that the "vague rationales offered" did not provide a compelling reason to seal the documents from the public. Therefore, the FTC informed LifeLock it intended to argue that none of the documents should be sealed from the public. *Id.*
14. On July 15, 2015, the FTC again repeated its request that LifeLock specifically identify, by Bates number, the documents LifeLock believed were protected by FRE 408 and the reason the protections would apply to the facts therein. *Id.*

15. The FTC proposed a conference call for the following day to explore LifeLock's concerns and determine if the parties could identify a way to apply "narrowly tailored redactions" to address LifeLock's concerns. *Id.*
16. On July 16, 2015, counsel for the parties held a 1:00 p.m. conference call to discuss the parties' positions. The FTC emphasized its view that historical problems alone did not provide a basis for sealing documents and that LifeLock needed to identify how the documents in question created a current vulnerability.
17. During that conference call, FTC counsel offered to apply narrowly tailored redactions of any genuinely confidential information contained in the documents to address LifeLock's concerns, specifically offering to redact IP addresses, computer names, and network diagrams. LifeLock's counsel explained that LifeLock employees would need to assist in a review of documents to determine whether the FTC's suggested approach would address LifeLock's concerns and offered to arrange a discussion with LifeLock technical staff. LifeLock's counsel agreed to try to arrange a discussion with LifeLock's technology personnel over the next three days in an effort to help the FTC understand how the disclosure of documents might provide clues to potential hackers about LifeLock's current information technology system.
18. FTC counsel, Hong Park, confirmed the particulars of the conversation in a 4:22 p.m. email after the conference call on July 16, 2015 and requested that LifeLock let the FTC know "in detail what concerns remain." Att. H.

19. By email at 5:26 p.m. on July 16, 2015, LifeLock’s litigation counsel said he had discussed the FTC’s proposed redactions with LifeLock and LifeLock said they would not be sufficient to address LifeLock’s security concerns. Att. I. Additionally, LifeLock’s counsel indicated he had discussed other alternatives with LifeLock, but LifeLock had reached the conclusion that “without understanding the context of the Commission’s filing, it will be impossible to be comfortable that any redactions will be sufficient to address” LifeLock’s concerns. *Id.* LifeLock’s counsel stated he understood the FTC’s request for “greater context to [LifeLock’s] concerns,” but believed it was unnecessary to do so to satisfy LifeLock’s meet and confer obligations. *Id.* LifeLock’s counsel stated that discussions of confidentiality should await the FTC’s lodging of the documents and LifeLock’s review of the FTC’s motion and memorandum. *Id.* Thus, the parties are at an impasse.

Respectfully submitted,

Dated: July 21, 2015

s/ Gregory J. Madden
GREGORY J. MADDEN
SUSAN H. POPE
HONG PARK
Federal Trade Commission
Division of Enforcement
Mailcode: CC-9528
600 Pennsylvania Ave., NW
Washington, DC 20580
(202) 326-2426, gmadden@ftc.gov
(202) 326-3302, spope@ftc.gov
(202) 326-2158, hpark@ftc.gov
(202) 326-3197 (facsimile)

7

Attorneys for Plaintiff
Federal Trade Commission

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc., *et al.*,

Defendants.

No. CV-10-00530-PHX-MHM

**CERTIFICATION OF PLAINTIFF
FEDERAL TRADE COMMISSION
REGARDING CONFERENCE
REQUIREMENTS UNDER CIVIL
LOCAL RULE 5.6**

LODGED UNDER SEAL

ATTACHMENT A

*
*



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Consumer Protection
Division of Enforcement
600 Pennsylvania Ave., NW
Mailstop CC-9528
Washington, DC 20580

Susan H. Pope
T: (202) 326-3302
E: spope@ftc.gov

June 30, 2015

Via Email

William C. MacLeod
Sharon Kim Schiavetti
Kelley Drye & Warren LLP
3050 K Street, NW
Washington, D.C. 20007
wmacleod@kelleydrye.com

Re: FTC v. LifeLock, Inc. et al, 10-CV-530 (D. Ariz.)

Mr. MacLeod:

Pursuant to Local Rule of Civil Procedure 5.6(d) of the U.S. District Court for the District of Arizona, the FTC is writing to confer with you regarding the LifeLock documents labeled "confidential" that the FTC intends to reference in its contempt motion and accompanying materials. *See* Attachment A.

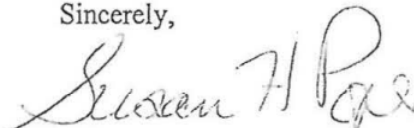
LifeLock marked each and every document it produced to the FTC as "confidential." It is our hope that we can come to agreement as to which documents, if any, are confidential and which are not and proceed accordingly.¹

Please let us know when you are available on Wednesday or Thursday to discuss the confidentiality designations.

¹ As addressed in Greg Madden's April 16, 2015 letter to Andrew Berg, LifeLock produced numerous publicly disseminated advertisements and marketing materials (*e.g.*, television advertisements, direct mail pieces) marked "confidential." In that letter, Mr. Madden advised that the FTC does not intend to provide "confidential" treatment to any LifeLock publicly disseminated advertisements and received no objection from LifeLock. Accordingly, those materials are not identified on Attachment A.

If you have any questions, please contact me at (202) 326-3302.

Sincerely,



Susan H. Pope

cc: Andrew G. Berg, Greenberg Traurig LLP
Gregory J. Madden
Hong Park

June 30, 2015 FTC Confer Letter
Attachment A

LIFELOCK-1153-345
LIFELOCK-1954-55
LIFELOCK-2081-122
LIFELOCK-2123-81
LIFELOCK-2307-22
LIFELOCK-2323-69
LIFELOCK-2123-2181
LIFELOCK-0009259-61
LIFELOCK-0010416-18
LIFELOCK-0010367-74
LIFELOCK-0019638-39
LIFELOCK-0023835
LIFELOCK-0023836
LIFELOCK-0024609-11
LIFELOCK-0025172-175
LIFELOCK-0026183
LIFELOCK-0029627-28
LIFELOCK-0030131-32
LIFELOCK-0032898-99
LIFELOCK-0033129-33
LIFELOCK-0033750-52
LIFELOCK-0034400-01

June 30, 2015 FTC Confer Letter
Attachment A

LIFELOCK-0034365-66
LIFELOCK-0038509
LIFELOCK-0038588-89
LIFELOCK-0039701-07
LIFELOCK-0043042-45
LIFELOCK-0051793
LIFELOCK-0051795
LIFELOCK-0053403-61
LIFELOCK-0053824-25
LIFELOCK-0053865-66
LIFELOCK-0073621
LIFELOCK-0076006-07
LIFELOCK-0077495
LIFELOCK-0077496
LIFELOCK-0077845
LIFELOCK-0079743-44
LIFELOCK-0081949-56
LIFELOCK-0084482
LIFELOCK-0085248-50
LIFELOCK-0088187-88
LIFELOCK-0089026-27
LIFELOCK-0089185

June 30, 2015 FTC Confer Letter
Attachment A

LIFELOCK-0089211-12
LIFELOCK-0089223-24
LIFELOCK-0089225-26
LIFELOCK-0089227-28
LIFELOCK-0089258
LIFELOCK-0089261-62
LIFELOCK-0089263-64
LIFELOCK-0093533-666
LIFELOCK-0095891-959
LIFELOCK-0097021-229
LIFELOCK-0110772-81
LIFELOCK-0132415
LIFELOCK-0132503
LIFELOCK-0133188-780
LIFELOCK-0134056-65
LIFELOCK-0134215-16
LIFELOCK-0134217-23
LIFELOCK-0134224-40
LIFELOCK-0134351
LIFELOCK-0134378-85
LIFELOCK-0134680-88
LIFELOCK-0133852-939

June 30, 2015 FTC Confer Letter
Attachment A

LIFELOCK-0134805-06
LIFELOCK-0135156-61
LIFELOCK-0135783
LIFELOCK-0135784
LIFELOCK-0135785
LIFELOCK-0135786
LIFELOCK-0135589-670
LIFELOCK-0136811
LIFELOCK-0136812
LIFELOCK-0136813
LIFELOCK-0138076
LIFELOCK-0138077
LIFELOCK-0138078
LIFELOCK-0138079
LIFELOCK-0138080
LIFELOCK-0138084
LIFELOCK-0138081-83
June 12, 2015 Letter from William C. McLeod to Susan H. Pope

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc., *et al.*,

Defendants.

No. CV-10-00530-PHX-MHM

**CERTIFICATION OF PLAINTIFF
FEDERAL TRADE COMMISSION
REGARDING CONFERENCE
REQUIREMENTS UNDER CIVIL
LOCAL RULE 5.6**

LODGED UNDER SEAL

ATTACHMENT B

Madden, Gregory

From: Sayyed, Bilal K. <bilal.sayyed@kirkland.com>
Sent: Friday, July 10, 2015 7:38 PM
To: Pope, Susan H.; Madden, Gregory
Cc: Sayyed, Bilal K.
Subject: Response to June 30 letter
Attachments: ATT00002.txt

Susan, Greg, see below and attached.
Confidential treatment requested.

I can discuss at your convenience.

Bilal

From: Sayyed, Bilal K.
Sent: Friday, July 10, 2015 04:39 PM Central Standard Time
To: Sayyed, Bilal K.
Subject: Submission to FTC Staff: Response to June 30 letter

CONFIDENTIAL TREATMENT REQUESTED

Susan,

This letter responds to your request that LifeLock, Inc. ("LifeLock") agree to relax the confidential designation on documents submitted to the Federal Trade Commission ("FTC" or "Commission") in the underlying investigation. For the reasons that follow, we oppose any such proposal by Commission staff. As we have discussed, we believe that any filing by the FTC in this matter should be under seal.

The documents on which Commission staff rely contain highly sensitive information related to LifeLock's information security program ("ISP"), including clues that thieves could use to victimize LifeLock customers and other victims of identity theft, as well as information that would reveal confidential and proprietary information of LifeLock itself. Lifelock believes that describing or disclosing these documents could provide a roadmap to and into the company's security ecosystem. The documents referenced in our letter include the following categories of highly sensitive information:

- descriptive and detailed references to alleged security vulnerabilities, including location and IP addresses;
- flow diagrams detailing network and payment card processes;
- detailed remediation work streams and protocols;
- location of storage of cryptographic keys and the encryption processes used;

- location and storage of sensitive customer, employee, and contractor information; and
- descriptions and illustrations of the company's forensic capabilities.

The attached spreadsheet identifies, for each document, the category it believes the document falls within, and why public release is inappropriate and harmful. The disclosure of this information could seriously jeopardize the company's information security program. The hackers to whom this sensitive information would be disclosed through its public release would have numerous tools to undermine the company's network security systems and processes, to exploit potential vulnerabilities, or otherwise attempt to reach sensitive customer information. Public release of the documents referenced in your letter would expose LifeLock and its customers to the exact same harm that the Commission seeks to protect consumers from and that the company's ISP has, to date, successfully protected against. This is information that should never be made public.

In addition, many of the documents were provided as part of the company's effort to settle this matter, and protected in accordance with FRE 408.

For these reasons the company will not agree to public release of the referenced documents.

The company may supplement this response.

Confidential treatment is requested for this email and the attachment.

Bilal Sayyed
Kirkland & Ellis LLP
655 15th Street, NW
Washington, D.C., 20005
(202) 879-5192
(703) 477-2871 (mobile)

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Kirkland & Ellis LLP or Kirkland & Ellis International LLP. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.

CONFIDENTIAL TREATMENT REQUESTED

Document	Descriptive and detailed references to alleged security vulnerabilities, including location and IP addresses;	Flow diagrams detailing network and payment card processes;	Detailed remediation work streams and protocols;	Location of storage of cryptographic keys or the encryption processes used;	Location and storage of sensitive customer, employee, and contractor information; and	A clear illustration of the company's forensic capabilities.	Other	Description of Other
LIFELOCK-0001153-345	x	x	x	x	x	x		
LIFELOCK-0001954-55	x		x					
LIFELOCK-0002081-122	x		x					
LIFELOCK-0002123-81	x							
LIFELOCK-0002307-22								
LIFELOCK-0002323-69								
LIFELOCK-0009259-61	x		x	x				Letter from LifeLock counsel to FTC describing the alert system and its limitations.
LIFELOCK-0010416-17	x		x					Letter from LifeLock counsel to FTC describing the alert throttling program and related customer complaints.
LIFELOCK-0010367-74	x		x					
LIFELOCK-0019638-39	x		x					
LIFELOCK-0023835								References documents that include confidential information LIFELOCK-0023836 et seq.
LIFELOCK-0023836								
LIFELOCK-0024609-11								
LIFELOCK-0025172-175								
LIFELOCK-0026183	x		x					
LIFELOCK-0028927-28	x		x					
LIFELOCK-0030131-32	x		x					
LIFELOCK-0032696-99	x		x					
LIFELOCK-0033128-33	x		x					
LIFELOCK-0033750-52	x		x					
LIFELOCK-0034400-01	x		x					
LIFELOCK-0034365-66	x		x					
LIFELOCK-0038509	x		x					
LIFELOCK-0038588-89	x		x					
LIFELOCK-0039701-07	x		x					
LIFELOCK-0043042-45	x		x					
LIFELOCK-0051793	x		x					
LIFELOCK-0051795	x		x					
LIFELOCK-0053403-61	x		x					
LIFELOCK-0053824-25	x		x					
LIFELOCK-0053865-66	x		x					
LIFELOCK-0073621	x		x					
LIFELOCK-0076006-07	x		x					
LIFELOCK-0077495	x		x					
LIFELOCK-0077496	x		x					
LIFELOCK-0077845	x		x					
LIFELOCK-0079743-44	x		x					
LIFELOCK-0081949-56	x		x					
LIFELOCK-0084482	x		x					
LIFELOCK-0085248-50	x		x					
LIFELOCK-0088187-88	x		x					
LIFELOCK-0089026-27	x		x					
LIFELOCK-0089185	x		x					
LIFELOCK-0089211-12	x		x					
LIFELOCK-0089223-24	x		x					
LIFELOCK-0089225-26	x		x					
LIFELOCK-0089227-28	x		x					
LIFELOCK-0089259	x		x					
LIFELOCK-0089261-62	x		x					
LIFELOCK-0089263-64	x		x					
LIFELOCK-0093533								
LIFELOCK-0095891-5859	x		x					
LIFELOCK-0097021-7229	x		x					
LIFELOCK-0132415	x		x					
LIFELOCK-0132503	x		x					
LIFELOCK-0133188-3780	x		x					
LIFELOCK-0133852-3939	x		x					
LIFELOCK-0134056-4212	x		x					
LIFELOCK-0095891-5859								Letter from LifeLock counsel to FTC describing LifeLock alert system and alleged reporting "gaps."
LIFELOCK-0097021-7229								May 2013 third party analysis of LifeLock IT vulnerabilities, distribution limited to those with "Need to Know" basis
LIFELOCK-0133188-3780								July 2013 third party analysis of LifeLock IT vulnerabilities.
LIFELOCK-0133852-3939								September 2014 third party review of LifeLock ISP
LIFELOCK-0134056-4212								Letter from LifeLock counsel to FTC describing LifeLock investigation of phishing attack

LIFELOCK-0134215-216	x	x							x	x									Letter from Lifelock counsel to FTC describing Lifelock investigation of simulated attack and ransomware attack. Letter explicitly requests confidential treatment under the FTC Rules.
LIFELOCK-0134217-223	x								x	x									Letter from Lifelock counsel to FTC describing Lifelock investigation of ransomware attack. Letter explicitly requests confidential treatment under the FTC Rules.
LIFELOCK-0134224-240	x								x	x									Letter from Lifelock counsel to FTC describing Lifelock investigation of ransomware attack. Letter explicitly requests confidential treatment under the FTC Rules.
LIFELOCK-0134378-385	x								x	x									Letter from Lifelock counsel to FTC describing Lifelock ISP program. Letter explicitly requests confidential treatment under the FTC Rules.
LIFELOCK-0134680-688																			Letter from Lifelock counsel to FTC describing Lifelock advertisements run during a particular period. Letter explicitly requests confidential treatment under the FTC Rules.
LIFELOCK-0134767-4831																			Detailed report of Lifelock's IT and ISP.
LIFELOCK-0135156-5161	x								x	x									Detailed report of vulnerabilities identified by Lifelock IT along with description of remedial measures.
LIFELOCK-0135599-5670	x								x	x									Letter from Lifelock counsel to FTC describing Lifelock logs of internal Lifelock IT ISP processes.
LIFELOCK-0135783	x								x	x									
LIFELOCK-0135784	x								x	x									
LIFELOCK-0135785	x								x	x									
LIFELOCK-0135786	x								x	x									
LIFELOCK-0136611	x								x	x									
LIFELOCK-0136612	x								x	x									
LIFELOCK-0136613	x								x	x									
LIFELOCK-0138076																			
LIFELOCK-0138077																			
LIFELOCK-0138078	x								x	x									
LIFELOCK-0138079	x								x	x									
LIFELOCK-0138080	x								x	x									
LIFELOCK-0138081	x								x	x									
LIFELOCK-0138084	x								x	x									
June 12, 2015 Letter from William C. McLeod to Susan H. Pope	x								x	x									

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc., *et al.*,

Defendants.

No. CV-10-00530-PHX-MHM

**CERTIFICATION OF PLAINTIFF
FEDERAL TRADE COMMISSION
REGARDING CONFERENCE
REQUIREMENTS UNDER CIVIL
LOCAL RULE 5.6**

LODGED UNDER SEAL

ATTACHMENT C

*
*

Madden, Gregory

From: Pope, Susan H.
Sent: Sunday, July 12, 2015 12:18 PM
To: 'Sayyed, Bilal K.'
Cc: Madden, Gregory
Subject: RE: Response to June 30 letter

Bilal, Please, would you identify those documents (by bates number) that LifeLock contends are protected by FRE 408.

Thanks much. Susan

Susan H. Pope
Attorney
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mailcode: CC-9502
Washington, D.C. 20580
Tel: 202 326-3302
spope@ftc.gov

-----Original Message-----

From: Sayyed, Bilal K. [mailto:bilal.sayyed@kirkland.com]
Sent: Saturday, July 11, 2015 1:57 PM
To: Madden, Gregory; Pope, Susan H.
Subject: RE: Response to June 30 letter

Greg, let me know if this version comes through. If not, I will send as a pdf.

Confidential treatment requested for email and attachments.

Thank you,

Bilal

-----Original Message-----

From: Madden, Gregory [mailto:gmadden@ftc.gov]
Sent: Saturday, July 11, 2015 1:17 PM
To: Sayyed, Bilal K.; Pope, Susan H.
Subject: RE: Response to June 30 letter

Bilal -

The attachment did not come through. We understand it was due to the naming convention on the file. Could you please resend with a different file name. After we receive, we can work through the document.

Thank you,

Greg Madden

Federal Trade Commission

600 Pennsylvania Ave., N.W.
Mailcode: CC-9528
Washington, D.C. 20580
Tel: 202 326-2426
Fax: 202 326-3197
gmadden@ftc.gov

-----Original Message-----

From: Sayyed, Bilal K. [mailto:bilal.sayyed@kirkland.com]
Sent: Saturday, July 11, 2015 1:08 PM
To: Pope, Susan H.; Madden, Gregory
Cc: Sayyed, Bilal K.
Subject: Re: Response to June 30 letter

Greg, Susan,

We will call you Monday morning to follow-up on this and other issues related to a potential Tuesday filing; we can talk over the weekend if better /convenient for you.

Thank you,

Bilal

-----Original Message-----

To: spope@ftc.gov
To: Gregory Madden
Cc: Bilal Sayyed
Subject: Response to June 30 letter
Sent: Jul 10, 2015 4:37 PM

Susan, Greg, see below and attached.
Confidential treatment requested.

I can discuss at your convenience.

Bilal

-----Original Message-----

From: Bilal Sayyed
To: Bilal Sayyed
Subject: Submission to FTC Staff: Response to June 30 letter
Sent: Jul 10, 2015 2:39 PM

CONFIDENTIAL TREATMENT REQUESTED

Susan,

This letter responds to your request that LifeLock, Inc. ("LifeLock") agree to relax the confidential designation on documents submitted to the Federal Trade Commission ("FTC" or "Commission") in the underlying investigation. For the reasons that follow, we oppose any such proposal by Commission staff. As we have discussed, we believe that any filing by the FTC in this matter should be under seal.

The documents on which Commission staff rely contain highly sensitive information related to LifeLock's information security program ("ISP"), including clues that thieves could use to victimize LifeLock customers and other victims of identity theft, as well as information that would reveal confidential and proprietary information of LifeLock itself. LifeLock believes that describing or disclosing these documents could provide a roadmap to and into the company's security ecosystem. The documents referenced in our letter include the following categories of highly sensitive information:

§ descriptive and detailed references to alleged security vulnerabilities, including location and IP addresses; § flow diagrams detailing network and payment card processes; § detailed remediation work streams and protocols; § location of storage of cryptographic keys and the encryption processes used; § location and storage of sensitive customer, employee, and contractor information; and § descriptions and illustrations of the company's forensic capabilities.

The attached spreadsheet identifies, for each document, the category it believes the document falls within, and why public release is inappropriate and harmful. The disclosure of this information could seriously jeopardize the company's information security program. The hackers to whom this sensitive information would be disclosed through its public release would have numerous tools to undermine the company's network security systems and processes, to exploit potential vulnerabilities, or otherwise attempt to reach sensitive customer information. Public release of the documents referenced in your letter would expose LifeLock and its customers to the exact same harm that the Commission seeks to protect consumers from and that the company's ISP has, to date, successfully protected against. This is information that should never be made public.

In addition, many of the documents were provided as part of the company's effort to settle this matter, and protected in accordance with FRE 408.

For these reasons the company will not agree to public release of the referenced documents.

The company may supplement this response.

Confidential treatment is requested for this email and the attachment.

Bilal Sayyed
Kirkland & Ellis LLP
655 15th Street, NW
Washington, D.C., 20005
(202) 879-5192
(703) 477-2871 (mobile)

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Kirkland & Ellis LLP or Kirkland & Ellis International LLP. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Kirkland & Ellis LLP or Kirkland

& Ellis International LLP. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc., *et al.*,

Defendants.

No. CV-10-00530-PHX-MHM

**CERTIFICATION OF PLAINTIFF
FEDERAL TRADE COMMISSION
REGARDING CONFERENCE
REQUIREMENTS UNDER CIVIL
LOCAL RULE 5.6**

LODGED UNDER SEAL

ATTACHMENT D

Madden, Gregory

From: Pope, Susan H.
Sent: Monday, July 13, 2015 4:54 PM
To: 'Sayed, Bilal K.'
Cc: Madden, Gregory
Subject: LifeLock Documents/Confidentiality Issues.

Bilal,

Thank you for taking the time to discuss the proposed documents and confidentiality issues this afternoon. I am writing to summarize our conversation. For purposes of tomorrow's filing, the FTC is adapting an expansive interpretation of LifeLock's confidentiality claims. By so doing, the FTC does not in any way limit its ability to challenge LifeLock's confidentiality claims at a later date.

- (1) As discussed, the FTC plans to lodge its motion, memorandum and exhibits tomorrow under seal in accord with the Local Rules.
- (2) Except as may be specifically identified below, the general categories of documents that the FTC intends file under seal are as follows (a) LifeLock Internal Information Security Risk Assessments; (b) LL Internal Information Security Logs; (c) Third Party Assessments and Reports; (d) FTC's expert report and exhibits attached thereto. We presume that LL will not object to LL's filing these documents under seal.
- (3) While the FTC will provisionally lodge its motion and memorandum under seal, pending the court's determination, the FTC's position is that the high level references and quotations in its brief to documents which may be filed under seal will not reveal any trade secret or other sensitive information security program information that would compromise the LL information security program or its members' information
- (4) While the FTC will provisionally lodge the following documents under seal, pending the court's determination, the FTC's position is that these particular documents do not reveal any trade secret or other sensitive information security program information that would compromise the LL information security program or its members' information.

FTC Exhibits: 22; 26; 30; 31; 36; 37 (email only; not attachment); 38; 39; 47; 49; 50-56; 58; 60; and 64

Please provide a more detailed description of LifeLock's objection to the disclosure of these documents on in the public record, if any. (I will securely attach them to a subsequent email for your convenience)

- (5) Please note that in an abundance of caution, the FTC intends to file its expert report, and the documents referenced therein under seal. The FTC notes that some of the documents referenced and appended to the Expert report may be duplicative of documents that the FTC believes are not subject to confidentiality and believes that they should be disclosed. By sealing this documents in connection with their reference in and attachment to the Expert report, the FTC does not in any way waive any argument that any of these documents are not confidential.
- (6) We understand that you are going to provide LifeLock's responses to the newly identified documents we provided to you earlier today.
- (7) Finally, we understand that you are going to check with LifeLock and Kelley Drye as to which documents LifeLock believes are protected pursuant to FRE 408.

Best, Susan

Susan H. Pope
Attorney
Federal Trade Commission

600 Pennsylvania Ave., N.W.
Mailcode: CC-9502
Washington, D.C. 20580
Tel: 202 326-3302
spope@ftc.gov

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc., *et al.*,

Defendants.

No. CV-10-00530-PHX-MHM

**CERTIFICATION OF PLAINTIFF
FEDERAL TRADE COMMISSION
REGARDING CONFERENCE
REQUIREMENTS UNDER CIVIL
LOCAL RULE 5.6**

LODGED UNDER SEAL

ATTACHMENT E

Madden, Gregory

From: Madden, Gregory
Sent: Monday, July 13, 2015 10:01 AM
To: 'Sayyed, Bilal K.'; Pope, Susan H.
Subject: RE: Response to June 30 letter
Attachments: Ex. 5 - LIFELOCK-0134767-831.pdf; Ex. 15 - LIFELOCK-0075439.xlsx; Ex. 36 - LIFELOCK-0073557.pdf; Ex. 43 - LIFELOCK-0032489.pdf; Ex. 42 - LIFELOCK-0095646.pdf; Ex. 46 - LIFELOCK-0085232.pdf; Ex. 46 - Lifelock-0085281.xlsx; Ex. 49 - LIFELOCK-0033450-52.pdf; Ex. 65 - Seoane Sworn Declaration.pdf; Ex. 69 - Lifelock-0084028.xlsx; Ex. 69 - LIFELOCK-0084027.pdf; Ex. 70 - LL Letter re 10 22 14 Submission.pdf; Ex. 72 - 3-13-14 FTC to Berg.pdf; Ex. 71- LIFELOCK-0135499-510.pdf; Ex. 40 - LIFELOCK-0110772-81.pdf; Ex. 54 -LIFELOCK-0033420-23.pdf

Bilal -

10:30 should work for us.

Also, please be advised that we have identified additional documents that LifeLock has designated as confidential that we are using in our filing. I have identified by bates number below and have also attached for your convenience (if file is not too large) A number are replacing previously identified documents you have reviewed with better versions and some are new.

Ex. 5 - LIFELOCK-0134767-831
Ex. 15 - LIFELOCK-0075439
Ex. 36 - LIFELOCK-0073557
Ex. 42 - LIFELOCK-0095646
Ex. 43 - LIFELOCK-0032489
Ex. 44 - LIFELOCK-0084483-625 (too large to attach) Ex. 46 - LIFELOCK-0085232, 0085281 Ex. 48 - LIFELOCK-0018299-13
Ex. 49 - LIFELOCK-0033450-52 Ex. 54 - LIFELOCK-0033420-23 Ex. 65 - Seoane Declaration Ex. 69 - LIFELOCK-0084027-28
Ex. 70 - LIFELOCK-0134032-49 Ex. 71 - LIFELOCK-0135499-510 Ex. 72 - FTC March 13, 2014 Letter to LifeLock Counsel

In addition, the following document was previously identified, but did not appear on your list.

Ex. 40 - LIFELOCK-0110772-81

Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mailcode: CC-9528
Washington, D.C. 20580
Tel: 202 326-2426
Fax: 202 326-3197
gmadden@ftc.gov

-----Original Message-----

From: Sayyed, Bilal K. [mailto:bilal.sayyed@kirkland.com]
Sent: Monday, July 13, 2015 12:58 AM
To: Pope, Susan H.
Cc: Madden, Gregory
Subject: RE: Response to June 30 letter

Susan, I am sorry - I just picked this up. I will call you in the morning - for this I need to have further discussions with Kelly Drye. There is another, related question I have for both Greg and you; if 10:30 AM works for a call, I will call you then.

Thank you.

Bilal

-----Original Message-----

From: Pope, Susan H. [mailto:spope@ftc.gov]
Sent: Sunday, July 12, 2015 12:18 PM
To: Sayyed, Bilal K.
Cc: Madden, Gregory
Subject: RE: Response to June 30 letter

Bilal, Please, would you identify those documents (by bates number) that LifeLock contends are protected by FRE 408.

Thanks much. Susan

Susan H. Pope
Attorney
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mailcode: CC-9502
Washington, D.C. 20580
Tel: 202 326-3302
spope@ftc.gov

-----Original Message-----

From: Sayyed, Bilal K. [mailto:bilal.sayyed@kirkland.com]
Sent: Saturday, July 11, 2015 1:57 PM
To: Madden, Gregory; Pope, Susan H.
Subject: RE: Response to June 30 letter

Greg, let me know if this version comes through. If not, I will send as a pdf.

Confidential treatment requested for email and attachments.

Thank you,

Bilal

-----Original Message-----

From: Madden, Gregory [mailto:gmadden@ftc.gov]
Sent: Saturday, July 11, 2015 1:17 PM
To: Sayyed, Bilal K.; Pope, Susan H.
Subject: RE: Response to June 30 letter

Bilal -

The attachment did not come through. We understand it was due to the naming convention on the file. Could you please resend with a different file name. After we receive, we can work through the document.

Thank you,

Greg Madden

Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mailcode: CC-9528
Washington, D.C. 20580
Tel: 202 326-2426
Fax: 202 326-3197
gmadden@ftc.gov

-----Original Message-----

From: Sayyed, Bilal K. [mailto:bilal.sayyed@kirkland.com]
Sent: Saturday, July 11, 2015 1:08 PM
To: Pope, Susan H.; Madden, Gregory
Cc: Sayyed, Bilal K.
Subject: Re: Response to June 30 letter

Greg, Susan,

We will call you Monday morning to follow-up on this and other issues related to a potential Tuesday filing; we can talk over the weekend if better /convenient for you.

Thank you,

Bilal

-----Original Message-----

To: spope@ftc.gov
To: Gregory Madden
Cc: Bilal Sayyed
Subject: Response to June 30 letter
Sent: Jul 10, 2015 4:37 PM

Susan, Greg, see below and attached.
Confidential treatment requested.

I can discuss at your convenience.

Bilal

-----Original Message-----

From: Bilal Sayyed
To: Bilal Sayyed
Subject: Submission to FTC Staff: Response to June 30 letter
Sent: Jul 10, 2015 2:39 PM

CONFIDENTIAL TREATMENT REQUESTED

Susan,

This letter responds to your request that LifeLock, Inc. ("LifeLock") agree to relax the confidential designation on documents submitted to the Federal Trade Commission ("FTC" or "Commission") in the underlying investigation. For the reasons that follow, we oppose any such proposal by Commission staff. As we have discussed, we believe that any filing by the FTC in this matter should be under seal.

The documents on which Commission staff rely contain highly sensitive information related to LifeLock's information security program ("ISP"), including clues that thieves could use to victimize LifeLock customers and other victims of identity theft, as well as information that would reveal confidential and proprietary information of LifeLock itself. LifeLock believes that describing or disclosing these documents could provide a roadmap to and into the company's security ecosystem. The documents referenced in our letter include the following categories of highly sensitive information:

§ descriptive and detailed references to alleged security vulnerabilities, including location and IP addresses; § flow diagrams detailing network and payment card processes; § detailed remediation work streams and protocols; § location of storage of cryptographic keys and the encryption processes used; § location and storage of sensitive customer, employee, and contractor information; and § descriptions and illustrations of the company's forensic capabilities.

The attached spreadsheet identifies, for each document, the category it believes the document falls within, and why public release is inappropriate and harmful. The disclosure of this information could seriously jeopardize the company's information security program. The hackers to whom this sensitive information would be disclosed through its public release would have numerous tools to undermine the company's network security systems and processes, to exploit potential vulnerabilities, or otherwise attempt to reach sensitive customer information. Public release of the documents referenced in your letter would expose LifeLock and its customers to the exact same harm that the Commission seeks to protect consumers from and that the company's ISP has, to date, successfully protected against. This is information that should never be made public.

In addition, many of the documents were provided as part of the company's effort to settle this matter, and protected in accordance with FRE 408.

For these reasons the company will not agree to public release of the referenced documents.

The company may supplement this response.

Confidential treatment is requested for this email and the attachment.

Bilal Sayyed
Kirkland & Ellis LLP
655 15th Street, NW
Washington, D.C., 20005
(202) 879-5192
(703) 477-2871 (mobile)

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Kirkland & Ellis LLP or Kirkland & Ellis International LLP. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly

prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Kirkland & Ellis LLP or Kirkland & Ellis International LLP. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Kirkland & Ellis LLP or Kirkland & Ellis International LLP. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc., *et al.*,

Defendants.

No. CV-10-00530-PHX-MHM

**CERTIFICATION OF PLAINTIFF
FEDERAL TRADE COMMISSION
REGARDING CONFERENCE
REQUIREMENTS UNDER CIVIL
LOCAL RULE 5.6**

LODGED UNDER SEAL

ATTACHMENT F

Madden, Gregory

From: Sayyed, Bilal K. <bilal.sayyed@kirkland.com>
Sent: Wednesday, July 15, 2015 11:57 AM
To: Madden, Gregory; Pope, Susan H.
Subject: RE: Response to June 30 letter / July 13 email.
Attachments: Categorization of Additional FTC Documents 071515.xls

Greg, Susan,

This spreadsheet responds to your email of July 13, asking the company to identify its basis (if any) for requesting that certain documents be filed under seal. Please read this supplement in conjunction with the comments below and in our earlier transmission.

As we have discussed, we believe we will be better able to address this issue after the FTC shares its filing with us. We do not intend our efforts here to suggest an aggressive or non-cooperative position, but as we have discussed we are very sensitive to public release of information that may provide information to third parties that may attempt to circumvent the company's security efforts. Neither you nor we wish to do anything that makes that easier, and it is our conclusion that to better reach agreement on this issue we need to see the Commission's filings. We are prepared to work expeditiously on this if the litigation track proceeds.

As to references to the documents in the FTC's filings, we understand the initial filings will be under seal. But, we are agreeable to your telling the court we will work expeditiously to identify the references we believe should remain confidential or under seal.

As to those documents that may be subject to FRE 408, as we have discussed, we believe documents produced to the Commission after the company's meetings with the Commissioners may be subject to non-disclosure, non-use, but agree that this is also an issue we should discuss expeditiously after your filing, as we have heard your contention that such documents may have been requested as part of your investigation and may not properly fall within the protections of Rule 408.

Finally, we note that you identified a small number of documents to us yesterday and indicated you believe that they should be afforded confidential protection by the court.

Thank you,

Bilal

Bilal Sayyed
Kirkland & Ellis LLP
655 15th Street, NW
Washington, D.C., 20005
(202) 879-5192
(703) 477-2871 (mobile)

-----Original Message-----

From: Sayyed, Bilal K.
Sent: Saturday, July 11, 2015 1:57 PM
To: 'Madden, Gregory'; 'Pope, Susan H.'
Subject: RE: Response to June 30 letter

Greg, let me know if this version comes through. If not, I will send as a pdf.

Confidential treatment requested for email and attachments.

Thank you,

Bilal

-----Original Message-----

From: Madden, Gregory [mailto:gmadden@ftc.gov]
Sent: Saturday, July 11, 2015 1:17 PM
To: Sayyed, Bilal K.; Pope, Susan H.
Subject: RE: Response to June 30 letter

Bilal -

The attachment did not come through. We understand it was due to the naming convention on the file. Could you please resend with a different file name. After we receive, we can work through the document.

Thank you,

Greg Madden

Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mailcode: CC-9528
Washington, D.C. 20580
Tel: 202 326-2426
Fax: 202 326-3197
gmadden@ftc.gov

-----Original Message-----

From: Sayyed, Bilal K. [mailto:bilal.sayyed@kirkland.com]
Sent: Saturday, July 11, 2015 1:08 PM
To: Pope, Susan H.; Madden, Gregory
Cc: Sayyed, Bilal K.
Subject: Re: Response to June 30 letter

Greg, Susan,

We will call you Monday morning to follow-up on this and other issues related to a potential Tuesday filing; we can talk over the weekend if better /convenient for you.

Thank you,

Bilal

-----Original Message-----

To: spope@ftc.gov
To: Gregory Madden
Cc: Bilal Sayyed
Subject: Response to June 30 letter
Sent: Jul 10, 2015 4:37 PM

Susan, Greg, see below and attached.
Confidential treatment requested.

I can discuss at your convenience.

Bilal

-----Original Message-----

From: Bilal Sayyed
To: Bilal Sayyed
Subject: Submission to FTC Staff: Response to June 30 letter
Sent: Jul 10, 2015 2:39 PM

CONFIDENTIAL TREATMENT REQUESTED

Susan,

This letter responds to your request that LifeLock, Inc. ("LifeLock") agree to relax the confidential designation on documents submitted to the Federal Trade Commission ("FTC" or "Commission") in the underlying investigation. For the reasons that follow, we oppose any such proposal by Commission staff. As we have discussed, we believe that any filing by the FTC in this matter should be under seal.

The documents on which Commission staff rely contain highly sensitive information related to LifeLock's information security program ("ISP"), including clues that thieves could use to victimize LifeLock customers and other victims of identity theft, as well as information that would reveal confidential and proprietary information of LifeLock itself. LifeLock believes that describing or disclosing these documents could provide a roadmap to and into the company's security ecosystem. The documents referenced in our letter include the following categories of highly sensitive information:

§ descriptive and detailed references to alleged security vulnerabilities, including location and IP addresses; § flow diagrams detailing network and payment card processes; § detailed remediation work streams and protocols; § location of storage of cryptographic keys and the encryption processes used; § location and storage of sensitive customer, employee, and contractor information; and § descriptions and illustrations of the company's forensic capabilities.

The attached spreadsheet identifies, for each document, the category it believes the document falls within, and why public release is inappropriate and harmful. The disclosure of this information could seriously jeopardize the company's information security program. The hackers to whom this sensitive information would be disclosed through its public release would have numerous tools to undermine the company's network security systems and processes, to exploit potential vulnerabilities, or otherwise attempt to reach sensitive customer information. Public release of the documents referenced in your letter would expose LifeLock and its customers to the exact same harm that the Commission seeks to protect consumers from and that the company's ISP has, to date, successfully protected against. This is information that should never be made public.

In addition, many of the documents were provided as part of the company's effort to settle this matter, and protected in accordance with FRE 408.

For these reasons the company will not agree to public release of the referenced documents.

The company may supplement this response.

Confidential treatment is requested for this email and the attachment.

Bilal Sayyed
Kirkland & Ellis LLP
655 15th Street, NW
Washington, D.C., 20005
(202) 879-5192
(703) 477-2871 (mobile)

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Kirkland & Ellis LLP or Kirkland & Ellis International LLP. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Kirkland & Ellis LLP or Kirkland & Ellis International LLP. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Kirkland & Ellis LLP or Kirkland & Ellis International LLP. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.

CONFIDENTIAL TREATMENT REQUESTED								
Document	Alleged past and existing security vulnerabilities described in detail, including location and IP addresses;	Flow diagrams detailing network and payment card processes;	Detailed remediation work streams and protocols;	Location of storage of cryptographic keys or the encryption processes used;	Location and storage of sensitive customer, employee, and contractor information; and	A clear illustration of the company's forensic capabilities.	Other	Description of Other
LIFELOCK-0134767-531	x		x			x	x	Letter from LifeLock counsel to FTC
LIFELOCK-0075439			x		x			
LIFELOCK-0073557	x		x					
LIFELOCK-0095646	x		x					
LIFELOCK-0032489	x	x	x					
LIFELOCK-0084485-625	x		x					Cover email references confidential attachment, LIFELOCK-0065232.
LIFELOCK-0085281								
LIFELOCK-0095232								
LIFELOCK-0018299-13			x					
LIFELOCK-0033450-52			x					
LIFELOCK-0033420-23			x					
Secone Declaration								
LIFELOCK-0084027-26							x	Detailed discussion of how LifeLock alerts are processed, which could be used by hackers and identify thieves
LIFELOCK-0134032-49							x	Cover email includes name of risk assessment document file, which may allow hackers to find file and review its contents for security weaknesses
LIFELOCK-0135499-510	x		x					Letter from LifeLock counsel to FTC. ISP report by a third party (Fishnet) detailing a past hacking event, ISP vulnerabilities, and a list of recommended remedial measures, all potentially relevant to a third party attempting to circumvent LifeLock's security
FTC March 13, 2014 Letter to LifeLock Counsel							x	Letter from FTC to LifeLock counsel
LIFELOCK-0110772-91	x		x					Letter from LifeLock counsel to FTC describing, as an excerpt from a log, alleged LifeLock ISP vulnerabilities and remediation processes, such may be relevant to a third party attempting to circumvent LifeLock's defenses

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc., *et al.*,

Defendants.

No. CV-10-00530-PHX-MHM

**CERTIFICATION OF PLAINTIFF
FEDERAL TRADE COMMISSION
REGARDING CONFERENCE
REQUIREMENTS UNDER CIVIL
LOCAL RULE 5.6**

LODGED UNDER SEAL

ATTACHMENT G

Madden, Gregory

From: Pope, Susan H.
Sent: Wednesday, July 15, 2015 8:21 PM
To: 'Sayyed, Bilal K.'
Cc: Madden, Gregory; Park, Hong
Subject: LifeLock confidentiality designations

Dear Bilal,

Thank you for your emails of July 10 and today on the FTC's requests to confer on LifeLock's confidentiality designations on documents the FTC intends to refer and attach to its Motion for Contempt, Memorandum in Support thereof and attachments.

After reviewing your email of today it becomes clear that we need more clarity on LifeLock's confidentiality claims, rather than postponing the issues until after filing.

After reviewing again the spreadsheets you provided identifying the documents LifeLock believes should remain under seal and rationales therefore, it appears to us that the vast majority LifeLock's concerns relate to historical vulnerabilities and historical remediation efforts. Further, the other rationales provided for sealing documents are cryptic and do not clearly articulate how the disclosure of the documents could jeopardize LifeLock's current IT systems. The FTC does not believe historical information or the vague rationales provide a compelling reason to seal these documents from the public. At this juncture, the FTC intends to argue that none of the documents should be sealed.

Also, with regard to the documents that LifeLock contends are protected by FRE 408, please specifically identify those documents by bates number to ensure that we are all considering same documents. Please also explain how the facts contained in the documents are entitled to protection under FRE 408.

We appreciate your offer to expeditiously discuss LifeLock's specific objections to the documents identified by the FTC. We propose a conference call early tomorrow afternoon to explore LifeLock's concerns and determine if there is a way that we could apply narrowly tailored redactions to the documents that create genuine disclosure issues.

Please let us know if you are available to discuss tomorrow at 1 p.m., so we can discuss fully.

Thank you again for your attention to this important matter.

Best, Susan

Susan H. Pope
Attorney
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mailcode: CC-9502
Washington, D.C. 20580
Tel: 202 326-3302
spope@ftc.gov

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc., *et al.*,

Defendants.

No. CV-10-00530-PHX-MHM

**CERTIFICATION OF PLAINTIFF
FEDERAL TRADE COMMISSION
REGARDING CONFERENCE
REQUIREMENTS UNDER CIVIL
LOCAL RULE 5.6**

LODGED UNDER SEAL

ATTACHMENT H

Madden, Gregory

From: Park, Hong
Sent: Thursday, July 16, 2015 4:22 PM
To: 'Sayyed, Bilal K.'
Cc: Madden, Gregory; Pope, Susan H.
Subject: RE: LifeLock confidentiality designations
Attachments: 7-16-15 Updated List of Documents FTC Intends to Reference.pdf

Bilal - Please find attached the updated list of LifeLock documents that the FTC intends to submit with its contempt motion. We may have some minor edits to this list, but we thought it would best to get you the list as soon as possible and provide any additions/subtractions later. We do not expect the substance of the types of documents we have been discussing to change.

As we mentioned today, we intend to redact IP addresses, computer names, and network diagrams to address LifeLock's concern that these documents would threaten its network security if made public. We intend to have these documents filed publicly, subject to the redactions.

To the extent that the redactions do not fully address LifeLock's concerns, please let us know in detail what concerns remain. You mentioned that it would be helpful for us to talk to LifeLock's technical staff, and we understand that you will attempt to arrange a call with them today, tomorrow, or possibly Saturday. In any event, we believe the parties have had ample time to confer about whether to keep documents under seal and expect to hear a final detailed explanation of LifeLock's concerns by no later than Monday morning, beginning of business EST.

Thanks, and please let me know if you have any questions or concerns.

Hong

-----Original Message-----

From: Park, Hong
Sent: Thursday, July 16, 2015 2:32 PM
To: 'Sayyed, Bilal K.'
Cc: Madden, Gregory; Pope, Susan H.
Subject: RE: LifeLock confidentiality designations

Bilal - Here's my contact information in case you do not have it. I should have the updated documents list to you in the next couple hours. Thanks.

Hong

Hong Park
Federal Trade Commission
Bureau of Consumer Protection
600 Pennsylvania Avenue, NW,
Mail Drop CC-9528
Washington, DC 20580

T: 202-326-2158 | F: 202-326-3197
C: 202-345-2569

-----Original Message-----

From: Sayyed, Bilal K. [mailto:bilal.sayyed@kirkland.com]
Sent: Thursday, July 16, 2015 9:43 AM
To: Pope, Susan H.
Cc: Park, Hong; Madden, Gregory
Subject: Re: LifeLock confidentiality designations

Thank you.
Talk to you at 1.
Bilal

----- Original Message -----

From: Pope, Susan H. [mailto:spope@ftc.gov]
Sent: Thursday, July 16, 2015 08:39 AM Central Standard Time
To: Sayyed, Bilal K.
Cc: Park, Hong <hpark@ftc.gov>; Madden, Gregory <gmadden@ftc.gov>
Subject: RE: LifeLock confidentiality designations

Bilal, That is correct. Susan

Susan H. Pope
Attorney
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mailcode: CC-9502
Washington, D.C. 20580
Tel: 202 326-3302
spope@ftc.gov

-----Original Message-----

From: Sayyed, Bilal K. [mailto:bilal.sayyed@kirkland.com]
Sent: Thursday, July 16, 2015 9:13 AM
To: Pope, Susan H.
Cc: Park, Hong; Madden, Gregory
Subject: RE: LifeLock confidentiality designations

Susan,

Can you confirm that you are not filing prior to our 1:00 PM call?

Bilal

-----Original Message-----

From: Pope, Susan H. [mailto:spope@ftc.gov]
Sent: Thursday, July 16, 2015 8:44 AM
To: Sayyed, Bilal K.
Cc: Park, Hong; Madden, Gregory
Subject: RE: LifeLock confidentiality designations

Great, thanks.

Susan H. Pope
Attorney
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mailcode: CC-9502
Washington, D.C. 20580
Tel: 202 326-3302
spope@ftc.gov

-----Original Message-----

From: Sayyed, Bilal K. [mailto:bilal.sayyed@kirkland.com]
Sent: Wednesday, July 15, 2015 11:49 PM
To: Pope, Susan H.
Subject: Re: LifeLock confidentiality designations

Just off plane: didn't mean to be cryptic or short. 1PM is good. I will send a dial in in case others join from other locations.

-----Original Message-----

To: Pope, Susan H.
Cc: Gregory Madden
Cc: Park, Hong
Subject: Re: LifeLock confidentiality designations
Sent: Jul 15, 2015 11:30 PM

I can talk at 1.

-----Original Message-----

From: Pope, Susan H.
To: Bilal Sayyed
Cc: Gregory Madden
Cc: Park, Hong
Subject: LifeLock confidentiality designations
Sent: Jul 15, 2015 8:20 PM

Dear Bilal,

Thank you for your emails of July 10 and today on the FTC's requests to confer on LifeLock's confidentiality designations on documents the FTC intends to refer and attach to its Motion for Contempt, Memorandum in Support thereof and attachments.

After reviewing your email of today it becomes clear that we need more clarity on LifeLock's confidentiality claims, rather than postponing the issues until after filing.

After reviewing again the spreadsheets you provided identifying the documents LifeLock believes should remain under seal and rationales therefore, it appears to us that the vast majority LifeLock's concerns relate to historical vulnerabilities and historical remediation efforts. Further, the other rationales provided for sealing documents are cryptic and do not clearly articulate how the disclosure of the documents could jeopardize LifeLock's current IT systems. The FTC does not believe historical information or the vague rationales provide a compelling reason to seal these documents from the public. At this juncture, the FTC intends to argue that none of the documents should be sealed.

Also, with regard to the documents that LifeLock contends are protected by FRE 408, please specifically identify those documents by bates number to ensure that we are all considering same documents. Please also explain how the facts contained in the documents are entitled to protection under FRE 408.

We appreciate your offer to expeditiously discuss LifeLock's specific objections to the documents identified by the FTC. We propose a conference call early tomorrow afternoon to explore LifeLock's concerns and determine if there is a way that we could apply narrowly tailored redactions to the documents that create genuine disclosure issues.

Please let us know if you are available to discuss tomorrow at 1 p.m., so we can discuss fully.

Thank you again for your attention to this important matter.

Best, Susan

Susan H. Pope
Attorney
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mailcode: CC-9502
Washington, D.C. 20580
Tel: 202 326-3302
spope@ftc.gov

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Kirkland & Ellis LLP or Kirkland & Ellis International LLP. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Kirkland & Ellis LLP or Kirkland & Ellis International LLP. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Kirkland & Ellis LLP or Kirkland & Ellis International LLP. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.

7/16/2015 Updated List of LifeLock Documents that FTC Intends to Reference in Contempt Motion

LIFELOCK-2081-122
LIFELOCK-2123-81
LIFELOCK-2307-22
LIFELOCK-2323-69
LIFELOCK-2123-2181
LIFELOCK-0009259-61
LIFELOCK-0010416-18
LIFELOCK-0010367-74
LIFELOCK-0019638-39
LIFELOCK-0023835
LIFELOCK-0023836
LIFELOCK-0024609-11
LIFELOCK-0025172-175
LIFELOCK-0026183
LIFELOCK-0029627-28
LIFELOCK-0030131-32
LIFELOCK-0032898-99
LIFELOCK-0033129-33
LIFELOCK-0033750-52
LIFELOCK-0034400-01
LIFELOCK-0038509
LIFELOCK-0038588-89
LIFELOCK-0039701-07
LIFELOCK-0051793
LIFELOCK-0051795
LIFELOCK-0053403-61
LIFELOCK-0053824-25
LIFELOCK-0053865-66
LIFELOCK-0076006-07
LIFELOCK-0077495
LIFELOCK-0077496
LIFELOCK-0077845
LIFELOCK-0079743-44
LIFELOCK-0081949-56
LIFELOCK-0085248-50
LIFELOCK-0088187-88
LIFELOCK-0089026-27
LIFELOCK-0089185
LIFELOCK-0089223-24
LIFELOCK-0089225-26
LIFELOCK-0089258
LIFELOCK-0089261-62

LIFELOCK-0089263-64
LIFELOCK-0093533-666
LIFELOCK-0095891-959
LIFELOCK-0097021-229
LIFELOCK-0110772-81
LIFELOCK-0132503
LIFELOCK-0134056-65
LIFELOCK-0134215-16
LIFELOCK-0134217-23
LIFELOCK-0134224-40
LIFELOCK-0134378-85
LIFELOCK-0133852-939
LIFELOCK-0134805-06
LIFELOCK-0135156-61
LIFELOCK-0135783
LIFELOCK-0135784
LIFELOCK-0135785
LIFELOCK-0135786
LIFELOCK-0136812
LIFELOCK-0136813
LIFELOCK-0138076
LIFELOCK-0138077
LIFELOCK-0138078
LIFELOCK-0138079
LIFELOCK-0138080
June 12, 2015 Letter from William C. McLeod to Susan H. Pope
LIFELOCK-00132479-516
LIFELOCK-0088573-74
LIFELOCK-0089119-120
LIFELOCK-0089186-87
LIFELOCK-0135499-510
LIFELOCK-3166-74
LIFELOCK-0134767-831
LIFELOCK-0132739-44, 0132855-60
LIFELOCK-0133006-11, 0133109-11
LIFELOCK-0075439 (001-005)
LIFELOCK-0039708-12
LIFELOCK-0022952
LIFELOCK-0089107-08, 0089336-37
LIFELOCK-0073557
LIFELOCK-0095646
LIFELOCK-0032489
LIFELOCK-0084483-625
LIFELOCK-0130732, 0135958-59
LIFELOCK-0085232
LIFELOCK-0085281

LIFELOCK-018299-316
LIFELOCK-0033450-52
LIFELOCK-0033420-23
LIFELOCK-0084027
LIFELOCK-0084028
LIFELOCK-0134032-049
LIFELOCK-135499-510
LIFELOCK-0089109-10, 0089212-15, 0089119-20, 0089186-87
LIFELOCK-0033794, 0089261-66, 0089259-60, 0089330-31

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc., *et al.*,

Defendants.

No. CV-10-00530-PHX-MHM

**CERTIFICATION OF PLAINTIFF
FEDERAL TRADE COMMISSION
REGARDING CONFERENCE
REQUIREMENTS UNDER CIVIL
LOCAL RULE 5.6**

LODGED UNDER SEAL

ATTACHMENT I

Madden, Gregory

From: Sayyed, Bilal K. <bilal.sayyed@kirkland.com>
Sent: Thursday, July 16, 2015 5:26 PM
To: Park, Hong
Cc: Pope, Susan H.; Madden, Gregory
Subject: Documents
Attachments: Response to June 30 letter; FW: Response to June 30 letter / July 13 email.

Hong,

As a follow-up on our call, I've discussed with the client whether the redactions you propose are sufficient to address our security concerns. They are not. We discussed other alternatives but our conclusion is that without understanding the context of the Commission's filing, it will be impossible to be comfortable that any redactions will be sufficient to address the concerns I identified in our earlier communications with Susan and Greg.

Thus, we continue to oppose the public disclosure of the documents the FTC intends to rely on in its motion for the reasons previously expressed. (I have attached our earlier email communications on this issue.) To reiterate, we and the company are very concerned that public notice of the FTC's action will create incentives for third parties to attempt to overwhelm the company's security defenses and public release of the documents or information underlying the FTC's motion is likely to provide information that increases the ability of third parties to successfully breach the company's defenses. I understand you would like greater context to our concerns, but I believe this is unnecessary to meet our meet and confer obligations and after further consideration I and the client agree this is better provided after you notice to the court the documents you intend to rely on and we see your motion and memorandum. Thus, I believe we have sufficiently complied with our meet and confer requirements. I appreciate your and the team's efforts to reach resolution on this matter. We are not requesting any further delay in your filing.

Our goal, which you've indicated you share, is to protect the information security of LifeLock's four million clients. To that end, we ask that you reconsider issuing public notice of your filing. The Commission's usual course is not to issue a press release when it files an action under seal but to wait until confidentiality concerns are resolved by the court. As we believe we have a strong basis for claiming materials related to your motion must remain under seal to protect LifeLock's clients, any press release or public notice of this matter issued prior to the court's ruling on our confidentiality request will both unnecessarily compromise the security of LifeLock's four million clients and prejudice LifeLock. There is no reason the Commission should assume this risk without the guidance, and protection, of the court.

If you will not delay public notice of your filing, we are operating on the assumption that you will give us twelve hours prior notice of your intention to file so the company may best prepare for the inevitable tsunami of third party efforts to compromise its security systems and defenses. Please let me know if this assumption is inaccurate. I believe all parties have worked in good faith over the last 18 months to address and respond to the FTC's concerns, and believe such notice is an appropriate courtesy for you to extend to LifeLock and its clients, if you believe it necessary to deviate from past practice.

Confidential treatment of this communication, and the attachments, is requested.

Respectfully,

Bilal

Bilal Sayyed
Kirkland & Ellis LLP
655 15th Street, NW
Washington, D.C., 20005

(202) 879-5192
(703) 477-2871 (mobile)

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Kirkland & Ellis LLP or Kirkland & Ellis International LLP. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.

GREGORY J. MADDEN (MD Bar)
SUSAN H. POPE (D.C. Bar No. 470345)
HONG PARK (D.C. Bar No. 475930)
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mail Drop CC-9528
Washington, D.C. 20580
Tel: (202) 326-2426, -3302, -2158
Fax: (202) 326-3197
email: gmadden@ftc.gov, spope@ftc.gov,
hpark@ftc.gov

■ Attorneys for Plaintiff
Federal Trade Commission

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc. *et al.*,

Defendants.

No. CV-10-00530-PHX-MHM

**PLAINTIFF FTC'S MOTION FOR
LEAVE TO FILE MEMORANDUM IN
SUPPORT OF ITS MOTION FOR
CONTEMPT AGAINST LIFELOCK,
INC. IN EXCESS OF THE PAGE LIMIT**

LODGED UNDER SEAL

Plaintiff Federal Trade Commission (“FTC” or “Commission”), pursuant to Local Rule 7.2, moves this Court for leave to file a Memorandum in Support of Its Motion for Contempt Against LifeLock, Inc. (“Memorandum”) in excess of the 17-page limit under the Local Rules.

In support of this motion, the FTC states as follows:

1. Local Rule 7.2(e) prohibits parties from filing any motion, including a memorandum of points and authorities exceeding 17 pages, without permission of the Court. LRCiv 7.2(e).
2. The FTC is filing its Memorandum in Support of Its Motion for Civil Contempt Against LifeLock, Inc. (“Contempt Motion”).
3. In March 2010, the FTC filed a Complaint alleging, among other things, that Defendant LifeLock, Inc.’s (“LifeLock”) data system was vulnerable, LifeLock did not employ “reasonable and appropriate measures” protecting customers’ personal information, and that LifeLock misrepresented its identity theft protection services. Cmpl. ¶¶ 17-18, 23-34, 36, D.E. #1.
4. On March 15, 2010, this Court entered a Stipulated Final Judgment and Permanent Injunction Order (“Order”), which prohibited LifeLock from: failing to “establish and implement, and thereafter maintain, a comprehensive information security program that is designed to protect” consumers’ personal information (Section II); misrepresenting its protection of consumers’ personal information (Section I.B); misrepresenting the means, methods, procedures, effects, effectiveness, coverage, or scope of its identity theft protection services (Section I.A.); and failing to create and retain all records necessary to document its Order compliance (Section VIII.A.7). Order, D.E. #9.
5. In its Memorandum, the FTC alleges that LifeLock violated the four above-mentioned provisions of this Court’s Order from at least 2012 to 2014, which has

caused harm to consumers. Accordingly, the FTC seeks a compensatory contempt sanction of consumer redress.

6. The issues set forth in the Memorandum, albeit straightforward, must address LifeLock's multiple failures, from at least 2012 through 2014, to implement and maintain compliant comprehensive information security. As mentioned above, the Commission contends that LifeLock violated four different provisions of the Order. Although the FTC has made every effort to make the Memorandum as concise as possible, the Commission must set forth the voluminous facts in support of its Motion for Contempt. The Court permits a separate statement of facts for no motion other than one for summary judgment. *See* LR Civ 7.2(e) ("a motion, including its supporting memorandum...may not exceed seventeen (17) pages, exclusive of attachments and any *required* statement of facts."); LRCiv 56.1(a) ("any party filing a motion for summary judgment *must file* a statement, separate from the Motion and memorandum of law, setting forth each material fact."). Thus, the Memorandum must itself address all of LifeLock's failures to comply with the Order, including LifeLock's advertising misrepresentations, and the application of civil contempt law to these facts, including the bases and presumptions of consumer injury accorded to the FTC in such cases. Therefore, in order to provide the Court with the factual and legal bases for the Order violations and relief requested, the FTC seeks to file a 48-page memorandum.

7. Accordingly, the FTC respectfully requests that the Court grant it the page limits requested herein. For the Court's convenience, a proposed Order is attached.

Respectfully submitted,

Dated: July 21, 2015

s/ Gregory J. Madden
GREGORY J. MADDEN
SUSAN H. POPE
HONG PARK
Federal Trade Commission
Division of Enforcement
Mailcode: CC-9528
600 Pennsylvania Ave., NW
Washington, DC 20580
(202) 326-2426, gmadden@ftc.gov
(202) 326-3302, spope@ftc.gov
(202) 326-2158, hpark@ftc.gov
(202) 326-3197 (facsimile)

Attorneys for Plaintiff
Federal Trade Commission

GREGORY J. MADDEN (MD Bar)
SUSAN POPE (D.C. Bar No. 470345)
HONG PARK (D.C. Bar No. 475930)

Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mail Drop CC-9528
Washington, D.C. 20580
Tel: (202) 326-2426, -3302, -2158
Fax: (202) 326-3197
Email: gmadden@ftc.gov, spope@ftc.gov, hpark@ftc.gov.

Attorneys for Plaintiff
Federal Trade Commission

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc., *et al*,

Defendants.

No. CV-10-00530-PHX-MHM

**PLAINTIFF FEDERAL TRADE
COMMISSION'S MOTION FOR
CONTEMPT AGAINST LIFELOCK,
INC.**

LODGED UNDER SEAL

Plaintiff Federal Trade Commission (“FTC” or “Commission”) moves the Court for a Contempt Order finding defendant LifeLock, Inc. (“LifeLock”) in civil contempt of this Court’s March 15, 2010, Stipulated Final Judgment and Order for Permanent Injunction and Other Equitable Relief (“Order”) [DE #9], which prohibited LifeLock from: failing to protect consumers’ personal information with a comprehensive information security program (Section II); misrepresenting its protection of consumers’ personal information (Section I.B); misrepresenting the means, methods, procedures, effects, effectiveness, coverage, or scope of its identity protection services (Section I.A); and failing to create and retain all records necessary to document its Order compliance (Section VIII.A.7). The violations are detailed in the accompanying Memorandum in Support. Because LifeLock’s actions violated these core Order provisions customers are legally entitled to a refund for each month that LifeLock did not deliver on its promises.

Therefore, the FTC respectfully requests that the Court find LifeLock in contempt and order compensatory civil contempt relief in the form of consumer redress for each month that LifeLock failed to deliver its promised services.

Respectfully submitted,

July 21, 2015

s/ Gregory J. Madden
GREGORY J. MADDEN
SUSAN POPE
HONG PARK
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mail Drop CC-9528

Washington, D.C. 20580
Tel: (202) 326-2426, -3302, -2158
Fax: (202) 326-3197
Email: gmadden@ftc.gov, spope@ftc.gov,
hpark@ftc.gov

Attorneys for Plaintiff
Federal Trade Commission

GREGORY J. MADDEN (MD Bar)
SUSAN H. POPE (D.C. Bar No. 470345)
HONG PARK (D.C. Bar No. 475930)
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mail Drop CC-9528
Washington, D.C. 20580
Tel: (202) 326-2426, -3302, -2158
Fax: (202) 326-3197
email: gmadden@ftc.gov, spope@ftc.gov,
hpark@ftc.gov

Attorneys for Plaintiff
Federal Trade Commission

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc., *et al.*,

Defendants.

No. CV-10-00530-PHX-MHM

**PLAINTIFF FTC'S MOTION FOR
LEAVE TO ALLOW THE NON-
ELECTRONIC FILING OF EXHIBITS
IN CONNECTION WITH PLAINTIFF'S
MOTION FOR CONTEMPT AGAINST
LIFELOCK, INC. AND
MEMORANDUM IN SUPPORT
THEREOF**

LODGED UNDER SEAL

Plaintiff Federal Trade Commission (“FTC” or “Commission”) moves the Court for an Order finding Defendant LifeLock, Inc. (“LifeLock”) in civil contempt of this Court’s March 15, 2010, Stipulated Final Judgment and Order for Permanent Injunction and Other Equitable Relief (“Permanent Injunction”) [DE #9] and is filing its Memorandum in Support of Its Motion for Contempt Against LifeLock, Inc. (“Memorandum”).

Pursuant to Local Rule of Civil Procedure 5.5(c), electronic filing using the Electronic Case Filing (“ECF”) system is mandatory for attorneys unless otherwise ordered by the Court or as provided in the Administrative Manual. LRCiv 5.5(c). Pursuant to the Administrative Manual, “A party may seek leave of the court to allow the non-electronic filing of exhibits and other documents when they are not convertible to electronic form or are extremely large.” Admin. Manual Part II(N)(2).

The FTC seeks the introduction of a number of exhibits attached to the Memorandum that are either not convertible to electronic form (i.e., spreadsheets that when converted to .pdf form are illegible) and/or are extremely large (i.e., television advertisement video files). A list of the exhibit numbers along with the reason why the FTC cannot file the exhibit electronically is set forth below.

Memorandum Exhibit Number	Reason for Non-electronic Filing
Exhibit 4	LifeLock television advertisements not amenable to .pdf conversion
Exhibit 5, Annex 2	Spreadsheet – illegible if .pdf; extremely large
Exhibit 13	LifeLock television advertisements not amenable to pdf conversion
Exhibit 37	Spreadsheet – illegible if .pdf
Exhibit 41A	Spreadsheet – illegible if .pdf
Exhibit 41B	Spreadsheet – illegible if .pdf
Exhibit 46	Spreadsheet – illegible if .pdf
Exhibit 47	Spreadsheet – illegible if .pdf
Exhibit 73	4 Spreadsheets – illegible if .pdf
Dr. Cole Expert Report Attachments	
Exhibit 20, Att. 13	4 Spreadsheets – illegible if .pdf
Exhibit 20, Att. 29	2 of 4 Spreadsheets – illegible if .pdf
Exhibit 20, Att. 30	4 Spreadsheets – illegible if .pdf

Accordingly, the FTC respectfully requests that the Court grant it leave to allow the non-electronic filing of the above exhibits.¹

Respectfully submitted,

Dated: July 21, 2015

s/ Gregory J. Madden
GREGORY J. MADDEN
SUSAN H. POPE
HONG PARK
Federal Trade Commission

¹ Plaintiff FTC notes that the entire filing will be lodged pursuant to Local Rule of Civil Procedure 5.6(d). The FTC has made every effort to electronically lodge the documents that can be converted to the .pdf electronic form.

Division of Enforcement

Mailcode: CC-9528

600 Pennsylvania Ave., NW

Washington, DC 20580

(202) 326-2426, gmadden@ftc.gov

(202) 326-3302, spope@ftc.gov

(202) 326-2158, hpark@ftc.gov

(202) 326-3197 (facsimile)

Attorneys for Plaintiff

Federal Trade Commission

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc., *et al*,

Defendants.

No. CV-10-00530-PHX-MHM

**FEDERAL TRADE COMMISSION'S
MOTION FOR CONTEMPT AGAINST
LIFELOCK, INC.**

LODGED UNDER SEAL

**FTC PROPOSED EXHIBIT __1__ TO MEMORANDUM IN SUPPORT
OF ITS MOTION FOR CONTEMPT AGAINST LIFELOCK, INC.**

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Federal Trade Commission,)
)
 Plaintiff,)
)
 v.)
)
 LifeLock, Inc.)
 a corporation; Robert J. Maynard, Jr.,)
 individually and as an officer of LifeLock,)
 Inc.; and)
 Richard Todd Davis,)
 individually and as an officer of)
 LifeLock, Inc.,)
 Defendants.)

Civil No. CV10-530-PHX-NVW

STIPULATED FINAL JUDGMENT AND
ORDER FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF AS TO
DEFENDANTS LIFELOCK AND DAVIS

STIPULATED FINAL JUDGMENT AND ORDER FOR PERMANENT INJUNCTION
AND OTHER EQUITABLE RELIEF AS TO DEFENDANTS LIFELOCK AND DAVIS

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), has concurrently filed its Complaint, which alleges that Defendants LifeLock, Inc. (“LifeLock”), Robert J. Maynard, Jr. (“Maynard”), and Richard Todd Davis (“Davis”) have engaged in violations of Section 5 of the FTC Act, 15 U.S.C. § 45. The Commission and Defendants LifeLock and Davis (“Settling Defendants”) have agreed to the entry of this Stipulated Final Judgment and Order for

Permanent Injunction and Other Equitable Relief (“Order”) to resolve all matters in dispute in this action without trial or adjudication of any issue of law or fact herein and without Settling Defendants admitting the truth of, or liability for, any of the matters alleged in the Complaint. Settling Defendants have waived service of the Summons and Complaint.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

FINDINGS

1. This Court has jurisdiction over the subject matter of this case and over Settling Defendants LifeLock and Davis.
2. Venue in this district is proper under 28 U.S.C. § 1391(b) and (c), and 15 U.S.C. § 53(b).
3. The acts and practices of Settling Defendants are in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
4. The Complaint states claims upon which relief may be granted against Settling Defendants under Sections 5 and 13(b) of the FTC Act, 15 U.S.C. §§ 45 and 53(b).
5. Settling Defendants make no admission to the allegations in the Complaint, other than the jurisdictional facts.
6. Settling Defendants waive: (a) all rights to seek appellate review or otherwise challenge or contest the validity of this Order; (b) any claim they may have against the Commission, its employees, representatives, or agents that relate to the matter stated herein; (c) all claims under the Equal Justice Act, 28 U.S.C. § 2412, as amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996); and (d) any rights to attorneys’ fees that may arise under said provision

of law.

7. Settling Defendants have entered into this Order freely and without coercion, and they acknowledge that they have read the provisions of this Order and are prepared to abide by them.

8. Entry of this Order is in the public interest.

9. LifeLock is concurrently agreeing to orders resolving related complaints brought by the Attorneys General of the States of Alaska, Arizona, California, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, and West Virginia (the "Participating States"). These state orders will require LifeLock to pay \$1 million to the Office of the Attorney General of Illinois for distribution among the Participating States.

DEFINITIONS

1. "Individual Defendant" shall mean Davis.

2. "Corporate Defendant" shall mean LifeLock, Inc. and its successors and assigns.

3. "Settling Defendants" shall mean Individual Defendant and Corporate Defendant, individually, collectively, or in any combination.

4. "Personal information" shall mean individually identifiable information from or about an individual consumer including, but not limited to: (a) a first and last name; (b) a home or other physical address, including street name and name of city or town; (c) an email address or other online contact information, such as an instant messaging user identifier or a screen

name, that reveals an individual's email address; (d) a telephone number; (e) a Social Security number; (f) credit or debit card information, including card number, expiration date, and/or data stored on the magnetic strip of a credit or debit card; (g) checking account information, including the ABA routing number, account number, and/or check number; (h) a driver's license, military, or state identification number; (i) a persistent identifier, such as a customer number held in a "cookie" or processor serial number, that is combined with other available data that identifies an individual consumer; or (j) any information that is combined with any of (a) through (i) above.

5. "Subscribing Consumer" shall mean any person or entity that paid for Corporate Defendant's service at any time between April 1, 2005 and March 31, 2009.

ORDER

I. PROHIBITED BUSINESS ACTIVITIES

IT IS ORDERED that Settling Defendants and their officers, agents, servants, and employees and all persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any sole proprietorship, partnership, limited liability company, corporation, subsidiary, branch, division, or other entity, are hereby permanently restrained and enjoined from:

A. in connection with the advertising, distributing, promoting, offering for sale, or sale of any product, service, or program designed for the purpose of preventing, mitigating, or recovering from any form of identity theft as defined in 18 U.S.C. § 1028, misrepresenting in any manner, expressly or by implication:

I. that such product, service, or program provides complete protection against all forms of identity theft by making customers' personal

- information useless to identity thieves;
2. that such product, service, or program prevents unauthorized changes to customers' address information;
 3. that such product, service, or program constantly monitors activity on each of its customers' consumer reports;
 4. that such product, service, or program ensures that a customer will always receive a phone call from a potential creditor before a new credit account is opened in the customer's name;
 5. the means, methods, procedures, effects, effectiveness, coverage, or scope of such product, service, or program;
 6. the risk of identity theft to consumers;
 7. whether a particular consumer has become or is likely to become a victim of identity theft; and/or
 8. the opinions, beliefs, findings, or experiences of an individual or group of consumers related in any way to any such product, service, or program.

Such products, services, or programs include, but are not limited to, the placement of fraud alerts on behalf of consumers, searching the internet for consumers' personal data, monitoring commercial transactions for consumers' personal data, identity theft protection for minors, and guarantees of any such products, services, or programs.

B. misrepresenting in any manner, expressly or by implication, the manner or extent to which they maintain and protect the privacy, confidentiality, or security of any personal information collected from or about consumers.

II. INFORMATION SECURITY PROGRAM

IT IS FURTHER ORDERED that Corporate Defendant and any business entity that Individual Defendant controls, directly or indirectly, which collects, maintains, or stores personal information from or about consumers, shall, upon operation of this business, establish and implement, and thereafter maintain, a comprehensive information security program that is designed to protect the security, confidentiality, and integrity of personal information collected from or about consumers. Such program, the content and implementation of which must be fully documented in writing, shall contain administrative, technical, and physical safeguards appropriate to the entity's size and complexity, the nature and scope of the entity's activities, and the sensitivity of the personal information collected from or about consumers, including:

A. the designation of an employee or employees to coordinate and be accountable for the information security program;

B. the identification of material internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information, and assessment of the sufficiency of any safeguards in place to control these risks. At a minimum, this risk assessment should include consideration of risks in each area of relevant operation, including, but not limited to, (1) employee training and management, (2) information systems, including network and software design, information processing, storage, transmission, and disposal, and (3) prevention, detection, and response to attacks, intrusions, or other systems failure;

C. the design and implementation of reasonable safeguards to control the risks

identified through risk assessment, and regular testing or monitoring of the effectiveness of the safeguards' key controls, system, and procedures;

D. the development and use of reasonable steps to retain service providers capable of appropriately safeguarding personal information received from Settling Defendants and requiring service providers by contract to implement and maintain appropriate safeguards; and

E. the evaluation and adjustment of Settling Defendants' information security program in light of the results of the testing and monitoring required by Subsection C of this Section, any material changes to Settling Defendants' operations or business arrangements, or any other circumstances that Settling Defendants know or have reason to know may have a material impact on the effectiveness of their information security program.

III. BIENNIAL ASSESSMENT REQUIREMENTS

A. **IT IS FURTHER ORDERED** that Corporate Defendant and any business entity that Individual Defendant controls, directly or indirectly, which collects, maintains, or stores personal information from our about consumers, shall, in connection with their compliance with Section II of this Order, obtain initial and biennial assessments and reports ("Assessments") from a qualified, objective, independent third-party professional, who uses procedures and standards generally accepted in the profession. The reporting period for the Assessments shall cover: (1) the first one hundred eighty days after service of the Order for the initial Assessment; and (2) each two (2) year period thereafter for twenty (20) years after service of the Order for the biennial Assessments. Each Assessment shall:

1. set forth the specific administrative, technical, and physical safeguards implemented and maintained during the reporting period;

2. explain how such safeguards are appropriate to Settling Defendants' size and complexity, the nature and scope of Settling Defendants' activities, and the sensitivity of the personal information collected from or about consumers;

3. explain how the safeguards that have been implemented meet or exceed the protections required by Section II of this Order; and

4. certify that Settling Defendants' security program is operating with sufficient effectiveness to provide reasonable assurance that the security, confidentiality, and integrity of personal information is protected and has so operated throughout the reporting period.

B. Each Assessment shall be prepared and completed within sixty (60) days after the end of the reporting period to which the Assessment applies by a person qualified as a Certified Information System Security Professional (CISSP) or as a Certified Information Systems Auditor (CISA); a person holding Global Information Assurance Certification (GIAC) from the SysAdmin, Audit, Network, Security (SANS) Institute; or a similarly qualified person or organization approved by the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

C. Settling Defendants shall provide the initial Assessment within ten (10) days after the Assessment has been prepared. All subsequent biennial Assessments shall be retained by Settling Defendants until the Order is terminated and provided to the Commission within ten (10) days of request.

IV. CONSUMER REDRESS

IT IS FURTHER ORDERED that:

A. Judgment in the amount of \$35,000,000.00 is hereby entered jointly and severally against Settling Defendants. Full payment for the foregoing judgment is suspended, subject to the following conditions:

1. Corporate Defendant shall pay eleven million dollars (\$11,000,000), which Corporate Defendant represents their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment shall be made within seven days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.
2. Individual Defendant shall pay ten thousand dollars (\$10,000), which Individual Defendant represents their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment shall be made within seven days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.

B. In the event of any default in payment, which default continues for ten (10) days beyond the due date of payment, the entire unpaid amount, together with interest, as computed pursuant to 28 U.S.C. § 1961 from the date of default to the date of payment, shall immediately become due and payable.

C. All funds paid to the FTC pursuant to the Order shall be deposited into an account administered by the Commission or its agent to be used for equitable relief which will include, but not be limited to, consumer redress, and any attendant expenses for the administration of

such equitable relief. Acceptance of redress from the FTC shall constitute an acknowledgment by the consumer that, to the extent that the consumer makes a subsequent claim, the defendant is entitled to deduct the amount of the redress received from the FTC from any other or additional redress ordered. Upon completion of consumer redress, Commission shall supply to Defendants the names of consumers that received redress and the amount received. In the event that funds remain after redress is attempted, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Settling Defendants' practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. Settling Defendants shall have no right to challenge the Commission's choice of remedies under this Section. Settling Defendants shall have no right to contest the manner of distribution chosen by the Commission.

D. Settling Defendants relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law. Settling Defendants shall make no claim to or demand return of the funds, directly or indirectly, through counsel or otherwise.

E. Settling Defendants agree that the facts as alleged in the Complaint filed in this action shall be taken as true without further proof in any bankruptcy case or subsequent civil litigation pursued by the Commission to enforce its rights to any payment or money judgment pursuant to this Order, including but not limited to a nondischargeability complaint in any bankruptcy case. Settling Defendants further stipulate and agree that the facts alleged in the Complaint establish all elements necessary to sustain an action pursuant to, and that this Order shall have collateral estoppel effect for purposes of, Section 523(a)(2)(A) of the Bankruptcy

Code, 11 U.S.C. § 523(a)(2)(A).

F. Settling Defendants shall, within ten (10) days of the date of entry of this Order, provide to the Commission, an encrypted file containing, in Access database format, for each Subscribing Consumer: (1) the consumer's name; (2) most recent known mailing address, e-mail address, and telephone number; (3) the beginning and end date for the consumer's subscription to the service; and (4) the monthly rate paid by the consumer. The database shall be formatted with a separate field for each piece of information requested, and, for the mailing address, separate fields for street number, building/apartment number, city, state, and zip code. Settling Defendants shall cooperate in good faith with the Commission or its representative to obtain and provide any additional information required to administer consumer redress and take all reasonable steps to ensure that all data provided is accurate, up-to-date, and in a secure and useable format. In the event the Defendants fail to provide data that is accurate, up-to-date, and in a secure and useable format, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Settling Defendants' practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement.

V. RIGHT TO REOPEN AS TO MONETARY JUDGMENT

IT IS FURTHER ORDERED that the Commission's agreement to this Order is expressly premised upon the truthfulness, accuracy and completeness of Settling Defendants' sworn financial statements and supporting documents submitted to the Commission, which include material information upon which the Commission relied in negotiating and agreeing to this Order. If, upon motion by the Commission, this Court finds that any Settling Defendant has

failed to disclose any material asset, or materially misstated the value of any asset in the financial statements and information submitted to the Commission, or has made any other material misstatement or omission in the financial statements and related documents described above, then this Order shall be reopened and suspension of the judgment against that particular Settling Defendant shall be lifted for the purpose of requiring payment in the full amount of the judgment (\$35,000,000). Provided, however, that in all other respects this Order shall remain in full force and effect, unless otherwise ordered by the Court.

VI. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of (i) monitoring and investigating compliance with any provision of this Order, and (ii) investigating the accuracy of any Settling Defendant's financial statements upon which the Commission's agreement to this Order is expressly premised:

A. Within ten (10) days of receipt of written notice from a representative of the Commission, Settling Defendants each shall submit additional written reports, which are true and accurate and sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and provide entry during normal business hours to any business location in each Settling Defendant's possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to use all other lawful means, including but not limited to:

1. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45 and 69;

2. posing as consumers and suppliers to Settling Defendants, their employees, or any other entity managed or controlled in whole or in part by any Settling Defendant, without the necessity of identification of prior notice; and

C. Settling Defendants each shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

Provided however, that nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. § § 49, 57b-1, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

VII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

A. For a period of five (5) years from the date of entry of this Order for Corporate Defendant and a period of three (3) years from the date of entry of this Order for Individual Defendant,

- I. Individual Defendant shall notify the Commission of the following:
 - a. Any changes in Individual Defendant's residence, mailing addresses, and telephone numbers, within ten (10) days of the date of the change;

- b. Any changes in Individual Defendant's employment status (including self-employment), and any change in Individual Defendant's ownership in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that Individual Defendant is affiliated with, employed by, creates or forms, or performs services for; a detailed description of the nature of the business; and a detailed description of Individual Defendant's duties and responsibilities in connection with the business or employment; and
- c. Any changes in Individual Defendant's name or use of any aliases or fictitious names.

2. Settling Defendants shall notify the Commission of any changes in structure of Corporate Defendant or any business entity that any Defendant directly or indirectly controls, or has ownership interest in, that may affect compliance obligations under this Order, including but not limited to: incorporation or other organization; a dissolution, assignment, sale, merger, or other action; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; or a change in the business name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the business entity which a Defendant learns less than thirty (30) days prior to the date such action is to take place, such Defendant shall notify the Commission as soon as practicable after obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Order and annually

thereafter for a period of five (5) years for Corporate Defendant and three (3) years for Individual Defendant, Settling Defendants each shall provide a written report to the FTC, which is true and accurate and sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include, but not be limited to:

1. For Individual Defendant:
 - a. ■ Individual Defendant's then-current residence address, mailing address, and telephone numbers;
 - b. Individual Defendant's then-current employment status (including self-employment), including the name, addresses, and telephone numbers of each business that Individual Defendant is affiliated with, employed by, or performs services for; a detailed description of the nature of the business; and a detailed description of Individual Defendant's duties and responsibilities in connection with the business or employment; and
 - c. Any other changes required to be reported under Subsection A of this Section.
2. For all Settling Defendants:
 - a. A copy of each acknowledgment of receipt of this Order, obtained pursuant to the Section titled "Distribution of Order;"
 - b. Any other changes required to be reported under Subsection A of this Section.

C. Each Defendant shall notify the Commission of the filing of a bankruptcy petition by such Defendant within fifteen (15) days of filing.

D. For the purposes of this Order, Settling Defendants shall, unless otherwise directed by the Commission's authorized representatives, send by overnight courier all reports and notifications required by this Order to the Commission, to the following address:

Associate Director for Enforcement
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Room NJ-2122
Washington, D.C. 20580
RE: FTC v. LifeLock, Inc.

Provided that, in lieu of overnight courier, Settling Defendants may send such reports or notifications by first-class mail, but only if Settling Defendants contemporaneously send an electronic version of such report or notification to the Commission at: DEBrief@ftc.gov.

E. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with each Defendant.

VIII. RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that Settling Defendants and their agents, employees, officers, corporations, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, in connection with, are hereby restrained and enjoined from failing to create and retain the following records for the following periods:

A. For a period of eight (8) years from the date of entry of this Order for Corporate Defendant and six (6) years from the date of entry of this Order for Individual Defendant, the following records in connection with the sale or provision of products or services related to

identity theft:

1. Accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;
2. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;
3. Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;
4. Complaints and refund requests (whether received directly, indirectly, or through any third party) and any responses to those complaints or requests;
5. Copies of all sales scripts, training materials, advertisements, or other marketing materials;
6. Any documents, whether prepared by or on behalf of Settling Defendants, that contradict, qualify, or call into question Settling Defendants' compliance with Sections I, II, and III of this Order; and
7. All records and documents necessary to demonstrate full compliance with each provision of this Order, including but not limited to, copies of

acknowledgments of receipt of this Order required by the Sections titled “Distribution of Order” and “Acknowledgment of Receipt of Order” and all reports submitted to the FTC pursuant to the Section titled “Compliance Reporting;”

B. For a period of three (3) years after the date of preparation of each Assessment required under the Section titled “Biennial Assessment Requirements”: All materials relied upon to prepare the Assessment, whether prepared by or on behalf of any Settling Defendant, including but not limited to all plans, reports, studies, reviews, audits, audit trails, policies, training materials, and assessments, and any other materials relating to Settling Defendants’ compliance with the Section titled “Biennial Assessment Requirements.”

IX. DISTRIBUTION OF ORDER

IT IS FURTHER ORDERED that for a period of five (5) years from the date of entry of this Order for Corporate Defendant and three (3) years from the date of entry of this Order for Individual Defendant, Settling Defendants shall deliver copies of the Order as directed below:

A. Corporate Defendant: Corporate Defendant must deliver a copy of this Order to (1) all of its principals, officers, directors, and managers; (2) all of its employees, agents, and representatives who engage in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled “Compliance Reporting.” For current personnel, delivery shall be within five (5) days of service of this Order upon such Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled “Compliance Reporting,” delivery shall

be at least ten (10) days prior to the change in structure.

B. Individual Defendant as Control Person: For any business that Individual Defendant controls, directly or indirectly, or in which Individual Defendant has a majority ownership interest, Individual Defendant must deliver a copy of this Order to (1) all principals, officers, directors, and managers of that business; (2) all employees, agents, and representatives of that business who engage in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting." For current personnel, delivery shall be within five (5) days of service of this Order upon such Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the change in structure.

C. Individual Defendant as employee or non-control person: For any business where Individual Defendant is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Order, such Individual Defendant must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.

D. Settling Defendants must secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this Section.

X. ACKNOWLEDGMENT OF RECEIPT OF THIS ORDER

IT IS FURTHER ORDERED that each Defendant, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn

statement acknowledging receipt of this Order.

XI. COOPERATION WITH COMMISSION COUNSEL

IT IS FURTHER ORDERED that the Settling Defendants shall, in connection with this action or any subsequent investigation related to or associated with the transaction or the occurrences that are the subject of the Complaint, cooperate in good faith with the Commission and appear at such places and times as the Commission shall reasonably request, after written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested by the Commission. If requested in writing by the Commission, the Settling Defendants shall appear or cause their officers, employees, representatives or agents to appear, and provide truthful testimony in any trial, deposition, or other proceeding related to or associated with the transactions or the occurrences that are the subject of the Complaint, without the service of a subpoena.

XII. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

XIII. COSTS AND ATTORNEYS' FEES

IT IS FURTHER ORDERED that each party shall bear its own costs and attorneys' fees incurred in connection with this action.



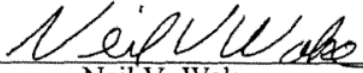
XIV. NOTICE OF ENTRY OF ORDER

IT IS FURTHER ORDERED that entry in the docket of this Order by the Clerk of Court shall constitute notice to Settling Defendants of the terms and conditions of this Order, and that Settling Defendants waive all rights to contest in any future proceeding whether Settling Defendants were properly served with this Order.

The parties hereby stipulate to the entry of the foregoing Order, which shall constitute a final Order in this action.

IT IS SO ORDERED:

DATED this 15th day of March, 2010.



Neil V. Wake
United States District Judge

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc., *et al*,

Defendants.

No. CV-10-00530-PHX-MHM

**FEDERAL TRADE COMMISSION'S
MOTION FOR CONTEMPT AGAINST
LIFELOCK, INC.**

LODGED UNDER SEAL

**FTC PROPOSED EXHIBIT __2__ TO MEMORANDUM IN SUPPORT
OF ITS MOTION FOR CONTEMPT AGAINST LIFELOCK, INC.**

David W. Lincicum (California Bar No. 223566)
Burke W. Kappler (D.C. Bar No. 471936)
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Mail Stop NJ-8122
Washington, D.C. 20580
dlincicum@ftc.gov
bkappler@ftc.gov
202-326-2773 (Lincicum)
202-326-2043 (Kappler)
202-326-3062 (facsimile)

Attorneys for Plaintiff Federal Trade Commission

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,)	
)	
Plaintiff,)	
)	Civil No.
v.)	
)	COMPLAINT FOR PERMANENT
LifeLock, Inc.)	INJUNCTION AND OTHER
a corporation; Robert J. Maynard, Jr.,)	EQUITABLE RELIEF
individually and as an officer of LifeLock,)	
Inc.; and)	
Richard Todd Davis,)	
individually and as an officer of)	
LifeLock, Inc.,)	
)	
Defendants.)	
)	

Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten

monies, and other relief for Defendants' acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

3. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and 15 U.S.C. § 53(b).

PLAINTIFF

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The Commission enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits deceptive or unfair acts or practices in or affecting commerce.

5. The FTC is authorized to initiate federal district court proceedings by its own attorneys, to enjoin violations of the FTC Act and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b) and 56(a)(2)(A).

DEFENDANTS

6. Defendant LifeLock, Inc. ("LifeLock"), is a Delaware corporation with its principal office or place of business at 60 East Rio Salado Parkway, Tempe, Arizona 85281. LifeLock transacts or has transacted business in this District and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, LifeLock has advertised, marketed, distributed, or sold an identity theft service to consumers in this District and throughout the United States.

7. Defendant Robert J. Maynard, Jr. ("Maynard") was LifeLock's Chief Operating

Officer until on or about May 18, 2007. He then served as LifeLock's Chief Marketing Strategist until his resignation on or about June 11, 2007. Until his resignation, acting alone or in concert with others, he formulated, directed, controlled, had the authority to control, or participated in the acts of practices of LifeLock, including the acts and practices set forth in this Complaint. Defendant Maynard, in connection with the matters alleged herein, transacts or has transacted business in this District and throughout the United States.

8. Defendant Richard Todd Davis ("Davis") is the Chief Executive Officer of LifeLock. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of LifeLock, including the acts and practices set forth in this Complaint. Defendant Davis resides in this District and in connection with the matters alleged herein, transacts or has transacted business in this District and throughout the United States.

COMMERCE

9. At all times relevant to this Complaint, Defendants have maintained a substantial trade in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' BUSINESS ACTIVITIES

10. Since at least April 2005 until at least October 2009, Defendants have advertised, promoted, offered for sale, sold, or otherwise made available to consumers a service purportedly designed to prevent identity theft through placing fraud alerts on consumers' behalf (hereinafter, "the ID theft prevention service").

11. Defendants' ID theft prevention service was based on Defendants taking the following measures:

- a. Placing an “Initial Alert” (as defined in Section 605A(a) of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681c-1(a)) on a customer’s consumer report with a consumer reporting agency (often referred to as a “credit bureau”), and periodically renewing the alert for an additional 90 days;
- b. Obtaining and providing to the customer a copy of his or her free annual disclosure of his or her consumer report, pursuant to Section 612(a) of the FCRA, 15 U.S.C. § 1681j(a);
- c. Submitting a request on a customer’s behalf to remove the customer’s name from lists for prescreened offers of credit, pursuant to Sections 604(c) and 604(e) of the FCRA, 15 U.S.C. §§ 1681b(c) and (e); and
- d. Offering a \$1 million guarantee to customers who become victims of identity theft while subscribing to the ID theft prevention service.

12. Defendants advertised, promoted, and marketed the ID theft prevention service in a variety of ways, including by print, radio, and television advertisements, and through their www.lifelock.com website.

13. Under Federal law, identity theft includes many types of criminal activities, including the misuse of another person’s identifying information to access existing credit accounts, open new accounts, obtain medical care or employment, or to evade law enforcement. 18 U.S.C. § 1028(a)(7).

14. Defendants charged customers a fee of ten dollars (\$10) per month for the ID theft prevention service, and enrolled over one million customers.

15. In the course of selling the ID theft prevention service, Defendants routinely collected sensitive information from their customers including, but not limited to: name,

address, e-mail address, telephone number, Social Security number, and, for customers paying with a credit card, the card number, expiration date, and security code number (collectively, “personal information”). Defendants collected this information by telephone, facsimile, and online. It is widely recognized that such personal information may be misused to facilitate identity theft, including, but not limited to, the misuse of existing credit card accounts.

16. Defendants store personal information obtained from customers on computers on the corporate computer network, or on computers maintained by third-party vendors that are accessible from the corporate network. Defendants’ employees can access the corporate network using computers located at Defendants’ headquarters. Additionally, for at least some portion of time relevant to this Complaint, employees and vendors working from their homes or other locations beyond the Defendants’ headquarters could access the network remotely.

**Statements about the Effectiveness of Defendants’
Service to Prevent Identity Theft**

17. From at least December 2006, Defendants, directly or indirectly, have disseminated or caused to be disseminated to consumers advertisements and other promotional materials in connection with the advertising, promotion, marketing, offering for sale, sale, or distribution of their ID theft prevention service. These materials have included, but are not limited to, the following statements, among others:

- a. “MY SOCIAL SECURITY # IS XXX-XX-5462. I’m Todd Davis, CEO of LifeLock, and this really is my social security number.* I give it just to prove how safe your identity can be with LifeLock.” (Exhibit 1)
- b. “Do you ever worry about identity theft? If so, it’s time you got to know LifeLock. We work to stop identity theft before it happens. We’re so confident,

- we back our clients with a \$1 million guarantee.” (Exhibit 1)
- c. “We aim to stop identity theft before it happens. . . . Every three seconds an identity is stolen. We’re here to make sure it doesn’t happen to you.” (Television Ad)
- d. “My social security number is XXX-XX-5462. I’m Todd Davis, CEO of LifeLock, and yes, that’s my real social security number.* Identity theft is one of the fastest growing crimes in America, victimizing over 10 million people a year and costing billions of dollars. So why publish my social security number? Because I’m absolutely confident LifeLock is protecting my good name and personal information, just like it will yours.” (Exhibit 2)
- e. “By now you’ve heard about individuals whose identities have been stolen by identity thieves LifeLock protects against this ever happening to you. Guaranteed.” (Exhibit 3)
- f. “LifeLock doesn’t just report unauthorized use of credit information, we prevent it by working with the top four credit bureaus to make sure you’re contacted to approve any credit transaction before it takes place.” (Exhibit 3)
- g. “LifeLock clients are contacted every time someone attempts to open credit in their name or change an address.” (Exhibit 4)
- h. “Please know that we are the first company to prevent identity theft from occurring.” (Exhibit 5)
- i. “LifeLock will make your personal information useless to a criminal.” (Exhibit 6)
- j. “Lifelock can keep this [identity theft] from happening to you” (Exhibit 6)

- k. “Every time you apply for new credit or someone tries to do something with your credit: You should receive a phone call from the bank asking if you are actually the person applying for credit in your name.” (Exhibit 7)
 - l. “We work with all major credit bureaus on an ongoing basis, setting up fraud alerts and constantly monitoring what’s happening with each person’s credit.” (Exhibit 8)
 - m. “Lifelock, the industry leader in proactive identity theft protection, offers a proven solution that prevents your identity from being stolen before it happens.” (Exhibit 9) (emphasis in original)
 - n. “So why is LifeLock CEO Todd Davis still giving out his real Social Security number to anyone who will listen? ‘Because between LifeLock’s proactive approach and our \$1 million service guarantee, I’m more confident than ever before in LifeLock’s ability to continue keeping my identity safe.’” (Exhibit 10)
 - o. “I give [my Social Security number] out just to prove how safe your identity is with LifeLock.” (Exhibit 11)
18. In fact, the ID theft prevention service did not prevent identity theft and did not provide many of the protections claimed by Defendants. Among other things:
- a. The ID theft prevention service did not protect against all types of identity theft. The centerpiece of the ID theft prevention service was Defendants’ placement and renewal of Initial Fraud Alerts on their customers’ consumer reports. Although Initial Alerts can provide notice to creditors and other businesses that someone may be impersonating another, the Initial Alerts only are useful if the business accesses the consumer’s consumer report as part of the transaction, most

commonly when the identity thief is attempting to open a new account in the consumer's name. The Alerts do not protect against more common types of identity theft, such as misuse of an existing credit account, that typically do not involve obtaining consumer reports. Nor do the alerts protect against other types of identity theft, such as medical identity theft, employment-related identity theft, or using another's identity to evade law enforcement.

- b. In some cases, the ID theft prevention service could fail to prevent identity theft even as to transactions in which consumer reports were obtained. Some businesses ignore fraud alerts or fail to take sufficient precautions to confirm the identity of the applicant. In some instances, identity thieves can thwart even reasonable precautions.
- c. The ID theft prevention service does not prevent unauthorized changes to customers' address information because the Initial Alerts Defendants place for customers do not require users of the customers' consumer reports to contact customers with fraud alerts before changing address information.
- d. The ID theft prevention service did not ensure that a consumer will receive a telephone call from a potential creditor before a new account was opened in the consumer's name. Section 605A of the FCRA permits but does not require businesses to call consumers before opening the account, and also allows businesses to use other "reasonable steps to verify the consumer's identity."
- e. The ID theft prevention service did not provide ongoing monitoring or review of customers' credit files.

Statements about the Security of Customers' Information

19. Since at least December 2006, Defendants, directly or indirectly, have disseminated or caused to be disseminated to consumers privacy policies and statements, including, but not necessarily limited to, the following statements regarding the privacy, confidentiality, and security of personal information they receive from their customers:

- a. “Only authorized employees of LifeLock will have access to the data that you provide to us, and that access is granted only on a ‘need to know’ basis.”
- b. “All stored personal data is electronically encrypted.”
- c. “Any data that we transmit over a private network will be sent via secure, encrypted channels.”
- d. “When you enter sensitive information (such as credit card number and/or social security number) on our registration or order forms, we encrypt that information using secure socket layer technology (SSL).”
- e. “Your documents, while in our care, will be treated as if they were cash.”
- f. “Lifelock uses highly secure physical, electronic, and managerial procedures to safeguard the confidentiality and security of the data you provide to us.”

(Exhibit 12).

20. In fact, until at least September 2007, Defendants engaged in a number of practices that, taken together, failed to provide reasonable and appropriate security to prevent unauthorized access to personal information stored on its corporate network, in transit through its corporate network or over the internet, or maintained in Defendants’ offices. Among other things, Defendants:

- a. Created an unnecessary risk to personal information by storing it on the network and transmitting it over the network and the internet in clear readable text;

- b. Failed to require employees, vendors, and others with access to personal information to use hard-to-guess passwords or to implement related security measures, such as periodically changing passwords or suspending users after a certain number of unsuccessful log-in attempts;
- c. Failed to limit access to personal information stored on or in transit through its networks only to employees and vendors needing access to the information to perform their jobs;
- d. Failed to use readily available security measures to routinely prevent unauthorized access to personal information, such as by installing patches and critical updates on its network;
- e. Did not adequately assess the vulnerability of the network and web applications to commonly known and reasonably foreseeable attacks, such as SQL injection attacks;
- f. Failed to employ sufficient measures to detect and prevent unauthorized access to the corporate network or to conduct security investigations, such as by installing antivirus or anti-spyware programs on computers used by employees to remotely access the network or regularly recording and reviewing activity on the network;
- g. Did not implement simple, low-cost, and readily available defenses to commonly known and reasonably foreseeable attacks; and
- h. Failed, from at least December 2006 until February 2007, to secure paper documents containing personal information that were received by facsimile in an open and easily accessible area.

As a result of these practices, an unauthorized person could obtain access to personal

information stored on Defendants' corporate network, in transit through Defendants' corporate network or over the internet, or maintained in Defendants' offices.

VIOLATIONS OF SECTION 5(a) OF THE FTC ACT

21. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or deceptive acts or practices in or affecting commerce."

22. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

Count I

23. Through the means described in Paragraph 17, Defendants have represented, directly or indirectly, expressly or by implication, that the ID theft prevention service provided complete protection against all forms of identity theft by making customers' personal information useless to identity thieves.

24. In truth and in fact, as described in Paragraph 18, the ID theft prevention service did not provide complete protection against all identity theft and did not make customers' personal information useless to identity thieves.

25. Therefore, the making of the representation set forth in Paragraph 23 of this Complaint constitutes a deceptive act or practice, in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

Count II

26. Through the means described in Paragraph 17, Defendants have represented, directly or indirectly, expressly or by implication, that the ID theft prevention service prevented unauthorized changes to customers' address information.

27. In truth and in fact, as described in Paragraph 18, at the time this representation

was made, the ID theft prevention service did not prevent unauthorized changes to customers' address information because the Initial Alerts Defendants place for customers do not require users of the customers' consumer reports to contact customers with fraud alerts before changing address information.

28. Therefore, the making of the representation set forth in Paragraph 26 of this Complaint constitutes a deceptive act or practice, in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

Count III

29. Through the means described in Paragraph 17, Defendants have represented, directly or indirectly, expressly or by implication, that the ID theft prevention service constantly monitored activity on each of its customers' consumer reports.

30. In truth and in fact, as described in Paragraph 18, the ID theft prevention service did not monitor activity on customers' consumer reports.

31. Therefore, the making of the representation set forth in Paragraph 29 of this Complaint constitutes a deceptive act or practice, in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

Count IV

32. Through the means described in Paragraph 17, Defendants have represented, directly or indirectly, expressly or by implication, that the ID theft prevention service would ensure that a customer would always receive a phone call from a potential creditor before a new credit account was opened in the customer's name.

33. In truth and in fact, as described in Paragraph 18, the ID theft prevention service did not ensure that a customer would receive a phone call from a potential creditor before a new

credit account was opened in their name because the Initial Alerts that Defendants placed for customers do not require that the potential creditor contact consumers before opening new credit accounts.

34. Therefore, the making of the representation set forth in Paragraph 32 of this Complaint constitutes a deceptive act or practice, in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

Count V

35. Through the means described in Paragraph 19, Defendants have represented, directly or indirectly, expressly or by implication, that they employed reasonable and appropriate measures to protect personal information of customers from unauthorized access.

36. In truth and in fact, as described in Paragraph 20, Defendants did not employ reasonable and appropriate measures to protect personal information of customers from unauthorized access.

37. Therefore, the making of the representation set forth in Paragraph 35 of this Complaint constitutes a deceptive act or practice, in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

Count VI

38. Through the means described in Paragraph 19, Defendants have represented, directly or indirectly, expressly or by implication, that they encrypted sensitive customer information that they stored or transmitted in the course of their business.

39. In truth and in fact, as described in Paragraph 20, Defendants did not encrypt sensitive customer information that they stored or transmitted in the course of their business.

40. Therefore, the making of the representation set forth in Paragraph 38 of this

Complaint constitutes a deceptive act or practice, in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

Count VII

41. Through the means described in Paragraph 19, Defendants have represented, directly or indirectly, expressly or by implication, that they limited access to sensitive customer information only to authorized employees on a “need-to-know” basis.

42. In truth and in fact, as described in Paragraph 20, Defendants did not limit access to sensitive customer information only to authorized employees on a “need-to-know” basis.

43. Therefore, the making of the representation set forth in Paragraph 41 of this Complaint constitutes a deceptive act or practice, in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

44. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants’ violations of the FTC Act. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT’S POWER TO GRANT RELIEF

45. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

Wherefore, Plaintiff Federal Trade Commission, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

A. Enter a permanent injunction to prevent future violations of the FTC Act by Defendants;

B. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act, including, but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and

C. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

Willard K. Tom
General Counsel

s/ Burke Kappler

Dated: March 8, 2010

DAVID W. LINCICUM
BURKE W. KAPPLER
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Mail Stop NJ-3158
Washington, D.C. 20580
202-326-2773 (Lincicum)
202-326-2043 (Kappler)
202-326-3062 (facsimile)
dlincicum@ftc.gov (e-mail)
bkappler@ftc.gov (e-mail)

Attorneys for Plaintiff

FEDERAL TRADE COMMISSION

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS Federal Trade Commission</p> <p>(b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) (see attachment)</p>	<p>DEFENDANTS LifeLock, Inc.; Richard Todd Davis; Robert J. Maynard, Jr.</p> <p>County of Residence of First Listed Defendant <u>Maricopa</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known) (see attachment)</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input checked="" type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:25%;"></td> <td style="width:10%;">PTF</td> <td style="width:10%;">DEF</td> <td style="width:45%;"></td> <td style="width:10%;">PTF</td> <td style="width:10%;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<p>PERSONAL INJURY -</p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. Section 53(b)

Brief description of cause:
Deceptive Advertising

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE 3/9/10 SIGNATURE OF APPLICANT 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Federal Trade Commission v. LifeLock, Inc.; Richard Todd Davis; and Robert J. Maynard Jr.
Civil Cover Sheet Attachment

Attorneys for Plaintiff

David W. Lincicum (California Bar No. 223566)
Burke W. Kappler (D.C. Bar No. 471936)
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Mail Stop NJ-8122
Washington, D.C. 20580
dlincicum@ftc.gov
bkappler@ftc.gov
202-326-2773 (Lincicum)
202-326-2043 (Kappler)

Attorney for Defendants LifeLock and Davis

Andrew G. Berg
Greenberg Traurig, LLP
2101 L Street, N.W.
Suite 1000
Washington, D.C. 20037
(202) 331-3181
berga@gtlaw.com

Attorney for Defendant Maynard

David Medine
WilmerHale
1875 Pennsylvania Avenue N.W.
Washington, D.C. 20006
(202) 663-6220
david.medine@wilmerhale.com

INDEX OF EXHIBITS

Exhibit 1: LifeLock Advertisement

Exhibit 2: LifeLock Website Page

Exhibit 3: LifeLock Website Page

Exhibit 4: LifeLock Website Page

Exhibit 5: LifeLock New Customer Packet

Exhibit 6: LifeLock Website Page

Exhibit 7: LifeLock Website Page

Exhibit 8: LifeLock Website Page

Exhibit 9: LifeLock Website Page

Exhibit 10: LifeLock Advertisement

Exhibit 11: LifeLock Advertisement

Exhibit 12: LifeLock Client Privacy Policy

EXHIBIT 1

-5462

I'm **Todd Davis**, CEO of LifeLock,

and this really is my social security number.* I give it just to prove how safe your identity can be with LifeLock. All of us, no matter how careful, can become victims of identity theft. In fact, every three seconds another identity is stolen.

Do you ever worry about identity theft? If so, it's time you got to know LifeLock. We work to stop identity theft before it happens. We're so confident, we back our clients with a \$1 million guarantee. If for any reason you fall victim to identity theft, we will spend up to \$1 million to hire the finest professionals to repair the damage and restore your good name. Period.

Security, peace of mind, protection – that's what LifeLock provides, along with the added bonus of reduced junk mail and pre-approved credit card offers. Normally it's just \$10 a month, but now you can try us free for 30 days. Protect yourself, your family and all you've worked for. **Guarantee your good name today.**

Here's what LifeLock offers you:

- **Proactive Identity Theft Protection**
- **Reduced Junk Mail**
- **Reduced Credit Card Offers**
- **Free Annual Credit Reports**
From the three major credit bureaus
- **\$1 Million Guarantee**
Full details available on our website
- **Comprehensive Programs to Protect Your Employees** Call for details

FREE TRIAL

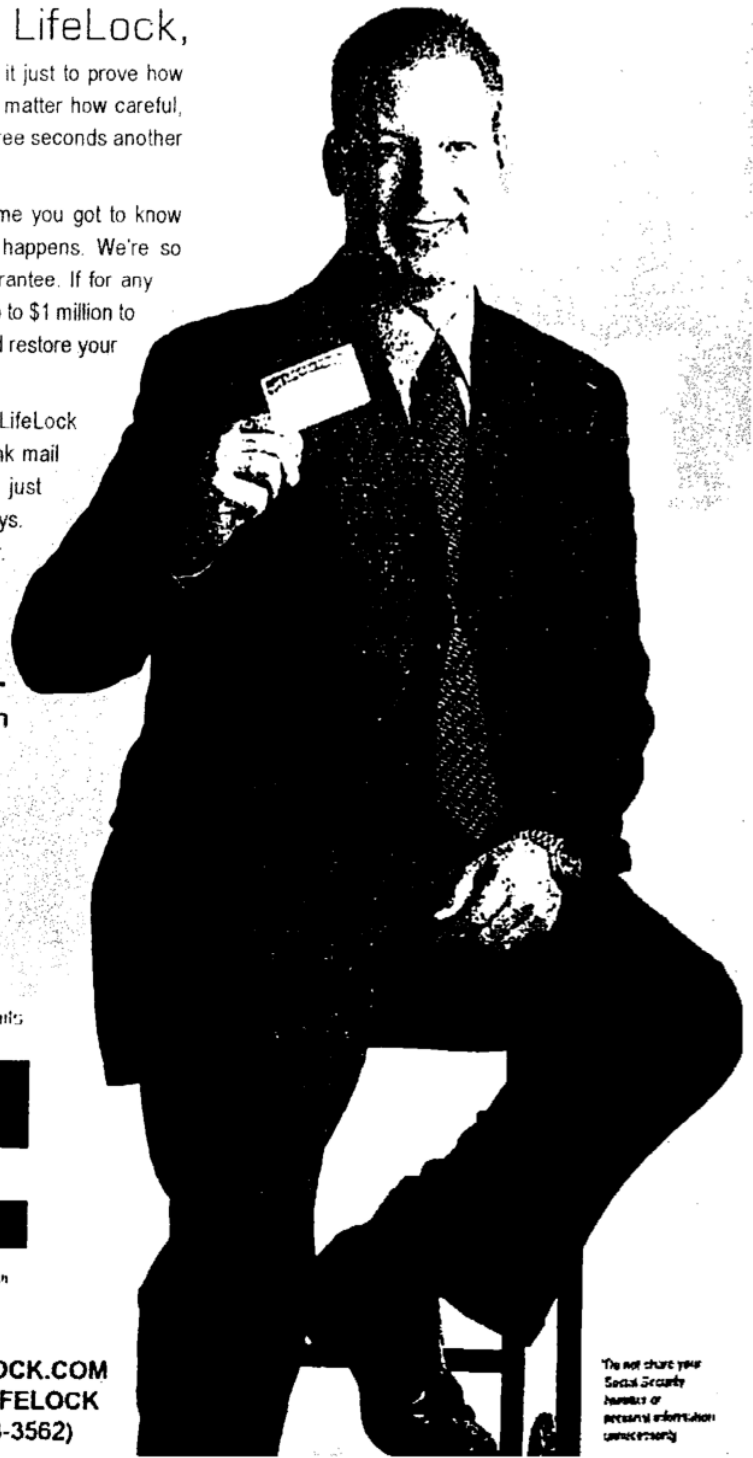
Use promo code **FLY** to take advantage of this offer

LIFELOCK.COM • 877 LIFELOCK (543-3562)

- No payment, no obligation for 30 days
- After 30 days your credit card will automatically be billed \$10 per month
- You can cancel at any time without penalty



LIFELOCK.COM
877 LIFELOCK
(543-3562)



The net share your Social Security number or personal information unnecessarily

EXHIBIT 2



myLifeLock | Answer Center | Contact Us

1-800-LifeLock

1-800-541-7462

Welcome How LifeLock Works \$1 Million Service Guarantee About Us Get Started Search Site



My name is Todd Davis

My social security number is [redacted]-[redacted]-5462

I'm Todd Davis, CEO of LifeLock, and yes, that's my real social security number*. Identity theft is one of the fastest growing crimes in America, victimizing over 10 million people a year and costing billions of dollars. So why publish my social security number? Because I'm absolutely confident LifeLock is protecting my good name and personal information, just like it will yours. And that is why we back our service with our \$1 Million Service Guarantee. At LifeLock, We Guarantee Your Good Name. No one else does because no one else can.

*Always protect your social security number. Do not share it unless necessary.

Protect Your Identity

LifeLock In The News

Grid of news snippets with images and headlines: 'In the News... your identity at risk', 'NBC Bay Area', 'ID theft in the news', 'What can you do to protect yourself?' with dates and durations.

A Million Reasons to CHOOSE LIFELOCK

Graphic with a woman's face and text: 'We help put you in control of your identity. Find out how'.

Here is what LifeLock Offers You

- Proactive Identity Theft Protection
Reduce Credit Card Offers
\$1 Million Service Guarantee
Only \$10 per Month

Enroll Now

Click Here to view LifeLock's new privacy policy

LifeLock for Business Comprehensive Programs to Protect your Employees and Customers

New service!

eRecon™ and TrueAddress™ help you shut down potential identity threats fast.

WalletLock™ takes the hassle out of a lost or stolen wallet. Click to find out how.

Guarantee Your Good Name

Identity theft can happen anywhere to anyone. In line at the store, online at home or when you're buying your morning coffee. If your identity is stolen, you can spend hundreds of hours cleaning up your credit and struggling to get back your good name. That's because stolen identities are used up to 30 times, with most victims only discovering the theft after they've been turned down for a loan or contacted by a collection agency. You may already be a victim, many times over, and not even know it. But not with LifeLock.

LifeLock, the industry leader in proactive identity theft protection, offers a proactive solution to help prevent your identity from being stolen before it happens. We'll protect your identity and personal information for only \$10 a month - and we guarantee our service up to \$1,000,000. We also offer the only identity theft child protection program available in the market, so guarantee your good name today and enroll now.



LifeLock is the best identity theft protection program on the market. - Top Consumer Reviews



EXHIBIT 3

By now you've heard the stories about individuals whose identities have been stolen by identity thieves. They're not pretty stories—all people working for hundreds of hours over many years to get their lives back in order, even innocent individuals ending up in jail. LifeLock protects against this ever happening to you. Guaranteed. Up to \$1 million.

LifeLock doesn't just report unauthorized use of your credit information, we prevent it by working with the top four credit bureaus to make sure you're contacted to approve any credit transaction before it takes place. We also remove your name from pre-approved credit card offers and junk-mail lists, where identity theft often gets started.

We're the leaders in proactive identity theft protection as you've probably seen in coverage in *The Wall Street Journal* and *Chicago Tribune*, and on MSNBC, CNN, and many other national news outlets. We're so sure of our system our CEO confidently publishes his own Social Security number in all our ads.

If your credit isn't proactively protected, you're at risk. You simply can't afford to wait until someone takes your identity, especially when LifeLock can set up a very affordable, guaranteed system of proactive identity theft prevention in just a few hours. [Enroll](#) with us right away.

-
- [About Us](#)
 - [Contact Us](#)
 - [Testimonials](#)
 - [Endorsements](#)
 - [Press Room](#)
 - [Privacy Policy](#)
 - [Terms of Use](#)
 - [Site Map](#)

Copyright © 2007. LifeLock. All Rights Reserved.

EXHIBIT 4



LifeLock for People LifeLock for Business Our Guarantee About Us

About LifeLock

- Contact Us
- Board of Directors
- Testimonials
- Endorsements
- Privacy Policy
- Terms of Use

Press Room

- 2007 Press Releases
- 2006 Press Releases
- 2005 Press Releases

[Home](#) > [About Us](#) > [Press Room](#) > [2006 Press Releases](#) > [Bowling Green State University](#)

Bowling Green State University Takes Stand Against ID Theft

BGSU becomes the first Midwestern University to provide LifeLock service

(Chandler, AZ, July 10, 2006) – Bowling Green State University joins the University of Oklahoma in proactively deterring thieves by making the LifeLock Identity Theft Service available for purchase by members of the campus community. LifeLock is the nation's first and only service that prevents identity theft and backs up its promise with a \$1 million guarantee.

Labeled "the fastest growing crime in America," it is predicted that in the United States alone, 15 million people (or 1 in 20) will have their identity compromised in 2006 – that's more than a 350 percent increase from a year ago.

"At a time when many colleges throughout Ohio are very concerned about the security of personal information, we are looking to LifeLock as one more option we can give students, parents and staff toward protecting their personal data," said Dr. Linda Dobb, executive vice president at BGSU.

Since January 2005, more than 80 U.S. universities have reported breaches in information affecting some 4 million people, mostly students. The majority of breaches have been a result of hacking, stolen computers and personal information listed on websites.

"With the losses suffered by some organizations in the last year-and-a-half, having Bowling Green State University make our service available for purchase by their students, faculty, staff and alumni is a proactive step toward preventing crime," said LifeLock CEO Todd Davis.

LifeLock does the prevention work for a client by maintaining active fraud alerts with the three major credit bureaus as well as ChexSystems. LifeLock clients are contacted every time someone attempts to open credit in their name or change an address. This step eliminates illegal use of private information.

"LifeLock is the only service of its kind that doesn't wait for a problem to occur to protect credit data," said Bruce Petryshak, chief information officer at BGSU. "It's a pro-active approach individuals can take to avoid the potential problems associated with identity theft."

Anyone associated with Bowling Green State University can go to

<http://www.lifelock.com/about-us/press-room/2006-press-releases/bowling-green-state-university>

5/15/2007

www.bgsu.edu and use the promotion code [bgsu-student](#) to receive a special discount.

Compared to other products on the market, LifeLock is unique in that it also removes clients from solicitation lists, eliminating a primary target of ID thieves - the pre-approved credit offer. LifeLock also reduces the amount of junk mail a client would receive and guarantees its service with \$1 million to cover all expenses if anything was to ever happen to one of its clients. It costs the consumer about \$120 annually.

"When you are talking about identity theft, true protection can only come when you concentrate on stopping the crime in the first place," added Davis.

LifeLock, which is based in Chandler, Arizona, is the first company to provide an identity theft program for children 16 and under, and ID theft protection for Hurricane Katrina victims. For more information on LifeLock, log on to www.lifelock.com.

[About Us](#) [Contact Us](#) [Testimonials](#) [Endorsements](#) [Press Room](#)
[Privacy Policy](#) [Terms of Use](#) [Site Map](#)

Copyright © 2006. LifeLock. All Rights Reserved.

EXHIBIT 5



«firstname» «lastname»
«address1»
«city», «state» «zip»

Dear «firstname» «lastname»,

Congratulations on enrolling with LifeLock and taking a proactive stance against identity theft. You are now guaranteed protection against the fastest growing crime in America. Our records indicate you are the primary contact for the «family», and that you enrolled on «date_created». You have elected the following payment option: «product», which includes a recurring payment of \$«amount». This amount will be automatically charged to your credit card each month or year, depending on your payment option.

Please take a moment to review the documents we have attached to better understand the services that we provide.

Again, thank you for your business.

Most sincerely,

Todd Davis
Chief Executive Officer
LifeLock, Inc.

6515 S Rural Rd Suite 104 Tempe, AZ 85283 • 877-543-3562 • 480-682-5101 fax

FTC-0002059



Thank you for enrolling with LifeLock. Please know that we are the first company to prevent identity theft from occurring. We are so sure of our system that we back it up with a \$1 million guarantee.

What We Do

- GUARANTEE what we do
- Add fraud alerts to your credit reports so that only you can use them
- Stop pre-approved credit card offers
- Drastically reduce the amount of junk mail you receive
- Help ensure things go smoothly when you apply for credit
- Request your free annual credit reports on your behalf

1. We GUARANTEE that it works:

Our guarantee is simple: If your identity is ever stolen while you are our client, we will fix the problem. Period. No matter what it takes. No matter what it costs (up to \$1,000,000). We'll replace every dime you lose from the theft and you will never pay us again. There's no fine print here. If we need lawyers or investigators, we hire them. We pay the bills. Your only obligation is to tell us within 30 days of first discovering the theft.

In order for our guarantee to apply, you must be, and have continuously been, a client of LifeLock when your identity is stolen and when you report it to us.

There is NO guarantee like this ANYWHERE in the industry.

2. Only you can use your credit:

We place and maintain fraud alerts on your credit reports with all FOUR major consumer reporting agencies, Equifax, Experian TransUnion and ChexSystems. ChexSystems is like a credit bureau specifically targeting depository accounts.

These alerts request that creditors contact you by phone for verification before granting credit in your name. These alerts last for 90 days, whereupon we renew them automatically. You will receive confirmation of this action in the mail from each bureau quarterly.

3. We stop pre-approved credit offers:

Our process alerts every company that sends out pre-approved credit offers to stop sending them to you. This is known as a key area in the prevention of identity theft.

4. We drastically reduce the amount of junk mail:

We alert the Direct Marketing Association companies that sell individual names to junk mailers. This drastically reduces the amount of junk mail to consumers. This is important because all that is needed is an individual's name and address to steal their identity. The fewer times it is printed, the better.

5. We ensure that everything goes smoothly when you want credit:

This support does not mean LifeLock will improve the client's credit rating but rather make sure when they do apply for credit, LifeLock will help expedite the process. Every lock an individual has, on a car, on a home, on an office, requires some inconvenience to use. With fraud alerts, the credit-granting process stops until the company that is using the individual's credit report verbally contacts the client. This is especially true when an individual is applying for instant credit, and they may be declined or put into a pending status. When an individual is a LifeLock client, this process will be facilitated to ensure efficiency.

It should be noted, although once a fraud alert is placed we have found, although obligated, the company issuing credit may not always contact you. This is one of the reasons why we have the guarantee. Although not contacted, you are still protected.

6. You get copies of your credit reports from, Experian, Equifax, TransUnion and ChexSystems:

It is important that you keep an eye on what the various credit bureaus have to say about you. We make sure you get a copy of each of these reports once annually from all three bureaus so that you can make sure the information creditors are using to judge your credit worthiness is true and accurate.

It is important to know that these reports are coming directly from the credit bureaus. LifeLock does not send them to you, we initiate the process.

What to Expect After Your Enrollment

Within the next 3-5 weeks, you will be receiving letters from Equifax, Experian and TransUnion explaining they have placed a 90 day fraud alert on your credit report in their databases. You will receive these letters every 90 days as LifeLock continues to maintain your service.

You will also receive a packet from ChexSystems in the same time period. This packet will include a statement that a 90 day alert has been placed on your ChexSystems report, a copy of your ChexSystems report, and an affidavit that you can sign if you would like to place a 5 year extended alert with them. This affidavit can be discarded unless you have been a victim of identity theft.

Within the next 4-6 weeks you will receive credit reports from each of the three major credit bureaus. These credit reports will show the alerts stating that anyone accessing your report must call you prior to making any credit decision. YOU MUST LOOK CAREFULLY TO VERIFY THAT THE PHONE NUMBERS ON THE REPORTS ARE CORRECT. IF THEY ARE NOT, CONTACT US IMMEDIATELY. You will continue to receive credit reports on a regular basis from the credit bureaus.

Finally, over the next few weeks you will begin noticing a dramatic decrease in the amount of junk mail and pre-approved credit card offers you receive in the mail.

When you apply for credit

LifeLock will not affect your credit score. With LifeLock, when you apply for credit the bank must contact you via the primary phone number you've provided us before making an approval. This will ensure that you are personally notified before any credit, insurance, or other credit-related transaction can be concluded.

On rare occasions, especially when you are applying for "instant" credit, the bank's computer may send the message that your credit has been declined or that your application has been placed in a pending status while they process our instructions to contact you directly. If this happens, pick up the phone and call us. We'll get the bank on the phone with you and ensure that you get the credit you deserve. It's important that you know that we make no attempt to influence the bank's decision to approve you, we only make sure that they know it is you who is applying.

Contacting us

If you ever have a question or concern, we're here Monday thru Friday 6:00 AM until 6:00 PM Mountain Time. Don't hesitate to contact us at client.services@lifelock.com or by calling our toll-free number, 1-877-LIFELOCK (543-3562).

Sincerely,

Todd Davis
Chief Executive Officer
LifeLock, Inc.

EXHIBIT 6

Identity Theft Protection Identity Theft Protection Stop Identity Theft

Page 1 of 2



LifeLock for People LifeLock for Business Our Guarantee About Us 1 877 4 LIFELOCK

LifeLock for People
Protect yourself and your family, guaranteed!
[Learn More!](#)

LifeLock for Business
Protect your people with our business opportunity
[Learn More!](#)

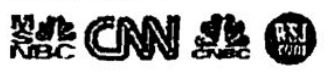
It's Todd Davis
Social Security number: [REDACTED] 5462

Todd Davis, CEO of LifeLock. Yes, that really is my Social Security number. Not in not crazy. I'm just sure our protection is like we have with mine. LifeLock will make your personal information useless to a criminal. And that's the guarantee.

Our Guarantee: Your Good Name
No one can take it from you.

[Enroll Now](#)

As seen on: (click icon to view article)



Now you've heard the stories about Americans whose identities have been stolen. They're

http://www.lifelock.com/

5/14/2007

FTC-0002064

not pretty people working for hundreds of hours over many years to get their lives back in order, kids not getting student loans because someone has already ruined their credit, people losing homes because thieves placed mortgages they never knew existed, even innocent individuals ending up in jail.

Lifelock can keep this from happening to you and we guarantee our service up to \$1,000,000.

We're the leaders in a growing industry. You've seen us in countless news stories. You've heard Rush Limbaugh, Paul Harvey, Dr. Laura, Sean Hannity, Howard Stern, Dr. Joy and others endorse us. Look at what our clients say. Check us out. If you've got a reason to worry about Identity Theft, we're sure that you'll find Lifelock is right for you.

[About Us](#) [Contact Us](#) [Testimonials](#) [Endorsements](#) [Press Room](#)
[Privacy Policy](#) [Terms of Use](#) [Site Map](#)

Copyright © 2006. Lifelock. All Rights Reserved.

<http://www.lifelock.com/>

5/14/2007

FTC-0002065

EXHIBIT 7



LifeLock for People LifeLock for Business Our Guarantee About Us 1 877 4LIFELOCK

What We Do

- How does LifeLock protect my identity?
- How much does LifeLock cost?

How We Do It

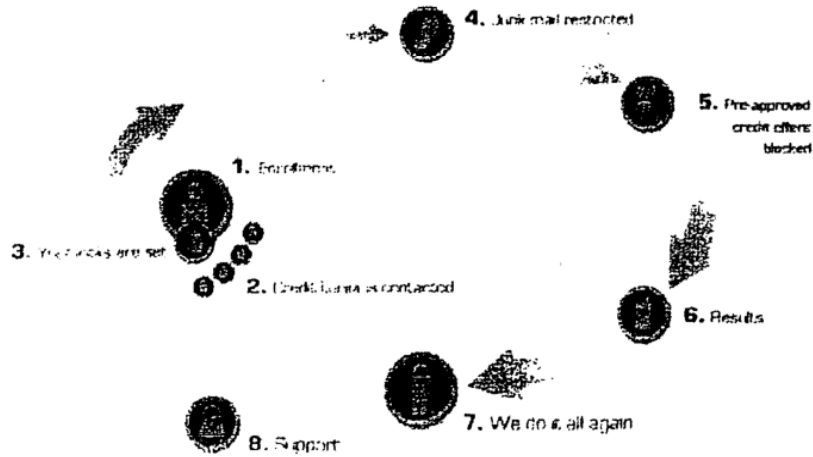
- What is a Fraud Alert?
- How does LifeLock secure my personal information?
- How can LifeLock protect my kids and family?
- How is LifeLock different from a credit monitoring system?
- Can I cancel at any time?

Who We Are

- Who is LifeLock?
- Who uses LifeLock?
- What are others saying about LifeLock?

Home > LifeLock for People > How does LifeLock protect my identity?

How does LifeLock protect my identity?



What you can expect when you enroll:

1. Enrollment

- Welcome to LifeLock!**
You can stop looking over your shoulder because we've got your back.

2. Credit bureaus contacted

- 1-2 hours after enrolling:**
Email from us stating that your alerts have been requested on your behalf.
- On the next business day after enrolling:**
Email from us stating that your credit reports have been ordered on your behalf.

3. Your locks are set

- Every time you apply for new credit or someone tries to do something with your credit:**

You should receive a phone call from the bank asking if you are actually the person applying for credit in your name. If you are, great, if not, the transaction stops.

4. Junk mail restricted



On the next business day after enrolling:

Email from us stating that we have processed the request to remove your name from Junk Mail lists.

5. Pre-approved credit offers blocked



Email from us saying that we've asked for you to be removed from pre-approved credit offer lists.

6. Results



Within 2 weeks of your enrollment:

Letters from the credit bureaus confirming that fraud alerts have been set.



Within 6 weeks of your enrollment:

Your credit reports from each of the major bureaus.



Within 2 months of your enrollment:

You should begin seeing a dramatic decrease in Pre-approved credit card offers and other junk mail. Please note that banks with which you already do business can continue to send you offers, unless you tell them specifically that you don't want them anymore.

7. We do it all again



About every 90 days and every 90 days thereafter:

Unless you tell us to stop, you will receive emails from us stating that we have requested that your fraud alerts be re-set.



Within 2 weeks after that:

You will receive confirmations from the credit bureaus that your fraud alerts have been re-set.



Every 12 months:

You will receive new copies of your credit reports from all credit bureaus.

8. Support



If you ever have a question or need help:

Our highly trained specialists are here from 6:00 AM until 10:00 PM Pacific time seven days a week.

[About Us](#) [Contact Us](#) [Testimonials](#) [Endorsements](#) [Press Room](#)
[Privacy Policy](#) [Terms of Use](#) [Site Map](#)

Copyright © 2006, LifeLock. All Rights Reserved.

EXHIBIT 8



LifeLock for People LifeLock for Business Our Guarantee About Us **1 877 4LIFELOCK**

LifeLock Protection for:

- Your Employees
- Your Customers
- Associations
- Universities
- Companies with an Identity Loss Incident
- Web Businesses

Learn About LifeLock

- LifeLock Identity Theft Protection
- About LifeLock
- Our \$1 Million Guarantee
- Testimonials
- Endorsements

Home : [LifeLock for Business](#) > [Universities](#)

Universities

Universities Can Protect Staff and Students An identity theft offering can save time and money

More than 300 colleges and universities lost the private information of their students, staff and alumni in 2006. This cost universities thousands in lost productivity while the individuals spent up to two years and hundreds of hours cleaning up the mess left by identity thieves.

Students are especially vulnerable to identity thieves because their personal and financial activities often aren't closely monitored. LifeLock is the only company in the world protecting identities of kids and students to ensure they can pursue their college and adult lives with an untarnished name and a clean financial slate.

LifeLock builds only proactive solutions. We work with all major credit bureaus on an ongoing basis, setting up fraud alerts and constantly monitoring what's happening with each person's credit. Unlike credit monitoring services that simply report when someone has already used your credit, LifeLock contacts individuals immediately when anyone tries to access their credit information, and nothing can happen unless approval is given. This ensures unauthorized account transactions will be stopped before fraud can take place.

We also remove names from pre-approved credit card offers and junk mail lists. Now, who doesn't want less mailbox clutter?

But, best of all, we guarantee our work up to \$1 million.

For more information, please contact us at schools@lifelock.com.

[About Us](#) [Contact Us](#) [Testimonials](#) [Endorsements](#) [Press Room](#)
[Privacy Policy](#) [Terms of Use](#) [Site Map](#)

Copyright © 2006. LifeLock. All Rights Reserved.

EXHIBIT 9



myLifeLock | Answer Center | Contact Us

1-800-LifeLock

1-800-368-1111

Welcome How LifeLock Works \$1 Million Service Guarantee About Us Get Started

Search Site



My name is Kim Barnes

and this is my story.

When I first learned about a company called LifeLock that protects families from identity theft, my husband was skeptical. I signed us up anyway, and forgot about it. A couple of months later, on a family vacation, my husband received a phone call asking if he was applying for a new credit card. Someone was trying to steal his identity. LifeLock had stopped the thief cold. We continued on with our vacation knowing we were safe.

Protect Your Identity

LifeLock In The News



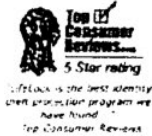
Guarantee Your Good Name

Identity theft can happen anywhere to anyone. In line at the store, online at home or when you're buying your morning coffee. If your identity is stolen, you can spend hundreds of hours cleaning up your credit and struggling to get back your good name. That's because stolen identities are used up to 30 times, with most victims only discovering the theft after they've been turned down for a loan or contacted by a collection agency. You may already be a victim, many times over, and not even know it. But not with LifeLock.

LifeLock, the industry leader in proactive identity theft protection, offers a proven solution that prevents your identity from being stolen before it happens. We'll protect your identity and personal information for only \$10 a month - and we guarantee our service up to \$1,000,000. We also offer the only identity theft child protection program available in the market, so guarantee your good name today and enroll now.

We back your protection with a \$1 Million Total Service Guarantee.

Find out how



Here is what LifeLock Offers You

- ✓ Proactive Identity Theft Protection
- ✓ Reduce Credit Card Offers
- ✓ \$1 Million Service Guarantee
- ✓ Only \$10 per Month

Enroll Now

Click Here to view LifeLock's new privacy policy.

LifeLock for Business Comprehensive Programs to Protect your Employees and Customers

New service!

eRecon™ and TrueAddress™ help you shut down potential identity threats fast.

WalletLock™ takes the hassle out of a lost or stolen wallet. Click to find out how.

EXHIBIT 10

ADVERTISEMENT

IDENTITY THEFT ALERT:

Special Report: Threat of identity theft on the rise in wake of global financial crisis

IDENTITY THIEVES are responding to stories of bank failures and other events related to the current global financial crisis with new scams designed to exploit consumers' fears.

Recent stories have reported increased incidents of "phishing" emails that appear to come from your bank, falsely informing you that your account information needs updating due to a recent merger.

Another story reported businesses being threatened with potential large scale data breaches of the personal records of millions of their customers.

So why is LifeLock CEO Todd Davis still giving out his real Social Security number to anyone who will listen?

"Because between LifeLock's proactive approach and our \$1 million service guarantee, I'm more confident than ever before in LifeLock's ability to continue keeping my identity safe," Davis said.

That's showing a lot of confidence when you consider that identity theft is one of the fastest growing crimes in America, and has topped the FTC's list of consumer complaints for seven consecutive years. In fact, another identity is stolen every three seconds.

Yes, That's His Real Number

"Of course, you should never share your Social Security number unless completely necessary," he added, "but for the record, mine really is ■■■-5462."

the risk of identity thieves ruining your credit and good name – even if your information gets in the wrong hands."

More importantly, what LifeLock doesn't stop, they fix at their expense up to \$1,000,000. That's their \$1 Million Total Service Guarantee.

Does It Work? Look at the Facts.

"With over a million LifeLock members, statistically you would expect to see over 30,000 identity thefts annually, costing our members hundreds of hours and thousands of dollars," Davis said.

"Now, those are thefts that would come under the protection of our \$1 Million Total Service Guarantee, so our members would be out nothing, but we haven't seen anywhere near 30,000 victims. We haven't even seen 300."

The fact is, less than one percent of over one million LifeLock members have ever reported their identities stolen, and because of LifeLock's guarantee, none of them were ever out the time or money experienced by other identity theft victims.

So How Big of a Problem is Identity Theft?

Financial costs aside, identity theft victims can spend hundreds of frustrating hours talking to credit card companies, banks, police and credit bureaus repairing the damage.

When you factor in that thieves may hold onto information for six months or longer before using it, and that a single stolen identity

Another had his identity stolen at age 7, but didn't find out until ten years later when he was denied a student loan and a job due to poor credit. He was 17-years-old and \$40,000 in debt because someone had purchased a houseboat in his name. He struggled for 10 years to clear his name.

the victim's name was turned down for assistance because she was using the identity number of her son and earning less than her.

Davis is confident that the damage is even stronger than

Things You Can Do:

1. Place Fraud Alerts On Your Credit Report.

Fraud alerts make it extremely difficult for thieves to open new lines of credit in your name. Fraud alerts have proven to be effective in stopping unauthorized use of personal information. You can place fraud alerts with all three major credit agencies (Equifax, Experian, TransUnion), but alerts last 90 days and must be renewed continuously to be effective.

2. Order ALL THREE Free Credit Reports.

Whether or not you are a victim of identity theft, take advantage of your free annual credit reports. Visit www.annualcreditreport.com.

3. Opt Out Of Unsolicited Credit Card Offers.

Opt out of pre-approved offers of credit at www.optout.com. You may choose a five-year opt-out period or permanent opt-out status. This reduces the possibility of someone rifling through your mail and opening credit under your name.

4. Become Acquainted With A Shredder.

All read mail should go through the shredder before being thrown in the trash. Though identity theft is steadily transferring to online forums, most identity theft is still done by trash diggers. Shredding all of your personal documents, makes the would-be identity thief infinitely more difficult.

5. Let Experts Protect You.

While preventative measures can be done by anyone, professional companies exist to provide consumers with expert advice on the confusing ID theft issues. When selecting these companies, make sure that they provide the common sense, knowledge, support and protection found in LifeLock's approach and \$1 million service guarantee.

FTC-0002074

EXHIBIT 11



AN IDENTITY IS STOLEN

EVERY THREE SECONDS.

ARE YOU PROTECTED?

I'm Todd Davis, CEO of LifeLock and [redacted]-5462 is my real Social Security number.*

I give it out just to prove how safe your identity is with LifeLock.

information. And remember, what we don't stop, we'll fix at our expense, up to \$1,000,000. I'm so confident in LifeLock's ability to protect my identity I publish my Social Security number. To give you that same level of confidence and peace of mind, I'd like to give you LifeLock for 30 days, absolutely free.

LifeLock, the industry leader in identity theft protection, takes proactive steps to help reduce the risk of identity thieves destroying your credit and ruining your good name - even if they get your

Here's what you're getting with LifeLock:

- Proactive Identity Theft Protection
- Reduced Junk Mail and Credit Card Offers
- Request Free Annual Credit Reports
- WalletLock™ - Help replacing the contents of a lost wallet**
- \$1 Million Total Service Guarantee

30 DAYS FREE

CALL **877-564-5125**



LifeLock.

#1 in Identity Theft Protection

g
S
19.
sh

ince

14003
not within two weeks
W124527988T0001
martcomputing.com

ing.com
g®

EXHIBIT 12

..

1-800-LifeLock

1-800-543-3562

- [Welcome](#)
- [How LifeLock Works](#)
 - [What We Do](#)
 - [How We Do It](#)
 - [What To Expect](#)
 - [Who We Are](#)
- [\\$1 Million Service Guarantee](#)
- [About Us](#)
 - [About LifeLock](#)
 - [Press Room](#)
- [Enroll Now](#)

- [Welcome](#)
- [About Us](#)
- [Privacy Policy](#)

LifeLock Client Privacy Policy



LifeLock, Inc is a licensee of the TRUSTe Privacy Program. TRUSTe is an independent, non-profit organization whose mission is to build users' trust and confidence in the Internet by promoting the use of fair information practices. This privacy statement covers the site [WWW.LIFELOCK.COM]. Because this web site wants to demonstrate its commitment to your privacy, it has agreed to disclose its information practices and have its privacy practices reviewed for compliance by TRUSTe.

If you have questions or concerns regarding this statement, you should first contact LifeLock Client Services by email at client.services@lifelock.com or 877.LIFELOCK. If you do not receive

acknowledgment of your inquiry or your inquiry has not been satisfactorily addressed, you should then contact TRUSTe at http://web.archive.org/web/20080212043628/http://www.truste.org/consumers/watchdog_complaint.php. TRUSTe will then serve as a liaison with the Web site to resolve your concerns.

Welcome to LifeLock. Keeping your non-public personal information secure and confidential is our top priority. Please take a moment to read the LifeLock Customer Privacy Policy carefully to learn how we handle your personal information.

This policy may change from time to time. Please check this policy each time you use our web site in order to have the most current information on this topic.

In all circumstances, we take reasonable steps to:

Give you, a customer of LifeLock or as a user of our web site, clear notice when we are requesting information from you, the types of information we request from you, the general purposes for which that information will be used or disclosed, the categories of users to whom we provide the information; Offer you the ability to opt out of such uses; Maintain accurate records and provide you access to your personally identifiable information; and Use safe and secure systems, physical and electronic, to safeguard your non-public personal information.

While registering on our site, we will ask you for the following types of information: contact information (such as name, address, phone number, and email address); sensitive information (such as social security number); and financial information (such as credit card number). This information is required in order to verify your identity, charge you the appropriate and agreed fees and fulfill our services on your behalf with the outside agencies with whom we must communicate to set your lock.

We will also ask you for certain third-party personal information such as your favorite color, where and when you last attended high school. We use this information to help verify your identity with us. We do not collect personally identifiable information on our website through cookies or any other technology except where you clearly enter it.

Why we collect non-public personal information

As a customer of LifeLock or as a user of our web site, we want you to know that we will only collect your non-public personal information for the following reasons:

- To enroll you as a customer or complete a transaction
- To place the lock on your identity
- To resolve a case of identity theft

In each of these circumstances, we will only collect and use the minimum information needed to accomplish the stated purpose, and only with your full knowledge and consent. In many of these circumstances, our principal role is actually to facilitate a relationship in which you provide your information directly to a third party - for instance, to place a fraud alert with a credit reporting agency or to file a police report. In such cases, LifeLock may not need to collect your information at all.

How we collect non-public personal information

When you visit the LifeLock web site, you are able to do so anonymously. Generally, we don't collect non-public personal information when you browse - not even your email address. LifeLock does collect

general Internet data, such as how often each of our web pages was visited and how much time was spent on each page. None of this information identifies you personally. We use it only to analyze traffic patterns on our web site in order to make our site more useful to our visitors and to evaluate the effectiveness of our marketing efforts.

We use log files on our webserver as well as third-party and internally developed Customer Relationship Management (CRM) technology to capture and analyze this data. We do not identify you personally, nor will we ever market to you from the information we gather without your express approval. The LifeLock web site contains links to other sites. LifeLock does not share your non-public personal information with those web sites and is not responsible for their privacy practices, which may differ from ours in significant ways. We encourage you to learn about the privacy policies of those web sites and the companies that operate them. However, web sites to which we link may use cookie technology to gather and store data about their visitors. Cookies contain a small amount of information, possibly including non-public personal information, which allows a web server to recognize you whenever you visit. Again, we encourage you to familiarize yourself with the privacy and information collection practices of any web site you visit.

We also receive information from you online when you send us email, applications and other forms, or when you register at our web sites. We may also collect information about your transactions with us or with our direct partners, such as what products and services you ordered. In each of these circumstances, as mentioned above, we will only collect and use the minimum information needed to accomplish the stated purpose, and only with your full knowledge and consent. We will never share this information with any third party. The LifeLock web site is not intended for the use of children, defined as individuals under the age of 18. We do not knowingly solicit personal information from children or send them requests for non-public personal information.

When and to whom we disclose non-public personal information

We will never disclose your non-public personal information to any third party or affiliate under normal circumstances. As mentioned above, there are circumstances in which you yourself may provide non-public personal information to third parties involved in the crisis resolution process. Such information will be provided directly by you to the parties in question. Such third parties might include:

- a credit reporting agency representative, in the course of placing a fraud alert;
- a police officer, in the course of filing a police report;
- an insurance claims officer, in the course of filing an insurance claim; or
- a representative of a financial institution or credit card company.

At times we may be required by law or legal process to disclose your personal information. We will comply with any such law or legal process.

How we protect your non-public personal information

LifeLock uses highly secure physical, electronic, and managerial procedures to safeguard the confidentiality and security of the data you provide to us.

- None of your non-public personal information will ever be disclosed by us to any third party or affiliate in ways other than disclosed in this privacy statement.
- Only authorized employees of LifeLock will have access to the data that you provide to us, and that access is granted only on a "need to know" basis.

- In cases of identity theft crisis resolution, only the advocate working on the case and key administrative supervisors have access to your non-public personal information.
- All stored personal data is electronically encrypted.
- We will never transmit any personal data that you provide to us over the public Internet.
- Any data that we transmit over a private network will be sent via secure, encrypted channels.
- Your documents, while in our care, will be treated as if they were cash. Once input into our data systems, all paper documents are destroyed, usually the same business day.

Security

The security of your personal information is important to us. When you enter sensitive information (such as credit card number and/or social security number) on our registration or order forms, we encrypt that information using secure socket layer technology (SSL).

We follow generally accepted industry standards to protect the personal information submitted to us, both during transmission and once we receive it. No method of transmission over the Internet, or method of electronic storage, is 100% secure, however. Therefore, while we strive to use commercially acceptable means to protect your personal information, we cannot guarantee its absolute security.

If you have any questions about security on our Web site, you can send email us at client.services@lifelock.com Likewise, we urge you to take every precaution to protect your personal data, both on and off the Internet.

Opt Out

We provide you the opportunity to "opt-out" of having your personally identifiable information used for certain purposes, when we ask for this information. For example, if you purchase a product/service but do not wish to receive any additional marketing material from us, you can indicate your preference on our order form.

If you no longer wish to receive our newsletter and promotional communications, you may opt-out of receiving them by following the instructions included in each newsletter or communication or by emailing us at client.services@lifelock.com, or you may contact us at 877 LIFELOCK or by regular mail at:

LifeLock Client Services
60 East Rio Salado Parkway
Suite 400
Tempe, AZ 85281

You will be notified when your personal information is collected by any third party that is not our agent/service provider, so you can make an informed choice as to whether or not to share your information with that party.

Bulletin Boards and Chat Rooms

From time to time we place testimonials on our website from our clients. We do this only after asking permission from the client providing the testimonial. It may be removed at any time at the request of the client. Should you choose to disclose personal information on our site, we are not responsible for the way third parties may use this information. Third parties may use your personal information for a variety of

purposes, including unsolicited marketing and sales attempts.

Access to your non-public personal information

You always have access to the information we have about you. If you would like to review non-public personal information that LifeLock may have about you, contact us via your secure web site or call 1-877-LIFELOCK. If you need to make changes to your non-public personal information, you may do so by logging into your account on this website, by calling our Client Services Group at 1-877-LIFELOCK or by mail at:

LifeLock Client Services
60 East Rio Salado Parkway
Suite 400
Tempe, AZ 85281

Our companywide commitment to privacy

To make sure your non-public personal information remains confidential, we communicate these privacy guidelines to every LifeLock employee.

The LifeLock Customer Privacy Policy is subject to change at any time. We encourage you to review the privacy policy regularly for any changes.

Cookies

A cookie is a small text file that is stored on a user's computer for record-keeping purposes. We use cookies on this site. We do link the information we store in cookies to any personally identifiable information you submit while on our site.

We use both session ID cookies and persistent cookies. We use session cookies to make it easier for you to navigate our site. A session ID cookie expires when you close your browser. A persistent cookie remains on your hard drive for an extended period of time. You can remove persistent cookies by following directions provided in your Internet browser's "help" file.

We use a third party cookie from Google.com which provides us with usage information regarding our site. It does not collect PII of any kind.

If you reject cookies, you may still use our site, but your ability to use some areas of our site, such as the signup procedure or login, will be limited.

Service Providers

We use other third parties specifically Verisign to provide credit card validation on our site. When you sign up for our services, we will share your payment information as necessary for the third party to provide that service.

These third parties are prohibited from using your personally identifiable information for any other purpose.

Changes in this Privacy Statement

If we decide to change our privacy policy, we will post those changes to this privacy statement, the homepage, and other places we deem appropriate so that you are aware of what information we collect, how we use it, and under what circumstances, if any, we disclose it.

We reserve the right to modify this privacy statement at any time, so please review it frequently. If we make material changes to this policy, we will notify you here, by email, or by means of a notice on our home page.

Contact Us

If you have any questions or suggestions regarding our privacy policy, please contact us at: 1.877.LIFELOCK, client.services@lifelock.com, or our postal address:

LifeLock
60 East Rio Salado Parkway
Suite 400
Tempe, AZ 85281

Revised 19 April, 2007

Protect your I.D.

with the most advanced Identity Theft Protection system available!

- - What We Do
 - How does LifeLock protect my identity?
 - How much does LifeLock cost?
 - What is WalletLock?
 - How We Do It
 - How does the guarantee work?
 - How does LifeLock secure my personal information?
 - How can LifeLock protect my kids and family?
 - What is a Fraud Alert?
 - What's the difference between a fraud alert and a credit freeze?
 - How is LifeLock different from a credit monitoring system?
 - Can I cancel at any time?
 - What To Expect
 - When does LifeLock's Total Service Guarantee take effect?
 - Who calls me to let me know that someone is attempting to obtain credit in my name?
 - Will Lifelock keep me from getting new credit?
 - What do I do if my identity has been compromised?
 - What happens when I apply for credit?
 - Can I get my credit score through Lifelock?
 - Does LifeLock monitor my credit card transactions?
 - My information is not correct on my credit report; can you fix it for me?

- o I have been a victim of identity theft, can you help me?
- Who We Are
 - o Who is LifeLock?
 - o Who uses LifeLock?
 - o What are others saying about LifeLock?
- LifeLock Protection for:
 - o Your Employees
 - o Your Customers
 - o Associations
 - o Universities
 - o Companies with an Identity Loss Incident
 - o Web Businesses
- Learn About LifeLock
 - o LifeLock Identity Theft Protection
 - o About LifeLock
 - o Our \$1 Million Service Guarantee
 - o Testimonials
 - o Endorsements
- About LifeLock
 - o Contact Us
 - o Board of Directors
 - o Testimonials
 - o Endorsements
 - o Privacy Policy
 - o Terms and Conditions
- Press Room
 - o 2008 Press Releases
 - o 2007 Press Releases
 - o 2006 Press Releases
 - o 2005 Press Releases
 - o Media
- About LifeLock
 - o Contact Us
 - o Board of Directors
 - o Testimonials
 - o Endorsements
 - o Privacy Policy
 - o Terms and Conditions
- Press Room
 - o 2008 Press Releases
 - o 2007 Press Releases
 - o 2006 Press Releases
 - o 2005 Press Releases
 - o Media
- Self Service
 - o Update Credit Card
 - o Update Address and Phone Number

Identity Theft Prevention – Identity Theft Protection

- Provide Missing Information
- Enroll Additional Member
- Request Information
- Cancellation

- About Us
- Contact Us
- Testimonials
- Endorsements
- Press Room

HACKER SAFE
certified site



- Privacy Policy
- Terms and Conditions
- Site Map

Copyright © 2006-2008. LifeLock. All Rights Reserved.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

LifeLock, Inc., *et al*,

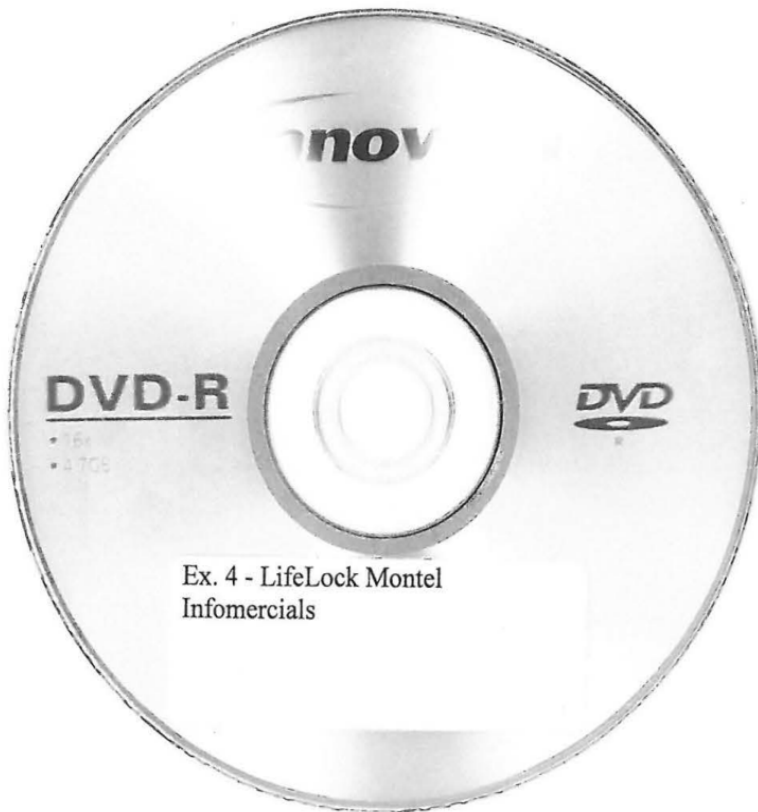
Defendants.

No. CV-10-00530-PHX-MHM

**FEDERAL TRADE COMMISSION'S
MOTION FOR CONTEMPT AGAINST
LIFELOCK, INC.**

LODGED UNDER SEAL

**FTC PROPOSED EXHIBIT __4__ TO MEMORANDUM IN SUPPORT
OF ITS MOTION FOR CONTEMPT AGAINST LIFELOCK, INC.**



FTC-0002920