

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

PAUL MULHOLLAND, on behalf of himself and all others similarly situated)	
)	
Plaintiff,)	C.A. No. 10-
vs.)	
)	CLASS ACTION
GOOGLE, INC.,)	
)	JURY TRIAL DEMANDED
Defendant.)	

CLASS ACTION COMPLAINT

I. PRELIMINARY STATEMENT

1. This is a class action for damages for Defendant’s violations of Title III of the Omnibus Crime Control and Safe Streets Act of 1968, also known as the Wiretap Act, as amended by the Electronic Communications Privacy Act of 1986. 18 U.S.C §§ 2510-2522. These laws have long been designed to protect individuals from having their electronic communications intercepted by persons or corporations not authorized to do so.

2. This class action addresses the systemic abuse and misappropriation by Google of private electronic communications by thousands of individuals throughout the United States through the deployment and utilization of its Google Street View internet service. Rather than merely taking panoramic, street view, photographs of every building, lot and home on selected streets throughout the United States, Google’s Street View service was actually collecting information sent over open WiFi networks, such as a WiFi device’s unique identifier, the Media Access Control (“MAC”) address, as well as the Service Set Identifier (“SSID”) assigned by users. In short, rather than taking pictures of public places, Google was surreptitiously collecting private information, which, on information and belief, included e-mails, video, audio, Voice

Over Internet Protocol (“VoIP”) information and other payload data belonging to users and operators of home-based WiFi networks.

II. JURISDICTION AND VENUE

3. Jurisdiction of this Court arises under 28 U.S.C. § 1331 because this Complaint alleges the violation of a federal statute 18 U.S.C. § 2510 *et. seq.* Jurisdiction also is conferred upon this Court by the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d)(2), in that there is diversity of citizenship between the Plaintiff and members of the proposed Class and Defendant and the aggregate amount in controversy is in excess of five million dollars (\$5,000,000.00).

4. Venue lies in this district pursuant to 28 U.S.C. § 1391(b) in that the Defendant transacts business within the District and the conduct complained of occurred in the District.

III. PARTIES

5. Plaintiff Paul Mulholland is an individual residing at 115 Moore Drive, Media, Pennsylvania 19063. During all times relevant herein, Mulholland used and maintained an open wireless internet connection at his home which he shares with his wife and family. Mulholland and his family used their WiFi connection to access the internet and to conduct both personal and business affairs, including but not limited to, e-mails, research, banking, entertainment, shopping, health matters, and other communications.

6. Defendant Google, Inc. (“Google”) is a Delaware corporation with a principal place of business in Mountain View, California. Google’s self-described mission is to organize the world’s information and make it universally accessible. One of Google’s services is Google Street View.

IV. FACTUAL ALLEGATIONS

7. According to Wikipedia, Google Street View is a technology featured in Google Maps and Google Earth that provides panoramic views from various positions along many

streets in the world. It was launched on May 25, 2007, originally only in several cities in the United States, and has since gradually expanded to include more cities and rural areas worldwide.

8. Google Street View displays images taken from a fleet of specially adapted cars. Areas not accessible by car, like pedestrian areas, narrow streets, alleys and ski resorts, are sometimes covered by Google Trikes (tricycles) or a snowmobile. On each of these cars (or other vehicles) there are nine directional cameras for 360° views at a height of about 2.5 meters, GPS units for positioning, three laser range scanners for the measuring of up to 50 meters 180° in the front of the vehicle. Notably, Google also equipped these vehicles with 3G/GSM/WiFi antennas for scanning 3G/GSM and WiFi hotspots.

9. On April 23, 2010, the German Commissioner for Data Protection and Freedom of Information discovered that Google Street View vehicles were doing more than taking pictures. Rather, such vehicles were also utilizing their antennas and scanners to map the physical locations of wireless hotspots for use in Location-Aware advertising services. Upon a further request for information, Google admitted that its street view vehicles throughout the world, including the United States, were actually capturing payload data, meaning all data consisting of all or part of any documents, e-mails, video, audio and VoIP information being sent over the wireless internet.

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

11. The Plaintiff and other wireless internet users, whose information was secretly

intercepted by Google, did not and could not give their consent to Google to intercept their data transmissions.

V. CLASS ACTION ALLEGATIONS

12. Plaintiff brings this action individually and as a class action, pursuant to Rules 23(a) and 23(b) of the Federal Rules of Civil Procedure, on behalf of the following Class: All persons in the United States of America whose wireless electronic communications were intercepted by Google in connection with its deployment and collection of data by Google Street View vehicles from at least May 25, 2007 through the resolution of this case.

13. The Class is so numerous that joinder of all members is impracticable. Upon information and belief, the Defendant has continually intercepted the electronic communications of tens of thousands of persons throughout the United States and the Commonwealth of Pennsylvania. Because the interception practices at issue are a standard and uniform practice employed by Defendant, numerosity may be presumed.

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

a) Whether Defendant acted intentionally in intercepting wireless electronic communications;

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

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

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

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

16. Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff is committed to vigorously litigating this matter and has retained counsel experienced in handling class actions and claims involving unlawful business practices. Neither Plaintiff nor his counsel have any interests which might cause them not to vigorously pursue this claim.

17. This action should be maintained as a class action because the prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members which would establish incompatible standards of conduct for the parties opposing the Class, as well as a risk of adjudications with respect to individual members which would as a practical matter be dispositive of the interests of other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

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

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

VI. CLAIMS FOR RELIEF

COUNT I (Wiretap Act)

20. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length herein.

21. As more fully described herein, beginning at least as early as May 25 2007, and continuing through the present, Google intentionally sought, intercepted and collected the electronic communications of the Plaintiff and the Class.

22. As a direct and proximate result of such conduct, Google unlawfully intercepted the electronic communications of the Plaintiff and the Class in violation of 18 U.S.C. § 2511.

23. As a result of the above violations, and pursuant to 18 U.S.C. § 2520, Defendant is liable to Plaintiff and the Class in the sum of statutory damages consisting of the greater of \$100 a day for each day of violation by the Defendant, or \$10,000; injunctive and declaratory relief; punitive damages in an amount to be determined by jury, but sufficient to prevent the same or similar conduct by the Defendant in the future; and, a reasonable attorney's fee and other litigation costs reasonably incurred.

VII. PRAAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that relief be granted as follows:

A. That an order be entered certifying the proposed Class under Rule 23 of the Federal Rules of Civil Procedure and appointing Plaintiff and his counsel to represent the Class;

B. That an order be entered declaring that Defendant's actions as described above are in violation of the 18 U.S.C. § 2511, *et. seq.*;

C. That judgment be entered against Defendant for statutory damages, pursuant to 18 U.S.C. § 2520(c)(2)(B);

D. That judgment be entered against Defendant for punitive damages as appropriate,

pursuant to 18 U.S.C. § 2520(b)(2);

E. That Plaintiff and the Class recover pre-judgment and post-judgment interest as permitted by law;

F. That Plaintiff and the Class be awarded their reasonable attorneys fees and other litigation costs reasonably incurred, pursuant to 18 U.S.C. § 2520(b)(3);

G. That the Court enter an Order granting the Plaintiff and the Class a preliminary and permanent injunction restraining and enjoining the Defendant from any act to intercept electronic communications and from disclosing to anyone the communications intercepted and stored on its servers;

H. That the Court grant such other and further relief as may be just and proper.

Date: June 10, 2010

Respectfully submitted,

s/ David A. Searles
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