



Forecasting The Future: What to Learn from The Weather Channel App's Geolocation Lawsuit

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The Los Angeles City Attorney has filed a complaint against the company behind The Weather Channel App (the "TWC App") claiming its collection of geolocation information violates the state's Unfair Competition Law.

The "suit" alleges that the TWC App does not provide consumers adequate disclosure on how geolocation information is both shared with affiliates of IBM, the company's parent, and sold to third parties.

Specifically, the complaint alleges that, when initially seeking consent to collect a customer's geolocation information, the TWC App only states that it will use the information to provide personalized weather and alerts to the customer and does not reference the TWC App privacy policy that provides additional notices on how the information is used and shared. The Los Angeles City Attorney claims that customers have no reason to review the privacy policy based upon how the initial consent is obtained.

The lawsuit highlights several important issues companies that collect, use and distribute geolocation and other types of location-information should keep in mind:

- Providing proper notice and obtaining informed consent in connection with collecting geolocation information are much more difficult than many other types of personally identifiable information. As a result, businesses may need to go beyond the approaches that traditionally have been used (i.e. relying on privacy policies).
- It specifically references a recent New York Times article on how geolocation information on consumers is collected and used. This article, and others like it, are getting a great deal of attention in the media. This likely will result in enhanced efforts to regulate geolocation information. The General Data Protection Regulation (GDPR) and the California Consumer Privacy Act (CCPA) both protect consumers' location information, and the Federal Trade

Commission (FTC) appears to be paying closer attention to the issue.

- The lawsuit was brought under California's Unfair Competition Law rather than the laws that are more directly related to privacy. Businesses should not assume that geolocation information is not protected simply because privacy legislation has not yet caught up with the technology.

Businesses of all types and sizes are recognizing the value of location-enabled information collected from a variety of sensors and platforms for both internally and externally focused business operations.

However, geolocation information is also a powerful tool that can be aggregated with other information to identify an individual with a high degree of accuracy. The challenge will be to develop policies and procedures that leverage the benefits of the information while still complying with the nascent and evolving legal and policy framework.

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