



Nov. 11, 2009

The Hon. Henry Waxman, Chairman
The Hon. Joe Barton, Ranking Member
House Energy and Commerce Committee
The Capitol
Washington, DC
20515

Dear Chairman Waxman and Ranking Member Barton:

We are writing to ask you to convene a hearing to investigate Google's Wi-Spying, in which the company gathered personal information from wireless networks as its Street View cars traveled across the United States. CEO Eric Schmidt and Alma Whitten, director of privacy for engineering and product management, should testify under oath to provide the America public with the answers it deserves.

Google has demonstrated a troubling pattern of changing its story in public statements as it has offered explanations of why it gathered private data from wireless networks. Moreover, it is clear that Whitten, who mentioned Google's Wi-Spying in Congressional testimony this summer, gave a written statement that contradicted the facts. Whitten's actions must be examined closely because in its effort to revamp its image and portray itself as a company concerned about consumers' privacy, Google has promoted her to director of privacy for engineering and product management.

On July 27, Ms. Whitten, then Google's lead privacy engineer, testified to a Senate Commerce Committee hearing about online privacy. Her statement said, "When mistakes occur, companies ought to continue providing that transparency - as Google did here even in the absence of any breach of personal data - by quickly and simply disclosing what occurred, any risk posed to users, and how users can mitigate that risk." (<http://www.scribd.com/doc/34951271/Google-Testimony-Alma-Whitten>, pages 11-12). However, based on an investigation by the French National Commission on Computing and Liberty it was already clear in June there had been a breach of personal data.

IDG News Service reported that the intercepted data included items such as passwords and e-mail. "It's still too early to say what will happen as a result of this investigation," CNIL said. "However, we can already state that [...] Google did indeed record e-mail access passwords [and] extracts of the content of e-mail messages." (*IDG News Service*; Google Street View Wi-Fi Data Included Passwords and E-Mail <<http://www.nytimes.com/external/idg/2010/06/18/18idg-google-street-view-wi-fi-data-included-passwords-and-94677.html>>)

To reiterate, when Whitten was testifying before Congress and stating that there was an "absence of any breach of personal data" it had already been established that there had, in fact, been such a breach.

It is imperative, given Whitten's new role that is so highly touted by the company, that she be called to explain under oath the discrepancy between her testimony and the known facts. Google CEO Eric Schmidt should also be questioned under oath about the scandal. As chief executive he is ultimately responsible for the Internet giant's approach to privacy. He should have to explain what he means when he says Google's policy is to go "right up to the creepy line." We suspect that such a cavalier attitude toward consumers' privacy has much to do with creating the culture that encouraged Google's Wi-Spy intrusions.

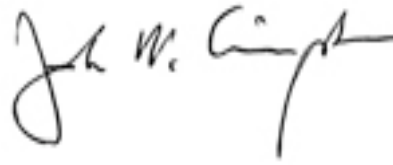
We were heartened by the news yesterday that the Federal Communications Commission is investigating whether Google's actions broke federal wiretap laws. The ongoing coordinated probe by 38 state attorneys general should reveal any state laws that the Wi-Spy activity broke. These investigations are important, but the best venue to get a full explanation under oath of what happened and its implications for a company whose entire business is based on gathering information about its users, is a Congressional hearing. We believe a hearing is necessary to get the answers the public deserves.

We respectfully urge you to convene a hearing into Google's Wi-Spying as soon as possible.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jamie Court".

Jamie Court
President

A handwritten signature in cursive script, appearing to read "John M. Simpson".

John M. Simpson
Inside Google Project Director

Cc: Rep. Ed Markey, Co-Chairman Congressional Privacy Caucus