

I Spy a Luddite: Why the Lawsuit over Google Street View is Absurd

BY DANIEL CASTRO | APRIL 25, 2008

May 2008 will mark the one year anniversary of the launch of Google's "Street View," one of the latest features in the Google Maps lineup. Google Maps has evolved from a basic online map service into a feature-rich product with driving directions, satellite imagery, terrain overlays and real-time traffic flows. Contributing to its success is an open application programming interface (API), which allows developers to create their own custom map "mash-ups." For example, USA Today has used the API to map all of the home foreclosures in Denver since 2006, while websites such as WikiCrimes provide mash-ups of user-submitted crime reports, and Virginia Tech's eCorridors application constructs maps of broadband coverage and speeds from user-submitted data.¹

The latest feature – Street View – combines thousands of street-level photographs taken by Google to create a realistic, 360-degree panoramic view of various cities. Online users can navigate through the streets to take a virtual walk through the city. Using Street View, home buyers can check out a neighborhood, virtual tourists can explore where to visit, and residents can locate unfamiliar places. Google is not the first company to launch this type of feature – Amazon.com showcased a similar concept in their A9.com BlockView maps in 2005.

While most users enjoy these features, a small but vocal group of opponents has emerged, claiming that Google Street View represents a threat to their privacy. When Google first rolled out Street View, the New York Times published an ar-

ticle about the new program featuring a woman in Oakland, California who criticized it because it showed a photo of her cat sitting in her living room window.² Kevin Bankston at the Electronic Frontier Foundation (EFF) condemned Street View from the start arguing, "There is a certain 'ick' factor here."³ In the United Kingdom, Simon Davies, director of Privacy International argues, "This is just the latest in a litany of privacy invasions by Google, which they justify by claiming openness as an excuse."⁴

The latest manifestation of this opposition is a lawsuit filed by a couple who live outside Pittsburgh, Pennsylvania. They claim that the photograph of their home in Street View violates their privacy and have sued Google for \$25,000 in damages.⁵

Based on legal precedent, it seems unlikely that the plaintiffs will be successful unless they can prove that Google trespassed on private property to take the photograph in question. Google acquires the images by driving around cities on public streets in vehicles mounted with digital cameras and GPS devices. The cameras photograph no more than what the average person would see looking out of a car window.

Many may be quick to dismiss this lawsuit as just a glorified version of the infantile complaint "Mom, he's looking at me!" or perhaps just a greedy attempt to shake-down Google for a quick payoff. But if the plaintiffs did win, the ruling would call into question the issue of when a photographer needs to obtain consent to take

The Information Technology and Innovation Foundation (ITIF) is a nonprofit, non-partisan public policy think tank committed to articulating and advancing a pro-productivity, pro-innovation and pro-technology public policy agenda internationally, in Washington and in the states.

For more information, contact ITIF at 202-449-1351 or at mail@itif.org, or visit www.innovationpolicy.org.

a picture. Could a home seller no longer post pictures of their home on the Internet if the image included part of their neighbor's property? Could tourists no longer post pictures of their vacation when there are private residences in the background? Would webcams taking images that include public views be banned?

Given the pervasiveness of cameras in public spaces, from security cameras to cell phone cameras, people should expect that their activities in public may be recorded and that these recordings may find their way online. When Kodak released the original Brownie "snapshot" camera, privacy advocates at the time feared the technology and claimed that they would no longer have any privacy when they walked down the street. However, the consequences have not been nearly so dire. Technological innovations do not mean that we abandon the rule of law—that is why we have laws against stalking and harassment.

Privacy is important, but it must be balanced against other values. While many technologies can be misused, they should not be banned simply because they come with some risk. There is a clear difference between benign tools like Google Street View and intentionally malicious websites. For example online destinations such as Gawker Stalker, which reports celebrity rumors and sightings, or Juicy Campus which encourages gossip, have little redeeming value.

Technology opponents often overstate privacy concerns as a rationale for opposing certain innovations: we have seen this in everything from RFID⁶ to biometrics⁷ to electronic health records.⁸ But what is the real risk with Street View? In the case of the Pennsylvania lawsuit, there appears to be no risk. First, StreetView lets users report inappropriate content that they feel violates their privacy or poses a security concern. Second, and wait for the irony, the Pennsylvania couple that sued Google already has a photograph of their property publicly available on the Internet, courtesy of the Allegheny County Office of Property Assessments.⁹

But neither of these facts matters much to those who are ideologically opposed to this technology. Over time most of these privacy risks will be proven unfounded but hardcore privacy zealots will still irrationally denounce these innovations because of their alleged "ick factor."

Fortunately for the rest of us, we can avoid these privacy fanatics by using websites like RottenNeighbor.com, a clever mash-up of Google Maps that allows residents to identify troublesome neighbors for the benefit of potential home buyers.

Daniel Castro is a Senior Analyst with the Information Technology and Innovation Foundation.

Endnotes

1. See, for example, "Denver foreclosures: One hard hit neighborhood at a glance," USA Today <www.usatoday.com/news/graphics/foreclosure_map/foreclose.htm>, "WikiCrimes" <www.wikicrimes.org>, and "eCorridors" <www.ecorridors.vt.edu/maps/broadbandmap.php>.
2. "Google Zooms In Too Close for Some," The New York Times, 1 Jun. 2007: <www.nytimes.com/2007/06/01/technology/01private.html?ex=1338436800&en=dcf03c92d90d9c0c&ei=5124&partner=permalink&expprod=permalink>.
3. "Alarm At Google's 'Street View'," CBS News, 1 Jun. 2007: <www.cbsnews.com/stories/2007/06/01/tech/main2877262.shtml>.
4. "All-seeing Google Street View prompts privacy fears," Times Online, 1 Jun. 2007: <technology.timesonline.co.uk/tol/news/tech_and_web/article1870995.ece>.
5. "Boring Couple Sues Google Over Street View," The Recorder, 7 Apr. 2008. From Law.com: <www.law.com/jsp/article.jsp?id=1207305794776>.
6. Robert D. Atkinson, "RFID: There's Nothing To Fear Except Fear Itself," 16th Annual Computer, Freedom and Privacy Conference (Washington, DC: May 4, 2006) <www.itif.org/index.php?id=65>.
7. Robert D. Atkinson, "Confronting Biometric Detractors," 2006 Biometric Consortium Conference (Baltimore, MD: September 21, 2006) <www.itif.org/index.php?id=98>.
8. Daniel Castro, "Improving Health Care: Why a Dose of IT May Be Just What the Doctor Ordered," (Washington, DC: ITIF, 2007) <www.itif.org/index.php?id=88>.
9. For photograph, see at Allegheny County, Office of Property Assessments, <www.county.allegheny.pa.us/opa/>.