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# Intellectual Property Law Update

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## CALIFORNIA IMPOSES NEW DATA PRIVACY OBLIGATIONS

In response to a sharp rise in identity thefts, California enacted a data privacy law that came into effect on July 1st of this year. The new law requires businesses operating in California to notify California residents whose “personal information” is accessed through a breach of the business’ computer system. The legislation does not cover information that is encrypted or is not maintained on a computer system.

### ***Defining Personal Information***

The new law defines “personal information” to include a first name or initial and last name, when accompanied by an identifying number such as a social security number or credit card number and password. As a result, unauthorized access solely to a name or to a social security number would not trigger the law’s disclosure requirements. The lawful release of information publicly available from Federal, state or local government records also will not trigger the law.

### ***Doing Business in California***

You may be subject to this law even if you do not have a physical presence in California. The California Supreme Court has found that out of state corporations were doing business in the state even though they did not apply to do business in California, and did not maintain an office, or have agents, representatives, employees or property in California. If you have a website that collects personal information pertaining to California residents, particularly if it is an e-commerce website that solicits California residents, you may be “doing business” in California.

### ***Preventing Violations***

If you must maintain computerized personal information for California residents (including employees), it is highly advisable to encrypt the information and store each individual’s name separately from his or her other identifying numbers (e.g., social security number). Also, your employees should be trained in identifying, preventing and responding to a security breach.

### ***Responding to a Security Breach***

If you experience a security breach:

- Determine the scope of the breach;
- Consider notifying state and Federal law enforcement officials;
- Secure the system; and
- Provide notice to affected California residents by mail, email or Website posting, as legally permitted.

With an office in San Francisco and over twenty-five attorneys licensed in California, HRO can advise you on complying with California’s new data privacy legislation and other California laws. Please contact one of the attorneys listed to learn more.

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