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## Pandora Fails To Stay Suit Over Phone App Privacy

By **Bibeka Shrestha**

Law360, New York (September 2, 2011) -- A California federal judge on Thursday rejected Pandora Media Inc.'s attempt to stay a proposed class action claiming the music streaming company illegally feeds the personal information of its phone application users to third-party advertising services.

The lawsuit accuses Pandora of sharing users' age, gender and location, as well as the unique device identifier, or UDID, of their Android cellphones to services that amass personal data that is later sold to marketing and advertising firms.

U.S. District Judge Claudia Wilken shot down Pandora's argument that proceedings should be put on hold until another California federal judge decides whether to include the lawsuit in a multidistrict litigation accusing Google Inc. of disclosing private information culled from Android phones.

The judge overseeing the MDL, U.S. District Judge Jeffrey White, had already turned down Pandora's early bid to join a suit included in the MDL before the U.S. Judicial Panel on Multidistrict Litigation centralized the cases in the Northern District of California. In a brief ruling, Judge Wilken said there was no reason to stay briefing on Pandora's impending motion to dismiss until Judge White rules on Pandora's motion for reconsideration.

"Defendant indicates that it intends to move to dismiss plaintiff's claims, irrespective of how its motion for reconsideration is decided," Judge Wilken said in her opinion.

Some of the suits in the MDL claim Google worked with phone application developers to send Android users' private information to third-party advertisers without notifying consumers or securing their consent. Pandora pointed out plaintiff Troy Yuncker had specifically accused Pandora of funneling phone application users' information to Google's advertising service AdMob in his complaint.

According to Pandora, the stay would ensure that Pandora and the California court avoid significant work that would be rendered "fruitless" if Judge White agreed to transfer the suit to the MDL.

But Joseph Siprut, a Sirput PC attorney representing the plaintiffs, said Pandora's motion to stay the lawsuit was a clear attempt to delay the case.

"If Pandora wishes to restore the confidence of its consumers, it should act swiftly to address these ongoing privacy violations, instead of engaging in more procedural wrangling," Siprut said Friday.

According to the plaintiffs, going ahead with the Pandora action would not lead to redundant pretrial proceedings because none of the suits involved in the Google Android

consumer privacy litigation "have gotten off the ground."

Attorneys for Pandora did not immediately respond to requests for comment Friday.

Pandora is represented by Laurence Pulgram, Tyler Newby and Sebastian Kaplan of Fenwick & West LLP.

The plaintiffs are represented by Francis Gregorek, Betsy Manifold, Rachele Rickert and Patrick Moran of Wolf Haldenstein Adler Freeman & Herz LLP as well as by Joseph Siprut of Siprut PC.

The case is Troy Yuncker et al. v. Pandora Media Inc., case number 4:11-cv-03113, in the U.S. District Court for the Northern District of California.

--Editing by Eydie Cubarrubia.

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