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FILED
 2010 SE. -9 P 12:42
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

HRL

CV 10 4007

<p>BENJAMIN JOFFE, on behalf of himself and all others similarly situated, Plaintiff, vs. GOOGLE, INC., Defendant.</p>	<p>Civil Action No. <u>4007</u> CLASS ACTION COMPLAINT JURY TRIAL DEMANDED</p>
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1 **COMPLAINT**

2 Plaintiff Benjamin Joffe, through his attorneys, individually and on behalf of the below-described
3 class allege the following:

4 **I. INTRODUCTION**

5 1. This class action arises from the systematic misappropriation by Google of private
6 electronic information belonging to tens of thousands of individuals throughout the United States.
7 In operating its service called Street View, which allows users of Google Maps and Google Earth
8 to view actual photos of addresses throughout the United States and the world, Defendant Google
9 outfitted vehicles with specially-designed equipment that, in addition to taking millions of photos
10 of homes and buildings, collected information sent over open Wi-Fi networks, including
11 passwords, credit card numbers and email communications. As a result, Plaintiff Benjamin Joffe,
12 on behalf of himself and all others similarly situated, seeks recovery of monetary damages,
13 penalties, attorneys' fees, and other relief based on Google's conduct in wrongfully acquiring
14 personal and private information without permission or consent. Such conduct was committed in
15 violation of Title III of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by
16 the Electronic Communications Privacy Act of 1986, 18 U.S.C. § 2511, *et seq.* (the "Wiretap
17 Act").

18 **II. PARTIES**

19 2. Plaintiff Benjamin Joffe ("Plaintiff") currently resides at 1000 American Pacific
20 Drive, Unit #323, in Henderson, Nevada 89074, and has resided at this address during all times
21 relevant herein. Plaintiff's residence in Henderson, Nevada is viewable on Google Street View.
22 The images available on Street View confirm that Plaintiff lived at his residence in Nevada while
23 Google Street View vehicles photographed his home.

24 3. During all times relevant herein, Plaintiff used and maintained an open,
25 unencrypted wireless internet connection at his home. Plaintiff used his Wi-Fi connection to
26 access the internet and to transmit and receive personal and private data. Upon information and
27 belief, Google has collected and stored private Wi-Fi data from Plaintiff.

28 4. Defendant Google, Inc. ("Google") is a Delaware corporation with a principal

1 place of business in Mountain View, California. Google develops and operates a variety of
2 Internet-based services, including the world's most-visited website, www.google.com. Google's
3 self-described mission is to organize the world's information and make it universally accessible.
4 One of Google's services is Google Street View. Google does business across the United States.

5 III. JURISDICTION AND VENUE

6 5. Jurisdiction of this Court arises under 28 U.S.C. § 1331, as this case involves
7 violations of the Wiretap Act.

8 6. Venue is proper in this District because Defendant Google conducts business in
9 this District and the conduct complained of took place, in part, within this District.

10 IV. FACTS

11 7. On May 25, 2007, Google launched an enhanced technology to its Google Maps
12 and Google Earth programs known as Google Street View.

13 8. Google Street View provides panoramic views of streets and surrounding areas
14 along many streets across the United States and around the world. Upon entering a specific
15 location or address into Street View, users can pan and zoom so as to view exactly how the
16 particular location or address appears.

17 9. Google Street View captured these images with the use of a fleet of vehicles that
18 were specially equipped with nine directional cameras that record continual and connected 360
19 degree views of streets traveled. Notably, Google also equipped these vehicles with devices and
20 antennas for scanning and collecting Wi-Fi network data.

21 10. On April 23, 2010, Peter Schaar, the German Commissioner for Data Protection
22 and Freedom of Information, discovered that Google Street View vehicles, in addition to taking
23 pictures, were scanning Wi-Fi networks to compile a database of networks and their physical
24 locations for use in "location-aware" advertising services.

25 11. Upon requests for information, Google admitted that its Street View vehicles
26 throughout the world, including the United States, were actually capturing payload data over
27 wireless internet connections.

28 12. "Payload data" refers to the actual data being carried by a network, such as the

1 content of websites, passwords entered, and the contents of emails. In short, it is the content an
2 individual views and uses online.

3 13. Google acknowledged that it had developed the methods for collecting payload
4 data before the May 2007 launch of Street View.

5 14. The payload data that Google collected is not reasonably accessible by the general
6 public. Payload data is not readable without sophisticated decoding and processing technology.

7 15. Plaintiff and other wireless internet users did not give their consent to Google to
8 collect the data transmitted on their Wi-Fi internet connection, nor did they have knowledge that
9 Google Street View vehicles have been collecting this payload data.

10 16. On May 19, 2010, while speaking to the Google I/O conference, Google co-
11 founder, Sergey Brin, admitted that Google's actions were wrong: "In short, let me just say that
12 we screwed up. I'm not going to make any excuses about it... First, we do have a lot of internal
13 controls in place, but obviously, they didn't prevent this error from occurring." Tom Krazit,
14 *Google's Brin on Wi-Fi spying: 'We screwed up'*, May 19, 2010, [http://news.cnet.com/8301-](http://news.cnet.com/8301-30684_3-20005439-265.html)
15 [30684_3-20005439-265.html](http://news.cnet.com/8301-30684_3-20005439-265.html).

16 17. Having knowingly equipped its Google Street View vehicles with devices capable
17 of intercepting wireless communications over wireless networks it secretly mapped, Google
18 stored the information it intercepted on its servers where, on information and belief, Google
19 employees, vendors and contractors have access to the intercepted data maintained on Google's
20 servers.

21 **V. CLASS ACTION ALLEGATIONS**

22 18. Plaintiff brings this action individually and as a class action, pursuant to Rules
23 23(a) and 23(b) of the Federal Rules of Civil Procedure, on behalf of the following Class:

24
25 All persons in the United States of America who maintained an
26 open Wi-Fi internet connection through which Google intercepted
and collected payload data through its deployment of Google Street
View vehicles between May 1, 2007 to the present.

27 Plaintiff reserves the right to revise this Class definition based on facts learned in discovery.
28

1 19. The Class is so numerous that joinder of all members is impracticable. Upon
2 information and belief, Google has continually intercepted the electronic communications and
3 data of tens of thousands of persons throughout the United States. Because the interception
4 practices at issue are a standard and uniform practice employed by Google, numerosity may be
5 presumed.

6 20. Plaintiff's claim is typical of the claims of all of the other members of the Class,
7 which all arise from the same operative facts and are based on the same legal theories.

8 21. Plaintiff will fairly and adequately represent and protect the interests of the other
9 members of the Class. Plaintiff has retained counsel with substantial experience in prosecuting
10 complex litigation and class actions. Plaintiff and his counsel are committed to vigorously
11 prosecuting this action on behalf of the members of the Class. Neither Plaintiff nor his counsel
12 have any interest adverse to those of other members of the Class.

13 22. There are questions of law and fact common to the Class which predominate over
14 any questions affecting only individual Class members. The principal question is whether Google
15 illegally intercepted electronic communications in violation of one or more provisions of the
16 Wiretap Act, as amended by the Electronic Communications Privacy Act. Additional questions
17 of law and fact common to the Class include:

18 (a) Whether Google acted intentionally in intercepting wireless electronic
19 communications;

20 (b) Whether Defendant should be enjoined from intercepting any electronic
21 communications from any wireless network without the express consent of the owners of such
22 electronic data;

23 (c) The appropriate statutory damages that should be awarded to the Class; and

24 (d) The appropriate punitive damages that should be awarded to the Class.

25 23. This action should be maintained as a class action because the prosecution of
26 separate actions by individual members of the Class would create a risk of inconsistent or varying
27 adjudications with respect to individual members which would establish incompatible standards
28 of conduct for the parties opposing the Class, as well as a risk of adjudications with respect to

1 individual members, which would as a practical matter be dispositive of the interests of other
2 members not parties to the adjudications, or substantially impair or impede their ability to protect
3 their interests.

4 24. Google has acted or refused to act on grounds that apply generally to the Class, so
5 that final injunctive relief or corresponding declaratory relief is appropriate respecting the Class
6 as a whole.

7 25. A class action is a superior method for the fair and efficient adjudication of this
8 controversy. The interest of Class members in individually controlling the prosecution of
9 separate claims against Google is small because the maximum statutory damages available in an
10 individual action are minimal in comparison to the expense and burden and prosecuting
11 individual litigation. Management of the Class claims is likely to present significantly fewer
12 difficulties than those presented in many class claims.

13 VI. CLAIMS FOR RELIEF

14 COUNT I (Wiretap Act)

15 26. Plaintiff incorporates the foregoing paragraphs as though the same were set forth
16 fully herein.

17 27. As described herein, beginning at least as early as May 25, 2007, and continuing
18 through the present, Google, via its Street View Wi-Fi data collection practices, intentionally
19 intercepted and collected the electronic information and communications contained on the Wi-Fi
20 networks of Plaintiff and the Class, without their authorization, knowledge, or consent, while the
21 communications were en route.

22 28. The transmission of data by Plaintiff and the Class members over their Wi-Fi
23 networks between their computers and the Internet constitute “electronic communications” within
24 the meaning of 18 U.S.C. § 2510(12).

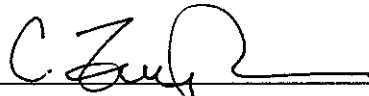
25 29. Google’s Wi-Fi data collection practices as described herein constitute
26 “interceptions” within the meaning of § 2510(4).

27 30. As a direct and proximate result of such unlawful conduct, Google violated 18
28 U.S.C. § 2511.

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Date: September 9, 2010

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