

Is the Internet of Things (IOT) the End of Privacy as We Know It?

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The IOT From The Perspective Of The IT Professional

- Network Security
- Massive Amounts of Data
- Amazing Possibilities!

Conflicts Between Business Objectives & Legal Issues

- Data Value v. Data Minimization
 - More data creates more value
 - More data increases exposure to liability
- Allocation of Limited Resources
 - No foolproof security solution
 - Reasonable and appropriate security measures

Litigation Landscape

Privacy & Security

- Data Breach Litigation
 - Breach of Contract or Breach of Warranty
 - Negligence
 - Consumer Protection Laws
- Consumer Fraud Litigation
 - Misleading statements regarding functionality
- Statutory Rights Litigation
 - Violation of Procedural Rights (e.g. – Illinois Biometric Information Privacy Act)
- Patent Litigation

Litigation Challenges

IOT Cases

- Actual or Imminent Harm
 - Federal Court Standing
 - *Spokeo Inc. v. Robbins*, 136 S. Ct. 1540 (2016)
 - State Court Damages
- Acceptance of Terms of Use
 - Limitations with traditional clickwrap & browsewrap agreements
 - Adequacy of disclosures

Recent IOT Cases

- Amazon Echo Cases
 - *C.O. v. Amazon.com, Inc.* (W.D. Wash.) & *R.A. v. Amazon.com, Inc.* (Cal. Super. Ct.)
 - Storing recordings of children’s voices without consent in violation of various state wiretap laws
- The We-Vibe Case
 - *N.P. v. Standard Innovation Corp.* (N.D. Ill.)
 - Collection of email addresses and usage data for “market research” without consent
 - Settled for approx. \$3.75 MM

A Look Into The Future Litigation Perspective

- State Consumer Privacy Laws
 - Passed: California, Maine, Nevada
 - Under Consideration: Connecticut, Hawaii, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, New Jersey, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Texas, Washington

A Look Into The Future Litigation Perspective

- The IOT is the Future of eDiscovery
 - Preservation Obligations
 - Discoverability
 - Devices as Witnesses
 - The Infallibility of Data

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