

Insights

FAQ: WHAT IS SESSION REPLAY SOFTWARE AND WHY IS IT UNDER ATTACK?

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Session Replay Software is a type of software typically utilized by businesses with consumer-facing websites. These businesses are typically very interested in making their website more interactive and responsive to consumer tastes. Session Replay Software helps businesses understand how consumers interact with their site by tracking the consumer's interaction with the page. For example, the software may track mouse movements, keyboard strokes, error messages, or the location of a cursor.

Recently, plaintiffs' attorneys have begun filing lawsuits alleging that Session Replay Software violates certain state wiretap acts. These lawsuits have been filed in states like California and Florida that have an "all party" wiretap law, which is a wiretap law that requires all parties to a conversation or interaction to consent to a recording. Most states require only one party to consent to a recording, but approximately 13 states require all parties to consent. Plaintiffs have alleged that because they did not affirmatively consent to the use of the Session Replay Software, the website operator has violated the applicable state's wiretap law. Penalties vary by state, but there are typically statutory damages on a "per incident" basis for each consumer, so typical allegations have significant class action potential.

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MEET THE TEAM



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