

PRIVACY RISKS OF GOOGLE GLASS AND SIMILAR DEVICES

Google Glass, or simply Glass, may very well be the next smartphone or Facebook – in other words, the next creation to redefine our concepts of privacy rights, workplace productivity, and communications etiquette.

Glass consists of a small Wi-Fi-enabled module that is attached to an otherwise ordinary pair of eyeglasses. The module contains a five-megapixel camera and is capable of capturing and either storing or transmitting audio and video recordings of the wearer's activities and experiences. The wearer also has access to a heads-up display that can be used to view maps, browse websites, communicate with or without video, send texts and social media posts, or conduct any other activity currently possible on the screen of his favorite smartphone or tablet.

Glass can be quickly (and discreetly) activated by voice command or by simply tilting the head up. And although it won't be available for purchase on the consumer market until late this year, it has already been banned from several public establishments. Should your workplace be next?

Are High-Tech Glasses Blurring the Lines of Privacy?

The chief concern of opponents to Glass is the risk of invasion of privacy. Although wearable personal data devices such as the Garmin

...Glass combines the two, placing the ability to record and transmit audio and video data continuously...

Forerunner and Fitbit fitness trackers entered the market with little fanfare and camera-enabled smartphones are broadcasting the world's most

mundane activities every moment of the day, Glass combines the two, placing the ability to record and transmit audio and video data continuously – and, most important, discreetly – within reach of the wearer.

During a meeting, it's typically apparent if an employee picks up her smartphone and begins recording a conversation.

Other participants in the meeting have notice and the opportunity to object to the recording or temper what might otherwise be a more candid conversation. With Glass, others may be unaware of when or whether their conversations are being recorded, giving rise to invasion-of-privacy claims for unauthorized surveillance, wiretapping, and eavesdropping.

Further, consider that many people are still reluctant to venture into the social media landscape out of concern for their personal security and privacy. Similarly, once it becomes common knowledge that an employee is wearing Glass, some colleagues may become reluctant to talk to her out of concern for their own privacy, actually creating new communication and morale issues in your workplace.

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**Traffic Sign Criteria
Financial Insights
From the CEO**

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Employers may also be concerned about dissemination of trade secrets, confidential documents, and other protected workplace correspondence, and such exposure may not even be malicious or intentional. It's only a matter of time until we read the first viral social media story about an embarrassed Google Glass user who, through user error or absentmindedness, accidentally records and broadcasts his own private activities. The same accidental transmission could easily occur within the workplace.

Just this March, Google settled a case filed by 38 states alleging privacy violations that took place during its Street View mapping project, in which cars equipped with video cameras intended to capture photographic images of streets and landmarks also captured and publicized unsuspecting individuals – and their private data – as they went about their daily activities. If privacy invasions can occur at the street level, certainly the same concerns arise at the firsthand eye level.

Yet it's currently unclear how Google will treat, store, share, or protect the data transmitted by wearers of Glass, including GPS data on the geographic locations the wearer frequents. Though certain data might never be publicly shared or may be deleted by the wearer of Glass, there are concerns that it could still be transferred through and aggregated by Google's massive data archives.

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RISK SERVICES

Sign. Sign. Everywhere a sign...

Every day we drive past a lot of traffic signs. These traffic control devices play a vital role in helping us negotiate endless miles of roadways in a safe manner. If these devices are not installed correctly or do not meet other criteria, there can be problems in the event of a liability claim.

So, what's the big deal if the sign is faded? We all know that an octagon shaped sign is a STOP sign. That shape is exclusive for that particular message. Legally, there is a lot wrong with that line of thinking. The Federal Standard that covers all traffic control devices is the Manual on Uniform Traffic Control Devices or MUTCD. The State of North Dakota has adopted this publication as their standard as well. In the MUTCD, all signs are required to have a certain level of retroreflectivity. Retroreflectivity is the ability of a surface to reflect light back to the light's source. Painted signs (yup, we still see them) have almost no retroreflectivity. At one point in time, regular Engineer grade was the standard for sign sheeting (decal). Nowadays, Engineer grade is not even legal for post mounted traffic sign use! Everyone who owns and maintains traffic signs is supposed to have an assessment and management program in place to determine the retroreflectivity of the signs in their system. The MUTCD discusses six different methods of a retroreflectivity assessment and management program. Most entities will perform a nighttime inspection.



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Expected sign life is another method that can be used. Blanket replacement of signs is the third most common method that is utilized.

If a vehicle's headlights do not hit a traffic sign in a timely manner, it is probably due to an incorrect sign mounting height or, an incorrect angle of the sign relative to the road. Even top of the line traffic control sheeting will have a less than the



desired retroreflectivity if the sign doesn't have the correct roadside and vertical installation alignment.

Urban (business and residential districts) sign height

is to be a minimum of 7 feet to the bottom of the traffic sign. Rural (as in rural roads, not rural communities) installation is 5 feet. We have seen signs mounted as low as 2

feet from the ground! Sign posts or supports can also be an issue. All signs located

in the clear zone (essentially the right-of-way) should be of a breakaway-type design.

Iron pipe sunk into a concrete footing would not qualify. An excellent viewable and

downloadable publication that addresses sign supports can be found at:

http://safety.fhwa.dot.gov/local_rural/training/fhwas09025/

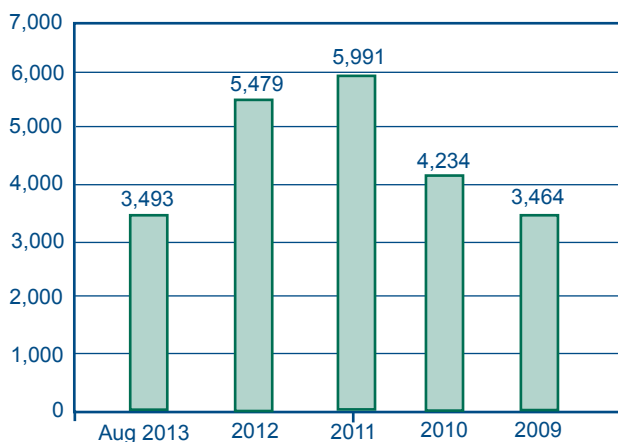
Lastly, a common problem that we see is traffic signs that have been obscured by vegetation (i.e., trees and bushes). Paraphrasing the MUTCD; "The basic



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FINANCIAL INSIGHTS

LOSSES PAID (in thousands)



This graph represents losses paid by NDIRF over the past 5 years, including payments made to adjusters and attorneys assisting in the claims settlement process. The nearly \$6 million of losses paid in 2011 is the most paid in a single year in NDIRF's history. 2013 is on pace to be the 3rd consecutive year for losses paid to exceed \$5 million. ■

FROM THE CEO

The NDIRF routinely publishes articles in the *Participant* covering various aspects of employment-related litigation or potential liability and this edition continues that theme. There are reasons for all this attention. First, these types of claims are expensive to defend and successful claimants could receive significant damage awards, even beyond North Dakota's statutory "tort caps" and possibly including payment of a plaintiff's attorney fees. Second, such claims are preventable if due attention is given to development and application of appropriate policies and procedures concerning the relationship between a political subdivision and its employees.

For the past several years, the NDIRF has made available two online resources that provide assistance to members in dealing with employment-related matters – the *NDIRF Public Employers Handbook* and the *Human Resources Reference Guide for Local Governments in North Dakota*. These online resources are currently in the process of being combined into one master online "manual" that can be easily accessed from statewide association websites as well as by clicking on the "Reference Guides" tab in the Shortcut Menu on NDIRF's website (www.ndirf.com). The finished product is scheduled to be completed before the end of this year – I encourage you to take advantage of it! ■

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requirements of a sign are that it is legible and understandable in time to elicit a desired response.” A traffic sign cannot perform its intended function if it cannot be seen in a timely manner. Ensure that you actually own the vegetation before attempting to prune it. Many entities have ordinances that address this issue.

The Manual on Uniform Traffic Control Devices can be found online and/or downloaded at:

http://mutcd.fhwa.dot.gov/hlm/2009r1r2/html_index.htm ■



Mark Your CALENDAR

Oct

- 6-8: ND Association of Counties Annual Conference & Expo
Ramkota Inn, Bismarck
- 25-26: ND School Board Association Annual Convention,
Ramkota Inn, Bismarck

Dec

- 5: NDIRF Board of Directors Meeting
NDIRF offices, Bismarck