

Google Blunders Into Wi-Fi Privacy Issues

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Google quickly went from receiving praise for protecting the identities of internet users in China, to international condemnation for invading the privacy of Wi-Fi users with its “street view” mapping cars.

For three years, Google’s street view cars roamed cities worldwide photographing street scenes for use in creating Google maps. While doing so, it also identified Wi-Fi hot spots.

Germany’s Data Protection Authority eventually requested information from Google on the street view cars. While gathering the information, Google said it discovered that its street view cars mistakenly collected samples of payload data sent over Wi-Fi networks.

Google’s admission sparked controversy in Europe and the United States about whether Google’s conduct violated the privacy of Wi-Fi users.

Governments in Germany, France and the United Kingdom launched investigations into Google’s data collection.

In the U.S. thirty-eight state attorneys general began investigating Google. Plaintiffs’ lawyers in some states filed class action lawsuits against Google alleging violations of the federal Electronic Communications Act and state privacy laws. Plaintiffs seek \$10,000 in damages for each violation of the act and other damages. Recently, the federal Panel on Multidistrict Litigation consolidated all the class actions in Google’s hometown of San Jose, California.

The illegal and unethical scanning of Wi-Fi networks is a problem. Some wireless enthusiasts scan Wi-Fi networks as a hobby. Criminal hackers borrow Wi-Fi networks for illegal conduct. So why did Google scan Wi-Fi networks and collect data as its street view cars roamed city streets?

Google claims it mistakenly and unintentionally collected Wi-Fi data. It says the mistake occurred when its engineers modified scanning software provided by another company. According to Google, its engineers accidentally inserted the wrong data-sniffing code while experimenting with the software and failed to discover the error when they put the software into street view cars.

Google’s critics dismiss Google’s explanation as implausible given Google’s sophistication. They claim evidence of Google’s bad faith exists in the company’s 2008 patent application number 776. The patent is for a means to increase the accuracy of location-based services. Critics claim the patent involves intercepting and collecting data to pinpoint user locations.

Google says the patent is unrelated to its street view software.

Critics also point out that Google previously pushed the boundaries of internet use by scanning copyrighted books. Google claimed that copyright law is silent on the issue.

Google probably broke no laws in collecting Wi-Fi data, if it did so unintentionally. For example, the Electronic Communications Privacy Act offers a safe harbor if the collected information is publicly accessible and collected unintentionally.

The European cases against Google so far appear baseless. The U. K. Information Communication Office recently cleared Google of wrongdoing in collecting Wi-Fi data. The ICO issued this qualified statement: "On the basis of samples we saw, we are satisfied so far that it is unlikely Google captured significant amounts of personal data. There is no evidence – as yet- that the data captured by Google has caused or could cause any individual detriment."

Did Google behave unethically? It is doubtful, so long as Google accidentally collected the data and did nothing with it. The company did not steal anything or violate any expectations of privacy. When data is sent by Wi-Fi, the data enters the public domain.

The data Google collected did not include Web sites, such as online banking, credit card transactions, or anything with https:// in the URL.

The data Google collected appears useless to Google. It consists of fragments of information collected as the company's street view cars cruised city streets at 25 miles an hour.

Google apologized for the error and deleted much of the collected data. Only a court injunction obtained by the plaintiffs in the class action lawsuits kept the company from deleting all the data. Plaintiffs' attorneys claimed Google tried to destroy evidence of its illegal conduct.

Whether Google acted illegally or unethical remains debatable. Without evidence of wrongful intent, however, Google's collection of Wi-Fi data remains only an embarrassing blunder.