

Business and Commercial Litigation Newsletter

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We are pleased to present the fourteenth edition of the Bernstein Shur Business and Commercial Litigation Newsletter. This month, we highlight articles and links related to the Stop Online Piracy Act and Protect IP Act, the federal-state settlement of mortgage loan foreclosure practices litigation and a decision affecting disclosure of ZIP code information in credit card purchase transactions. We hope you enjoy the newsletter.

In the News:

Internet anti-piracy bills shelved by Congress after formal complaints and massive online protests. A House bill known as the Stop Online Piracy Act ("SOPA") and its Senate counterpart the Protect IP Act ("PIPA") were each put on an indefinite hold by the two Congressional chambers after leading Silicon Valley tech companies voiced formal complaints and others staged a protest by blacking out their websites for a day. Both SOPA and PIPA sought to tackle the illegal sale of copyrighted and trademarked products by overseas websites that sell bootleg and counterfeit products to U.S. consumers.

Current legislation allows rights' holders and the government to shut down web pirates and confiscate their domain names; however, the reach of such laws extends only to the U.S. border. SOPA sought to remedy this problem by granting additional enforcement authority to the attorney general and private parties, including blocking the infringers' access to the Internet, requiring search engines to disable links to those sites, and/or requiring credit card processors to stop processing payments.

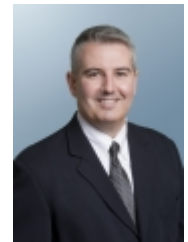
Those opposing SOPA and PIPA, including many Internet service providers and social networking sites, contend that the bills amount to censorship. The bills' supporters, essentially IP content providers and manufacturers, argue that the legislation is needed to target international pirating operations that are currently beyond the reach of U.S. law. The illegal sale of products protected by U.S. copyrights and trademarks is a multi-billion economic problem, which the marketplace and the courts are currently unable to police adequately. Whether Congress will revive this legislation in the future remains to be seen. [Click here for a brief explanation of the issues surrounding the SOPA/PIPA debates.](#)

Multiple federal agencies and forty-nine states conclude a \$25 billion settlement with the nation's largest financial institutions to resolve claims of improper foreclosure and loan modification practices. As part of the settlement, the financial institutions (Bank of America Corp., Wells Fargo & Co., JP Morgan Chase & Co., Citigroup Inc., and Ally Financial, Inc.) will obtain a release of the claims asserted against them. Under the agreement, which has been described as the largest federal-state settlement on record, borrowers who lost their homes to foreclosure from 2008 through 2011 will receive a \$2,000 cash payment. The settlement also includes provisions addressed to loan modification, new servicing standards and stricter oversight of foreclosure proceedings. [Read more about this development.](#)



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A U.S. District Court in Massachusetts holds that a ZIP code qualifies as personal identification information (PII) that cannot be requested by retailers when processing credit card transactions. Under Massachusetts law, Mass. Gen. Laws, ch. 93, § 105(a), retailers are prohibited from requesting PII, such as addresses and telephone numbers, in transactions where credit cards are used. In a recent case, *Tyler v. Michael's Stores, Inc.*, U.S. District Judge William Young held that a retailer's request of a customer's ZIP code information when processing her credit card payment violated the Massachusetts statute. Although the case ultimately was dismissed by the court based on a lack of damages, the court's determination that a ZIP code can constitute PII may result in increased litigation regarding retailer practices. [Read the court's decision here.](#)