



WORLD **PRIVACY** FORUM

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Thank you for your invitation to apply for *cy pres* restitution funds *In re Google, Inc. Street View Electronic Communications Litigation*. I am writing to you as the Founder and Executive Director of the World Privacy Forum, a 501(c)(3) nonprofit whose mission is to protect and promote privacy for consumers and workers in the United States and abroad. I specifically want to tell you how WPF's work in the field of data protection and consumer education qualifies it for a *cy pres* award in the class-action settlement with Google, Inc. and request that WPF be considered for an award. I understand that the work for this award would be conducted in the US with a US focus.

After you read this letter, I would be happy to talk with you to explain more about WPF's work for consumers and their privacy. WPF has had a dynamic and positive effect on consumers' privacy knowledge and rights since its founding in 2002. Today, WPF is the only organization linking independent, highly factual research and consumer privacy education, training, and support. WPF works tirelessly to document and provide education and free training around meaningful, emerging privacy issues, to protect consumers from online fraudsters and identity thieves, and to ensure that consumers have access to factually correct tips and tools to help inform their privacy choices. When digital privacy risks emerge, we work to document those risks and assist consumers in tackling them. We directly support consumers with staff support for digital consumer privacy questions.

Cy pres grants are an important part of the fundraising strategy that makes WPF's work possible. The organization is a particularly suitable recipient for *cy pres* grants related to consumer data privacy cases, including the Google Street View case. For more than 18 years, WPF has been a leading voice on behalf of consumers affected by the unconsented collection and sharing of consumer data, online and offline fraud, health privacy, and advanced digital privacy topics privacy related to Internet of Things (connected home devices), impacts from AI, data brokers, biometrics, and large tech platforms for social and search, as well as privacy issues related to mobile devices and communications.

The World Privacy Forum's mission and purpose is focused on consumer education and research around privacy, particularly as it intersects with technology. The World Privacy Forum works nationally, and we assist consumers from all economic strata. In addition to supporting a broad cross-section of consumers nationally, we have a long record of assisting consumers who are economically disadvantaged, as well as working directly with vulnerable groups of consumers such as the elderly and victims of domestic violence and crime with online and offline privacy questions and needs. We regularly train other non-profits working with vulnerable consumers and provide expertise and information regarding how to assist vulnerable consumers to understand privacy options and risks.

The World Privacy Forum is regarded as a leading consumer privacy organization, and the most significant repository of data broker and privacy expertise nationally and globally, and is a globally recognized leader in consumer privacy research and education. WPF is regularly asked to speak and testify regarding consumer privacy issues at high-level events nationally and globally. WPF has been invited to testify before Congress multiple times regarding consumer privacy, including before the US Senate in early June of this year regarding databrokers and privacy. The video and written testimony for the hearing is available here: <https://www.banking.senate.gov/hearings/data-brokers-and-the-impact-on-financial-data-privacy-credit-insurance-employment-and-housing>.

In the past year, WPF has served as an expert advisor on privacy and AI to the OECD, where we wrote and completed the OECD Guidelines on AI (now soft law in OECD countries, including the US.) We gave a plenary presentation on data privacy and ethics at the global data protection commissioners conference in Hong Kong (2017) and Brussels (2018), and taught a seminar on EU and US data protection in Brussels with Europe's Data Protection Supervisor. We have trained in the last year several hundreds of US workers in domestic violence shelters on privacy, data brokers, and technology. Other activities include: testifying at the FTC Data Harms hearing (Dec. 2017) which included the release of a new identity theft report, presenting a key paper on consumer trust and identity in the digital ecosystem at Harvard's Kennedy School, and testifying at the FTC AI hearings (2019). WPF is also a member of the American Law Institute's Data Privacy Project, and a member of the Transatlantic Consumer Dialogue. I will be pleased to provide a more detailed account of our activity, as it spans a lot of ground regarding consumer privacy. We work to communicate across multiple audiences. Over time, this has allowed us to create a network for disseminating privacy information to a wide range of consumers across the US.

All of this activity has generated significant media coverage, including quotes over now many years for WPF in the highest profile media outlets in the world, including *New York Times*, *The Washington Post*, *Consumer Reports*, *The Economist*, *CBS News*, *ABC News*, *NPR*, *The Guardian*, *The Wall Street Journal*, and many others. I have attached a link to our World Privacy Forum in the News page at the end of this letter. WPF is aware that any funds remaining after disbursement of the Google, Inc. settlement to class members

will be donated to organizations agreed upon by the parties. I hope you consider WPF as an organization that meets the court's definition of a worthy *cy pres* recipient.

A *cy pres* grant from this case would support WPF's ongoing efforts to help consumers who are victims of digital privacy challenges through our consumer education and advocacy work. WPF efforts will benefit the national class, including vulnerable class members. WPF has two significant and long-running projects that directly address the issues forming the basis of the Google Street View lawsuit regarding the company having collected consumers' digital information without consent or knowledge. WPF is committed to use the funds to address issues identities—to third parties, without consumers' knowledge or consent. WPF is committed to use the funds to address issues related to the basis of the lawsuit.

Specifically, a grant would support:

- WPF's consumer data privacy education campaign, which provides consumers with objective, plain English advice on how to reduce their risk of privacy-related problems stemming from everything from daily activities to data breaches and digital data leaks to third parties. This includes the costs of providing direct counseling and support to victims of privacy breaches and problems. We also assist many consumers who need assistance with some aspect of digital privacy that has gone wrong.
- WPF's longstanding work in providing direct consumer support and well-researched tips specifically for online and offline privacy challenges, including challenges with "Internet of Things" and connected devices (such as home voice assistants, connected televisions, IoT videocameras, and more.)
- WPF's ongoing and groundbreaking research and best practices work on consumer privacy issues addressing the collection of personally identifiable information and subsequent unconsented sale and sharing of that consumer data with third parties. WPF has written extensive and groundbreaking research in this area of privacy, and we have testified before Congress on these issues multiple times. WPF would also be able to provide additional guidance directly to industry by participating in multi-stakeholder dialogues through bodies that set standards and federal agencies like the National Institute of Standards and Technology. Depending on the size of the grant, WPF could potentially:
 - Expand our consumer education activities by, for example, increasing the reach of our consumer education materials through more promoting online, launching a privacy-related podcast, conducting additional research and education on third party data sharing, tips, and issues, and expanding our technology and privacy training curriculum with related content.
 - Strengthen our consumer privacy education efforts around data shared with third parties by doing more earned media, adding interns or staff focused on this topic, holding press events and strengthening our presence at the state level.

- Strengthen and expand our existing training to vulnerable consumers regarding data sharing with third parties, in particular, WPF consistently works with victims of domestic violence, for whom third party data sharing can be a safety issue, to assist them directly in securing their data and in reading policies.

The World Privacy Forum is independent of all parties to the litigation and their counsel for the time frame of the suit. However, we have accepted *de minimus* general support funding from Google after 2013. We have no current funding from Google. For previous funding, Google agreed to abide by our funding terms, which provides for complete independence.

Attached at the bottom of this letter, please find a list of cy pres awards WPF has been granted by the courts during the past five years, please also find a list of links to our work mentioned in this letter.

Please advise me if you need any more information or if you would like to speak with me or any of WPF's staff directly involved with providing service to consumers. I do believe that WPF uniquely fits the ideal profile of a *cy pres* grant awardee from this case. Thank you for your consideration.

Regards,

Pam Dixon

WPF has been approved by the courts as a cy pres recipient in the following cases from 2014-2018:

Kristin Mantia v. Bactes Imaging Solutions, Inc. Cy Pres distribution 2015

This class action was regarding fees for copies of medical records. The defendant, Bactes Imaging Solutions, Inc., fulfills medical records requests under HIPAA Business Associate contracts with hospitals and other medical providers. The plaintiffs, having requested records and paid the fees set forth in Bactes's invoices, claim that the fees Bactes charged exceed those permitted under G.L. c. 111, § 70. World Privacy Forum was named as a recipient based on our extensive health privacy work.

Chavez v. Netflix, Inc. Pres distribution 2014

The Netflix class action suit alleged Netflix violated the VPPA by disclosing subscribers' personal information and keeping former customers' personal information and video

rental history past the statutorily allowed time period of one year. Specifically, the plaintiffs alleged that Netflix kept their viewing histories, credit card numbers, and billing and contact information. World Privacy Forum was named as a cy pres recipient based on our extensive and ongoing work on identity theft, data brokers, and consumer privacy online.

Gaos et al v. Google, In re Google Referrer Header Privacy Litigation, pending
The Google settlement was based on data spills from the Google Safari browser, via referrer headers that were configured in a way that did not match the Google privacy policy at the time. WPF was added as a cy pres recipient based on our extensive work in online consumer privacy research and direct support. We had also written a detailed letter to the FTC explaining why the referrer case was problematic for consumer privacy. The Google cy pres settlement had been finalized, but final settlement has been challenged by a third party and is pending review.

World Privacy Forum Brief Background

A brief selection of our present and past activities includes:

- WPF is a leading researcher about privacy and data analytics, including big data, predictive analytics, consumer scoring, and the data broker industry. We have published major reports about the issue, and have testified before Congress about privacy and data brokers now four times. Our major reports on include *The Scoring of America (2014)*, and *Data Brokers and the Federal Government (2013)*. The reports have been frequently cited, including in the White House Big Data report. WPF is representing civil society at the OECD as a member of the AI Expert Group, where we serve to represent the consumers' interests.
- WPF is a leading researcher about health privacy, including electronic health records, digital health data flows, sensor-driven biometric data, medical privacy regulation, the Common Rule and human subject research, and other emerging health data flows, issues, and practices. The Executive Director of WPF currently serves as an expert advisor to the OECD on a health privacy advisory group. Previously, WPF has served as an appointee or board member on US national and state-level health privacy boards, including doing digital standards work on HL7.
- WPF conducted extensive biometric field research in India regarding it's Aadhaar digital ID, which is the world's largest biometric ID ecosystem. WPF's India work formed the basis of a peer-reviewed scholarly article on India's Aadhaar which was published in 2017. Specifically, *A Failure to Do No Harm* was published in a special issue of Springer-Nature and co-

published in the Harvard-based Journal of Technology Science. This work was cited twice in the landmark Aadhaar decision by the Supreme Court of India, an historic decision which overturned the damaging aspects of the Aadhaar system. Our concept of privacy by obscurity and that biometric systems should do no harm, and must create a public good, were key concepts the court used to change a system impacting more than 1 billion people in a positive direction.

- The World Privacy Forum researched and published the first major report on medical identity theft and brought this crime to the attention of the public for the first time. The World Privacy Forum coined the term “medical identity theft” in its report on the topic. The Forum also has published the only detailed consumer education and victim materials on this crime. California passed a new law that went into effect in 2008 based on the recommendations in the WPF medical identity theft report, which later became part of HIPAA. The World Privacy Forum’s continuing activities in this area have made a substantial impact in the awareness and understanding of this crime for both victims and health care providers. Our work led to the California medical data breach law, the enactment of federal medical data breach notification as an update to HIPAA, and the eventual removal of SSNs from Medicare and Medicaid cards.
- Consensus and multistakeholder work:
 - WPF was appointed by the Secretary of OECD as a civil society delegate to the AI Expert Group. Over the past year, this group drafted the OECD’s Global AI Guidelines, which have now been approved by the ministers and have been ratified by the US and other OECD countries as of May 2019.
 - WPF participated in a multinational consensus effort to develop governance for AI systems (IRGC, Zurich, Switzerland) in 2018.
 - WPF’s Pam Dixon was named as an expert advisor on health data uses to the OECD, where she has worked with global stakeholders on health privacy and health data protection.
 - WPF was the lead drafter of the US Department of Commerce NTIA Multistakeholder Process short form privacy notice during 2012-2013. The process finished with a completed short form notice to be used by mobile apps. The notice is now being tested and implemented. This notice provides important and innovative privacy improvements. Among the most important is that consumers receive notification when their information is being sent off of their mobile

devices to data brokers. This is the first notice to allow for this transparency.

- In 2011, WPF led the nation's leading civil society groups in developing the Civil Society Multistakeholder Principles for the White House/ US Department of Commerce Privacy process.
- The World Privacy Forum led a consensus group of non-profits in 2007 meeting that culminated in the now well-known Do Not Track proposal presented to the Federal Trade Commission. Do Not Track is an idea that is now known globally and has been implemented to some degree.
- WPF broke new ground in publishing the first report on privacy in digital signage networks and mobile device tracking in retail spaces in the *One Way Mirror Society* report. The report was easily three or more years ahead of trends.

WPF works on key privacy standards projects in digital privacy. We are currently participating in an IEEE standards setting process for privacy in digital biometric systems.

Related Links:

- **World Privacy Forum:** <https://www.worldprivacyforum.org>
- **World Privacy Forum in the News:** <https://www.worldprivacyforum.org/news-and-press-room/>
- **The Scoring of America:** <https://www.worldprivacyforum.org/2014/04/wpf-report-the-scoring-of-america-how-secret-consumer-scores-threaten-your-privacy-and-your-future/>
- **Key WPF reports:** <https://www.worldprivacyforum.org/category/reports/>
- **WPF Congressional Testimony:** <https://www.worldprivacyforum.org/category/congressional-testimony/>
- **Consumers Top Ten Opt Out Tips:** <https://www.worldprivacyforum.org/2015/08/consumer-tips-top-ten-opt-outs/>
- **Data Broker Opt Out List:** <https://www.worldprivacyforum.org/2013/12/data-brokers-opt-out/>
- **Consumer Tips:** <https://www.worldprivacyforum.org/category/consumer-tips/>