



Technology Newsletter Switzerland

Swiss Data Protection Officer Files Complaint Against Google's Street View

Facts

According to the press release of November 13, 2009¹, the Swiss Data Protection Officer, Daniel Thür, has launched a proceeding against Google in relation to Street View.

The data protection officer claims that Google Street View violates the privacy rights of the persons who may be identified. The data protection officer also criticized that due to the elevated position of the recording cameras on the cars, Street View permits insight into the privacy of homes and gardens. Google has largely rejected the recommendations made by the data protection officer.

From the article, it appears that Google admitted that the software used to pixelate license plates is flawed, apparently, because the size of Swiss license plates deviates from other standards. Since the software is state of the art, Google therefore believes that it complies with Swiss data protection legislation. The recommendation to lower the elevation of the cameras was rejected by Google.

Analysis and Comment

Google's Street View has found a large user-base in Switzerland. However, the fact that Google's Street View is being widely used by consumers, is in no way an excuse for a possible violation of privacy rights.

By Google, however, seemingly admitting that the software used to anonymize license plates and the faces of the persons caught on camera does not work with a 100% accuracy, it would appear that Google knowingly accepts that privacy rights may be violated.

It would also appear that Google bases its defence on the fact that it would be almost impossible, given the

large amount of data, to manually review all the data to ensure that no persons or cars are identifiable and that they are entitled to rely on the "state of the art software" used.

Google seems to leave the correction of the flaws up to the persons concerned, who may or may not identify themselves on Street View and who then can inform Google. By doing this, Google seems to expect each and every individual to view all the data which Google claims cannot be manually reviewed, due to the large amount of data. Basically, the concept is that the persons whose privacy rights have been violated (and who may not even be aware of this violation) should correct the flaws of the software used by Google - an unprecedented concept.

It appears that Google knowingly violates privacy rights, because it views the costs for a manual review as too high. Google's own financial interests are placed above the interests of the persons concerned whose privacy rights are being violated for economic reasons. However, it can not be that a company places the shareholder's interest in profit-making above the privacy rights of the individuals who may be affected by Google Street View.

The balancing of these interests, however, is the task of the legislator and the legislator has already made its assessment by granting privacy rights to individuals and by enacting data protection laws. To argue that these laws should not be respected and that the party, whose rights are being violated, will simply have to live with it, because no software is ever perfect, appears to be rather imperialistic.

In today's world, privacy rights become increasingly important. Cameras are being used everywhere to monitor not only car traffic but also the behaviour of individuals in public places for public safety reasons. Strict rules apply to the use, access and storage of such data. Whereas, in respect of such data, one can argue that there is predominant public interest in the traffic-safety and in public places in general, Google

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http://www.nzz.ch/nachrichten/medien/google_street_view_1.4011801.html



Street View's sole purpose is to satisfy voyeurism. Moreover, the omnipresent use of the internet makes user information available which can be stored, used and misused. The consumers are becoming more and more transparent. Unless the existing privacy laws are enforced, privacy will soon become an "endangered species".

Therefore, a clear signal from the data protection officer is not only welcome, but long overdue, not only to discipline Google, but in the interest of the protection of privacy rights in general. It is not acceptable that the protection of privacy rights (as minuscule as the infringement may be) is being sacrificed for the benefit of the shareholders' profit.

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