

**10-779 SORRELL V. IMS HEALTH INC.**

DECISION BELOW: 2010 WL 4723183

LOWER COURT CASE NUMBER: 09-1913-cv, 09-2056-cv

**QUESTION PRESENTED:**

Prescription drug records, which contain information about patients, doctors, and medical treatment, exist because of federal and state regulation in this highly regulated field. This case is about information from prescription records known as "prescriber-identifiable data." Such data identifies the doctor or other prescriber, links the doctor to a particular prescription, and reveals other details about that prescription. Pharmacies sell this information to data mining companies, and the data miners aggregate and package the data for use as a marketing tool by pharmaceutical manufacturers. The law at issue in this case, Vermont's Prescription Confidentiality Law, affords prescribers the right to consent before information linking them to prescriptions for particular drugs can be sold or used for marketing. The Second Circuit held that Vermont's law violates the First Amendment, a holding that conflicts with two recent decisions of the First Circuit upholding similar laws. The question presented is:

Whether a law that restricts access to information in nonpublic prescription drug records and affords prescribers the right to consent before their identifying information in prescription drug records is sold or used in marketing runs afoul of the First Amendment.

CERT. GRANTED 1/7/2011