

2002 International Conference on Personal Data Protection

Location Based Service for the commercial purpose and protection of privacy

Takato NATSUI

Professor at Meiji University, Japan

Attorney at Law (Tokyo Bar Association)

Copyright © 2002 Takato NATSUI, All rights reserved.

Table of Contents

- Introduction
- What is a location based service?
- Privacy issues relating to the location based service
- Some analysis of the legal aspects
- How to resolve these problems
- Conclusion

What is the location based service?

● Location:

- **“Location”** in the context of WL means locating a wireless device.

WLIA Privacy Policy Standard (2001)

● Location based Service:

- Location-based services and advertising allow consumers to receive services and advertising based on their geographic location. For example, businesses can provide information about traffic, restaurants, retail stores, travel arrangements, or automatic teller machines based on the consumer's location at a particular moment in time. Such services can be provided in response to a consumer's manual input of his or her location information into the handset or by using so-called “auto-location” technology to track the location of the consumer automatically.

FTC Workshop Report (2002)

Example

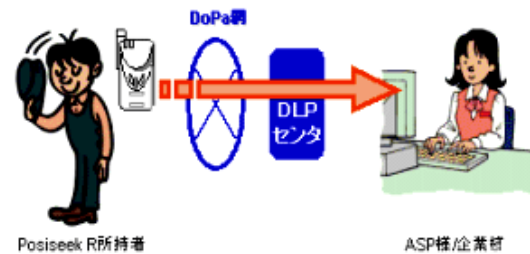
● NTT Docomo



Posiseek R

位置通知機能

Posiseek R所持者があらかじめ設定した通知先に、自分の位置をリアルタイムに通知する機能です。



エンドユーザ(端末所持者)が、自己の位置を即時に、ASP/企業に通知する機能で、業務報告、緊急通報に利用可能

位置提供機能

(第三者位置検索)

Posiseek R所持者の現在位置を検索する機能です。

エンドユーザ(端末所持者)の位置をリアルタイムに検索する機能で、迷子の探索や、車両の盗難対応などに利用可能



Privacy issues relating to the location based service

- **Location data of individuals must be considered as a constituent of privacy data, because**
 - By data matching of location data with user ID or device ID, the location of a specific person would be specified.
 - The location of a specific person may be regarded as private, except if such data has been opened to the public, it might be not private data.
- **Real time privacy intrusion**
 - Inter-accessing by a location based service may cause a real time privacy intrusion
- **Misuse of Collected location data stored in server**
 - Misuse of such data would cause serious privacy issues, especially by data matching with other privacy data.
- **And, communication may be intercepted**
 - Vulnerability included in such service systems may permit some types of illegal interception of data.
 - Specific location data of specific person may be involved in this communication.

Some analysis of the legal aspects

- Possible intrusion or misuse of privacy data relating to the location based service should be rejected or prevented.
 - Technical elements
 - Human elements
 - Social elements
- A sign of intrusion or misuse may be discovered in
 - SPAM emails or other advertisements
 - Additional service providing that the users don't know of or agree to
 - Unreasonable exchange or data traffics during any interaction on the location based service
- Some types of intrusion or misuse would be illegal.
 - Civil damage compensation
 - Criminal penalties
 - Administrative sanctions

How to resolve these problems

- Privacy issues or disputes would be unavoidable in this area.
- Their resolution
 - Legal method – adequate and effective legislation and its enforcement with reasonable dispute resolution measures
 - Technological method – better technology for privacy protection or removal of unnecessary privacy collection functions
 - Self regulation method – better guidelines or relevant parties agreeing on a common privacy goal on the basis of the international privacy protection standards
 - Education

Conclusion

- Location data of individuals must be considered as a constituent of privacy data.
- It is therefore important that the following policies be established.
 - Unnecessary inter-accessing by a location-based service should be prohibited or limited by law.
 - Unnecessary collection of privacy data should be restricted by law.
 - Serious misuse of collected privacy data should be punishable by law.
 - Vulnerabilities inherent in a location-based system should be repaired or removed.
 - Clear and effective guidelines for privacy protection should be developed and operated.
 - A Good education on privacy protection should be given to not only school students but also to IT corporations.
- Most importantly, we have to try to find and establish a better balance between privacy protection and information technology development.

Reference

- Wireless Location Technology: The Ultimate Challenge to Privacy
By Evan Hendricks (Founding Member, US Privacy Coalition)
Before the XXIII International Conference Of Data Protection Commissioners
http://www.paris-conference-2001.org/eng/contribution/hendricks_contrib.pdf
- Public Workshop: The Mobile Wireless Web, Data Services and Beyond: Emerging Technologies and Consumer Issues
Federal Trade Commission (February 2002)
<http://www.ftc.gov/bcp/reports/wirelesssummary.pdf>
- FCC order
In the Matter of Request by Cellular Telecommunications and Internet Association to Commence Rulemaking to Establish Fair Location Information Practices
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-02-208A1.txt
- CITA: Petition of the Cellular Telecommunications Industry Association for a Rulemaking to Establish Fair Location Information Practices
<http://www.cdt.org/privacy/issues/location/001122ctia.pdf>
- Comments of the Center for Democracy and Technology
By James X. Dempsey, Deirdre Mulligan
<http://www.cdt.org/privacy/issues/location/010406fcc.shtml>

- WLIA Privacy Policy Standard
<http://www.wliaonline.com/indstandard/privacy.html>
- Location-based services vs. your privacy
By Joanie Wexler
<http://www.nwfusion.com/newsletters/wireless/2002/01418495.html>
- Should Mobile Safety Trump Privacy?
By Dan McDonough, Jr.
<http://www.wirelessnewsfactor.com/perl/story/18555.html>
- ExperTeam AG entwickelt "Location Based Service" Navigation nicht nur im Auto Das Telefon-Navigations-Center "TelNav" soll 2003 in Betrieb gehen
<http://www.experteam.de/startd/presse/Presseinformationen/TelNav.html>
- Wireless Privacy Issues Now Before the FCC
By Peter M. Connolly
<http://www.privacyassociation.org/docs/1-03Connolly.pdf>
- FCC Ruling May Leave Cell Phone Users Exposed
By Stephen Chiger
<http://www.pcworld.com/news/article/0,aid,103304,00.asp>