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The ecoATM Conundrum: Riverside Finds A Flaw In the Green Machine

by Erich R. Eiselt, Editor

In 2008, serial entrepreneur Mark Bowles launched a start-up designed to generate profits while reducing the huge number of electronic devices being discarded in America's landfills. Mindful of industry statistics that less than 3% of cell phones were being recycled, Bowles harnessed leading-edge technologies to devise an ingenious solution: a machine that would buy phones (as well as mp3 players and tablets) for cash, on the spot. "EcoATM's"—kiosks that could identify the make, model and condition of a device, obtain a photograph and fingerprint of the customer, screen for stolen property, and then complete the purchase for cash—were born.

Bowles' device turned heads among technology's elite. His company of the same name—ecoATM—easily attracted major investment dollars from the venture community. In 2012 ecoATM received a "Crunchie" as the best green tech startup. And in August 2013 the company engineered a major purchase of its own, being acquired for $350 million by NYSE conglomerate Outerwall Inc. ("OUTR"), which also owns Redbox (the ubiquitous dvd rental machines found in retail locations across the country) and Coinstar (the coin-counters located in many grocery stores).

ecoATM has aggressively promoted its kiosks. More than 650 of the company's machines now operate in shopping malls and other retail sites across the country, paying up to $300 for the newest phone models in perfect condition. (Newer phones are resold on international markets while older or damaged devices are scrapped for precious metal content). To avoid encouraging crime, the machines require photo's, fingerprints and government-issued id's from people attempting to recycle the devices. The kiosks flag data about anyone who redeems a phone which has been listed as stolen.

Security measures slow the redemption process. One blogger described his encounter with an ecoATM kiosk in Arlington Virginia this January in his post titled "It's Not Easy Being Green." As he described it, the purchase of his phone took nearly 20 minutes, while others waited in line. "You have to scan a driver's license, you have to provide a thumb print, you have to remove your glasses while an electric eye validates that you are the person on the driver's license."[1] The kiosk scanned his phone to identify its manufacturer and model and then delivered a correct jack wire for that device, which he affixed. After running a diagnostic on the serial numbers and condition of the phone, the ecoATM machine offered him a price.

ecoATM's forward progress has been impressive. In May 2013, the company announced that it had redeemed its one-millionth cell phone. But tougher sledding may be ahead as some municipalities see an unhealthy correlation between the cash-dispensing kiosks and a rise in cellphone robberies. The kiosks' security measures, where company employees supposedly monitor every transaction at every machine via video link and check driver's license images against actual customers, are being challenged by some cities. In March 2013, Washington DC police reported that 40% of all forced robberies in the prior year had involved a cellphone. Six stolen phones had been found inside ecoATM machines, and DC officers had even recorded thieves using an elderly

woman as a middleman to complete their ecoATM transaction. California officials saw the same trends. In April, El Cajon police arrested two teenagers for six separate cell phone thefts where all the stolen phones were redeemed at ecoATM kiosks. San Diego and Glendale police also saw spikes in cell phone thefts and found stolen phones in ecoATM machines.

The City of Riverside, California was the first jurisdiction to take tangible action, due partly to concerns about potential risks to its large student population—a cohort rich in high-end cell phones. City Attorney Greg Priamos was at the center of the process. At a Riverside City Council meeting on September 10, ecoATM officials were given an opportunity to detail tightened security processes which they had said would be forthcoming. The Council was not convinced by with the scope of improvements that company spokespersons described. Attorney Priamos was asked if he had any further information relevant to the ecoATM issue. He did, giving the Council an overview of various jurisdictions where ecoATM presence is suspected of encouraging phone theft.

Priamos also provided video footage of perhaps the biggest thorn in ecoATM's hide: Cathy Lanier, the Police Chief of Washington D.C. In an interview in May on the Today Show, she challenged ecoATM's assertion that its machines are, overall, helping to fight cellphone theft. Lanier referred to numerous instances of stolen phones ending up in ecoATM machines in the Nation's Capital, coincident with a rapid rise in violent phone takings. That video was followed by footage of a May 2013 investigation by NBC news anchors Jeff Rossen and Avni Patel from the Today Show: The reporters sent two producers to two different ecoATM machines in suburban New Jersey and told them to switch ID's. According to the report, although the producers looked nothing like the pictures on their respective ID's both ecoATM machines approved the transactions and dispensed cash for the deposited phones. (Full video coverage of the September 10 ecoATM proceedings is available at the Riverside City Council website).[2]

After considering the presentations, the

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Council moved to amend Title 9 of the Riverside Municipal Code to add a new provision, Chapter 9.70, specifically banning ecoATM's. Chapter 9.70.10 recites the evidence of ecoATM-related crime around the country and concludes that:

E. EcoATM's security features cannot successfully deter thieves; the machine does not have the technology to verify whether the valid government issued ID, fingerprint, and photograph collected by the machine belong to the person completing the transaction and whether the person is the true owner of the device being sold.

F. There is no security device that ecoATM could install to catch thieves who use third parties or "middlemen" to complete the transaction.

G. Theft of personal electronic devices is already a growing problem in the City of Riverside even without the addition of ecoATM machines. On April 4, 2013, the University of California Riverside held a town meeting to discuss campus safety and the rise in cell phone theft.

H. Currently, there are no ecoATM locations in the City of Riverside. It is reasonable to conclude that the adverse effects of ecoATM machines on the public health, safety, and welfare of other cities will certainly occur in the City of Riverside if the City fails to prohibit the machines. The incentive that these machines create far outweighs the benefits derived from their security features. The security features of the ecoATM machines fail to deter and aid in prosecuting thieves. Theft of personal electronic devices is on the rise in the City and will likely increase from the quick and easy cash incentive provided by ecoATM machines.

Consistent with the intent of Chapter 9.70 to "protect public health, safety, and general welfare of the residents of the City of Riverside" the teeth of the ecoATM ordinance appears in Section 9.70.040:

EcoATM machines and other similar machines prohibited. EcoATM machines and other similar devices or machines are prohibited in the City of Riverside. No person shall locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation of any ecoATM machine or other similar device or machine within the City."

The Riverside ecoATM ordinance was adopted unanimously, signed by Mayor William Bailey and became effective on October 10.

Riverside is not alone in its concern about the potential mischief caused by ecoATM's. The Baltimore City Council preliminarily voted on September 10 to ban the machines in City limits, despite a commitment proffered by ecoATM's promoters that the machines would be modified to comply with the City's second-hand dealer laws. The Baltimore council was unpersuaded that those changes would be effective to stem a noticeable spike in violent cellphone thefts.[3] Legislation may be introduced to ban the machines statewide in Maryland. And other cities, including Houston and Philidelphia, are scrutinizing the kiosks.

The future for ecoATM's still appears relatively bright. For now, the large majority of cities that have allowed the kiosks seem inclined to let them stay. And company officials vigorously challenge their detractors, pointing to the fact that "in fact, we receive a report of a stolen phone for less than five out of every 10,000 we collect nationwide."[4] But in order to satisfy Riverside, Baltimore, Washington DC and an increasing number of other municipalities, it remains for ecoATM to apply its technical ingenuity to outsmart the criminals who will inevitably be drawn to their kiosks.

Note

1. http://deweybstrategic.blogspot.com/2013/01/an-encounter-with-ecoatm-its-not-easy.html
2. https://riversideca.legistar.com/MeetingDetail.aspx?ID=262626&GUID=3B6724B0-8941-49FB-8FCC-D5BE23A15CF2&Search=
3. http://www.baltimorebrew.com/2013/09/10/ban-on-ecoatms-advances-in-council-after-spike-of-cell-phone-thefts/
4. http://www.kioskmarketplace.com/article/213925/EcoATM-Chief-rebuts-Today-show-attack

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Approved as to Form and Legality

City Attorney's Office

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OAKLAND

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OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER LYNETTE GIBSON MCELHANEY

ADOPT AN ORDINANCE OF THE CITY OF OAKLAND, CALIFORNIA, AMENDING TITLE 8 OF THE OAKLAND MUNICIPAL CODE TO ADD CHAPTER 8.21 PROHIBITING AUTOMATED PURCHASING MACHINES WHICH BUY BACK PERSONAL ELECTRONIC DEVICES OR ELECTRONIC EQUIPMENT

WHEREAS, public safety is the top priority for City leaders, residents, businesses, and families, including their health and welfare; and

WHEREAS, there were 3,390 cell phone robberies in which a victim noted that their cell phone was stolen in the City of Oakland in 2013; and

WHEREAS, in 2013, eighty-one percent of all robberies reported in the City of Oakland involved the theft of a cell phone, which marked a twenty-two percent increase from 2012; and

WHEREAS, nationwide, Consumer Reports estimates that in 2013, 3.1 million cell phones were stolen in the United States, almost double the number stolen the previous year; and

WHEREAS, AAA estimates that one in three robberies includes a cell phone; and

WHEREAS, it is estimated that Americans have spent $30 billion per year to replace stolen devices; and

WHEREAS, theft of personal electronic devices is an epidemic, only expected to rise when a new cell phone model is released and the market demand for these devices peaks; and

WHEREAS, Automated Purchasing Machines are self-operating kiosks which allow users to sell their cell phones, tablets, or MP3 devices to a machine, for which the seller immediately receives cash for this transaction; and

WHEREAS, nationwide, there have been reported many cell phone robberies linked to Automated Purchasing Machines, in which criminals intentionally rob individuals of their cell phone devices and sell them soon after at Automated Purchasing Machines; and

WHEREAS, in April 2013, Police in El Cajon, California, expressed concerns about Automated Purchasing Machines contributing to the rise of cell phone theft after two teenagers, ages 14 and 15, were arrested for six cell phone thefts in which they sold the phones to Automated Purchasing Machines for quick cash; and

WHEREAS, on October 26, 2013, the South Burlington Police Department in Vermont connected a theft of an Apple iPhone to an Automated Purchasing Machine at a nearby mall; and

WHEREAS, on October 18, 2013, the Police Department in Manassas City, Virginia, connected a car break-in and theft of an Apple iPad to an Automated Purchasing Machine at a nearby mall in which the perpetrator was arrested and charged with grand larceny and obtaining money by false pretenses; and

WHEREAS, a northeastern law enforcement agency documented that a Caucasian male was able to receive money from an Automated Purchasing Machine for an electronic device while using the identification card of an African American Female; and

WHEREAS, a southern law enforcement agency, in testing the "security functions" of an Automated Purchasing Machine, observed the Machine accept an altered identification card; and

WHEREAS, since 2012, D.C. Metropolitan Police researched 400 suspicious transactions at automated purchasing machines in neighboring counties, in which they determined over 200 phones were stolen and sold through Automated Purchasing Machines; and

WHEREAS, at least six individuals have been arrested in Washington, D.C in connection with cell phone thefts found in Automated Purchasing Machines, of which, one such subject sold approximately 22 phones in a 30-day period and yielded $2,500; and

WHEREAS, multiple subjects arrested in connection with these robberies in Washington, D.C. admitted to police that they found it easy to obtain cash through selling stolen cell phones through the Automated Purchasing Machines and that they knew they would not be able to sell multiple phones at pawn shops or other second-hand dealers without significant suspicion; and

WHEREAS, in San Francisco, three stolen cell phones have been found in Automated Purchasing Machines after comprehensive searches done by the victim of the robbery to electronically track their device or to request research from police through second-hand dealer records; and

WHEREAS, while Automated Purchasing Machine owners and operators claim the machines are equipped with many means by which to support public safety and collect evidence of the sale of stolen goods, these "safety measures" have been proven woefully deficient and wholly unhelpful in aiding law enforcement agencies in dealing with stolen electronics; and

WHEREAS, the security features on existing Automated Purchasing Machines cannot successfully deter thieves; the machine does not have the technology to verify the valid government issued ID, fingerprint, and photograph collected by the machine belong to the person completing the transaction and whether the person is the true owner of the device being sold; and

WHEREAS, there is no security device that the Automated Purchasing Machines could install to catch thieves who use third parties or "middlemen" to complete transactions; and

WHEREAS, while these companies brand themselves as green, environmentally-friendly options for reselling e-waste, most items purchased by Automated Purchasing Machines are shipped across the globe to international markets and thus have a minimal or negative environmental impact; and

WHEREAS, many jurisdictions have enacted bans on Automated Purchasing Machines in an effort to deter criminals from having convenient access to profiteer from their thefts; and

WHEREAS, in August 2013, the City of Riverside, California, banned Automated Purchasing Machines to respond to the number of increased robberies in their city and on their four college campuses by preventing the availability of quick cash in exchange for electronic devices; and

WHEREAS, in September 2013, the City of Baltimore, Maryland, banned Automated Purchasing Machines due to the amount of stolen goods which the City determined were being purchased by the machines in neighboring cities; and

WHEREAS, in 2014, the State of Maryland increased regulations for machine-based second-hand dealers which extremely limit Automated Purchasing Machines from operating in their state unless they improve their collection of identification, fully comply with second-hand dealer laws, and cooperate more proactively with law enforcement; and

WHEREAS, there are a growing number of Automated Purchasing Machines in the Bay Area, such as San Leandro, San Francisco, Richmond, Hayward, and Daly City, where criminals who steal electronics from Oakland residents, workers, and visitors, can easily access and profiteer from those stolen devices; and

WHEREAS, while Automated Purchasing Machines do not currently exist in the City of Oakland, it is critical that the risk they pose to Oakland residents be minimized by the banning of such devices within our City's borders in order to protect the safety, and well-being of our communities; now, therefore, be it

RESOLVED: The Oakland Municipal Code will now include Section 8.21; and

FURTHER RESOLVED: The City Council ordains as follows:

Title 8 - HEALTH AND SAFETY
CHAPTER 8.21- AUTOMATED PURCHASING MACHINES
8.21.010 Definitions.

The following words and phrases, whenever used in the ordinances of the city of Oakland, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases

A. "Automated purchasing machine" or "apm" (also known as a "reverse vending machine") means a self-service automated kiosk that, without the physical presence of a human agent, is capable of taking possession of and dispensing payment for any one or more types of consumer electronic device.

B. "Consumer Electronic Device" means any cell phone mp3 player, tablet or other similar device or machine.

C. "Person" means: (i) an individual; or (ii) a partnership, firm, association, corporation, or other entity of any kind. "person" does not include a governmental entity or an instrumentality or unit of a governmental entity.

Section 8.21.020 Authority and purpose.

A. This Chapter is adopted pursuant to the authority granted to the City of Oakland in Article XI, Section 5(a) and Section 7 of the California Constitution, and Section 106 of the Oakland City Charter.

B. The purpose and intent of this Chapter is to protect public health, safety and general welfare of the residents of the City of Oakland.

Section 8.21.030 Automated purchasing machines prohibited.

A. Automated purchasing machines are prohibited in the City of Oakland.

B. No person shall locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation of an automated purchasing machine within the City.

C. Except as otherwise expressly provided in this subtitle, no person may purchase or offer to purchase any consumer electronic device by means of an automated purchasing machine.

Section 8.21.040 Exceptions.

This chapter does not prohibit individuals from recycling their consumer electronic devices at authorized locations which are in compliance with laws governing all electronic waste.

Section 8.21.050 Penalties.

A. Seizure. An automated purchasing machine is subject to seizure and forfeiture if it is used in violation of this Chapter.

B. A person who violates any provision of this Chapter is guilty of a misdemeanor and, on conviction, subject to a fine of not more than $500 or imprisonment for not more than 6 months or both fine and imprisonment for each offense.

C. Each transaction in violation of this Chapter is a separate offense.

D. Penalties established in this Chapter are in addition to any other administrative or legal remedy which may be pursued by the City to address violation of this Chapter.

FURTHER RESOLVED: This law will go into effect immediately upon second reading; and

FURTHER RESOLVED: This law will require removal of any existing Automated Purchasing Machines, if any, in the City of Oakland as they provide great risk and harm to Oakland residents.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES – BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, AND PRESIDENT KERNIGHAN

NOES –

ABSENT –

ABSTENTION –

ATTEST:_____
LATONDA SIMMONS
City Clerk and Clerk of the Council of the
City of Oakland, California