



U.S. Department of Justice

Executive Office for United States Attorneys

Freedom of Information & Privacy Staff

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May 6, 2014

Requester: Alan Butler Request No.: REF-2014-01528

Government Component that Referred Material: Criminal Division (CRM-201200944F)

Dear Mr. Butler:

This is in reply to your Freedom of Information Act/Privacy Act request of April 27, 2012. Records were referred to us by the government component above for direct response to you.

The referred material has been considered under both the FOIA and the Privacy Act to provide you the greatest degree of access. Exemptions have been applied when deemed appropriate either for withholding records in full or for excising certain information. The exemptions cited are marked below. An enclosure to this letter explains the exemptions in more detail.

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We have reviewed approximately 2 page(s) of material:

1 page(s) are being released in full (RIF);
1 page(s) are being released in part (RIP);
 page(s) are withheld in full (WIF) and
 page(s) were duplicate copies of material already processed.

This is the final action on this above-numbered request. If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Suite 11050, 1425 New York Avenue, Washington, DC 20530-0001, or you may submit an appeal through this Office's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received within sixty days from the date of this letter. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

Susan B. Gerson
Assistant Director

Enclosure(s)



U.S. Department of Justice

DOJ/EQUSA/FOIA STAFF
United States Attorney
District of New Jersey AM 10:30

970 Broad Street, Suite 700
Newark, NJ 07102

(973)645-2700

May 27, 2011

Albert Gidari
Michael A. Sussmann
Perkins Coie LLP
700 13th Street, N.W.
Washington, DC 20005-3960

Re: Google Street View Data Collection

Gentlemen:

I write concerning our investigation of possible violations of federal laws governing the interception of signaling, routing and content information arising from Google's collection of certain data from wireless Internet connections as part of the company's "Street View" product.

Street View is a component of Google Maps, a popular Internet mapping website. Google used camera-equipped cars ("Street View Cars") to photograph heavily traveled roads in the United States and in several countries around the world. Google integrated the photographs taken by the Street View Cars into its Google Maps product, allowing Google users to see street-level photographs of selected locations.

In April 2010, Google revealed that its Street View Cars had also been using specially-installed radio antennas to harvest data from wireless Internet connections (Wi-Fi) near and along the routes the Street View Cars had been traveling. When the Street View Cars passed by unencrypted wireless networks, the equipment collected "payload" data, including contents of e-mail and Internet addresses typed by users of these unencrypted networks. The capture of payload data was a concept developed as part of an engineer's work in Google's 20% Program. Due to the type of devices installed in the Street View Cars and the speed at which the cars traveled, the payload data captured was of a limited nature, mostly constituting fragments of communications between wireless-enabled devices (e.g., laptops and smartphones) and the Internet.

Given the facts that our investigation has revealed, we have decided not to seek charges at this time and accordingly are closing the investigation. In doing so, we considered favorably the significant steps taken by Google to improve internal privacy oversight. Such oversight will include both legal and programmatic review of all projects, including projects falling under the 20% Program. We also understand that Google has cooperated with the Federal Trade Commission's investigation into this matter, which recently concluded by noting that Google has taken significant steps to improve privacy oversight and has assured the FTC that it

would not use the collected payload data.

Sincerely yours,

PAUL J. FISHMAN
United States Attorney

(B)(6)

[REDACTED]

By:

Assistant U.S. Attorneys

(B)(6)

LANNY A. BREUER
Assistant Attorney General
Criminal Division

(B)(6)

[REDACTED]

By:

Principal Deputy Chief
ERIC KLUMB
Deputy Chief
Computer Crime and Intellectual Property Section
United States Department of Justice

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EXPLANATION OF EXEMPTIONS

FOIA: TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by and Executive order to be kept secret in the in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual.
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

PRIVACY ACT: TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to Executive Order 12356 in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability eligibility, or qualification for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his identity would be held in confidence.